

**AGENDA
PLANNING COMMISSION
CITY OF WYOMING, MINNESOTA
MAY 14, 2024
7:00 PM**

CALL TO ORDER:

CALL OF ROLL:

DETERMINATION OF A QUORUM:

PLEDGE OF ALLEGIANCE:

OPEN FORUM:

An opportunity for members of the public to address the Planning Commission on items not on the current Agenda. Items requiring Planning Commission action may be deferred to staff for research and future Planning Commission Agendas if appropriate. You will be limited to two (2) minutes and we ask that you conduct yourself in a professional, courteous manner, and refrain from the use of profanity. Failure to abide by this policy may result in the loss of your privilege to speak.

APPROVAL OF MINUTES:

1. Consider approving the minutes of the “Regular Meeting” of the Wyoming, Minnesota Planning Commission for April 23, 2024.

SCHEDULED PUBLIC HEARINGS:

2. Interim Conditional Use Permit for a Home Occupation: I-24-002
Location: 26333 Goodvine Avenue
Applicant: Benjamin Kaphing
Property ID Number: 21.11112.34

NEW BUSINESS:

OLD BUSINESS:

3. Rezoning of undeveloped parcels to match the Comprehensive Plan.

COMMUNICATIONS:

UPDATES:

The Witzel Rezoning application was tabled until the next City Council meeting in order to allow for a full quorum.

ADJOURN

UPCOMING:

**UNAPPROVED MINUTES
PLANNING COMMISSION
CITY OF WYOMING, MINNESOTA
APRIL 23, 2024
7:00PM**

CALL TO ORDER:

Planning Commission Chairman Lobermeier called the Regular Meeting of the Wyoming Planning Commission for April 23, 2024 to order at 7:00 PM

CALL OF ROLL:

On a Call of the Roll the following members of the Wyoming Planning Commission were present: Mark Lobermeier, Dan Iverson, and Mark Holl

ABSENT: Commissioner Katie West

Also Present: Fred Weck Zoning Administrator and Council Liaison Lisa Iverson

DETERMINATION OF A QUORUM:

PLEDGE OF ALLEGIANCE:

OPEN FORUM: NONE

APPROVAL OF MINUTES:

1. **Consider approving the minutes of the “Regular Meeting” of the Wyoming, Minnesota Planning Commission for April 9, 2024**

A MOTION WAS MADE BY COMMISSIONER HOLL, SECONDED BY COMMISSIONER IVERSON, TO APPROVE THE MINUTES OF THE “REGULAR MEETING” OF THE WYOMING, MINNESOTA PLANNING COMMISSION FOR APRIL 9, 2024, AS SUBMITTED.

*Voting Aye: Holl, Iverson, and Lobermeier
Voting Nay: None
Abstain: None
Absent: West*

SCHEDULED PUBLIC HEARINGS:

2. **Rezone: Z-24-001 Rural Residential II (R-2) to Commercial (C) District**
Location: Hamlet Avenue at Highway 8, northeast corner
Applicant/Owner: Stephen Witzel
Property ID Number: 21.10674.02

Zoning Administrator Weck explained that Mr. Witzel would like to rezone this parcel in order to accommodate development of a manufactured home sales lot, but noted that use was not on the agenda this evening and the item for Commission consideration was simply the rezoning of the property from R-2 to Commercial. He explained that this change would not require an amendment to the Land Use Plan because the Comprehensive Plan has this property guided as commercial already. He stated that in 2006, the property had been divided and rezoned through the Township, but also needed to have it rezoned through the County, which Mr. Witzel had not done.

He explained that when the Township was annexed into the City, this parcel stayed the zoning that it was, which was R-2, because Mr. Witzel had not completed the second step with the County. He noted that this parcel has been guided for Commercial zoning since about 2006 and staff was recommending approval of the rezoning request.

Chair Lobermeier confirmed that this property, under the same ownership, had gone through the process to have it rezoned for Commercial use.

Stephen Witzel apologized for not following through like he should have back in 2007 with completing the rezoning with the County. He explained that he had gone to both the Planning Commission and the City Council at that time and everyone was on board with this rezoning and he mistakenly thought that the rezoning process had been completed. He noted that he thought that the County was the one who had actually dropped the ball on the rezoning, when, in fact, it was him.

Chair Lobermeier explained that if the rezoning request is approved, Mr. Witzel would still need to come back to the City with his development plans for further approvals.

MOTION BY COMMISSIONER IVERSON, SECONDED BY COMMISSIONER HOLL, TO OPEN THE PUBLIC HEARING AT 7:09 P.M.

<i>Voting Aye:</i>	<i>Holl, Iverson, and Lobermeier</i>
<i>Voting Nay:</i>	<i>None</i>
<i>Abstain:</i>	<i>None</i>
<i>Absent:</i>	<i>West</i>

Randy Sampson, 24668 Hamlet Avenue, stated that he bought his place in 1993 and explained that it is a great neighborhood in a great location. He stated that the last thing he wants to see in the neighborhood is commercial property across the street from his home.

Jason Roberts, 24626 Hamlet Avenue, stated that he moved here in 2009 and explained that what he was mostly concerned about was that this would be a commercial business across the street from a residential home. He noted that he had spoken a bit to Zoning Administrator Weck about the Comprehensive Plan and this parcel being guided for commercial use, which he understood, but this has residential homes on a road that will take more traffic because of the proposed Highway 8 recommendations. He explained that he did not see that there would be anyway to access that property beside Hamlet Avenue. He stated that there are children in the neighborhood and he did not want to see an increased traffic load on the street. He explained that they had bought the home because it was off the beaten path but also close to town with nice access. He stated that he has nothing against a property owner trying to flip their property to commercial, but personally does not want to see it done. He urged the Commission to consider this as though they were in his position and this was in their neighborhood. He explained that the other issue he has with this proposal is that there were not any plans about what it will be, which means that it was hard for him to stand up here and say 'absolutely not'. He noted that if the residents on the street knew what was going in and they could request things like a berm or a fence, and noted that it may be possible that they would be more open to this idea. He stated that he was opposed to the current request. He explained that there has been some incidents with a lot of stuff being put in across the street from his house and stated that he does not want to look at it because he likes his property the way it is.

Carl Dahl, 7514 250th Street, stated that he was not directly impacted by this property, but noted that with the frontage road he knows that there will be some impact to the residential neighborhoods. He stated that they enjoy living on a farm and like it being more rural and

explained that he, personally, disagrees with the Comprehensive Plan, but understands that he does not run the City. He explained that he hated to see this go more and more commercial and reiterated that they enjoy raising their family in more of a rural atmosphere. He stated that he believes granting this request would steer the City in the wrong direction.

Daniel Bannon, 24734 Hamlet Avenue, explained that his largest concern is that since he has owned the farmland north of the property since 2017, this parcel has been a garbage pit. He noted that it had been somewhat cleaned up about a month ago, but is still essentially a garbage pit and explained that Mr. Witzel does not maintain it very well. He stated that Mr. Witzel has cleaned up the front of the property a bit, but if you walk his fence line, the property just has garbage everywhere. He noted that the City has serious issues with enforcing these type of issues and if they grant this request it will give Mr. Witzel the opportunity to make it even worse. He explained that it is clear that Mr. Witzel used this property as a storage facility and noted that he has pictures that he can share with the City. He stated that he pays a tremendous amount of taxes for his property and he wants it looking nice and stated that he did not want to see the City give Mr. Witzel an open-ended opportunity to exacerbate this mess. He stated that he felt that opening up the opportunity for commercial just gives Mr. Witzel a blank slate in order to create a mess which concerns him, because the City will not enforce it.

Kevin Miller, 6521 North Shore Trail, stated that he is here on behalf of his daughter and son-in-law who live at 24626 Hamlet Avenue. He stated in looking at the zoning map and the Comprehensive Plan, there is a lot of red. He noted that just because someone came to a Council meeting with the Township and had supposedly gotten approval, and was now coming back because that individual did not do what they were supposed to do at the time, does not mean that the City should just grant this approval without strongly considering the situation. He asked about the City's plan for the zoning being proposed and how they planned to convert all the properties to commercial. He asked if it would be done at this time for all the parcels or if it was just this one parcel. He stated that he understands that the Commission will make a recommendation to the Council, and asked if this would be a CUP or if it would be an actual zoning change. He asked if the City could just make a change to one parcel without changing it all. He asked if that would be fair to the property owners.

Zoning Administrator Weck stated that he believed that Mr. Miller was referring to spot zoning and explained that if the Comprehensive Plan had all residential around there and also had this property as residential and the City decided to change it to commercial that would be considered spot zoning.

Mr. Miller stated that the parcel is currently residential and asked if the City was going to rezone it why they wouldn't do them all at the same time.

Zoning Administrator Weck explained that one of the next agenda items was to look into implementing the Comprehensive Plan, which includes rezoning all those properties at one time.

Chair Lobermeier clarified that this agenda item was to discuss this one parcel and explained that this is the normal process the City uses for rezoning requests. He stated that he did not want there to be a misunderstanding about the spot zoning issue and noted that the Comprehensive Plan lays out what the long-term intended use would be, but reiterated that tonight they are talking about rezoning one parcel. He explained that this would not be considered spot zoning and noted that any landowner can come to the City and request a rezoning of the property.

Mr. Miller asked what would happen if this parcel was zoned commercial and they wanted to change it to residential.

Zoning Administrator Weck explained that the Comprehensive Plan guides this property towards commercial so in Mr. Miller's example, the applicant would have to ask for an amendment to the Comprehensive Plan and also ask the City for rezoning.

Mr. Miller stated that he felt that this change would effect the value of the nearby residential homes and noted that if it ends up lowering their value there have been case studies and lawsuits that have ruled that the City would have to pay the deficiencies, if the value drops considerably and asked if the City was prepared to deal with that type of outcome.

Chair Lobermeier stated that he felt that was speculation.

Mr. Miller stated that one of the things a City can do in this situation, when there are homeowners and residential properties across the street, which would be to require the developer to berm or screen the property along Hamlet Avenue, so that it would not directly effect the residential views and enjoyment. He asked the Commission to consider this as this request is moved forward through the process.

Chair Lobermeier agreed that would be possible but reiterated that the process tonight was simply for rezoning the property and all of the development details, such as screening, trees, and traffic, would be subject to a whole different process through the City and would have to come back before the Planning Commission and the City Council for approval. He stated that, is the rezoning is approved, this process would not begin until the property owner decides what he would like to do with the property, and has specific plan details for the City to review.

Zoning Administrator Weck explained that everyone who received a letter about tonight's Public Hearing would also receive a letter notifying them, if and when, there is a next step of the development and use.

Neil Rever, 24679 Hale Avenue, stated that they live next to the Gregory property and noted that they had appeared before the Commission and Council previously to share their concerns. He stated that he wanted to let everyone know that they have had problems since the Gregory building was put in with excessive lighting and no screening which means they are looking at a parking lot and over 60 lights. He cautioned the residents that if Mr. Witzel wants to put in a building and have 100 lights and keep them on all night, that is what they will have to look forward to. He stated that he felt that the City has not come through, thus far, in addressing their concerns and explained that he felt the Council and staff have not been truthful.

Mr. Bannon explained that Mr. Rever's comments go back to what he said earlier about the City's lack of enforcement of these issues. He stated that he wanted to make sure that if the City has laws or guidelines in order to make the community nice and enjoyable, he asked that they also follow through with enforcement. He stated that the issues raised by Mr. Rever are a prime example of what they have all been talking about. He stated that they are talking about not only a mess, but also an ungodly amount of lights that will diminish the enjoyment of the nearby properties.

Mr. Rever stated that he didn't feel that the City cared.

MOTION BY COMMISSIONER IVERSON, SECONDED BY COMMISSIONER HOLL, TO CLOSE THE PUBLIC HEARING.

<i>Voting Aye:</i>	<i>Holl, Iverson, and Lobermeier</i>
<i>Voting Nay:</i>	<i>None</i>
<i>Abstain:</i>	<i>None</i>
<i>Absent:</i>	<i>West</i>

Chair Lobermeier stated that he asked if there had been complaints about the Gregory property.

Zoning Administrator Weck confirmed that there had been complaints and noted that Mr. Gregory does not yet have the screening up because the ground was frozen, so he could not plant trees or install the fencing. He stated that the security lighting is allowed and they are not allowed to have lighting of a certain candle power beyond the property lines and noted that the City has checked and it is in compliance. He stated that for the current property being discussed, he has received complaints about it regarding trash and debris and he had contacted Mr. Witzel and had those things cleaned up. He noted that he did not walk through the woods, so if someone is walking along the fence line and sees trash, he asked that they let him know about it because he cannot see it. He stated that if there are photographs, he asked that they be sent to him, so it can be addressed.

Chair Lobermeier stated that he thinks there were good comments shared by the residents and noted that he also had some concerns. He asked whether, before there were further discussions about rezoning, if the other issues related to the property that have been raised, should be resolved before they move on in the process.

Zoning Administrator Weck stated that he felt the concerns that have been raised about the way the property is being used, would be more appropriate for when Mr. Witzel would actually bring in a site plan or CUP request.

Chair Lobermeier stated that one of the comments raised during the Public Hearing was about how the Commissioners would feel if this was happening in their neighborhood. He explained that he was in this exact position in 2006 and as a result ended up learning a lot about the Planning Commission, land use, and property rights, which ultimately ended up with him serving on the Planning Commission. He stated that he understands their concerns and that it is difficult to see properties rezoned. He explained that the Comprehensive Plan is the City's attempt to be able to guide the City to the best long-term use and noted that Highway 8 is, and will be, a commercial corridor. He stated that when the City sees a property like this, they see it as moving towards the way that have seen in planned and reminded them that at one time, the Township had also seen this as a commercial property. He explained that this request was consistent with the plan and if Mr. Witzel brought something forward to the City, he believes that there will be an opportunity to improve a number of the conditions that they have heard about tonight from residents, including screening and cleaning up the property, but would also include conditions that, if those things are not followed, that the City has the ability to enforce them.

MOTION BY COMMISSIONER LOBERMEIER, SECONDED BY COMMISSIONER IVERSON, TO RECOMMEND APPROVAL TO REZONE: Z-24-001 RURAL RESIDENTIAL II (R-2) TO COMMERCIAL (C) DISTRICT, LOCATED AT HAMLET AVENUE AT HIGHWAY 8, NORTHEAST CORNER FOR PROPERTY ID NUMBER: 21.10674.02.

Voting Aye: Holl, Iverson, and Lobermeier
Voting Nay: None
Abstain: None
Absent: West

Chair Lobermeier stated that this item would go before the City Council on May 7, 2024. He reiterated that the Planning Commission was a recommending body and the City Council would make the final decision on this request.

NEW BUSINESS:

OLD BUSINESS:

3. Planning Commission Appointment Recommendation to the City Council – Chris Ortwerth

MOTION BY COMMISSIONER LOBERMEIER, SECONDED BY COMMISSIONER HOLL, TO RECOMMEND APPROVAL OF APPOINTING CHRIS ORTWERTH TO THE PLANNING COMMISSION.

Voting Aye: *Holl, Iverson, and Lobermeier*
Voting Nay: *None*
Abstain: *None*
Absent: *West*

4. Rezoning of Undeveloped Parcels to Match the Comprehensive Plan

Zoning Administrator Weck explained that what he had tried to put together for the Commission was to show that if they were zoned Agricultural and the Comprehensive Plan says they will have some other designation, how many parcels it would effect, and, if the uses or lot sizes would be conforming. He stated that, for the most part, if they were compliant with setbacks, they would be compliant with new setbacks. He asked if there was more information that the Commission would like him to compile.

Chair Lobermeier stated that he felt this information was very helpful for them to kind of be able to look at what the current zoning was and what the impact would be. He noted that he was also glad to see that a large percentage of the parcels would remain conforming in terms of use and lot size. He asked what 'SFD' referred to.

Zoning Administrator Weck clarified that SFD meant 'single family dwelling'.

Chair Lobermeier stated that this information helped him get his arms around the fact that this would certainly impact some parcels, but not in the way that he had originally been concerned with.

Commissioner Holl noted that it will take him some time to wrap his mind around this information and asked a few clarifying questions on how to interpret the information put together by Zoning Administrator Weck.

Zoning Administrator Weck answer the questions and noted that he felt that use was the larger issue for consideration.

Chair Lobermeier stated that if the uses remain conforming after they move them to the new zoning that would be a good thing.

Commissioner Iverson stated Zoning Administrator Weck mentioned that the non-conforming aspects would be more around the use of the property and asked what that would really mean in a boiled down explanation.

Zoning Administrator Weck explained that it would mean that they could keep using the property as they want, including as it was currently being used, but they could not expand the property, for example, put an addition onto the house. He noted that there would be a way that they could put on a detached accessory building. He stated that if the home burned down, if they applied for a

building permit with 180 days, they could rebuild what they had.

Commissioner Iverson stated that he felt what Zoning Administrator had just described would be a key point to include in their communications and felt that there may be a few of these types of bullet points that will help create a picture for easier understanding.

Chair Lobermeier stated that he felt this information was very helpful and allowed them to take in this information from a different viewpoint.

Zoning Administrator Weck encouraged the Commission to let him know if there were other categories or information that they would like to be included.

Chair Lobermeier suggested that they may be ready to bring this information to the Council at their May 21, 2024 meeting.

COMMUNICATIONS: NONE

UPDATES: NONE

A MOTION WAS MADE BY COMMISSIONER IVERSON, SECONDED BY COMMISSIONER HOLL, TO ADJOURN THE APRIL 23, 2024 "REGULAR MEETING" OF THE WYOMING, MINNESOTA PLANNING COMMISSION AT 7:44 PM.

<i>Voting Aye:</i>	<i>Holl, Iverson, and Lobermeier</i>
<i>Voting Nay:</i>	<i>None</i>
<i>Abstain:</i>	<i>None</i>
<i>Absent:</i>	<i>West</i>

**CITY OF WYOMING
PLANNING AND ZONING**

TO:	Planning Commission
DATE:	5/8/2024
FROM:	Kim Lindquist, City Planner Fred Weck, Zoning Administrator
RE:	ICUP Home Occupation
APPLICANT:	Benjamin Kaphing
PROPERTY OWNER:	Benjamin Kaphing
PROPERTY:	26333 Goodvine Ave, Wyoming, 55092 21.1112.34
FILE NO.:	I-24-002

OVERVIEW

The applicant is requesting approval of an Interim Conditional Use Permit to allow a home occupation at 26333 Goodvine Ave. The residential property hosts a principal structure and a detached accessory structure. The property is zoned R-1 and is surrounded by other R-1 lots. The site is approximately 1 acre, and the future land use is guided for Semi-Rural Neighborhood.

The Applicant and Owner, Benjamin Kaphing, seeks to use his existing garage on the eastern half of his property for a home-based automotive repair business. The Applicant would like to run a small business that has a “mom-and-pop” feel for the neighboring community. The Applicant states that the business would focus on providing services for “cars and light trucks” including services such as: general repair of brake systems, suspensions, and engines. There would be no alterations to the residence, with the current garage set-up considered sufficient for the needs of the business.

The automotive business would be named BMK Automotive with working hours: Monday – Friday 8:00 AM-6:00 PM, Saturday 10:00 AM – 2:00 PM, and Sunday – Closed. The business would be run primarily by the Applicant with occasional assistance from a hired hand on an as needed basis. The Applicant indicates that all storage will occur inside the existing garage. The application lists a request for a sign associated with the business – but no further details have been provided and no sign permit has been requested as yet.

The Applicant noted that hazardous waste will be created by the automotive repair business. He indicates that BKM Automotive will work with Bradwell Auto and Truck (a company based in Luck, WI) to obtain 30-gallon barrels for waste storage. The Applicant details that any oil or hydraulic fluids would be stored on-site the barrels until they become full, at which point he will exchange the full barrel for a new empty barrel from Bradwell Auto and Truck. He does not anticipate producing significant amounts of waste due to the type of automotive work he will be doing. All metal scrap will be transferred to recycling facilities.

STAFF RECOMMENDATION

The requirements of Chapter 40, Article V, Division 6, “Conditional Use Permits,” Section 40 – 112, as contained in the City of Wyoming Ordinance have been complied with. Staff recommends

approval of an Interim Conditional Use Permit to allow a home occupation based upon the ICUP findings of fact and subject to the following 9 conditions:

1. Conduct of the home occupation does not require alterations to the exterior of the residence which substantially alters the appearance of the dwelling as a residence.
2. Only those persons residing in the home and one other person are employed on the site or report to the site on any one day.
3. Signage consists of no more than one (1) single or double-faced sign with a maximum area of nine (9) square feet per side.
4. No outdoor storage or display of goods is permitted and all items associated with the business shall be housed within the existing accessory structure including cars in various stages of repair, all parts or materials associated with operation of the business and any refuse or byproducts of the repair.
5. Any additional need for parking generated by the home occupation shall be met by off-street parking. The designated parking area shall be limited to three (3) spaces.
6. Items repaired shall be of a size or nature so that repair can occur within the accessory structure to the principal use as allowed by this Ordinance. Vehicle repair is limited to passenger cars and small trucks.
7. The home occupation shall not generate sewage of a nature or type that cannot be treated by a standard on-site sewage system, or the municipal sewer system, or hazardous wastes that cannot be disposed of through the Applicant's proposed off-site drop-off plan.
8. Storage and removal of hazardous materials associated with the business must meet MnPCA storage and handling requirements.
9. The Applicant shall comply with all home occupations performance standards found in Section 40-543.
10. The ICUP permit shall be valid until one of the following, whichever occurs first:
 - Until the property owner vacates the premises or
 - Until the property is sold

STAFF REVIEW

General Comprehensive Plan and Zoning Review

The subject property is zoned R-1 - Rural Residential I. The property is guided as Semi-Rural Neighborhood in the City of Wyoming's Comprehensive Plan. The zoning and surrounding uses are as follows:

North – R-1; Rural Residential I; Semi-Rural Neighborhood
South – R-1; Rural Residential I; Semi-Rural Neighborhood,
Blue Spruce Public Park
East – R-1; Rural Residential I; Semi-Rural Neighborhood
West – R-1; Rural Residential I; Semi-Rural Neighborhood

Existing Site

The 1-acre site contains two structures; a single-family residence approximately 2,083 square feet that fronts Goodvine Avenue. A driveway runs east-west, connecting Goodvine Avenue to the front of the principal structure. A detached garage measuring approximately 1,203 square feet is located on the eastern half of the property. Access to the accessory structure is from 263rd Street. A firepit and seating area is situated between the accessory and primary structures in the middle of the property.

Permitted uses in the Rural Residential I District include provision of very low-density housing. Section 40-183 allows a home occupation by interim conditional use permit that may "...require additional parking, an accessory building or an attached garage, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13."

The Applicant states that off-street parking will be required for the home occupation. The City Ordinance allows up to 3 spaces of off-street parking related to a home occupation. The Applicant's site plan indicates that off-street parking needs will be met by the driveway connecting 263rd Street to the accessory structure. The Applicant may use the garage stalls for parking additional repair vehicles.

HOME OCCUPATION STANDARDS

The following lists the 10 performance standards necessary to operate a home occupation in Wyoming. Staff believes the standards are met and has noted the business must continue to operate under these requirements. Conditions of approval have been modified to specially relate to the proposed business.

Division 13 Home Occupations, Sec. 40 – 543. Performance Standards.

All home occupations shall conform to the following standards:

- (1) Conduct of the home occupation does not require alterations to the exterior of the residence which substantially alters the appearance of the dwelling as a residence.
- (2) Only those persons residing in the home and one other person may be employed on the site or report to the site on any one day.
- (3) Signage consists of no more than one (1) single or double-faced sign with a maximum area of nine (9) square feet per side in the R-1, R-2, R-3, R-4, R-5, R-6 and MXD (residential uses) Districts and sixteen (16) square feet per side in the Agricultural (A) District.
- (4) No outdoor display of goods.
- (5) Any additional need for parking generated by the home occupation shall be met by off-street parking. Said parking area shall be limited to three (3) spaces.
- (6) Should the occupation be teaching, classes shall not exceed ten (10) students at any one time.
- (7) Should the home occupation be repair, the items repaired shall be of a size or nature that repair can occur within the home, or an accessory structure to the principal use as allowed by this Ordinance.
- (8) No outside storage is permitted.
- (9) An accessory structure may be utilized in conjunction with the home occupation only for the purpose of holding equipment used off the site, repair (as conditionally

permitted pursuant to Sec. 40 – 543, (7), and/or for the storage of goods or articles produced or used by the occupant of the principle structure.

- (10) The home occupation shall not generate sewage of a nature or type that cannot be treated by a standard on-site sewage system, or the municipal sewer system, or hazardous wastes without an approved plan for offsite disposal.

INTERIM CONDITIONAL USE PERMIT STANDARDS

Chapter 40, Article V, Division 6, Conditional Use Permits, Section 40 – 112, sets forth the general standards that shall be met in order to grant an ICUP. Granting of an Interim Conditional Use Permit is required for approval of a Home Occupation in the R-1 zoning district. These standards are as follows:

1. The use is in conformity with the Comprehensive Plan and development policies of the City.
A home occupation is allowed in the Rural Residential I zoning district and is in conformity with the Comprehensive Plan. This standard has been met.
2. The use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
The proposed use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities. This standard has been met.
3. The use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development will not be depreciated in value and there will be no deterrence to development of vacant land.
The property will maintain its residential character if the operation is consistent with the application and conditions of approval. Proposed automotive work will occur within the garage away from public view. The standard has been met.
4. The structure and site will have an appearance that will not have an adverse effect upon adjacent properties.
All business proposed activity will occur solely in the existing accessory structure as a condition of approval and therefore the site appearance should not be altered. This standard has been met.
5. The use in the opinion of the City is reasonably related to the overall needs of the City and to the existing land use.
The use is consistent with the zoning ordinance intent for home occupations in the Rural Residential I zoning district, with specific reference to repair services. This standard has been met.
6. The use will be consistent with the purpose of this and other City Ordinances.
This standard has been met.
7. The use will be located, designed, maintained, and operated to be compatible with the existing or intended character of the zoning district in which it is to be located.
The applicant must adhere to the home occupation standards and conditions of approval for the interim conditional use permit, which will mean the site is consistent with the existing and intended character of the Rural Residential I zoning district. This standard has been met.

8. The use will generate only minimal vehicular traffic on local streets and shall not create traffic hazards or unsafe access or parking needs.

The intention of a home occupation is that it should not generally attract more traffic than typical residential use. The use as a repair business will bring some additional traffic to the site but the limitations on parking and business activity being located within the accessory structure will limit traffic associated with the business. This standard has been met.

9. Existing businesses nearby will not be adversely affected because of the curtailment of customer trade brought about by intrusion of noise, glare, or general unsightliness.

This standard has been met.

10. The establishment or maintenance of the use shall not be detrimental to the public, health, safety, or general welfare.

Compliance with the conditions, and applicable ordinance will ensure that this standard can be met. The Applicant has indicated that automotive repair will occur within the existing garage so as not to impact local surroundings.

11. The use will not be hazardous, detrimental, or disturbing to present and potential surrounding land use due to water pollution, odor, fumes, general unsightliness, or other nuisances.

Compliance with the conditions, and applicable ordinance will ensure that this standard can be met. The Applicant has stated their intention for storage and disposal of hazardous material which must meet MnPCA standards. Other refuse must also be readily disposed of and must be stored inside the accessory structure.

12. The use will preserve and incorporate the site's important natural and scenic features into the development design.

This standard has been met.

13. The use will cause minimal adverse environmental effects.

The home occupation activity will all be enclosed indoors which should reduce any potential adverse environmental effects. This standard has been met.

In addition, the following factors must be considered for Interim Use Permits:

- 1) Whether the use conforms to the zoning regulation;
The use conforms to the zoning regulation with the issuance of this permit.
- 2) Whether a date or event for the termination of the use can be identified with certainty.
The applicant requests the permit be valid until the sale of the property or the home.
- 3) Whether the permission of the use will impose additional costs on the public if it is necessary for the public to take the property in the future;
This standard is met – There should be no additional cost to the public.
- 4) Whether the landowner will agree to the conditions that the City Council deems appropriate for permission of the use.
This is to be determined.

Next Steps

The City Council will review the Planning Commission's Interim Conditional Use review recommendation at the next regularly scheduled meeting.



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Phone (651) 462-4947
permits@wyomingmn.org

LAND USE APPLICATION: INTERIM USE PERMIT FOR A HOME OCCUPATION

An Interim Use Permit application requests a conditional use permitted in a particular zoning district, but regulated and controlled through conditions placed upon it by the City Council after review by the Planning Commission.

Applicant(s)/Owner(s):

Name(s) Benjamin Kaphing
Address 26333 Goodvine Ave
City Wyoming State MN Zip 55092
Phone Number 612-961-1004 Email BenKaphing@yahoo.com

Legal description of property: _____

Property Identification Number: R.21 Present zoning of property: _____

Present use of property: Living

Proposed Home Occupation: Auto Repair

On what date, or upon what event, would the applicant desire the interim use to expire? _____ / _____ / when I sell the home/property

This application and the following attachments must be submitted to be considered a complete application:

- A detailed site plan showing the following information from Sec. 40 - 111, 5, (a - k):
 - Site plan drawn at scale showing parcel and building dimensions and their square footages
 - Curb cuts, driveways, access roads, parking spaces and off-street loading areas
 - Type of business or activity and proposed number of employees
 - Proposed floor plan of any building and use indicated
 - A location map showing the general location of the proposed use within the City and showing all principal land uses within 250 feet of the parcel for which application is being made
 - Any other information deemed necessary by the Zoning Administrator or Planning Commission
- A letter explaining the proposed home occupation and how it will be operated
- A completed Home Occupation Worksheet
- A completed Conditional / Interim Use Permit Worksheet
- The application fee and escrow must be paid at the time of application - The fee is **not** refundable and the unused portion of the escrow will be returned to the applicant.
- Any other information deemed necessary by the Zoning Administrator or Planning Commission
- An application for a property in a Shoreland District must include a valid Septic System Certificate of Compliance

Applicant(s) Signature(s) Ben Kaphing Date 4/11/24

As the applicant for this request, I agree to reimburse the City for all expenses incurred by the City in employing planning, engineering, legal, and other professional consultants in reviewing this application. This may include the replenishment of any escrow funds as required as part of this application. Such costs shall be paid by me, the applicant, regardless of the outcome of the review and prior to commencing any work on the project. All of Article V, Division 6, Conditional Use Permits, and Article VII, Division 13, Home Occupations are attached to this application and by signing this application, the Applicant acknowledges that they have been read and understood.

A public hearing can be scheduled only after a complete application has been received.

OFFICE USE ONLY

Application # I-24-002

Date Complete Application Received 4/11/24

Fee: \$220.00 + Escrow \$750.00

Date Application Received 4/11/24

60 Days 6/10/24

Date Paid 4/11/24

By: [Signature]
Official

Check # Cash

HOME OCCUPATION WORKSHEET

Applicant: Benjamin Kapning
Address: 2633 Goodvine Ave Wyoming, MN 55092
Type of Business: Automotive Repair
Business name: BMK Automotive

Answer the following questions based on the standards contained in Article VII, Division 13, of the City of Wyoming Zoning Ordinance for home occupations. If needed, use a separate page. **All questions must be answered.**

Sec. 40 – 543, Performance Standards; Items 1-10. **All home occupations shall conform to the following standards:**

1. Conduct of the home occupation does not require alterations to the exterior of the residence which substantially alters the appearance of the dwelling as a residence.

Are any alterations to the exterior of the home proposed? ☐ Yes ☒ No

If yes, what is proposed? _____

2. Only those persons residing in the home and one other person may be employed on the site or report to the site on any one day.

How many employees will the business have? 1 part time

3. Signage consists of no more than one (1) single or double-faced sign with a maximum area of nine (9) square feet per side in the R1, R2, R3, R4, R5, R6 and MXD (residential uses) Districts and sixteen (16) square feet per side in the Agricultural (A) District.

Are any signs proposed for the business? ☒ Yes ☐ No

Has a sign permit been applied for? ☐ Yes ☒ No

4. No outdoor display of goods.

Will any goods be displayed outdoors? ☐ Yes ☒ No

5. Any additional need for parking generated by the home occupation shall be met by off-street parking. Said parking area shall be limited to three (3) spaces.

Will there be any off-street parking? ☒ Yes ☐ No (If yes, show the location of parking on the site plan)

6. Should the occupation be teaching, classes shall not exceed ten (10) students at any one time.

Is the business teaching? ☐ Yes ☒ No If yes, how many students per class? _____

7. Should the home occupation be repair, the items repaired shall be of a size or nature that repair can occur within the home, or an accessory structure to the principal use as allowed by this Ordinance.

Is the business repair? ☒ Yes ☐ No If yes, where will the items be repaired? Auto - Cars & light trucks

8. No outside storage is permitted.

Where will items be stored? inside Garage

9. An accessory structure may be utilized in conjunction with the home occupation only for the purpose of holding equipment used off the site, repair (as conditionally permitted pursuant to Sec. 40 – 543, 7), and/or for the storage of goods or articles produced or used by the occupant of the principle structure.

Will an accessory building be used for the business? ☒ Yes ☐ No

If yes, what will the building be used for? Repair of Vehicles

10. The home occupation shall not generate sewage of a nature or type that cannot be treated by a standard onsite sewage system, or the municipal sewer system, or hazardous wastes without an approved plan for offsite disposal.

Will the business generate sewage that cannot be treated? ☐ Yes ☒ No (If yes, attach plan for offsite disposal)

Will hazardous wastes be generated? ☒ Yes ☐ No (If yes, attach plan for offsite disposal)

Application # _____

Revised 01/24/23

CONDITIONAL & INTERIM USE PERMIT WORKSHEET

Applicant: Benjamin Kapfing

Address: 26333 Groveline Ave Wyoming, MN 55092

Type of Business: Automotive Repair

Business name: BMK Automotive

Answer the following questions based on the standards contained in Sec. 40 – 112 of the City of Wyoming Zoning Ordinance for Conditional and Interim Use Permits. If needed, use a separate page. **All questions must be answered.**

1. Is your proposed use in conformity with the Comprehensive Plan and development policies of the City?
☒ Yes ☐ No Explain: _____
2. Will your proposed use create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area?
☐ Yes ☒ No Explain: _____
3. Will your proposed use be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development will not be depreciated in value and so there will be no deterrence to development of vacant land?
☒ Yes ☐ No Explain: _____
4. Will the structure and site have an appearance that will not have an adverse effect upon adjacent properties?
☒ Yes ☐ No Explain: _____
5. Is the proposed use reasonably related to the overall needs of the City and to the existing land use?
☒ Yes ☐ No Explain: _____
6. Will the proposed use be consistent with the purpose of the Zoning Ordinance and other City Ordinances?
☒ Yes ☐ No Explain: _____
7. Will the proposed use be located, designed, maintained, and operated to be compatible with the existing or intended character of the zoning district in which it is to be located?
☒ Yes ☐ No Explain: _____
8. Will the proposed use generate only minimal vehicular traffic on local streets?
☒ Yes ☐ No Explain: _____
9. Will the proposed use create traffic hazards or unsafe access or parking needs?
☐ Yes ☒ No Explain: _____
10. Will existing businesses nearby be adversely affected by your proposed use because of the curtailment of customer trade brought about by intrusion of noise, glare, or general unsightliness?
☐ Yes ☒ No Explain: _____
11. Will the establishment or maintenance of the proposed use be detrimental to the public health, safety or general welfare?
☐ Yes ☒ No Explain: _____
12. Will the proposed use be hazardous, detrimental, or disturbing to present and potential surrounding land uses due to water pollution, odor, fumes, and general unsightliness or other nuisances?
☐ Yes ☒ No Explain: _____
13. How will the proposed use preserve and incorporate the site's important natural and scenic features into the development design?
☐ Yes ☐ No Explain: _____
14. Will the proposed use cause adverse environmental effects?
☐ Yes ☒ No Explain: _____

Application # _____

Revised 01/24/23

Hello my name is Ben kaphing im 40 years old and a long time resident of Wyoming.
This letter is to inform you of my proposal of my home occupation.

What I would like to do is have an automobile repair shop that would be run out of my garage in the backside of my property. It would be a smaller "mom and pop" style business working on cars and light trucks. There would be no alterations or modifications of my residence as the current set up would be sufficient. My plan would be to focus on general repair of brake systems, suspensions and engines. The business would be run primarily by me with the occasional hired hand when I would need it. I pride myself with keeping my house, property and work areas clean and well maintained so keeping everything clean organized and sightly will be no problem and all work will be performed inside my building.

I understand the worry of hazardous waste and my plan for that is this. I would work with bradwell auto and truck who would supply me with 30 gallon barrels that I would deposit any oil or hydraulic fluids such as transmission power steering or gear oil into. When the barrel is full I would drop it off to them and they would give me an empty one. However I don't plan on creating that much of that waste as I would be focused on other areas of the vehicles. All other scrap metal will be hauled off to recycling facilitys.

My business would be named BMK Automotive and my hours of operation would be.

Monday-Friday 8:00am-6:00pm

Saturday 10:00am-2:00pm

Sunday-closed

Thank you for taking the time to consider my proposal. working on cars has been a passion of mine since I was a young kid and I would love to provide my neighbors and community with a place they can bring their vehicles to that would provide them with an honest, trusted and affordable repair to keep them moving that also has that 'mom and pop' feeling.

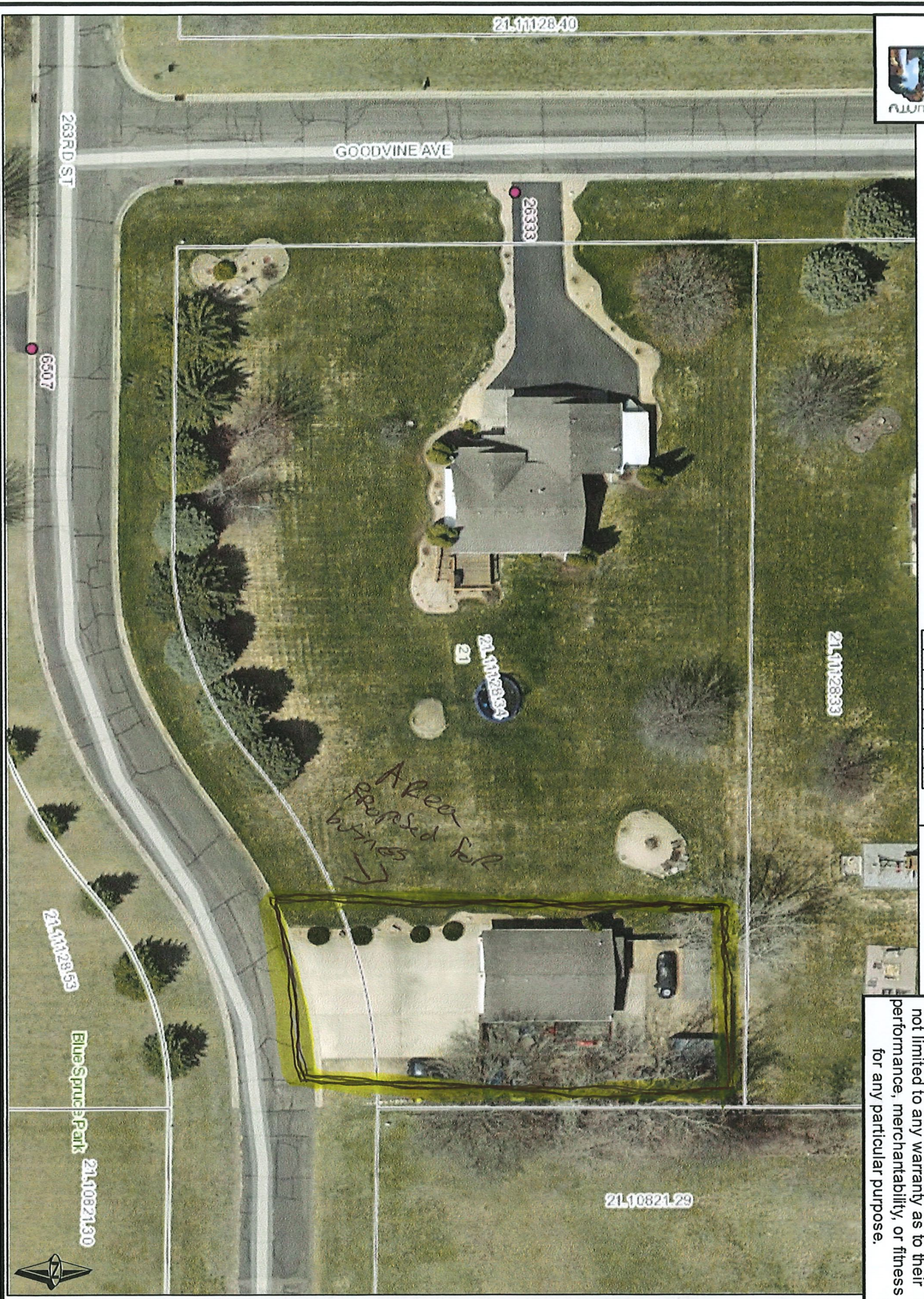
Sincerely, Ben kaphing



0 12.5 25 50 ft

Date: 4/8/2024
Time: 5:43:23 PM

These data are provided on as "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.



Comprehensive Plan – Rezoning of Parcels

Not including overlay districts the Zoning Ordinance has seven districts that are residential in nature and six that are business-related. The Comprehensive Plan map has five residential districts and six that are business related.

Zoning Ordinance	Comprehensive Plan	
Residential Districts		
Agricultural (A)	Agricultural	5 acre min. lot size
Rural Residential I (R1)	Semi-Rural Neighborhood	R1 one acre min. lot size.
Rural Residential II (R2)		R2 two acre min. lot size; 5 or more acres horses are allowed.
Single Family Residential (R3)	Single Family Residential Neighborhood	
One & Two Family Residential (R4)	Multi-Family Suburban Neighborhood	
Manufactured Home District (R5)	N/A	The city's two manufactured home parks.
Medium & High Density Housing (R6)	High Density Residential Neighborhood	
Business Districts		
Central Business (CBD)	Downtown Core	
Commercial District (C)	Commercial	
Office & Health Care (OHC)	Office & Health Care Business	
Mixed Use (MXD)	Mixed Use	
Industrial (I)	Industrial	
Closed Landfill Restricted (CLR)	N/A	

A spread sheet was created to compare a parcel's current zoning with the Comprehensive Plan map. There are 3,365 individual parcels in the city. Of those, 997 will need to be rezoned to match the Comprehensive Plan map. The table below contains 7 columns.

Zoning District	Rezone Parcels	Vacant Parcels	Use Remains Conforming	Makes Use Nonconforming	Acres To Rezone	Parcels With Correct Zoning
Agricultural	0	6	15	0	0	15
Commercial	64	14	14	50	766.64	49
Central Business	49	5	20	29	54.75	26
Industrial	48	10	15	33	692.77	27
Mixed Use	20	59	19	1	255.92	22
Office & Health Care	9	2	2	7	65.64	84
R1 & R2	97	11	96	1	957.23	832
R3	237	59	234	3	2464.29	1113
R3 Subdivided	350	57	345	5	757.26	
R4	57	58	55	2	283.94	36
R6	66	4	0	66	249.29	10
Total	997	266	800	197	6547.73	2214

Zoning District – These are the applicable districts that properties could be zoned to match the map.

Rezone Parcels – This is the number of parcels that need to be rezoned.

Vacant Parcels – These are parcels that according to the tax assessor do not have any structures on them. Some may be adjacent to one or more parcels that are owned by the same entity and are being used in conjunction with parcels that do have structures on them.

Use Remains Conforming – These are parcels where the current use is allowed in the district it would be rezoned to. There may be instances where the new district has property line setbacks that could make a structure nonconforming.

Makes Use Nonconforming – These are parcels that currently have an existing use that is not an allowed use in the district they will be rezoned to. An example would be a parcel with a single family dwelling being rezoned to the Industrial District. The Zoning Ordinance regulates nonconformities, some provisions of the ordinance will need to be updated in order to comply with a change in Statute. An explanation of those changes follows this summary.

Acres to Rezone – This is the total acreage in each zoning district that will be rezoned to that district.

Rezoning process:

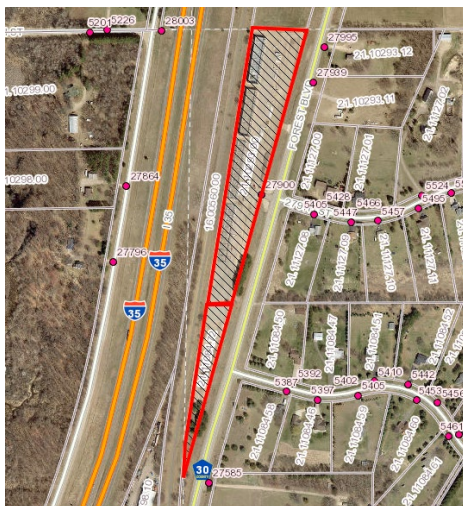
The Planning Commission will set a date for a public hearing to revise the City's zoning map to match the land uses that are on the Comprehensive Plan's Land Use Map. The earliest date that the public hearing can be held is May 14th. The public notice will be published in the Chisago County Press, the city website, and the city hall bulletin board. Individual mailings and notices will not be sent to affected & neighboring properties as would be the case when an individual parcel is be rezoned.

Rezoning Questions / Issues

The 'Semi-Rural Neighborhood' encompasses both the R1 & R2 districts. The minimum lot size in the R1 district is one acre, it is two acres in the R2 district. Both require one acre of buildable area. Both districts allow the same permitted uses, conditional uses, interim conditional uses, and accessory uses. In addition, the R2 district also allows as a permitted use horse keeping on lots that are at least 5 acres in size, and allows mineral extraction and temporary road side stands as interim conditional uses. The R1 district allows 'Open Space Developments' as a conditional use. All of the parcels that need to be rezoned are currently zoned Agricultural (A), the majority are at least 5 acres in size. Only 4 parcels are less than 2 acres; they are one single family dwelling (1.12 acres), a driveway access to a larger parcel (0.08 acres), a cemetery (0.68 acres), and a former tax forfeit parcel that was purchased by the watershed district for a future water quality project (0.99 acres). Which zoning district should all of these parcels be rezoned to?

There are two R3 categories; the '*R3 Subdivided*' row contains parcels that have been fairly recently subdivided. The majority of those parcels were created in the last 20 years. The majority of the vacant parcels are in subdivisions that were created in the last 5-10 years. The "Summer Field" and "Kennedy Estates" subdivisions are two recent developments that were rezoned and developed under the R4 district standards that would be rezoned to R3.

Comp Plan map error – Parcel 21.10293.00, 27900 Forest Boulevard. This property is the location for the recently constructed Hallberg RV Storage facility, which was rezoned to the Industrial district so that it could be constructed. The Comp Plan map shows it as being a Single Family Residential Neighborhood (R3).



In the A & R1 – R6 districts Single-Family Dwellings are a permitted use.

With the exception of the Central Business District, which has no setback requirements, all of the districts have a 135’ setback from county and state highways, and 150’ from the Highway 8 right-of-way.

Unless otherwise noted, all of the parcels to be rezoned are assumed to be conforming to the standards of their current zoning.

Agricultural District (A) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
Rural Residential (R1 or R2) [97 parcels]	Conforming	Conforming	See tables below	Private
Single Family Residential(R3) [53 parcels]	Conforming	Conforming	See tables below	Public
1 & 2 Family Residential(R4) [7 parcels]	Conforming	Conforming	See tables below	Public
Medium & High Density Residential (R6) [6 parcels]	Conforming	Conforming	See tables below	Public
Commercial (C) [16 parcels]	SFD Nonconforming	Conforming	See tables below	Private & public
Industrial (I) [30 parcels]	SFD Nonconforming	Conforming	See tables below	Private & public
Mixed Use (MXD) [9 parcels]	Existing uses, vacant or SFD, conform. Lot size & setbacks are established with the CUP			Public

Rural Residential I (R1) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
Single Family Residential(R3) [336 parcels]	Conforming	Conforming	See tables below	Public
1 & 2 Family Residential(R4) [1 parcel]	Conforming	Conforming	See tables below	Public
Medium & High Density Residential (R6) [1 parcel]	Conforming	Conforming	See tables below	Public
Commercial (C) [8 parcels]	SFD Nonconforming	Conforming if public utility	See tables below	Private & public
Industrial (I) [5 parcels]	SFD Nonconforming	Conforming if public utility	See tables below	Private & public
Mixed Use (MXD) [4 parcels]	Existing uses, vacant or SFD, conform. Lot size & setbacks are established with the CUP			Public
Office & Health Care (OHC) [2 parcels]	Parcels are vacant			Public

Rural Residential II (R2) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
Single Family Residential(R3) [121 parcels]	Conforming	Conforming	See tables below	Public
1 & 2 Family Residential(R4) [8 parcels]	Conforming	Conforming	See tables below	Public
Medium & High Density Residential (R6) [59 parcels]	Conforming	Conforming	See tables below	Public
Commercial (C) [15 parcels]	SFD Nonconforming	Conforming if public utility	See tables below	Private & public
Industrial (I) [7 parcels]	SFD Nonconforming	Conforming if public utility	See tables below	Private & public
Mixed Use (MXD) [3 parcels]	Existing uses, vacant or SFD, conform. Lot size & setbacks are established with the CUP			Public

Single Family Residential (R3) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
1 & 2 Family Residential(R4) [16 parcels]		Conforming	Conforming	Public
Industrial (I) [1 parcel]	The one parcel is a part of the SRC facility. Rezoning to (I) will make the parcel conforming.	Conforming	Conforming	Public

One & Two Family Residential (R4) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
Single Family Residential(R3) [50 parcels]	Conforming	Conforming	Conforming	Public

Manufactured Home (R5) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
Single Family Residential(R3) [3 parcels]	Individual homes in the parks	Conforming per MN Statute 462.357, Subd 1a	Conforming per MN Statute 462.357, Subd 1a	Public

Medium & High Density Residential (R6) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
Single Family Residential(R3) [18 parcels]	Conforming	Determined by # of units	See tables below	Public
1 & 2 Family Residential(R4) [25 parcels]	Conforming	Determined by # of units	See tables below	Public
Central Business (CBD) [20 parcels]	SFD Nonconforming	Determined by # of units	See tables below	Public

Commercial (C) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
Single Family Residential(R3) [1 parcel]	Nonconforming	Conforming	Conforming	Public
Central Business (CBD) [24 parcels]	Similar uses to (C)	Conforming	Conforming	Public
Commercial (C) [1 parcel]	Conforming	Conforming	Conforming	Public
Industrial (I) [4 parcels]	Conforming	Conforming if public utility	Conforming	Public
Mixed Use (MXD) [4 parcels]	Existing uses, vacant or SFD, conform. Lot size & setbacks are established with the CUP			Public

Central Business (CBD) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
Commercial (C) [3 parcels]	Vacant or conforming	Conforming	Conforming	Public

Industrial (I) is the current zoning district.

Rezone to:	Uses	Lot size	Setbacks	Utilities
Central Business (CBD) [5 parcels]		Conforming	Conforming	Public
Commercial (C) [21 parcels]		Conforming	See tables below	Private & public
Office & Health Care (OHC) [7 parcels]		Conforming	See tables below	Public

Commercial Districts Minimum Setbacks							
	Municipal Sewer & Water					Well & Septic	
	MXD	C	OHC	CBD	I	C	I
Principal Structure							
Front Street Setback							
Local Street	40 – 275 - 277	20	40	0	25	40	40
Collector Street	40 – 275 - 277	20	40	0	35	40	40
Arterial Street	40 – 275 - 277	35	40	0	35	135' from CL:	135' from CL
Yard Setback							
Interior Side Yard Setback (feet)	40 – 275 - 277	0 / 20 ¹	15	0/5 ¹	15 / 30 ¹	10 / 20 ¹	20 / 40 ¹
Rear Yard Setback (feet)	40 – 275 - 277	20	20	0/5 ¹	15	20 / 40 ¹	35 / 70 ¹
Side Street Setbacks (corner lots)							
Local Street	40 – 275 - 277	20	40	0	20	40	40
Collector Street	40 – 275 - 277	20	40	0	20	40	40
Arterial Street	40 – 275 - 277	25	40	0	25	135 - CL	135 - CL
Parking Area Setback							
Front	40 – 275 - 277	10	15	0	10	10	10
Side	40 – 275 - 277	10 / 20 ¹	15	0	15/20 ¹	10 / 20 ¹	15
Rear	40 – 275 - 277	10 / 20 ¹	15	0	15/20 ¹	10 / 20 ¹	15
Building Height & Stories							
Max Building Height (stories)	40 – 275 - 277	4	4	4	4	4	4
Max Building Height (feet)	40 – 275 - 277	45	45	45	45	45	45
Accessory Structures							
Front Street Setback (feet)	40 – 275 - 277	Same distance as Principal Structure					
Side Street Setbacks (corner lots, feet)	40 – 275 - 277	Same distance as Principal Structure					
Interior Side Yard Setback (feet)	40 – 275 - 277	3 / 6 ¹	3 / 6 ¹	0 / 5 ¹	3 / 6 ¹	3 / 6 ¹	3 / 6 ¹
Rear Yard Setback (feet)	40 – 275 - 277	3 / 6 ¹	3 / 6 ¹	0 / 5 ¹	3 / 6 ¹	3 / 6 ¹	3 / 6 ¹
Maximum Building Height in Stories	40 – 275 - 277	1	1	1	1	1	1
Maximum Building Height in Feet	40 – 275 - 277	25	25	25	25	25	25
¹ – When adjacent to a Residential District.							
CL = Centerline of the right-of-way							
<i>Arterial Streets: All State and County Highways, East Viking Boulevard (Anoka County to Glen Oak Drive)</i>							
<i>Collector Streets: Goodview Avenue, Pioneer Road, West Comfort Drive, Innsbrook Avenue, Heath Avenue, East Viking Blvd. (East of Glen Oak Drive), and 250th Street / Greenway Avenue (Washington County to Highway 61 / Forest Boulevard)</i>							

Residential Districts Minimum Setbacks						
	A	R-1	R-2	R-3	R-4	R-6
Principal Structure						
Front Street Setback						
Local Street	40	40	40	30	25	25
Collector Street	40	40	40	40	30	30
Arterial Street	135 from CL	135 from CL	135 from CL	40	40	40
Yard Setback						
Interior Side Yard Setback	40	10	10	10	10	½ height of building
Rear Yard Setback	50	35	35	35	35	35
Side Street Setbacks (corner lots)						
Local Street	40	40	40	20	20	15
Collector Street (Does not include county roads)	40	40	40	30	25	20
Arterial Street	135' from CL	135' from CL	135' from CL	30	3	30'
Building Height & Stories						
Maximum Building Height in Stories	3	3	3	3	3	3
Maximum Building Height in Feet	35	35	35	35	35	45
Accessory Structures						
Front Street Setback	Same distance as Principal Structure					
Side Street Setbacks (corner lots)	Same distance as Principal Structure					
Interior Side Yard Setback	40' farm buildings 3' non-farm buildings	3	3	3	3	3
Rear Yard Setback	50' farm buildings 3' non-farm buildings	3	3	3'	3'	3'
Maximum Building Height in Stories	N/A farm buildings 3 non-farm buildings	1	1	1	1	1
Maximum Building Height in Feet	N/A farm buildings 35' non-farm buildings	25	25	18	18	18
Parking, Driveway Setback	5	5	5	5	5	15
CL = Centerline of the right-of-way						
<i>Arterial Streets: All State and County Highways, East Viking Boulevard (Anoka County to Glen Oak Drive), Kettle River Boulevard (formerly Co. Rd. 62, from East Viking Blvd. to Anoka County)</i>						
<i>Collector Streets: Goodview Avenue, Pioneer Road, West Comfort Drive, Innsbrook Avenue, Heath Avenue, East Viking Blvd. (East of Glen Oak Drive), and 250th Street / Greenway Avenue (Washington County to Highway 61 / Forest Boulevard)</i>						

NONCONFORMITIES

CITY OF WYOMING ZONING ORDINANCE

Sec. 40 - 23. Conformity with Provisions.

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

Sec. 40 - 40. Definitions.

The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined.

- (115) **Nonconforming Structure, Use, or Parcel:** Any legal use, structure, or parcel of land already of existence, recorded, or authorized before the adoption of official controls or amendments that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

DIVISION 22 NONCONFORMITIES

Sec. 40 - 650. Purpose.

It is the purpose of this Division to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Division to provide for the gradual elimination of nonconformities.

Sec. 40 - 651. General Provisions.

- (1) Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged, but may be continued at the size and in the manner of operation existing upon such date except as hereafter specified or, subsequently amended. *(Similar wording in Statute Subd. 1e (a))*
- (2) No nonconforming building, structure or use shall be moved to another lot or to any other part of the parcel, land upon which the same was constructed or was conducted at the time of this Ordinance adoption unless such movement shall bring the nonconformance into compliance with the requirements of this Ordinance. *(Not addressed in statute)*
- (3) When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use. *(Not addressed in statute)*
- (4) A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it will not thereafter be so altered to increase the nonconformity. *(Not addressed in statute.)*
- (5) If at any time a nonconforming building, structure or use shall be destroyed to the extent of fifty percent (50%) or more of its fair market value, said value to be determined by the County Assessor, then without further action by the City, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located. Any building which is damaged to an extent of less than fifty percent (50%) of its value may be restored to its former size, but may not be enlarged. *(Statute Subd. 1e (a) (2) allows a nonconforming structure that has been fully destroyed to be rebuilt if a building permit is applied for within 180 days of its destruction.)*
- (6) Whenever a lawful nonconforming use of a structure or land is discontinued for a period of one (1) year or following written notice from the Zoning Administrator, any future use of said structure or land shall be made to conform with the provisions of this Ordinance. *(Similar wording in Statute Subd. 1e (a))*

Sec. 40 - 652. Substandard Lots. *(Statute Subd. 1e (d)-(j) addresses shoreland areas, the city's shoreland ordinance includes the statute's provisions. The regulations contained in this Section apply to non-shoreland areas in the city and are not addressed by statute.)*

The minimum lot area requirements are set forth within the district provisions of the ordinance. Any lot not meeting the minimum requirements of the district it is located in, which was recorded after April 20, 1970, shall be considered a substandard lot.

A substandard lot may be allowed as a building site provided that all the following criteria are met:

- (1) The lot is a lot of record recorded at the Chisago County recorder's office, prior to April 20, 1970.
- (2) The lot is in separate ownership from abutting lands.
- (3) The lot width or area is within sixty percent (60%) of the minimum requirements set forth in this Ordinance.
- (4) The lot can be served by a standard on-site sewage system, or municipal sewer.
- (5) All required setbacks for a structure can be met.

Sec. 40 - 653. Substandard Lots of Record in Combination. *(Not addressed in statute except for shoreland areas.)*

If two or more lots or a combination of lots and portions of lots with continuous frontage of single ownership are of record at the time of passage or amendment of this Ordinance and if all or part of the lots with no buildings do not meet the requirements established by this Ordinance, for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division or any parcel be made which creates a lot with a width or area below the requirements stated in this Ordinance.

Sec. 40 - 654. Substandard Lots: Accessory Structures. *(Not addressed in statute.)*

- (1) Substandard lots containing a principal structure may add a permitted accessory structure, provided the accessory structure will meet all minimum setback requirements of this Ordinance, and will not cause the maximum percentage of lot area under roof requirement to be exceeded.
- (2) Additions to principal and/or accessory structures located on substandard lots may be permitted, provided that any such additions will meet the minimum setback standards for the zone in which it is located.

Sec. 40 - 655. Uses under Conditional Use Permits. *(Not addressed in statute.)*

Any use which is permitted as a conditional use in a district under the terms of this Ordinance shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

Sec. 40 - 656. Maintenance of Non-Conforming Structures.

Normal maintenance of a building or other lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the nonconforming use, providing the necessary repairs shall not constitute fifty percent (50%) or more of fair market value of such structure. Said value shall be determined by the County Assessor. *(Similar provisions in Statute Subd. 1e (a) except market value is not stated.)*

Sec. 40 - 657. Alterations of Non-Conforming Structures.

Alterations may be made to a building or other lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of traffic. *(Similar wording in Statute Subd. 1e (a))*

Sec. 40 - 658. Non-Conforming Structures in Progress at Time of Adoption.

Any proposed structure which will, under this Ordinance, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans. *(Not addressed in statute.)*

MN STATUTES

§ 462.357 OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 1e. Nonconformities.

- (a) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

- (1) the nonconformity or occupancy is discontinued for a period of more than one year; or
 - (2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.
- (b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.
- (c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.
- (d) Paragraphs (d) to (j) apply to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A municipality shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to paragraphs (d) to (j).
- (e) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
- (1) all structure and septic system setback distance requirements can be met;
 - (2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and
 - (3) the impervious surface coverage does not exceed 25 percent of the lot.
- (f) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
- (1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
 - (2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;
 - (3) impervious surface coverage must not exceed 25 percent of each lot; and
 - (4) development of the lot must be consistent with an adopted comprehensive plan.
- (g) A lot subject to paragraph (f) not meeting the requirements of paragraph (f) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
- (h) Notwithstanding paragraph (f), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section [115.55](#) and Minnesota Rules, chapter 7080, or connected to a public sewer.

- (i) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, stormwater runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.
- (j) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Zoning Ordinance Nonconformity Exceptions

DIVISION 3 AGRICULTURAL OPERATIONS

Sec. 40 - 430. Nonconforming Agricultural Operations.

Nonconforming agricultural operations located on parcels not presently zoned for agricultural uses, provided the parcel was zoned for agriculture prior to the adoption of this Ordinance, may be continued and/or expanded, but shall not provide for a change to a different use, other than those permitted in the applicable district. If a substantial change in the use or a significant expansion of the operation is proposed, the Planning Commission may require a Conditional Use Permit.

Existing Conditional Use Permits for a use that is not allowed in the new zoning district. The city attorney is reviewing whether these properties become non-conforming; remain conforming as long as the conditions of the CUP are still being met; and whether the use can expand.