



AGENDA OF THE
REGULAR MEETING OF THE PLANNING
COMMISSION
CITY OF BIRCHWOOD VILLAGE
207 BIRCHWOOD AVENUE
WASHINGTON COUNTY, MINNESOTA
AUGUST 2, 2011
7:00 P.M.

CALL TO ORDER

APPROVE AGENDA

CITY BUSINESS

1. 7:00 Approval of the Minutes of the June 7, 2011 Planning Commission Meeting (see exhibit)
Time Budget: 5 minutes
2. 7:05 Conditional Use Permit Request - Home Occupation – 501 Wildwood Avenue (see exhibit)
 - a. PUBLIC HEARING
 - b. Review of Request and Recommendation to the City CouncilTime Budget: 40 minutes
3. 7:45 Master Parking Plan – Lake Avenue and Park Avenue; Tighe-Schmitz Park – Initial Discussion (see exhibit)
Time Budget: 10 minutes
4. 7:55 Exterior Storage (City Code Section 615) : Review of Ordinance – Initial Discussion
Time Budget: 10 minutes
5. 8:05 ADJOURN

1 CITY OF BIRCHWOOD VILLAGE
2 PLANNING COMMISSION MEETING
3 June 7, 2011
4
5

6 MINUTES
7

8 **COMMISSIONERS PRESENT:** Doug Danks, Randy Felt, and Don Hankins
9

10 **COMMISSIONERS ABSENT:** Chair Len Pratt, John Winters
11

12 **STAFF PRESENT:** City Planner Samantha Crosby and City Clerk Dale Powers
13

14 **OTHERS PRESENT:** Bea Krinke, Douglas Krinke, Roger Kropelnicki, and John Wyland
15

16 Hankins called the regular meeting to order @ 7:01pm.
17

18 **APPROVAL OF MINUTES OF THE JULY 6, 2010 MEETING:** *Felt/Danks 3-0 (Pratt & Winters absent) to*
19 *approved the minutes of the July 6, 2010 Planning Commission meeting.*
20

21 **CABINET-MAKING AS A HOME OCCUPATION – REVIEW AND RECOMMENDATION:** Crosby went over
22 the staff report with the Commission, and reported that the City has received any number of complaints
23 about noise emanating from the garage at 501 Wildwood Avenue. Subsequent investigation into the
24 matter revealed that a resident of the property was operating a cabinet-making business out of the
25 garage, and was in the process of obtaining state and federal tax identification numbers and a
26 contractor's license. Powers added that the Home Occupation ordinance lists allowed home
27 occupations and prohibited home occupations, and cabinet making is not on either list. In situations like
28 this, Powers stated that in the combined 30+ years of planning experience between himself and Crosby,
29 there is a wide variation on how cities handle this. Some cities allow the use without a conditional use
30 permit; some cities prohibit the home occupation as not on the list of allowed home occupations; and
31 some cities determine on a case-by-case basis each proposed home occupation. Powers concluded his
32 remarks by stating that the City Council desires the opinion of the Planning Commission on this matter
33 for guidance and direction.
34

35 The Commission heard the following comments:
36

- 37
- 38 • **Kropelnicki** (who is the operator of the cabinet-making business) shared with the Commission
39 his situation in that he has a full-time job and works only sporadically on cabinet-making; when
40 he works on cabinets, he is considerate and closes the door when neighbors are outside; the
41 tools used for the business are not professional grade; and that his motivation for the business
42 is to supplement his income to help defray the increased health insurance costs he is
43 experiencing. **Hankins** asked about the kinds of power tools used and the hours of operation.
44 **Kropelnicki** replied that he uses a 10" radial saw and a router, and works in his garage on
45 Sunday afternoons 11am-5pm, and Mondays from 7:30/7:45am-6pm.
 - 46 • **Doug Krinke** addressed the Commission and stated that he lives less than 100 feet away from
47 the garage. **Krinke** related that he has dealt with the noise issue since 2009, and when he
complained about the noise to Mayor Wingfield, he was advised to call the police. **Krinke**

48 contacted Officer Rob Flick on this issue, and Flick investigated the matter and advised
49 Kropelnicki of the City's ordinance on hours of noise. **Krinke** noted that Kropelnicki understated
50 the amount of work he does in his garage, and said that a lot of cabinets were built in 2009 and
51 that last year's schedule was even busier. **Krinke** shared with the Commission pictures of the
52 subject property that show such items as a commercial dumpster, etc.

- 53 • **Wyland** addressed the Commission and stated that he lives across Grotto from Kropelnicki, and
54 stated that he thinks Kropelnicki's garage is too small for cabinet-making; that he has seen
55 Kropelnicki work in the garage past 7pm (one time last year it went past 10pm); and that the
56 noise from the garage makes it difficult to enjoy the use of the outside of his property and has
57 to eat inside. **Wyland** concluded by saying that the neighbors who don't directly face
58 Kropelnicki's garage don't experience the noise issues as much. **Danks** asked whether the noise
59 is as noticeable when the garage door is closed. **Wyland** responded that closing the door helps a
60 lot.

61
62 **Danks** asked what kinds of tools are used outside the garage. **Kropelnicki** responded that he uses a
63 small 5" power sander outside. **Hankins** asked about the size of the garage, and **Kropelnicki** replied
64 that the garage is 24 x 22 and is uninsulated. **Danks** asked if the garage door is kept open for
65 ventilation, and **Kropelnicki** responded that is the case and uses a table saw with the door open.
66 **Danks** inquired further whether a dust collection system is in place, and **Kropelnicki** responded that
67 vacuums are hooked up to the saws.

68
69 **Hankins** closed the public comment period and asked each Commissioner for comments.

70
71 **Felt** offered that under the city's comprehensive plan that the first goal is to maintain the City's
72 residential character and to prohibit commercial high-density uses. **Felt** further noted that for him
73 the issue isn't the business itself, but its location. For those reasons, **Felt** stated that he is inclined to
74 consider cabinet-making to be a prohibited use.

75
76 **Hankins** started his remarks by quoting Section 306.070, subsection 3e of the City Code ("no home
77 occupation shall be noticeable from adjacent properties...") and noted the presence of a dumpster
78 that is visible to adjacent properties. **Hankins** concluded by saying that he does not see this use as a
79 fit with the residential nature of this community.

80
81 **Danks** opened his remarks by saying this is a hard one to resolve, stating that idyllic Birchwood is
82 not the place one moves to and expect noise. **Danks** noted, however, that setting a precedent on
83 this issue might be a slippery slope, as there is quite a bit of woodworking equipment outside
84 residential properties on Wildwood Avenue in his neighborhood. **Danks** offered that the conditional
85 use process that will allow for a public hearing and placement of conditions on the use (e. g.
86 screening the dumpster, hours restrictions, etc.) that will mitigate problems with the use in a
87 residential neighborhood. **Danks** concluded his remarks by stating that he is looking for a middle
88 ground on this issue, and if the Commission could find conditions to mitigate the noise, that would
89 be the middle ground to find.

90
91 **Danks moved to recommend to the City Council that cabinet shops are a use requiring a**
92 **conditional use permit. The motion died for lack of a second.**
93

94 *Hankins/Felt 2-1 (Danks opposed; Pratt and Winters absent) to recommend to the City Council*
95 *that commercial cabinet making is closer to a prohibited use and to declare that due to the*
96 *objectionable nature of the activity that it should be a prohibited use.*
97

98 **VILLAGE HALL INSPECTION REPORT – REVIEW OF ADA ITEMS AND RECOMMENDATION TO THE**

99 **CITY COUNCIL:** Powers reviewed with the Commission the Village Hall Inspection Report by White
100 Bear Lake Chief Building Inspector Ben Eggan, and noted that the City Council asked the Planning
101 Commission to review the ADA-compliance items that were of a larger scale (such as parking lot,
102 accessibility of the Clerk’s Office, etc) due to the architectural and construction experience of the
103 individual Commission members. Powers further advised the Commission that they can contact Ben
104 Eggan individually for more detailed information. Danks noted that his recommendation is that
105 before any expenditure of city funds are made to abandon or tear down the existing Village Hall
106 structure is made that a feasibility study for readaptation of the structure be performed.
107

108 **METROPOLICAN COUNCIL SYSTEM STATEMENTS – REVIEW AND DETERMINATION OF NEED TO**

109 **AMEND COMPREHENSIVE PLAN:** The general consensus of the Commission is that there is no need
110 to amend the City’s 2030 Comprehensive Plan on the basis of the submitted system statements.
111

112 **ADJOURN:** Felt/Danks 3-0 (Pratt and Winters absent) to adjourn the meeting @ 8:27pm.
113
114
115
116
117

118 Dale Powers
119 City Clerk

**CITY OF BIRCHWOOD VILLAGE
MEMORANDUM**

TO: Birchwood Village Planning Commission

FROM: Samantha Crosby, Staff Planner

DATE: July 27, 2011 for the August 2, 2011 Planning Commission Meeting

CASE NO.: 11-6-SB

APPLICANT: Roger Kropelnicki

LOCATION: 501 Wildwood Road

BACKGROUND

At the May 10, 2011, City Council meeting the issue of the home occupation was discussed and the Council decided to refer the matter to the Planning Commission for a recommendation. At the June 7 Planning Commission meeting, on a 2 to 1 vote, the Commission recommended that the use is closer to a prohibited home occupation than an allowed home occupation and therefore should not be allowed to apply for a conditional use permit. At the June 14 City Council meeting, the City Council rejected the Commission's recommendation and decided that the use was not a prohibited home occupation and therefore the operator was eligible to apply for a conditional use permit.

REQUEST

The applicant is requesting a conditional use permit for a home occupation in order to operate a small cabinet - and other furniture - making business out of the detached garage. See attached narrative.

SITE CHARACTERISTICS

The subject site is located on the southeast corner of Wildwood Avenue and Grotto Street. The lot is 10,750-square feet in size. The lot contains a 1-story single-family residence, a 2-car detached garage and a small shed.

ANALYSIS

The home occupation section of the code states:

"No home occupation shall be noticeable from adjacent properties or right-of-way, nor constitute a fire hazard to neighboring residences, adversely affect neighboring property values, or constitute a nuisance or otherwise be detrimental to the neighbors because of traffic, noise, glare, odor, electrical interference, magnetic interference,

radio and television interference, laser beams, vibration, dust and other nuisance or safety hazards or other factors found relevant by the City Staff of City Council.”

Although there have been grievances filed in the past, it is possible that the home occupation could function in such a way as to not cause disruption to the surrounding properties. Consequently, staff’s analysis has focused on mitigating possible negative impacts to the immediate neighborhood. The City’s Fire Inspector visited the site and found no cause for safety concern. His only recommendation was the installation of a portable fire extinguisher within the garage. The days and hours of operation have been limited and parameters for when the garage door must be shut have been set. Insulation of the garage is not being required at this time. If noise violations occur, the applicant will have the option to insulate the garage in an attempt to mitigate the noise audible from off-site. If violations occur the City Council reserves the right to reconsider, and possibly revoke, the conditional use permit.

SUMMARY

The City’s discretion in approving or denying a conditional use permit is limited to whether or not the changes meet the standards outlined in the Zoning Ordinance. If it meets these standards, the City must approve the conditional use permit. These standards are specifically listed in Section 306.070, Subd.4, compliance with which is included as a condition of approval.

If the following conditions of approval are adhered to, staff considers the request to be reasonable, and does not foresee any detrimental impact to the health, safety or welfare of the residents of the City.

RECOMMENDATION

Staff recommends approval of the Conditional Use Permit for a home occupation, subject to the following conditions:

1. All application materials, maps, drawings and descriptive information submitted with this application shall become part of this permit.
2. Hours of operation are limited to Monday through Saturday 8:00 am to 5:00 pm. With at least two days advanced notice, Mr. Kropelnicki shall accommodate the request of his neighbors not to work on a given day. It is the intent that this provision be applied sparingly to accommodate special events and occasions on neighboring properties, therefore, this provision need not be accommodated more than four week days and two weekend days per month.
3. No employees, other than Mr. Kropelnicki himself, shall be employed in the home occupation.
4. No customers shall visit the property. Additional traffic is restricted to deliveries by standard single rear axel delivery trucks such as Fed Ex, UPS or the US Postal Service, limited to no more than 3 delivery/pick-up trips per day.

5. The garage door must be closed when the stereo is on, or when a hammer or any power tool is being utilized.
6. The applicant shall unplug the air compressor when not in use so it doesn't start up at night.
7. The property and all uses thereon shall comply with the State Statues on noise for residential uses, both day and night. Applicant is responsible for any cost which may be associated with a noise meter reading, if the reading is found to exceed the noise limits.
8. The property shall comply will all provisions of Municipal Code Section 306.070, Subd. 4. If violations to this CUP, that code section, or the state statue on noise do occur, they shall be documented by the City and after the third violation, the City may reconsider the conditional use permit.
9. Any trash receptacles shall be stored to the side of the garage and shall be screened from view by a privacy fence tall enough to screen the receptacles from being viewed from off the property but no taller than 6 feet in height. If a dumpster is utilized, the dumpster shall not exceed 3-yards in size and shall be emptied often enough so that it is never over-flowing.
10. All work shall be conducted within the garage. No painting, sanding, assembly or construction work of any kind shall occur on the driveway or outside of the garage.
11. No exterior storage of equipment or materials associated with the home occupation is allowed.
12. All sawdust, paint chips, or other debris shall be properly disposed off. The garage shall not be hosed-out to wash particulate matter into the yard or towards the city street.

Prior to the resuming work, the applicant shall:

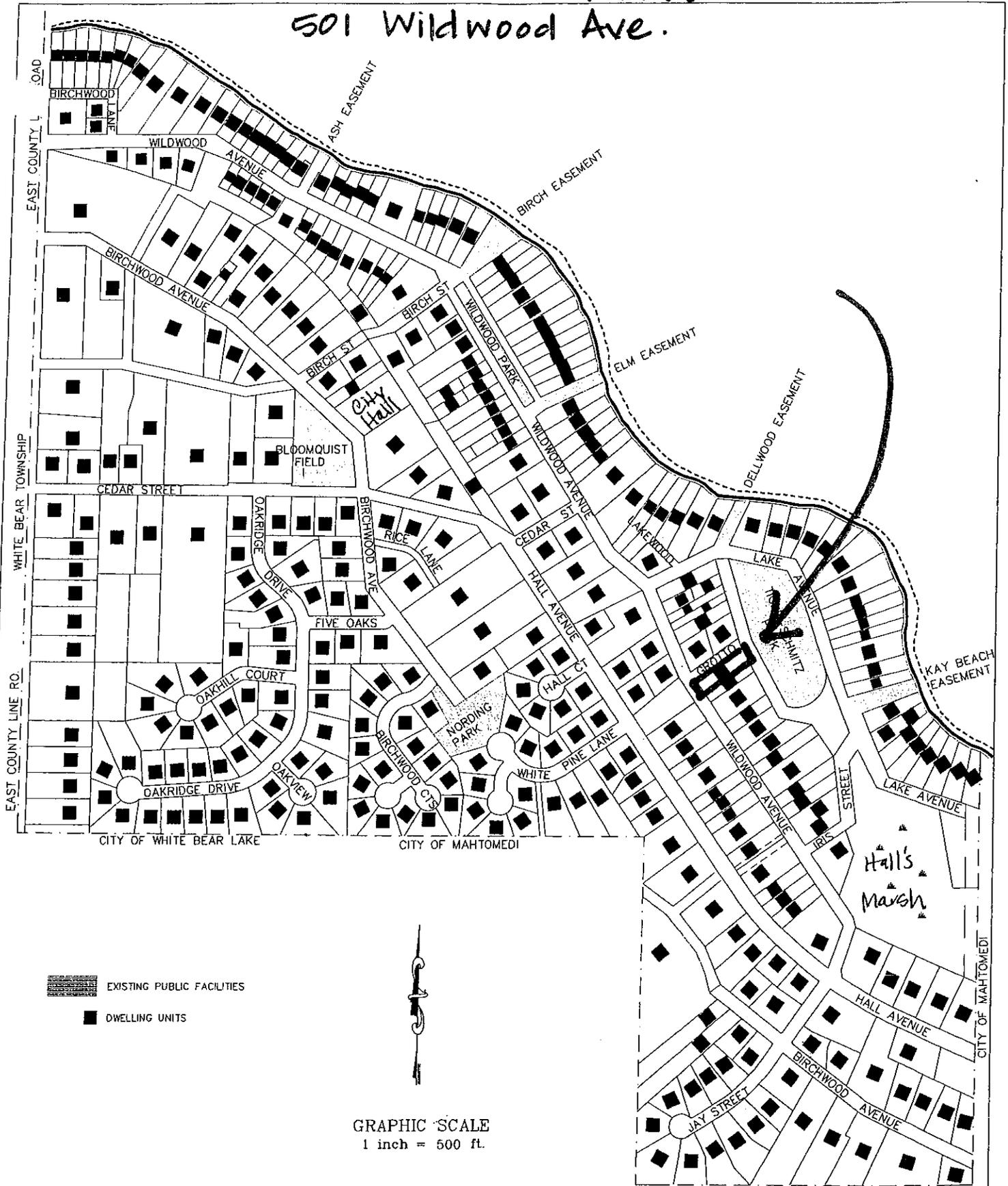
13. Have the homeowner sign the CUP application form.
14. Sign the resolution and provide a copy to both the City Clerk and the Staff Planner.
15. Install a portable fire extinguisher mounted by the service door. The extinguisher shall be rated 3A-40BC.

ATTACHMENTS

1. Location Map
2. Draft Resolution of Approval
3. Applicant's Narrative
4. Floor Plan
5. Aerial Photo/Site Plan
6. Krinke Letter dated July 23, 2011

LOCATION MAP

501 Wildwood Ave.



RESOLUTION NO. 2011-16

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR
A HOME OCCUPATION PERMIT FOR CAROL KREY
WITHIN THE CITY OF BIRCHWOOD VILLAGE, MINNESOTA**

WHEREAS, a proposal (11-6-SB) has been submitted by Roger Kropelnicki to the City Council requesting a conditional use permit from the City of Birchwood Village at the following site:

ADDRESS: 501 Wildwood Avenue

LEGAL DESCRIPTION: Lot 1, Lakewood Park Third Addn, Washington County, MN (PID #:)

THE APPLICANT SEEKS THE FOLLOWING PERMITS: A Conditional Use Permit for a home occupation in order to operate a cabinet and other furniture making business out of the detached garage, per Section 306.070.

WHEREAS, the Planning Commission has held a public hearing as required by the City Zoning Code on August 2, 2011;

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed conditional use permit upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village after reviewing the proposal, that the City Council accepts and adopts the following findings of the Planning Commission:

1. The proposal is consistent with the city's Comprehensive Plan.
2. The proposal is consistent with existing and future land uses in the area.
3. The proposal conforms to the Zoning Code requirements.
4. The proposal will not depreciate values in the area.
5. The proposal will not overburden the existing public services nor the capacity of the City to service the area.
6. Traffic generation will be within the capabilities of the streets serving the site.
7. That the special conditions attached in the form of a conditional use permit are hereby approved.

FURTHER, BE IT RESOLVED, that the City Council of the City of Birchwood Village hereby approves the requested conditional use permit subject to the following conditions:

1. All application materials, maps, drawings and descriptive information submitted with this application shall become part of this permit.
2. Hours of operation are limited to Monday through Saturday 8:00 am to 5:00 pm. With at least two days advanced notice, Mr. Kropelnicki shall accommodate the request of his neighbors not to work on a given day. It is the intent that this provision be applied sparingly to accommodate special events and occasions on neighboring properties, therefore, this provision need not be accommodated more than four week days and two weekend days per month.
3. No employees, other than Mr. Kropelnicki himself, shall be employed in the home occupation.
4. No customers shall visit the property. Additional traffic is restricted to deliveries by standard single rear axel delivery trucks such as Fed Ex, UPS or the US Postal Service, limited to no more than 3 delivery/pick-up trips per day.
5. The garage door must be closed when the stereo is on, or when a hammer or any power tool is being utilized.
6. The applicant shall unplug the air compressor when not in use so it doesn't start up at night.
7. The property and all uses thereon shall comply with the State Statues on noise for residential uses, both day and night. Applicant is responsible for any cost which may be associated with a noise meter reading, if the reading is found to exceed the noise limits.
8. The property shall comply will all provisions of Municipal Code Section 306.070, Subd. 4. If violations to this CUP, that code section, or the state statue on noise do occur, they shall be documented by the City and after the third violation, the City may re-consider the conditional use permit.
9. Any trash receptacles shall be stored to the side of the garage and shall be screened from view by a privacy fence tall enough to screen the receptacles from being viewed from off the property but no taller than 6 feet in height. If a dumpster is utilized, the dumpster shall not exceed 3-yards in size and shall be emptied often enough so that it is never over-flowing.
10. All work shall be conducted within the garage. No painting, sanding, assembly or construction work of any kind shall occur on the driveway or outside of the garage.
11. No exterior storage of equipment or materials associated with the home occupation is allowed.
12. All sawdust, paint chips, or other debris shall be properly disposed off. The garage shall not be hosed-out to wash particulate matter into the yard or towards the city street.

Prior to the resuming work, the applicant shall:

- 13. Have the homeowner sign the CUP application form.
- 14. Sign the resolution and provide a copy to both the City Clerk and the Staff Planner.
- 15. Install a portable fire extinguisher mounted by the service door. The extinguisher shall be rated 3A-40BC.

The foregoing resolution, offered by Council member _____ and supported by Council member _____, was declared carried on the following vote:

Ayes:
 Nays:
 Passed:

Alan Mitchell, Mayor

ATTEST:

Dale Powers, City Clerk

 Approval is contingent upon execution and return of this document to the City Clerk.

I have read and agree to the conditions of this resolution as outlined above.

Applicant's Signature

Date

July 6 2011

To the Planning Commission;

On July 5 2011, I applied for a Conditional Use Permit to conduct a part time cabinet shop at my residence at 501 Wildwood Avenue, Birchwood, MN. In the past I have been building cabinets in the garage (which also continues to be used as car parking and storage for my wife's crafts) on a part time basis. I continue to work fulltime at Logistics/Con Agra in Lakeville, MN from Wednesday through Saturday, 5:00 am to 5:00 p.m. Since the June 14th Birchwood Council meeting I have not worked any hours in the garage and will not work until this matter is resolved. Following the May Birchwood Council meeting I have recorded my hours and attached are copies of May and June hours spent on the cabinet business.

I am requesting to continue to work part time Monday through Saturday 8:00 am. – 5:00 p.m.

I do not want to be restricted to only working on Mondays and Tuesdays due to the fact that occasionally Con Agra will shut down for several days and my schedule changes leaving me with other days off.

The type of work I will be conducting will be constructing cabinets on a small scale basis. I am doing small jobs because I am limited to space. I conduct business with my customers at their homes and not at my residence. I have no delivery trucks other than UPS or Speedy Delivery that drop off hardware. I use my half ton pickup truck to pick up wood. I had a dumpster and it has been removed. However, if I do decide to obtain another dumpster it will be positioned along the east side of the garage and it will have a fence around it. The equipment that I have been using in the garage is the same tools that can be purchased at Home Depot and used by any homeowner doing home projects. I have no industrial grade tools. When using a louder power tool (for example a router or planer) I have been closing the garage door to lessen the noise. (The garage door is insulated) When I am not using any power tools I would like to be able to have the garage door open.

Thank you for your consideration in this matter.

Roger Kropelnicki

A handwritten signature in black ink, appearing to read 'Roger Kropelnicki', written over a horizontal line.

Roger Kropelnicki
 Cabinet Work Schedule
 501 Wildwood Avenue

May 2011

Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
1	2	3	4	5	6	7
8	9	10	11 9:30 ^{am} 6:00 pm.	12	13	14
15	16	17 Birchwood Council Mtg. 9:00 - 2:00 4:30 - 7:00	18 8:30 - 1:00 3:00 - 7:00	19	20	21
22	23	24 9:00 - 5:00	25 8:45 - 6:45	26	27	28
29	30 10:00 - 4:00	31				
	Memorial Day					

Roger Kropelnicki
Cabinet work schedule

June 2011

Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
			1 10:00 - 4:00	2 Noon - 5:00	3	4 9:00 - 1:00
5	6 10:00 - Noon 4-6	7 9-6	8 10-1 4-6	9 9:30 - 11:30	10 1:00 - 4:30	11 5:30 pm - 7:30 pm
12	13 11:00 - 3:00	14 Council Mtg.	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Note: Roger on sick leave May 31 - June 12 allowing him extra time from regular fulltime job to work in garage

SCOTT R. MARTIN

ATTORNEY AT LAW, P.A.

4856 BANNING AVENUE
WHITE BEAR LAKE, MN 55110
TELEPHONE: (651) 426-7525
FAX: (651) 429-0817

June 14, 2011

VIA EMAIL ONLY

Dale Powers
City of Birchwood Village
207 Birchwood Avenue
Birchwood, MN 55110

Re: Roger Kropelnicki

Dear Mr. Powers:

I represent Mr. Kropelnicki with respect to complaints regarding his wood working activities at his home. Having reviewed the city ordinances I do not believe that Mr. Kropelnicki is actually in violation in any way.

Mr. Kropelnicki however wants to show his good faith in dealing with his neighbors and although not necessary would like to obtain a conditional use permit for his activities which would include some agreements to mitigate the noise, eliminate the dumpster and reduce the hours he is working in his shop.

Mr. Kropelnicki will be at the meeting tonight so I am hopeful that some agreements can be reached.

Sincerely,



Scott R. Martin

cc: Roger Kropelnicki

FLOORPLAN

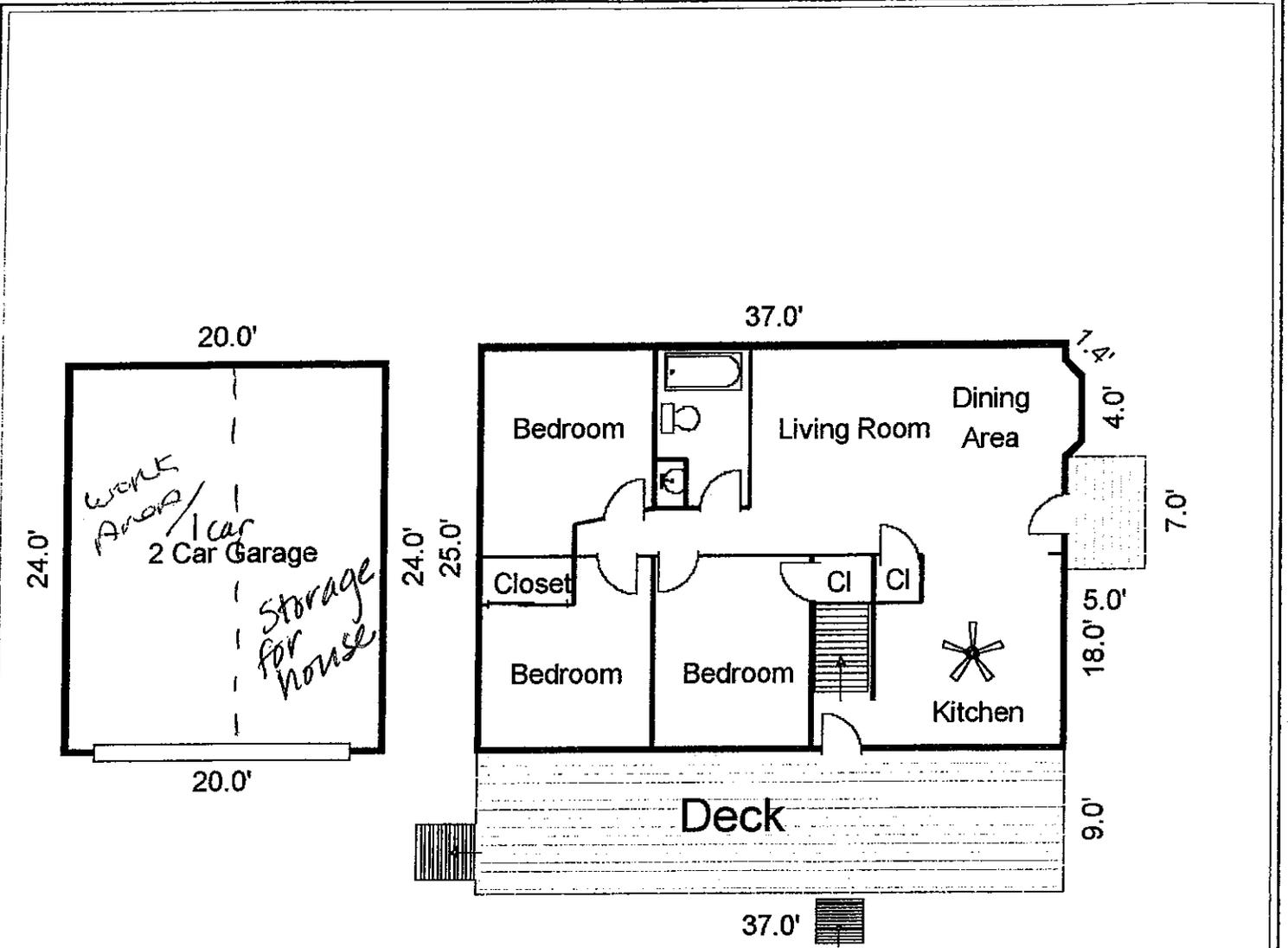
Owner/Client: Michael & Karen Charper
 Property Address: 501 Wildwood Avenue
 City: Birchwood Village

File No.: 9900041

Case No.:

State: MN

Zip: 55110



Sketch by Apex IV Windows™

AREA CALCULATIONS SUMMARY			
Area	Name of Area	Size	Totals
GLA1	First Floor	930.00	930.00
P/P	Deck	333.00	
	Porch	35.00	368.00
GAR	Garage	480.00	480.00

LIVING AREA BREAKDOWN			
Breakdown			Subtotals
First Floor			
	1.0 x	4.0	4.00
0.5 x	1.0 x	1.0	0.50
0.5 x	1.0 x	1.0	0.50
	25.0 x	37.0	925.00



276

OD PARK THIRD

196

200

193

50

AVENUE

108.6

57.25

7.25

WILDWOOD

(0072)

1010.5

Douglas M. Krinke

429 Wildwood Avenue
St. Paul, MN 55110

(651) 645-2577

July 23, 2011

Planning Commission
City of Birchwood Village
207 Birchwood Avenue
Birchwood, MN 55110

Dear Planning Commission Members:

This letter is in response to the application by Roger Kropelnicki for a conditional use permit to operate a cabinet making business at 501 Wildwood Avenue. My wife and I live directly across Grotto Street and less than 100 feet from Mr. Kropelnicki's garage and place of business.

While we believe a cabinet making shop is hardly "invisible" as required by Birchwood code and would prefer that it did not operate in our residential neighborhood, we are willing to see if changes required by a conditional use permit will alleviate the noise which this business has been generating over the past two years.

Specifically (and at a minimum), we would expect the following "conditions" to be placed on this permit.

1. Close all doors and windows when any power tools are in operation. No exceptions.
2. Restrict hours of operations. Perhaps 8:00 am to 5:00 pm, Monday through Saturday (or better yet Friday). This gives Mr. Kropelnicki 54 hours per week (or 45) to work.
3. Close the doors and windows when the stereo system is in use (or use earphones).
4. Unplug the air compressor when not in use so it doesn't start up at night.
5. The above conditions should apply to all noise making activities in the garage, regardless of whether Mr. Kropelnecki is building cabinets for his business or using his equipment for other purposes. We don't want Mr. Kropelnicki to claim he can ignore the conditions placed on him because he is using his equipment for a non-business purpose.

In order to operate comfortably year round, we assume Mr. Kropelnecki will need to insulate the walls and install better doors and windows. This should also help reduce the sound of his activities.

The conditions we are asking for are only what one might expect of a considerate neighbor. We will be attending the Planning Commission meeting on August 2nd if you have questions.

Sincerely,

Doug Krinke

Bea Krinke



CITY OF BIRCHWOOD VILLAGE
207 Birchwood Avenue
Birchwood Village, MN 55110
651-426-3403 tel
651-426-7747 fax
birchwoodvillage@comcast.net

MEMORANDUM

Date: July 25, 2011

To: Planning Commission

From: Dale Powers, City Clerk

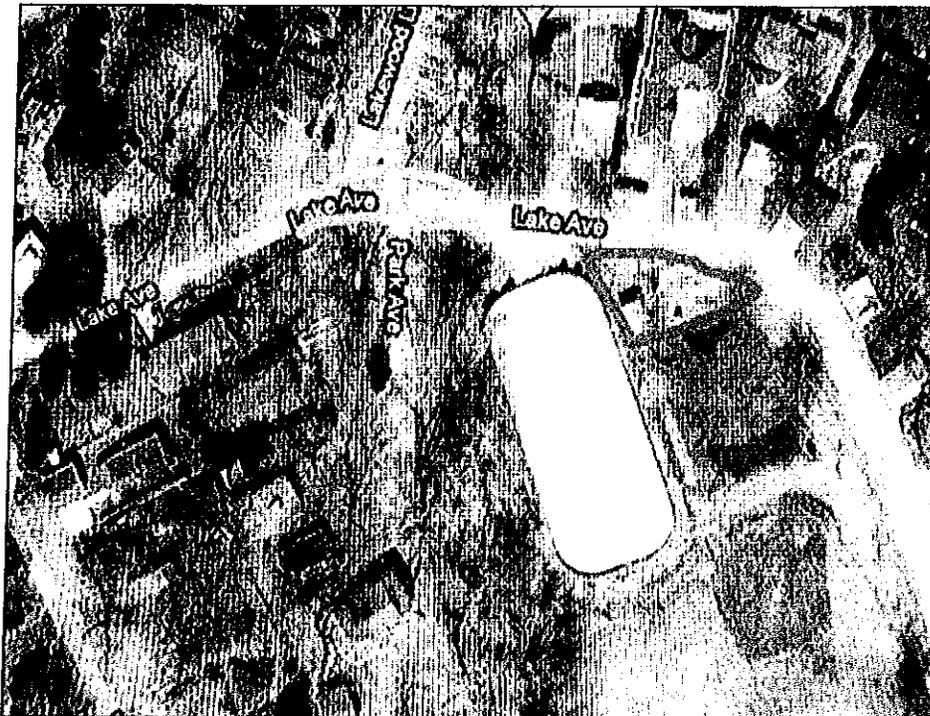
Re: Parking Concerns in the area of Tighe Schmitz Park; Council request for a master parking plan

At the June 28, 2011 Council meeting, the City Council adopted Resolution 2011-15 authorizing "no parking" on certain sections of Lake Avenue between Tighe-Schmitz Park and Wildwood Avenue, as well as the entire west side of Park Avenue. **A copy of Resolution 2011-15 is included with this memo as an exhibit.**

While the reasons for Council action on this matter were for safety considerations, it also recognized that parking is a serious issue in this part of the City. For that reason, the Council is asking the Planning Commission to develop a "master parking plan" for the area that recognizes the need for safe parking on-street and off-street - while maintaining environmental quality and sensitivity and the property rights of area residents.

Below is a copy of the approved Council minutes discussing this topic:

STATUS OF PARKING REGULATIONS ON PARK AVENUE AND LAKE AVENUE: Sampair reviewed with the Council an exhibit from Officer Rob Flick that indicates where parking should be restricted in the Lake and Park Avenue area, and noted that he, Flick, and Elfering met at the site and determined that the area indicated on the exhibit should be posted as "no parking". Sampair noted that in the future the area outlined in red (adjacent to the hockey rink) could be improved to provide off-street parking.



Sampair noted the combination of the steep grade of Lake Avenue, the narrowness of the pavement, and the curvature of the road all call out for restricting parking in the yellow-lined area.

Mitchell said we need to identify where parking is allowed – on the north side of Lake Avenue from the Dellwood easement to the corner, and a little segment in front of 401 Wildwood Avenue. On Park Avenue, parking would be allowed on the east side – no parking on the west side where the hydrant is located. **Sampair** noted that the residents on Park Avenue have done a good job of policing parking themselves and park on the east side.

Mitchell asked whether residents can park on the grass. **Sampair** noted that in 1993 or 1995 a variance was granted to allow the fence to be closer to Lake Avenue, which makes it harder to park on the grass.

Harper said there is a split-rail fence touching on the red and the yellow that is close to the road and makes it hard to park off the road. The split-rail fence by the red should be moved farther off the road to allow for additional off-street parking. **Sampair** agreed with Harper, and noted that the fence was installed at the request of Park Avenue residents who said other people parking their cars there were making it hard for Park Avenue people to park. **Sampair** further stated that Park Avenue is really a glorified access driveway that is being maintained by the property owners.

Harper also noted that the proposed area where parking will still be allowed on the north side of Lake Avenue is difficult to park on due to the overgrowth of vegetation. **Carson** noted that perhaps KEJ should be called in to take care of that.

Mitchell reiterated his question about being able to be park on the grass. **Sampair** responded that since the right of way is not very well defined in the City, it would be difficult to say one way or another. **Mitchell** asked about the process, stating that Section 502.020 of the City Code says the City needs to pass a resolution and publish it in the local newspaper. **Sandstrom** recommends to the Council to direct staff to draft a resolution for review and consideration at the next Council meeting.

Mitchell also noted the crosswalk signs between Park Avenue and the Dellwood easement, and said that there is no pavement marking for the crosswalk. **Elfering** responded by saying that she recommends taking the crosswalk signs down because of its function as a mid-block crosswalk which are more dangerous than intersection crosswalks.

Carson asked does it have to be no parking on both sides of Lake Avenue – why not on just one side? **Sampair** responded by saying the north and east side of Lake Avenue east of Dellwood easement has always been no parking. **Elfering** noted that the area indicated for no parking covers the telephone pole, the easement, and the lift station.

To summarize, **Mitchell** said that staff is to work with Sampair on a resolution for the next meeting on the no parking and the removal of the crosswalk signs. **Harper** asked if our ordinance calls for notifying the residents in the area about this change and if not, it would be a good courtesy to notify the residents.

**State of Minnesota
County of Washington
City of Birchwood Village
Resolution No. 2011-15**

**A Resolution Prohibiting On-Street Parking On Certain Portions of Lake Avenue and
Park Avenue**

WHEREAS, the City of Birchwood Village is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council has the authority under Minnesota Statutes to adopt parking regulations on the streets of the City; and

WHEREAS, a safety concern has been raised over on-street parking on Lake Avenue east from its intersection with Wildwood Avenue to Tighe-Schmitz Park due to the existence of a steep grade and curve; and

WHEREAS, continued unrestricted on-street parking on Lake Avenue creates an impairment for emergency vehicles travelling the subject roadway; and

WHEREAS, it is the professional recommendation of White Bear Lake Police Officer Rob Flick that parking restrictions be placed on Lake Avenue; and

WHEREAS, the surface parking needs of the residents immediate adjacent to the proposed restricted parking areas are sufficiently supplied on each of their individual private properties; and

WHEREAS, there is ample on-street parking available on Lake Avenue east and south of Park Avenue to serve the parking needs of patrons of Tighe-Schmitz Park; and

WHEREAS, the presence of a fire hydrant on the west side of Park Avenue requires that parking be restricted along the west side of Park Avenue along its entire length; and

WHEREAS, the City mailed notice of the proposed parking restrictions to all residents with property abutting the proposed restricted parking areas of Lake Avenue and Park Avenue.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF BIRCHWOOD VILLAGE, MINNESOTA, AS FOLLOWS:**

1. That on-street parking is hereby prohibited along the north side of Lake Avenue from the utility pole in front of 409 Lake Avenue west to the western edge of the Dellwood easement.
2. That on-street parking is hereby prohibited along the south side of Lake Avenue a distance of one hundred sixteen (116) feet west of the utility pole located near the intersection of Lake Avenue and Park Avenue.

3. That on-street parking is hereby prohibited along the west side of Park Avenue along its entire length.
4. The effective date of these restrictions is the latest of either publication of this Resolution in the City's official newspaper, or posting the aforementioned restrictions in the area so designated.

Adopted by the City Council on this 12th day of July, 2011 by the following vote:

Mitchell AYE; Harper ABSENT; Carson NAY; Sampair AYE; Peterson AYE.

Approved:

Alan Mitchell, Mayor

Attest:

Dale Powers, City Clerk



CITY OF BIRCHWOOD VILLAGE
207 Birchwood Avenue
Birchwood Village, MN 55110
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MEMORANDUM

Date: July 25, 2011

To: Planning Commission

From: Dale Powers, City Clerk

Re: Review of Exterior Storage Ordinance (Section 615)

At the June 28, 2011 Council meeting, the City Council approved a motion to request that the Planning Commission review the City's Exterior Storage ordinance. **A copy of the Ordinance (Section 615) is attached to this memo as an exhibit.**

The Council has struggled with the language of the Ordinance, as follows:

1. The plain text of the ordinance appears to prohibit the placement of lawn furniture on private property, regardless of condition.
2. With the lower water levels of White Bear Lake, many residents are unable to use their boats and, consequently, their boat lifts are not in the water but on their property. However, 615.020, subs. 8 states that "seasonal storage of boat lifts is permitted in the rear yard." Not only is the word "seasonal" open to interpretation, but the area constituting the "rear yard", depending on the individual property, might cause an eyesore – especially if the rear yard area of a particular property directly abuts the side yard area of the adjacent property.

Additionally, staff has a concern that the enforcement scheme in 615.040 politicizes the process. Staff should be the enforcement agent, not an elected official. To be clear, staff is not offering an indictment of the current Council. However, under the existing ordinance a case could be made that whether the subject property owner is a favorite or an enemy of the elected official performing the investigation (or the entire Council, for that matter) will materially impact the results of the investigation and the recommendations for compliance. It is the opinion of staff that while enforcement recommendations need to take into account the plight of the property owner, whether that individual is politically "connected" or "disconnected" should never play a part.

If so directed by the Commission, staff can submit draft revisions to Section 615 for its review at its next Commission meeting.

615. EXTERIOR STORAGE

615.010. POLICY. All materials and equipment shall be stored within buildings or in the rear yard in a screened area. Such screened area may consist of fencing of a suitable height, natural shrubbery, and/or topography so that the stored items are not visible from the frontage street or adjoining properties.

615.020. EXCEPTIONS TO POLICY.

1. Stacked firewood piles.
2. Clothesline poles and sires/lines.
3. Children's playground equipment.
4. Construction and landscaping equipment currently in use on the premises for use in the near future, pursuant to an existing and current building permit.
5. The normal tools used in lawn, garden and tree maintenance.
6. Off street parking of correctly licensed and operational automobiles and pickup trucks, parked on a designated driveway or on one (1) open paved or graveled space located adjacent to a driveway or garage. Provided, moreover, that any vehicle or boat parked on residential property for sale by the resident must be owned and licensed to the resident.
7. Boats, trailers, snowmobiles and recreational vehicles currently licensed and owned by the resident may be stored in the rear yard subject to the following:
 - a. Motorized boats, boat trailers, utility trailers, travel trailers, snowmobiles, and motorized recreational vehicles cannot exceed twenty (20) feet in length.
 - b. Sailboats cannot exceed twenty-eight (28) feet in length.
8. Seasonal storage of boat lifts is permitted in the rear yard.
9. Visitors to Birchwood may park currently licensed and operational travel trailers and motorized recreational vehicles in a residents designated driveway for a period of up to seven (7) days. Parking beyond the seven (7) day period will require a non-fee permit from the City Clerk. The permit will provide for an additional parking period of up to fourteen (14) days. In no event will visitor parking by any one visitor exceed twenty-one (21) days during a six (6) month period.

615.030. EXCEPTIONS TO STORAGE LOCATIONS.

1. Normal storage items which are subject to the screening requirements of Section 615.010, and the items enumerated in Section 605.020 (7) (subject to the length limitations

therein) may be stored at any place on the lot (but not closer to any street frontage lot line than the buildings existing on that lot) of forty (40) feet (whichever is less) for the following properties:

- a. Lots abutting White Bear Lake;
- b. Multiple frontage lots (where there is no defined rear yard); or
- c. Lots on which a substantial portion of the dwelling is located within the rear one-third (1/3) of the lot.

2. Seasonal storage of boats, subject to length limitations found in 615.020 (7) a and b, boat lifts and docks are permitted on those lots abutting White Bear Lake in the area from the lake side of the residence to the ordinary high water level.

615.040. ENFORCEMENT.

(Note) It is in the best interest of all residents of the City of Birchwood Village to try to resolve all problems regarding exterior storage by polite personal contact between neighbors. It is recognized that such personal contact may not satisfactorily correct a particular situation or there may be reasons that a resident may not desire to use that approach, therefore the following enforcement steps are provided.

Step 1. When it is known by the Mayor or any Councilperson either by personal knowledge, or upon receipt of a complaint of a potential violation of this ordinance from any citizen of the City of Birchwood Village (Complainants names will be kept confidential at all times pursuant to the provisions of M.S. #13.44) an investigation will be conducted by a City Councilperson, so designated by the Mayor.

- a. The Councilperson will make a personal examination of the property either by street observation or (with permission of the resident) on the subject property.
- b. The Councilperson will then summarize the results of his/her examination in writing and provide copies of the report to the City Council for a determination if a violation of the Ordinance exists. At the same time the Councilperson will also provide a copy of his/her summary to the resident advising them that the City Council will discuss the issue at the next Council meeting and that the resident is welcome to attend to participate in the discussion.
- c. Should the Council, acting on behalf of the City of Birchwood Village, determine that a violation of the Ordinance exists the resident will be advised in writing, by the City, that they have ten (10) days to voluntarily abate the problem and that failure to do so may result in the City taking further action.

Step 2. If the violation is not corrected within the aforesaid ten (10) day period (as specified in Step 1 - c.) the City will notify in writing, the person in violation and require that person to abate the problem. The written notice shall be served upon the person committing the violation, in person or by certified mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. The notice shall require the resident or the property owner or both to take reasonable steps within a reasonable time to abate the violation, the steps and time to be so designated in the notice, but the maximum time to abate the violation after service of the notice shall not in any event exceed thirty (30) days. The notice will further advise the resident or property owner that failure to abate the violation, as directed, may result in the City taking other more formal actions. Service of the notice may be proved by filing an affidavit of service with the City Clerk setting forth the manner and time thereof. When an order so given is not complied with, the City may direct that the person be cited with a violation of this Ordinance, or that a civil action be commenced to compel compliance with this Ordinance.

Step 3.

a. If after service of the notice provided for in Section 615.040. Step 2, the person served fails to abate the violation (in accordance with the order of the City) the City may commence a civil action in District Court against the person or persons served, so as to allow such violation to be abated at the expense of the City and to recover such expenditure, including any towing and/or storage fees, reasonable attorneys fees and any other costs and disbursements incurred by the City, from the resident and/or property owner.

b. The City may, after obtaining a proper court order in District Court, order the Finance Director/City Clerk to extend such sum as a special tax against the property upon which the violation existed and to certify the same to the County Auditor, for collection in the same manner as taxes and special assessments are certified and collected, as otherwise allowed by law.

615.050. CIVIL ACTION.

Notwithstanding the provision of 615.040, the City may at any time direct that an alleged violation of any exterior storage ordinance be prosecuted as a violation of this ordinance or that a civil action be commenced.

(See Ordinance 1995-4, Adopted July 11, 1995)

“AMENDED BY ORDINANCE 2008-1; FEBRUARY 12, 2008”.