



HELLMUTH & JOHNSON PLLC

ATTORNEYS AT LAW

WRITER'S DIRECT DIAL No.: (952) 746-2198

E-MAIL: MKLEMM@HJLAWFIRM.COM

MSBA BOARD CERTIFIED SPECIALIST
REAL PROPERTY LAW

January 16, 2018

VIA HAND DELIVERY

City of Shakopee
Attn: Michael Kerski,
Director of Planning & Development
485 Gorman Street
Shakopee MN 55379

Re: Larson Development 101, LLC
Appeal of Conditions Imposed by City of Shakopee Resolution No PC17-060
Conditional Use Permit for Exterior Storage in Light Industry Zone
Our File No.: 11369.0012

Dear Mr. Kerski:

Our firm represents Larson Development 101, LLC, (the "Owner") in connection with the development of the property located at 290 Sarazin Street in Shakopee. The Owner appeals certain conditions imposed by City of Shakopee Resolution No PC17-060, Conditional Use Permit for Exterior Storage in Light Industry Zone, (the "Resolution") as described herein.

Appeal of Condition 4

Shakopee City Code Section 151.014, Subdivision (B)(7)(a), provides that exterior storage in the industrial zone "shall be screened from all public right-of-way and residentially-zoned land, with an opaque fence, wall, or berm not to exceed 8 feet in height, constructed of new materials, and maintained in good condition." The Owner agrees to comply with this screening requirement by installing an eight-foot tall chain link fence covered by a predominantly opaque privacy screening fabric, consistent with conditions 1, 2 and 3 of the Resolution.

The Owner appeals the following additional condition, which is imposed by condition 4 of the Resolution:

An additional mix of 6' tall (min.) Black Hills Spruce, Red Cedar and Eastern White Pine coniferous trees spaced 20 feet apart shall be installed along the north, east and west sides of the storage area for off site screening purposes.

11369.0012-3519374_1

The Owner believes that the trees are not necessary to screen the vehicles and equipment that will be stored in the enclosed storage area from the public right-of-way and from residentially-zoned land. The outdoor storage area will be located on the west side of the property, hundreds of feet from any right-of-way or residentially-zoned land. The Owner believes that the opaque fence will provide sufficient screening, and that the additional condition requiring the installation of trees was imposed in error.

The north and west sides of the property abut existing outdoor storage areas on adjacent properties (Kelley Fuels to the north and Northland Forest Products to the west) that are not residential uses and are not required to be screened from the outdoor storage area.

The outdoor storage area will be screened from the only adjacent residential property, which lies hundreds of feet to the south on the opposite side of 4th Avenue, by the eight-foot tall opaque fence, and by three fir trees and two Ginko trees as shown on the Landscape Plan. Numerous trees also are located on the property to the west, which provide an additional visual barrier between the outdoor storage area and the residential property.

We also note that outdoor storage is currently allowed on adjacent properties with no additional landscape screening.

Appeal of Condition 8

The Owner appeals the following additional condition, which is imposed by condition 8 of the Resolution:

The exterior storage areas shall be surfaced entirely with asphalt or concrete.

Shakopee City Code Section 151.014, Subdivision (B)(7)(d), establishes the following specific standards for surfacing of outdoor storage areas in the industrial zone: "Shall be surfaced entirely with asphalt, concrete, or Class 5 aggregate." (Emphasis added.)

The Owner desires to surface the outdoor storage area with Class 5 aggregate, in compliance with the specific standard established by the zoning ordinance.

The proposed conditional use satisfies the specific standard set forth in the zoning ordinance regarding surfacing of outdoor storage areas in the industrial zone. We believe that the City has no legal basis for denying the Owner's proposal to surface the outdoor storage area with Class 5, and that the requirement for asphalt or concrete paving was imposed in error.

We also note that outdoor storage is allowed on adjacent properties in areas that are not paved with asphalt or concrete.

City of Shakopee
Attn: Michael Kerski
January 16, 2018
Page 3

Please contact me if you have any questions. Thank you for your attention to this matter.

Very truly yours,

HELLMUTH & JOHNSON, PLLC

A handwritten signature in cursive script, reading "Michael D. Klemm".

Michael D. Klemm
Attorney at Law

MDK/cor
cc: Larson Development 101, LLC