



STAFF REPORT

DATE: 01/07/2020

TO: Mayor and City Council
FROM: Ken Roberts, Planning Director
ITEM: **Four Corners Second Addition - Final Plat Recording Time Extension**
REVIEWED BY: Sarah Sonsalla, City Attorney

BACKGROUND:

On August 20, 2019, the City Council approved the Four Corners Second Addition final plat. City Council Resolution 2019-60 approving the final plat gave the developer/applicant 120 days to record the final plat with Washington County after City Council approval.

ISSUE BEFORE THE CITY COUNCIL:

The City Council is being asked to consider a request from Terry Emerson for approval of a six-month time extension for the recording of the final plat for the Four Corners Second Addition. (Please see the attached letter dated December 23, 2019 from Mr. Emerson explaining this request.)

PROPOSAL DETAILS/ANALYSIS:

General Information.

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- *Property Owner:* Terry Emerson, 2204 Legion Lane Circle North, Lake Elmo, MN 55042
- *Location:* North of I-94/Hudson Boulevard and West of Manning Avenue North, lying east of 11530 Hudson Boulevard North
- *Current Site Area:* 56.9 acres
- *Land Use Guidance:* The 2040 Comprehensive Plan guides the eastern part of the site as Commercial and the western part as Business Park.
- *Current Zoning:* Commercial
- *Current Surrounding Land Use Guidance:* Vacant land to the north (Rural Development Transitional); I-94 to the south (Woodbury); Stillwater School Bus facility and vacant land to the west (Rural Development Transitional); Manning Avenue to the east (West Lakeland).
- *History:* The property has been used as rural vacant land.

TIME EXTENSION REQUEST – REVIEW AND ANALYSIS:

City Code Requirements

Section 153.10 (B) (4) of the City Code has the requirements for recording a final plat. It now states in part “If not filed within 180 days, approval of the final plat shall be considered void, unless a request for a time extension is submitted in writing and approved by the Council.” (This part of the subdivision code was changed to 180 days with the update approved by the City Council on November 5, 2019. The previous version of the subdivision code required the recording of final plats within 120 days of City approval). The City Code is silent, however, on what if any considerations, requirements or criteria the City should use when considering such a time extension request. As such, the City should review each time extension request on a case-by-case basis.

The City Council approved the final plat for the Four Corners Second Addition on August 20, 2019. This approval was memorialized with the adoption of Resolution 2019-060. Condition 16 in the Resolution stated “that the applicant record the Final Plat with Washington County within 120 days of City Council approval (as required by the City Code).” As such, the developer or applicant would have had until December 17, 2019 (120 days from August 20, 2019) to record the final plat to meet the 120 day time limit as set in the City Council resolution.

Mr. Emerson sent the Planning Director an e-mail asking for a time extension for the recording of the final plat on December 2, 2019. Unfortunately, his e-mail did not provide enough information explaining or justifying the time extension request and he did not provide the City with the \$100 application fee. Mr. Emerson recently paid the City the \$100 application fee and provided the City with a letter dated December 23, 2019 explaining the reasons he is requesting a 6-month time extension to record the final plat.

Request Details

In his letter of request, Mr. Emerson outlined several reasons why he is requesting a 6 month time extension to record the final plat. They included:

1. Difficulties in working with the utility companies about the relocation of the utilities and the designs for their facilities.
2. The length of time required to receive all necessary plan approvals and permits, including those from the State of Minnesota for ponding and drainage.

Staff does not see a problem with granting a time request for the recording of the final plat as it would be better to not have a developer start construction of a phase of a project until they are sure that it will succeed. However, as the City Council is aware, the construction and implementation of this project (especially the extension of public water and sanitary sewer to the area) is directly tied to the construction and installation of utilities for the Four Corners First Addition. As requested and if approved by the City Council, a 6-month time extension would go to July 7, 2020 for recording the final plat. If the developer does not record the final plat for the Four Corners Second Addition within the approved time, the City Council may wish to consider ending the approval of the final plat.

This time extension request does not change the City’s final plat approval nor the conditions of approval granted by the City. The final plat and the project plans will still be required to meet all the conditions of approval as this development moves forward to completion.

RECOMMENDATION:

Staff recommends that the City Council approve a time extension for the recording of the Four Corners Second Addition Final Plat. This approval grants the developer until July 7, 2020 (6 months) to record the final plat.

“Move to approve the requested time extension of 6 months (to July 7, 2020) for the recording of the Four Corners Second Addition Final Plat. This approval is subject to the applicant/developer meeting all City required conditions of approval for the final plat.”

ATTACHMENTS:

1. Final Plat Recording Time Extension letter dated December 23, 2019
2. City Council Resolution 2019-060
3. Four Corners Second Addition Final Plat

December 23, 2019

Request for Four Corners Final Plat Filing Extension

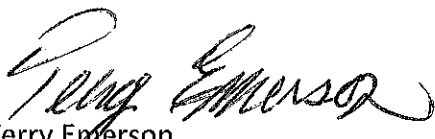
Owner: EN Properties LLC

Prior to the August 20th council meeting EN Properties requested that the Four Corners 2nd addition be tabled until a future date. Council or Staff chose to deny that request and moved forward with approval. There were a number of issues that need to be resolved involving a number of entities that was the case then and still is at this time.

- 1) The small utilities. Xcel – Gas and Electric – CenturyLink. Xcel Electric and CenturyLink to discuss overhead poles. Xcel Energy to review design information. Focus Engineering was engaging this process.
- 2) Xcel – EN continues engaging with relocation of 6 inch gas main
- 3) State of Minnesota owns a 60 foot parcel (drainage swale) and after much time and discussion and an agreed course the State of MN changed their mind and would not sign off on plat. The State of Minnesota wants EN Properties to purchase it. I have been working with the State for months. It is a 4-6 month process to get it appraised and an environmental study done. Per State of Minnesota I should receive the appraisal and environmental review the end of January. I have continued to follow up.
- 4) It has been a 6 month process with the State of Minnesota to receive State approval for a water drainage permit. This permit was received December 5th, 2019.

The permit process with numerous entities have all been approved for the 2nd addition.

Please accept this letter officially Requesting for an extension of 6 months realizing that the State of Minnesota controls the timeline.



Terry Emerson

EN Properties LLC

FOUR CORNERS 2ND ADDITION

Folz Freeman Surveying LLC
LAND PLANNING and SURVEYING



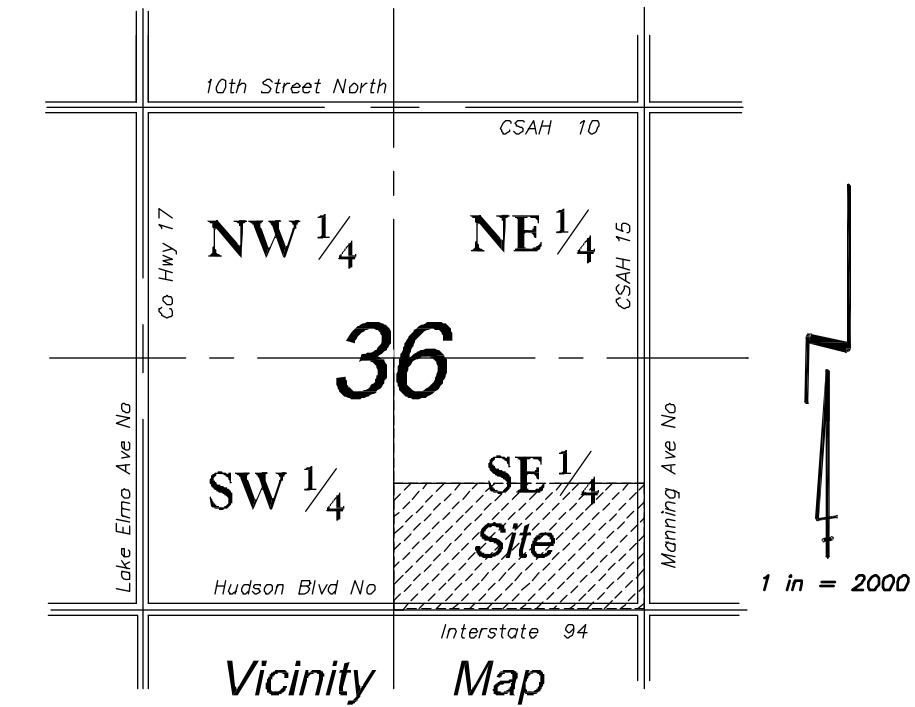
12445 55TH STREET NORTH
LAKE ELMO, MINNESOTA 55042
(651) 439-8833 www.FFSurveying.com

LEGEND

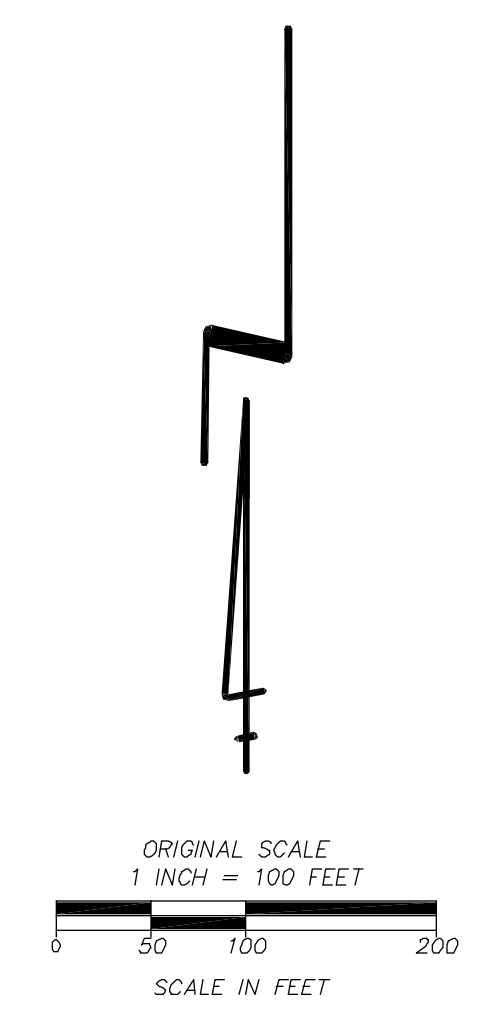
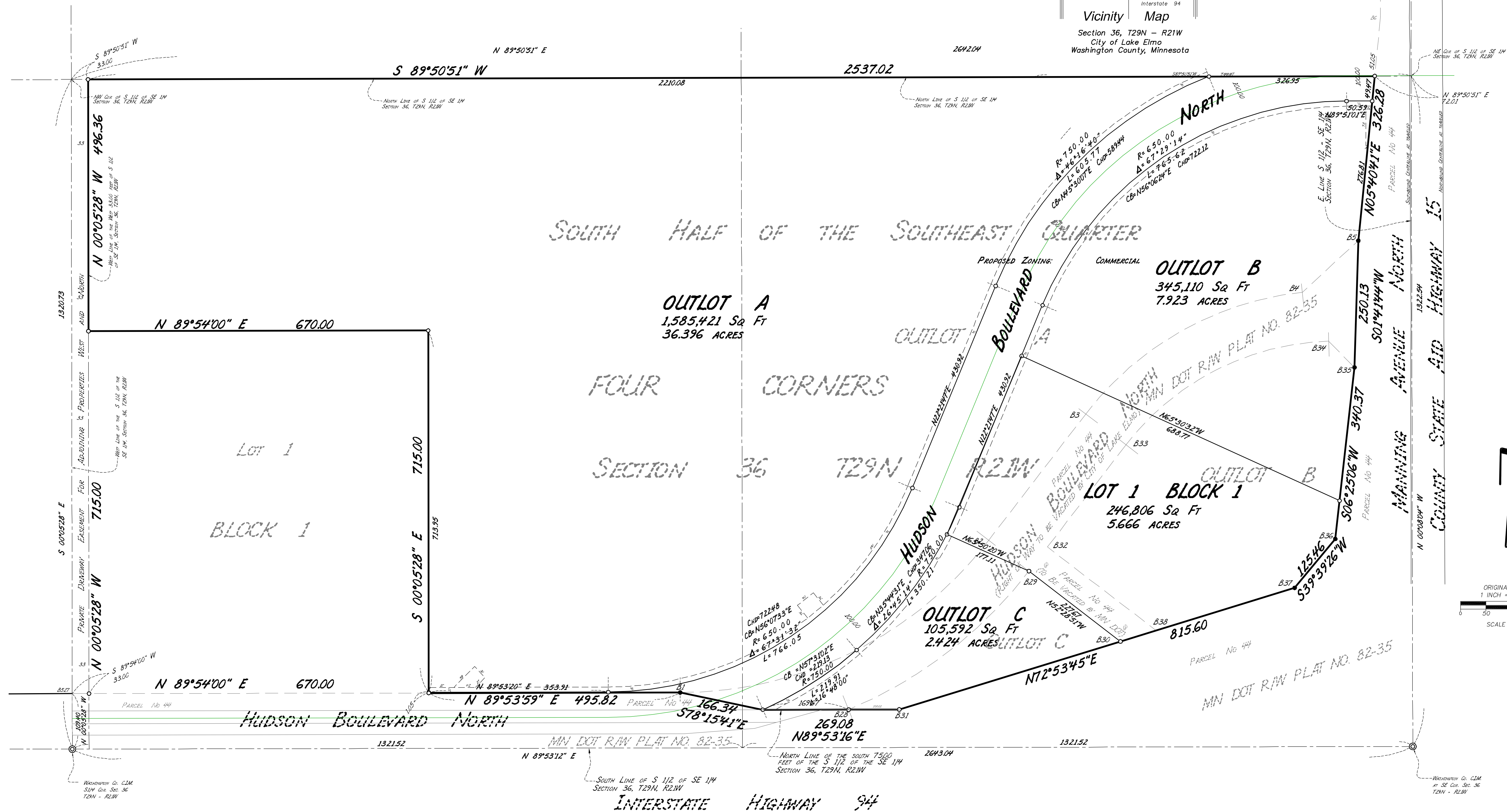
- DENOTES SET 1/2 INCH DIA. BY 16 INCH IRON PIPE MONUMENT MARKED WITH A PLASTIC CAP INSCRIBED "FREEMAN LS 16989", UNLESS SHOWN OTHERWISE
- DENOTES FOUND MN DOT 3/4 INCH IRON PIN MONUMENT

NOTES

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE WASHINGTON COUNTY COORDINATE SYSTEM, NAD83, 1986 ADJUSTMENT



Vicinity Map
Section 36, T29N - R21W
City of Lake Elmo
Washington County, Minnesota



**CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA**

RESOLUTION NO. 2019-60

***A RESOLUTION APPROVING A FINAL PUD AND FINAL PLAT FOR THE FOUR
CORNERS SECOND ADDITION LOCATED ALONG HUDSON BOULEVARD NORTH,
WEST OF MANNING AVENUE***

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Terry Emerson, 2204 Legion Lane Circle North, Lake Elmo, MN 55042 (Applicant) has submitted an application to the City of Lake Elmo (City) for Final PUD approval and for a Final Plat to subdivide the property located along Hudson Boulevard lying west of Manning Avenue into one lot and three outlots along with the realignment of Hudson Boulevard in accordance with Four Corners Second Addition Final Plat prepared by Folz Freeman Surveying, a copy of which is on file in the City of Lake Elmo Planning Department; and

WHEREAS, the Lake Elmo Planning Department has reviewed the proposed Final Plat request for consistency with the City of Lake Elmo Zoning and Subdivision Ordinances; and

WHEREAS, the Lake Elmo Planning Commission reviewed the proposed Final Plat at a meeting held on May 29, 2019; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation about the proposed Final Plat as part of a memorandum to the City Council for the August 20, 2019 City Council Meeting; and

WHEREAS, the City Council reviewed the Applicant's Final PUD and Final Plat request at a meeting held on August 20, 2019.

NOW, THEREFORE, based upon the testimony elicited and information received, the City Council makes the following:

FINDINGS

1. That the Four Corners Second Addition final plat is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
2. That the Four Corners Second Addition final plat complies with the minimum lot frontage and area requirements of the City's C (commercial) and BP (Business Park) zoning districts.
3. That the Four Corners Second Addition final plat complies with the City's subdivision ordinance.

4. That the Four Corners Second Addition final plat meets other City zoning ordinances, such as landscaping, erosion and sediment control, and other ordinances.
5. That the Four Corners Second Addition final plat is consistent with the City's engineering standards provided the plans are updated to address the City Engineer's comments documented in a memo dated May 20, 2019.
6. That the Four Corners Second Addition final plat creates one new lot of 5.66 acres with the following legal description as well as three outlots A, B, and C of respectively 36.39, 7.92, and 2.42 acres:

Lot 1, Block 1, Four Corners Second Addition

CONCLUSIONS AND DECISION

NOW, THEREFORE, BE IT RESOLVED THAT that based on the testimony elicited and information received, the City Council of the City of Lake Elmo hereby approves the Final PUD and Final Plat request, provided the following conditions are met:

- 1) Final grading, drainage, and erosion control plans, sanitary and storm water management plans, landscape plans, and street and utility construction plans shall be reviewed and approved by the City Engineer and applicable staff before the recording of the Final Plat. All changes and modifications to the plans requested by the City Engineer in the memorandums addressing Four Corners Second Addition Final Plat and Construction Plans dated May 20, 2019 and July 22, 2019 shall be incorporated into these documents and plans before the City will approve the plans.
- 2) Before the execution of the Final Plat by City officials, the Developer shall enter into a Developer's Agreement acceptable to the City Attorney and approved by the City Council that delineates who is responsible for the design, construction, and payment of the required improvements for the Four Corners Second Addition Final Plat with financial guarantees therefore.
- 3) All easements as requested by the City Engineer and Public Works Department shall be documented on the Final Plat before its execution by City Officials, or dedicated to the City in the City's standard form of agreement and be fully signed by all parties prior to recording the final plat. The following easements are required:
 - a. An off-site roadway and utility easement to be acquired from the adjacent property north of the plat to accommodate the Hudson Boulevard realignment at the intersection with Manning Avenue (CSAH-15).
 - b. A roadway and utility easement with 80-foot right-of-way to be provided to facilitate a public street connection from the adjacent property to the north to Hudson Boulevard at the first intersection west of Manning Avenue (CSAH 15).
 - c. A drainage and utility easement for the drainage ditch on the north side of Hudson Boulevard, and for the storm sewer pipe stubs from STMH18 and CB27.
 - d. An on-site and off-site drainage and utility easement for the existing 100-year HWL ponding.
- 4) That the applicant/developer meet all requirements and requests of Washington County including the needs and requirements for drainage, right-of-way, turn lanes and trails. The developer shall provide the City written verification from Washington County that sufficient right-of-way has been provided on the plat along with a sufficient right-of-way easement along Manning Avenue

before plat recording. Before construction, the plan section detailing southbound right turn lanes and center left turn lanes on Manning Avenue at Hudson Boulevard must be submitted and approved by the county traffic engineer, applicable Washington County right-of-way permits must be obtained, drainage report and calculations must be submitted, and access control shall be dedicated to Washington County along CSAH 15/Manning Avenue frontage. The Applicant shall be solely responsible for all construction costs associated with the intersection improvements as recommended by Washington County.

- 5) That the applicant/developer pay the City the required parkland dedication fees in lieu of park land dedication applicable to this phase of the development (\$25,470.00) before the City releases the final plat for recording.
- 6) The Final Plat and PUD Plans for each building site shall provide the required 20% open space within the development or specify what the proposed public or site amenity the development will provide that the City may consider as an alternative to the open space requirement. The City must approve any proposed amenities as part of the development approval process for each lot or building site.
- 7) The Final Plat and PUD Plans for each building site shall detail proposed amenities in exchange for flexibility from standards of the Zoning Code.
- 8) The Final Plat and PUD Plans shall include provisions for City sanitary sewer and municipal water. The Applicant shall be responsible to extend City sanitary sewer and municipal water to the site at the applicant's cost, including all oversize costs. Sanitary sewer and water main stubs will be required to all adjacent properties.
- 9) The Applicant shall obtain all necessary permits including but not limited to all applicable city permits (building, grading, sign, etc.), NPDES/SWPPP permits and Valley Branch Watershed District and MnDOT approval before starting any grading or construction activities.
- 10) Storm water facilities shall be privately owned and maintained. A maintenance and easement agreement in the City standard form of agreement shall be executed and recorded with the final plat.
- 11) The Final Plat and PUD Plans for each lot shall include tree planting and landscape plans for each building site or project phase to be approved by the City's Landscape Architect.
- 12) The Final Plat and PUD Plans for each lot shall include architectural renderings for each lot and building site.
- 13) The Applicant(s) or developers shall submit a photometric plan for each lot and building site. All lighting must meet the requirements of Sections 150.035-150.038 of the City Code.
- 14) The applicant shall meet all the requirements of MNDOT as outlined in their comments dated February 15, 2019.
- 15) That the applicant or developer address all the comments of the Fire Chief and the Building Official with final site and building plans including the placement of fire hydrants, driveway design and emergency vehicle access within each building site.

16) That the applicant record the Final Plat with Washington County within 120 days of City Council approval (as required by the City Code).

Passed and duly adopted this 20th day of August 2019 by the City Council of the City of Lake Elmo, Minnesota.



Mike Pearson, Mayor

ATTEST:



Julie Johnson, City Clerk