

Emily Becker

From: Sonsalla, Sarah J. <SSonsalla@Kennedy-Graven.com>
Sent: Thursday, August 04, 2016 2:48 PM
To: Emily Becker
Cc: Stephen Wensman; Chad Isakson; Kristina Handt; Sonsalla, Sarah J.
Subject: RE: 3592 Kelvin - Lot Split

Dear Emily,

I reviewed this issue. First, I reviewed the City's subdivision regulations and it appears that all subdivision of property (with a few minor exceptions, none of which apply here) must either be done by plat or meet the definition of a "minor subdivision" or a "lot line adjustment" under the code (and approved as such). From my review of the definitions of "lot line adjustment" and "minor subdivision," (Section 153.09 of the Code), I don't think that this particular situation would meet either definition.

Cities are authorized by Minnesota Statutes Chapter 505 to file what is called a "right-of-way plat," that shows the locations of rights-of-way within the city as you had suggested, however, this plat is just for informational purposes (see Minnesota Statutes Section 505.1792) and does not have any legal significance in terms of subdividing the property or conveying it to the city. These things need to happen regardless of whether or not there is a right-of-way plat filed.

Therefore, I think that the best option would probably be for the City to amend its ordinance to allow this as an exception. I would suggest that the City either include this type of situation in the definition of a lot line adjustment or minor subdivision (and then that process would need to be followed), or that it just be made a general exception that does not require there to be plat, lot line adjustment or minor subdivision approval by the City. The exception would be something similar to "a subdivision of property resulting from acquisition by governmental agencies for public improvements or uses." In most cases, the City will be aware of when it happens, because it will be the City that would be causing it to happen for its projects, but I suppose there could be situations that involve the County or another governmental agency and the City may want to be made aware of it or be required to approve it. If that is the case, the City could require administrative approval (and not have it go to Council). Even though we would be changing the code for this circumstance, it is my opinion that this may come up again in the future.

Assuming that the City changes the code and makes this an exception that does not require there to be approval of a minor subdivision application or lot line adjustment, then once the ordinance is adopted, the deed could be recorded. If the City decides to include this exception in either the minor subdivision or lot line adjustment, then that process would need to be filed (an application would need to be submitted and the Council would need to approve it).

Let me know if you have any questions.

Thanks!

Sarah

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From: Emily Becker [mailto:EBecker@lakeelmo.org]
Sent: Thursday, August 04, 2016 10:24 AM
To: Sonsalla, Sarah J.
Cc: Stephen Wensman; Chad Isakson
Subject: RE: 3592 Kelvin - Lot Split