



3800 Laverne Avenue North
Lake Elmo, MN 55042

(651) 747-3900
www.lakeelmo.org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday March 26, 2018
at 7:00 p.m.
AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. March 12, 2018
4. Public Hearings
 - a. VARIANCE – A request by Brooks Moening, 8728 Demontreville Trail N, Lake Elmo MN 55042, for a variance from the following standard of the City Zoning Code: set back of accessory structure from side yard lot line ofr the property located at 8728 Demontreville Trail N. PID #04.029.21.12.0017.
5. Business Items
 - a. ZONING TEXT AMENDMENT – SUBDIVISION ORDINANCE. The Planning Commission is being asked to review proposed amendments to the City’s subdivision regulations and make recommendations to the City Council.
6. Communications
 - a. City Council Updates – 3/20/18 Meeting
 - a. Wildflower at Lake Elmo 3rd Addition Final Plat and PUD -
 - b. Hammes 3rd Addition Developer Agreement –
 - c. Sign Variance for Park Dental at 8980 Hudson Blvd
 - d. Royal Golf at Lake Elmo 1st Addition Development Agreement
 - b. Staff Updates
 - a. Upcoming Meetings:
 - April 9, 2018
 - April 23, 2018
 - b. MAC CEP Report-Open House April 4 at 6pm at Oakland Middle School (820 Manning Avenue North, Lake Elmo, MN)
 - c. Comprehensive Plan Update – Open House tentatively April 11
7. Adjourn

***Note: Every effort will be made to accommodate person or persons that need special considerations to attend this meeting due to a health condition or disability. Please contact the Lake Elmo City Clerk if you are in need of special accommodations.



**City of Lake Elmo
Planning Commission Meeting
Minutes of March 12, 2018**

Chairman Dodson called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Kreimer, Dodson, Dorschner, Pearce, Weeks, & Hartley

COMMISSIONERS ABSENT: Lundquist, Emerson and Johnson

STAFF PRESENT: Planning Director Becker and City Planner Prchal

Approve Agenda:

M/S/P: Hartley/Kreimer, move to approve the agenda as amended, ***Vote: 6-0, motion carried unanimously***

Approve Minutes: February 26, 2018

M/S/P: Hartley/Dorschner, move to approve the February 26, 2018 minutes as amended, ***Vote: 6-0, motion carried unanimously.***

Public Hearing – Variance – 8990 Lake Jane Trail - Tabled

Becker stated that the applicant wished to have this item tabled to a future meeting. As this was a published public hearing, the public hearing should be opened and closed at this time.

Public Hearing opened at 7:09 pm

No one spoke and there were no written comments.

Public Hearing closed at 7:10 pm

Public Hearing – Variance – 8980 Hudson Blvd Sign Variance

Prchal started his presentation regarding the wall sign for Park Dental at 8980 Hudson Blvd. This is for a third wall sign for the building, where only one is allowed and it is limited by the lineal feet of the building. This sign along with the existing signs would actually meet the allowed sign area, but a variance is required because of the number of signs allowed is exceeded. This variance application will need to meet the four criteria

for variances. Practical difficulties, unique circumstances, character of locality and no impact to adjacent properties and traffic. Staff feels that these four criteria have been met.

Staff is recommending approval of the variance based on the findings noted in 1, 2, 3 & 4 with the conditions that a comprehensive sign plan be submitted and approved for the building and that a sign permit application be submitted, approved and issued prior to installation.

Pearce is wondering what would stop any other business from going through the same process. Prchal stated that there would be nothing to stop them other than it would be based on recommendation from staff and the Planning Commission.

Hartley stated that if they are required to submit a comprehensive sign plan that would address any issues regarding other tenants.

Dorschner is wondering if the other tenant was contacted and if a variance could be granted for them along with this one. Becker stated that the public hearing was not noticed that way and they are not requesting anything at this time.

Dodson is wondering how much over the code they are with the square footage. Prchal stated that they are not over on square footage, it is the number of signs that they will end up with that requires the variance. Dodson asked about the character of locality and if the light pollution has been taken into consideration. Prchal stated that the sign code does not allow them to go above a certain number of foot candles.

Hartley stated that there is already a ground sign for this business. Hartley is wondering if the code allows them to have both the ground sign and wall sign. Prchal stated that they are allowed to have both.

Dr. Mathew Hendrickson, a dentist with Park Dental, stated that the current signage makes it difficult to see them, especially if someone is driving from the East. By the time the driver sees the ground sign, they are already passed the building and need to do a U-turn.

Public Hearing opened at 7:28 pm

No one spoke and there was no written correspondence.

Public Hearing closed at 7:28 pm

M/S/P: Kreimer/Dorschner, move to recommend approval of the variance request at 8980 Hudson Boulevard N. to allow a third wall sign based on the findings and conditions identified in the staff report, **Vote: 6-0, motion carried unanimously.**

M/S/P: Dodson/Dorschner, move to add to the finding regarding locality that the lighting of the additional signs will not impact light pollution in that location, **Vote: 6-0, motion carried unanimously.**

Weeks feels that the City should be helping the business owners to be more visible so that they can stay in the community.

Public Hearing – Final Plat and Planned Unit Development – Wildflower 3rd Addition

Becker started her presentation regarding the Final Plat and PUD Plans for Wildflower 3rd addition. There will be 25 single family homes located to the east of the second phase. The parkland dedication was satisfied with 1st addition. The landscape plan will need to be revised based on the landscape architects comments. There are 9 recommended conditions of approval for the final plat.

Dorschner would like the required items to say must instead of should to make it more clear.

Weeks is wondering who would make the decision regarding the 2 options of sanitary sewer. Becker stated that it is between the developer and the City Engineer if there is approval on the equipment for the grinder pump. The construction plans regarding this would need to be approved prior to recording of the final plat.

Dorschner is wondering about the theming elements listed in the Preliminary Plat conditions. Becker stated that the theming was encouraged, but not required.

Public Hearing opened at 7:41 pm

Becker stated that there has been a number of requests to see plans and Richard Smith had a question regarding phasing.

Public Hearing closed at 7:42 pm

Dodson is concerned about the grinder pumps. The Farms of Lake Elmo has had issues with the grinder pumps and they can back up. Dodson stated that after speaking to the City Engineer he has less concerns. City Engineer Griffin stated that the lifetime cost of the grinder pump is less than a lift station. However, the grinder pumps have to be replaced about every 7 years and can be costly.

Hartley feels that there should be a central lift station rather than having people maintain individual grinder pumps. Dodson is wondering if the City needs to provide notification of what type of system the home has when the home is purchased. Becker stated that there is not. Weeks stated it is up to the homeowner to understand the

mechanics and what they are purchasing. Kreimer feels that this item should be left as it is written and be left to the developer and the City Engineer.

Dorschner is concerned that a lot of this is in the FEMA flood zone. Is this something that new homeowners are made aware of when they purchase these homes? Becker stated that it has been modified to be taken out of the FEMA district.

M/S/P: Kreimer/Dodson, move to recommend approval of the final plat and PUD development plans for the Wildflower at Lake Elmo 3rd Addition with 9 conditions based on the findings listed in the staff report, **Vote: 6-0, motion carried unanimously**

Business Item – Comprehensive Plan Draft Review

Jennifer Haskamp, Comp Plan Consultant, has been working on the Comprehensive Plan for approximately a year. There have been 9 meetings with the advisory panel, which met almost once a month. The advisory group has been working on the components of the overall comprehensive plan. There have been a couple of stakeholder meetings with areas that are slated to change and areas that are not planned to change. They have attended events to try to get feedback from the general community.

The draft chapter contains a goal statement, checklist components that are required to be done by the Metropolitan Council, land use designation and highlights. There is a chapter of Land Use Goals that will be seen within the land use chapter. The Checklist items are the high level items that need to be in the chapter. These include Community designation, existing land use, future land use, natural resources and special resources.

Existing Land Use is an important tool, because it provides a baseline to identify gaps, opportunities and areas to plan for the same. The Existing land use is not zoning and does not establish entitlement.

Future Land Use Plan keeps the MUSA the same as 2030 plan with the exception of Royal Golf and Olson Lake. The objective is to achieve a minimum of 3.0 dwelling units per acre in the MUSA area. There is an increased diversity in land uses in all staging/phasing areas to establish a balanced pattern.

Dodson is wondering if the Royal Golf numbers are counted towards the average. Becker stated that it is counted towards the average numbers, but does not decrease the average to less than 3. The big contributing factors to the future land use plan were market considerations. The commercial and business park is overstated. Dodson stated from a tax base standpoint, there should be more diversity. Another factor is that there is enough land in the designated MUSA to accommodate current projections. No more needs to be added unless we want to. The last factor is that the Met Council has stated that we can't reduce the MUSA.

It is also important to plan for the rural areas as well. This means that in this area, on average, there needs to be one dwelling unit per 10 acres.

Hartley asked about the statement in the future land use section on page 12 that states “discourage future development of rural residential patterns (unsewered lots of 2.5 acres or less) and where opportunities exist, plan for rural development at densities that are not greater than 1 unit per 10 acres”. Hartley would like to know if this is a hard and fast rule. Hanskamp stated that on page 11, the policies are outlined in the Metropolitan Council’s Thrive 2040 Land Use Policy. Dodson asked where the density stands outside the MUSA. Hanskamp stated that it is irrelevant right now and is actually tracking forward to discourage development of less than 2.5 acres. Hanskamp stated that the way Lake Elmo has developed in the rural areas will make it difficult to sewer those areas. The Met Council has been using the density of 1 unit per 10 acres in the rural areas for the last 20 years.

Dodson asked about trails and bike paths. Hanskamp stated that there is a separate chapter that deals with Parks, trails and open space and a separate chapter that deals with transportation. The parks, trails and open space chapter looks at bike paths from a recreation standpoint. The transportation chapter looks at biking trails from a transportation standpoint, and they might cross over.

Kreimer is confused why there are different density ranges between the Village and 94 areas. Haskamp stated that is what was in the last plan and what the zoning districts are that were created.

Weeks stated that it is important to take into consideration the capacity of the water supply and how many units can be supported. It is also important to consider that the sewer pipe wasn’t really sized for extreme density in the Old Village and is not willing to change the size of those pipes. Hartley stated that the main pipe that runs along Lake Elmo Avenue to 94 only has a specific capacity. Weeks stated that the City Engineer might need to be consulted before more units are being planned for this area.

Weeks stated that it is important to keep in mind that the downtown is only 2/10 of a mile. It is very small and there are parking issues and residences mixed in. The City needs to be careful about where to put more density. Weeks stated that the Comprehensive Plan talks about keeping the character of the downtown. There currently are 60 businesses downtown.

Dorschner stated that if there is more density, it needs to be designed well. There is a lot more traffic downtown on Lake Elmo Avenue and County 14 with the additional development.

Dodson asked about the section regarding solar access. Haskamp stated that it is a required component of the checklist. Lake Elmo has a lot of access to sunlight if people wanted to have solar energy sources they would be viable.

Weeks is wondering what the 2015 system statement is. Haskamp stated that there is a system statement that is issued for every city and is the guide on how to comply with the four regional systems.

City Council Updates – March 6, 2018 Meeting

- i) Lighting Ordinance – passed

Staff Updates

1. Upcoming Meetings
 - a. March 26, 2018
 - b. April 9, 2018
2. MAC CEP Report Open House April 4 at 6pm at Oakland Middle School
3. Comprehensive Plan Update – Open House April 11 7-9 pm

Meeting adjourned at 9:47 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant



+STAFF REPORT

DATE: 3/26/18

REGULAR

ITEM#: 4A – PUBLIC HEARING

MOTION

TO: Planning Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Variance Requests for 8728 DeMontreville Trl (Side Yard Setback)
REVIEWED BY: Emily Becker, Planning Director

BACKGROUND:

The City has received a request from owners/applicant Brooks Moening (Applicant), of 8728 DeMontreville Trl, to allow reconstruction and expansion of an existing detached garage. The home was constructed in 1972 and garage the garage in 1974. The owner is in need of a variance because Article VI Non-Conforming Uses, Buildings and Structures indicates that all additions or expansions to the outside dimensions of an existing nonconforming structure must meet all requirements of the Zoning Code unless a variance is granted. The current structure is 7.3 feet away from the side yard lot line when it should be 10 feet to comply with today's code.

ISSUE BEFORE COMMISSION:

The Commission is being asked to hold a public hearing, review and make recommendation on the above mentioned requests.

REVIEW/ANALYSIS:

Legal SUBDIVISIONNAME BERGMANN ADD LOT 5 BLOCK 2
SUBDIVISIONCD 37085
PID# 04.029.21.12.0017

Existing Land Use/Zoning: Single-family detached residential home/detached garage guided for RR - Rural Residential Family / Rural Area Development.

Surrounding Land Use/Zoning: Surrounded by single family homes and guided for Rural Single (RS) to the south and Rural Residential (RR) to the north.

History: Further information relating to the properties subdivision or zoning could not be found. However, it is known that the building permit for the home was issued in 1972 and the building permit for the garage was issued in 1974. The principal use for the property has been a single family dwelling, and is made up of .44 acres.

Deadline for Action: Application Complete – 2/23/2018
60 Day Deadline – 4/24/2018
Extension Letter Mailed – N/A
120 Day Deadline – N/A

Applicable Regulations:

- Article VI – Non-conforming uses, buildings and structures
- Article XI – Rural districts
- Article V - Zoning Administration and Enforcement

Variance Request. The applicant is requesting to remove and reconstruct the existing garage on the property. The following information provides a more detailed explanation of the proposal. In summary, the existing garage does not meet the required setbacks for the RR zoning district of 10'. Buildings or structures lawfully existed prior to current zoning standards are not be altered or improved beyond normal maintenance, except that any lawful dimensional substandard residential building, accessory building, or structure may be altered or improved if the existing substandard dimension relates only to setback requirements and does not exceed the 10% of the minimum setback requirements. The applicant is proposing to re-build the garage entirely and expand the garage length, which goes beyond normal maintenance. Additionally, the garage requires a variance of 2.7 feet (required 10 foot setback – proposed 7.3 foot setback), which exceeds 10% of the minimum setback requirement.

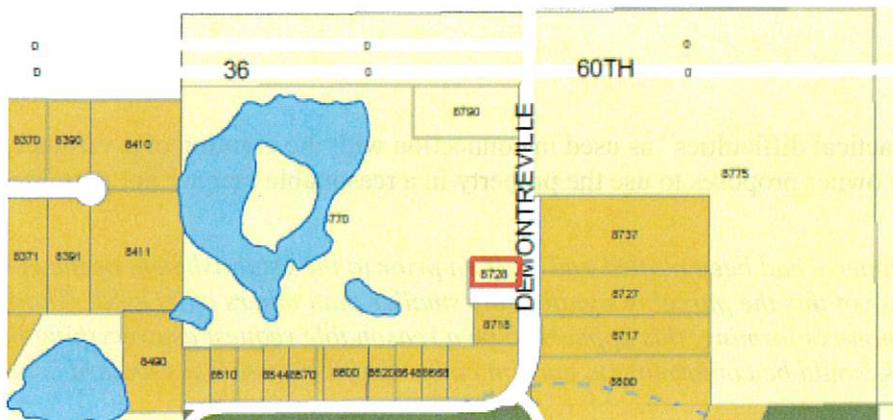
Article XI: Rural Residential

	RR
Maximum Impervious Coverage	-
Minimum Accessory Building Setbacks (feet)	
Front Yard	30
Interior Side Yard	10
Corner Side Yard ^g	25
Rear Yard	40

Reason for Variance Requests. The variance request is due to the lot width of the property; the lot being established prior to current zoning criteria; and construction of the garage prior to current zoning standards. The parcel is 100.13 feet in width, which is much narrower than the required lot width of 300 feet within the Rural Residential zoning district. Had the home and garage been constructed with the current standards in mind, it is likely the garage would not have been built to be non-conforming. The garage is located between the northern property line and the home and is 32 inches from the home's concrete steps, so there isn't space to move the new garage location further from the northern property line. The larger garage is desired for additional storage space and to allow the applicant to resume with woodworking as a hobby. Additionally, the current garage is bowed and sagging, and studs are rotted as a result of being built directly on the concrete slab and not elevated on block. The stucco is crumbling and breaking away from the wall board.

Size and Number. The maximum allowed size and number for accessory structures within rural district is one 1,200 square foot structure for lots under 1 acre in size. The proposed garage is 1200 square feet in size and is the only accessory structure on the property, and so this requirement is met.

Maximum Impervious Surface. The subject property is unique in that it is zoned RR. Normally properties which are zoned RR should have a minimum lot size of 10 acres. There is no record as to why this property was allowed to be divided down past the 10 acre minimum to .44 acres except for that the lot was likely created prior to current standards. Older zoning maps were reviewed and it had shown the parcel being zoned RR as well. There is no impervious surface requirements for lots zoned RR, and so this standard does not apply.



Accessory Structure Standards. Below is an analysis of how the proposed garage meets required accessory structure standards.

- C. *Structure Height, Rural Districts.* No accessory building shall exceed twenty-two (22) feet in height or the height of the principal structure, with the exception of buildings that are intended for a farming or other agricultural use in the judgment of the City. Building projections or features, such as chimneys, cupolas, and similar decorations that do not exceed twenty-five (25) feet in height are permitted in rural districts.
- *Staff Comment:* The applicant has stated that the home is 15 feet 10 inches in height and the garage is to be 15 feet in height. As the code is currently written this is allowed and under normal circumstances would be considered a conforming height. This standard is met.
- D. *Structure Location, Rural Districts.* No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot.
- *Staff Comment:* The garage will not be built any closer to the front lot line than it is now, the expansion will go off the back of the structure. The garage is 60.3 feet off the front property line and the home is 49.9 feet off the front line. This standard is met.
- E. *Exterior Design and Color.* The exterior building materials, design and color of all accessory building or structures shall be similar to or compatible with the principal building, with the exception of the following accessory building or structures:
- *Staff Comment:* The garage design and color scheme will need to follow what is expressed above. Plans have not been submitted, condition of approval.
- F. *Openings and Doors.* Garage doors and other openings shall not exceed fourteen (14) feet in height for all accessory structures, with the exception of buildings that are intended for a farming or other agricultural use in the judgment of the City.
- *Staff Comment:* The door height/design will need to follow what is expressed above. Plans have not been submitted, condition of approval.

RECOMMENDED FINDINGS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicant's request.

- 1) **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical

difficulties - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

***FINDINGS:** The property had been platted and built on prior to the establishment of the current zoning code. Because of this the parcel is significantly smaller than others of its kind. Though the garage is currently non-conforming, this appears to be a reasonable request as everything besides the side yard setback would be conforming to current code. Staff believes this standard is met.*

- 2) Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

***FINDINGS:** The property was platted prior to current zoning standards and does not meet the current minimum lot width requirements, which makes it difficult to fit a detached garage on the property meeting required side yard setback requirements. The existing garage was built prior to current zoning standards and does not meet minimum setback requirements, and the Applicant would like to re-build and expand the length of the existing garage in the same location. Staff believes this standard is met.*

- 3) Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

***FINDINGS:** The property is wooded on all sides. Also there are other residencies in the area which have attached or detached garages with some lots also having accessory structures. There is a heavy woodline on the northern property edge and the nearest dwelling unit to the north is over 400 ft away. From an aerial perspective it would not seem reasonable to think anyone could perceivably notice that the garage had been rebuilt and expanded off the rear. Staff believes this standard is met.*



- 4) Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the

congestion of the public streets or substantially diminish or impair property values within the neighborhood.

FINDINGS: *A variance from the required side yard setback to expand the structure will not impair an adequate supply of light and air to adjacent properties. Congestion of public streets or diminishment or impairment of property values will also not be affected. Staff believes this standard is met.*

RECOMMENDED CONDITIONS

- **Variance from Minimum Side Yard Setback:**
 1. That the Applicant obtain all applicable permits including but not limited to a City building permit including a grading and erosion control, and by the City Engineer.
 2. The structure complies with section 154.406 Accessory Structures, Rural Districts Sub. (C,D,E, and F)
 3. The exterior building materials, design and color shall be compatible with the principal building.
 4. The garage door height not exceed fourteen (14) feet.

FISCAL IMPACT:

The proposed variance is not expected to have fiscal impact to the City.

OPTIONS:

The Commission may:

- Recommend approval of the proposed variance, subject to recommended findings and conditions of approval.
- Amend recommended findings and conditions of approval and recommend approval of the variances, subject to amended findings and conditions of approval.
- Move to recommend denial of all variances, citing findings for denial.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the request from Brooks Moening for the requested variances:

“Move to recommend approval of the request from Brooks Moening for variances from the following standard; minimum side yard setback, subject to recommended findings and conditions of approval.”

ATTACHMENTS:

- 1) Variance Application and narrative

ORDER OF BUSINESS:

- Introduction Planning Staff
- Report by Staff Planning Staff
- Questions from the Commission Chair & Commission Members
- Open the Public Hearing Chair
- Close the Public Hearing Chair

- Discussion by the Commission Chair & Commission Members
- Action by the Commission Chair & Commission Members

Date Received: _____
Received By: _____
Permit #: _____



651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

LAND USE APPLICATION

- Comprehensive Plan Zoning District Amend Zoning Text Amend Variance*(see below) Zoning Appeal
- Conditional Use Permit (C.U.P.) Flood Plain C.U.P. Interim Use Permit (I.U.P.) Excavating/Grading
- Lot Line Adjustment Minor Subdivision Residential Subdivision Sketch/Concept Plan
- PUD Concept Plan PUD Preliminary Plan PUD Final Plan Wireless Communications

Applicant: Brooks Moening
Address: 8728 DeMontreville Tr N
Phone # 651-261-2154
Email Address: brooks.moening@gmail.com

Fee Owner: Brooks Moening
Address: 8728 DeMontreville Tr N
Phone # 651-261-2154
Email Address: brooks.moening@gmail.com

Property Location (Address): 8728 DeMontreville Tr N
(Complete (long) Legal Description): Bermann Add Lot 5 Block 2, SubdivisionCd 37085

PID#: 04.029.21.12.0017

Detailed Reason for Request: Reason for request is to request a variance from code 154.402, setback requirements for accessory building. I would like to remove my existing garage, which is in rough shape with sagging roof trusses and rotting studs and wall board due to being built directly on the slab, and rebuild with a larger footprint. However, my current garage and slab are located 7.3 feet from the side property line, as opposed to the required offset of 10 feet, as required by code. My request is to rebuild a larger garage while maintaining the current 7.3 foot property line offset.

*Variance Requests: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows: The existing locations of the home and garage do not allow a replacement garage to be moved further away from the property line than where the current garage is located. The size of the home is less than 2000 square feet with a 3/4 crawl-space basement, so existing storage and utility area is very limited. Replacing the existing garage with a larger footprint while maintaining the existing offset will provide the homeowner with needed storage and utility space without affecting the character of the surrounding area.

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: _____ Date: _____

Signature of fee owner: _____ Date: _____

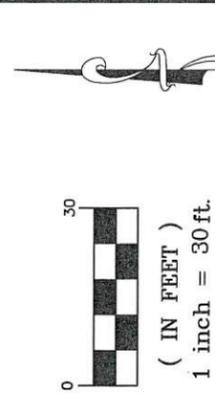
- A. Current Property Owner: Brooks Moening
- B. Site Data
 - a. Legal Description: Bergman Addition Lot 5, Block 2
 - b. Parcel Number: 04.029.21.12.0017
 - c. Parcel Size: 0.437 acres, 19,036 sq. ft.
 - d. Existing Use of Land: Residential
 - e. Current Zoning: RR
- C. Section 154.402 Lot Dimensions and Building Bulk Requirements – Setback Requirements, Minimum Accessory Building Setbacks, Interior Side Yard
- D. This proposal is to seek a variance from the Interior Side Yard setback requirement of 10 feet. The current garage is currently 7.3 feet from the north side property line and is in a state of disrepair. I would like to tear down the existing garage and rebuild on the existing concrete slab, but expand the footprint of the garage further to the west, maintaining the existing set-back of 7.3 feet. The current garage footprint is 24' x 30' (720 square feet), and the proposed garage footprint would be 24' x 50' (1200 square feet).
- E. Discussions were held between Ben Prchal and Brooks Moening regarding the proposed project and applicable city requirements. Based on existing situation and property limitations, decision was made to move forward to request a variance.
- F. The strict enforcement of this chapter would cause practical difficulties because of the lot size and locations of existing buildings relative to property lines. The current garage is located between the northern property line and the home. It is offset 7.3' from the property line and 32" from the home's side concrete steps, so there isn't space to move the new garage location further from the northern property line. A larger garage is desired for additional storage space and to allow me to resume my woodworking hobby. My home is under 2000 square feet and 75% of my basement is crawl space, which limits functional area and storage inside the home
- G. The plight of the landowner is due to how and where the home and garage were built prior to my purchase of the property, as well as the limitations due to the width of the lot. The current condition of the garage is due to how the garage was originally built; roof is bowed and sagging due to the use of non-engineered trusses and the wall board and studs are rotting as a result of being built directly on the concrete slab and not elevated on block. As a result, the stucco is crumbling and breaking away from the wall board and creating both an eyesore and intrusion issues.
- H. Granting of this variance would not alter the essential character of the neighborhood for several reasons. One, expanding the garage size would not change the current setback from the existing garage, only extending an existing setback. In addition, the nearest building to the north of the garage is over 450 feet away, separated by heavy woods, so it would have no impact on a neighboring property. Finally, given the heavily wooded nature of surrounding properties in sparsely populated neighborhood, the expansion of the garage would be difficult to notice from the roadside and largely unseen from all adjacent neighbor's homes.

CERTIFICATE OF SURVEY

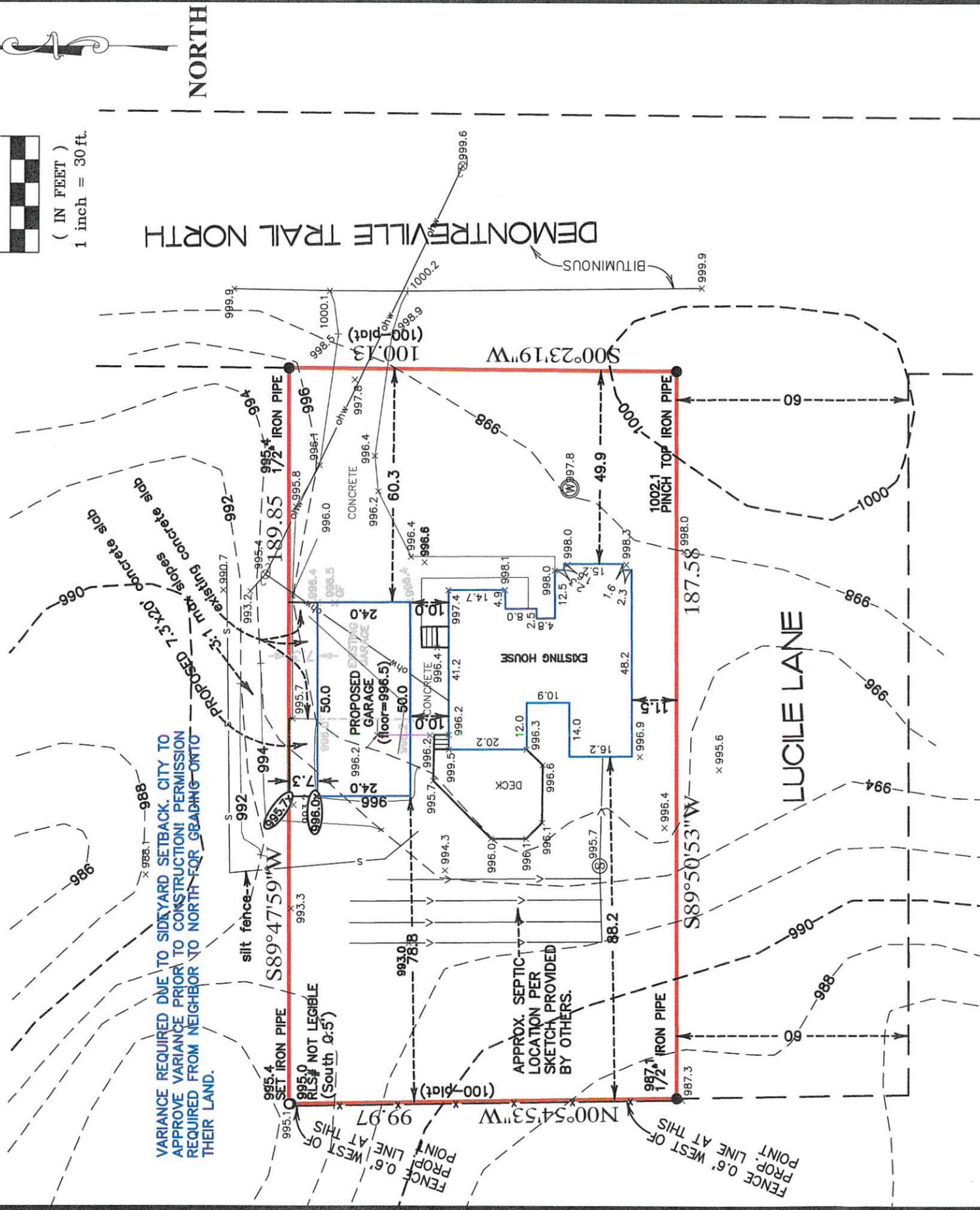
PROPERTY ADDRESS: #8728 DEMONTREVILLE TRAIL NO., LAKE ELMO, MN
P.I.D.# 04.029.21.12.0017

FOR: BROOKS J. MOENING

~(Showing Proposed Grage)~



VARIANCE REQUIRED DUE TO SIDYARD SETBACK. CITY TO APPROVE VARIANCE PRIOR TO CONSTRUCTION! PERMISSION REQUIRED FROM NEIGHBOR TO NORTH FOR GRADING-ONTO THEIR LAND.



LEGEND

- DENOTES IRON MONUMENT FOUND
- DENOTES IRON MONUMENT SET
- ⊙ DENOTES WELL
- DENOTES EXISTING CONTOUR
- ohw--- DENOTES OVERHEAD WIRE
- x--- DENOTES EXISTING FENCE
- x1011.2 DENOTES EXISTING ELEVATION.
- ⊕ DENOTES SEPTIC PIPE
- ⊕ DENOTES UTILITY POLE
- Ⓢ DENOTES PROPOSED ELEVATION.

EXISTING PROPERTY DESCRIPTION

Lot 5, Block 2, BERGMANN ADDITION, Washington County, Minnesota.

ZONING:

- PROPERTY ZONED RURAL RESIDENTIAL (RR)

NOTES

- CITY TO VERIFY ALL BUILDINGS ELEVATIONS AND SETBACKS.
- Bearing's shown are on assumed datum.
- This survey was prepared without the benefit of titlework. Easement, appurtenances and encumbrances may exist in addition to those shown hereon. This survey is subject to revision upon receipt of a title insurance commitment or attorneys title opinion.
- This survey was completed Feb. 1st, 2018, in the middle of the Minnesota snow/ winter season. There may be improvements/features in addition to those shown hereon that were not located due to snow/ice cover.

AREAS:

- TOTAL LOT AREA = 18,880± sq.ft. (0.43 acres)
- EXISTING HOUSE = 1,899± sq.ft.
- EXISTING GARAGE = 722± sq.ft.
- PROPOSED GARAGE = 1,200± sq.ft.

BENCHMARK

BASIS FOR ELEVATION: NAVD 88 (VIA REAL TIME GPS MEASUREMENTS UTILIZING MINNESOTA DEPARTMENT OF TRANSPORTATION VRS NETWORK)

BASIS FOR BEARINGS: NAD83 (1996) (VIA REAL TIME GPS MEASUREMENTS UTILIZING MINNESOTA DEPARTMENT OF TRANSPORTATION VRS NETWORK).

- Rev. 02/28/18, update conc. slab by gar.
- Rev. 02/27/18, add septic, grading
- Rev. 02/23/18, add zoning

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.


ERIC R. VICKARYOUS

Date: Feb. 12th, 2018 Reg. No. 44125



JOB #18007ms



STAFF REPORT

DATE: 3/26/2018

REGULAR

ITEM #:5a

MOTION

TO: Planning Commission
FROM: Emily Becker, Planning Director
AGENDA ITEM: Subdivisions Regulations Update
REVIEWED BY: Ben Prchal, City Planner

BACKGROUND:

An update to the City's Subdivision Regulations Ordinance is an item on the Planning Commission's 2018 Work Plan. Specific areas of focus as per the Work Plan include platting for minor subdivisions, updating subdivision submission requirements, and preparing an update to incorporate engineering standards.

ISSUE BEFORE COMMISSION:

The Planning Commission is being asked to review proposed amendments to the City's subdivision regulations and make recommendation to Council.

PROPOSAL DETAILS/ANALYSIS:

The following provides explanation of the proposed amendments since the last meeting at which the proposed amendments were proposed (February 26, 2018):

Minor Subdivision. The current ordinance exempts platting for minor subdivisions, which is the division of land which results in no more than 4 parcels that comply with minimum lot dimension and public frontage requirements.

- *State Statute Requirements.* State Statute requires platting for subdivision of property in to five or more lots which are 2.5 acres in size or less. The current ordinance is stricter than State Statute in that it requires platting for subdivision of property in to four parcels or less.
- *Platting vs. Metes and Bounds.* However, the County typically prefers platting, and platting may minimize property line disputes, as monuments/markers which are referred to in metes and bounds descriptions may move or disappear over time.
- *Proposed Amendment.* At its last meeting during which this topic was discussed, the Planning Commission recommended that Staff draft an ordinance which required platting for the subdivision of a property in to four parcels or less but that did not require as lengthy or costly of a process as subdivision of a parcel in to many more parcels would require. As presented during this last meeting, it is typical for cities to require platting of properties

when a subdivision of a property in to more than two parcels occurs. The proposed amendment requires this, and also breaks sections down in to the following sections – minor subdivisions, major subdivisions – sketch plan review, major subdivisions – preliminary plat, and major subdivisions – final plat.

- *Previous Requirement for Minor Subdivision.* Minor subdivisions previously only required the following:
 - Name, address, and telephone number of the property owner/applicant and evidence of title;
 - A legal description of the parcel which is being subdivided and legal descriptions for each of the resulting parcels;
 - A written description stating the reason for the request; and
 - A land survey prepared by and signed by a registered land surveyor describing the minor subdivision, and/or lot line adjustment and showing all buildings, driveways, easements, setbacks, and other pertinent information including the legal descriptions herein required.
- *Proposed Requirements.* With the proposed amendment, an applicant for a minor subdivision would now be required to submit the following:
 - A preliminary plat prepared by a registered land surveyor.
 - Drainage, grading and erosion control plans.
 - Existing and proposed lowest floor elevations for each lot.
 - Wetland delineation report and map.
 - Soil testing for the installation of individual subsurface sewage treatment system.
 - If driveways to a state or county highway are required, driveway permits or a letter of intent to approve said driveways from the applicable road authority.
 - A public hearing is also required, whereas it previously was not. Because of this, a certified list of property owners within 350 feet is required.
 - Previously, there was no set deadline by which to record the minor subdivision. Now, there is a 120 day deadline, which is a requirement of platting in the existing ordinance.
 - A minor subdivision still does not require a landscape plan.

Lot Line Adjustment. The current ordinance designates lot line adjustments as the division of land which results in no more than 4 parcels which do not comply with the city's minimum lot dimension and/or public road frontage requirements for the zoning district in which the land is located.

- *Clarification of Language.* A lot line adjustment should be just that -- an adjustment of a lot line, not a division of land. The proposed amendment amends language to specify this. The proposed amendment explicitly explains that lot line adjustments shall not create a new lot or outlot. Additionally, it is also clarified that lot consolidation also requires approval, as lot consolidation could ultimately decrease required density and pose issues with easements (the need to vacate and create new easements, etc.).
- *Re-location of Language.* The proposed amendment places the lot line adjustment/lot consolidation language before the minor subdivision language. Much of the previous language presented at the previous Planning Commission meeting during which the

subdivision ordinance was discussed has been kept, but there is some additional clarifying language including the requirement that unnecessary easements be vacated and that new easements be put in to place when required as well as the requirement that there be certification of taxes paid.

Final Plat Application Amendments. Language requiring that if a CIC Community is created, the developer shall provide proof that a replacement reserve amount was created in accordance with Minnesota Statute 515(b)(3)-1141 was added as well as the requirement that a written statement explaining changes since preliminary plat be added.

Application Requirements. The proposed ordinance amendment codifies additional application requirements that are currently set forth within the Preliminary and Final Plat applications.

Design Standards, Required Improvements. The addition of language that the design of required improvements must meet plan sheet requirements set forth by the City Engineering Design and Construction Standards Manual will refer the applicant to those standards. Because those standards are constantly evolving, it would not make sense to codify the particular requirements. The only other change proposed for design standards is that lot remnants may be used as outlots for city, landscaping or trail purposes as approved by the City. The Commission may wish to make recommendation to changes to these standards. This has not changed since the last Planning Commission meeting at which the subdivision ordinance was discussed.

FISCAL IMPACT:

None.

OPTIONS:

The Commission may wish to:

- Recommend approval of the proposed amendments to the City's Subdivision Regulations Ordinance
- Specify desired amendments, deletions or additions to the proposed amendments to the City's Subdivision Regulations Ordinance and recommend as amended.
- Recommend no changes be made to the City's Subdivision Regulations Ordinance

ATTACHMENTS:

- Draft Ord. 08-

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-__

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING THE SUBDIVISION REGULATIONS ORDINANCE

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 153: Subdivision Regulations by amending the following:

Section

- 153.01 Regulations established
- 153.02 Generally
- 153.03 Definitions
- 153.04 Registered land survey
- 153.05 Conveyance by metes and bounds and other unapproved descriptions
- 153.06 ~~Platting-Lot Consolidation/Lot Line Adjustment~~
- 153.07 ~~Preliminary plat-Minor Subdivisions~~
- 153.08 ~~Final plat-Major Subdivisions – Sketch Plan Review~~
- 153.09 ~~Exceptions to platting-Major Subdivisions – Preliminary Plat~~
- 153.10 ~~Major Subdivisions – Final Plat~~
- 153.11 Variances; standards; platting
- 153.12 Variance procedures
- 153.13 Planned Unit Developments (P.U.D.)
- 153.14 Design standards; required improvements
- 153.15 Park land dedication requirements
- 153.16 Required improvements; financial arrangements
- 153.17 Fees
- 153.18 Violations

§ 153.01 REGULATIONS ESTABLISHED.

No land shall be subdivided, nor shall any land be platted, in the city except as provided by this chapter.

(1997 Code, § 400.02) Penalty, see § 10.99

§ 153.02 GENERALLY.

(A) *Purpose.* In order to provide for orderly, economic, and safe development of land, necessary urban services and facilities, and to promote the public health, safety, morals as to the urban services and facilities, the following subdivision regulations are adopted by the Council of the city. It is the intent of the city to protect the right of landowners to put their land to its highest and best use and protect each owner's right to full beneficial use of his or her land insofar as the use and enjoyment may be accomplished without detriment to the public interest and within the minimum standards established by this chapter.

(B) *Scope.* The provisions of this chapter apply to any division of a tract of land into 2 or more parcels for the purpose of transfer of ownership, building development, or tax assessment purposes by platting, re-platting, registered land survey, conveyance, sale, contract for sale or any other means by which a beneficial interest in land is transferred or any means by which a tract of land is divided into 2 or more parcels for tax assessment purposes, except those divisions:

(1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(2) creating cemetery lots;

(3) resulting from court orders; or

(C) *Approval necessary for acceptance of subdivision plats.* Before any plat or subdivision shall be recorded or be of any validity, it shall be referred to the Planning Commission and approved by the Council as having fulfilled the requirements of this chapter.

(D) *Building permits.* No building permits shall be issued for the construction of any building, structure, or improvement to any land or lot in a subdivision, as defused in this chapter, until all requirements of this chapter have been satisfied, with the following exceptions.

(1) Building permits may be issued for model homes after approval of the final plat by the council upon receipt of a signed developers agreement ~~which shall include security for improvements, both which shall be in a form approved by the City Attorney.~~ The issuance of building permits for model homes shall be in accordance with the signed development agreement.

(2) Developer shall agree in writing to indemnify and hold harmless the city for damages that may occur as a result of the model home construction prior to the required improvements being completed.

(3) No certificate of occupancy shall be issued by the city ~~until the first lift of blacktop is completed.~~ until all applicable requirements set forth by the development agreement have been met.

(4) Traffic and parking arrangements relating to model homes shall be subject to the city's review.

(Am. Ord. 9707, passed 5-20-1997)

(E) *Conflicts.* Whenever there is a difference between minimum standards or dimensions required by this chapter or other ordinances of the city, the most restrictive standards of dimensions shall apply.

(F) *Flood plain management.*

(1) No land shall be subdivided which is held unsuitable by the Council for reason of flooding, inadequate drainage, water supply, or sewage treatment facilities. All lots within the flood plain shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this chapter, and have road access both to the subdivision and to the individual building sites no lower than 2 feet below the regulatory flood protection elevation.

(2) In the general flood plain district, applicants shall provide the information required in § 152.140. The Council shall evaluate the subdivision in accordance with procedures established in this chapter and standards contained in § 152.07.

(G) Consistency with Comprehensive Plan and Zoning District. Subdivision of property shall be in compliance with the City's Comprehensive Plan and zoning district in which the property is located.

(1997 Code, § 400.03) Penalty, see § 10.99

§ 153.03 DEFINITIONS.

Unless specifically defined in this chapter, common definitions, words, and phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage throughout this code and are found in § 11.01.

(1997 Code, § 400.04)

§ 153.04 REGISTERED LAND SURVEY.

No registered land survey of lands in the city shall be recorded with the Registrar of Titles until the registered land survey ~~shall have~~ has been approved by the city. The approval shall be indicated by resolution endorsed on or attached to the registered land survey signed by the ~~chair of the Planning Commission~~, Mayor, and City ~~Clerk-Administrator~~. No registered land survey shall be approved by the city or signed by the officers if the recording of the registered land survey will result in a subdivision in violation of any provision, regulation, or requirement of this chapter.

(1997 Code, § 400.05)

§ 153.05 CONVEYANCE BY METES AND BOUNDS AND OTHER UNAPPROVED

+>DESCRIPTIONS.

(A) No conveyance of lands to which the regulations contained in this chapter are applicable shall be made and no conveyance of land to which the regulations contained in this chapter are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after 10-3-1968, or to an unapproved plat made after 10-3-1968.

(B) The foregoing provision does not apply to a conveyance if the land described:

(1) Was a separate parcel of record prior to or on 10-3-1968, or as to lands within the jurisdictional boundaries of the Old Village prior to its consolidation with the Town of East Oakdale if the land was a separate parcel of record 6-4-1974;

(2) Was the subject of a written agreement to convey, entered into prior to the time;

(3) ~~Has been divided in accordance with § 153.10(B);~~ is a single parcel of land having not less than 5 20 acres and having a width of not less than 300 500 feet and its conveyance does not result in the division of a parcel into 2 or more lots or parcels any 1 of which is less than 5 20 acres in area or 300 500 feet in width; and/or

(4) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width;

~~(4) Has been approved as an exception to platting pursuant to § 153.09~~

§ 153.06 LOT CONSOLIDATION/LOT LINE ADJUSTMENT.

(A) Purpose and Intent. The lot consolidation/lot line adjustment process provides a simple administrative procedure for the consolidation of 2 or more lots into 1 parcel, or to adjust a common lot line affecting existing parcels. In areas that are well defined and land descriptions are simple, the city may permit the conveyance of land using metes and bounds descriptions or without the preparation and recording of a plat. In areas which are not well defined, or where lots are irregular in shape and/or are included in more than one plat, the city may require that lot consolidation/lot line adjustment occur through the major or minor subdivision platting requirements of this chapter.

(B) Criteria for Lot Line Adjustment/Lot Consolidation. Lot line adjustments exempted from platting by Minnesota Statute 462.352, Subd. 12 and shall not require a plat or replat and may be administratively approved, provided all of the following are met:

(1) Each resultant parcel equals or exceeds the minimum lot dimension requirements and public road frontage requirements for the zoning district in which the property is located or is made more conforming through the lot line adjustment;

(2) The lot line adjustment does not create additional lots.

(3) The lot line adjustment shall not cause any structure on the property to be made non-conforming or in violation of the Zoning Chapter or any other provisions of the City Code.

Commented [EB1]: This refers to Planning commission review of Variances

Commented [EB2]: This aligns exceptions to platting with State Statute.

Commented [EB3]: Removed because these exceptions still require city approval

(4) All resultant parcels shall have frontage and access on an existing improved street or access to an existing improved street protected by a restrictive covenant approved by the City Attorney which includes the city as a beneficiary.

(5) The resulting parcels shall generally conform to the shape, character, and area of existing or anticipated land subdivisions in the surrounding areas.

(6) Any such lot line adjustment shall not require any public improvements.

(7) Any easements that become unnecessary as a result of the combination of parcels must be vacated. A request to vacate easements shall be made concurrently with the application for lot consolidation/lot line adjustment. Review of the easement vacation request, including any public hearings and City Council action, shall be completed before action may be taken on the application for lot consolidation/lot line adjustment.

(8) New easements shall be established as appropriate.

(C) *Subdivision of Property for Public Purpose.* Alternatively, the subdivision of property resulting from acquisition by governmental agencies for public improvements or uses may be processed in the same manner as a lot line adjustment or lot consolidation.

(D) *Submittal Requirements.* Requests for lot line adjustments or lot consolidation shall be filed with the Zoning Administrator on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

(1) A fee as set forth by the City's adopted fee schedule.

(2) Detailed written and graphic materials fully explaining the proposed lot line adjustment.

(3) A legal description of the parcel which is being subdivided and legal descriptions for each of the resulting parcels; and, in regard to lot line adjustments, legal descriptions for the adjusted or consolidated parcels;

(4) A written description stating the reason for the request; and

(5) A land survey prepared by and signed by a registered land surveyor describing the lot line adjustment and showing all buildings, driveways, easements, setbacks, and other pertinent information including the legal descriptions herein required.

(6) A title search showing ownership of the property and any existing deed restrictions.

(7) Other information shall be provided as may be reasonably requested by the city staff.

(E) *Review of lot line adjustment or lot consolidation.* A completed application shall be reviewed administratively by the Zoning Administrator who shall make a written finding in regard to the provisions of division (B) above. The Zoning Administrator's approval shall be conditioned upon recording of documents which effectuate the lot line

adjustment or lot consolidation and any other conditions deemed necessary to ensure compliance with the Zoning Code. Unless a request for additional review time is requested by the Zoning Administrator, action on the application shall be taken within 60 days after a complete application is submitted. Prior to the issuance of any development permits, and no later than 60 days after administrative review and approval, the applicant shall provide the Zoning Administrator with recorded documents or recorded document numbers for the deeds of conveyance which effectuate the lot line adjustment or lot consolidation. Failure to provide the required verifications within the required time shall invalidate the Zoning Administrator's approval.

- (F) *Certification of Taxes Paid.* Prior to approval of an application for a lot line adjustment or lot consolidation, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the lot line adjustment or lot consolidation application relates.

(1997 Code, § 400.06) Penalty, see § 10.99

§ 153.07 MINOR SUBDIVISIONS.

- (A) *Purpose and Intent.* The purpose of a minor subdivision process is to allow the city to waive certain procedures and requirements of a major subdivision. The purpose is to reduce the time and cost to the property owner for dividing land in locations and situations that are well defined and where no new public infrastructure is required. The minor subdivision process allows for concurrent review and approval of a Preliminary and Final Plat.
- (B) *Criteria for Minor subdivision.* A minor subdivision is a division of land which results in no more than 4 parcels wherein:
- (1) Each resultant parcel meets all applicable requirements of the Zoning Code, including but not limited to density, lot size, lot width, and minimum frontage on a public road, unless a variance has been approved according to the procedures set forth in 153.11.
 - (2) No new public rights-of-way or streets shall be necessary for or created by the subdivision.
 - (3) Streets, utility easements, drainage easements or public park land or cash in lieu of land shall be dedicated or fees paid in lieu of dedication as required by the City.
 - (4) All wetland areas and Minnesota Department of Natural Resources protected waters shall be protected with a conservation easement up to the 100-year flood level
 - (5) The minor subdivision complies with all applicable requirements of the road authority, including access spacing and location criteria for sight distances if located adjacent to a state or county highway, and/or of the watershed district(s) in which it is located.
- (C) *Submittal Requirements.* Requests for minor subdivision shall be filed with the Zoning Administrator on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant

shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

- (1) A fee as set forth by the City's adopted fee schedule
- (2) Detailed written and graphic materials fully explaining the proposed minor subdivision
- (3) List of property owners located within 350 feet of the subject property in a format prescribed by the Zoning Administrator
- (4) A preliminary plat prepared by a registered land surveyor in the form required by M.S. Ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor, which includes:
 - a. Graphical scale not more than 1 inch equals 100 feet.
 - b. North point indication.
 - c. Original and proposed lot boundaries.
 - d. Topographic data at 2 foot contours.
 - e. Existing and resulting parcel legal descriptions.
 - f. Buildable area on each lot and proposed building pad.
 - g. The location of existing structures on the site.
 - h. Existing and proposed driveway locations.
 - i. Existing easement locations.
 - j. Existing parks, streets and utility easements.
 - k. Delineated wetlands and water bodies including ordinary high water elevations and floodplain boundaries as applicable.
 - l. Individual sewage treatment systems and/or well locations.
- (5) Drainage, grading and erosion control plans, if applicable.
- (6) Existing and proposed lowest floor elevations for each lot.
- (7) Soil testing for the installation of individual subsurface sewage treatment system, if applicable.
- (8) If driveways to a state or county highway are required, driveway permits or a letter of intent to approve said driveways from the applicable road authority.
- (9) Any additional information if deemed necessary and required by the Zoning Administrator. The Zoning Administrator may waive for good cause certain information requirements not pertinent to the particular minor subdivision request.

(D) Review of Minor Subdivision.

- (1) Review by staff and other commissions or jurisdictions. The city shall refer copies of the preliminary plat to the City Engineer, Planner, Attorney, the Parks Commission, and the appropriate county, state, or other public agencies for their review and comment. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the Planning Commission and Council.
 - (2) Public Hearing Set. Upon receipt of a complete application, the Zoning Administrator shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendation to Council. Notice of said hearing shall consist of a legal property description and a description of the request, which shall be published in the official newspaper at least 10 days prior to the hearing and written notification of said hearing shall be mailed at least 10 days prior to the hearing to all owners of land within 350 feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.
 - (3) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this Chapter.
 - (4) The City Council shall not approve a minor subdivision until it has received a report and recommendation from the Planning Commission and the City staff, or until 60 days after the first regular Planning Commission meeting at which the request was considered.
 - (5) Approval of a minor subdivision shall require passage of a resolution by a majority vote of a quorum of the City Council.
 - (6) Prior to certification by the city of the approval of the minor subdivision, the applicant shall submit the final plat for signature, supply the deed(s) granting the city any easements required by the city and pay any required fees.
 - (7) Whenever an application for a minor subdivision has been considered and denied by the City Council, a similar application for a minor subdivision affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least 6 months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the entire City Council.
- (E) Recording of the Minor Subdivision. If the minor subdivision is approved by the Council, the subdivider shall record it with the County Recorder within 120 days after the approval. If not filed within 120 days, approval of the minor subdivision shall be considered void, unless a request for time extension is submitted in writing and approved by the Council. The subdivider shall, immediately upon recording, furnish the

Administrator with copies of the recorded documents which effectuate the minor subdivision. No building permits shall be issued for construction of any structure on any lot within the approved minor subdivision until the city has received evidence of the plat being recorded by the County.

- (F) Financial Guarantee. Following the approval of a minor subdivision as required by this Section and prior to the issuing of any building permits or the commencing of any work, the applicant may be required to guarantee to the City the completion of any improvements as shown on the approved plans and as required as a condition of minor subdivision approval.
- (G) Certification of Taxes Paid. Prior to approval of an application for a minor subdivision, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the minor subdivision application relates.

§ 153.08 MAJOR SUBDIVISIONS-SKETCH PLAN REVIEW PLATTING.

~~(A) Platting required. Except as provided in § 153.09, platting shall be required for the subdivision of a tract of land which is to be divided into 3 or more lots or parcels for the purpose of transfer of ownership, building development, or for tax assessment purposes.~~

~~(B) Pre-application.~~

- (A) ~~(1) Sketch plan Purpose and Intent. In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city ordinances or plans, prior to the development of a preliminary plat, applicants are required to submit a sketch plan to the City for review. the subdivider shall meet with the Planning Commission and prepare a sketch plan which explains or illustrates the proposed subdivision and its purpose. The Planning Commission shall accept the information received, but take no formal or informal action which could be construed as approval or denial of the proposed plat.~~

- (B) ~~(2) Submission/ital requirements. The owner shall prepare and submit a sketch plan, together with any necessary supplemental information. The plan shall contain the information set forth below. (C) General provision (pre-application) Requests for minor subdivision shall be filed with the Zoning Administrator on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the~~

specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

- (1) A fee as set forth by the City's adopted fee schedule
- (2) Detailed written and graphic materials fully explaining the proposed minor subdivision
- (3) List of property owners located within 350 feet of the subject property in a format prescribed by the Zoning Administrator
- (4) A scaled drawing which includes:

~~—(2) Names and addresses of all persons having property interest, the developer, the designer, and surveyor together with the interested person's registration number;~~

- a. Locations of boundary lines in relation to a known section, quarter section, or quarter quarter section line comprising a legal description of the property;
- b. Graphical scale not less than 1 inch equals 100 feet.
- c. Data and north point.
- d. ~~(D)~~ Existing conditions.
 - i. ~~(1)~~ Boundary line of proposed subdivision, clearly indicated;
 - ii. ~~(2)~~ Existing zoning classification for land within and abutting the subdivision;
 - iii. ~~(3)~~ A statement on the acreage and dimensions of the lots;
 - iv. ~~(4)~~ Location widths and names of existing or previously platted streets or other public ways, showing type, width, and conditions of improvements, if any, railroad and utility rights-of-way, parks and other open spaces, permanent buildings and structures, easements in section and corporate lines within the tract and to a distance of ~~350~~ 150 feet beyond the tract;
 - v. ~~(5)~~ Location and size of existing sewers, water mains, wells, culverts, or other underground utilities within the tract and to a distance of ~~350~~ 150 feet beyond the tract, the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown;
 - vi. ~~(6)~~ Boundary lines of adjoining unsubdivided or subdivided land, within ~~350-150~~ 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;
 - vii. ~~(7)~~ Topographic data, including contours at vertical intervals of not more than 5 feet; water courses, marshes, rock outcrops, power transmission poles and lines and other significant features shall also be shown; N.G.V.D. shall be used for all topographic mapping; and
 - viii. ~~(8)~~ The subdivider may be required to file a report prepared by a registered civil engineer or soil scientist on the feasibility of individual on-site sewer and water systems on each lot; the report shall include a soil borings analysis and a percolation test to verify conclusions.

- ix. Buildable area on each lot and proposed building pad.
 - x. Existing and proposed driveway locations.
 - xi. Existing parks, streets and easement locations.
 - xii. Delineated wetlands and water bodies including ordinary high water elevations and floodplain boundaries as applicable.
- e. ~~(E)~~ *Proposed design features.*
- i. ~~(1)~~ Layout of proposed streets showing right-of-way widths, center line grade, typical cross-sections, and proposed names of streets in conformance with all applicable city ordinances and policies; the name of any street used in the city or its environs shall not be used unless the proposed street is the logical extension of an already named street, in which event the same name shall be used. The names and number shall comply with the County Uniform Street Numbering System
 - ii. ~~(2)~~ Areas other than streets, pedestrian ways, utility easement, intended to be dedicated or reserved for public use, including the size of the areas in acres.
 - iii. ~~(3)~~ ~~(a)~~ Provision for surface water disposal, drainage, and flood control within the boundaries of the proposed property division consistent with § 150.273 of this code, storm water management and erosion and sediment control
- f. ~~(F)~~ *Supplementary information.*
- i. ~~(1)~~ The supplementary information as shall reasonably be deemed necessary by the Planning Commission or the Council;
 - ii. ~~(2)~~ Proposed protective covenants;
 - iii. ~~(3)~~ Statement of the proposed use of lots stating type of residential buildings with number of proposed dwellings and type of business or industry, so as to review the effect of the development on traffic, fire hazards, and congestion of population;
 - iv. ~~(4)~~ If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. The proposed zoning plans shall be for information only and not vest any rights in the application for use other than residential;
 - v. A statement showing the proposed density with the method of calculating said density also shown.
 - vi. ~~(5)~~ Where the subdivider owns property adjacent to that which is being proposed for division, the Planning Commission may require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationship between the proposed division and a future subdivision. All subdivisions shall be reasonably consistent with the existing or potential adjacent subdivisions; and

- vii. ~~(6)~~ Where structures are to be placed on large or excessively deep lots, which are subject to replat, the development subdivision plans shall indicate placement of structures so that lots may be further subdivided, in addition to a sketch plan that illustrates a way in which the lots can possibly be resubdivided.

~~(C) *Sketch Plan Review.* The sketch plan shall be reviewed by Staff, the Planning Commission, and Council. The Zoning Administrator may refer the sketch plan to the Parks Commission to secure its recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds, trails, open space or other public property. The City shall accept the information received, but take no formal or informal action which could be construed as approval or denial of the proposed plat.~~

(1997 Code, § 400.07) (Am. Ord. 08-024, passed 4-20-2010) Penalty, see § 10.99

§ 153.079 MAJOR SUBDIVISIONS - PRELIMINARY PLAT.

~~(A) *Filing.* Twenty copies of the preliminary plat and certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor, shall be filed with the Administrator. The required filing fee as established by Council resolution shall be paid and any necessary applications for variances from the provisions of this chapter shall be submitted with the required fee. The proposed plat shall be placed on the agenda of the Planning Commission meeting no later than the second regularly scheduled meeting following the date of filing. No application shall be accepted by the Administrator for filing unless all application information required by this chapter is submitted with the application.~~

~~(A) *Submission* requirements. The applicant shall prepare and submit a preliminary plat, together with any necessary supplementary information. The preliminary plat shall contain the following information. Requests for preliminary plat approval may be filed with the Zoning Administrator on an official application form after the applicant has received comments on the proposed sketch plan as outlined in Section 153.08 of this Chapter. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.~~

- ~~(1) A fee as set forth by the City's adopted fee schedule~~
- ~~(2) Detailed written and graphic materials fully explaining the proposed minor subdivision~~

- (3) List of property owners located within 350 feet of the subject property in a format prescribed by the Zoning Administrator
- (4) ~~(C) General provision (preliminary plat).~~—(1) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions; in any case, the name must be approved by the County Recorder;
- (5) ~~(2)~~ Location of boundary lines in relation to a known section, quarter section, or quarter quarter section lines comprising a legal description of the property;
- (6) ~~(3)~~ Names and addresses of all persons having any interest in the property, the developer, designer, and surveyor together with the interested person's registration number;
- (7) ~~(4)~~ Graphic scale of plat, not less than 1 inch to 100 feet;
- (8) ~~(5)~~ Data and north point; and
- (9) ~~(6)~~ Date of preparation.
- (10) ~~(D) Existing conditions.~~
- a. ~~(1)~~ Boundary line of proposed subdivision, clearly indicated;
 - b. ~~(2)~~ Existing zoning classifications for land within and abutting the subdivision;
 - c. ~~(3)~~ A general statement on the approximate acreage and dimensions of the lots;
 - d. ~~(4)~~ Location, widths, and names of all existing or previously platted streets or other public ways, showing type, width, and condition of improvements if any, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of ~~350~~ 150 feet beyond the tract;
 - e. ~~(5)~~ Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of ~~350~~ 150 feet beyond the tract; the data as grades, invert elevations, and locations of catch basins, manholes, shall also be shown;
 - f. ~~(6)~~ Boundary lines of adjoining unsubdivided or subdivided land, within ~~350~~ 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;
 - g. ~~(7)~~ Topographic data, including contours at vertical intervals of not more than 2 feet; water courses, marshes, rock outcrops, power transmission poles and lines, and other significant feature shall also be shown; N.G.V.D. shall be used for all topographic mapping; and
 - h. ~~(8)~~ In plats where public water and sewer are not available, the City Engineer may require the subdivider to file a report prepared by a soil scientist or a registered civil engineer on the feasibility of individual on-site sewer and water systems on each lot. The report shall include a soil boring analysis and percolation tests to verify conclusions.

- (11) ~~(E)~~ *Proposed design features*
- a. Layout of proposed streets showing right-of-way widths, center line grade, typical cross-sections, and proposed names of streets in conformance with all applicable city ordinances and policies. The names and number shall comply with the County Uniform Street Naming and Property Numbering System, with the following exceptions:
 - i. Unless a newly proposed street directly extends from an existing street, no street name that already exists in the city or its environs shall be used, regardless if it is on the same grid as another street.
 - a. North-south avenues shall follow the grid system, increasing alphabetically from east to west, but must use different names.
 - b. East-west streets shall follow the grid numbering system as appropriate, but a different suffix such as Lane, Place, Way, etc. or a different prefix such as Upper or Lower shall be used.
 - ii. The names of deflecting streets shall not vary; names of continual streets shall not change, even if the street changes direction, unless an intersection exists.
 - iii. The names of deflecting streets shall be determined according to their relation to an Arterial or Collector Street if appropriate, otherwise such names shall be determined according to their main point of entry in to a development or as deemed appropriate by Council.
 - iv. If appropriate, names with the same theme (i.e. flowers, nature) are permitted for naming streets in an entire subdivision.
 - v. All street names shall end with the directional suffix of North.
 - b. ~~(2)~~ Locations and widths of proposed alleys and pedestrian ways;
 - c. ~~(3)~~ Locations and size of proposed sewer lines and water mains;
 - d. ~~(4)~~ Layout, numbers, lot areas, and preliminary dimensions of lots and blocks;
 - e. ~~(5)~~ Building pads shall be shown to demonstrate a minimum front and side street building setback lines;
 - f. ~~(6)~~ When lots are located on a curve, the width of the lot at the building setback line shall be shown;
 - g. ~~(7)~~ Areas, other than streets, alleys, pedestrian ways, and utility easements intended to be dedicated or reserved for public use, including the size of the area or areas in acres. This shall include areas planned for trails and parks within the City;
 - h. ~~(8)~~ Area calculations of lots, right-of-way, streets, public highways, alleys, parks and public trails, wetland and wetland buffers and other features with accurate dimensions;
 - i. ~~(9)~~ Water mains shall be provided to serve the subdivision by extension of any existing community system wherever feasible. Service connections shall be

stubbed into the property line and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the city. In areas where public water supply is not available, well plans must comply with applicable state regulations and shall be submitted for the approval of the City Building Official;

- j. ~~(+0)~~ Sanitary sewer mains and service connections shall be installed in accordance with the standards established by the city;
- k. ~~(+1)~~ All private sewage treatment systems shall be installed in accordance with standards established by the city. Demonstration of two separate and distinct 10,000 square-foot contiguous land areas, suitable for septic drainfields, is required;
- l. ~~(+2)~~ Surface water disposal, drainage, and flood control shall be provided within the boundaries of the proposed property division consistent with § 150.273 of this code, storm water management and erosion sediment control;
- m. ~~(+3)~~ Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
- n. ~~(+4)~~ A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- o. ~~(F)~~ *Supplementary information.* The following supplementary information shall be submitted when deemed necessary by the Planning Commission City:
 - i. ~~(+)~~ Proposed protective covenants;
 - ii. ~~(2)~~ An accurate soil survey of the subdivision prepared by a qualified person. In areas of questionable soil conditions, percolation tests at the rate of no fewer than two successful test results for each proposed septic disposal area (a total of four tests per proposed lot) may be required on a lot-by-lot basis to determine the suitability of any particular site for building.
 - iii. ~~(3)~~ A statement prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing;
 - iv. ~~(4)~~ Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population;
 - v. ~~(5)~~ If any zoning changes are contemplated, the proposed zoning plat for the areas, including dimensions, shall be shown;
 - vi. ~~(6)~~ Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require that the subdivider submit a sketch plan of the remainder of the property so as

Commented [EB4]: These were added at the request of the DNR

to show the possible relationships between the proposed subdivision and the future subdivision. All subdivisions shall be shown to relate well with existing or potential adjacent subdivisions;

- vii. ~~(7)~~ Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the subdivider shall provide in the preliminary plat, a sketch plan which indicates minimum building setback lines and future roadway alignments which would not interfere with structural placement at the time of future subdivision; and
- viii. ~~(8)~~ A vegetation preservation and protection plan, consistent with Section 154.257 of the Zoning Code, that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted;
- ix. Developer shall provide a landscape plan, signed by a licensed landscape architect, which shows ~~how a subdivision will assume a rural character through~~ the placement of ponding, berms, trees, and tree seedlings, shrubs, and shrub seedlings and native grasses.
 - 1. Landscape plans shall adhere to all requirements of Section 154.258 of the Zoning Code and shall include the City's Landscape Standard Notes.
 - 2. Irrigation plans shall be submitted and be in compliance with Lake Elmo General Irrigation Standards.

~~(d) Developer shall plant a minimum of 6 trees, 1 inch caliper deciduous, or coniferous trees; 3 feet in height per acre unless a lot within the subdivision is determined by the Zoning Administrator to be naturally wooded which would, at a minimum, consist of the caliper and height of trees required by this chapter; and~~

~~(e) Developer shall provide spaced or clustered plantings of 1 and 1/2 inch caliper deciduous trees at a rate of 2 per 100 lineal feet on both sides of the street, between 0 feet and 5 feet to the inside of the right of way for rural sections and between 5 feet and 10 feet to the inside of right of way for urban sections. Four foot conifers may be substituted.~~
- x. 9) If the development is an Open Space Preservation development, architectural and performance standards shall be submitted. If applicable, developments within the I-94 corridor and Old Village shall submit architectural renderings in order to ensure compliance with City of Lake Elmo Design Guidelines & Standards.
- xi. ~~(10)~~ Any environmental review, such as an Environmental Assessment Worksheet, as required by State Statutes. If an environmental review is required, the Preliminary Plat application cannot proceed until the review or study is complete;

Commented [EB5]: Not all developments will have rural character.

Commented [EB6]: These requirements conflict with the Landscape Requirements of the Zoning Code.

- p. ~~(G)~~ *Other information.* Other information shall be provided as may be reasonably requested by the city staff, Planning Commission, or Council.
- (B) ~~(H)~~ *Preliminary Plat Review. ~~by staff and other commissions or jurisdictions.~~*
- (1) *Review by staff and other commissions or jurisdictions.* The city shall refer copies of the preliminary plat to the City Engineer, Planner, and Attorney, the Park Commission, and the appropriate county, state, or other public agencies, including but not limited the Minnesota Department of Transportation and/or Washington County if the application abuts a county road or highway or county state-aid highway, and/or the Department of Natural Resources (DNR) if the application is within a Shoreland Overlay District and/or Floodplain Management District, for their review and comment. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the Planning Commission and Council.
 - (2) Comment must be received within 30 days or it will be assumed there are no objections.
- (C) ~~(I)~~ *Public Hearing Set.* ~~The Planning Commission, upon receipt of the application shall instruct Administrator to set a public hearing on the proposed preliminary plat no later than 45 days from the date of filing of the application. Upon receipt of a complete application, the Zoning Administrator shall set a public hearing following proper hearing notification.~~ The Planning Commission shall conduct the hearing and report its findings and recommendations to the Council. The Administrator shall give notice of the hearing. The notice shall consist of a property description and a description of the request. The notice shall be published in the official newspaper at least 10 days prior to the date of the hearing and written notification of the hearing shall be mailed at least 10 days prior to all owners of land within 350 feet of the boundary of the property in question. The Planning Commission, at its discretion, may direct that notification be sent to property owners at distances of greater than 350 feet. ~~(2)~~ The failure of any property owner to receive notice shall not invalidate the proceedings set forth in this Chapter.
- (D) ~~(J)~~ *Planning Commission action.* The Planning Commission shall make a recommendation to the Council within 30 days following the close of the public hearing. If the recommendations of the Planning Commission are not received within that time, the Council may act on the preliminary plat without the recommendations. The Planning Commission and shall have the authority to request additional information from the subdivider concerning the proposal, as deemed necessary to formulate a recommendation on the proposal.
- (1) The Planning Commission shall recommend approval of the preliminary plat if it in all ways conforms to the City's Comprehensive Plan and Development Code. The Commission shall recommend denial of the preliminary plat if it makes any of the following findings:

- a. That the proposed subdivision is in conflict with the City's Comprehensive Plan, Development Code, Capital Improvements Program, or other policy or regulation.
- b. That the physical characteristics of the site, including but not limited to topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, and retention, are such that the site is not suitable for the type or intensity of development or use contemplated.
- c. That the design of the subdivision or the proposed improvements are likely to cause substantial and irreversible environmental damage.
- d. That the design of the subdivision or the type of improvements will be detrimental to the health, safety, or general welfare of the public.
- e. That the design of the subdivision or the type of improvement will conflict with easements on record or with easements established by judgment of a court.
- f. That the subdivision is premature as determined by the standards of this Chapter.

(E) ~~(K)~~ *City Council Action.*

(1) The Council shall act upon the preliminary plat and may impose the conditions and restrictions as are deemed necessary by the Council in view of the purpose of this section and the recommendations of the Planning Commission within 30 days after receiving the recommendations of the Planning Commission or within 60 days after the close of the public hearing on the preliminary plat should the Planning Commission fail to forward recommendations. The Council shall have the option of receiving additional testimony if it so chooses. An application for preliminary plat shall be approved or denied within 120 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the subdivider.

Commented [EB7]: This conflicts with the statement above that says that the Council may take action if the Planning Commission fails to make a recommendation within 30 days after the close of the public hearing.

(2) If the preliminary plat is not approved by the Council, the reasons for the action shall be recorded in the proceedings of the council and transmitted to the applicant. If the preliminary plat is approved, the approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this chapter to be indicated on the final plat. The Council may require revisions in the preliminary plat and final plat as it deems necessary for the public health, safety, general welfare, and convenience.

(F) *Effect of Approval. For one year following preliminary plat approval, unless the subdivider and City agree otherwise, no amendment to the Comprehensive Plan or other official controls shall apply to or affect the use, development density, lot size, or lot layout that was approved.*

(G) Effect of Denial. If a preliminary plat application is denied by the City Council, a similar application for a preliminary plat affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial.

(H) ~~(L)~~ Submission of final plat; request for extension. If the preliminary plat is approved by the Council, the subdivider must submit the final plat within 180 days after the approval, or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the council. Such request for an extension shall include the following: 1) an explanation for why a final plat has not been applied for, 2) what, if any, good faith efforts have been made to complete the platting process, and 3) the anticipated completion date. The Zoning Administrator may approve up to two such extensions of not more than one additional year per extension.

(1997 Code, § 400.08) (Am. Ord. 08-024, passed 4-20-2010) Penalty, see § 10.99

§ 153.0810 MAJOR SUBDIVISIONS - FINAL PLAT.

~~—(A)—~~ After the preliminary plat has been approved, the final plat shall be submitted for approval as follows:

(A) ~~(L)~~ Submissional requirements. The owner shall submit a final plat signed and acknowledged by each person owning a legal or equitable interest in the lands platted, including contract purchasers or those holding only a security interest such as a mortgagee. The final plat shall contain the following information: Requests for final plat approval may be filed with the Zoning Administrator on an official application form following approval of a preliminary plat. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

(5) A fee as set forth by the City's adopted fee schedule.

(6) A written summary of how all conditions of preliminary plat approval have been met.

(7) Written statement explaining changes or modifications to the preliminary plat.

(8) Final plat including the following information:

- i. Name of the subdivision;
- ii. Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision;
- iii. The location of monuments shall be shown and described on the final plat;

- iv. Location and area calculations of lots, right-of-way, streets, public highways, alleys, parks and trails, wetland and wetland buffers and other features with accurate dimensions;
- v. Lots shall be numbered clearly; blocks are to be numbered, with numbers shown clearly in the center of the block;
- vi. The exact locations, widths, and names of all streets to be dedicated;
- vii. Location width and use of all easements to be dedicated;
- viii. Certification by a registered land surveyor in the form required by M.S. Ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor;
- ix. Scale of plat (the scale to be shown graphically on a bar scale), date, and north point;
- x. Statement dedicating all easements;
- xi. Statement dedicating all streets, utility easements, and other public areas not previously dedicated; and
- xii. Certificate for approval by the City Planning Commission and the Council. The certificate shall be prepared for the signatures of the Chair and Secretary of the City Planning Commission, and the Mayor and Administrator.

Commented [EB8]: I added this to clarify the requirements, as it is on the handout, but not all calculations required on the handout were included in the ordinance.

(9) Final grading and drainage plan, appropriately labeled, using a copy of the current certificate of survey as a base for the site in question and prepare and signed by a Minnesota licensed engineer, depicting the following information:

- i. North arrow and date of preparation.
- ii. Graphic Scale (engineering scale only, not less than one (1) inch equals fifth (50) feet).
- iii. For each lot, provide lot and block numbers, building pad location, building type and proposed building first floor elevation, low floor elevation and elevation at garage slab.
- iv. Stormwater Management Plan, with a narrative, including the configuration of drainage areas and calculations that meet the requirements of the City Code and/or applicable Watershed Standards.
- v. Location of all natural features on the tract. Natural features are considered to include, but are not limited to the following: tree lines, wetlands, ponds, lakes, streams, drainage channels, bluffs, steep slopes, etc.
- vi. All delineated Wetlands and watercourse buffers per the City and Watershed standards; and wetland replacement plan, if needed.
- vii. Location of all existing storm sewer facilities, including pipes, manholes, catch basins, ponds, swales, and drainage channels within one hundred

- fifty (150) feet of the tract. Existing pipe type, grades, rim and invert elevations and normal and high water elevations must be included.
- viii. Normal water level (NWL) and 100-year high water level (100-year HWL) for all water bodies, existing and proposed.
 - ix. Spot elevations at drainage break points and emergency overflows (in BOLD) with directional arrows indicating site, swale and lot drainage.
 - x. Retaining Walls (wall heights and elevations).
 - xi. Locations, grades, rim and invert elevations of all storm sewer facilities, including ponds and BMP's proposed to serve the tract.
 - xii. Locations and elevations of all street high and low points.
 - xiii. Street grades shown.
 - xiv. Provide phasing plan for site grading.
 - xv. All soil erosion and sediment control measures to be incorporated during and after construction must be shown. Locations and standard detail plates for each measure must be included on the plan using Lake Elmo city standard details. Plan must meet the requirements of MPCA General Permit Construction Activity.
 - xvi. All revegetation measures proposed for the tract, including seed and mulch types and application rates must be included on the plan.
 - xvii. Existing contours at two (2) foot intervals shown as dashed lines (may be prepared by a Minnesota licensed surveyor). Existing contours shall extend one hundred fifty (150) feet outside of the tract.
 - xviii. Proposed grade elevations at two (2) foot intervals shown as solid lines.
 - xix. Other information as required and outlined in the City Plan Sheet Format Requirements.
- (10) Final utility plan, appropriately labeled, prepared and signed by a Minnesota licensed engineer, depicting the following:
- i. Easements locations, dimensions, and purposes.
 - ii. Underground and overhead facilities.
 - iii. Proposed utility plans including sanitary sewer, watermain, and storm sewer, all in accordance with the City Engineer Design Standards Manual.
- (11) Final street and storm sewer plan, appropriately labeled, prepared and signed by a Minnesota licensed engineer, depicting the following information:
- i. Layout of proposed streets showing the proposed lot lines, right-of-way widths, and proposed street names, in accordance with the City's Street Naming Policy, as outlined in 153.09 (11) (a).
 - ii. Locations and widths of proposed streets, alleys and pedestrian-ways.
 - iii. Location, dimensions and purpose of all easements.
 - iv. Annotation of street geometrics for all horizontal curves, tangent lengths and corner radii.

- v. Centerline profile and gradients for all streets, with vertical geometrics annotated on the plan profiles.
 - vi. Typical cross section of proposed street improvements.
 - vii. Minimum front and side street building setback lines.
 - viii. When lots are located on a curve, the width of the lot at the building setback line.
 - ix. For any non-single family residential development, location and number of off-street parking spaces (guest, handicapped, bicycle, motorcycle, etc.) including typical dimensions of each.
 - x. Other information as required and outlined in the City Plan Sheet Format Requirements.
- (12) Final tree preservation and landscape plans.
- (13) Other written materials. The application form shall be accompanied by, or address, the following written materials:
- i. Lot size for all lots and outlots in tabular form.
 - ii. Area calculations of lots, right-of-way, streets, public highways, alleys, parks and public trails, wetland and wetland buffers and other features with accurate dimensions;
 - iii. Cost estimates for grading and all public improvements.
 - iv. A copy of any proposed homeowners association documents, private covenants or deed restrictions.
 - v. Commitment for Title Insurance.
 - vi. If a CIC Community is created, the developer shall provide proof that a replacement reserve amount was created in accordance with Minnesota Statute 515(b)(3)-1141.

(B) ~~(2)~~ Review of Final Plat. Approval of the City Council.

- (1) The application shall be in substantial compliance with the approved preliminary plat, including any modifications required as a condition of preliminary plat approval. Pursuant to Minnesota Statutes, Chapter 462.358, an application for a final plat shall be approved or denied within 60 days of the date from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the subdivider.
- (2) Review by staff and other commissions or jurisdictions. The city shall refer copies of the preliminary plat to the City Engineer, Planner, Attorney, the Park Commission, and the appropriate county, state, or other public agencies, including but not limited the Minnesota Department of Transportation and/or Washington County if the application abuts a county road or highway or county state-aid highway, and/or the Department of Natural Resources (DNR) if the application is within a Shoreland Overlay District and/or Floodplain Management District, for their review and comment. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports

where appropriate, and to provide general assistance in preparing a recommendation on the action to the Planning Commission and Council.

- (3) ~~(a) Twenty copies of the final plat shall be submitted to the Administrator at least 10 days prior to the Planning Commission meeting at which consideration is requested: *Planning Commission action*. After review of the final plat by the staff, the Planning Commission shall review the final plat for substantial compliance with the approved preliminary plat and make recommendation to Council.~~
- (4) *City Council Action.* ~~T~~he final plat shall be approved or disapproved within 60 days after the filing of the final plat by resolution and conditioned upon the execution of the development agreement for basic improvements, public dedication, bonding, and other requirements determined necessary or appropriate by the Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the applicant.
- (5) ~~(b)~~ The resolution approving the plat shall authorize the Mayor and Administrator to execute an endorsement of approval for the city. The Mayor and Administrator shall not execute the endorsement until any development agreement or bonds required by the resolution of the approval have been approved in writing by the City Attorney.

(Am. Ord. 9705, passed 5-6-1997)

(3) *Special assessments.* When any existing special assessments which have been levied against the property described are to be divided and allocated to the respective lots in the proposed plat, the Engineer shall estimate the cost of preparing a revised assessment roll, filing the assessment roll with the County Auditor, and making the division and allocation. Upon approval by the Council of the cost, the cost shall be paid to the City Administrator.

(4) *Recording final plat.* If the final plat is approved by the Council, the subdivider shall record it with the County Recorder within 120 days after the approval. If not filed within 120 days, approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the Council. The subdivider shall, immediately upon recording, furnish Administrator with 2 paper prints and 1 reproducible film positive of the plat showing evidence of the recording. No building permits shall be issued for construction of any structure on any lot in the plat until the city has received evidence of the plat being recorded by the County.

~~(5) *Lot acreage.* The subdivider shall provide the city with a list of all lots, by block, indicating the lot acreage, to the nearest 1/100. The list shall be certified by the surveyor signing the plat.~~

(1997 Code, § 400.09) Penalty, see § 10.99

§ 153.09 EXCEPTIONS TO PLATTING.

~~(6) *Minor subdivision.* A minor subdivision is a division of land which results in no more than 4 parcels wherein each resultant parcel complies with the city's minimum lot dimension and size requirements and are more than 2.5 acres in size, and public road~~

Commented [EB9]: This is already stated above in (1) (b)

Commented [EB10]: The Commission should discuss if it wants to be more restrictive and require platting in more situations.

~~frontage requirements, and all other applicable requirements for the zoning district in which the land is located, and no new roads or other public infrastructure is needed.~~

~~(7) (B) Lot line adjustment. A lot line adjustment is a division of land which results in no more than 4 parcels wherein each resultant parcel does not comply with the city's minimum lot dimension and/or public road frontage requirements for the zoning district in which the land is located. The City Council hereby waives compliance with the city's platting regulations for lot line adjustments which satisfy 1 of the following conditions: Lot line adjustments exempted from platting by Minnesota Statute 462.352, Subd. 12 and shall not require a plat or replat and may be administratively approved, provided all of the following are met:~~

~~— (1) Each resultant parcel, when combined with an abutting parcel through a Tax Parcel Consolidation Procedure approved by Washington County, equals or exceeds the minimum lot dimension requirements and public road frontage requirements for the zoning district in which the property is located or is made more conforming through the lot line adjustment;~~

~~— (2) In those cases where the City Administrator determines that it is not reasonably possible for each resultant parcel to comply with the provisions of division (B)(1) above, each resultant parcel, when combined with an abutting parcel through a Tax Parcel Consolidation Procedure approved by Washington County, is less non-conforming after the lot consolidation than it was before the lot consolidation; or~~

~~— (2) The lot line adjustment does not create additional lots.~~

~~— (3) The lot line adjustment shall not cause any structure on the property to be made non-conforming or in violation of the Zoning Chapter or any other provisions of the City Code.~~

~~— (4) All resultant parcels shall have frontage and access on an existing improved street (3) In those cases where, in regard to property which is zoned agricultural or rural residential, the City Administrator determines that each resultant parcel will equal or exceed minimum lot dimensions for the zoning district in which the property is located, but that 1 of the resultant parcels cannot satisfy the minimum public road frontage requirements for the zoning district in which the property is located, or access to the noncomplying parcel to an existing improved street is protected by a restrictive covenant approved by the City Attorney which includes the city as a beneficiary.~~

~~— (5) The resulting parcels shall generally conform to the shape, character, and area of existing or anticipated land subdivisions in the surrounding areas.~~

~~— (6) Any such lot line adjustment shall not require any public improvements.~~

~~— (C) Subdivision of Property for Public Purpose. The subdivision of property resulting from acquisition by governmental agencies for public improvements or uses.~~

~~— (D) Application for minor subdivision or lot line adjustment. An application for a minor subdivision or a lot line adjustment shall be submitted on forms provided by the City Zoning Administrator. The applicant will be responsible for all expenses incurred in obtaining the required information, which includes the following:~~

Commented [EB11]: This language was borrowed from the County's Subdivision Ordinance. This clarifies when subdivision of land in to 3 or less parcels should undergo the full platting process, in case this might happen (as this section states that platting is required for division of land in to 3 or more parcels).

Commented [EB12]: A lot line adjustment does not usually create additional lots or outlots. I am suggesting new language to clarify what is allowed for lot line adjustments.

Commented [EB13]: This only applies to lot consolidation, so it is confusing to the reader. Eliminating this language still communicates what is meant by this section.

Commented [EB14]: Took this out because a lot line adjustment should not create a parcel

~~—(1) Name, address, and telephone number of the property owner/applicant and evidence of title;~~

~~—(2) A legal description of the parcel which is being subdivided and legal descriptions for each of the resulting parcels; and, in regard to lot line adjustments, legal descriptions for the adjusted or consolidated parcels;~~

~~—(3) A written description stating the reason for the request; and~~

~~—(4) A land survey prepared by and signed by a registered land surveyor describing the minor subdivision, and/or lot line adjustment and showing all buildings, driveways, easements, setbacks, and other pertinent information including the legal descriptions herein required.~~

~~—(5) Other information. Other information shall be provided as may be reasonably requested by the city staff, Planning Commission, or Council.~~

~~—(E) Review of minor subdivision.~~

~~—(1) A completed application shall be submitted to the Planning Commission for its review and recommendation to the City Council.~~

~~(H) The City Council may attach reasonable conditions to its approval and shall require the conveyance of necessary street, utility, and drainage easements on forms approved by the City Attorney, and shall require the payment of a public use dedication fee.~~

~~—(F) Review of lot line adjustment. A completed application shall be reviewed administratively by the City Zoning Administrator who shall make a written finding in regard to the provisions of division (B) above. The City Zoning Administrator's approval shall be conditioned upon recording of documents which effectuate the lot line adjustment or tax parcel consolidation. Prior to the issuance of any development permits, and no later than 60 days after administrative review and approval, the applicant shall provide the City Zoning Administrator with recorded documents or recorded document numbers for the deeds of conveyance which effectuate the lot line adjustment; and/or with the verifications listed below. Failure to provide the required verifications shall invalidate the City Zoning Administrator's approval.:~~

~~—(1) Recorded documents or recorded document numbers for the deeds of conveyance which effectuate the lot line adjustment; and/or~~

~~(2) Proof that the Washington County Assessor has approved a Tax Parcel Consolidation and has assigned a new tax parcel number for the consolidated parcel or parcels.~~

Commented [EB15]: The County does not require City review of lot consolidations

~~—(G) Review of Subdivision of Property for Public Purpose. A completed application, accompanied by a fully executed deed that designates a governmental agency as a grantee, shall be reviewed administratively by the City Zoning Administrator who shall make a written finding in regard to the provisions of paragraph (C) above and if the conveyance falls within the definition of paragraph (C), the City Zoning Administrator shall approve the subdivision. The City Zoning Administrator's approval shall be conditioned upon receipt of a copy of the recorded deed. Failure to provide a copy of the recorded deed shall invalidate the City Zoning Administrator's approval.~~

_(1997 Code, § 400.10) (Am. Ord. 97-98, passed 12-18-2001)

§ 153.101 VARIANCES; STANDARDS; PLATTING.

(A) *Purpose.* A variance may be granted from the minimum standards required by this chapter as they apply to specific property where unusual hardship on the land exists, but variances may be granted only upon the specific ground set forth in this section. In granting any variance, the Planning Commission may recommend, and the Council shall prescribe, the conditions as it deems necessary and desirable to protect the public interests. In no case shall any of the procedural requirements of this chapter be waived nor shall a variance be deemed to permit any waiver or avoidance of the procedural requirements.

(B) *Planning Commission review.* No variance shall be granted until the matter has been considered by the Planning Commission. In making its recommendations, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

(C) *Findings.* A variance shall be granted only where the Council finds:

(1) That there are special circumstances or conditions affecting the applicant's land that the strict application of the minimum standards of this chapter would deprive the applicant of the reasonable use of that land;

(2) That the granting of the variance will not be detrimental to the public welfare or injurious to other property; and

(3) That the variance required by reason of unusual hardship relating to the physical characteristics of the land.

(1997 Code, § 400.11)

§ 153.142 VARIANCE PROCEDURES.

(A) *Application.* Requests for a variance or appeal shall be filed with the Zoning Administrator on an official application form. The application shall be accompanied by a fee as established from time to time by resolution of the Council. The application shall also be accompanied by 20 copies of detailed written and graphic materials necessary for the explanation of the request.

(B) *Hearing.* The Planning Commission shall hold a public hearing on the variance request in accordance with the standards set forth in the zoning code.

(C) *Appearance of applicant before Planning Commission.* The applicant or a representative of applicant shall appear before the Planning Commission in order to answer questions concerning the proposed variance request.

(D) *Findings.* The Planning Commission shall make its findings and recommend the actions or conditions relating to the request as they deem necessary to carry out the intent.

(E) *Approval/denial.* Upon receiving the report and recommendation of the Planning Commission, the Council shall decide whether to approve or deny the request for a variance. The Council shall not grant a variance until it has received the report and recommendation from the Planning Commission or until 30 days after the application was accepted by the city. The Council shall decide whether to approve or deny the request for a variance or an appeal no later than 60 days after the filing of the application.

(F) *Written findings and order.* The Council shall make written finding of fact and order in granting or denying any application for a variance or appeal. In granting any variance or making any order related to a variance or appeal, the Council shall impose any condition it considers necessary to protect the public health, safety, or welfare.

(G) *Notification of decision.* The Administrator shall notify the applicant of the Council's decision in writing.

(1997 Code, § 400.12)

§ 153.123 PLANNED UNIT DEVELOPMENTS (P.U.D.).

(A) Upon receiving a report from the Planning Commission, the Council may grant exceptions from the provisions of these regulations in the case of a Planned Unit Development, provided that the Council finds that the proposed development is fully consistent with the purpose and intent of these regulations and in compliance with the Planned Unit Development objectives of the zoning code.

(B) This provision is intended to provide the necessary flexibility for new land planning and land development trends and techniques.

(1997 Code, § 400.13) (Am. Ord. 08-072, passed 3-5-2013)

§ 153.134 DESIGN STANDARDS; REQUIRED IMPROVEMENTS.

Submittals must meet plan sheet format requirements set forth by the City of Lake Elmo Engineering Design Standards.

(A) *Blocks.*

(1) In general, intersecting streets, determining block lengths, shall be provided at the intervals as to serve cross traffic adequately and to meet existing streets. Where no existing plats control the blocks in residential subdivisions, blocks shall not be less than 600 feet nor more than 1,800 feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than 900 feet, pedestrian ways and/or easements through the block may be required near the center of the block. Blocks for business or industrial use may vary from the elements of design contained in this section if the nature of the use requires other treatment.

Commented [EB16]: I think adding in this particular language could better outline that the applicant is to refer to the City Engineering Design and Construction Standards Manual for Private Developments.

(2) The width of the block shall normally be sufficient to allow 2 tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of the width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

(3) Blocks for commercial and industrial areas may vary from the elements of design contained in this section if the nature of the use requires other treatment. In those cases, off-street parking for employees and customers shall be provided along with safe and convenient limited access to the street system. Space for off-street loading shall also be provided with similar access. Extension of roads, railroad access right-of-way, and utilities shall be provided as necessary.

(B) *Lots.*

(1) *Area.* The minimum lot area, width, and depth shall not be less than that established by the zoning code in effect at the time of adoption of the final plat.

(2) *Corner lots.* Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the zoning code.

(3) *Side lot lines.* Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.

(4) *Frontage.* Every lot must have a minimum frontage on a public street accepted for maintenance purposes by the city (or to be accepted upon completion of construction by the applicant), other than an alley, as required in the zoning code. No subdivision shall be permitted which will result in a lot with less than the minimum frontage on a public street as required by the zoning code except where a variance is granted as provided by this chapter. In no case shall a variance to this frontage requirement be granted which would permit access to a lot by means of an easement or private road except as provided in § [153.101](#).

(5) *Setback lines.* Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the zoning code.

(6) *Water courses.* Lots abutting a water course, drainage way, channel, or stream shall have additional depth and width, as required under the provisions of the zoning code for the shoreland and wetland system districts.

(7) *Features.* In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic spots, or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

(8) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots or planned as outlots, rather than allowed to remain as unusable parcels.

(9) *Frontage on 2 streets.* Double frontage, or lots with frontage on 2 parallel streets, shall not be permitted except where lots back on arterial streets or highways, or where topographic or other conditions render subdividing otherwise unreasonable. Double frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.

(10) *Turn-around access.* Where proposed residential lots abut a collector or arterial street, they should be platted in a manner as to encourage turn-around access and egress on each lot.

(11) *Minimum lot line.* No lot shall have a total width at the front or rear lot line of less than 30 feet.

(12) *Large lot planning.* In any area where lots are platted in excess of 24,000 square feet or 160 feet in width at the minimum building setback line, a preliminary resubdivision plan may be required showing a potential and feasible way in which the lot or lots may be resubdivided in future years for more intensive use of the land, the placement of buildings or structures upon the lots shall allow for potential resubdivision.

(13) *Shoreland.*

(a) *Land suitability.* No land shall be subdivided which is held unsuitable by the city for the purposed use because of flooding, inadequate drainage, soil and rock formations with severe limitation for development, severe erosion potential, inadequate water supply or sewage disposal capabilities.

(b) ~~*Inconsistent plats reviewed*~~ *Review* by Commissioner of Natural Resources. All plats ~~which are inconsistent with in a shoreland district the Municipal Shoreland Ordinance~~ shall be reviewed by the Commissioner before approval by the city may be granted. Review shall require that the proposed plats be received by the Commissioner at least 10 days before a hearing is called by the city for consideration of approval of a ~~final~~ *preliminary* plat.

(c) *Copies of plats supplied to Commissioner.* Copies of all plats within shoreland areas shall be submitted to the Commissioner within 10 days of final approval by the city.

(C) *Easements.*

(1) *Width and location.* An easement for utilities at least 10 feet wide, shall be provided along all lot lines. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots. See § 150.277(A)(2)(e) of this code for other applicable easement regulations.

(2) *Continuous utility easement locations.* Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not subsequently be changed without the approval of the Council after a public hearing.

(3) *Provisions for drainage.* Easements shall be provided along each side of the center line of any water course or drainage channel whether or not shown in the Comprehensive Plan, to a width sufficient in the judgment of the Council to provide proper maintenance and protection and to provide for storm water runoff and installation and maintenance of storm sewers. They shall be dedicated to the city by appropriate language in the owner's certificate. See § 150.277(A)(2)(e) of this code for other applicable easement regulations.

(D) *Erosion and sediment control.* Erosion and sediment control plans shall be provided in accordance with § 150.277(B) of this code.

(E) *Drainage.* A complete and adequate drainage system design, in accordance with the Watershed District, § 150.277(A) of this code, and Local Storm Water Management Plan, approved by the City Engineer, shall be required for the subdivision.

(F) *Monuments for plats.*

(1) Official monuments, as designated or adopted by the County Surveyor's Office or approved by the County District Court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat must be fully dimensioned, all angles of the boundary excepting the closing angle to be indicated, all monuments and surveyor's irons to be indicated, each angle point of the boundary perimeter to be so monumented.

(2) Twenty-four inch long pipes or steel rods shall be placed at each lot and at each intersection of street center lines. All United States, state, county, or other official bench marks, monuments, or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat.

(3) A second monumentation shall be required following the final grading and completion of streets, curbs and utility improvements for a plat in order to ensure that all irons and monuments are correctly in place.

(4) (a) Proof of the final monumentation shall be in the form of a surveyor's affidavit that the monumentations complete. The surveyor's affidavit shall be submitted to the county; and

(b) Surveyor's office and to the city within 1 year from the date of recording the plat ~~or prior to the issuance of building permits, whichever event occurs first.~~

(G) *Sanitary sewer and water distribution and public utilities.*

(1) Sanitary sewers and water facilities shall be installed in accordance with the standards and specifications as provided for in the City's Comprehensive Sewer Plan and Water Supply and Distribution Report, and other city plans, and shall be subject to the review and approval of the City Engineer.

(2) Where city water facilities are not available for extension into the proposed subdivision, the Council may, by ordinance, grant a franchise for the water facilities, to serve all properties within a subdivision where a complete and adequate neighborhood water distribution system is designed in conjunction with the subdivision, and complete plans for the system are submitted for the approval of the Council.

(3) Where city sewer and water facilities are not available for extension into proposed subdivision, the Council may permit the use of individual water and sewer systems in accordance with all appropriate state and local regulations.

(4) Telephone, electric, and/or gas service lines are to be placed underground in accordance with the provisions of all applicable city ordinances and standards. Exceptions to this requirement may be granted by action of the Council.

(H) *Streets, alleys, and curbs.* The design of streets, alleys, and curbs shall conform to the City of Lake Elmo Engineering Design Standards.

(1) *Streets, continuous.* Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided

Commented [EB17]: Because I proposed removing the language below, this will again specify that an applicant should direct themselves to the City Engineering Standards for design specifications.

tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.

(2) *Local streets and dead-end streets.* Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Temporary and permanent cCul-de-sacs shall be designed in conformance with the City of Lake Elmo Engineering Design Standards. include a terminal turn around which shall be provided at the closed end, with a right of way radius of not less than 60 feet.

(a) Temporary cul-de-sacs shall comply with the following standards:

1. The plat shall be reviewed after 3 years, by the City Planner, in order to determine if the cul-de-sac shall remain temporary. The City Planner shall review the status of the temporary cul-de-sac every 3 years.

2. The street shall not exceed 1,000 feet in length in subdivisions in which lots are less than 2.5 acres in size.

3. The street shall not exceed 2,640 feet in length in subdivisions in which lots are 2.5 acres or greater.

4. The cul-de-sac shall be designated as "temporary" on the final plat, with an easement shown on the final plat identifying where the road will extend.

5. The cul-de-sac shall not have landscaped or natural islands within it.

6. The street shall not serve more than 20 home sites.

(b) Permanent cul-de-sacs shall comply with the following standards:

1. The street shall not exceed 600 feet in length in subdivisions in which lots are less than 2.5 acres in size.

2. The street shall not exceed 1,320 feet in length in subdivisions in which lots are 2.5 acres or greater in size.

3. The cul-de-sac may have landscaped islands or natural open space areas. Maintenance responsibilities of these areas shall be defined and recorded in the covenants, on the deeds, and in developers agreements.

(c) Temporary, platted cul-de-sacs which abut land proposed for development shall be removed by the developer.

(3) *Street plans for future subdivisions.* Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan for a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

(4) *Provisions for resubdivision of large lots and parcels.* When a tract is subdivided into larger than normal building lots or parcels, the lots or parcel shall be arranged to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for the resubdivision.

Commented [EB18]: Some of this negates the Design Standards

~~(5) Street intersections. Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of streets shall be 60 degrees, with 90 degree intersections preferred. Street intersection jogs with an offset of less than 125 feet 150 shall be avoided.~~

Commented [EB19]: Addressed in Design Standards.

~~(6) (5) Subdivisions abutting collector or minor arterial streets.~~ Wherever a proposed subdivision abuts or contains an existing or planned collector or minor arterial street as designated on the city's thoroughfare plan, the lots shall access onto local streets wherever possible. Local streets may be existing or provided with the subdivision.

~~(7) (6) Alleys.~~ Except in the case of a planned unit development, either a public or private alley may be required in a block where commercially zoned property abuts a major thoroughfare or a major street. Alleys in residential areas other than those zoned for multiple family use shall not be permitted.

~~(8) (7) Half streets.~~ Dedication of half streets shall not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.

~~(9) Street grades. Except upon the recommendation of the engineer that the topography warrants a greater maximum, street grades shall not exceed the following:~~

Commented [EB20]: Some of this negates Design Standards

Minor Arterials	5%
Collector Streets	6%
Local, Marginal Access, and Cul-de-Sac Streets	8%
Minimum Grade of Not Less Than	0.5%

~~(10) Curb radius. The minimum curb radii for arterials, collector streets, local streets, and alleys shall be as follows:~~

Arterial Streets	25 feet
Collector Streets	20 feet
Local Streets	15 feet
Alleys	6 feet

~~(11) Reverse curves. Tangents of at least 50 feet in length shall be introduced between reverse curves on collector streets:~~

~~(12) Reserve strips. Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the Council.~~

~~(13) Minimum right-of-way widths:~~

Street	Width
Principal Arterial	150 feet to 300 feet
Intermediate Arterial	100 feet to 300 feet
Minor Arterial	80 feet to 120 feet
Collector Street	80 feet
Commercial or Industrial Service Street	80 feet
Local Street	60 feet
Marginal Access Street	50 feet
Cul-de-Sac	60 feet; turn-around radius of 60 feet

~~(14) (8) Adding width to existing streets.~~ Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet ~~the above standards set forth in the City of Lake Elmo Engineering Design Standards and/or other applicable standards.~~

~~(15) (9) Additional right-of-way and roadway widths.~~ Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use.

~~(16) (10) Street improvements for plats.~~

(a) The City Engineer shall determine when the full width of the right-of-way shall be graded, including the subgrade in accordance with the provisions for construction as outlined in the design standards.

(b) All streets shall be improved in accordance with the standards and specifications for street construction established by the Council.

~~(17) (11) Curb and gutter.~~ Curb and gutter shall be provided when required in accordance with the *City of Lake Elmo Engineering Design Standards*.

(12) Proposed streets shall conform to the state, county, or local road plans or preliminary plans as have been prepared, adopted and/or filed.

(I) *General improvements.* ~~The following shall be installed in accordance with the City of Lake Elmo Engineering Design Standards Manual and all other applicable city standards:~~

- ~~(1) Trees and boulevard sodding shall be planted in accordance with city standards.~~
- ~~(2) Streets signs shall be installed at each intersection in accordance with city standards.~~
- ~~(3) Driveway approaches, sidewalks, or pedestrian pathways shall be installed in accordance with city standards.~~

(4) Street lighting fixtures ~~shall be installed in accordance with city standards.~~

(5) ~~Sidewalks are required on one side of all streets.~~ The Council may require sidewalks along both sides of all streets in areas where the residential density equals or exceeds 3 dwelling units per ~~net~~ acre of land or in any commercial, industrial, or other business areas if the Council determines that sidewalks are required for public safety.

(1997 Code, § 400.14) (Am. Ord. 08-024, passed 4-20-2010) Penalty, see § 10.99

§ 153.145 PARK LAND DEDICATION REQUIREMENTS.

(A) *Dedication of land for park and open space use.* In all new residential subdivisions, a percentage of the gross area of all property subdivided shall be dedicated for parks, playgrounds, trails, public open space, or other public recreational use. For non-residential developments, the city requires a payment in lieu of land dedication as established by resolution of the City Council. Such percentage or fee shall be in addition to the property dedicated for streets, alleys, waterways, pedestrian ways or other public use pursuant to this chapter. The following schedule describes the required dedication by zoning district. This schedule is based upon density of the development allowed in each district and is intended to equalize the amount and value of land dedicated for parks per dwelling unit in the various districts.

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
R1, R2, R3, and R4	10%
RS, V-LDR, GCC, LDR, MDR, HDR	10%
RE	7%
RR and AG	4%
C, CC, LC, GP, BP, VMX	Fees as set by Council resolution
OP Development	7%

Commented [EB21]: Combined two tables.

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
GB, LB, HB, BP, CB,	Fee as set by Council resolution
C, CC, LC, GB, BP, VMX	Fee as set by Council resolution
RR and AG with OP Conditional Use Permit OP Development	7%
RR and AG with OP A Conditional Use Permit	10%

Commented [EB22]: Removed OP Conditional Use Permit and added "OP Development". Got rid of OP A Conditional Use Permit.

(B) *Land title.* Public land dedications, which are not dedicated to the city on a plat, shall be conveyed to the city by warranty deed free and clear of all liens or encumbrances. The

subdivider shall provide proof of title, in a form acceptable to the city, prior to the conveyance of the property.

(C) *Land acceptability.* The city must approve the location and configuration of any park land which is proposed for dedication and shall take into consideration the suitability of the land and for its intended purpose; the future needs of the city for parks, playgrounds, trails, or open space; and the recommendations of the city's Parks Commission. The following properties shall not be accepted for park land dedications:

(1) Land dedicated or obtained as easements for streets, sewer, electrical, gas, storm water drainage and retention areas, or other similar utilities and improvements;

(2) Land which is unusable or of limited use; and/or

(3) Land within a protected wetland or within a flood plain area unless the Council determines that all of the following criteria are satisfied:

(a) Would be in the best interests of the general public;

(b) Would be valuable resource for environmental preservation, educational, or habitat preservation purposes;

(c) Has an exceptional aesthetic value; and

(d) Would not become financially burdensome to the city as a result of maintenance or preservation requirements.

(D) Trails. Trails constructed by a subdivider within dedicated public open space having at least 30 feet of width are eligible for park credit. The maximum amount of trail dedication credit shall not exceed 25% of the total dedication.

(E) *Cash contribution in lieu of land dedication - residential subdivisions larger than three lots.* In lieu of the land dedication for residential subdivisions larger than three lots, the city may elect to require the subdivider to contribute a cash equivalent payment to the city's Park and Open Space Fund, or may require the developer to satisfy the park land dedication requirement by a combination of land and cash contribution. For all residential subdivisions of three or more parcels, the required cash equivalent payment shall be an amount equal to the fair market value of the percentage land dedication for the zoning district in which the subdivided property is located. The city shall determine the fair market value of the land by reference to current market data, if available, or by obtaining an appraisal from a licensed real estate appraiser; the subdivider shall pay for the cost of the appraisal. The fair market value determination of the appraiser shall be conclusive.

(F) *Cash contribution in lieu of land dedication - minor residential subdivisions and commercial development.* Required cash equivalent payments for residential subdivisions resulting in 3 or fewer parcels or for commercial development projects shall be as determined from time to time by Council resolution.

(G) *Payment of cash contribution.* Cash contribution payments shall be made to the city prior to final plat approval for commercial developments or residential subdivision of more than 3 parcels, or prior to the city's approval of the deeds of conveyance in those cases where a residential subdivision will result in 3 or fewer lots.

(H) Previously subdivided property from which a park dedication or cash in lieu contribution has been received, upon resubdivision with the same number of lots, is exempt from park dedication requirements. If, as a result of the resubdivision of the property, the number of lots is increased, the park dedication or cash in lieu contribution shall be applied only to the net increase in the number of lots.

(F) (1) Any cash contribution so paid to the city shall be placed in a special fund. The money shall be used only for:

- (a) The acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands or open space based on the approved park systems plan;
- (b) Redevelopment or rehabilitation of existing park facilities or sites; or
- (c) Debt service in connection with land previously acquired or improvements thereto previously constructed.

(2) No funds shall be used for ongoing operation or maintenance of existing parks or recreational facilities or sites.

~~(I) Lands designated for public use on Comprehensive Plan or official maps. Where all or a portion of the area included in a proposed subdivision has been designated as a park, playground, recreational area, proposed school site, or other public ground in the city's Comprehensive Plan or in an official map adopted pursuant to the Comprehensive Plan, the subdivider shall notify the appropriate governmental unit of the proposed subdivision of the property. The notice shall be given prior to submittal of the development application to the city. Prior to the city's review of the preliminary plat, the subdivider shall advise the city in writing of the status of the negotiations regarding the designated area.~~

Commented [EB23]: Need to add language regarding not to be used for city vehicles

Commented [EB24]: This language doesn't seem necessary. Applicants to talk with City Staff prior to application submission.

(1997 Code, § 400.15) (Am. Ord. 08-072, passed 3-5-2013) Penalty, see § 10.99

§ 153.156 REQUIRED IMPROVEMENTS; FINANCIAL ARRANGEMENTS.

(A) *Improvements.* All sanitary sewer, water main and storm sewer facilities, streets, concrete curb, gutters, sidewalks, sodding, drainage swales, and other public utilities ("improvements") shall be made and constructed on or within the subdivided lands or where otherwise required and dedicated to the city and shall be designed in compliance with city standards by a registered professional engineer.

(B) *Plans and specifications approval.* Plans and specifications shall be submitted to the City Engineer for approval prior to construction. All of the improvements shall be completed by the developer and acceptable to the City Engineer and shall be free and clear of any lien, claim, charge, or encumbrance, including any for work, labor, or services rendered in connection therewith or material or equipment supplied therefor.

(C) *Improvement warranties and guarantees.* Developer shall warrant and guarantee the improvements against any defect in materials or workmanship for a period of 2 years following completion and acceptance. In the event of the discovery of any defect in materials or

workmanship within the 2-year period, the defect shall be promptly repaired or corrected, and the warranty and guarantee for the entire project shall be extended for 1 additional year beyond the original 2-year period, for a period of 3 years following the completion and acceptance. Defects in material or workmanship shall be determined by the City Engineer.

(D) *Required inspections of improvements.* Improvements that are to be installed shall be inspected during the course of construction by the City Engineer, at the developer's expense. Notice shall be given to the City Engineer a minimum of 24 hours prior to the required inspection. Failure to provide City Engineer with required notice shall result in a stop-order issued to the project. If developer proceeds with work within the development without required inspection, City Engineer shall have the discretion to accept or reject all or part of the improvement, by giving appropriate written notice to the developer.

(E) *Acceptance of improvements.* Acceptance of improvements by the City Engineer may be subject to the reasonable conditions as Engineer may impose at the time of acceptance. Developer, through his or her engineer, shall provide for competent daily inspection during the construction of all improvements. As-built drawing, Whitehall include service and valve ties, on reproducible mylar shall be delivered to the Engineer within 60 days of completion of the improvements together with a written certification from a registered engineer that all improvements have been completed, inspected, and tested in accordance with city-approved plans and specifications.

(F) *Changes to construction plans and specifications.* All changes to the construction plans and specifications must be approved by the City Engineer.

(G) *Clean-up obligations; street signs.*

(1) Developer shall remove all soil and debris from and clean all streets within the lands developed in accordance with § 150.277(B)(2)(d) of this code.

(2) In the event there are or will be constructed on the property, 2 or more streets, and if permanent street signs have not been installed, developer shall install temporary street signs in accordance with recommendations of the Maintenance Department, prior to the issuance of any permit to build upon the property.

(H) *Erosion control.* Erosion control shall be provided with the installation of utilities and street curbs in accordance with the *City of Lake Elmo Engineering Design Standards*.

(I) *Developers agreement/security.* Subsequent to approval by the Council and before execution by the city of the final plat or other appropriate forms of city approval, developer shall:

(1) Enter into a developer's agreement whereby developer shall undertake performance of the obligations imposed by this chapter, or by Council condition, and containing the other terms and provisions and in the form as shall be acceptable to the City Attorney, including, but not limited to, provisions for default including fines and penalties; and

(2) Submit a ~~bond~~, letter of credit, or cash deposit ("security") which guarantees completion of all improvements within the times specified by the City Engineer. The amount of the security shall be 125% of the estimated construction cost of the improvements, subject to reduction

~~thereof to an amount equal to 25% of the cost of the improvements as outlined by the~~

development agreement after acceptance thereof by the City Engineer, and receipt of as-built drawings. The security shall be in the form and contain the other provisions and terms as may be required by the City Engineer and/or City Attorney. The developer's registered engineer shall make and submit for approval to the City Engineer, a written estimate of the costs of the improvements.

(J) *Petitions for improvements by city.* With the approval of the Council, and instead of the obligations imposed by divisions (A) through (I) above, developer may enter into an agreement signed by 100% of all owners of the land to be developed, requesting the city to install some or all of the improvements, request all of the costs be assessed against the property, and waiving the rights to appeal from the levied special assessments. Upon approval by the Council, the city may cause the improvements to be made and special assessments for all costs of the improvements to be levied on the land, except any land that is or shall be dedicated to the public. The special assessment shall be payable over a term of 5 years unless otherwise authorized by the Council. Prior to the award of any contract by the city for the construction of any improvement, developer shall have entered into a contract for rough grading of streets included in the improvement to a finished subgrade elevation, and including the other terms as required by Council. Developer's obligation with respect to the rough grading work shall be secured by a bond, letter of credit, or the deposit which shall guarantee completion, and payment for all labor and materials expended in connection with the rough grading. The amount of the security shall be 125% of the cost of the rough grading and shall be in the form and contain the further terms as may be required by the City Engineer and/or City Attorney.

(K) *City Attorney approval.* No final plat shall be approved by the Council without first receiving a report signed by the City Attorney certifying that the agreements and documents required under this chapter meet the requirements of the city. The City Treasurer shall also certify that all fees required to be paid to the city in connection with the plat have been paid.

(L) *Warranty bond.* The city shall require a developer to submit a warranty bond or equivalent in the amount equal to the original cost of the improvements, which shall be in force a minimum of 2 years following final acceptance of any required improvements and shall guarantee satisfactory performance of the improvements, unless waived by the Council.

Commented [EB25]: To be verified against policy.

(1997 Code, § 400.16) (Am. Ord. 08-024, passed 4-20-2010) Penalty, see § 10.99

§ 153.167 FEES.

(A) The Council shall by ordinance, adopted from time to time, establish fees to be paid by the applicant to defray the administrative costs and expenses incurred by the city in processing development applications, applications for variance or appeals under the provisions of this chapter.

(B) Fees to be paid by the applicant shall include all administrative, engineering, legal, and consulting fees and materials costs reasonably incurred in the review of the proposed subdivision and the processing of the applications or appeals.

(1997 Code, § 400.17)

§ 153.178 VIOLATIONS.

(A) *Sale of lots from unrecorded plats.* It shall be a violation of this chapter to sell, trade, offer to sell, trade, or otherwise convey ~~an~~ lot or parcel of land as part of, or in conformity with any plan, plat, or replat of any subdivision or area located within the city unless the plan, plat, or replat shall first have been approved by the city in writing as provided by this chapter and in the case of a plat, replat, or registered land survey unless the survey is recorded in the office of the County Recorder or Registrar of Titles.

(B) *Misrepresentation as to construction, supervision, or inspection of improvements.* It shall be unlawful for any person to represent that any improvement upon any of the streets, alleys, or avenue of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to the plans and specifications approved by the Council, or has been supervised or inspected by the city, when the improvements have not been so constructed, supervised, or inspected.

(1997 Code, § 400.18) Penalty, see § 10.99

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-__ was adopted on this ____ day of ____ 2018, by a vote of __ Ayes and __ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-__ was published on the ____ day of _____, 2018.