PLANNING COMMISSION

MARCH 12, 2018

6:30 O'CLOCK P.M.

AGENDA

- 1. Call to Order
- 2. Minutes of the Previous Meetings February 12, 2018
- 3. Public Hearing Variance KM School Press Box
- 4. General Development Plan Ron Kasel
- 5. Ordinance Revisions
- 6. Comprehensive Plan Update Possible meeting date Change
- 7. Other Business
- 8. ADJOURN

MINUTES OF PLANNING COMMISSION MEETING February 12, 2018

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 12th day of February, 2018 at 6:30 PM

THE FOLLOWING MEMBERS WERE PRESENT: Commissioner Ferris, Commission Torkelson, Commissioner Fitch, Commissioner Tinsley and Commissioner Zelinske, Commissioner Borgstrom and Commissioner Burton.

THE FOLLOWING WERE ABSENT: None

THE FOLLOWING WERE ALSO PRESENT: City Clerk Rappe, Johannes and Josiah Marsland, Elsa Patt, Kent Keller, Carlos Hernandez and David Martin

CALL TO ORDER: Commissioner Ferris called the meeting to order at 6:30 PM.

AGENDA: - Add Swearing in of new Commissioner and introductions.

<u>SWEARING IN NEW COMMISSIONER</u> - Commissioner Joe Fitch was sworn in. **INTRODUCTIONS**

MINUTES OF PREVIOUS PLANNING COMMISSION MEETING: Motion to Approve the January 8, 2018 minutes made by Commissioner Burton, second by Commissioner Zelinske with all voting Aye.

PUBLIC HEARING - FINAL PLAT - HACK'S 2ND SUBDIVISION

Staff stated all information was in the packets and that there is no new information.

Public Hearing opened – David Martin, Massey Land Survey, he has discussed the Engineer's suggestions with Brandon Theobald the City Engineer.

Public Hearing closed

Discussion: Commissioner Burton asked Mr. Martin about the drop for the driveways and the trail. Mr. Martin stated that there maybe a few tenths of a foot.

Motion to Approve the Final Plat of Hacks Second Addition made by Commissioner Zelinske, second by Commissioner Torkelson with all voting Aye.

Commissioner Tinsley recused himself from the rest of the public hearings because his company is doing work for the seller.

PUBLIC HEARING - REZONE REQUEST FOR 105 S MANTORVILLE AVE -

Public Hearing Opened – Johannes Marsland – 703 Southfork PI SE, representing Train A Child Center and The Church of the Nazarene. Mr. Marsland stated that they would like to change the zoning at 105 S Mantorville to move their Church and School and expand their school and ministries and would lease out portions of the building that they are not using until they can grow into the entire building. Commissioner Zelinske asked about issues with child care and Highway 57. Mr. Marsland stated that the childcare would be on the back half of the property near the lumber yard and traffic would be handled to drop off at the property and progress through the vacated street. Commissioner Burton asked if conversations have been had with the lumber yard if they are planning on using the vacated street that runs through. Mr. Marsland stated he has not yet.

Commissioner Burton stated that he has a concern with changing this to R-C in view with current Comprehensive Plan and with community feedback that has been received in updating the current

Comprehensive Plan this is contradictory to what is in the Comprehensive Plan. This is separated by a street and is not contiguous and would consider this to be spot zoning.

Commissioner Borgstrom – asked about future rental and the use is up in the air. Mr. Marsland stated that the use of the building is church/school/daycare and any other use would only be temporary until they fill the building with the intended use. He has had conversations with the City Administrator and would have enough parking spaces for the church and school. Commissioner Zelinske stated that access for people dropping off and picking up kids would be through the lumber yard and sees an issue with this. Mr. Marsland stated the total congregation is about 30 and school enrollment is about 30. Kent Keller, Mantorville – asked about the vacation and who would own that street. Commissioner Burton stated that along the property line the street would have been split but that would depend on the agreement and what is filed.

Elsa Patt – 69 Central Ave – Stated that they are providing education for children who cannot succeed in public school and for homeschoolers that are not comfortable teaching higher grades. This is an important ministry they are providing.

Carlos Hernandez – Testified that he was one of those kids and has been going to this school and they helped him through his issues and public school cannot help you the way that they can. This school has helped him succeed.

Public Hearing closed.

Discussion – Commissioner Burton – stated that it is admirable what they do and he appreciates this, but does not think this is the appropriate zoning. The current comprehensive plan states that we should promote more diverse and commercial entities and the biggest opportunity for commercial growth is along Highway 57 and we should encourage the retention and expansion of current businesses. Regarding land use, it states that highway 57 provides high traffic and zoning should be orderly and contiguous and he does not believe that this is contiguous and this would be spot zoning. Burton does not feel that this meets the intent of the comprehensive plan and that R-C is not the appropriate zoning.

Commissioner Fitch – Our community does need another daycare, but rezoning this one parcel that is in the C-M zone he does not feel meets the criteria, if we were looking at rezoning the entire area maybe. He does not feel that this is in coordination with the comprehensive plan.

Commissioner Torkelson – He agrees with Commissioner Burton and there are still issues that need to be figured out with the lumber yard. He is not a fan of changing this zone.

Commissioner Zelinske – Commended Mr. Marsland for the work they are doing and Kasson needs this, but does not think that this zoning is the right fit for what you want to do.

Commissioner Borgstrom – agrees with what the Commissioners are saying.

Motion to Deny the Rezone to R-C and strongly encourage the City to work with this party to look for alternatives because they are an asset to the Community, made by Commissioner Burton, second by Commissioner Zelinske, Ayes: Burton, Fitch, Torkelson, Ferris, Zelinske, Borgstrom. Tinsley – Abstain.

PUBLIC HEARING – CONDITIONAL USE PERMIT FOR CHURCH/SCHOOL AT 105 S MANTORVILLE AVE Public Hearing Opened –

Johan Marsland – asked if there is another zone that they could request that may pass. And if anyone would know if anywhere else that they could go he would appreciate any help they can get.

Public Hearing Closed

Motion to Deny the Conditional Use Permit with the finding of fact that it is not zoned for this made by Commissioner Burton, second by Commissioner Zelinske. Ayes: Burton, Fitch, Torkelson, Ferris, Zelinske, Borgstrom. Tinsley - Abstain

Public Hearing Closed

Motion to Deny the Conditional Use Permit for the daycare at 105 South Mantorville Ave made by

Commissioner Zelinske, second by Commissioner Borgstrom. Ayes: Burton, Fitch, Torkelson, Ferris,

Zelinske, Borgstrom. Tinsley - Abstain

Public Hearing Opened - no comments

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OTHER BUSINESS – Commissioner Burton handed out maps from the comp plan meeting last week. One map is areas of the town that we can be served by gravity and would not require lift stations. The other map shows the current city boundaries and service areas.

Commissioner Tinsley stated that they got a glimpse of a few pages of the proposed comp plan that have been finished already and is encouraged by it.

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ATTEST:	
Linda Rappe	Theresa Coleman
City Clerk	Zoning Administrator/City Administrator

CITY OF KASSON RESOLUTION

RESOLUTION ----- A VARIANCE AT KM SCHOOLS

WHEREAS, an application has been received from KM Schools requesting that a variance be granted on a parcel of land at the elementary school to allow for a variance from the height standards set forth in City Ordinance,

WHEREAS, a Public Hearing was held concerning this application on March 12, 2018 following due publication thereof; and

WHEREAS, such applications are reviewed by the Planning and Zoning Commission and the Zoning Administrator prior to recommending Council action; and

WHEREAS, the Commission made a recommendation to ----- the request; and

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Kasson that they have considered the following questions and that the Kasson City Council hereby ----- the requested Variance.

Whether or not exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or a) topographical conditions of the parcel of land that results in practical difficulties for the owner? Whether or not granting the variance will alter the essential character of the locality? b) Whether or not granting the variance will: c) 1) Impair an adequate supply of light and air to adjacent property? ---2) Substantially increase congestion in adjacent public streets? ---3) Endanger the public safety? ---4) Substantially diminish or impair property values within the vicinity? ---Whether the variance requested is the minimum variance that would alleviate the practical difficulties? d) Whether or not the variance requested is consistent with this chapter and the City's Comprehensive Plan? e) f) Whether or not granting the variance requested provides for a reasonable and practical solution that eliminates the

ATTEST:	ADOPTED this
Linda Rappe, City Clerk	Chris McKern, Mayor

practical difficulties?

The motion for the adoption of the foregoing resolution was made by Council Member ---- and duly seconded by Council Member ----. Upon a vote being taken, the following members voted in favor thereof: -----. Those against same: -------

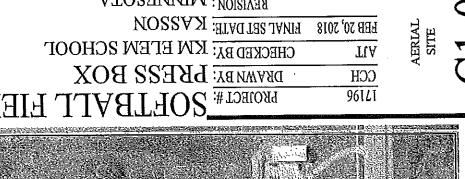
APPLICATION FOR VARIANCE

Fee Paid \$_300
Date Filed 2-21-18
Street Address of Property 604 16th ST NW KASSON MN
Legal Description of Property
Owner's Name KM SCHOOL DISTRICT Phone 101 Address tott 16th ST NW Kasem MW.
Address total 16th ST NW Kasam MW.
Description of Request Taller Builday than 16' Wall Height
Wall Height will be 18't/-
Reason(s) for Request Press Box for Softball Fields
Present Zoning Classification
Existing Use of Property ()
Signature of Applicant Date Z 1/18
FOR OFFICE USE ONLY Recommendedby the Planning Commission on
Approvedby the City Council on
Ifapproved, the following conditions were prescribed:
1.
2. ————————————————————————————————————
4.
If denied, denial was for the following reason(s):

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VARIANCES

- (A) Criteria for granting a variance.
- (1) The City Council, consistent with the authority granted by law, may grant a property owner a variance from compliance with the literal provisions of the zoning code in an instance where strict enforcement would cause practical difficulties to the individual property owner, and when it can be demonstrated that such action will be in keeping with the spirit and intent of the code.
 - (2) The term PRACTICAL DIFFICULTIES means that the:
- (a) Property owner proposes to use the property in a reasonable manner that is not otherwise not permitted; and
- (b) The plight of the property owner is due to circumstances unique to the property, not created by the property owner; and
 - (c) The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute PRACTICAL DIFFICULTIES. For the purposes of this section, PRACTICAL DIFFICULTIES also means and includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

- (3) Notwithstanding a finding that practical difficulties exist, the City Council may not permit as a variance any use that is not permitted under the provisions of the code for property in the zone where the land for which the variance is sought is located.
- (4) In its consideration of a variance request, the Planning Commission shall consider the following questions:
- (a) Whether or not exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or topographic conditions of the parcel of land that results in practical difficulties for the owner?
 - (b) Whether or not the variance requested will alter the essential character of the locality?
 - (c) Whether or not granting the variance requested will:
 - (1) Impair an adequate supply of light and air to adjacent property?
 - (2) Substantially increase congestion in adjacent public streets?
 - (3) Endanger the public safety?
 - (4) Substantially diminish or impair property values within the vicinity?
- (d) Whether the variance requested is the minimum variance that would alleviate the practical difficulties?
- (e) Whether or not the variance requested is consistent with the intent of this chapter and the city's comprehensive plan?

- (f) Whether or not the variance requested provides for a reasonable and practical solution that eliminates the practical difficulties?
- (5) In granting the variance, the City Council may impose additional conditions to ensure compliance with its decision and to protect adjacent properties. Such conditions must be directly related to and bear a rough proportionality to the impact created by the variance.
 - (B) Required exhibits for variances. The following exhibits shall be required:
 - (1) A completed application form;
 - (2) An accurate boundary description;
 - (3) Evidence of ownership or enforceable option on the property; and
- (4) An accurate drawing, at scale, showing property lines, location of existing buildings and proposed project.
 - (C) Procedures. The procedure for obtaining a variance from the regulations of this chapter are as follows.
- (1) The property owner or his or her agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application.
- (2) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.
- (3) The Zoning Administrator shall review the application and within ten business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (4) The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may extend the timeline for taking action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.
- (5) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall have notice of the hearing published at least once in the legal newspaper, not less than ten days, nor more than 30 days, prior to the hearing.
- (6) The Zoning Administrator shall transmit the application to the Planning and Zoning Commission for review and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.
- (7) The Planning and Zoning Commission shall hold the public hearing, and may table the application for further investigation if necessary, or the Commission shall recommend to the Council one of the three actions: approval, conditional approval or denial.
- (8) The City Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.

(9) No application for a variance shall be considered by the city within a one-year period following a denial of the request, except that the Zoning Administrator may permit a new application if new evidence or a change in circumstances warrant it.

(Prior Code, § 24-19) (Ord. 728, passed - -; Am. Ord. 843, passed 8-24-2011)

VARIANCES

§ 152.035 GENERALLY.

Where the Planning and Zoning Commission finds that extraordinary hardship may result from strict compliance with the provisions of this chapter, it may recommend the variance of the regulations to the extent that substantial justice may be done and the public interest secured; provided that, the variation may be granted without detriment to the public interest and will not have the effect of nullifying the intent and purpose of this chapter. Variance procedures shall conform to § 154.030.

(Prior Code, § 20.1-17) (Ord. 524, passed - -; Ord. 694, passed - -; Ord. 772, passed - -)

§ 152,036 LARGE SCALE DEVELOPMENTS.

The standards and requirements of this chapter may be modified by the City Council in the case of a subdivision of ten acres or more which is to be developed in accordance with the comprehensive development plan safeguarded by appropriate restrictions and which makes adequate provisions for necessary community facilities. No variance shall be granted which shall have the effect of nullifying the intent and purpose of this chapter.

(Prior Code, § 20.1-18) (Ord. 524, passed - -; Ord. 772, passed - -)

§ 152.037 CONDITIONS.

In the granting of variances, the City Council shall weigh the benefits or hardships against the general standards and objectives of this chapter, and may require such conditions that will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

(Prior Code, § 20.1-19) (Ord. 524, passed - -; Ord. 772, passed - -)

§ 152,020 GENERALLY.

The following improvements will be required for all new subdivisions within the corporate limits of the municipality and to the specifications as adopted by the City Council.

- (A) Soil erosion and sedimentation control. Where the provisions of state law or other city regulation or ordinance set higher standards than those of this subchapter, the provisions of the laws, regulations or ordinances shall apply.
- (1) General standards. The following management practices shall be applied to all development and earth moving activities.
- (a) All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
- (b) Best management practices for erosion control and sediment control shall be applied to each development/construction site.

- (c) Slopes over 18% in grade shall not be developed.
- (d) Development on slopes with a grade between 12% and 18% shall be carefully reviewed to ensure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- (e) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
- (f) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of lands shall be exposed at any one period of time and no exposure shall exceed 60 days unless extended by the Council.
- (g) Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
- (h) The natural drainage system shall be used, as far as feasible for storage and flow of runoff except that no storm water drainage shall be discharged to marshlands, swamps or wetlands. Storm water drainage shall be discharged to retention basins or other treatment facilities. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage and construction cost.
- (i) Public and private properties adjacent to the development site shall be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the city within five days of receiving notification of such. If the violation is not remedied within the time period specified, the city may correct the problem and assess the costs incurred to the property owner.
- (2) Exposed slopes. The following control measures shall be taken to control erosion during construction.
- (a) No exposed slopes should be steeper in grade than four feet horizontal to one foot vertical.
- (b) At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
- (c) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind the berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. The measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipater should be installed to prevent erosion at the discharge end.
- (d) Exposed slopes shall be protected by means which will effectively prevent erosion considering the degree of the slope, soils material and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedlings of annual grasses. Mulch shall consist of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch must be anchored to slopes with liquid asphalt or stakes and netting, or be worked into soil to achieve additional slope stability.

- (e) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.
 - (B) Preservation of natural drainageways.
 - (1) Waterways.
- (a) Every effort shall be made to retain the natural drainage systems in the city including existing wetlands and ponds. Aboveground runoff disposal waterways may be constructed to augment the natural drainage system.
- (b) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- (c) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
 - (d) The banks of the waterway shall be protected with permanent vegetation.
- (e) The banks of the waterway shall not exceed four feet horizontal to one foot vertical in gradient.
- (f) The gradient of the waterway bed shall not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- (g) The bend of the waterway shall be protected with turf, sod or concrete. If turf or sod will not function properly, riprap may be used. Riprap shall consist of quarried limestone, fieldstone (if random riprap is used) or construction materials of concrete. The riprap shall be no smaller than two inches square nor no larger than two feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.
- (h) If the flow velocity in the waterway is such that erosion of the turf side wall will occur and the velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or riprap would be allowed to prevent erosion at these points.
 - (2) Sediment control of waterways.
- (a) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
- (b) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. The structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 25-year storm.
- (c) Permanent Impervious sediment control structures consist of sediment basins (debris basins, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

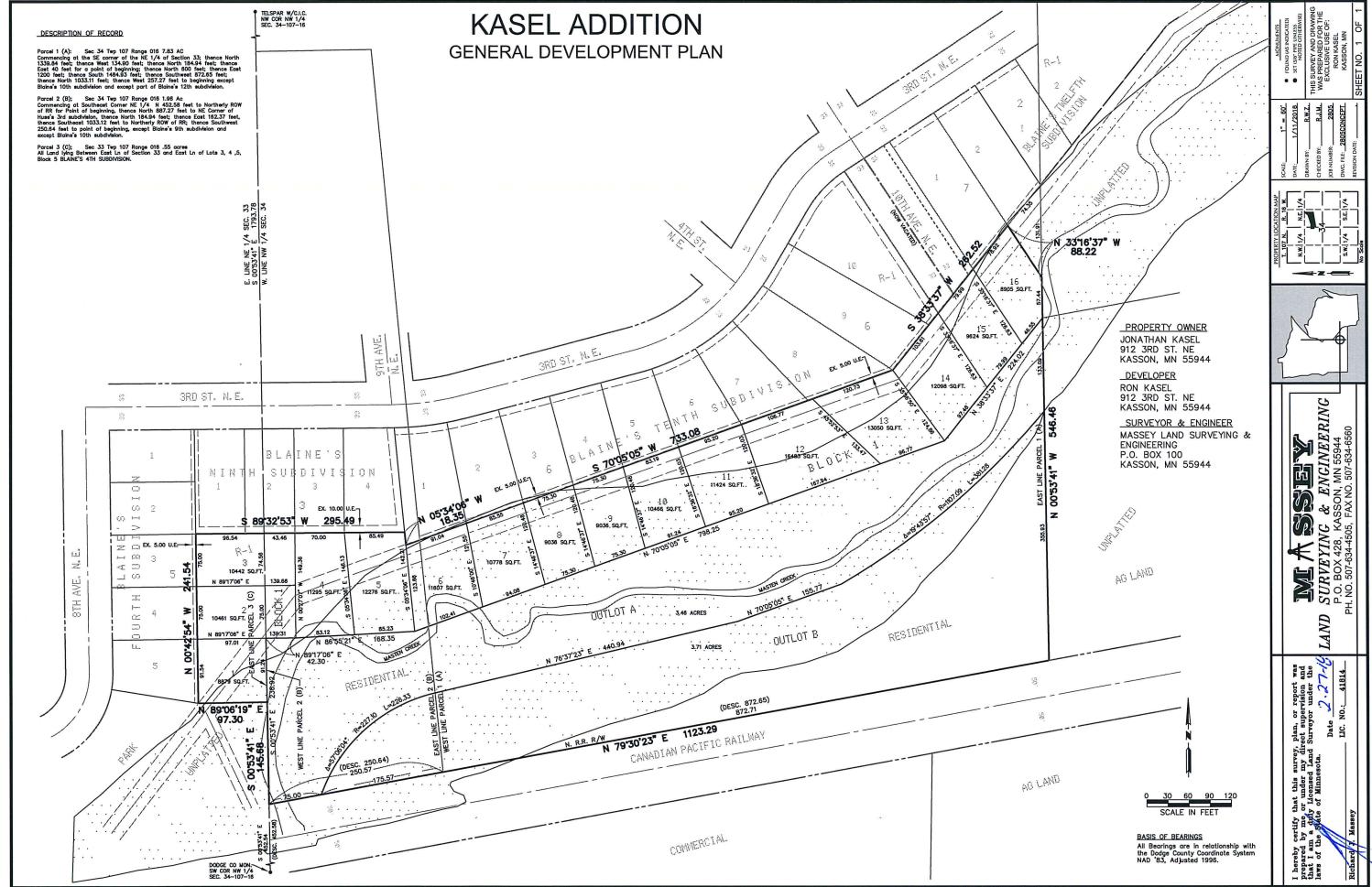
(Prior Code, § 20.1-13) (Ord. 524, passed - -; Ord. 772, passed - -)

City Engineer Recommendations

I recommend the City acquire the south side of the river to preserve the trail corridor. We also need to restrict the north side of the river due to the flood plain and sanitary sewer line (which will need to be upsized if we continue development to the south).

City Attorney Recommendations

The City Attorney requests that the developer prepare, for review by City Attorney, deed restrictions for Outlots C to R that include acknowledgement of future sewer expansion through the utility easement.



COMPUTER FILE: 2805CONCEPTPLAN

ROJECT NUMBER: 2805 COMPL

AGREEMENT REGARDING PUBLIC ACCESS, ENVIRONMENTAL CORRIDOR AND WILDLIFE CONSERVATION AND TRAIL EASEMENTS

THIS AGREEMENT, made this 31st day of May, 2011, by and between Salley Hill Development, LLC, a Minnesota limited liability company, (hereinafter referred to as "Developer") and Cascade Township, a political subdivision of the County of Olmsted, State of Minnesota (hereinafter referred to as "Township").

WITNESSETH:

WHEREAS, Developer is the owner of certain real property situated in the County of Olmsted, State of Minnesota, legally described as:

See Attached Exhibit "A", (hereinafter "Property")

WHEREAS, running through said property is the South Fork Zumbro River, a natural waterway; and

WHEREAS, Developer and Township desire to provide public access to the South Fork Zumbro River over and across Lot 10, Block 2, Salley Hill including Outlot C, Salley Hill, Olmsted County, Minnesota, as shown on the plat of Salley Hill, (hereinafter "Public Access); and

WHEREAS, Developer and Township desire to limit development of and to preserve forever the natural setting of such waterway and lands immediately abutting said water, which lie within the following described parcel; to wit:

See Attached Exhibit "B", (hereinafter "Environmental Corridor")

WHEREAS, the Township desires to develop non-motorized and non-equestrian trails for recreational use within the Environmental Corridor for the benefit of the general public subject to the terms and conditions hereinafter contained; to wit:

A twenty foot (20') strip located within the Environmental Corridor containing a 10 foot (10') bituminous paved strip and a five foot (5') buffer on each side, (hereinafter "Trailway")

WHEREAS, Developer desires to grant to the Township, and any government entity that may succeed and/or be assigned any portion of their interest, a non-exclusive easement over the Environmental Corridor for the benefit of the general public subject to the terms and conditions hereinafter contained; and

WHEREAS, as a condition of the approval of the general development plan for Salley Hill and the rezoning and platting of Salley Hill, the Board of Cascade Township required that a public access easement and Environmental Corridor be given to Cascade Township in accordance with Subdivision Ordinance of Olmsted County Article VIII and Subdivision Ordinance for Cascade Township Article IX.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, it is hereby agreed by and between the parties hereto, and their respective heirs, successors and assigns, as the case may be, as follows:

The term "general public" as herein used, shall mean all persons who are not owners or lawful possessors of the Property and who gain access from similar easement areas or corridors granted to the County for such passageway purposes and who intend to make use thereof for such purposes under the rules and regulations as may be established from time to time by the Township under its authority to own and administer a public trailway.

I. Public Access Easement.

- 1. The Public Access shall include no less than six (6) parking spaces for public parking over and across that part of the Public Access platted as Outlot C, Salley Hill, Olmsted County, Minnesota, (hereinafter "Outlot C").
- 2. The Public Access Easement shall not be accessible by the public until the grading and base have been completed.
- 3. Developer agrees to be fully responsible for all initial costs to grade, develop the crushed rock base and provide at least three inches of bituminous over the driveway and parking lot within Outlot C. Any additional parking spaces in the future will be the responsibility of the Township.

- 4. All maintenance and repair of Outlot C after the initial grading and paving shall be the responsibility of the Township and/or the Owners of Lots 9 and 10, Block 2, Salley Hill Development, pursuant to the Shared Driveway Easement Agreement, Outlot C, as to that portion of Outlot C designated as the shared driveway.
- 5. The Town shall not permit the uses thereof by the general public during hours which parks of Olmsted County are closed to the public.
- 6. The Town shall have the right to trim trees and brush within the easement area in order to keep the access clear. The town shall be responsible for the removal of nocuous weeds and trees or shrubs which are dead or are dying from insect infestation or disease.
- 7. Enforcement of the regulations will be the responsibility of the Town and violations of regulations will be reviewed on an individual basis by the Town's enforcement officer.
- 8. The Public Access regulations shall include the following:
 - i. No shooting weapons of any kind.
 - ii. No destruction, cutting, trimming or removing of trees, shrubs, bushes or plants shall be permitted except as provided herein.
 - No dumping of ashes, trash, junk, rubbish, sawdust, garbage or offal.
- 9. The Township hereby permits the uses of the Public Access but such permission is not to be deemed as acceptance by the Township of the Public Access.

II. Environmental Corridor.

- 1. Within the Environmental Corridor, no living natural vegetation, with the exception of noxious plants, shall be removed or disturbed without written approval of the Township.
- 2. No grading or alteration of the natural terrain, with the exception of alterations necessary to return the area to its natural state or as erosion control measures, shall take place without the written approval of the Township.
- 3. No buildings or structures, either permanent or temporary, of any type shall be placed in the Environmental Corridor without the written approval of the Township.

- 4. Said rights and restrictions herein described shall apply to future owners and lawful possessors. These rights and restrictions shall be appurtenant to the Property and may not be separated from ownership thereof.
- 5. The right of use by the general public of the Environmental Corridor and any Trailway lying therein shall not mature until the Trailway is developed by Cascade Township.
- 6. The right of use by the general public of the Environmental Corridor is limited to the Trailway easement lying therein and outlined herein below, and shall not mature until the Trailway is developed by Cascade Township.
- 7. It is expressly understood that this Environmental Corridor Easement does not grant access to the general public outside of the River Access Area until a Trailway is developed. This does not disallow the Township from maintaining the area. Nor does it disallow the Township from planning, surveying or developing a trail as outlined herein.
- 8. The Town shall not permit the uses thereof by the general public during hours which parks of County are closed to the public.
- 9. The Township hereby permits the uses of the Environmental Corridor but such permission is not to be deemed as acceptance of the Environmental Corridor.

III. Trailway.

- 1. The Township shall, at its sole expense or the expense of Olmsted County, be permitted to construct and maintain a single 20 foot (20') wide Trailway, including a paved 10 feet (10') wide traveled portion which allows for bituminous, cement, cinder or lime, with five feet (5') on either side, and a minimum setback of forty feet (40') from the riverbank (in accordance with standards set by the Department of Natural Resources) within the Environmental Corridor, as described above, for use by the general public.
- 2. The right of use by the general public of the Environmental Corridor and any Trailway lying therein shall not mature until a single 20 foot (20') wide Trailway, including a paved 10 feet (10') wide traveled portion which allows for bituminous, cement, cinder or lime, with five feet (5') on either side, and a minimum setback of forty feet (40') from the riverbank (in accordance with standards set by the Department of Natural Resources) by Olmsted County or Cascade Township.

- 3. Upon commencement of construction of the Trailway, temporary construction easements are hereby granted over and across the Environmental Corrider as necessary to complete construction of the Trailway.
- 4. Upon completion of the Trailway, and before the Trailway is open to the general public, a final survey of the Trailway shall be completed and recorded, at the Township's expense, which shall define the location of the Trailway.
- 5. The Trailway shall be used for non-motorized and non-equestrian, recreational passage only and shall be open to the general public during hours which parks of Olmsted County are open to the public.
- 6. The use regulations of the Trailway shall include the following:
 - i. Use limited to hard surfaced portion of the Trailway only.
 - ii. No shooting weapons of any kind.
 - iii. No destruction, cutting, trimming or removing of trees, shrubs, bushes or plants shall be permitted, except as provided herein.
 - iv. No dumping of ashes, trash, junk, rubbish, sawdust, garbage or offal.
- 7. Until such time as a Trailway is constructed by the Township, the private owners of the Environmental Corridor shall be responsible for enforcement of the non-use. After a Trailway is constructed, the Township, in conjunction with the private owners of the Environmental Corridor, shall be responsible for enforcement of the use and non-uses of the Trailway and Environmental Corridor.
- 8. Upon completion of the Trailway, the governing entity shall assume liability of the Trailway.
- 9. The Township hereby permits the uses of the Trailway but such permission is not to be deemed as acceptance of the Trailway by the Township.

Any Amendment to this Agreement shall affect only that portion outlined in such Amendment, all other terms of this Agreement shall remain in full force and effect as outlined herein.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

CASCADE TOWNSHIP COUNTY OF OLMSTED

Salley Hill Development, LLC

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By Lenny Laures Lenny Laures	Bryce DeCook
Cascade Township Chairman	Bryce Decook
()	By Brenda Oll Cole
And Joseph Vroman	By Drenda Juliote
Joseph Vroman	Brenda DeCook
Cascade Township Clerk	
JOSEPH VROMAN Clerk, Cascade Township. Olmsted Co., Minnesota Notarial Officer (ex-officio notary public) My term is indeterminate	
STATE OF MINNESOTA	
COUNTY OF OLMSTED	
, 2016, by Bryce DeCoo Pres av. P. of Sally Hill Developme company. LORI JANE BOSANKO NOTARY PUBLIC - MINNESOTA My Commission Expires Jan. 31, 2013	ok and Brenda DeCook, the nt, LLC, a Minnesota limited liability Notary Public, Olmsted County, MN My Commission Expires 1 - 31 - 13
STATE OF MINNESOTA	
COUNTY OF OLMSTED	
The foregoing instrument was acknowledged before, 2010, by Lenny Laures	ore me this day of s and Joseph Vroman, Chairman and
Clerk respectively of the Cascade Township Boar	d of Commissioner on behalf of said
Cascade Township Board of Commissioners.	
	Notary Public, Olmsted County, MN
	My Commission Expires

EXHIBIT "A"

That part of Section 1, Township 107, Range 14 and that part of Section 6, Township 107, Range 13, Olmsted County, Minnesota described as follows:

The South Half of Northeast Quarter of Section 1; excepting therefrom that part of the southerly 200.00 feet of said Northeast Quarter lying West of the easterly 1565.00 feet of said Northeast Quarter.

ALSO, the Easterly 1565.00 feet of the northerly 220.00 feet of the Southeast Quarter of Section 1.

ALSO, the North Half of Northeast Quarter of Section 1, except the East 1916.20 feet.

ALSO, beginning at the Southwest corner of the Northwest Quarter of Section 6; thence North along the West line of said Northwest Quarter for a distance of 191.3 feet to a point in the centerline of a Township Road; thence southeasterly at a deflection angle of 126°35' to the right along the centerline of the Township Road a distance of 330.44 feet to a point on the South line of said Northwest Quarter; thence westerly along said South line of Northwest Quarter a distance of 265.4 feet to the place of beginning.

ALSO, beginning at the Northwest corner of the Southwest Quarter of Section 6; thence easterly along the North line of said Southwest quarter a distance of 265.4 feet to a point in the centerline of a Township Road; thence southeasterly at a deflection angle of 35°00' to the right along the centerline of the Township Road a distance of 100 feet; thence southeasterly at a deflection angle of 24°23.5' to the right along said centerline a distance of 80.8 feet; thence southeasterly at a deflection angle of 12°40' to the right along said centerline a distance of 125 feet; thence southeasterly at a deflection angle of 10°43.5' to the left along said centerline a distance of 48.52 feet to a point in the westerly right of way line of Trunk Highway No. 63; thence southwesterly along said westerly right of way line a distance of 604.3 feet to the northeasterly corner of Knollview Addition; thence northwesterly along the northerly line of said Knollview Addition a distance of 240.7 feet to a point in the West line of said Southwest Quarter of Section 6; thence North along the West line of said Southwest Quarter a distance of 720.5 feet to the point of beginning.

EXCEPTING THEREFROM, that part of the Southwest Quarter of Section 6 described as beginning at the Northwest corner of Lot 1, Knollview Addition; thence South 58°37'00" East, along the northerly line of said Lot 1 (for purposes of this description bearing of said northerly line is assumed), a distance of 240.70 feet to the Northeast corner of said Lot 1, said point also being on the westerly right of way of Trunk Highway 63; thence North 23°34'00" East, along said westerly right of way line, 310.93 feet; thence North 66°26'00" West, 359.81 feet to a point on the West line of said Southwest Quarter of Section 6; thence South 00°00'00" along said West line, 303.50 feet to the point of beginning.

EXHIBIT "B"

That part of the West Half of the Northeast Quarter of Section 1, Township 107 North, Range 14 West, Olmsted County, Minnesota, described as follows:

Commencing at the northwest corner of said Northeast Quarter; thence North 89 degrees 38 minutes 24 seconds East on a Minnesota State Plane Grid bearing along the north line of said Northeast Quarter 479.26 feet; thence South 00 degrees 21 minutes 36 seconds East 57.82 feet to the southerly right of way line of County Road No. 14 and the point of beginning; thence South 58 degrees 13 minutes 31 seconds East 225.59 feet; thence South 38 degrees 10 minutes 17 seconds West 106.33 feet; South 25 degrees 06 minutes 46 seconds West 201.14 feet; South 12 degrees 22 minutes 07 seconds West 119.09 feet; thence South 03 degrees 15 minutes 12 seconds West 310.67 feet; thence South 12 degrees 17 minutes 40 seconds West 104.71 feet; thence South 00 degrees 18 minutes 54 seconds East 1099.13 feet; thence South 12 degrees 15 minutes 58 seconds East 349.07 feet to the north line of Zumbro Ridge Subdivision; thence South 89 degrees 54 minutes 41 seconds West along said north line1038.29 feet to the west line of said East Half; thence North 00 degrees 18 minutes 54 seconds West 1467 feet more or less to the low water mark of the South Fork of the Zumbro River; thence northerly and northeasterly along said low water mark 1006 feet more or less to the southerly right of way line of County Road No. 14; thence easterly along said southerly right of way line 134 feet more or less to the point of beginning.

AGREEMENT REGARDING ENVIRONMENTAL CORRIDOR AND WILDLIFE CONSERVATION EASEMENTS

THIS AGREEMENT, made this _____ day of ______, 2012, by and between River Highlands, LLC, a Minnesota limited liability company, (hereinafter referred to as "Developer") and Cascade Township, a political subdivision of the County of Olmsted, State of Minnesota (hereinafter referred to as "Township").

WITNESSETH:

WHEREAS, Developer is the owner of certain real property situated in the County of Olmsted, State of Minnesota, legally described as:

RIVER HIGHLANDS SUBDIVISION

WHEREAS, running through said property is the South Fork Zumbro River, a natural waterway; and

WHEREAS, Developer and Township desire to limit development of and to preserve forever the natural setting of such waterway and lands immediately abutting said water, which lie within the following described parcel; to wit:

OUTLOT "D", (hereinafter "Environmental Corridor")

WHEREAS, Developer desires to grant to the Township, and any government entity that may succeed and/or be assigned any portion of their interest, a non-exclusive easement over the Environmental Corridor for the benefit of the general public subject to the terms and conditions hereinafter contained; and

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, it is hereby agreed by and between the parties hereto, and their respective heirs, successors and assigns, as the case may be, as follows:

The term "general public" as herein used, shall mean all persons who are not owners or lawful possessors of the Property and who gain access from similar easement areas or corridors granted to the County for such passageway purposes and who intend to make use thereof for such purposes under the rules and regulations as may be established from time to time by the Township under its authority to own and administer a public easments.

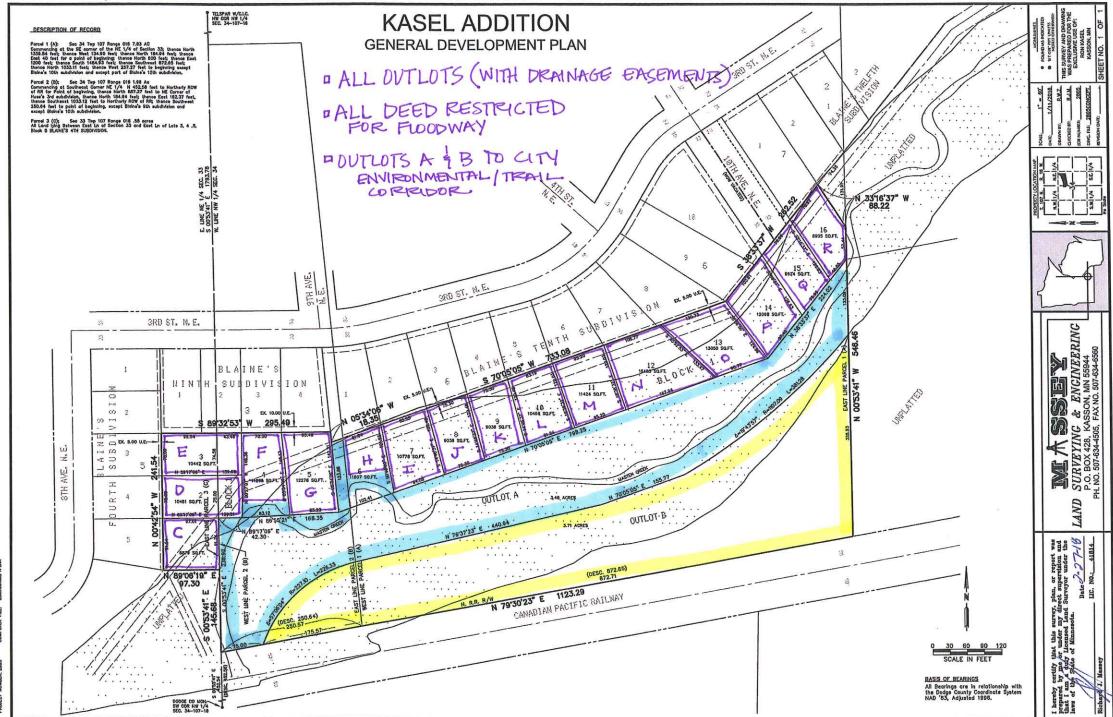
I. Environmental Corridor.

- 1. Within the Environmental Corridor, no living natural vegetation, with the exception of noxious plants, shall be removed or disturbed without written approval of the Township.
- 2. No grading or alteration of the natural terrain, with the exception of alterations necessary to return the area to its natural state or as erosion control measures, shall take place without the written approval of the Township.
- 3. No buildings or structures, either permanent or temporary, of any type shall be placed in the Environmental Corridor without the written approval of the Township.
- 4. Said rights and restrictions herein described shall apply to future owners and lawful possessors. These rights and restrictions shall be appurtenant to the Property and may not be separated from ownership thereof.
- 5. The right of use by the general public of the Environmental Corridor and any Trailway lying therein shall not mature until a Trailway is developed by Cascade Township along the corridor in Salley Hill Subdivision and/or River Highlands Subdivision.
- 6. It is expressly understood that this Environmental Corridor Easement does not grant access to the general public until a Trailway is developed. This does not disallow the Township from maintaining the area. Nor does it disallow the Township from planning, surveying or developing a trail as outlined herein.
- 7. The Town shall not permit the uses thereof by the general public during hours which parks of County are closed to the public.
- 8. The Township hereby permits the uses of the Environmental Corridor but such permission is not to be deemed as acceptance of the Environmental Corridor.

Any Amendment to this Agreement shall affect only that portion outlined in such Amendment, all other terms of this Agreement shall remain in full force and effect as outlined herein.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

CASCADE TOWNSHIP		RIVER HIGHLANDS, LLC	
COUN	NTY OF OLMSTED		
Ву		By:	
•	Lenny Laures	·	Stephan Merry, President
	Cascade Township Chairman		
Attest			
	Joseph Vroman		
	Cascade Township Clerk		
STAT	E OF MINNESOTA		
COUN	NTY OF OLMSTED		
T1 C		C 41	· 1 C
The To	regoing instrument was acknowledged by Stephan M		esident of River Highlands,
LLC. a	a Minnesota limited liability company.	iciry, the ric	sident of Kivel Highlands,
LLC, (a minimesou minimes muontey compuny.		
		Notar	y Public, Olmsted County, M
			ommission Expires



ORDINANCE NUMBER

Chapter 153: RESTRICTIVE-FLOODPLAIN MANAGEMENT ORDINANCE

NOTE: This sample ordinance is intended for communities that have limited existing and potential development within the floodplain and that meet the following criteria:

- 1) Floodplains should be currently undeveloped (or include provisions for nonconformities, as shown in the sample);
- 2) Floodplains should not have areas proposed for development (e.g., subdivided parcels, access roads and utilities, etc.); and
- 3)—There should be building sites outside of the floodplain on each parcel of developable land along the lake/wetland, stream or river.

The wording of the ordinance is geared towards cities, but may be adapted for counties or townships.

SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE:

1.1 **Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

1.2 Purpose:

- 1.21 This ordinance regulates development in the flood hazard areas of (Community). the City of Kasson. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- 1.22 National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- 1.23 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

SECTION 2.0 GENERAL PROVISIONS:

- 2.1 **Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of the City of <u>Kasson</u> shown on the Flood Insurance Rate Maps adopted in Section 2.2 as being located within the boundaries of the Floodplain District.
- 2.2 Adoption of Flood Insurance Study and Maps: The Flood Insurance Study dated July 6, 1981,
 County, Minnesota and Incorporated Areas, and Flood Insurance Rate Maps, County, Minnesota and Incorporated Areas, with map numbers (list all effective maps) dated January 6, 1982 and ; all

December 2013

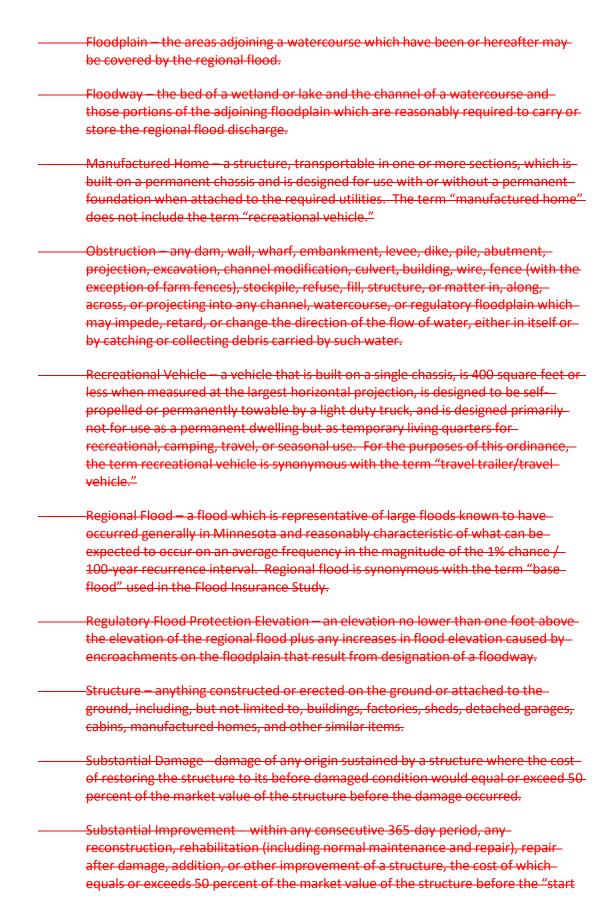
of these documents being dated______and prepared by the Federal Emergency Management Agency, are hereby adopted by reference and declared to be a part of this ordinance and the Official Zoning Map. These materials are on file in the <u>(list location where maps will be filed – i.e., City Clerk's office)</u>.

- 2.3 **Interpretation:** The boundaries of the Floodplain District are determined by scaling distances on the Flood Insurance Rate Map.
 - 2.31 Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations must be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
 - 2.32 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the (*Planning Commission / Board of Adjustment*) City Council and to submit technical evidence.
- 2.4 **Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 2.5 Warning and Disclaimer of Liability: This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the (City/County) of Kasson or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 2.6 **Severability:** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- 2.7 **Definitions:** Unless specifically defined below, words or phrases used in this ordinance must be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

Base Flood Elevation – The elevation of the "regional flood," as defined. The term "base flood elevation" is used in the flood insurance survey.

Development – any man-made change to improved or unimproved real estate-including, but not limited to, buildings, manufactured homes, and other structures, recreational vehicles, mining, dredging, filling, grading, paving, excavation, drilling-operations, or storage of materials or equipment.

Farm Fence — A fence as defined by Minn. Statute §344.02 Subd. 1(a)-(d). An opentype fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are not permitted in the Floodplain District.



of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state—or local health, sanitary, or safety code specifications which have been identified—by the local code enforcement official and which are the minimum necessary to—assure safe living conditions.
- (b)—Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

SECTION 3.0 ESTABLISHMENT OF FLOODPLAIN DISTRICT

- 3.1 **Areas Included:** The Floodplain District for the (City/County) of Kasson includes those areas designated as (list relevant Zones shown on maps, i.e. A or AE zones) Zone A3 on the Flood Insurance Rate Maps adopted in Section 2.2. The Floodplain District is an overlay district to all existing land use districts. The requirements of this ordinance apply in addition to other legally established regulations of the community. Where this ordinance imposes greater restrictions, the provisions of this ordinance apply.
- 3.2 **Compliance:** No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. Within the Floodplain District, all uses not listed as permitted uses in Section 4.0 are prohibited.

SECTION 4.0 PERMITTED USES AND STANDARDS IN THE FLOODPLAIN DISTRICT:

- 4.1 **Permitted Uses:** The following uses are permitted within the Floodplain District without a permit to the extent that they are allowed in any underlying zoning district and not prohibited by any other ordinance and provided they do not require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment or any other form of development—as—defined in Section 2.712 of this ordinance.
 - 4.11 Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, and wild crop harvesting. Farm fences that do not obstruct flood flows are permitted.
 - 4.12 Outdoor plant nurseries and horticulture.
 - 4.13 Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and

- nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- 4.14 Lawns, gardens, parking areas, and play areas.
- 4.15 Railroads, streets, bridges, utility transmission lines, pipelines and other public utilities, provided that the Department of Natural Resources is notified at least ten (10) days prior to issuance of any permit.

4.2 Standards for Permitted Uses:

- 4.21 The use must have low flood damage potential.
- 4.22 The use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected. This provision applies to structures (temporary or permanent), fill (including fill for roads and levees), deposits, obstructions, storage of materials or equipment, and all other uses.
- 4.23 Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- 4.24 Public utilities facilities, roads, railroad tracks and bridges to be located within the floodplain must be designed in accordance with Sections 4.22 and 4.23 above, or must obtain a Conditional Letter of Map Revision meeting the requirements of 44 CFR 603(d).
 - (a) When failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, such facilities must be elevated to the regulatory flood protection elevation.
 - (b) Where failure or interruption of service would not endanger public health or safety, minor or auxiliary roads, railroads or utilities may be constructed at a lower elevation.
- 4.25 New or replacement water supply systems and sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

SECTION 5.0 ADMINISTRATION

- 5.1 **Zoning Administrator:** A Zoning Administrator or other official designated by the <u>(Governing Body i.e., City Council, County Board)</u> will administer and enforce this ordinance. If the Zoning Administrator finds a violation of the provisions of this ordinance, the Zoning Administrator must notify the person responsible for such violation in accordance with the procedures stated in Section 6.0 of the ordinance.
- 5.2 **Development Approvals:** Any construction, enlargement, alteration, repair, improvement, moving or demolition of any building or structure must comply with the requirements of this ordinance. No mining, dredging, filling, grading, paving, excavation, obstruction, drilling operation

or other form of development as defined in Section 2.0 of this ordinance are allowed, other than the uses permitted in Section 4.1.

5.3 Variances:

- 5.31 An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and <u>(list any standards in the existing Zoning Ordinance)</u>.
- 5.32 A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- 5.33 The following additional variance criteria of the Federal Emergency Management Agency must be met:
 - (a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (b)—Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Variances may only be issued upon a determination that the variance is the minimumnecessary, considering the flood hazard, to afford relief.
- 5.34—The (City Council or Board of Adjustment) must submit hearing notices for proposed variancesto the Department of Natural Resources sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective-DNR area hydrologist.
- 5.35 A copy of all decisions granting variances must be forwarded to the Commissioner of the Department of Natural Resources within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- 5.36—The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the base or regional flood level increases risks to life and property
- 5.37 The community must maintain a record of all variance actions, including justification for their issuance, and must report such variances in its annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.
- 5.5 **Notifications for Watercourse Alterations:** Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has

- applied for a permit to work in public waters pursuant to Minnesota Statute, Chapter 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- 5.6 **Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations:** As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

SECTION 6.0 NONCONFORMITIES

- 6.1 **Continuance of Nonconformities:** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.733(b) of this ordinance, are subject to the provisions of Sections 6.11 6.15 of this ordinance.
 - 6.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
 - 6.12 The cost of all structural alterations or additions to any nonconforming structure over the life of the structure may not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the market value of the structure, then the structure must meet the standards of this ordinance for new structures.
 - 6.13 If any nonconforming use, or any use of a nonconforming structure, is discontinued for 12 consecutive months, any future use of the premises must conform to this ordinance. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of 12 months.
 - 6.14 If any nonconformity is substantially damaged, as defined in Section 2.722 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance
 - 6.15 Any substantial improvement, as defined in Section 2.723 of this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of this ordinance for new structures.

SECTION 7.0 PENALTIES AND ENFORCEMENT

- 7.1 **Violation Constitutes a Misdemeanor:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) constitutes a misdemeanor and is punishable as defined by law.
- 7.2 **Other Lawful Action:** Nothing in this ordinance restricts the <u>(Community)City of Kasson</u> from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

7.3 **Enforcement**: In responding to a suspected Ordinance Ordinance Violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

SECTION 8.0 AMENDMENTS

- 8.1 Floodplain Designation Restrictions on Removal: The floodplain designation on the Official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
- 8.2 Amendments Require DNR and FEMA Approval: All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner of the DNR must approve the amendment prior to community approval.
- 8.3 **Map Amendments Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 2.2 of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the Board/City Council (Community Name)	
	Thisof, (Day) (Month) (Year)
,	Attest:, County Board Chairperson/Mayor (Name of Elected Official)
,	Attest:, County Administrator/City Clerk (Name of Community Official)
Stamp With Community Seal:	

December 2013

DESIGN STANDARDS

■§ 152.070 GENERALLY.

The subdivision design standards contained in this chapter are to assure that the style, character and form of new developments will conform to minimum requirements promoting the health, safety and general welfare of the public. In addition to these regulations and to ensure that future developments are consistent with the growth objectives and goals of the community, subdivisions shall conform to the comprehensive development plan of the municipality, or any part thereof, and the official map, zoning ordinance and any other applicable ordinances of the municipality.

(Prior Code, § 20.1-25) (Ord. 524, passed --; Ord. 651, passed --; Ord. 772, passed --)

■§ 152.071 STREET DESIGN.

The street system of a proposed subdivision shall be designed to facilitate adequate traffic circulation within the subdivision and from the subdivision to adjacent areas. Street arrangements, character, width, grade, location, sight distance and surface material shall be related to existing or planned streets, topography, convenience and safety and their intended ultimate function.

- (A) The arrangement of arterial streets in a subdivision shall conform to the official street map and provide for the continuation or projection of existing streets in adjacent areas; or conform to a plan approved by the Planning and Zoning Commission where topographic or other conditions make continuance or conformance to existing streets impracticable.
- (B) Collector streets shall be properly related to arterial streets and designed in a manner so as to supplement the arterial street system, but not serve in lieu thereof.
- (C) Local streets shall be designed to benefit from the topography, to discourage through traffic and to provide the minimum amount of streets necessary for safe access to adjacent properties. The use of curvilinear and cul-de-sac streets may be allowed where necessary, but are to be discouraged.
- (D) Where the subdivision abuts upon, or contains an existing or proposed highway, major thoroughfare or railroad right-of-way, the Planning and Zoning Commission may require reverse frontage lots with appropriate screen plantings in the non-access roads parallel to and on either side of the highway, major thoroughfare or railroad right-of-way providing access to adjacent properties and affording separation of through and local traffic.
- (E) Proposed streets designed to have one end permanently closed shall not exceed 400 feet in length, except where the Planning and Zoning Commission has approved additional length due to property limitations or large lot size. Cul-de-sac development is discouraged and will only be considered as an exception, due to topography.
- (F) Turnarounds shall be provided at the permanently closed end of all streets and shall have a minimum right-of-way radius of 60 feet and a minimum radius of 48 feet to face of curb.
- (G) In areas of the city where geographical and topographical characteristics exist that would not be economically or feasibly served by standard subdivision criteria, the city may allow or

require larger, more spacious lots and allow or require these areas to be served by an "open-ditch" street design.

Table #1	
Minimum Street Design	

3	
Rights-of-way	
Alley	30 feet
Arterial	80 feet
Collector	66 feet
Commercial development	66 feet
Frontage	66 feet
Industrial development	66 feet
Local street	66 feet
Surface width	
Curb and gutter	
Alley	20 feet
Arterial	44 feet
Collector	36 feet
Commercial development	36 feet
Frontage	36 feet
Industrial development	36 feet
Local street	36 feet
Open ditch	
Alley	20 feet
Arterial	48 feet
Collector	24 feet
Commercial development	24 feet

Frontage	24 feet
Industrial development	24 feet
Local street	24 feet
Base specifications	As specified by City Engineer and the City Council
Minimum horizontal cu	rve radii
Alley	200 feet
Arterial	850 feet
Collector	400 feet
Commercial development	100 feet
Frontage	200 feet
Industrial development	400 feet
Local	200 feet
Minimum tangent between	een curves
Alley	100 feet
Arterial	200 feet
Collector	150 feet
Commercial development	100 feet
Frontage	100 feet
Industrial development	150 feet
Local	100 feet
Minimum grade	
Alley	0.4%
Arterial	0.4%
Collector	0.4%
Commercial development	0.4%
Frontage	0.4%

Industrial development	0.4%	
Local	0.4%	
Maximum grade	Maximum grade	
Alley	10%	
Arterial	5%	
Collector	7%	
Commercial development	7%	
Frontage	10%	
Industrial development	5%	
Local	10%	
Pavement specifications	As specified by the City Engineer and City Council; in mixed use districts, use the most restrictive standard	

(Prior Code, § 20.1-26) (Ord. 524, passed - -; Ord. 651, passed - -; Ord. 772, passed - -)

■§ 152.072 OPEN DITCH STREET DESIGN.

The following improvements will be required for all open ditch street sections within the corporate limits of the city.

- (A) Water and sanitary sewer services must be extended to a point equal to or beyond the top of ditch backslopes.
- (B) Surface drainage facilities and appurtenances as required by the City Engineer. All driveway drainage structures must be designed to a Q50 standard. All public street drainage structures must be designed to a Q100 standard.
- (C) Aggregate base as required by the City Engineer. Minimum standards are ten inches compacted base finished to a width of 28 feet.
- (D) Roadway surface of bituminous or concrete. Minimum standards are four inches compacted with a total surfaced width of 24 feet.
- (E) Ditch sections to be approved by the City Engineer. Minimum standards are two-foot ditch, six-foot wide bottom and inslope/backslope grade not greater than four to one.
 - (F) Seeding, mulching and sodding or other restoration as required by the City Engineer.

(Prior Code, § 20.1-27) (Ord. 772, passed - -)

■§ 152.073 INTERSECTIONS.

- (A) All streets shall intersect at right angles or as close thereto as possible. No street shall intersect another at an angle of less than 70 degrees. More than two streets intersecting at the same location shall be prohibited. Street jogs with centerline offsets shall be avoided.
- (B) When the Planning and Zoning Commission finds it necessary for reason of safety and the protection of property, property lines at street intersections shall be rounded with a radius of 15 feet. The Planning and Zoning Commission may permit comparable cords in lieu of the rounded corners.

(Prior Code, § 20.1-28) (Ord. 524, passed --; Ord. 651, passed --; Ord. 772, passed --)

№ § 152.074 ALLEYS.

Alleys shall be required in all commercial and industrial districts, except that the Planning and Zoning Commission may waive this requirement where the commercial or industrial district is designed as a comprehensive unit and adequate provisions for service access, off-street loading and unloading areas and parking space is a part of the overall development plan.

- (A) Dead-end alleys are prohibited, except where natural or other features makes it impossible to continue them. Where dead-end alleys are unavoidable, they shall be provided with adequate turnaround facilities at the dead-end as determined by the Planning and Zoning Commission.
- (B) Alleys shall not be permitted in any residential areas unless a secondary means of access to certain property is necessary due to topography or other exceptional circumstances.
 - (C) Design standards for alleys are contained in <u>Table #1</u> of § <u>153.071</u>.

(Prior Code, § 20.1-29) (Ord. 524, passed ; Ord. 651, passed ; Ord. 772, passed)

■§ 152.075 EASEMENTS.

Easements for public utilities may be required by the Planning and Zoning Commission, Park Board, City Engineer and essential public utilities. Where the easements are determined to be necessary, they shall be provided along the rear and side lot lines and shall be a minimum of ten feet in width with a minimum five feet of the easement on each adjacent property being divided.

- (A) Where a watercourse, drainage way channel or stream traverses a subdivision, there shall be provided a storm water easement for drainage right-of-way conforming substantially with the lines of the watercourse. If it is deemed advisable by the Planning and Zoning Commission, the watercourse or drainage way may be re-established to conform with the proposed street pattern, in which case suitable storm drainage or retention facilities shall be installed as directed by the City Engineer.
- (B) Upon consideration of the particular type of development proposed in the subdivision, and especially in large scale neighborhood unit developments, the Planning and Zoning Commission may require the dedication or reservation of areas of sites suitable to the needs created by the development for schools, parks, trails and other neighborhood purposes as may be described as future goals within the comprehensive development plan.

(Prior Code, § 20.1-30) (Ord. 524, passed - -; Ord. 772, passed - -)

■§ 152.076 -CONSTRUCTION SETBACK REQUIREMENTS FROM PIPELINES.

- (A) *Purpose*. The purpose of this section is to increase public safety by requiring that new development be set back from pipeline locations.
- (B) *Applicability*. This section applies to new residential and other development. It does not apply to development that has occurred or for which development permits have been issued before the effective date of the ordinance codified in this section.
- (C) *Setback*. Buildings and places of public assembly subject to this section shall not be constructed closer to the pipeline than the boundary of the pipeline easement.
- (D) *Variances*. Variance procedures adopted by the city under M.S. §§ 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.365, as may be amended from time to time, shall apply.

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(Prior Code, § 20.1-31) (Ord. 658, passed ; Ord. 772, passed )
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№ \$ 152.077 LOTS.

The size, width, shape and orientation of lots and the building setback line shall be appropriate for the type of development and use contemplated.

- (A) Parcel remnants smaller in area than allowed by zoning are not allowed and must be made part of another lot.
 - (B) Lot dimensions shall conform to <u>Chapter 154</u>.
 - (C) Side lot lines shall be as near to right angles or radial to street lines as possible.
 - (D) Every lot shall have access for fire protection, utilities and other necessary services.
- (E) Lots shall not be so excessive in depth that they block desirable access to adjacent property. The Planning and Zoning Commission may require dedication of land for future streets in excessively deep lots.

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(Prior Code, § 20.1-32) (Ord. 524, passed --; Ord. 772, passed --)
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№ 152.078 BLOCKS.

The length, width and shape of blocks shall be determined with due regard to the following:

- (A) The provision of adequate building sites suitable to the particular need of the type of use contemplated;
 - (B) Zoning requirements as to lot size and dimensions;
 - (C) Needs for convenient access, circulation, control and safety of traffic;
 - (D) Limitations and opportunities afforded by topography and other natural features; and
 - (E) Block lengths shall not exceed 800 feet.

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(Prior Code, § 20.1-33) (Ord. 524, passed --; Ord. 772, passed --)
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■§ 152.079 WALKWAYS.

All public walkways shall be constructed in conformance with Chapter 94.

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(Prior Code, § 20.1-34) (Ord. 524, passed - -; Ord. 772, passed - -)
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№ 152.080 TRAILS: LINEAR PARKS.
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A dedicated right of way and/or park right of way that can be made up of various design types for recreational use.

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(Prior Code, § 20.1-35) (Ord. 772, passed --)
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■§ 152.081 STORM SEWER.

All storm sewer improvements/construction shall be constructed in conformance with Chapters 52 and 53.

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(Prior Code, § 20.1-36) (Ord. 524, passed - -; Ord. 772, passed - -)
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■§ 152.999 PENALTY.

- (A) Any subdivider who violates, omits, neglects or refuses to comply with the provisions or the enforcement of this chapter or who sells, offers for sale, or leases any portion of land which is in violation of this chapter, shall be guilty of a misdemeanor.
- (B) Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter, and the city may pursue, by appropriate actions or proceedings, any or all additional remedies.

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(Prior Code, § 20.1-10) (Ord. 524, passed --; Ord. 772, passed --)
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APPENDIX A: RESIDENTIAL DEVELOPMENTS

The issues to be addressed for new residential developments are:

- (A) Annexation (if required);
- (B) Rezoning (if required);
- (C) Platting:
 - (1) General development plan;
 - (2) Preliminary plat; and
 - (3) Final plat.
- (D) Public improvements:
 - (1) Petition:

- (a) Submittal; and
- (b) Acceptance.
- (2) Preliminary assessment hearing;
- (3) Project development:
 - (a) Design;
 - (b) Bid; and
 - (c) Contract.
- (4) Final assessment hearing.

Current city policy requires the developer to pay all costs associated with project development from project inception to the installation of public infrastructure. This includes the fees charged by any professional consultants. The city reserves the right to approve the selection of professional consultants.

(Prior Code, Appendix) (Ord. 772, passed --)

APPENDIX B: COMMERCIAL/INDUSTRIAL DEVELOPMENTS

The possible issues to be addressed for new commercial or industrial developments are:

- (A) Annexation (if required);
- (B) Rezoning (if required);
- (C) Platting:
 - (1) General development plan;
 - (2) Preliminary plat; and
 - (3) Final plat.
- (D) Tax increment financing:
 - (1) Application;
 - (2) Project development; and
 - (3) Agency authorization.
- (E) Grant/loan programs;
- (F) Public improvements:
 - (1) Petition:
 - (a) Submittal; and

- (b) Acceptance.
- (2) Preliminary assessment hearing;
- (3) Project development:
 - (a) Design;
 - (b) Bid; and
 - (c) Construct.
- (4) Final assessment hearing.
- (G) Grant/loan audits when required.

Current city policy requires the developer to pay all costs associated with project development from project inception to the installation of public infrastructure. This includes the fees charged by any professional consultants. The city reserves the right to approve the selection of professional consultants.

(Prior Code, Appendix) (Ord. 772, passed --)

Comprehensive Plan Update

- 1. APRIL 4 Working Group Meeting #5.
 - a. A draft plan will be ready to provide them by March 28th.
- 2. Meeting Schedule.
 - a. April 16 Joint Meeting of the City Council, the Planning Commission council and and the Working Group at Kasson Public Library to walk through the draft plan. Draft plan will be released online for public review.
 - b. May 14 5:30 p.m. Open House prior to the Planning Commission 6:30 p.m. Public Hearing on the Comprehensive Plan.
 - c. May 23 or June 13: City Council Adoption of the Comprehensive Plan.