

AGENDA

MAPLEWOOD CITY COUNCIL

7:00 P.M., Monday, September 28, 1987
Municipal Administration Building
Meeting 87 - 20

(A) CALL TO ORDER

(B) ROLL CALL

(C) APPROVAL OF MINUTES

1. Meeting No. 87 - 14 (July 13, 1987)
2. Meeting No. 87 - 15 (July 27, 1987)
3. Meeting No. 87 - 19 (September 21, 1987)

(D) APPROVAL OF AGENDA

(E) CONSENT AGENDA

1. Accounts Payable
2. Renew - Employee Insurance Contracts
3. Time Extension : Crestview Third Addition
4. Time Extension : 2696 Hazelwood (HealthEast)
5. Final Plat : Lynnwood Terrace
6. Final Plat : Gonyea Oak Heights First Addition
7. Final Plat : Parkway Terrace
8. Final Plat : Maplewood Knoll
9. Rotary Membership
10. Final Payment - Cope Water Tank Painting
11. Final Payment - Bituminous Overlay - Project 87-26

(F) PUBLIC HEARINGS

1. 7:00 P.M., Gonyea's 3rd Addition
 - a. Plan Amendment (4 Votes) _____
 - b. Street Vacation _____
 - c. Preliminary Plat _____
2. 7:10 P.M., Alley Vacation - Between Fenton, Walter and Gordon _____
3. 7:20 P.M., Southlawn Drive - Project 85-17 _____
4. 7:30 P.M., Tax Increment Financing Plan Revision _____

(G) AWARD OF BIDS

(H) UNFINISHED BUSINESS

1. Keller Parkway (Kath)
 - a. Floodplan Map Amendment (4 Votes) _____
 - b. Variance _____
2. Noise Ordinance - Second Reading _____
3. Schedule - Meeting, St. Paul Water Department _____
4. Assessment Ordinance - Second Reading _____

(I) NEW BUSINESS

1. Land Use Legislation Study _____
2. Estate Lot Rezonings _____
3. Reschedule - October 5, Solid Waste Meeting _____
4. City Hall - H.V.A.C. Modifications _____

(J) VISITOR PRESENTATIONS

(K) COUNCIL PRESENTATIONS

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____

(L) ADMINISTRATIVE PRESENTATIONS

(M) ADJOURNMENT

MINUTES OF MAPLEWOOD CITY COUNCIL
7:00 P.M., Monday, July 13, 1987
Council Chambers, Municipal Building
Meeting No. 87-14

A. CALL TO ORDER

A regular meeting of the City Council of Maplewood, Minnesota, was held in the Council Chambers, Municipal Building, and was called to order at 7:03 P.M. by Mayor Greavu.

B. ROLL CALL

John C. Greavu, Mayor	Present
Norman G. Anderson, Councilmember	Present
Gary W. Bastian, Councilmember	Present
Frances L. Juker, Councilmember	Present
Charlotte Wasiluk, Councilmember	Present

C. APPROVAL OF MINUTES

1. Meeting No. 87 - 11 (May 21, 1987)

Councilmember Anderson moved to approve the Minutes of Meeting No. 87-11 (May 21, 1987) as submitted.

Seconded by Councilmember Wasiluk. Ayes - all.

2. Meeting No. 87 - 12 (June 8, 1987)

Councilmember Bastian moved to approve the Minutes of Meeting No. 87-12 (June 8, 1987) as submitted.

Seconded by Councilmember Anderson. Ayes - all.

D. APPROVAL OF AGENDA

Mayor Greavu moved to approve the Agenda as amended:

1. July 4th
2. Commissioners' Recognition Dinner
3. Final Plats
4. Council Salaries
5. T.H. 120
6. N.E. Suburban Transit
7. Upper Afton Road
8. Open Space
9. Frost and English
10. Traffic Reserves

Seconded by Councilmember Anderson. Ayes - all.

E. CONSENT AGENDA

Council removed Item E-3 from the Agenda to become Item I-10.

Councilmember Anderson moved, seconded by Councilmember Bastian, Ayes - all, to approve the Consent Agenda, Items E-1 and 2, 3 through 9 as submitted and recommended.

1. Accounts Payable

Approved the accounts (Part I - Fees, Services, Expenses check register dated 06-25-87 through 07-02-87 - \$570,213.74 ; Part II, Payroll dated June 26, 1987, gross amount \$147,421.53) as submitted.

2. Time Extension

Approved a time extension for the undeveloped portion of the Sterling Street Addition (Outlots A & B) for one year or until the proposed Cave's Junek Addition preliminary plat is acted on by Council, whichever comes first.

3. Time Extension : Jefferson's Fifth Addition

Discussed under I-10.

4. Change Order No. 1 - Arkwright Street Improvements - City Project 86-12

Resolution No. 87 - 7 - 124

WHEREAS, the City Council of Maplewood, Minnesota, has heretofore ordered made Improvement Project 86-12, Arkwright Street Improvement and has let a construction contract therefore pursuant to Minnesota Statutes, Chapter 429, and

WHEREAS, it is now necessary and expedient that said contract be modified and designated as Improvement Project 86-12, Change Order One.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the Mayor and City Engineer are hereby authorized and directed to modify the existing contract by executing said Change Order One.

5. Easement Agreement - McKnight Road Reconstruction (Beaver Lake to Larpenteur) - City Project 81-20

Resolution No. 87 - 7 - 125

WHEREAS. the Council has ordered made City Project 81-20, McKnight Road Reconstruction, Phase I (Beaver Lake to Larpenteur Avenue), and

WHEREAS, the Council has levied assessments against benefited property for all or a portion of the cost of the improvement, pursuant to Minnesota Statutes, Chapter 429, and

WHEREAS, easements are required for the project on property owned by Bulk Service Corporation

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that payment in the amount of \$20,000.00 is hereby approved to Bulk Service Corporation and the Mayor and City Clerk are hereby authorized to execute an easement agreement for acquisition of said easements.

6. Sale of City Hall

Authorized the Manager to enter into a six-month contract with Edina Realty as outlined in their proposal with the following additional conditions:

1. Prior to the acceptance of an offer, parking arrangements for Gladstone Fire Station be worked out;
2. The vacant land across from the Old City Hall not be sold individually until the building sells.

7. P.E.R.A. Resolution

Resolution No. 87 - 7 - 126

WHEREAS, the City of Maplewood has hired Paul Gregory Paulos to serve as part-time police officer, and

WHEREAS, the City of Maplewood desires that Paul Gregory Paulos be classified as a basic member of the Public Employees Police and Fire Fund:

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that pursuant to M.S.A. Section 356.64 subdivision 4, the part-time police officer position held by Paul Gregory Paulos is a police officer position.

BE IT FURTHER RESOLVED that the Director of Public Safety shall hereby cause employee contributions to be deducted from the salary of Paul Gregory Paulos according to the provisions of M.S.A., Section 353.27, subdivision 4.

8. Budget Transfer - City Manager's Contract

Approved a budget transfer of \$1200 from the General Fund Contingency Account to finance the Manager's relocation costs.

9. Schedule Public Hearing - HealthEast (Tax Exempt Bonds)

Resolution No. 87 - 7 - 127

WHEREAS, City Staff has received a proposal from HealthEast that the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "HRA") issue tax exempt bonds, the proceeds of which would be used (i) to finance the acquisition or construction by it or any affiliate to acquire or construct) health care facilities including improvements to buildings and equipment and

other movable personal property to be acquired by HealthEast or an affiliate and located at, or used in connection with existing facilities maintained and operated by HealthEast or an affiliate in the City of Saint Paul, Minnesota, or the City of Maplewood, Minnesota; (ii) to refund certain outstanding bonds issued by the HRA, the Port Authority of the City of Saint Paul or the City of Maplewood; and (iii) to fund a reserve and pay certain costs of issuance of the bonds, including the discount; and

WHEREAS, in connection with the issuance of the bonds, it is necessary for the City of Maplewood and the HRA to enter into a Consent Agreement, which agreement provides that the HRA will be the issuer of the bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MAPLEWOOD, MINNESOTA, as follows:

1. A public hearing regarding the proposed project shall be held on August 10, 1987, at 7:00 P.M. City Staff is authorized to publish notice of the public hearing in accordance with law.
2. The Mayor and City Clerk are authorized to execute a Consent Agreement to be entered into with the HRA in substantially the form submitted to the City Council.

E-A. PARK ACQUISITION

1. Purchase of 4.8 acres at Brooks and Barclay for Park Purposes
 - a. Manager McGuire presented the Staff report.
 - b. Councilmember Anderson moved the acquisition of 4.8 acres of property referred to as Cave's Barclay 2nd Addition from Ed Cave and Sons, Inc., for \$120,000.00 (Payment to be made through the P.A.C. Fund) provided the City maintain the property.

Seconded by Councilmember Wasiluk. Ayes - all.

F. PUBLIC HEARINGS

1. 7:00 P.M., Beam Avenue Water Main (W of T.H. 61) City Project 84-12
 - a. Mayor Greavu convened the meeting for a public hearing regarding the adoption of the proposed assessment roll for the Beam Avenue Water Main Project 84-12.
 - b. Manager McGuire presented the Staff report.
 - c. City Attorney Bannigan explained the procedures of the assessment hearing.
 - d. Assistant City Engineer Ahl presented the specifics of the assessments.
 - e. Mayor Greavu called for proponents. None were heard.

f. Mayor Greavu called for opponents. The following were heard:

Mr. Art Manke, 1210 Beam Avenue
Mr. Pat. Keene, 1190 Beam Avenue

g. Mayor Greavu closed the public hearing.

h. Mayor Greavu introduced the following resolution and moved its adoption:

87 - 7 - 128

WHEREAS, pursuant to proper notice duly given as required by law, the City Council has met and heard and passed upon all objections to the proposed assessment for the construction of Beam Avenue Trunk Water Main (W. of T.H. 61) as described in the files of the City Clerk as Project 84-12, and has amended such proposed assessment as it deems just,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA;

1. Such proposed assessment, as amended, a copy of which is attached hereto and made a part hereof, is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.

2. Such assessment shall be payable in equal annual installments extending over a period of 20 years, the first of the installments to be payable on or after the first Monday in January, 1988, and shall bear interest at the rate of ten (10) percent per annum from the date of the adoption of this assessment resolution. To the first installment shall be added interest on the entire assessment from the date of this resolution until December 31, 1988. To each subsequent installment when due shall be added interest for one year on all unpaid installments.

3. It is hereby declared to be the intention of the Council to reimburse itself in the future for the portion of the cost of this improvement paid for from municipal funds by levying additional assessments on notice and hearing as provided for the assessments herein made, upon any properties abutting on the improvement but not made, upon any properties abutting on the improvement but not herein assessed for the improvement, when changed conditions relating to such properties make such assessment feasible.

4. To the extent that this improvement benefits nonabutting properties which may be served by the improvement when one or more later extensions or improvements are made, but which are not herein assessed, therefore, it is hereby declared to be the intention of the Council, as authorized by Minnesota Statutes Section 420.051, to reimburse the City by adding any portion of the cost so paid to the assessments levied for any of such later extension or improvements.

5. The Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County, and such assessments shall be collected and paid over in the same manner as other municipal taxes.

Seconded by Councilmember Anderson. Ayes - Mayor Greavu, Councilmembers Anderson, Juker and Wasiluk.

Nays - Councilmember Bastian.

2. 7:10 P.M., Preliminary Plat : Cave's Currie Street Addition

a. Mayor Greavu convened the meeting for a public hearing regarding the request of Ed Cave and Sons, Inc., for preliminary Plat approval to create sixteen single dwelling lots.

b. Manager McGuire presented the Staff report.

c. Director of Community Development Olson presented the specifics of the proposal.

d. Commissioner Dennis Larson presented the Planning Commission report.

e. Mr. Sam Cave, Ed Cave and Sons, Inc., spoke on behalf of the proposal.

f. Mayor Greavu called for proponents. None were heard.

g. Mayor Greavu called for opponents. None were heard.

h. Mayor Greavu closed the public hearing.

i. Mayor Greavu moved to approve the Cave's Currie Street preliminary plat subject to the following conditions, except No. 2- developer does not need to transfer ownership of Outlots A & B to the City but shall provide easements.

Motion failed for lack of a second.

j. Councilmember Juker moved approval of Cave's Currie Street Addition Preliminary Plat (dated 3-17-87) subject to compliance with the following conditions before final plat approval:

1. City engineer approval of final grading, drainage, utility and erosion control plans. The grading plan shall maximize preservation of the hill and trees on Lot One, Block Two, as much as possible.
2. Submittal of recordable deeds to the City Engineer to transfer title of Outlots A and B to the City of Maplewood or dedicate them to the public on the plat for drainage and utility purposes.
3. Submittal of a 100-foot-diameter easement for the temporary Currie Street right-of-way.

4. Provide a twenty-foot drainage easement over the north twenty feet of Lot One, Block One.
5. Submittal of a signed developer's agreement and required surety for the following items:
 - a. Construction of all required public street ponding and utility improvements.
 - b. Construction of a driveway turn-around for Lot Eight, Block One.
 - c. Construction of a driveway for Lot One, Block One that complies with the requirements of Section 10.207 of the Uniform Fire Code. This driveway shall be constructed as far to the east of the property as possible and be aligned to retain as many mature trees as possible.
 - d. Construction of the temporary Currie Street cul-de-sac.
6. Revision of the lots in Block 2 as shown on Page 9 to maximize preservation of the trees and hill on Lot One, Block 2, and provide room for a 100-foot setback to the future house.
7. Show the existing, small triangular piece of right-of-way acquired by the County at the corner of Larpenteur Avenue and McKnight Road.

Seconded by Councilmember Anderson. Ayes - Councilmembers Anderson, Bastian, Juker and Wasiluk

Nay - Mayor Greavu.

3. 7:20 P.M., Easement Vacation : Maplewood Mall

- a. Mayor Greavu convened the meeting for a public hearing regarding the request of the developers of the Mainstreet Store at Maplewood Mall to relocate a twenty-foot wide utility easement.
- b. Manager McGuire presented the Staff report.
- c. Director of Community Development Olson presented the specifics of the proposal.
- d. Mayor Greavu called for proponents. None were heard.
- e. Mayor Greavu called for opponents. None were heard.
- f. Mayor Greavu closed the public hearing.
- g. Mayor Greavu introduced the following resolution and moved its adoption:

87 - 7 - 129

WHEREAS, Suburban Engineering initiated proceedings to vacate the public interest in the following described utility easement:

That part of the dedicated utility easement shown in Lot 5, Block 1, Maplewood Mall Addition, Ramsey County, Minnesota, the center line described as follows: Commencing at the southwest corner of Lot 10, Block 1, Maplewood Mall Addition; thence on an assumed bearing of East, along the south line of said lot, 34.94 feet; thence on a bearing of North, 725.77 feet; thence N 44 degrees, 47 feet, 25 inches W., 79.25 feet; thence on a bearing of North 266.08 feet; thence on a bearing of West, 169.46 feet to the actual point of beginning; thence on a bearing of North 419.75 feet and there terminating.

WHEREAS, the procedural history of this vacation is as follows:

1. A majority of the owners of property abutting said utility easement have signed a petition for this vacation;
2. This vacation was reviewed by the Planning Commission on June 15, 1987. The Planning Commission recommended to the City Council that this vacation be approved.
3. The City Council held a public hearing on July 13, 1987, to consider this vacation. Notice thereof was published and mailed pursuant to law. All persons present at this hearing were given an opportunity to be heard and present written statements. The Council also considered reports and recommendations of the City Staff and Planning Commission.

WHEREAS, upon vacation of the above-described utility easement, public interest in the property will accrue to the following described abutting properties:

Lot 5, Block 1, Maplewood Mall Addition

NOW, THEREFORE, BE IT RESOLVED BY THE MAPLEWOOD CITY COUNCIL that it is in the public interest to grant the above-described vacation on the basis of the following findings of fact:

1. The portion of this easement to be vacated runs through the building site for the proposed Mainstreet Store addition to Maplewood Mall.
2. Relocation of the easement to the west, as proposed, would have no effect on the provision of utility services to Maplewood Mall properties.

Seconded by Councilmember Anderson. Ayes - all.

4. 7:30 P.M., Preliminary Plat, Cave's Barclay 2nd Addition
 - a. Mayor Greavu convened the meeting for a public hearing regarding the request of Ed Cave and Sons, Inc., for preliminary plat approval to create fifteen single dwelling lots to be known as Cave's Barclay 2nd Addition.
 - b. Manager McGuire presented the Staff report.

c. Director of Community Development Olson presented the specifics of the proposal.

d. Because of the questions raised regarding the proposed park property, Councilmember Anderson moved to table this item for two weeks.

Seconded by Councilmember Juker. Ayes - all.

5. 7:40 P.M., Maplewood Knoll

a. Preliminary Plat

b. Rezoning (4 Votes)

1. Mayor Greavu convened the meeting for a public hearing regarding the request of Nuebel Homes, Inc., for approval of a preliminary plat to create 11 single dwelling lots. Staff is requesting a rezoning from F - Farm to R-1, single dwelling for this property.

2. Manager McGuire presented the Staff report.

3. Director of Community Development Olson presented the specifics of the proposal.

4. Commissioner Dennis Larson presented the Planning Commission recommendation.

5. Mayor Greavu called for proponents. None were heard.

6. Mayor Greavu called for opponents. None were heard.

7. Mayor Greavu closed the public hearing.

8. Mayor Greavu moved to approve the Maplewood Knoll preliminary plat (dated 3-26-87), subject to the following conditions being met before final plat approval:

a. North St. Paul approval of the sewer and water service connections within Sterling Street and their approval of the construction plans for the sanitary sewer and water main within the cul-de-sac.

b. Revising Lots Seven through Ten, as necessary, to increase the width of Lot Seven to at least 75 feet at the building setback line. Each of the revised lots must comply with all lot dimension requirements.

c. The Knoll Circle right-of-way shall be moved south to provide at least 30 feet of setback for the existing dwelling.

d. The proposed storm-sewer easements between Lots Five and Six, along the west line of Lot Eight and running east/west across Lots Seven and Eight shall be increased to 15 feet of width.

- e. City Engineer approval of final grading, erosion control, drainage and utility plans.
- f. Submittal of a signed developer's agreement, with required surety, for all required public improvements.

Seconded by Councilmember Anderson. Ayes - all.

9. Mayor Greavu introduced the following resolution and moved its adoption:

87 - 7 - 130

WHEREAS, Nuebel Homes, Inc., initiated a rezoning from F, farm residence, to R-1, single dwelling, for the following-described property:

The South 482 feet of the West 452 feet of the NW 1/4 of the SE 1/4 of Section 13, township 29, Range 22.

This property is also known as 1810 Sterling Street, Maplewood;

WHEREAS, the procedural history of this rezoning is as follows:

1. This rezoning was initiated pursuant to Chapter 36, Article VII of the Maplewood Code of Ordinances.
2. This rezoning was reviewed by the Maplewood Planning Commission on June 15, 1987. The Planning Commission recommended to the City Council that said rezoning be approved.
3. The Maplewood City Council held a public hearing on July 13, 1987, to consider this rezoning. Notice thereof was published and mailed pursuant to law. All persons present at said hearing were given an opportunity to be heard and present written statements. The Council also considered reports and recommendations of the City Staff and Planning Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE MAPLEWOOD CITY COUNCIL that the above-described rezoning be approved on the basis of the following findings of fact:

1. The proposed change is consistent with the spirit, purpose and intent of the zoning code.
2. The proposed change will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded.
3. The proposed change will serve the best interests and conveniences of the community, where applicable and the public welfare..

4. The proposed change would have no negative effect upon the logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police and fire protection and schools.
5. Rezoning would eliminate the potential of nuisance problems associated with farm-related uses, such as the raising of livestock, in a single-dwelling neighborhood.

Seconded by Councilmember Bastian. Ayes - all.

G. AWARD OF BIDS

1. Painting Cope Avenue Water Tower

- a. Manager McGuire presented the Staff report.
- b. Councilmember Anderson moved to approve a budget transfer of \$8,040.00 from the Water Availability Fund to the Water Maintenance Fund for the amount over budget to paint the Cope Avenue Water Tower.

Seconded by Councilmember Wasiluk. Ayes - all.

- c. Councilmember Anderson introduced the following resolution and moved its adoption:

87 - 7 - 131

BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the bid of Rainbow, Inc., in the amount of \$59,189.00 is the lowest responsible bid for painting the Cope Avenue water tank and the Mayor and Clerk are hereby authorized and directed to enter into a contract with said bidder for and on behalf of the City.

Seconded by Councilmember Wasiluk. Ayes - all.

2. Tractor/Loader

- a. Manager McGuire presented the Staff report.
- b. Councilmember Anderson introduced the following resolution and moved its adoption:

87 - 7 - 132

BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the bid of Carlson Tractor and Equipment Co., Inc., in the amount of \$20,291.00 is the lowest responsible bid for furnishing one and the Mayor and Clerk are hereby authorized and directed to enter into a contract with said bidder for and on behalf of the City.

Seconded by Councilmember Juker. Ayes - all.

3. Tractor/Mower

- a. Manager McGuire presented the Staff report.

b. Mayor Greavu introduced the following resolution and moved its adoption:

87 - 7 - 133

BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the bid of Carlson Tractor and Equipment Company, Inc., in the amount of \$22,489.00 is the lowest responsible bid for furnishing one tractor/mower and the Mayor and Clerk are hereby authorized and directed to enter into a contract with said bidder for and on behalf of the City.

Seconded by Councilmember Anderson. Ayes - all.

H. UNFINISHED BUSINESS

1. Order Assessment Hearing - Frost Avenue Reconstruction (Adele to Birmingham) City Project 83-01

a. Manager McGuire presented the Staff report.

b. Assistant City Engineer Ahl presented the specifics of the proposal. The proposed rates are as follows:

Curb & Gutter	\$10.676 per front foot
Storm Sewer	
(RL)	.078 square foot
(RM and SC)	.155 square foot

c. Mayor Greavu introduced the following resolution and moved its adoption:

87 - 7 - 134

WHEREAS, the Clerk and the Engineer have, at the direction of the Council, prepared an assessment roll for the construction of Frost Avenue Improvements between Adele Street and Birmingham Street, City Project 83-01, and the said assessment roll is on file in the office of the City Clerk;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA:

1. A hearing shall be held on the 10th day of August, 1987, at the City Hall at 7:00 P.M. to pass upon such proposed assessment and at such time and place all persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.

2. The City Clerk is hereby directed to cause a notice of the hearing on the proposed assessment to be published in the official newspaper, at least two weeks prior to the hearing, and to mail notices to the owners of all property affected by said assessment.

3. The notice of hearing shall state the date, time and place of hearing, the general nature of the improvement, the area proposed to be assessed, that the proposed assessment roll is on file with the Clerk, prepayment and interest charges information and that written or oral objections will be considered.

4. Prepayment of each parcel's assessment shall be allowed, without an interest charge, from the date of adoption of said assessment roll to 30 days past the date of adoption. All unpaid assessments shall bear interest at the rate of ten (10) percent per annum from the date of adoption of the assessment roll.

Seconded by Councilmember Anderson. Ayes - Mayor Greavu, Councilmembers Anderson, Bastian and Wasiluk.

Nay - Councilmember Juker.

2. Alternate Tower Site and Linwood Avenue Water Main - Water Service District 8 Improvements - City Project 86-15

a. Manager McGuire presented the Staff report.

b. Councilmember Anderson moved to approve Alternate 2:

Order Staff to investigate the alternate tower site with a feeder main located on Linwood Avenue from the proposed Sterling Street to the tower site and the completion of the water main on Linwood Avenue from the existing main east of McKnight to Sterling and the proposed tower feeder main to Century Avenue.

Seconded by Councilmember Juker. Ayes - all.

c. Councilmember Anderson introduced the following resolution and moved its adoption:

87 - 7 - 135

WHEREAS, the City Engineer for the City of Maplewood has previously prepared a report with reference to the improvement of Water Service District 8, Sterling Street and Schaller Drive, City Project 86-15, by construction of water tower, streets, water main, sanitary sewer and storm sewer, and

WHEREAS, the said City Engineer has recommended the relocation of said water tower and additional water main construction along Linwood Avenue.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, as follows:

1. The report of the City Engineer advising this Council that the proposed water tower be relocated to north of Linwood Avenue and that water main be constructed along Linwood Avenue is feasible and should best be made as proposed, is hereby received.
2. The Council will consider the aforesaid improvement in accordance with the reports and the assessment of benefited property for all or a portion of the cost of the improvement according to M.S.A. Chapter 429, at an estimated total cost of the improvement of \$2,900,000.00.

3. A public hearing will be held in the Council Chambers of the City Hall at 1830 East County Road B on Monday, the 27th day of July, 1987, at 7:20 P.M. to consider said improvement. The City Clerk shall give mailed and published notice of said hearing and improvement as required by law.

Seconded by Councilmember Juker. Ayes - all.

3. Recreational Vehicles - Ordinance (2nd Reading)

- a. Councilmember Bastian moved to table second reading of this ordinance until the Meeting of July 27, 1987.

Seconded by Mayor Greavu. Ayes - all.

Councilmember Bastian stated he is meeting at 7:00 P.M. on Thursday, July 16, 1987, with motorcycle groups.

4. Primary Elections

- a. City Attorney Bannigan updated the Council regarding the proposed legislation for primary elections.

- b. No action taken.

I. NEW BUSINESS

1. Conditional Use Permit Renewal : Highwood Avenue (Cellular One Tower)

- a. Manager McGuire presented the Staff report.

- b. Councilmember Bastian moved to approve the renewal of the conditional use permit for a radio/telephone communication system known as Cellular One at 2670 Highwood Avenue for five years subject to the original conditions and replacement of two dead evergreen trees.

Seconded by Mayor Greavu. Ayes - all.

2. Code amendment : Building Setback from Pipeline

- a. Manager McGuire presented the Staff review.

- b. Director of Community Development Olson presented the specifics of the proposal.

- c. Councilmember Anderson moved to table for further information and instructed Staff to send a copy of the proposal to the Chamber of Commerce.

Seconded by Councilmember Juker. Ayes - all.

3. Metropolitan Council Survey

- a. Councilmember Bastian moved to rank the five most important issues out of the thirteen identified by the Metropolitan Council:

1. Strategic Planning
2. Vitality of the regional economy

3. Fiscal Planning to pay for long term infrastructure before baby boomers reach retirement age.
4. Transportation
5. Water Quality

Seconded by Councilmember Wasiluk. Ayes - all.

4. Tax-Forfeited land Sale

- a. Manager McGuire presented the Staff report.
- b. Mayor Greavu introduced the following resolution and moved its adoption:

87 - 7 - 136

WHEREAS, the Board of County Commissioners of Ramsey County, by resolution dated April 6, 1987, classified as non-conservation land, certain land lying within the City of Maplewood, and;

WHEREAS, the subject lands are described as Lots 3, 4 and 5, Castle Acres (PIN 11-29-22-31-0015); and

WHEREAS, a copy of Ramsey County's April 6, 1987 resolution (No. 87-181) and the legal description of land therein classified as non-conservation were received by the City of Maplewood on April 10, 1987; and

WHEREAS, state law requires the City of Maplewood to: (a) act on the County's classification of this property as non-conservation and (b) find that there is no public use that the property can be put to before Ramsey County can offer this property for public auction; and

WHEREAS, the City of Maplewood has no use for this property.

NOW, THEREFORE, BE IT RESOLVED that the classification of the land described above as non-conservation land and the sale thereof be and hereby is approved; and

BE IT FURTHER RESOLVED that the City Clerk be and hereby is authorized to file a certified copy of this resolution in the Office of the Land Commissioner.

Seconded by Councilmember Wasiluk. Ayes - all.

5. Easement Agreement and Improvement

- a. Manager McGuire stated a lot split at the Maplewood Mall has allowed the City to acquire a segment of Southlawn Avenue north of Beam Avenue as identified in City Project 85-17. The right-of-way has been dedicated and the City should consider the purchase of the existing roadway and utilities.

b. Councilmember Bastian introduced the following resolution and moved its adoption:

87 - 7 - 13.7

WHEREAS, the Council has ordered made City Project 85-17, and

WHEREAS, said report identified the need to acquire the existing Mall road entrance drive as Southlawn Avenue right-of-way, and

WHEREAS, right-of-way has been acquired for the project on property owned by Corporate Property Investors, Inc., and

WHEREAS, purchase of the existing roadway and utilities within the right-of-way is required.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that payment in the amount of \$40,000 for the existing utilities and roadway from the Municipal State-Aid Maintenance Account is hereby approved to Corporate Property Investors, Inc., and the Mayor and City Clerk are hereby authorized to execute an easement agreement for acquisition of said roadway and utilities.

Seconded by Councilmember Anderson. Ayes - all.

6. McLafferty - 1673 Lark Avenue - Flooding Problem

a. Mr. McLafferty explained to the Council the flooding problems he is experiencing.

b. Councilmember Anderson moved to instruct Staff to investigate the problems and install an additional "flap gate" if necessary.

Seconded by Councilmember Juker. Ayes - all.

7. Harvester Storm Sewer Request - Feist

a. Manager McGuire stated Mr. Feist owns two lots on Sterling and Harvester. A drainage ditch crosses the property. Only one lot can be used because of the ditch. The requested storm sewer would allow both of Mr. Feist's lots along with others in the vicinity to be developed.

b. Mr. Peter C. Feist, 950 Ferndale, spoke on behalf of his proposal.

c. Mayor Greavu introduced the following resolution and moved its adoption:

87 - 7 - 138

WHEREAS, the City Council has proposed that the area described as:

Surrounding Harvester and Sterling

be improved by construction of storm sewer.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the proposed improvement be referred to the City Engineer, who is hereby instructed to report to the Council with all convenient speed advising the Council in a preliminary way as to whether the proposed improvement is feasible and should best be made as proposed, and the estimated cost of the improvement as recommended.

Seconded by Councilmember Anderson. Ayes - all.

8. Cope Avenue Improvement Petition - Anderson

a. Manager McGuire stated within the last year a feasibility study for the petitioned improvements was prepared by the engineering staff. The City Council, however, did not hold a public hearing. It is recommended that a feasibility study be ordered.

b. Councilmember Anderson introduced the following resolution and moved its adoption:

87 - 7 - 139

WHEREAS, the City Council has proposed that the area described as:

Cope Avenue and Castle Avenue

be improved by construction of sanitary sewer, watermain, storm sewer and street with concrete curb and gutter.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the proposed improvement be referred to the City Engineer, who is hereby instructed to report to the Council with all convenient speed advising the Council in a preliminary way as to whether the proposed improvement is feasible and should best be made as proposed, and the estimated cost of the improvement as recommended.

Seconded by Mayor Greavu. Ayes - all.

9. Footprint Lake Storm Sewer

a. Manager McGuire recommended that Council request Staff prepare a feasibility report for Footprint Lake Storm Sewer proposal.

b. Councilmember Anderson introduced the following resolution and moved its adoption:

87 - 7 - 140

WHEREAS, the City Council has proposed that the area described as:

Tributary to Footprint Lake

be improved by construction of storm sewers.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the proposed improvement be referred to the City Engineer, who is hereby instructed to report to the Council with all convenient speed advising the Council in a preliminary way as to whether the proposed improvement is feasible and should best be made as proposed, and the estimated cost of the improvement as recommended.

Seconded by Councilmember Bastian. Ayes - all.

10. Time Extension : Jefferson's Fifth Addition.

a. Manager McGuire presented the Staff report.

b. Council directed the Staff to notify the property owners affected by the changes in the preliminary plat.

c. Councilmember Bastian moved to approve a one-year time extension for the unplatted portion of the Jefferson Fourth Addition preliminary plat (to be called the Jefferson Fifth Addition), subject to the satisfaction of the following revised July 14, 1986 conditions of preliminary plat approval prior to final plat approval:

1. Submittal of a signed developer's agreement, with required surety, for all required public improvements. This agreement shall include the construction of temporary cul-de-sacs as required in Condition Three and a ten-foot-wide bituminous trail (eight feet wide, if no fencing) along the southwest line of Outlot B. The ten-foot corridor for the trail shall be designated on the plat as a pedestrian way. If fencing is to be constructed, the type, location and height shall be approved by the Parks Director.

2. Drop reference on the plat to the temporary cul-de-sac on the north end of "Lakewood Court."

3. A quit-claim deed(s) shall be submitted with the developer's agreement to deed 100-foot-diameter temporary cul-de-sacs to the City for:

a. The north end of "Lakewood Court."

b. The west end of "Valley View Drive."

c. The east end of "Dorland Curve" or the south end of "Lakewood Court."

These easements may be located on adjoining property.

4. Change the street names as follows:

a. Show "Lakewood Court" south of Dorland Curve.

- b. Change "Lakewood Court" north of Dorland Curve and southwest of Lot One, Block Two, to "Lakewood Drive."
 - c. Change "Lakewood Court" between the west line of Lot One, Block Two and the east line of the plat to "Timber Avenue."
 - d. Change "Dorland Curve" to "Schaller Drive."
 - e. Change "Valley View Drive" to Valley View Avenue."
5. Lot One, Block One, shall be increased to at least 100 feet in width at the building setback line and 100 feet in depth.
 6. Eliminate reference to the vacated 100-foot-wide drainage easement that crosses the southerly portion of Blocks Five and Six. The proposed storm sewer easement shown along the north line of Lots Twelve and Fifteen, Block Six, shall be retained.
 7. Eliminate the proposed ponding easement on Lot One, Block Four. The grading plan shall be revised to restrict the ponding area to Outlot B. The storm sewer easement shall be retained.
 8. A quit-claim deed(s) shall be submitted with the final plat application to:
 - a. Deed Outlot A to the City for park purposes.
 - b. Deed Outlot B to the City for drainage purposes.
 9. The east property line of Outlot B shall be moved east to coincide with east boundary of the proposed drainage easement. Reference to the easement shall be eliminated.
 10. A storm sewer easement shall be shown on the final plat in the southeast corner of Lot Five, Block Five, for the proposed storm sewer facilities. The location of the easement shall be approved by the City Engineer.
 11. Eliminate Outlot C.
 12. City Engineer approval of final utility, grading and drainage plans.

Seconded by Councilmember Anderson. Ayes - all.

J. VISITOR PRESENTATIONS

K. COUNCIL PRESENTATIONS

1. Traffic Reserves

- a. Councilmember Bastian stated he had been asked what duties the Police Reserves perform.

b. Staff responded.

Councilmember Juker moved to extend the meeting past the deadline.

Seconded by Mayor Greavu. Ayes - all.

Councilmember Bastian moved to suspend the Rules of Procedure and extend the meeting to finish the Agenda.

Seconded by Mayor Greavu. Ayes - all.

2. July 4

a. Councilmember Anderson extended a thank you to all the volunteers who worked to make the 4th of July celebration a success.

3. Commissioners' Recognition Dinner

a. Councilmember Anderson moved to instruct Staff to investigate costs for providing a recognition dinner for the City's Commissions and Boards.

Seconded by Councilmember Wasiluk. Ayes - all.

4. Final Plats

a. Councilmember Anderson feels that developers, when they file for plats, not be allowed to plan for walkouts.

b. Staff to investigate.

5. Council Salaries

a. Councilmember Anderson moved to instruct the legal department to investigate procedures for increasing Council salaries.

Seconded by Councilmember Juker. Ayes - all.

6. T.H. 120

a. Councilmember Anderson stated he had read an article in the REVIEW about the upgrading of T.H. 120.

b. Staff answered Councilmember Anderson's questions and stated a report should be forthcoming by the end of the year.

7. N.E. Suburban Transit

a. Councilmember Wasiluk stated the N.E. Suburban Transit Committee between Oakdale, North St. Paul and Maplewood are requesting more money and that money has been set aside by the Chamber of Commerce to promote cities. It is requested this money be expended for the Para Transit.

b. Councilmember Wasiluk moved to suspend the Rules of Procedures to make a motion regarding Para Transit.

Seconded by Councilmember Bastian. Ayes - all.

c. Councilmember Wasiluk moved to authorize the money held by the Chamber of Commerce for promoting the cities be transferred to the Para Transit Committee.

Seconded by Councilmember Bastian. Ayes - all.

8. Upper Afton Road

a. Councilmember Wasiluk stated Upper Afton Road had to be improved and requested Staff look into the options available.

* Councilmember Juker left the meeting at 11:00 P.M.

9. Open Space

a. Councilmember Wasiluk moved that a "Search" committee be established to designate open space areas.

Seconded by Mayor Greavu. Ayes - all.

L. ADMINISTRATIVE PRESENTATION

None.

M. ADJOURNMENT

11:05 P.M.

City Clerk

MINUTES OF MAPLEWOOD CITY COUNCIL
7:00 P.M., Monday, July 27, 1987
Council Chambers, Municipal Building
Meeting No. 87 - 15

A. CALL TO ORDER

A regular meeting of the City Council of Maplewood, Minnesota, was held in the Council Chambers, Municipal Building, and was called to order at 7:02 P.M. by Mayor Greavu.

B. ROLL CALL

John C. Greavu, Mayor	Present
Norman G. Anderson, Councilmember	Present
Gary W. Bastian, Councilmember	Present
Frances L. Juker, Councilmember	Present
Charlotte Wasiluk, Councilmember	Present

C. APPROVAL OF MINUTES

1. Meeting No. 87-13 (June 22, 1987)

Councilmember Wasiluk moved to approve the Minutes of Meeting No. 87-13 (June 22, 1987) as submitted.

Seconded by Councilmember Bastian. Ayes - all.

D. APPROVAL OF AGENDA

Mayor Greavu moved to approve the Agenda as amended:

1. East Community Family Services
2. Power Outages
3. Recycling Solid Waste Committee Meeting
4. House on Beam (Frattalone Property)
5. Cave's Gervais Addition (Item E-4)
6. Flood Problems (Item I-8)
7. Change Order (Item I-9)
8. Delete H-1

Seconded by Councilmember Anderson. Ayes - all.

E. CONSENT AGENDA

Councilmember Anderson moved, seconded by Councilmember Wasiluk, Ayes - all, to approve the Consent Agenda, Items 1 through 4, as recommended:

1. Accounts Payable

Approved the accounts (Part I - Fees, Services, Expenses Check register dated 7-16-87 through 7-20-87 - \$645,148.19; Part II - Payroll dated 7-1-87 \$62,792.36 dated 7-10-87 - \$142,870.86 gross amount \$205,663.22) as recommended.

2. Approve Final Payment - Beaver Lake Storm Sewer - City Project 83-07

Resolution No. 87 - 7 - 141

WHEREAS, The City Council of Maplewood, Minnesota has heretofore ordered made Improvement Project 83-07, North Beaver Lake Storm Sewer Improvements, and has let a construction contract, and

WHEREAS, said project has been certified as completed.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the project is completed and accepted and final payment on the construction contract is hereby authorized.

3. Environmental Health Delegation Agreement

Approved an agreement between Maplewood and the Minnesota Department of Health for the Environmental Health Delegation Agreement.

4. Cave's Gervais Addition - Final Plat

Approved the Cave's Gervais Addition final plat.

F. PUBLIC HEARINGS

1. 7:00 P.M., Plan Amendment LSC Definition (4 Votes)

a. Mayor Greavu convened the meeting for a public hearing regarding the City Council on June 8, 1987, initiated an amendment to the LSC, limited service commercial definition to allow limited gas sales with a convenience store.

b. Manager McGuire presented the Staff report.

c. Director of Community Development Olson presented the specifics of the proposal.

d. Mayor Greavu called for persons who wished to be heard for or against the proposal. The following were heard:

Daniel Parker, Welsh Companies, spoke in support of the amendment.

Richard Schreier questioned how this would affect other properties.

e. Mayor Greavu closed the public hearing.

f. Councilmember Anderson introduced the following resolution and moved its adoption:

87 - 7 - 142

WHEREAS, the current definition of a limited service commercial center does not include gas sales; and

WHEREAS, the service commercial center definition defines gas stations as a high-intensity use; and

WHEREAS, the City finds that a limited number of gas pumps would be a medium-intensity use on a neighborhood scale, consistent with the LSC definition;

NOW, THEREFORE, THE MAPLEWOOD CITY COUNCIL does hereby amend the LSC definition as follows:

Limited Service Commercial Center (LSC). The limited service commercial center classification refers to commercial facilities on a neighborhood scale. Heavy industrial uses, department stores, motels, auto accessory stores, etc., would be prohibited. Other land uses of a medium intensity nature, such as gas sales with no vehicle repair or maintenance and with no more than two pumps on a single island to service up to four vehicles at one time, may be permitted subject to meeting certain performance standards as defined in the zoning code.

Seconded by Councilmember Wasiluk. Ayes - Mayor Greavu, Councilmembers
Anderson, Bastian and Wasiluk

Nay - Councilmember Juker

2. 7:00 P.M., P.U.D. : Larpenteur and McKnight

a. Mayor Greavu convened the meeting for a public hearing regarding the request of the Welsh Companies, Inc., for approval of a planned unit development (PUD) for a neighborhood shopping center, including motor fuel sales. The motor fuel sales would include two pumps with three dispenser nozzles for each pump.

b. Manager McGuire presented the staff report.

c. Director of Community Development Olson presented the specifics of the proposal.

d. Commissioner Bob Cardinal presented the Planning Commission recommendation.

e. Director of Community Development Olson presented the Community Design Review Board recommendation.

f. Mayor Greavu called for persons who wished to be heard. The following voiced their opinions:

Georgene S. Karpiej, 1694 McKnight Lane, President of the McKnight
Townhomes Association
Daniel Parker, Welsh Companies, Inc.

g. Mayor Greavu closed the public hearing.

h. Councilmember Anderson introduced the following resolution and moved its adoption:

87 - 7 - 143

WHEREAS, the Welsh Companies initiated a conditional use permit for a planned unit development of office, commercial and service uses, including convenience motor fuel sales at the following described property:

Lot Three, Block One, Maple Woods Estates

WHEREAS, the procedural history of this conditional use permit is as follows:

1. This conditional use permit was reviewed by the Maplewood Planning Commission on July 6, 1987. The Planning Commission recommended to the City Council that said permit be approved.
2. The Maplewood City Council held a public hearing on July 27, 1987. Notice thereof was published and mailed pursuant to law. All persons present at said hearing were given an opportunity to be heard and present written statements. The Council also considered reports and recommendations of the City staff and Planning Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE MAPLEWOOD CITY COUNCIL that the above-described conditional use permit replaces the June 9, 1986, conditional use permit and is approved on the basis of the following findings-of-fact:

1. The use is in conformity with the City's comprehensive plan and with the purpose and standards of this chapter.
2. The establishment or maintenance of the use would not be detrimental to the public health, safety or general welfare.
3. The use would be located, designed, maintained and operated to be compatible with the character of that zoning district.
4. The use would not depreciate property values.
5. The use would not be hazardous, detrimental or disturbing to present and potential surrounding land uses, due to the noises, glare, smoke, dust, odor, fumes, water pollution, water run-off, vibration, general unsightliness, electrical interference or other nuisances.
6. The use would generate no traffic on local streets and would not create traffic congestion, unsafe access or parking needs that will cause undue burden to the area properties.
7. The use would be serviced by essential public services, such as streets, police, fire protection, utilities, schools and parks.

8. The use would not create excessive additional requirements at public cost for public facilities and services; and would not be detrimental to the welfare of the City.
9. The use would preserve and incorporate the pond on the site into the development design.
10. The use would cause minimal adverse environmental effects.

Approval is subject to the following conditions:

1. Adherence to the site plan and conditions approved by the Community Design Review Board. Future changes to the site plan may be approved by the Board.
2. All uses shall conform with the BC (M), business commercial (modified) zoning district requirements.
3. External speakers shall be directed away from the dwelling units and the sound shall not exceed fifty decibels (normal conversation level) at the residential property line.
4. The maximum building height shall be one story.
5. There shall be no exterior storage or sale of goods or merchandise.
6. The proposed construction must be substantially started within one year of Council approval or the permit shall become null and void. A six-month time extension may be requested as allowed in Section 36-442(d) of City code.
7. There shall be no vents for the underground fuel tanks within 200 feet of an existing residence or the buildable area of the planned undeveloped lots in the Currie Street Addition, south of Larpenteur Avenue.
8. The type and anchoring of underground storage tanks must be approved by the City Fire Marshal. The tanks shall be strapped to a concrete slab.

Seconded by Mayor Greavu.

Ayes - all.

3. 7:10 P.M., Code Amendment : Building Setback to Pipelines. (1st Reading)
 - a. Mayor Greavu convened the meeting for a public hearing regarding the proposed ordinance to require buildings designed primarily for human occupancy to be set back at least 100 feet from a major pipeline.
 - b. Manager McGuire presented the Staff report.

c. The following persons voiced their opinions regarding the proposed ordinance:

Steve Kayser, 1825 23rd Street, Plymouth
Richard Schreier, 2125 DeSoto
Bruce Mogren, 2855 Frederick Street
Dick Sagstetter

d. City Attorney Kelly explained the current legislation. Municipalities are required to have a pipeline ordinance by 1989.

e. Mayor Greavu closed the public hearing.

f. Councilmember Bastian moved to amend Sections 9-215, 9-217 and 9-219 of the proposed ordinance.

Seconded by Councilmember Anderson. Ayes - Councilmembers Anderson, Bastian, Juker and Wasiluk.

Nay - Mayor Greavu.

g. Councilmember Anderson moved first reading of an ordinance requiring set back from a major pipeline.

Seconded by Councilmember Juker. Ayes - Councilmembers Anderson, Bastian, Juker and Wasiluk

Nay - Mayor Greavu.

4. 7:20 P.M., Linwood Avenue Water Main and Alternate Water Tower Site - City Project 86-15E

a. Mayor Greavu convened the meeting for a public hearing to consider an alternate tower site north of Linwood Avenue and to consider the installation of water main along Linwood Avenue from the existing main 1,200 feet east of McKnight Road to Century Avenue. All property with frontage on Linwood Avenue between Century Avenue and the existing main have been notified of this hearing.

b. Manager McGuire presented the Staff report.

c. City Attorney Kelly explained the hearing procedure.

d. Assistant City Engineer Ahl presented the specifics of the proposal.

e. Mayor Greavu called for proponents. None were heard.

f. Mayor Greavu called for opponents. The following were heard:

John Gregerson, 2622 Linwood Avenue
Darrel Hansen, 2632 Linwood Avenue
George Anderson, 2680 Linwood
John Vorderbruggen, 2578 Linwood

Cheryl Stahnke, 2383 Linwood
Ted Selbitchka, 2710 Linwood
James Kayser, Coon Rapids
Margaret Kayser, 2516 Linwood
Al Jirovic, 2480 Linwood

g. Mayor Greavu closed the public hearing.

h. Councilmember Anderson moved to approve the alternate location of the water tower on the north side of Linwood.

Seconded by Councilmember Juker.

Ayes - Mayor Greavu, Councilmembers
Anderson, Juker & Wasiluk

Nay - Councilmember Bastian

i. Councilmember Anderson introduced the following resolution and moved its adoption:

87 - 7 - 144 A

WHEREAS, after due notice of public hearing on the construction of water main along Linwood Avenue from 1,200 feet east of McKnight Road to Century Avenue, and

WHEREAS, it is proposed to relocate the proposed tower site to north of Linwood Avenue, a hearing on said improvement in accordance with the notice duly given was duly held on Monday, July 27, 1987, and the Council has heard all persons desiring to be heard on the matter and has fully considered the same;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, as follows:

1. That it is advisable, expedient, and necessary that the City of Maplewood construct water main along Linwood Avenue from 1,200 feet east of McKnight Road to Century Avenue and relocate the proposed water tower to north of Linwood Avenue as described in the notice of hearing thereon, and orders the same to be made.
2. The City Engineer is designated engineer for this improvement and is hereby directed to prepare final plans and specifications for the making of said improvement.

Seconded by Councilmember Juker.

Ayes - Mayor Greavu, Councilmembers
Anderson, Juker and Wasiluk

Nay - Councilmember Bastian.

G. AWARD OF BIDS

1. 1987 Overlay Project

a. Manager McGuire presented the staff report.

b. Councilmember Bastian introduced the following resolution and moved its adoption:

87 - 7 - 145

BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the bid of Valley Paving, Inc., in the amount of \$78,800.00 is the lowest responsible bid for bituminous resurfacing, Project 86-26 and the Mayor and Clerk are hereby authorized and directed to enter into a contract with said bidder for and on behalf of the City.

Seconded by Mayor Greavu.

Ayes - all.

H. UNFINISHED BUSINESS

1. Cave's Barclay Addition - Preliminary Plat

Deleted.

2. Recreational Vehicle Ordinance

a. Councilmember Bastion reviewed the ordinance.

b. The following persons expressed their opinions,

Robert Ellingsworth, Minn. Cycle Association.

George Anderson

Bob's Cycle, 1945 Rice Street

Robert Engstrom, 1505 E. County Road C

Dave Schroeder, 1721 Rosewood

c. Councilmember Anderson moved to amend the ordinance by eliminating the requirement of sixty minute intervals and the hours of operation be 3:00 P.M. to 8:00 P.M., Tuesday, Wednesday and Fridays and 11:00 A.M. to 5:00 P.M. on Saturday.

Seconded by Councilmember Juker.

Ayes - all.

d. Councilmember Bastian moved several amendments to the proposed ordinance.

Seconded by Councilmember Wasiluk.

Ayes - all.

e. Councilmember Bastian introduced the following ordinance and moved its adoption:

ORDINANCE NO. 605-A

An Ordinance regulating the use of recreational motor vehicles within the City of Maplewood:

Chapter 20, Maplewood Code of Ordinances as amended through December, 1986; is amended by adding a New Article VI as follows:

ARTICLE VI - Recreational Motor Vehicles

Section 20-120. Purpose. The purpose of this ordinance is to provide reasonable regulations for the use of recreational motor vehicles on public and private property in the City of Maplewood.

Section 20-121. Definitions. The following words and phrases shall have the meanings ascribed to them for the purposes of this article:

(a) "Recreational motor vehicle" means any fuel-powered motorized multi-wheeled or track, self-propelled vehicle designed or used for recreational purposes, including, but not limited to all-terrain vehicles, trail bikes, hovercrafts, motorcycles and motorized bicycles, but excluding snowmobiles, wheel chairs and golf carts.

(b) "Operate" means to ride in or on and control the operation of a recreational motor vehicle.

(c) "Operator" means every person who operates or who is in actual physical control of the recreational motor vehicle, regardless of age.

(d) "Dust" means powdery earth or other matter in particles fine enough to be propelled into and then suspended in the air.

(e) "L10 means the sound level, expressed in decibels (dBA) which is exceeded 10 percent of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute.

(f) any other words or phrases used in this ordinance, and defined in regulations of the Minnesota Pollution Control Agency Noise Pollution Control Section, NPC-1 and NPC-4, has the meaning given in those regulations.

Section 20-122. Prohibited Operations. It is unlawful for any person to operate a recreational motor vehicle:

(a) on private property without a permit except as hereinafter permitted.

(b) carelessly or heedlessly in disregard of the rights or the safety of others, or in a manner so as to endanger, or is likely to endanger, person or property;

(c) on public property owned or leased by the City including but not limited to sidewalks, boulevards and park land;

(d) at any place while under the influence of alcohol as defined in Minn. Stat. §152.01 Subd. 4;

(e) in a manner or location so as to create loud, continuous unnecessary or unusual noise. For the purposes of this article, the noise level must be L10/65 dBA's or less, measured 100 feet from the property line or to the nearest residential structure.

(f) unless part of a licensed carnival, sideshow, or licensed amusement parks, under Maplewood Ordinance 6-16, or where otherwise authorized by the Council, in City ordinance or by resolution;

(g) in a manner so as to propel dust into the air which is suspended for longer than 10 seconds;

(h) on private property except on Tuesdays, Wednesdays and Fridays, from 3:00 P.M. until 8:00 P.M., and on Saturdays from 11:00 A.M. until 5:00 P.M.

(i) in addition to other permitted uses, recreational motor vehicles may be operated on private property for maintenance purposes, such as snow removal, farming, gardening, mowing, landscaping or other similar uses. Permits for these purposes shall not be required, nor shall one be required for the use of recreational motor vehicles on private driveways or in garages.

(j) notwithstanding other provisions of this section, on lots with a square footage of 12,000 or less, there shall be no more than one recreational motor vehicle running or operating at any one time.

Section 20-123. Annual Permit; Fee; Revocation

(a) There is imposed an annual permit under this article. The permit shall be issued to the owner or lessee of the property where recreational motor vehicles shall be operated. The fee is due at the time of application.

(b) Permits shall be issued by the City Clerk and expire on the first working day in January of each year.

(c) The annual fee for such renewals shall be established by the City Council by ordinance. For 1987, the fee shall be \$10.00.

(d) The City Manager may, upon the recommendation of the Director of Public Safety, revoke the license issued under this section, in order to prevent further violations or to protect the public health, safety, and welfare. Revocation of the permit may be in addition to the criminal penalties that may be imposed under Section 20-124. The permit, once revoked, may not be issued to the subject property for the remainder of the calendar year.

(e) No permit shall be issued under this section until the public works department inspects the applicant's grading plan, if any, for the subject property. The sole purpose of the review is to consider the impact of any proposed grading on (1) storm water drainage or retention or (2) on any public or private easements involving public or private utilities, pipelines or similar services on the subject property, that the City has notice of in its records. The review by the City shall not involve the nature of the grading for use by recreational motor vehicles.

Section 20-124. Criminal Penalty.

(a) Any person failing to procure or maintain a permit required under this article, or violating any other provision of this article, may be issued a warning. Every person who violates any provision of this ordinance is

guilty of a petty misdemeanor. Each act of violation and each day a violation occurs or continues, constitutes a separate offense. Any person failing to procure or maintain a permit required under this article, or violating any other provision of this article for the second time, may be issued a citation. The sentencing court may consider community service in lieu of a fine.

(b) For any violation of the provisions of this ordinance, the permit may be revoked as provided by Section 20-123.

Section 20-125. Sunset. This article shall be in effect until October 1, 1989.

This Ordinance becomes effective upon its adoption and publication, this 27th day of July, 1987.

Seconded by Councilmember Wasiluk. Ayes - all.

3. Maplewood Firefighters

a. Manager McGuire presented the staff report.

b. Mayor Greavu moved to approve the Maplewood Firefighters' Relief Association By-Laws as amended:

BY-LAWS

Maplewood Firefighters' Relief Association

ARTICLE I

Section 1: Board of Trustees

The Board of Trustees will consist of ten (10) members: six (6) active firemen and three (3) ex-officio members selected from elected officials of the City of Maplewood, the City of Oakdale, and the City of Landfall; and one (1) member from Maplewood Joint Chief's Council. If any of the above Cities do not wish to participate as an ex-officio member, those members will be appointed by the Maplewood Fire Chiefs' Joint Chiefs' Council.

Section 2: Election

Each fire department will elect two (2) trustees from its active membership. The Secretary of the department will certify their names to the Secretary of the Relief Association within 30 days after their election. The Trustees will elect from their members, a president, vice president, secretary, and treasurer prior to the annual meeting.

Section 3: Term

Subd. 1: Each trustee will serve a term of three (3) years or until his successor has been elected.

Subd. 2: The election of the trustees will be staggered so that two (2) trustees are elected each year.

Subd. 3: The term of each officer of the Board of Trustees will be one (1) year.

Section 4: Vacancies

Vacancies of any trustees will be filled within 30 days of the fire department affected. The appointed trustee will serve the unexpired portion of the term.

Section 5: Removal

Any officer or trustee may be removed for cause by a majority vote of the Board. Fifteen (15) days notice of the removal action will be given to the Fire Department that elected the officer or trustee.

Section 6: Compensation

Compensation may be paid for services rendered. The members at any regular or special meeting will determine the amount of compensation. Compensation will be limited to the secretary, treasurer and president. Regular attending board members will be paid expenses.

ARTICLE II

Section 1: Powers and Duties of the Board

- Subd. 1: Board of Trustees. The Board of Trustees will have exclusive control and management of all property and funds of the association. They constitute the governing body of the association with full power to carry out the association's corporate purpose, the provisions of the By-laws, and the laws of the State of Minnesota pursuant to volunteer firemen's relief associations. They will approve all disbursements and provide for an annual audit of the association's accounts. They will establish a Board of Examiners.
- Subd. 2: President. The president will preside at General and Special meetings of the association and meetings of the Board of Trustees. He will countersign all checks, certificates and correspondence requiring legal or official signatures. He will have general supervision over the association and its affairs.
- Subd. 3: Vice President. The vice president will assist the president and perform the duties of the president in his absence.
- Subd. 4: Secretary. The secretary's duties include the following:
- a. Call special meetings. Special meetings will be called within 30 days from receiving a petition signed by at least one-fourth of the membership.
 - b. Notify each fire department at least 15 days in advance of all special and general meetings.
 - c. Keep permanent and accurate records of the minutes of all meetings.
 - d. Keep a membership roster. The roster should contain: Member's name, address, fire department, birth date, beginning date of service (adjusted by the amount of time spent on leave of absence), and status (active, dropped, death, disability, or retired).

- e. Keep an account book in which he will enter all money transactions of the association. The entries will include the dates, amounts, and source of all receipts; and the dates, amounts, payee, and purpose of all expenditures.
- f. He will be the custodian of the seal and records of the association.
- g. He will sign all official papers.
- h. He will perform any other duties imposed by the Board.
- i. He will obtain from the secretary of each fire department the date necessary to prepare and consolidate reports for the association.
- j. He will prepare and file all required Federal, State, County, and Local Reports for the association.

Subd. 5. Treasurer. The treasurer's duties include the following:

- a. He will receive and safely keep all money belonging to the association.
- b. He will promptly enter in a book provided for that purpose a record of all money received and disbursed by him, showing the source, payees, dates, and explanation of each transaction.
- c. He will pay out money when authorized by the board.
- d. He will retain all cancelled checks and financial records for a period of at least seven years.
- e. He will assist the secretary in the preparation of annual financial reports.
- f. He will file with the secretary a security bond sufficient to cover any possible losses.

Subd. 6. Board of Examiners. The Board of Examiners shall make a thorough investigation of and report on all applications for membership in the Association; investigate and make reports on all applications for disability pensions and make recommendations as to the amount to be paid to each applicant; investigate and make reports on all disability pensions, and make recommendations as to amount of pension to be paid to them from year to year; and investigate and report on all applications for service pensions, and claims for relief. This Board shall consist of a competent physician selected by the Association, and three members of the Relief Association on active duty with one of the three fire departments. Each fire department represented in the MFFRA shall be represented on the Board of Examiners.

ARTICLE III

Section 1: Special Fund

All funds received by this association from the State of Minnesota Appropriations, Fire Service contractors, or Misc. Donations will be kept in this fund.

Section 2: General Fund

All funds received by the association not identified as Special Funds will be kept in this fund.

Section 3: Disbursements

Subd. 1: Disbursements of funds from the Special Fund will be made as directed by the Board pursuant to the laws of the State of Minnesota.

Subd. 2: Disbursement of the General Fund will be made for any purpose suited to the welfare of the members of this association.

Section 4: Funds

All money belonging to this association will be deposited in the name of the association in banks, trust companies, savings and loan association or other depositories designated by the Board.

Section 5: Investments

The funds of this association may be invested by the Board in income paying properties and securities authorized by law.

ARTICLE IV

Section 1: Membership

All active members of the East County Line, Gladstone, and Parkside Fire Departments will be eligible for membership (subject to exclusion per Subd. 4 - Sect. 11 - Chapter 69, Minnesota Statutes). (Total members not to exceed forty-five (45) members per department or sixty-five (65) members per department), while said department has under its management a detached fire station.

A firefighter cannot be a member of the Relief Association until he is a fully accepted member of the Fire Department. Then the Board must give him an application to be filled out and then must act on him separately.

Section 2: Age Requirements

No person under the age of 18 years shall be accepted. All members shall retire from the association upon reaching the age of 65.

Section 3: Expulsion

When a notice has been received from the fire department that a member has been expelled, the department trustee will advise the member that his membership in the association has also terminated.

ARTICLE V

Section 1: Regular Meetings of the Board

The Board will meet on a regular basis on the 1st Monday of every even numbered month at 7:30 P.M.

Section 2: Special Board Meetings

Special meetings will be called by the president after receiving a request by any trustee. The secretary will give advance notice of the time and place of the meeting to each fire department and ex-officio members.

Section 3: Annual Meeting

The association Annual Meeting will be held the fourth Sunday in January at a designated site starting at 12:30 P.M.

Section 4: Special Membership Meetings

Subd. 1: On a majority vote the Board of Trustees can call a special membership meeting.

Subd. 2: When the president receives a petition signed by one-fourth (1/4) of the membership, he shall call for a special meeting.

Subd. 3: The secretary will file the petition and arrange the meeting within 30 days of receipt of the petition with advance notice of 15 days to be given to each fire department and ex-officio member.

Section 5: Quorums

Six trustees will be considered a quorum for the board of Trustees. Twenty or more members will constitute a quorum for a membership meeting.

Section 6: Notice of Meetings

The secretary will notify each trustee for all board of trustee meetings. In the case of membership meetings, the chief and secretary of each department will receive 15 days advance notice of any membership meetings. The fire chief will be responsible to notify each of his members.

Section 7: Order of Business

The following order of business shall be observed for all meetings:

- A. Call to order
- B. Roll call

- C. Reading of minutes of previous meeting
- D. Secretary's report
- E. New and dropped members
- F. Treasurer's report
- G. Committee reports
- H. Communications
- I. Unfinished business
- J. New Business
- K. Retirement applications
- L. Adjournment

Section 8: Voting

At meetings of trustees, each trustee will be entitled to one vote. At membership meetings, each member will be entitled to one vote. Voting by proxy is not permitted

ARTICLE VI

Section 1: Effective Date of Benefits

All benefits will be based on the date the member leaves the fire service and not the date of their application for benefits.

Section 2: Service Credit

Each member will accumulate a service credit at the rate of \$91.66 per month or major fraction thereof, (\$1,100.00 per year). (No limit on years of service except as stated in Article IV - Section 2 - Age Requirements.) Leave of absence will not count as service time, and the service entry date will be adjusted accordingly.

Section 3: Payments

Subd. 1: Service payment. All benefits will be paid in a lump sum. Application for benefits must be received within three (3) months after the benefits are due. The applicant will have two options available to receive the lump sum: 1) One full payments, or 2) Two to five equal annual installment payments with no interest. If the second option is selected, a letter so stating must accompany the application. If option 2 is selected, the payment process is irrevocable.

If the applicant dies before all installments have been received, the balance of the deferred account will be paid in full in a lump sum to the beneficiary listed on the beneficiary card. The applicant may request the dates in which he wishes to receive the installments. If no instructions are received, the installments will be disbursed in January of every year. The installment payment option is only available for pension and disability benefits. Death benefits will be paid in one payment only.

Subd. 2: Deferred Service Payment. Any member who retires before age 50 will receive 5% interest compounded annually on the service credit due until he reaches age 50.

Section 4: Pension Benefits

Upon completion of 20 or more years of active service and after age 50, any member may apply for his service credit.

Subd. 1: Regular pension

Subd. 2: Early vested pension benefit. Any member who has served more than ten (10) years of active service but less than twenty (20) years may apply for early vested pension benefit. When the member reaches the age of fifty (50) years they will receive their pension as follows:

a. For duty of:

<u>more than 10 years</u>	<u>- less than 11 years</u>	<u>- 60%</u>
11	12	64%
12	13	68%
13	14	68%
14	15	76%
15	16	80%
16	17	84%
17	18	88%
18	19	92%
19	20	96%
20		100%

- b. The payment amount will be calculated by using the amount payable per year of service in effect at the time of such early retirement, multiplied by the number of accumulate years of service, multiplied by the appropriate percentage as defined in (a) above.
- c. During the time a member is on early vested pension, they will not be eligible for the benefits provided for in Section 6.
- d. All monies deferred under the early vested provision shall earn 5% interest compounded annually.
- e. The effective date of this provision is January 23, 1983.

Section 5: Death Benefits

In the event of death of any member, the association will pay to the beneficiary the larger of his service credit or \$3,000.00.

Section 6: Disability Benefits

Subd. 1: Definition. In the event of total disability, a member shall be paid the larger of \$3,000.00 or his/her service credit. Disability is defined as the inability to engage in performance of his/her regular duties as a firefighter by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve months.

Subd. 2: Reports Required. No member shall be awarded, granted or paid disability benefits to subdivision 1 except upon the written report of one or more physicians or surgeons chosen by the MFFRA Board. This report shall set forth the cause, nature, and extent of disability, disease or injury of the member. Each such report shall be filed with the Association.

Subd. 3: Procedure. All applications for disability benefits shall be made within sixty (60) days after such applicant has ceased to be an active member of the fire department. Written application shall be made to the MFFRA Board setting out the nature and cause of such disability. This application shall be under oath. The application will be laid over until the next meeting of the MFFRA so that the applicant may be examined by one or more physicians of MFFRA's choice. This physician shall submit a written opinion concerning the nature and degree of the applicant's disability and its probable duration or permanence.

Final determination of disability will be based on the reports of at least one doctor, a recommendation of the Board of Examiners and by majority vote of the Board of Trustees present at the Maplewood Firefighters Relief Association meeting.

Subd. 4: An applicant shall not be considered under a disability unless he/she furnishes such medical and other evidence of the existence thereof as the MFFRA may require. An applicant's statement as to pain or other symptoms will not alone be conclusive evidence of disability as defined in Subdivision 1. There must be medical signs and findings, established by medically acceptable clinical or laboratory diagnostic techniques, which show the existence of a medical impairment that results from anatomical, physiological, or psychological abnormalities which could reasonably be expected to produce the pain or other symptoms alleged and which, when considered with all evidence required to be furnished under this subdivision (including statements of the applicant or his/her physician as to the intensity and persistence of such pain or other symptoms which may reasonably be accepted as consistent with the medical signs and findings) would lead to a conclusion that the applicant is under a disability. Objective medical evidence of pain or other symptoms established by medically acceptable clinical or laboratory techniques must be considered in reaching a conclusion as to whether the applicant is under a disability.

Subd. 5: Grievance Procedure. If the applicant for disability benefits feels he/she has been aggrieved by any action of the Board, he/she shall, within sixty (60) days from notice of such action of the MFFRA, file written objections and the reasons thereof with the MFFRA and said MFFRA may order said applicant to further appear before the MFFRA for further examination.

ARTICLE VII

AMENDMENTS

These by-laws may be amended at any annual or special meeting by a majority vote of the membership, provided the proposed amendment was presented in writing to each of the fire departments 30 days prior to the meeting.

ARTICLE VIII

FINANCIAL OBLIGATIONS

Should the Relief Association's general or special account become depleted to the extent that the benefits by these by-laws cannot be paid, the board of trustees

will determine how much each fire department will contribute to replenish such fund, pending amendment of by-laws to provide for lesser benefits. The same amount will apply to each department.

ARTICLE IX

DISSOLUTION

The funds remaining in the special account shall be disbursed as provided by State Law. If State law does not provide for the disposition, the Board of Trustees will determine the disposition of this account as well as the general account.

Seconded by Councilmember Bastian.

Ayes - Mayor Greavu, Councilmembers
Anderson, Bastian and Wasiluk

Councilmember Juker abstained.

I. NEW BUSINESS

1. Charles Pearson - Fire Siren

a. Mr. Pearson requested that the Hazelwood Fire Siren only be sounded when there was severe weather, pager failure or a national emergency.

b. Director of Public Safety Collins explained why the sirens were necessary.

c. No action taken.

2. Establish Open Space Committee

a. Mayor Greavu introduced the following resolution and moved its adoption:

87 - 7 - 146

WHEREAS, the City of Maplewood has realized a serious need to preserve in its natural state certain land areas in the City; and

WHEREAS, it is important that we preserve and enhance the City's environment, which includes such characteristics as wetlands, natural drainage, natural vegetation, habitat for wildlife, etc.; and

WHEREAS, there is a serious need for a study of the above described Open Space needs;

NOW, THEREFORE, THE CITY COUNCIL OF MAPLEWOOD hereby creates an Open Space Committee to investigate and identify Open Space lands that are available for acquisition by governmental agencies; and to give an approximate value of the property that has been identified for Open Space, and to return a report to the Maplewood City Council by October 15, 1987.

Seconded by Councilmember Wasiluk.

Ayes - all.

b. Councilmember Bastian moved that there be up to ten (10) members appointed to the open space committee and that the following be appointed:

Charlotte Wasiluk
Norman Anderson
Don Christianson
Marilyn Vars
Bill Mahre
Warren Wallgren

Seconded by Mayor Greavu. Ayes - all.

Councilmember Bastian moved to suspend the Rules of Procedures and add NAPA to the Agenda.

Seconded by Mayor Greavu. Ayes - all.

3. Authorization to Replace Naturalist.

a. Manager McGuire presented the Staff report.

b. Councilmember Wasiluk moved to authorize the replacement of a permanent part-time naturalist for the Nature Center.

Seconded by Councilmember Bastian. Ayes - all.

4. McKnight Road Agreement

a. Mayor Greavu moved to approve the agreement with Ramsey County for construction of McKnight Road from Beaver Lake to Larpenteur Avenue.

Seconded by Councilmember Bastian. Ayes - all.

5. B.N. Corridor Acquisition

a. Councilmember Bastian introduced the following resolution and moved its adoption:

87 - 7 - 147

WHEREAS, Ramsey County has established a regional rail authority; and

WHEREAS, this rail authority has the power to acquire abandoned rail corridors; and

WHEREAS, the Burlington Northern corridor has been abandoned within the Cities of Maplewood and St. Paul; and

WHEREAS, Burlington Northern plans to sell the corridor in sections to private and public interests if a public offer is not made; and

WHEREAS, this corridor should be acquired for public use; and

WHEREAS, the regional rail authority is in the best position to acquire this corridor and represent the multiple agencies and jurisdictions interested in its use.

NOW, THEREFORE BE IT RESOLVED, that the City of Maplewood urges the regional rail authority to appoint a corridor advisory committee to study and develop a proposal to acquire the abandoned Burlington Northern rail corridor; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that this task force include representatives from the City of Maplewood.

Seconded by Mayor Greavu. Ayes - all.

6. Comparable Worth - Special Meeting Date

a. Councilmember Bastian moved to establish a closed Council Meeting for 4:30 P.M., Thursday, August 13, 1987, to discuss comparable worth pay equity for employees.

Seconded by Councilmember Wasiluk. Ayes - all.

7. Council Salaries

a. Councilmember Juker moved first reading of an ordinance to increase the council salaries effective January of 1988.

Seconded by Councilmember Anderson. Ayes - Councilmembers Anderson, Juker and Wasiluk

Nays - Mayor Greavu and Councilmember Bastian.

Councilmember Anderson moved to extend the meeting past the deadline.

Seconded by Mayor Greavu. Ayes - all.

8. Flood Problems

a. Director of Public Works Haider explained the flooding problems at 1613 Sandhurst Drive.

b. Council directed the health officer and building official to investigate the safety of the dwelling.

9. Change Order

a. Councilmember Bastian moved to approve Change Order No. 2 to Project 86-03B in the amount of \$7000.00 for the contractor to grade Geranium Park on a time and material basis.

b. Councilmember Bastian moved to approve Change Order No. 2 for Project 86-03B in the amount of \$7000.00 for the grading of Geranium Park.

Seconded by Mayor Greavu. Ayes - all.

K. COUNCIL PRESENTATIONS

1. East Community Family Service

a. Councilmember Bastian updated the Council regarding the East Community Family Service.

Meeting adjourned at 11:00 P.M. to reconvene at 4:30 P.M., Thursday, July 30, 1987.

July 27, 1987 Meeting reconvened at 4:30 P.M., Thursday, July 30, 1987.

Roll Call

John C. Greavu, Mayor	Present
Norman G. Anderson, Councilmember	Present
Gary W. Bastian, Councilmember	Present
Frances L. Juker, Councilmember	Present
Charlotte Wasiluk, Councilmember	Present

K. COUNCIL PRESENTATIONS (Continued)

2. Power Outages

a. Councilmember Bastian stated his area was experiencing numerous power outages.

b. Staff answered Mr. Bastian's questions.

3. N.A.P.A.

a. Councilmember Bastian stated he felt N.A.P.A. had made every attempt to remove the blue paint from their building. He requested N.A.P.A. be allowed to use their National Logo color.

b. No action taken. Item to be on August 10, 1987 Agenda.

4. Recycling Solid Waste Committee Meeting

a. Councilmember Wasiluk was asked by the Committee to establish a meeting with the Council, Ramsey County Commissioners Hal Norgard and Warren Schaeber and the Recycling Solid Waste Committee. She wondered if Council was interested.

b. Meeting established August 6, 1987, at 6:00 P.M. in Conference Room A.

5. House on Beam - Frattalone Property

a. Councilmember Wasiluk stated she had her questions answered previously.

Councilmember Anderson moved to waive the Rules of Procedure and add Council Rules of Procedure to the Agenda.

Seconded by Mayor Greavu.

Ayes - all.

6. Rules of Procedure

a. Councilmember Anderson moved that the Council Rules of Procedures be placed on the August 10, 1987 Agenda.

Seconded by Mayor Greavu.

Ayes - all.

L. ADMINISTRATIVE PRESENTATION

None.

M. ADJOURNMENT

5:47 P.M.

City Clerk

MINUTES OF MAPLEWOOD CITY COUNCIL
5:00 P.M., Monday, September 21, 1987
Main Conference Room, Municipal Building
Meeting No. 87-19

A special meeting of the City Council of Maplewood, Minnesota, was held in the Main Conference Room, Municipal Building, and was called to order at 5:00 P.M. by Mayor Greavu.

Council members present were John C. Greavu, Norman G. Anderson, Gary W. Bastian and Frances L. Juker. Also present were Mike McGuire, City Manager, and Dan Faust, Finance Director. The purpose of the meeting was to discuss the Proposed 1988 Budget.

Manager McGuire discussed the letter of transmittal with the Council. Councilmember Bastian requested staff to supply the Council with a listing of the average market value of homes in Maplewood for the past 10 years and to indicate what portion of the total taxes are for the City.

Councilmember Bastian also requested staff to determine the potential cost for Unemployment Compensation benefits if the proposed two new employees in the Engineering Division are laid off in one to two years.

At 5:15 P.M. Larry Cude and John Zuercher arrived. The Proposed 1988 Budget for the Emergency Services Division was discussed. Larry Cude and John Zuercher left at 5:30 P.M.

At 5:30 P.M. Ken Haider arrived. The Public Works Department Proposed 1988 Budget was discussed.

Mayor Greavu requested staff to investigate if the cost of the new opticons on Century Avenue could be shared with adjoining cities.

Manager McGuire informed the Council that the repainting of the interior of the water tank was being delayed to 1988. Therefore, the Proposed 1988 Budget for the Hydrant Charge Fund needed to be revised by the transfer of \$125,000 from 1987 to 1988 for Account 03-4470-60.

Ken Haider left at 6:20 P.M. and Ken Collins arrived. The Proposed 1988 Budget for the Public Safety Department was discussed. Ken Collins left at 7:25 P.M.

At 7:30 P.M. Geoff Olson arrived. The Community Development Department Proposed 1988 Budget was discussed.

At 7:40 P.M. Geoff Olson left and Lucille Aurelius arrived. The Proposed 1988 Budget for the City Clerk's Department was discussed.

Councilmember Juker requested staff to determine the cost to hire a part-time employee to work two hours per day during the lunch period.

At 8:00 P.M. Lucille Aurelius left.

The Council discussed the Proposed 1988 Budget for the Finance and General Government Departments.

At 8:20 P.M. Bob Odegard arrived. The Parks and Recreation Department Proposed 1988 Budget was discussed. At 8:40 P.M. Bob Odegard left.

The Council discussed the Capital Improvements Budget and directed staff to increase the levy for the C.I.P. Fund by approximately \$20,000 so that the City's total tax levy for 1988 will be 2%.

The Council discussed the state levy limit law. Council directed staff to increase the General Fund tax levy to the levy limit, to decrease the Debt Service tax levy by a corresponding amount, and to include a budgeted transfer from the General Fund to the Debt Service Funds by the same amount.

The Mayor adjourned the meeting at 9:30 P.M.

ACCOUNTS PAYABLE WILL BE DISTRIBUTED TO YOU LATER.

DATE 09/15/87

CITY OF MAPLEWOOD

PROGRAM PR10

PAYROLL CHECK REGISTER REPORT

Payroll
9-18-87

CHECK NUM	EMPLOYEE NUMBER	NAME			GROSS PAY
10969	01-0109	GREAVU	JOHN	C	400.00
10970	01-0480	WASILUK	CHARLOTTE	P	325.00
10971	01-1318	BASTIAN	GARY	W	325.00
10972	01-7538	JUKER	FRANCES	L	325.00
10973	01-8088	ANDERSON	NORMAN	G	325.00
DIVISION 01 LEGISLATIVE					1700.00
10974	02-1801	McGUIRE	MICHAEL	A	2330.59
10975	02-9671	BEHM	LOIS	N	852.25
DIVISION 02 CITY MANAGER					3182.84
10976	10-4474	JAHN	DAVID	J	668.25
10977	10-6523	SWANSON, JR.	LYLE	E	935.83
DIVISION 10 CITY HALL MAINT					1604.08
10978	12-0166	CUDE	LARRY	J	242.40
10979	12-0908	ZUERCHER	JOHN	L	157.60
10980	12-5905	OSTER	ANDREA	J	665.05
DIVISION 12 EMERGENCY SERVICES					1065.05
10981	21-1078	FAUST	DANIEL	F	1846.28
DIVISION 21 FINANCE ADMINISTRATION					1846.28
10982	22-4432	MOELLER	MARGARET	A	732.59
10983	22-4446	MATHEYS	ALANA	K	868.25
10984	22-7550	VIGNALO	DELORES	A	852.25
10985	22-9267	ANDERSON	CAROLE	J	1146.46
DIVISION 22 ACCOUNTING					3599.55

CHECK NUM	EMPLOYEE NUMBER	NAME			GROSS PAY
10986	31-2198	AURELIUS	LUCILLE	E	1705.48
10987	31-4816	SELVOG	BETTY	D	186.00
10988	31-9815	SCHADT	JEANNE	L	745.85
DIVISION 31 CITY CLERK ADMINISTRATION					2637.33
10989	33-0547	KELSEY	CONNIE	L	428.55
10990	33-1614	BROWN	BARBARA	E	67.30
10991	33-4435	VIETOR	LORRAINE	S	793.48
10992	33-4994	HENSLEY	PATRICIA	A	473.14
10993	33-6105	CARLE	JEANETTE	E	657.54
10994	33-8389	GREEN	PHYLLIS	C	929.05
DIVISION 33 DEPUTY REGISTRAR					3349.06
10995	41-1717	COLLINS	KENNETH	V	1917.48
10996	41-2356	RICHIE	CAROLE	L	706.65
10997	41-2934	SVENDSEN	JOANNE	M	964.37
10998	41-3183	NELSON	ROBERT	D	1675.88
10999	41-7636	OMATH	JOY	E	720.25
11000	41-9263	MARTINSON	CAROL	F	659.77
DIVISION 41 PUBLIC SAFETY ADMIN					6644.40
11001	42-0130	ZAPPA	JOSEPH	A	1455.26
11002	42-0251	STILL	VERNON	T	1308.68
11003	42-0457	SKALMAN	DONALD	W	1357.48
11004	42-0918	NELSON	CAROL	M	1408.06
11005	42-0990	MORELLI	RAYMOND	J	1332.68
11006	42-1204	STEFFEN	SCOTT	L	1323.08
11007	42-1364	ARNOLD	DAVID	L	1455.26
11008	42-1577	BANICK	JOHN	J	1503.86
11009	42-1660	BOAL	JOHN	C	1190.21
11010	42-1899	CAHANES	ANTHONY	G	1675.88
11011	42-1930	CLAUSON	DALE	K	1357.48
11012	42-2063	MOESCHTER	RICHARD	M	1449.22
11013	42-2115	ATCHISON	JOHN	H	1396.68

DATE 09/15/87

CITY OF MAPLEWOOD

PROGRAM PR10

PAYROLL CHECK REGISTER REPORT

CHECK NUM	EMPLOYEE NUMBER	NAME			GROSS PAY
11014	42-2884	PELTIER	WILLIAM	F	1455.26
11015	42-2899	SZCZEPANSKI	THOMAS	J	1044.49
11016	42-3243	WELCHLIN	CABOT	V	1029.82
11017	42-3591	LANG	RICHARD	J	1397.17
11018	42-4775	PALMA	STEVEN	T	879.88
11019	42-4916	HERBERT	MICHAEL	J	1371.88
11020	42-6119	DREGER	RICHARD	C	1455.26
11021	42-7686	MEEHAN, JR	JAMES	E	1320.73
11022	42-8226	STAFNE	GREGORY	L	1357.24
11023	42-8434	BECKER	RONALD	D	1332.68
11024	42-8516	HALWEG	KEVIN	R	1724.66
11025	42-9204	STOCKTON	DERRELL	T	1397.07
11026	42-9499	PAULOS-JR.	PAUL	G	238.80
11027	42-9867	BOWMAN	RICK	A	1331.16
DIVISION 42 POLICE SERVICES					35549.93
11028	43-0009	KARIS	FLINT	D	1332.68
11029	43-0466	HEINZ	STEPHEN	J	1344.95
11030	43-1789	GRAF	DAVID	M	1405.48
11031	43-2052	THOMALLA	DAVID	J	1447.27
11032	43-2201	YOUNGREN	JAMES	G	1448.36
11033	43-4316	RAZSKAZOFF	DALE	E	1525.46
11034	43-6071	VORWERK	ROBERT	E	1405.48
11035	43-7418	BERGERON	JOSEPH	A	1270.99
11036	43-7791	MELANDER	JON	A	1504.59
DIVISION 43 PARAMEDIC SERVICES					12685.26
11037	45-1878	EMBERTSON	JAMES	M	1431.88
11038	45-3333	WILLIAMS	DUANE	J	1256.68
DIVISION 45 FIRE PREVENTION					2688.56
11039	46-0183	RABINE	JANET	L	993.73
11040	46-0322	STAHNKE	JULIE	A	908.81
11041	46-0389	BOYER	SCOTT	K	855.65

CHECK NUM	EMPLOYEE NUMBER	NAME			GROSS PAY
11042	46-2990	SARAFOLEAN	JULIA	A	762.73
11043	46-4801	RYAN	MICHAEL	P	1660.84
11044	46-5919	NELSON	KAREN	A	953.69
11045	46-7030	MARTIN	SHAWN	M	978.01
11046	46-7236	FLAUGHER	JAYME	L	953.69
DIVISION 46 DISPATCHING SERV					8067.15
11047	51-0267	BARTA	MARIE	L	697.69
11048	51-6872	HAIDER	KENNETH	G	1795.08
11049	51-8993	CHLEBECK	JUDY	M	884.25
DIVISION 51 PUBLIC WORKS ADMIN					3377.02
11050	52-0547	MEYER	GERALD	W	1111.23
11051	52-1241	KANE	MICHAEL	R	1175.45
11052	52-1431	LUTZ	DAVID	P	1044.21
11053	52-3473	KLAUSING	HENRY	F	1102.65
11054	52-4037	HELEY	RONALD	J	1062.65
11055	52-4501	OSWALD	ERICK	D	753.05
11056	52-6224	TEVLIN, JR.	HARRY	J	1112.29
11057	52-6254	FREBERG	RONALD	L	1062.65
11058	52-8314	CASS	WILLIAM	C	1497.66
DIVISION 52 STREET MAINTENANCE					9921.84
11059	53-1010	ELIAS	JAMES	G	1203.45
11060	53-1688	PECK	DENNIS	L	1203.45
11061	53-2522	PRIEBE	WILLIAM		1266.85
11062	53-3970	AHL-JR.	RAY	C	1489.66
11063	53-4671	GESSELE	JAMES	T	1291.35
11064	53-5069	COLLINS	STEVEN	A	301.63
11065	53-6109	GEISSLER	WALTER	M	1337.28
DIVISION 53 ENGINEERING					8093.67

CHECK NUM	EMPLOYEE NUMBER	NAME			GROSS PAY
11066	54-3775	LOFGREN	JOHN	R	872.86
DIVISION 54 PUBLIC WORKS BLDG MAINT					872.86
11067	58-1014	NADEAU	EDWARD	A	1121.90
11068	58-1590	MULWEE	GEORGE	W	1015.24
11069	58-1720	NUTESON	LAVERNE	S	1530.34
11070	58-2563	BREHEIM	ROGER	W	1119.96
11071	58-2582	EDSON	DAVID	B	1119.96
11072	58-5993	OWEN	GERALD	C	401.85
DIVISION 58 SAN SEWER OPERATION					6309.25
11073	59-1000	MULVANEY	DENNIS	M	1161.85
11074	59-2123	SPREIGL	GEORGE	C	353.05
DIVISION 59 VEH & EQUIP MAINT					1514.90
11075	61-0389	ODEGARD	ROBERT	D	1723.08
11076	61-1066	BRENNER	LOIS	J	868.25
11077	61-1993	KRUMMEL	BARBARA	A	359.72
11078	61-2618	STAPLES	PAULINE		1367.26
DIVISION 61 COMM SERVICES ADMIN					4318.31
11079	62-1998	WILLIAMS	MATTHEW	D	76.00
11080	62-2111	TRAVERS	DANIEL	L	82.88
11081	62-3790	ANDERSON	ROBERT	S	1013.05
11082	62-3915	LINDORFF	DENNIS	P	1019.93
11083	62-4097	YUKER	WALTER	A	81.00
11084	62-4121	HELEY	ROLAND	B	1062.65
11085	62-5506	MARUSKA	MARK	A	1175.45
11086	62-6943	SCHNEIDER	GREGORY	W	210.00
11087	62-7219	BURKE	MYLES	R	1102.65
11088	62-8182	GERMAIN	DAVID	A	1082.65

DATE 09/15/87

CITY OF MAPLEWOOD

PROGRAM PR10

PAYROLL CHECK REGISTER REPORT

CHECK NUM	EMPLOYEE NUMBER	NAME			GROSS PAY
11089	62-8762	BRENNER	JAY		210.00
DIVISION 62 PARK MAINTENANCE					7116.26
11090	63-3744	VASQUEZ	MICHAEL	A	351.50
11091	63-4246	WARD	ROY	G	406.40
11092	63-6422	TAUBMAN	DOUGLAS	J	1056.86
DIVISION 63 RECREATION PROGRAMS					1814.76
11093	64-0508	GREW	JANET	M	892.25
11094	64-4624	HORSNELL	JUDITH	A	787.24
DIVISION 64 NATURE CENTER					1679.49
11095	71-0124	DOHERTY	KATHLEEN	M	745.85
11096	71-0551	OLSON	GEOFFREY	W	1701.48
11097	71-3174	WEGWERTH	JUDITH	A	415.83
11098	71-8754	LIVINGSTON	JOYCE	L	356.44
DIVISION 71 COMM DEVELOPMENT ADMIN					3219.60
11099	72-7178	EKSTRAND	THOMAS	G	1035.45
11100	72-8505	JOHNSON	RANDALL	L	1034.23
DIVISION 72 PLANNING					2069.68
11101	73-0677	OSTROM	MARJORIE		1391.26
11102	73-1942	CARVER	NICHOLAS	N	1059.45
DIVISION 73 BUILDING INSPECTIONS					2450.71

AGENDA REPORT

Action by Council:

TO: City Manager
 FROM: Finance Director *R. O. King*
 RE: Renewal of Insurance Contracts
 DATE: September 18, 1987

Endorsed _____
 Modified _____
 Rejected _____
 Date _____

INTRODUCTION

It is proposed that the existing one-year contracts for employee insurance be renewed with Blue Cross/Blue Shield, Group Health, Employee Benefits Plan and Commercial Life.

BACKGROUND

Contracts for employee group insurance coverages are rebid every four years as required by state law. Annually the contracts require to be renewed. The current one-year contracts with the above companies expire October 1, 1987. Contract renewal proposals from all of these companies except Commercial Life indicate that premium rates will increase by 5% to 18% based upon claims experience. Commercial Life has indicated that they will not require a premium increase.

The City also has an insurance contract with Share Health Plan, but this contract does not expire until October 1, 1988.

RECOMMENDATION

It is recommended that the existing one-year contracts for employee insurance be renewed with Blue Cross/Blue Shield, Group Health, Employee Benefits Plan and Commercial Life.

DFF:kd

MEMORANDUM

Action by Council 5 - 3

Endorsed _____

Modified _____

Rejected _____

Date _____

TO: City Manager
FROM: Associate Planner--Johnson
SUBJECT: Time Extension
LOCATION: Between Mailand Road and Highpoint Curve
APPLICANT/OWNER: Marv Anderson Construction
PROJECT: Crestview Third Addition Preliminary Plat
DATE: August 31, 1987

SUMMARY

Introduction

The applicant is requesting a one-year time extension for the unplatted portion of the Crestview Third Addition preliminary plat. (Refer to the map on page 7).

Discussion

The first phase (page 8) of the plat was final platted in December 1985. The applicant expects to request final plat approval for the remainder of the development next spring. There have not been any code amendments or changes in the area that would justify denial of the requested time extension.

Recommendation

Approval of a one-year time extension for the remaining unplatted portion of the Crestview Third Addition preliminary plat, subject to the 10-9-85 conditions of approval.

BACKGROUND

Past Actions

11-1-79:

1. Council approved a planned unit development (86 single dwellings and ten double dwellings) for this project, with the condition that the first building permit must be issued within one year or the planned unit development shall terminate unless renewed by the city council.

2. Council also conditionally approved a preliminary plat (page 7).

6-5-80:

Council approved a 90-day time extension for the Crestview Third Addition preliminary plat, subject to the original conditions.

10-16-80:

Council approved a 90-day time extension, subject to the original conditions, and also renewed the planned unit development for one year.

1-22-81, 4-16-81 and 8-6-81:

Council approved ninety-day time extensions for the preliminary plat, subject to the original conditions.

9-13-82:

Council approved a one-year time extension for the planned unit development and preliminary plat. In January 1983, the applicant chose to let the planned unit development expire. The development is now limited to single dwellings.

10-9-85:

1. Council approved and amended the 11-1-79 conditions of preliminary plat approval to read as follows:

a. A signed developer's agreement shall be submitted to the city engineer to assure construction of the following items:

(1) All internal improvements, including the two drainage ponds. (Phase I and II)

(2) That part of the pond on the adjacent town house property to the west. (Phase I)

(3) An outlet pipe from the southeast pond to the Mailand Road storm sewer. (Phase I)

(4) A ten-foot wide asphalt path, (eight feet if no fencing) between Lot 12, Block 2 and Lot 1, Block 3. Fencing will not be required if the trail is constructed prior to construction of the adjoining dwelling. (Phase I)

(5) A ten-foot wide asphalt trail (eight feet wide, if no fence and nine feet wide, if fenced on one side) along the west edge of the Williams Brothers' pipeline easement and on the walkway to be dedicated west of Lot 1, Block 5, Crestview Addition. (Phase I)

Fencing will not be required along the west side of the trail if it is constructed before an abutting dwelling is constructed. Fencing will also not be required along the east side of the trail provided the owners of the single dwelling properties unanimously agree that fencing is not necessary.

If fencing is installed, gates onto the trail from adjoining properties may be permitted, provided the property owner pays the costs of the gate. The type of fencing material shall be approved by the city parks' director.

Written permission from Williams Brothers' pipeline shall be submitted to the director of community development authorizing the trail on their easement.

The applicant shall eliminate the depression in the trail corridor, north of Mailand Road, to the maximum extent permitted by Williams Brothers' pipeline.

- b. Approval of final grading and drainage plan by the city engineer. (Phase I and II)
- c. Deed restrictions shall be approved by the city attorney and filed with each of the double-frontage lots, restricting drive access to the interior street. (Phase I)
- d. The applicant shall deed Outlots A and B (storm water ponds) to the city or revise these outlots by extending the rear yards of adjacent lots and showing drainage easements over the areas presently shown as Outlots A and B. (Phase I)
- e. The developer's agreement shall contain the erosion control procedures recommended by the soil conservation service in their report of March 26, 1979, except for Condition 1 on page 3. (Phase I and II)
- f. Council vacation of the north three feet of the Mailand Road right-of-way. (Phase I)
- g. Renaming "Lakewood Drive" and "Crestview Lane" to "Marnie Curve." All of the street addresses shall be for a north/south street. (Phase II)

h. Renaming "Marnie Street" and "Prescott Road" to Highpoint Curve." All of the street addressed shall be for a north/south street (Phase I).

i. The city approves the temporary use of crushed limestone for the streets, until they can be paved in the spring. The developer must sign an agreement that holds the city harmless from any liability caused by the use of crushed limestone, rather than paving (Phase I).

2. Council approved a one-year time extension for the portion of the Crestview Third Addition preliminary plat to be developed as the second phase (page 7).

3. Council vacated the north three feet of the Mailand Road right-of-way that abutted the entire preliminary plat site.

4. Council rezoned the entire preliminary plat site from F, farm to R-1, single dwelling.

12-9-85:

Council approved the Crestview Third Addition final plat first phase (page 8).

10-13-86:

Council approved a time extension for the unplatted portion of the Crestview Third Addition preliminary plat, subject to 10-9-85 conditions of approval.

Planning

Section 1005 (e) of the subdivision code provides that for one year following preliminary approval and for two years following final plat approval "unless the subdivider and the city agree otherwise, no amendment to the comprehensive plan or official control shall apply to or affect the use, development density, lot size, lot layout or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the city may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application, unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, the city may by resolution and agreement grant the rights referred to herein for such periods of time longer than two (2) years which it determines to be reasonable and appropriate."

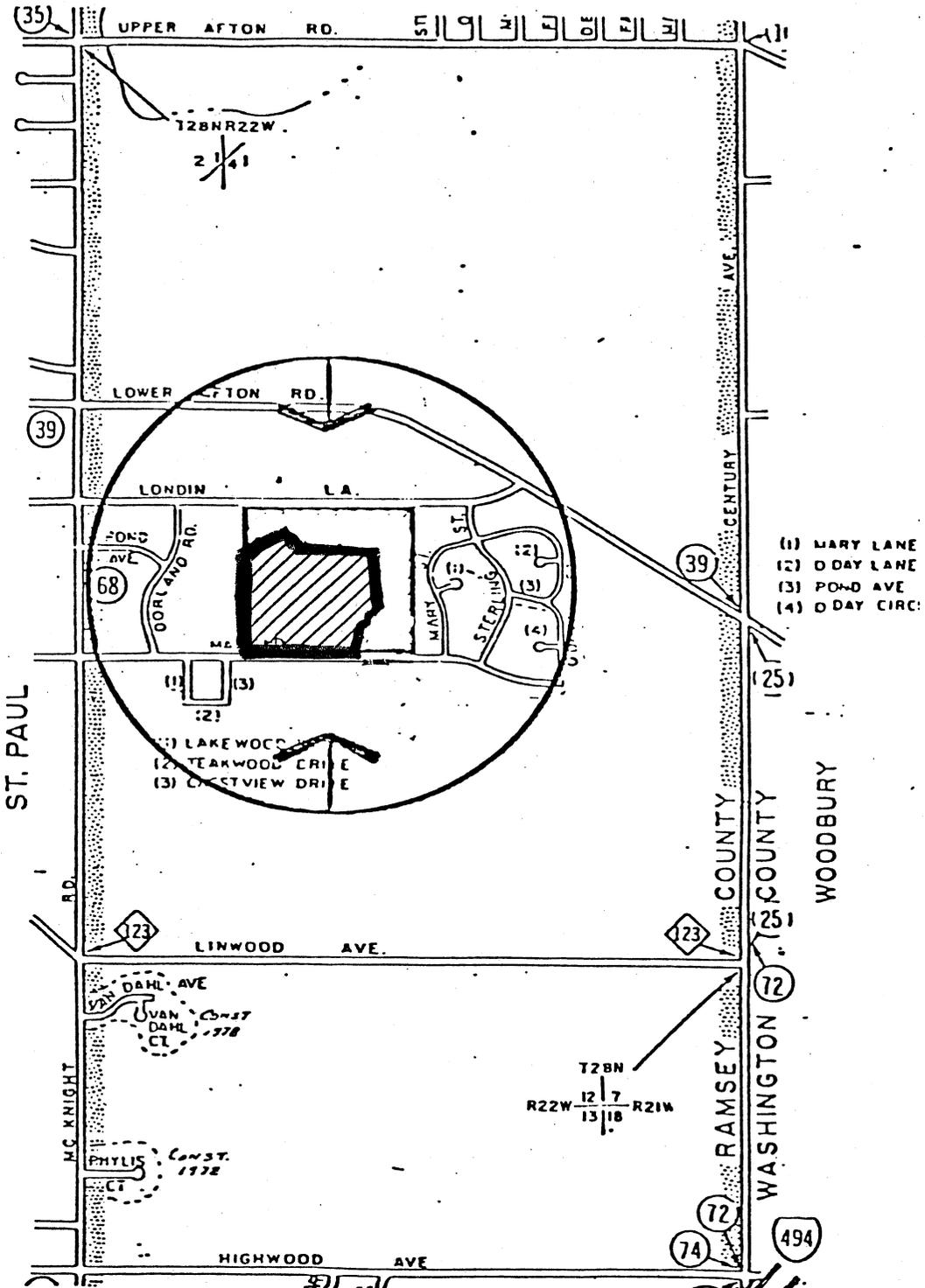
Procedure

City council decision

mb

Attachments

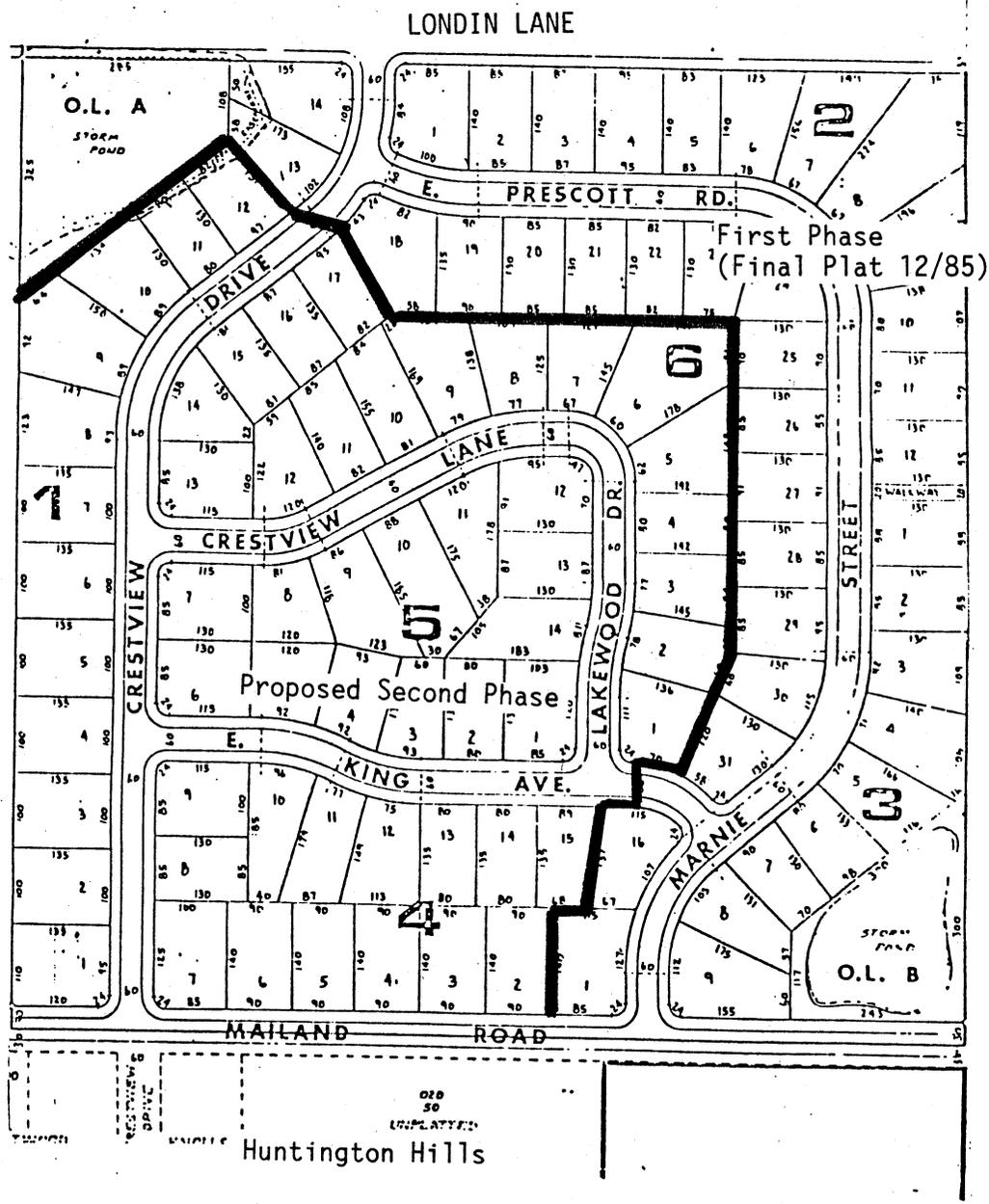
1. Location Map
2. Preliminary Plat
3. Final Plat (first phase)



LOCATION MAP



MAPLEWOOD'S TOWNHOUSES



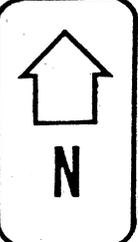
CRESTVIEW FIRST AND SECOND ADDITIONS

Huntington Hills

CITY PARK

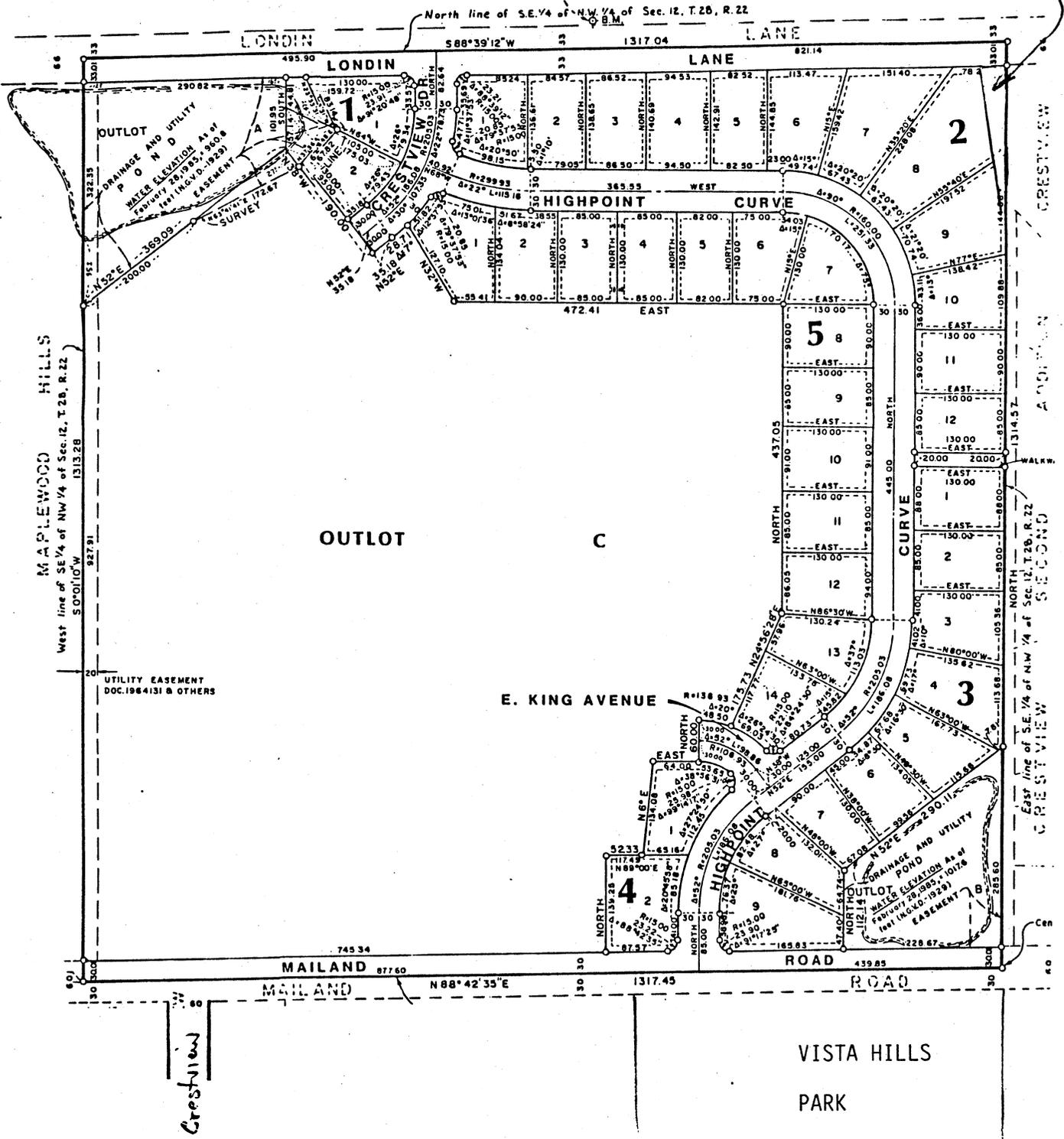
CRESTVIEW FOREST TOWN HOUSES

PRELIMINARY PLAT
(Approved 11-1-79)



CONNEMARA

Walkway



CRESTVIEW THIRD ADDITION
FINAL PLAT PROPOSAL

Attachment 3



MEMORANDUM

Endorsed _____
 Modified _____
 Rejected _____
 Date _____

E-4

TO: City Manager
 FROM: Associate Planner--Johnson
 SUBJECT: Time Extension--Conditional Use Permit
 LOCATION: 2696 Hazelwood Avenue
 APPLICANT/OWNER: Health East
 PROJECT: Hazel Ridge Planned Unit Development
 DATE: September 11, 1987

SUMMARY

Introduction

The applicant is requesting a time extension for the conditional use permit that authorizes the Hazel Ridge planned unit development of community service uses, offices and the Hazel Ridge Seniors' Residence.

Background

On August 7, 1980, council approved the use of the former Hazelwood School for community service programs, including home health care, community education, chemical dependency and family counseling and day care. In 1985, council expanded the 1980 permit to include the Hazel Ridge Seniors' Residence. (Refer to the past action section for the conditions of approval.) A one-year time extension was granted in May, 1986.

Discussion

The marketing manager for Hazel Ridge Seniors' Residence states that 32 of the 75 units (43%) are occupied. The conditions of approval require the adequacy of the parking spaces to be reviewed one-year after 95% occupancy is attained. According to the marketing manager, 95% occupancy will probably not be achieved until this time next year. A two-year renewal is therefore appropriate.

Recommendation

Approve a two-year time extension for the Hazel Ridge planned unit development, subject to the original May 13, 1985 conditions of approval.

REFERENCE

Past Actions

5-13-85:

Council approved a conditional use permit and parking space variance for the Hazel Ridge planned unit development at 2696 Hazelwood Avenue.

The PUD consists of the 75-unit Hazel Ridge Seniors' Residence, office and community services programs for day care, health and wellness and community health education. Approval was for one year, subject to:

1. Construction of the seniors' residence must be substantially started within one year, unless extended by council. (Completed)
2. If council determines there is inadequate on-site parking for the seniors' residence within one year of 95% occupancy, additional parking spaces may be required. (Review expected fall, 1989.)
3. Development of parcel A shall require an amendment to the PUD. The Director of Community Services shall be notified of any proposed development of this parcel prior to scheduling use of the softball/tee-ball facilities for an upcoming season. If the redevelopment of parcel A is to include recreational uses, the Maplewood Community Services Director shall be involved in the development process, to represent the city's and the neighborhood's interests and to negotiate on their behalf. The Director of Community Services shall approve the location of the proposed foot trails.
4. A trail easement shall be granted and a trail constructed along the south property line, prior to issuance of an occupancy permit for the residence, unless waived by the Director of Community Services. A developer's agreement for on-site improvements shall specify the construction requirements for the trail. Fencing is at the discretion of the applicant. (An escrow has been submitted.)
5. Density shall be calculated on the basis of the entire residential portion of the site (proposed parcels A and C) and include, but not be limited to, a credit for underground parking and a reduction in net density for the trail easement required in condition four.
6. The site plan on page 10 of the April 30, 1985, staff report is adopted as part of the conditional use permit, except that the trail shown in the northeast corner of the site is not required.

Compliance with Land Use Laws

Section 36-442(e) states:

"All conditional use permits shall be reviewed by the council within one year of the date of initial approval, unless such review is waived by council decision or ordinance. At the one year review, the council may specify an indefinite term or specific term, not to exceed five (5) years, for subsequent reviews. The council may impose new or additional conditions upon the permit at the time of the initial or subsequent reviews. A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section shall prevent the city from enacting or amending official controls to change the status of conditional uses..."

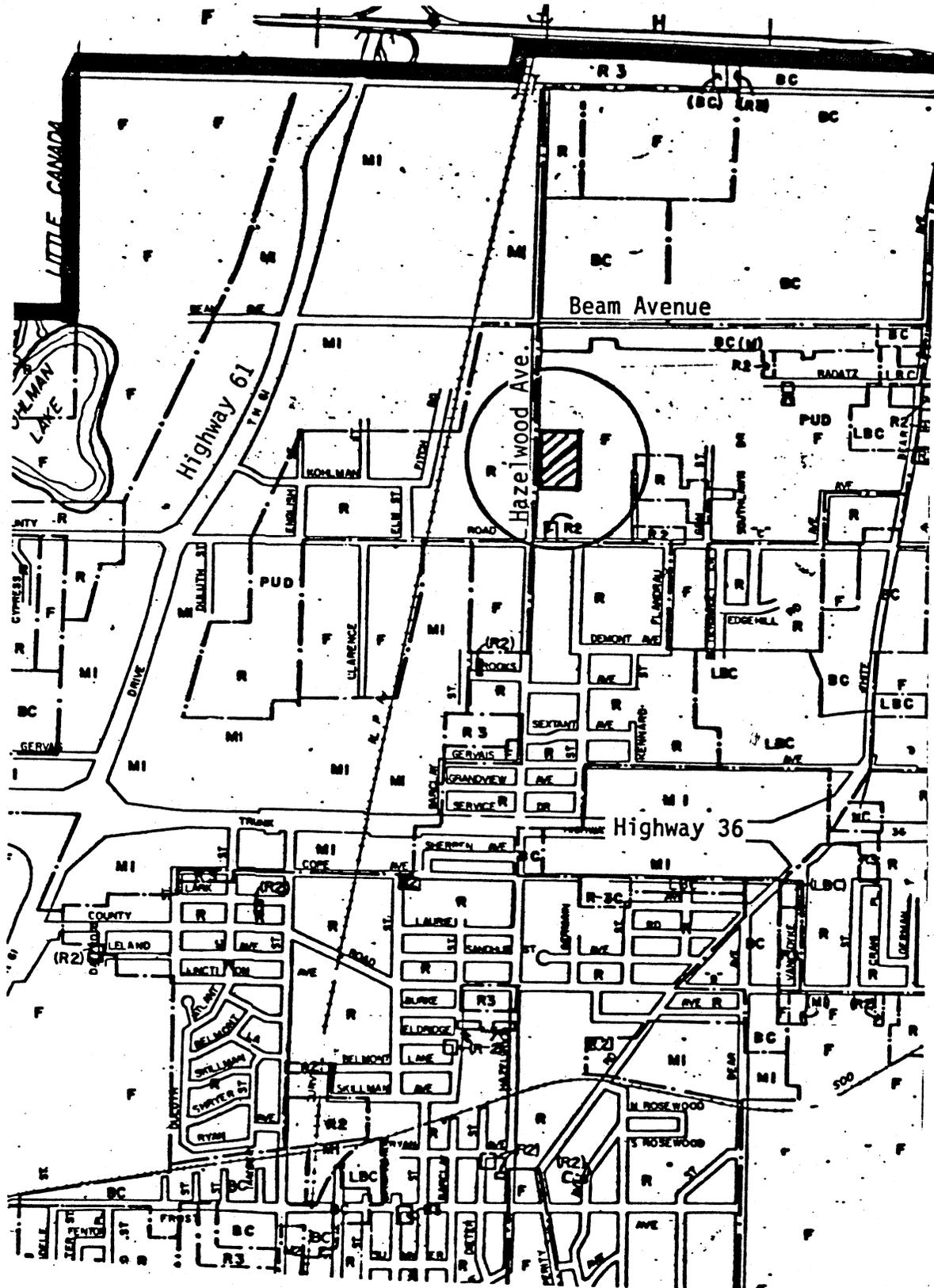
Hazel Ridge Senior Residence

The marketing manager states that rent-up has been slower than anticipated. She believes this is due to the more conservative senior population in this area. The concept of including a fee for wellness services in the rent has not been as attractive to seniors as management had thought it would be. Consequently, the rents have been reduced by \$200 per month. One bedroom units are now being offered at \$575 to \$795 per month and two bedrooms from \$795 to \$1,600.

j1

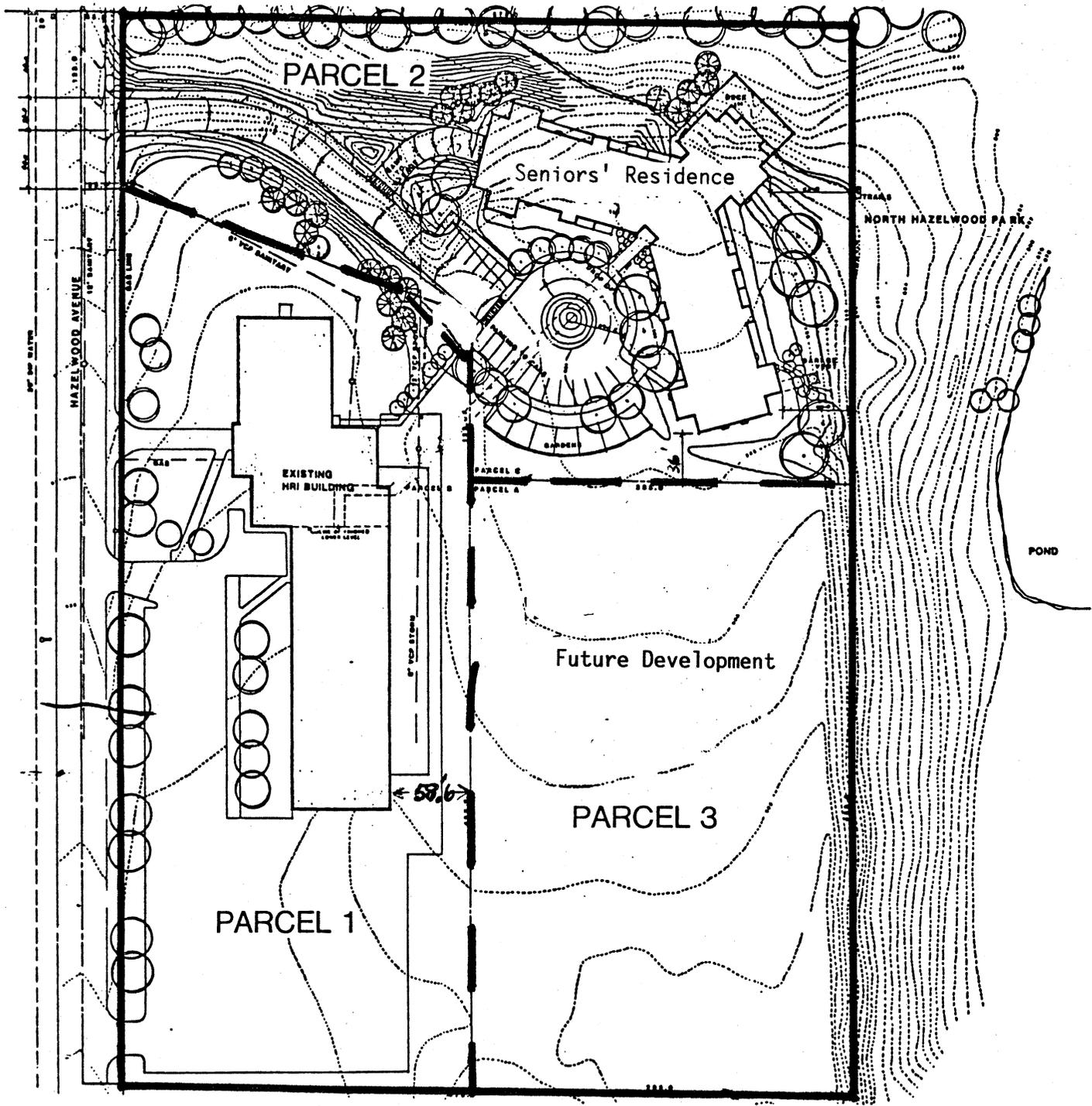
Attachments

1. Location Map
2. Hazel Ridge PUD
3. Letter of request



LOCATION MAP

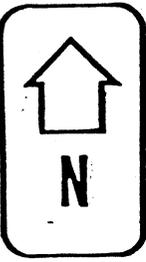




HAZEL RIDGE

PUD

Attachment Two



August 26, 1987

Randall Johnson
Associate Planner
City of Maplewood
1830 County Road B
Maplewood, MN 55109

Re: Planned Unit Development/Health Resources, Inc.

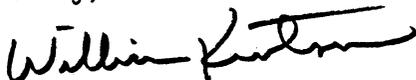
Dear Mr. Johnson:

Thank you for informing us that a time extension is necessary on the Hazel Ridge planned unit development. Health Resources is requesting extension of this planned unit development and advises the City that we will be relocating some chemical dependency family therapy and mental health services done on an outpatient basis to that site, under the auspices of health, wellness and education.

As you recall, we consolidated our outpatient chemical dependency services that were located at the Maplewood site to St. John's in order to better utilize space. Health Resources has evolved and joined a larger system called - HealthEast. We find that we are in need of space in the Maplewood area and need to relocate outpatient mental health programs to the Hazelwood school site. Most of the people participating in these outpatient programs are persons from the Maplewood, North St. Paul and White Bear Lake area. We currently serve hundreds of people from this area at our St. John's Eastside, Mounds Park and St. Joseph's Hospital sites. As you know, the Eastside and Mounds Park Hospitals will close this Fall, thus precipitating the need to relocate these services. We feel that because these patients come from these communities, it is imperative to serve them in their community.

Thank you for your consideration of this matter and I look forward to hearing from you soon.

Sincerely,



William Knutson
Associate Administrator - Behavioral Health Services/HealthEast

WK/rv

MPLWD

291-3122
3232

MEMORANDUM

Action by Council:

Endorsed _____
Modified _____
Rejected _____
Date _____

TO: City Manager
FROM: Associate Planner--Johnson
SUBJECT: Final Plat
LOCATION: Ariel Street and Lydia Avenue
APPLICANT/OWNER: Gerald Mogren and Richard Schreier
PROJECT: Lynnwood Terrace
DATE: September 21, 1987

SUMMARY

Introduction

The applicant is requesting approval of the Lynnwood Terrace final plat to create 15 small-lot, single-dwelling home sites.

Discussion

The conditions of approval have been satisfied.

Recommendation

Approve the Lynnwood Terrace final plat.

REFERENCE

Past Actions

5-11-87

Council approved a rezoning from F, farm residence, to R-2, double dwelling/small-lot single dwelling, and approved the Lynnwood Terrace preliminary plat of 15 small-lot single dwelling home sites, subject to:

1. Reconciling the inconsistency in the north-south dimensions of the site between the preliminary plat, the county base map, and a certificate of survey completed by North Land Surveying Company on 3/4/87.
2. Show a storm water ponding easement on the plat in the vicinity of the north portion of Lot 14 or acquire a compensating easement on the property to the north and transfer it to the city. The location of either easement shall be approved by the city engineer. If an easement is shown on one or more of the proposed lots, these lots shall contain at least 7,500 square feet above the easement.
3. A twenty-foot-wide storm sewer easement shall be shown from the ponding easement to Lydia Avenue. The location shall be approved by the city engineer.

4. Final grading, drainage, erosion control and utility plans to be approved by the city engineer. If a compensating drainage easement is acquired to the north (Condition Two), the compensating easement must be graded. Filling of the north part of Lot 14 would then be allowed, but be subject to the city engineer approval via the developer's agreement.

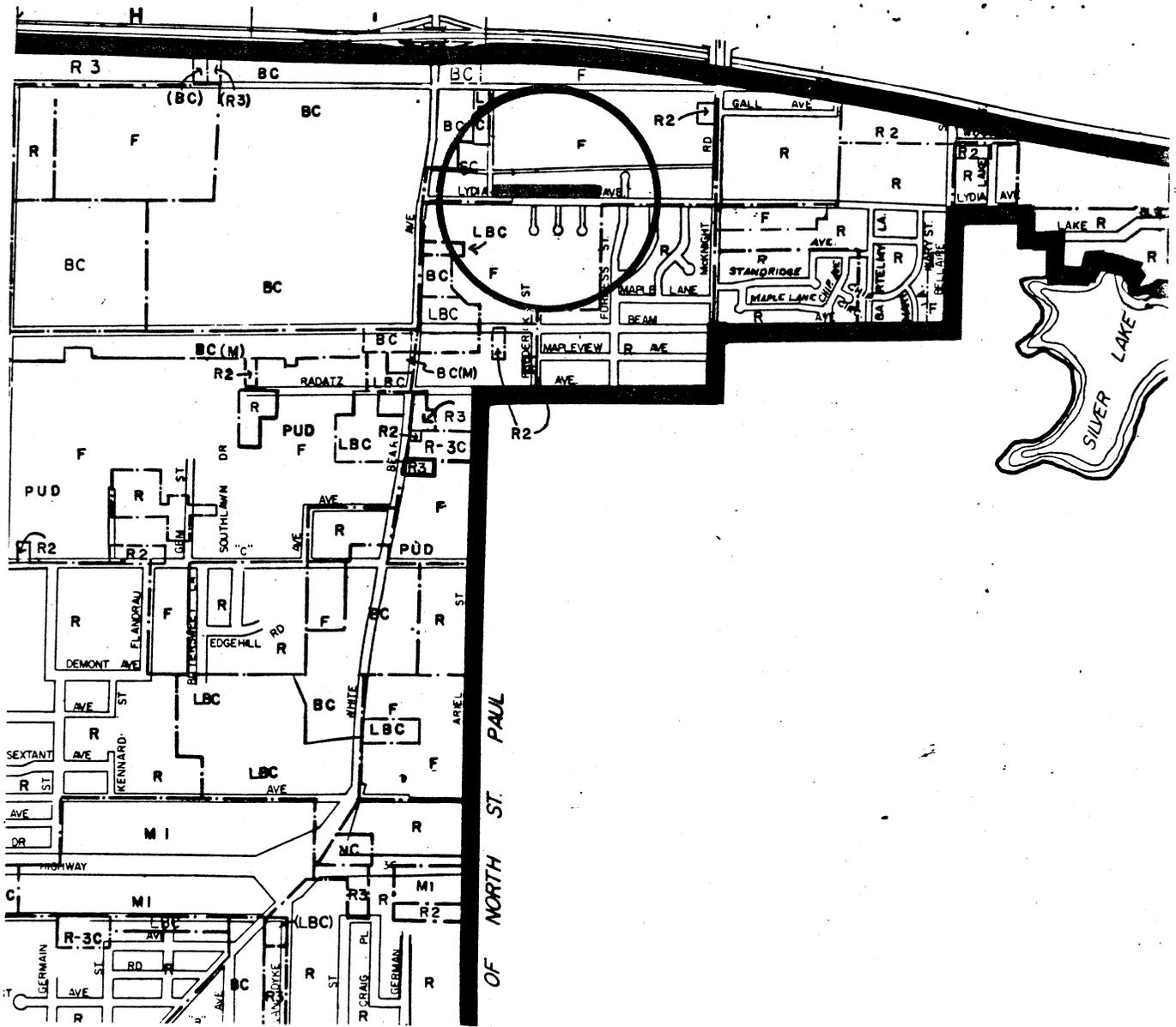
5. Submittal of a developer's agreement and surety for constructing separate water and sanitary sewer stubs to each lot. (County's responsibility through their permit process.)

6. Amending the subdivision ordinance to allow 60-foot-wide lots in R-2 zones.

jl

Attachments

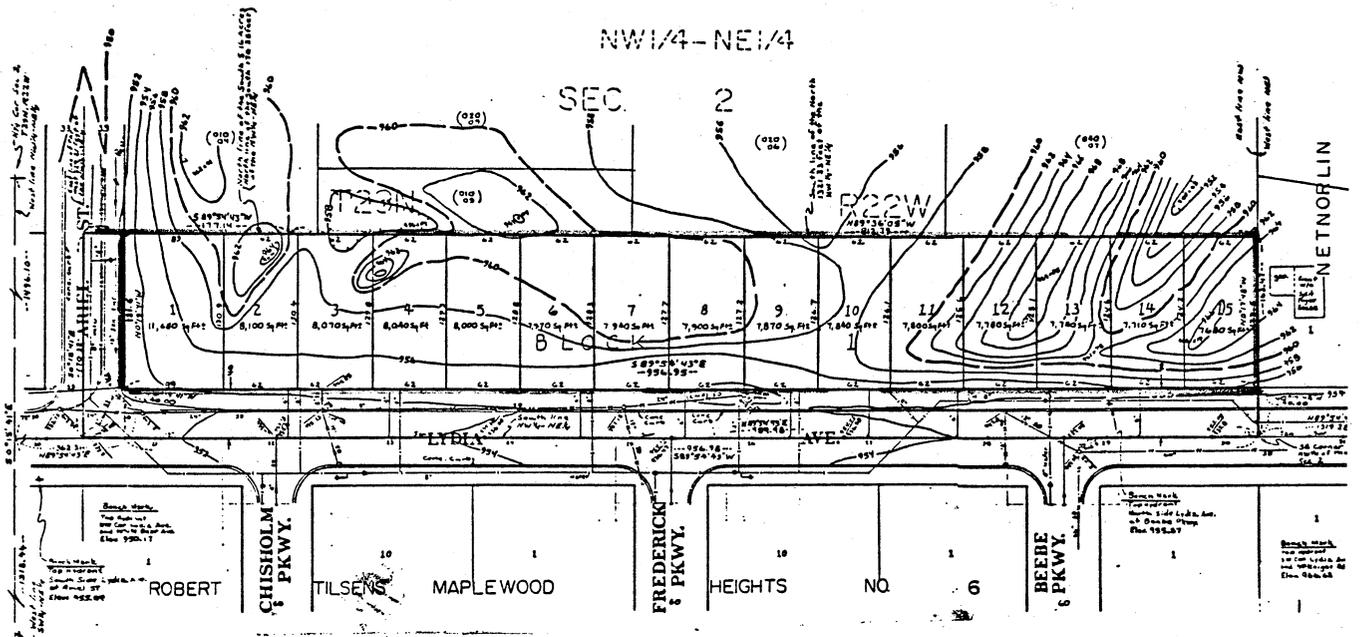
1. Location Map
2. Lynnwood Terrace Plat
3. Lynnwood Terrace final plat (separate enclosure)



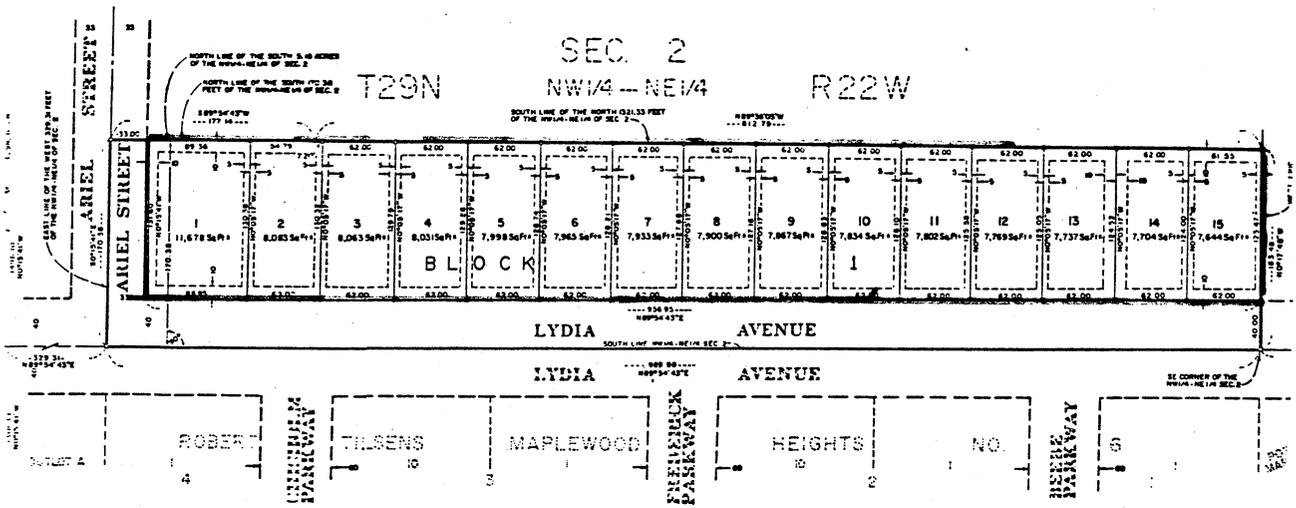
LOCATION MAP



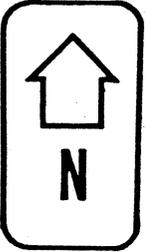
PRELIMINARY PLAT APPROVED 5-11-87



PROPOSED FINAL PLAT



LYNWOOD TERRACE PLAT



MEMORANDUM

E-6

Action by Council:

TO: City Manager
FROM: Associate Planner--Johnson
SUBJECT: Final Plat
LOCATION: McKnight Road, South of Highwood Avenue
APPLICANT/OWNER: Dennis Gonyea
PROJECT: Gonyea's Oak Heights First Addition
DATE: September 21, 1987

Endorsed _____
Modified _____
Rejected _____
Date _____

SUMMARY

Introduction

The applicant is requesting approval of a final plat to create 39 single-dwelling lots and two outlots. The two lots would each be subdivided at a later date.

Discussion

The development is the first phase of a 76-lot, three-phase development. The conditions of approval that apply to this phase have been satisfied.

Recommendation

Approve the Gonyea's Oak Heights First Addition final plat.

REFERENCE

Past Actions

6-8-87:

Council approved the Gonyea's Oak Heights preliminary plat. Council also authorized the alteration of the protected steep slope that crosses the site, construction of utilities on a slope in excess of eight percent of grade, vacation of adjoining unimproved street right-of-way and rezoning of the site from F, farm residence, to R-1, single dwelling.

Conditions of preliminary plat approval were as follows:

1. An easement for a temporary 100-foot-diameter cul-de-sac at the end of Snowshoe Lane must be submitted to the city engineer. (Phase I)
2. A ten-foot-wide storm sewer easement shall be granted over the property in Phase III that is adjacent to Lots One, Two, Ten and Eleven, Block One. (Phase III)

3. Granting an easement or having the city order a project to acquire a seven-acre-foot storm water pond on the property to the north of Lot 39, Block One. This easement shall include one foot of elevation above the 100-year storm design. Evidence shall also be submitted to prove that the pond's outlet is adequate. No site grading shall be allowed until this easement is obtained by the city. (Phase I)
4. Phase II may not be platted until council orders the construction of Boxwood Avenue. If council chooses to allow Boxwood Avenue to be a cul-de-sac, then right-of-way for a 120-foot-diameter cul-de-sac bulb shall be shown on the plat at the end of Dorland Road. The location shall be approved by the city engineer. (Phases II and III)
5. The southwest portions of Lots One, Two and Three, Block Two, shall be platted as one or two separate lots fronting on the intersection of Boxwood Avenue and Dorland Road. (Phase III)
6. The city engineer must negotiate an agreement with the City of St. Paul for the joint use of St. Paul's sanitary sewer in McKnight Road. Each phase must be consistent with the city sewer plan. (Phase I)
7. Percolation test results must be submitted for approval to the city's environmental health official for Lots One, Two and Three, Block One. These tests shall be conducted as required by the city's health official and prove that on-site sanitary facilities will function properly. If the results are negative, the affected lot(s) shall be platted as an outlot until sanitary sewer is available. (Phase I)
8. Final grading, utility, erosion control and drainage plans shall be approved by the city engineer. The erosion control plan shall address the recommendations of the Soil Conservation Service and the provisions of Section 9-191 (3)(b-3) of the environmental protection ordinance. (All phases)
9. A forester or nursery-approved plan must be submitted to the city to thin the stand of scotch pines on Lots 12, 13, 28 and 29 of Block One and for the transplanting of any free-standing cedar trees that can be saved if it would otherwise be lost during site grading. (Phase I)
10. Snowshoe Lane shall be extended to the east property line, directly to the east of its intersection with proposed Oak Heights Drive, with Phase III.
11. "Valley View Court" shall be renamed "Moreland Court". (Phase I)
12. "Oak Heights Drive" shall be renamed "Lakewood Drive". (Phase III)
13. A 7.5-foot-wide storm sewer easement shall be shown along the north line of Lot One, Block Three. (Phase III)

14. The proposed ten-foot-wide walkway easement shall be shown as a "pedestrian way". (Phase III)

15. A temporary 100-foot-diameter cul-de-sac bulb easement shall be granted to the city for the south end of Oak Heights Drive is not guaranteed to be constructed through to Sterling Street (Phase III)

16. The right-of-way for Snowshoe Lane and Oak Heights Drive shall be revised, as necessary, to provide for 250-foot-radius curves. The Oak Heights Drive right-of-way shall not be moved south of its location on the 2-2-87 plans without approval from the city. (Phases I and III)

17. Submittal of a signed developer's agreement, with the required surety, to include, but not be limited to:

a. The construction of all public improvements except Boxwood Avenue, (Phase II), for the phase being platted, including the storm sewer outlet to the north. (Phases I and III)

b. The thinning of the stand of scotch pine trees. (Phase I)

c. Construction of a temporary cul-de-sac bulb for Snowshoe Lane. (Phase I)

d. Construction of a ten-foot-wide trail (eight feet if not fenced) from proposed Oak Heights Drive to the existing trail in Pleasant View Park. Fencing on the applicant's property shall be at the applicant's discretion. If fencing is to be installed, the type, height and location shall be approved by the Parks Director. The developer shall be reimbursed from PAC funds for the construction of the part of the trail to be located on city property. The Parks Director shall approve the cost of the trail construction on the park property. (Phase III)

e. Transplanting any free-standing cedar trees to another on-site location. (Phase III)

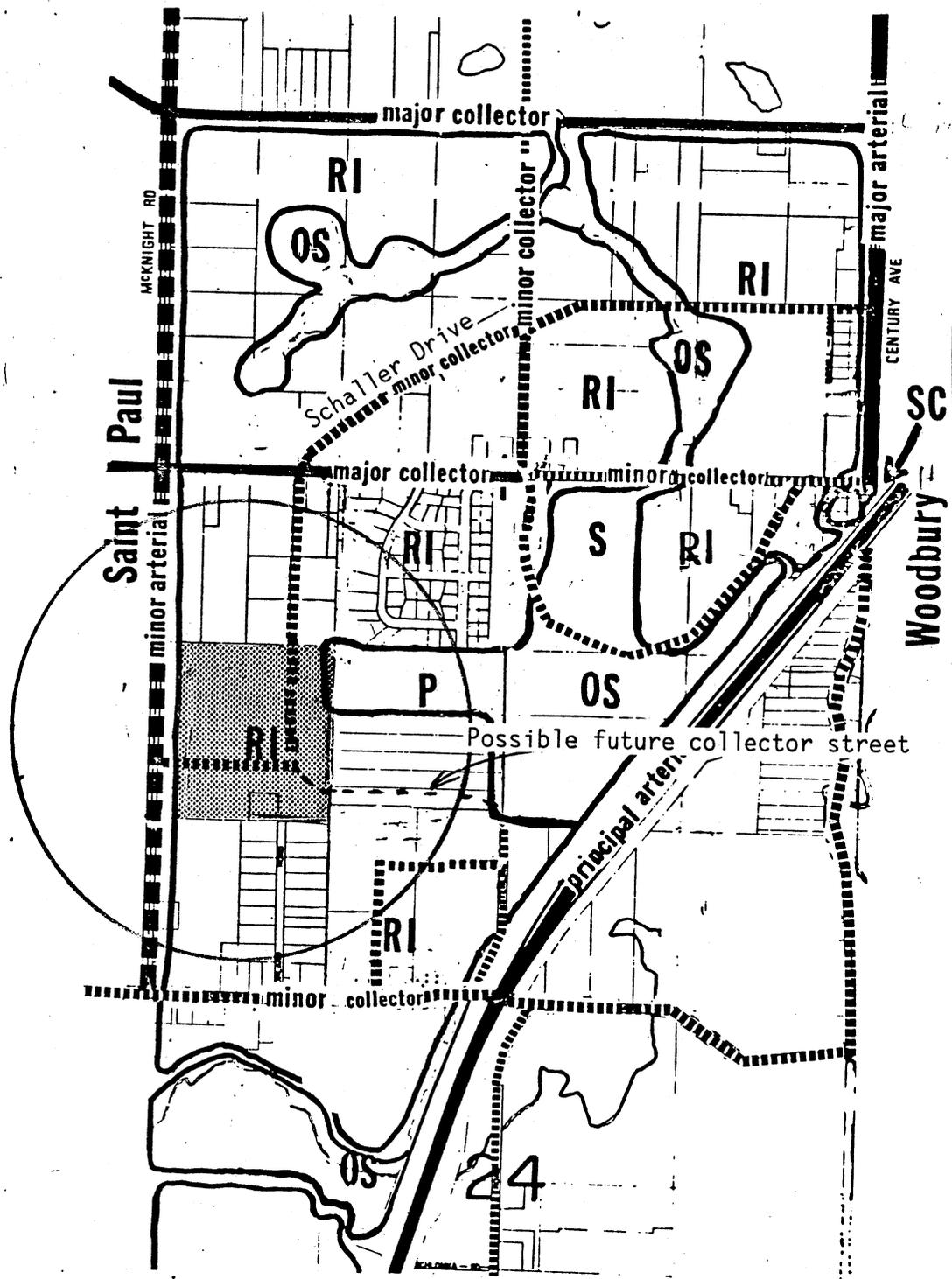
f. If Oak Heights Drive will be not constructed through to Sterling Street, then the construction of a temporary cul-de-sac bulb shall be guaranteed for the south end of Oak Heights Drive. (Phase III)

g. A contract(s) being signed for the construction of a street from Highwood Avenue or Sterling Street to connect with Snowshoe Lane in Phase I, before Phase III is platted.

j1

Attachments

1. Location Map
2. Preliminary Plat
3. Final Plat (8 1/2 x 11)
4. Final Plat (separate enclosure)

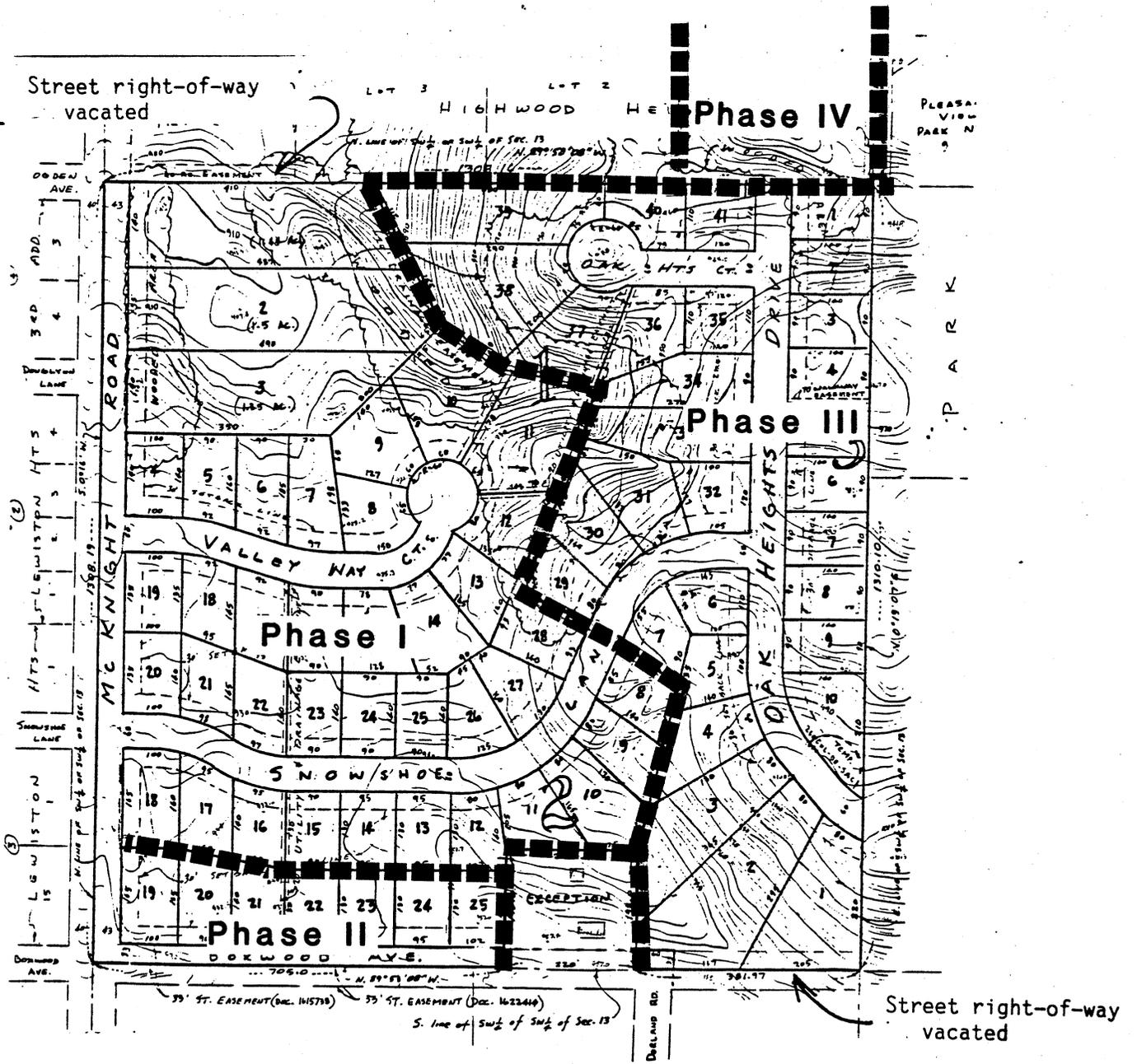


**Highwood
NEIGHBORHOOD LAND USE PLAN**

Attachment 1



Plat approval pending



PRELIMINARY PLAT
 GONYEA'S OAK HEIGHTS

Attachment 2



MEMORANDUM

Action by Council:

TO: City Manager
 FROM: Randall Johnson, Associate Planner
 SUBJECT: Final Plat
 LOCATION: German Street and County Road B
 APPLICANT/OWNER: Sherman-Boosalis Companies
 PROJECT: Parkway Terrace
 DATE: September 18, 1987

Endorsed _____
 Modified _____
 Rejected _____
 Date _____

SUMMARY

Introduction

The applicant is requesting final plat approval for the eight-lot first addition of the Parkway Terrace development.

Discussion

All of the conditions of preliminary plat approval that apply to the first addition have been satisfied.

Recommendation

Approve the Parkway Terrace final plat of eight lots fronting on German Street.

REFERENCE

Past Actions

9-14-87: Council approved the Parkway Terrace preliminary plat, subject to the following conditions:

1. Public improvements must be guaranteed for Lots 9-16, Block 1 and Blocks 2 and 3 or they must be platted as an outlot. (Phase II)
2. Approval of a sewer plan amendment and obtain a commitment from North St. Paul to allow the lots east of those fronting on German Street to be served by North St. Paul water and sanitary sewer. (Phase II)
3. Construction of a permanent storm sewer outlet must be guaranteed. The proposed temporary ponding shall not be permitted unless found to be acceptable by North St. Paul. The design specifications must be approved by the city engineer, Ramsey County and North St. Paul. (Phase II)

If permanent, on-site ponding will be constructed, the plat shall include an outlot which includes one foot of elevation above the 100-year storm design. The outlot shall be dedicated to the public for drainage and storm water ponding.

If a temporary pond will be permitted by North St. Paul, a recordable drainage easement shall be submitted to the Maplewood city engineer for approval and recording. The applicant shall also pay the recording fees. Any lot(s) that will adjoin a temporary or permanent pond shall have at least 10,000 square feet outside of the easement.

4. City engineer approval of final grading, drainage, utility and erosion control plans. The grading plan shall indicate the number, location and type of four-inch-and-larger-diameter healthy trees to be retained. These trees shall be identified for retention on the site. Evidence of North St. Paul's approval of the construction plans that affect them shall be provided. (Phases I and II)

5. The center line of Stanich Street shall be moved west to line up with the center line of Stanich Court. All lots must comply with minimum lot requirements. (Phase II)

6. Submittal of a temporary easement for a 100-foot cul-de-sac bulb for the end of Stanich Street, if homes will be occupied before the construction of Ariel Street is guaranteed. (Phase II)

7. No lot that would front only on Ariel Street shall be platted until the construction of Ariel Street is guaranteed. (Phase II)

8. The east/west portion of proposed "Stanich Curve" shall be changed to "Laurie Lane" or such other name acceptable to the director of public safety. (Phase II)

9. Submittal of a signed developer's agreement and required surety to guarantee, but not be limited to, the following items:

a. Construction of all required on-site public improvements,

b. Repair of the service trenches, cut into German Street, (Phase I)

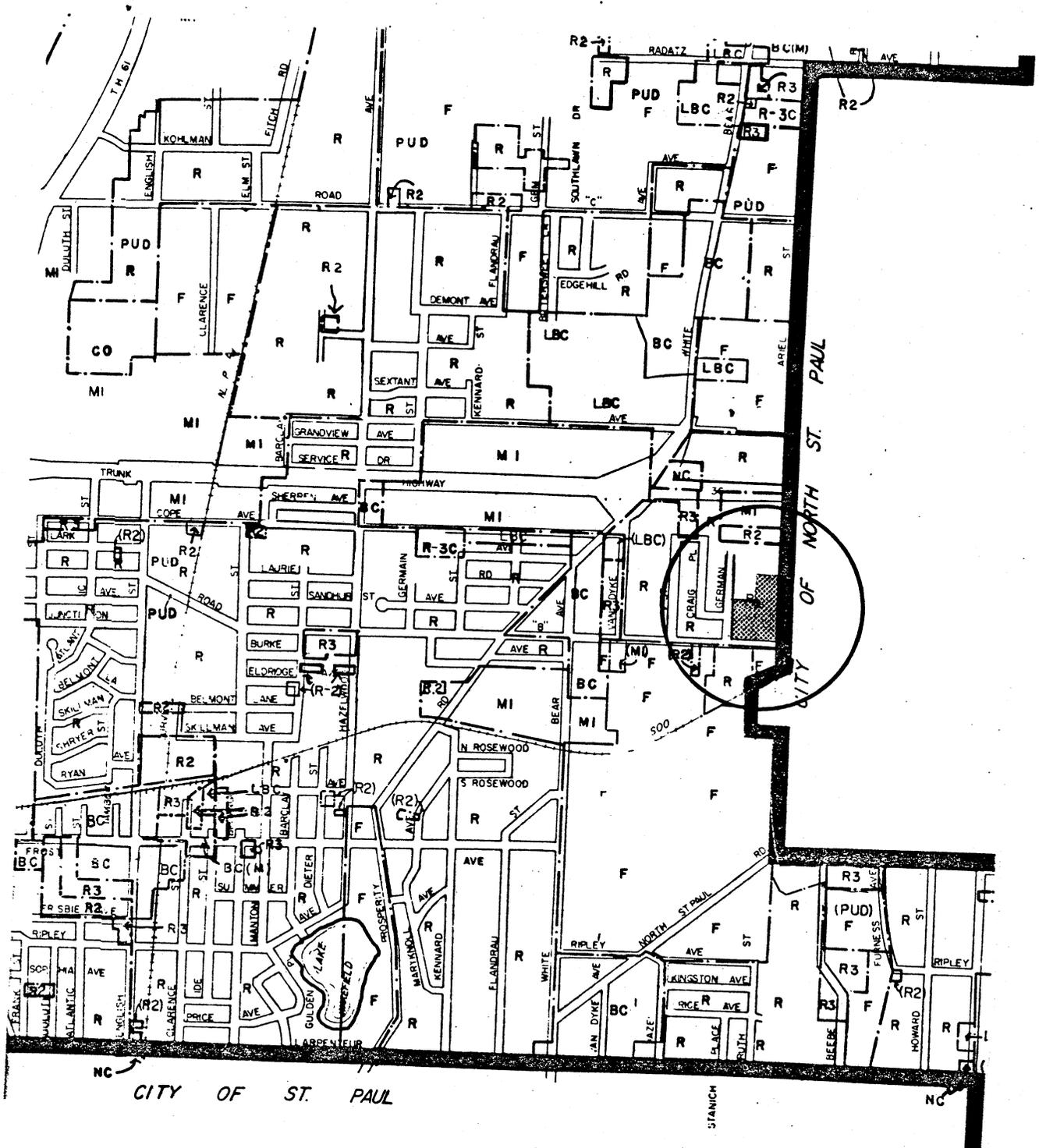
c. Planting of trees. At least 92 mature trees must be growing on the site when construction is completed. Trees shown on the final grading plan to be retained shall be credited toward the total number required. (Phase II)

10. Deed restrictions shall be recorded with the lots abutting County Road B stating that driveways will not be allowed on County Road B without city approval. (Phases I and II)

kd

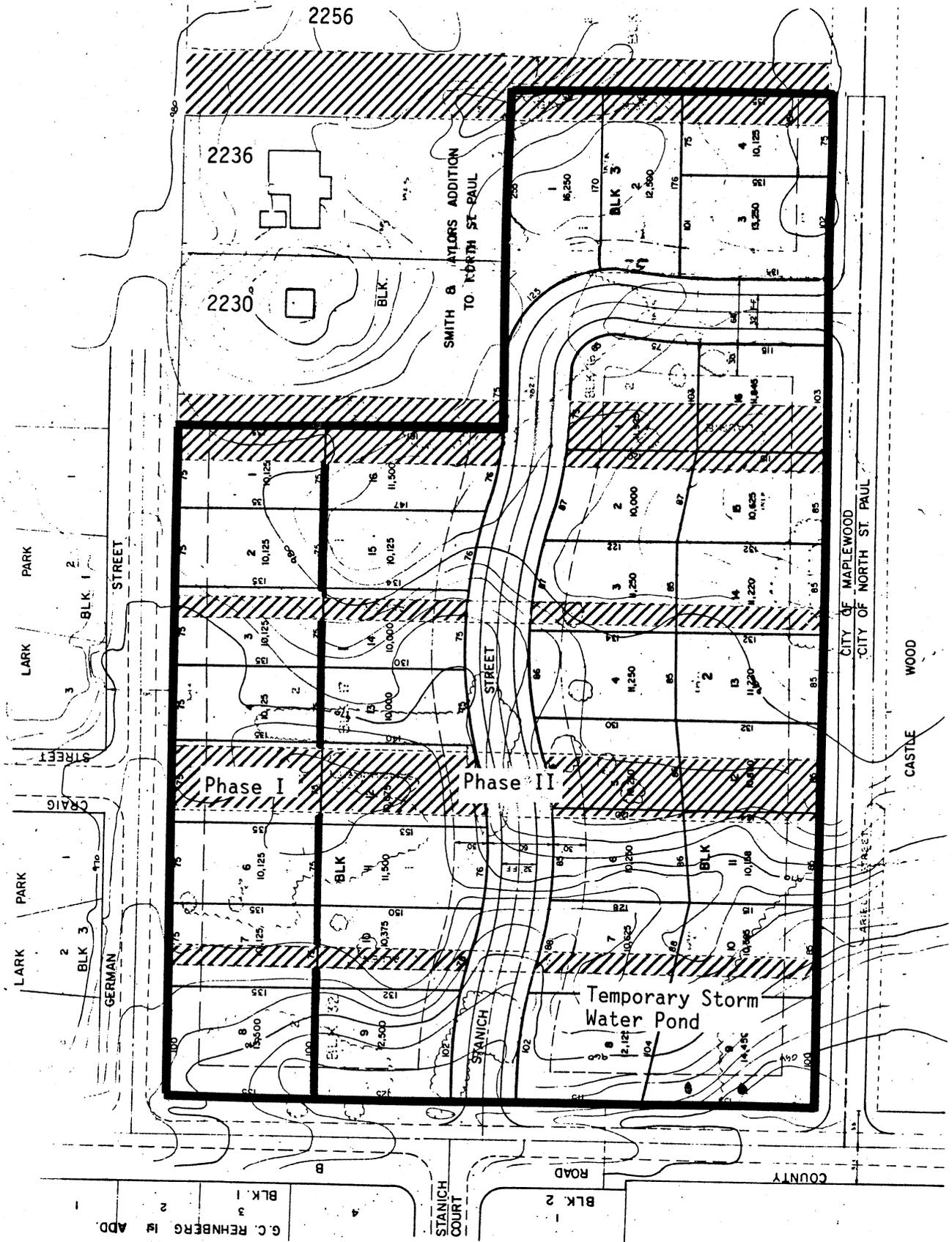
Attachments

1. Location Map
2. Preliminary Plat
3. Final Plat (8-1/2 X 11)
4. Final Plat (Separate Enclosure)



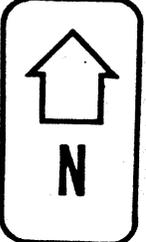
LOCATION MAP

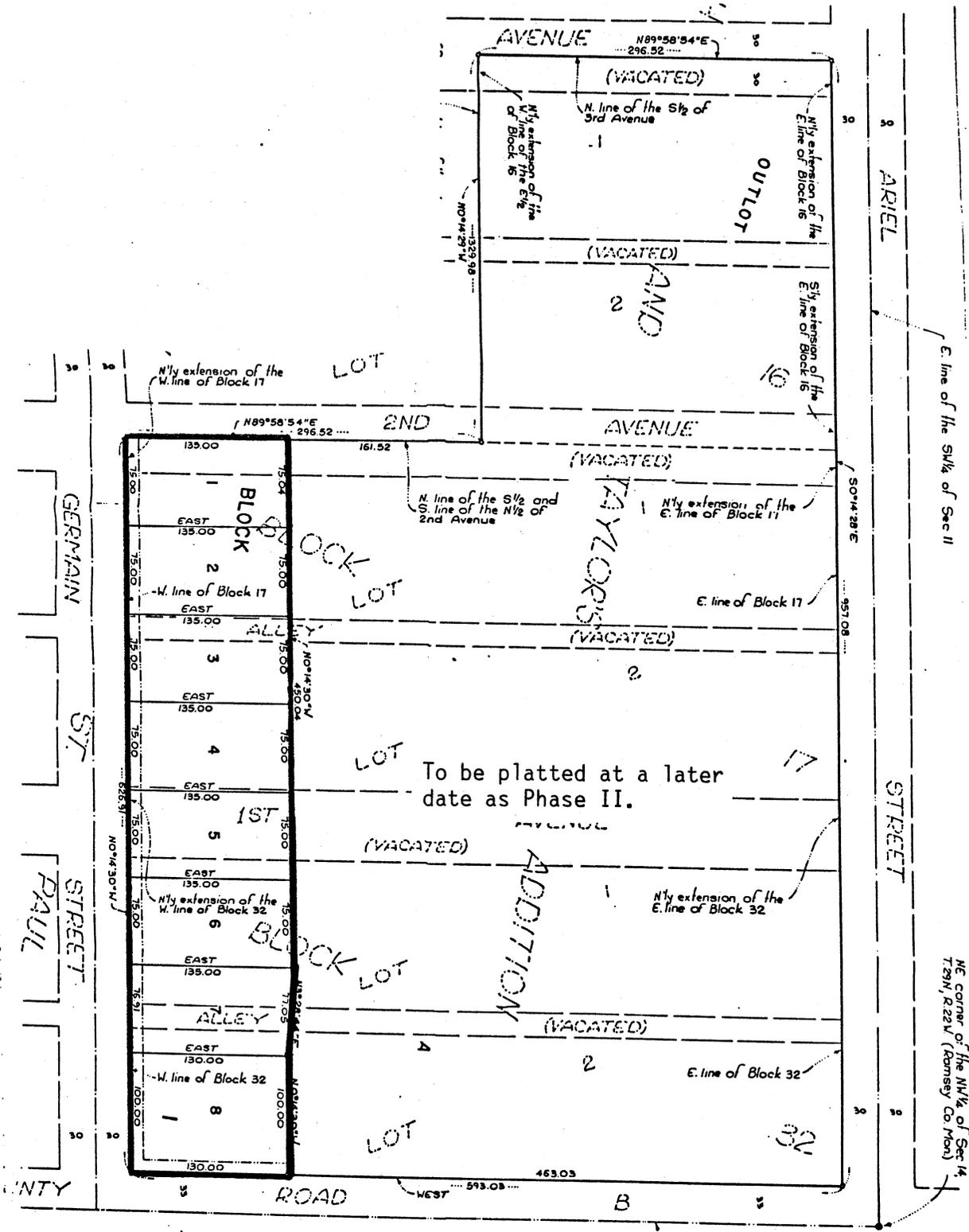




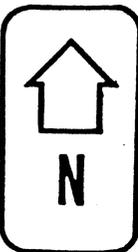
PARKWAY TERRACE
PRELIMINARY PLAT

 Alley and Street Right-of-Way
Vacated 9-14-87





PARKWAY TERRACE
(First Phase)
Final Plat



MEMORANDUM

Action by Council

Endorsed _____

Modified _____

Rejected _____

Date _____

TO: City Manager
 FROM: Associate Planner--Johnson
 SUBJECT: Final Plat
 LOCATION: Sterling Street, South of Holloway
 APPLICANT: Nuebel Homes
 OWNER: Mark and Dorothy Renstrom
 PROJECT: Maplewood Knoll
 DATE: September 21, 1987

SUMMARY

Introduction

The applicant is requesting final plat approval to create eleven single-dwelling homes.

Discussion

The conditions of approval have been complied with.

Recommendation

Approve the Maplewood Knoll final plat.

REFERENCE

Past Actions

5-1-87

An administrative lot division was approved to split the area referred to as Lots One and Two in this plat so that a model home could be constructed on the remainder of the site.

7-13-87

Council approved the Maplewood Knoll preliminary plat subject to the following conditions being met before final approval:

1. North St. Paul approval of the sewer and water service connections within Sterling Street and their approval of the construction plans for the sanitary sewer and water main within the cul-de-sac.
2. Revising Lots Seven through Ten, as necessary, to increase the width of Lot Seven to at least 75 feet at the building setback line. Each of the revised lots must comply with all lot dimension requirements.

3. The Knoll Circle right-of-way shall be moved south to provide at least 30 feet of setback for the existing dwellings.

4. The proposed storm-sewer easements between Lots Five and Six, along the west line of Lot Eight and running east/west across Lots Seven and Eight shall be increased to 15 feet of width.

5. City engineer approval of final grading, erosion control, drainage and utility plans.

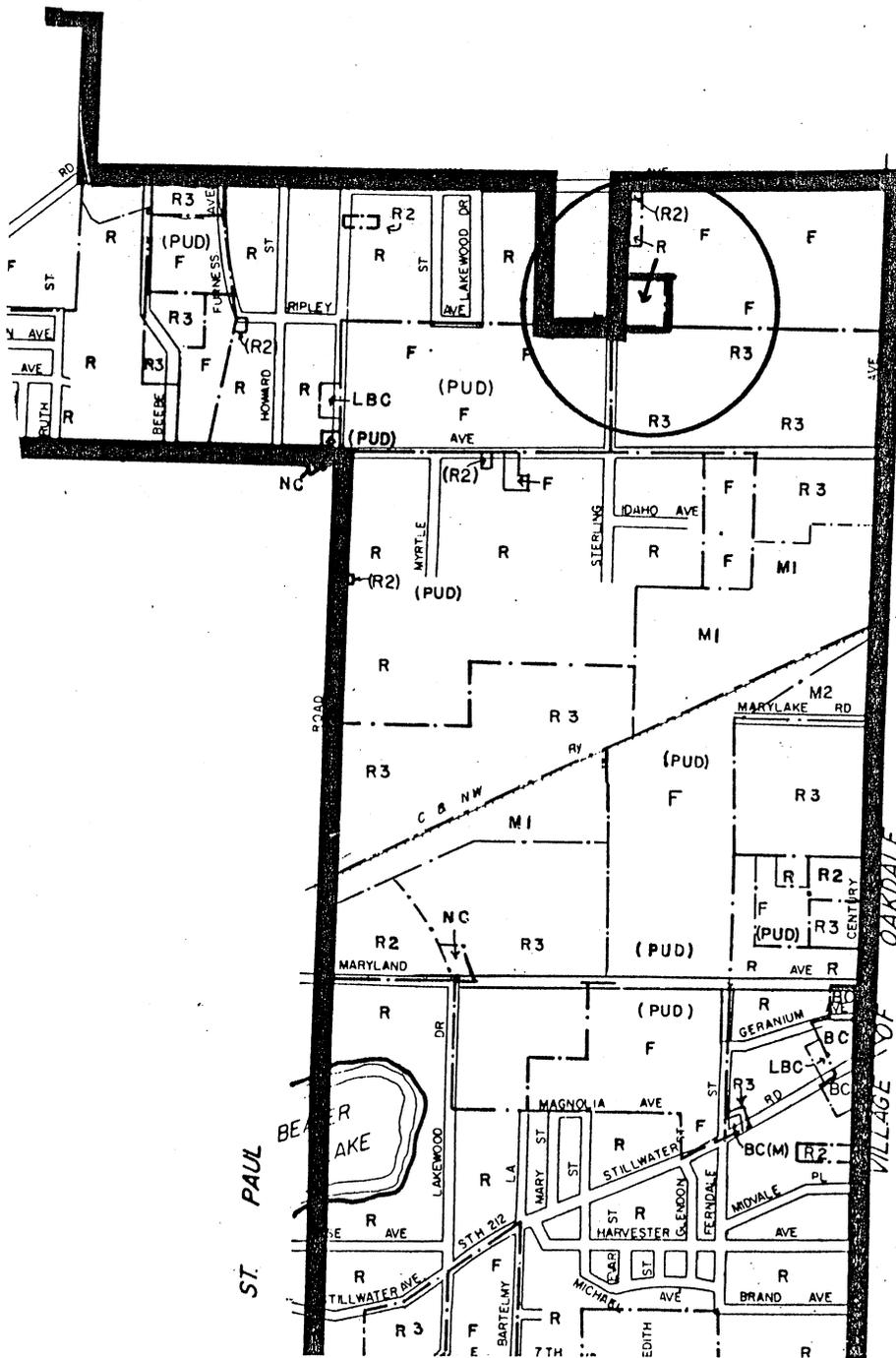
6. Submittal of a signed developer's agreement, with required surety, for all required public improvements.

Council also rezoned the site from F, farm residence, to R-1, single dwelling.

j1

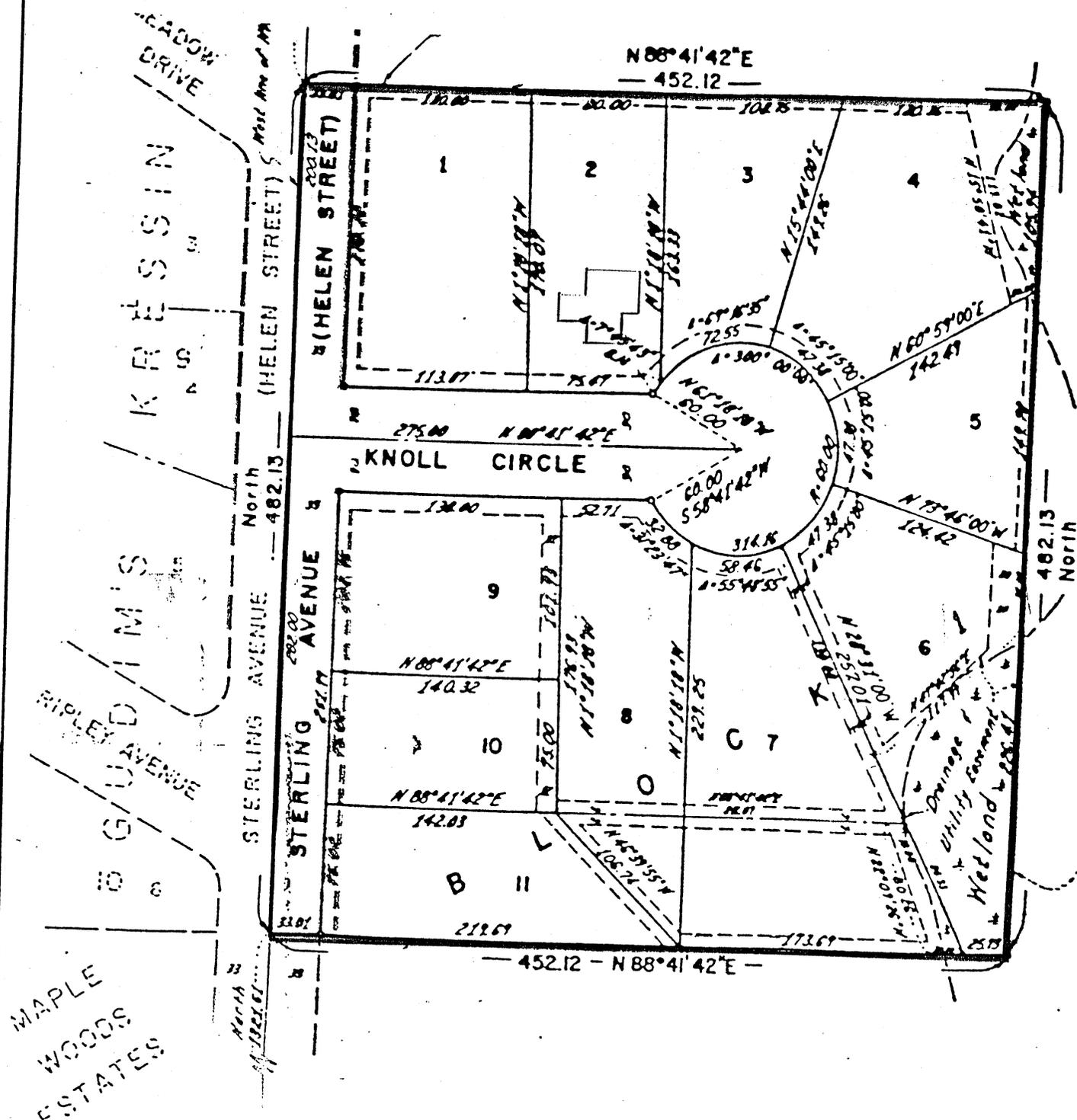
Attachments

1. Location Map
2. Preliminary Plat Map
3. Final Plat Map (8 1/2 x 11)
4. Final Plat (separate enclosure)



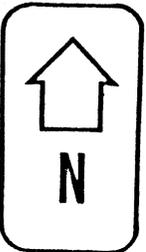
LOCATION MAP





Proposed Final Plat

Attachment 3



MEMORANDUM

Action by Council:

Endorsed _____

Modified _____

Rejected _____

Date _____

TO: Mayor & City Council
FROM: City Manager *Michael McQuinn*
RE: Rotary Membership
DATE: September 22, 1987

The Maplewood Rotary Club is a civic organization made up of business and professional leaders within the community. Membership costs are approximately \$90 per quarter.

Membership in Rotary will be beneficial to the City and it is requested that I be authorized to join.

MAM:lnb

Action by Council:

MEMORANDUM

Endorsed _____
Modified _____
Rejected _____
Date _____

TO: City Manager
FROM: Public Works Coordinator
SUBJECT: Final Payment--Cope Water Tank Painting
DATE: September 21, 1987

All work relative to the painting of the Cope Avenue water tank has been completed in accordance with the specifications with no additional costs incurred.

Final payment in the amount of \$59,189 is recommended.

jc

Action by Council:

MEMORANDUM

Endorsed _____
Modified _____
Rejected _____
Date _____

TO: City Manager
FROM: Public Works Coordinator
SUBJECT: Final Payment--Bituminous Overlay--Project 87-26
DATE: September 21, 1987

All work relating to Maplewood Project 87-26, bituminous overlay, has been completed in accordance with the plans and specifications.

A large overrun in the amount of material to complete the work was encountered, resulting in an additional cost of \$46,434.87. This overrun was due to exceedingly rough streets within the project area and an error in the original estimate for the project.

Final payment is recommended in the amount of \$125,234.87.

Original contract	\$ 78,800.00
Extra work	46,434.87
Total project cost	125,234.87
Budgeted amount	150,000.00

jc

RESOLVED, that the City Council of Maplewood, Minnesota, accepts the following list of Election Judges for the 1987 General Election, Tuesday, November 3, 1987:

Precinct No. 1

Agnes Allen, Chairman
Orpha Getty
Karl Biebighauser
Evelyn Axdahl
Irene Ling

Precinct No. 2

Patricia Thompson, Chairman
Kathleen Dittel
Bea Hendricks
Florence Stella
Helen Jean Dickson

Precinct No. 3

Barb Leiter, Chairman
Charlene Arbuckle
Doris Broady
Alice Miller

Precinct No. 4

Caroline Warner, Chairman
Betty Eddy
Joyce Lipinski
Marjory Tooley
Thelma Ling

Precinct No. 5

Elsie Wiegert, Chairman
Emma Klebe
Phyllis Erickson
Annette LaCasse

Precinct No. 6

Kathy Supan, Chairman
Gunborg Mowchan
Linda Prigge
Judy Widholm
Sandy Jones

Precinct No. 7

Margaret Wolszon, Chairman
Betty Haas
Armella Podgorski
Joan Cottrell
Mildred Burke

Precinct No. 8

Lorraine Fischer, Chairman
Betty Berglund
Rita Frederickson
Mildred Houck

Action by Council:

Endorsed _____
Modified _____
Rejected _____
Date _____

Precinct No. 9

Mary Johnson, Chairman
Dolores Mallet
Margaret McDonald
Theodore Haas

Precinct No. 10

Pat Werden, Chairman
Richard Lofgren
Mary Lou Lieder
Diane Golaski
Anne Fosburgh

Precinct No. 11

Shirley Luttrell, Chairman
Maxine Olson
DeLores Lofgren

Helen King

Precinct No. 12

Mary Libhardt, Chairman
DeLoris Fastner
Mildred Dehen
Francee Davidson

Precinct No. 13

Jack Arbuckle, Chairman
Donald Wiegert
Gladys Hervig
Kathy Haynes

Precinct No. 14

Grace Locke, Chairman
Marilyn Wold
Kathleen Tracy
Marjorie Lee
Elsie Anderson

MEMORANDUM

Action by Council:

TO:
FROM:
SUBJECT:

LOCATION:
APPLICANT/OWNER:
PROJECT:
DATE:

City Manager
Randall Johnson--Associate Planner
Plan Amendment, Street Vacation and
Preliminary Plat
Southwest of Lakewood Drive and Highwood Avenue
Dennis D. Gonyea
Gonyea's Third Addition
August 26, 1987

Endorsed _____
Modified _____
Rejected _____
Date _____

SUMMARY

Introduction

The applicant is requesting preliminary plat approval for 19 single-dwelling lots and vacation of an obsolete portion of Lakewood Drive right-of-way. (Refer to the map on page 14.) City staff is recommending a land use plan amendment to move the alignment of a planned minor collector street. (Refer to the maps on pages 9 and 10.)

Background

On June 8, 1987, council approved Gonyea's Oak Heights preliminary plat for the property abutting to the south (page 11). In so doing, the planned north/south collector street alignment (pages 9 and 10) was shifted to the east. This collector street had been planned to run along the west property line of the subject site. It now will run through the subject site. This shift was necessary to avoid a protected steep slope.

Discussion

Collector Street Alignment:

The present alignment of the north/south collector street between Highwood Avenue and Gonyea's Oak Heights plat (page 9) is inconsistent with the intent of the Environmental Protection Ordinance to preserve significant steep slopes, wherever practical. This ordinance was adopted after the collector street alignment was adopted.

Construction of this street, where presently planned, would require substantial alteration of the protected slope. The present alignment was chosen to line-up with the intersection of the collector street segments north and south of Highwood Avenue (page 9). In this case, the desire to line-up the collector streets is not as important as protecting the integrity of a steep slope which is the predominant land form in this area. According to the city engineer, area traffic circulation would not be significantly affected if the collector street segments north and south of Highwood Avenue were to be staggered, as proposed on page 10.

Plat and Street Vacation:

The plat is consistent with all platting and zoning codes and the subject street right-of-way is obsolete.

Recommendation

1. Approve the resolution on page 15 to amend the land use plan to shift the location of a collector street intersection with the south side of Highwood Avenue from Schaller Drive to Lakewood Drive. Approval is on the basis that:
 - a. The present alignment is inconsistent with the intent of the Environmental Protection Ordinance to reserve significant steep slopes, wherever practical.
 - b. An acceptable alternative alignment exists in the vicinity of Lakewood Drive.
2. Approve the resolution on page 16 to vacate a portion of the Lakewood Drive right-of-way, subject to retaining a utility easement over the south ten feet. Approval is on the basis that:
 - a. This right-of-way is not needed.
 - b. Vacation would eliminate the potential of double-fronting lots which are prohibited, unless no other lotting alternative is available.
3. Approve Gonyea's Oak Heights Third Addition preliminary plat, subject to the following conditions being satisfied before final plat approval:
 - a. The construction of Lakewood Drive to Highwood Avenue must be guaranteed.
 - b. A contract for the water tower must be signed before any of the lots can be created. A plat may be recorded to dedicate the right-of-way for Lakewood Drive before the water tower construction is guaranteed, but the land on either side of the right-of-way must be platted as outlots.
 - c. Contracts must be signed for the construction of sanitary sewer from this site to the Metropolitan Waste Control Commission's trunk sewer in Carver Avenue or to the City of St. Paul's sewer in McKnight Road.
 - d. Calculations must be submitted to guarantee that the proposed ponding easement to the southwest of this site (required for phases 1-3) and the pond's outlet will be adequate. This easement shall be of record before final plat approval.
 - e. Final grading, utility, drainage, erosion control and street plans must be approved by the city engineer. These plans shall include, but not be limited to:
 - (1) The street plans shall provide for an on-street trail.

(2) The grading plan shall include a proposed building pad elevation and contour information for each home site, as well as the areas to be disturbed for street construction. Housing styles shall be illustrated which minimize grading on sites that contain desirable mature trees and steeper slopes. Deviation from this approved grading plan for each lot may be permitted by the city engineer, provided the intent of the overall grading plan is complied with.

f. Submittal of a temporary 100-foot-diameter cul-de-sac bulb easement for the north cul-de-sac.

g. Submittal of a signed developer's agreement with required surety for all required public streets, utilities, erosion control and tree replanting, if necessary (see Condition k).

h. The right-of-way for Southcrest Court shall be curved, as necessary, to the northwest to provide at least 100-feet of depth between the south property line and the future cul-de-sac bulb.

i. "Dorland Curve" shall be changed to a name acceptable to the director of public safety.

j. The east boundary of the plat shall include the west fifteen feet of vacated Lakewood Drive right-of-way.

k. A plan, prepared by a qualified expert, shall be submitted for the removal of diseased trees and any other necessary thinning required for the overall health of remaining trees. This plan shall include the location, type and size of the mature trees to be removed due to disease or grading and the mature trees that will be retained. The plan shall specify the location and type of trees to be planted, if required, in accordance with the provisions of Section 9-191(5)(b) of the Environmental Protection Ordinance.

CITIZEN COMMENTS

Sixteen persons who own property within 350 feet of this site were asked their opinion of this proposal. Of the seven respondents, one is in favor (Maidas), one has no comment, and five are opposed.

Those opposed raised the following concerns:

1. I object because of its (negative) effect on the natural terrain and the loss of trees and wildlife. Why should these developers take these (amenities) from us. The land should remain in its natural state? We don't need any changes as the land is acceptable as it is.

2. There are enough developers in this area. We don't need more.

Staff comment: This property is planned and zoned for residential development. The city and county do not have plans to purchase the property for park or open space. Unless purchased by the public, land cannot be required to remain in its undeveloped natural state.

3. I would like to find out the full impact on my property (new road, sewer and water) before commenting.

Staff comment: If the developer can acquire the land necessary to build a street through to Highwood Avenue, there would not be any assessments against the adjoining properties. If he can not obtain the land necessary for the street, then he will ask the city to build the street and assess the costs of acquisition and construction back to the adjacent owners. Agreement as to the location of this street will have to be reached as a condition of approval.

REFERENCE

Site Description

Gross area: 7.3 acres

Existing land use: undeveloped

Existing easements: Fifteen feet of unimproved street right-of-way (Lakewood Drive) encroaches on the east boundary of the site.

Surrounding Land Uses

North: three single-dwelling properties

East: unimproved Lakewood Drive right-of-way. Across the right-of-way are the rear yards of five properties that front on Crestview Drive and two land-locked, unimproved single-dwelling parcels.

South: proposed Gonyea's Oak Heights single-dwelling subdivision.

West: undeveloped property (owned by the Maidas) that is planned for single-dwelling use.

Past Action

6-8-87:

1. Council approved the Gonyea's Oak Heights preliminary plat, subject to conditions. The conditions that apply to this proposal are:
 - a. A contract(s) being signed for the construction of a street from Highwood Avenue or Sterling Street to connect with Snowshoe Lane in Phase I, before Phase III (page 12) is platted.
 - b. Granting an easement or having the city order a project to acquire a seven-acre-foot storm water pond on the property to the north of Lot 39, Block One (page 12). This easement shall include one foot of elevation above the 100-year storm design. Evidence shall also be submitted to prove that the pond's outlet is adequate.
 - c. The city engineer must negotiate an agreement with the city of St. Paul for the joint use of St. Paul's sanitary sewer in McKnight Road. Each phase must be consistent with the city sewer plan.
2. Council amended the trail plan to allow the trail between Highwood Avenue and Pleasantview Park to be on-street rather than off-street.
3. Council amended the sanitary sewer plan to allow the sewage from Gonyea's Oak Heights plat Phase I and II to flow south into a St. Paul trunk sewer rather than north to Highwood Avenue. They tabled a decision for Phases III and IV (the subject site) until costs are negotiated with St. Paul.

Environmental

The southerly 3/4 of the site is wooded. Oak, poplar and cottonwood trees appear to be the predominant species. There are signs of distress among several of the mature oak trees. The majority of the trees along the east property line and along the north half of the west property line will remain intact. The proposed 90-foot-wide lots will help save additional desirable mature trees located along side property lines that would be lost if homes were to be constructed on minimum-width lots.

Environmental Regulations

Section 9-191 (Environmental Protection Ordinance) contains the following provisions:

"(2)(d) The basic character of natural slopes of twenty-five (25) percent or more in grade shall not be altered without approval from the city council. The council shall base their decision on:

- a) The degree of alteration of the slope; and
- b) The importance of the slope to the character of the area."

(Comment: Construction of the presently planned minor collector street south of Schaller Drive would significantly alter a protected steep slope.)

"(3)(d) A development shall be located to minimize the removal of vegetation and alteration of the natural topography."

"(3)(e) Erosion protection measures shall make maximum use of natural, in-place vegetation, rather than the placing of new vegetation on the site."

"(5)(a) Development shall be designed to preserve the maximum number of healthy trees. This requirement shall not apply to diseased trees or where a forester certifies that thinning is needed for the overall health of a woodlot; in which case, a specific tree removal plan must be approved by the city."

"(5)(b) If trees are not cut, the density of trees shall be restored to that which existed before development, but in no case shall the applicant be required to raise the density above ten (10) trees per acre, unless part of a required planting screen. Any trees required to be planted shall be varied in species, shall maximize the use of species native to the area, shall not include any species under disease epidemic and shall be hardy under local conditions. Tree diameters shall be at least two (2) inches."

Planning

1. Permitted density: 14 people/net acre
2. Proposed density: 14.3 people (5.43 net acres)
3. Average lot area: 12,449 square feet
4. State law: Chapter 412.851 of state law states that "the council may by resolution vacate any street, alley, public grounds, public way, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated. When there has been no petition, the resolution may be adopted only by a vote of four-fifths of all members of the council. No such vacation shall be made unless it appears in the interest of the public to do so after a hearing preceded by two weeks published and posted notice."

Public Works

1. A two-acre-foot storm water pond is shown in the drainage plan to the northeast of this site. The applicant is proposing to eliminate this pond and provide additional capacity in the seven-acre-foot pond planned to the southwest of this site. This proposal is acceptable, provided adequate ponding area can be demonstrated and the outlet is sufficient. An easement for the seven-acre-foot pond is a requirement of final plat approval for Gonyea's Oak Heights preliminary plat. (See past actions.)
2. There are no utilities within or planned to be constructed within the portion of the Lakewood Drive right-of-way proposed for vacation, except for an east/west storm sewer proposed along the south boundary of Lot 7, Block One. An easement would be retained for this utility.
3. On June 8, 1987, council ordered a feasibility study for the improvement of Boxwood Avenue. This study will address the options of routing the sanitary sewer for this site and the third phase of the plat to the south (page 12) to:
 - a. The Metropolitan Waste Control Commission's trunk sewer in Carver Avenue via Dorland Road and
 - b. The City of St. Paul's system in McKnight Road

This study should be considered by council late this fall or early winter.

Routing the sewer north to Highwood Avenue is not possible, unless constructed west of the Maldas' property at 2322 Highwood Avenue. This would require unnecessary alteration of the protected slope, given the ability to serve this area from the south.

4. Construction of a street, west of the Maldas (2322 Highwood Avenue), would be possible but extensive grading would be required. The existing grade is 15+ percent south of Highwood Avenue. Maximum permissible street grade is 7+ percent. A retaining wall(s) would also be necessary to access the Maldas' existing garage because if a street were to be built, it would be about ten feet lower than the existing garage elevation.

Procedure

Plan Amendment:

1. Planning commission recommendation following a public hearing
2. City council decision

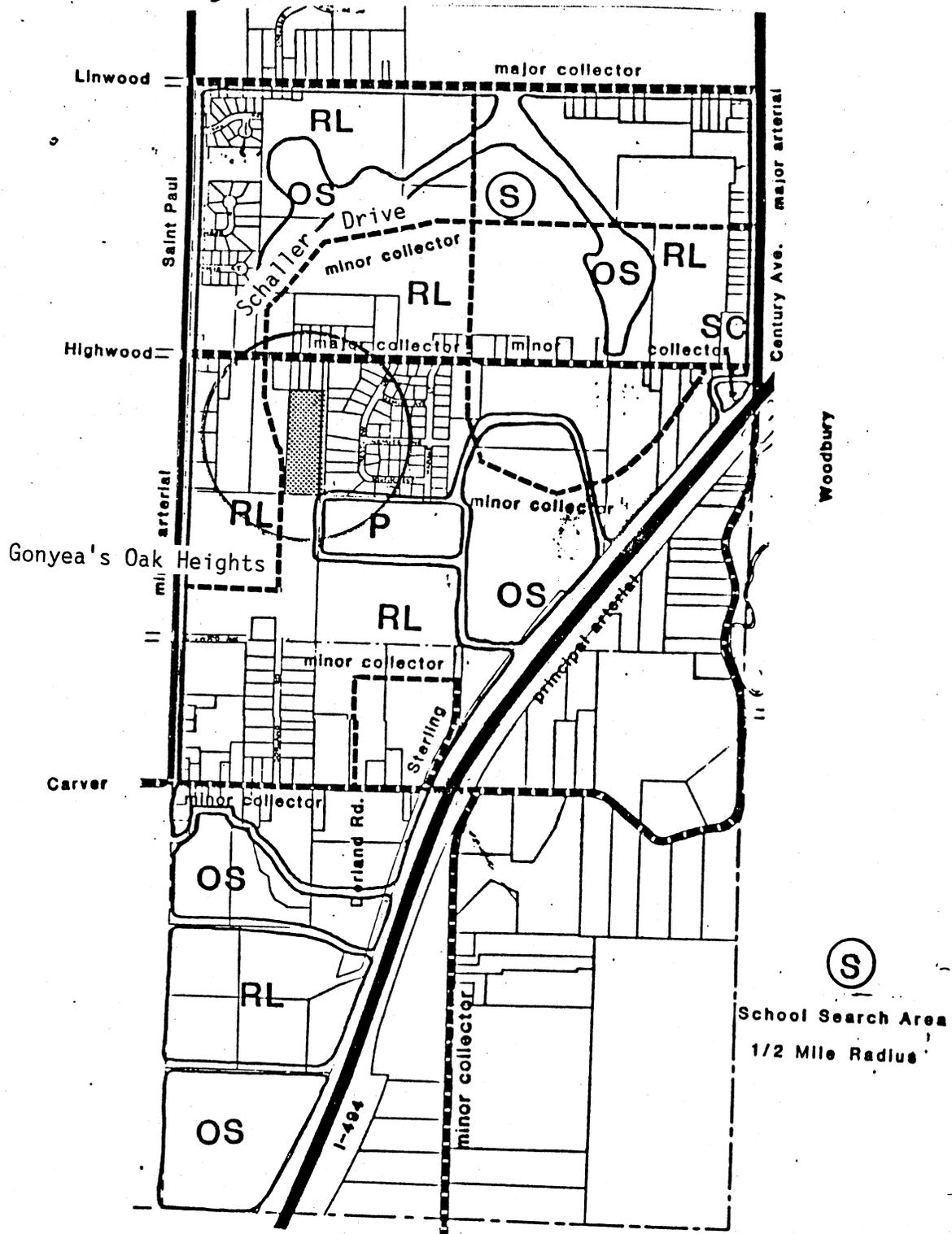
Plat/Vacation

1. Planning commission recommendation
2. City council decision following a public hearing

kd

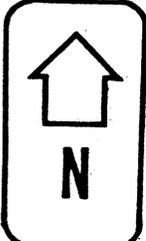
Attachments

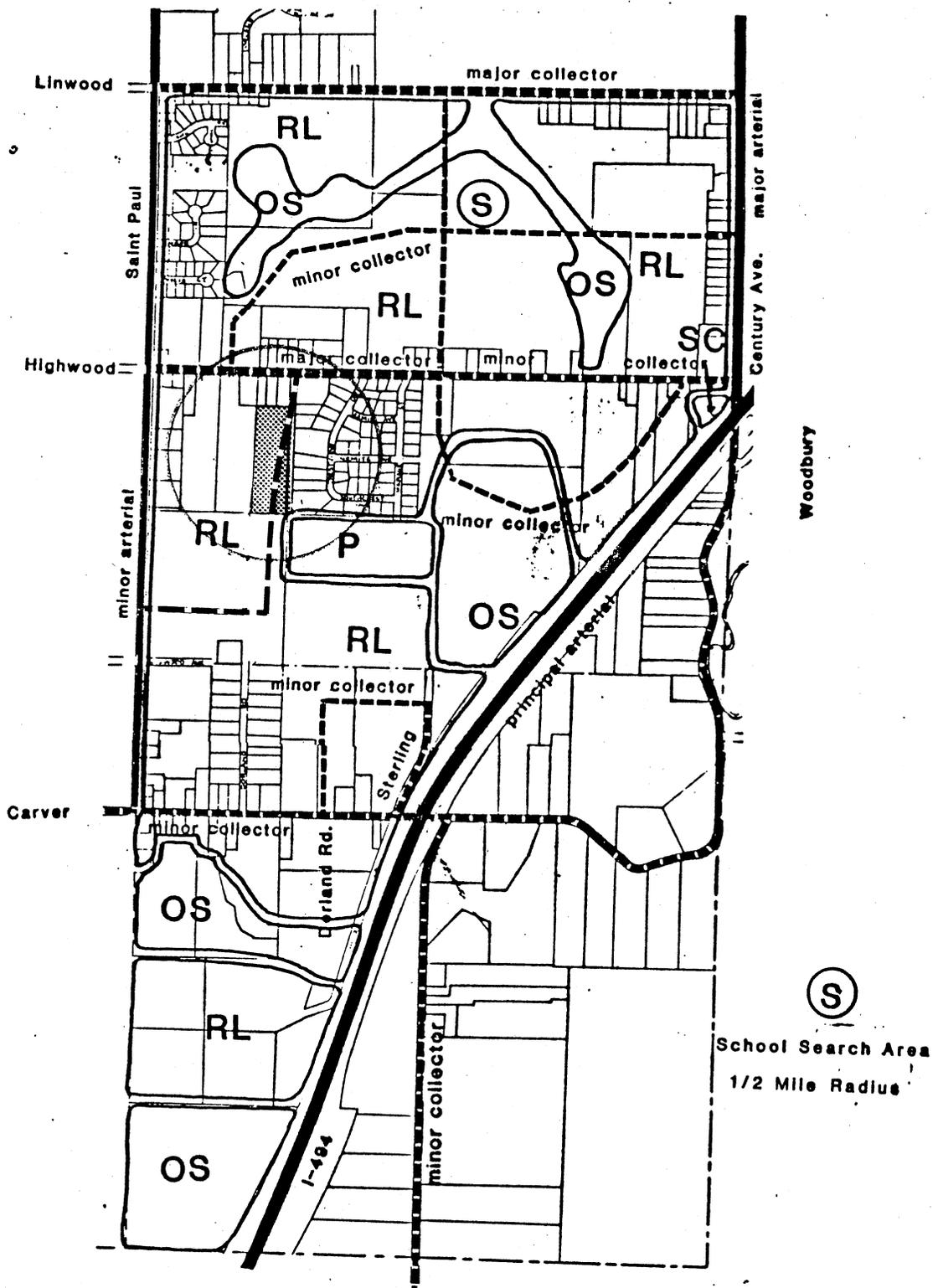
1. Highwood Land Use Plan (Present)
2. Highwood Land Use Plan (Proposed)
3. Area Street Concept Map
4. Gonyea's Oak Heights - Phases I-IV
5. Excerpt from the Drainage Plan
6. Preliminary Plat (8-1/2 X 11)
7. Resolution (Plan Amendment)
8. Resolution (Vacation)
9. Preliminary Plat (Separate Attachment)



Highwood NEIGHBORHOOD LAND USE PLAN

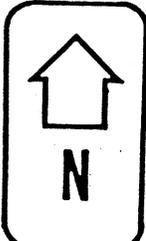
(PRESENT)

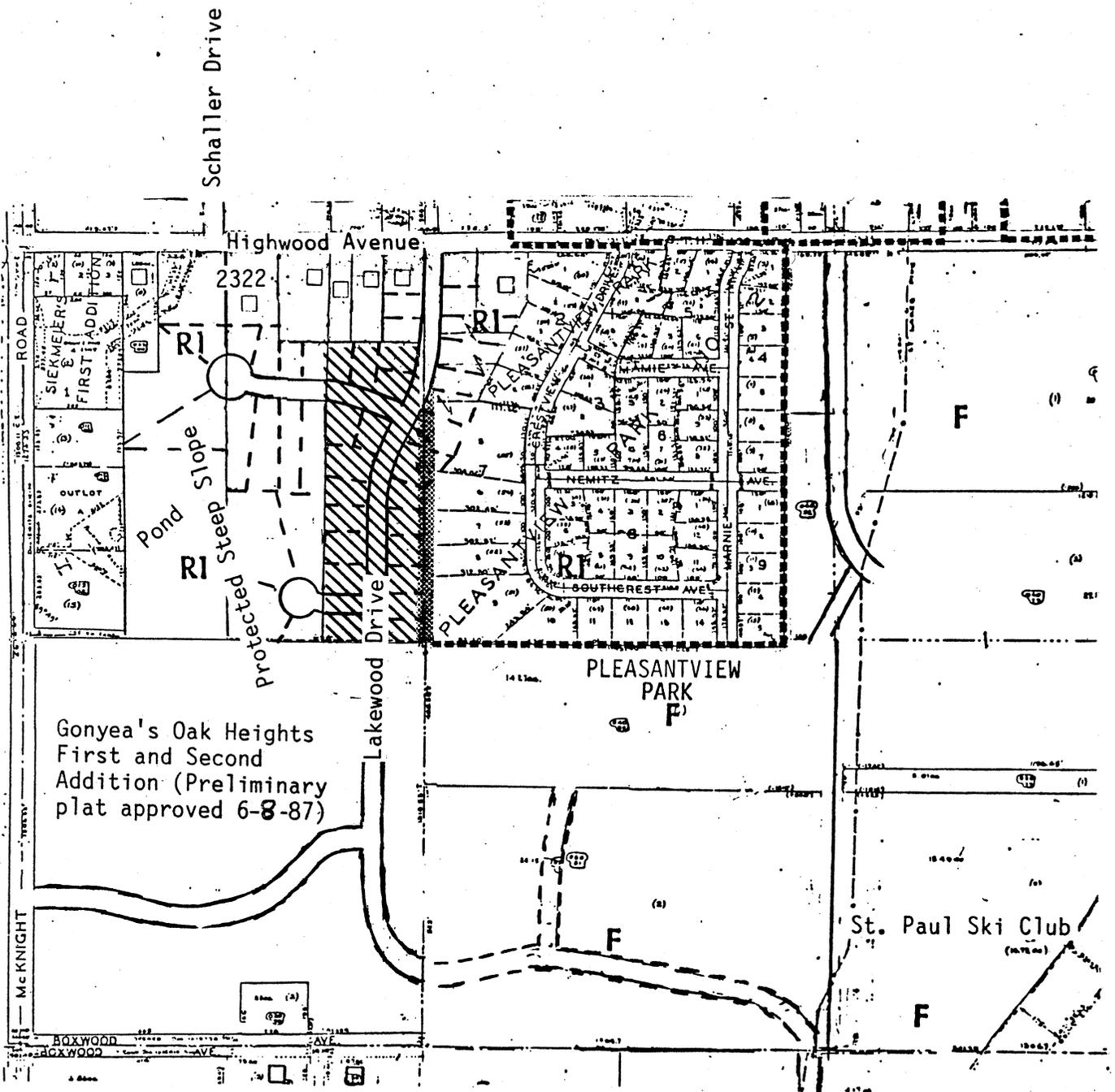




Highwood NEIGHBORHOOD LAND USE PLAN

(PROPOSED)



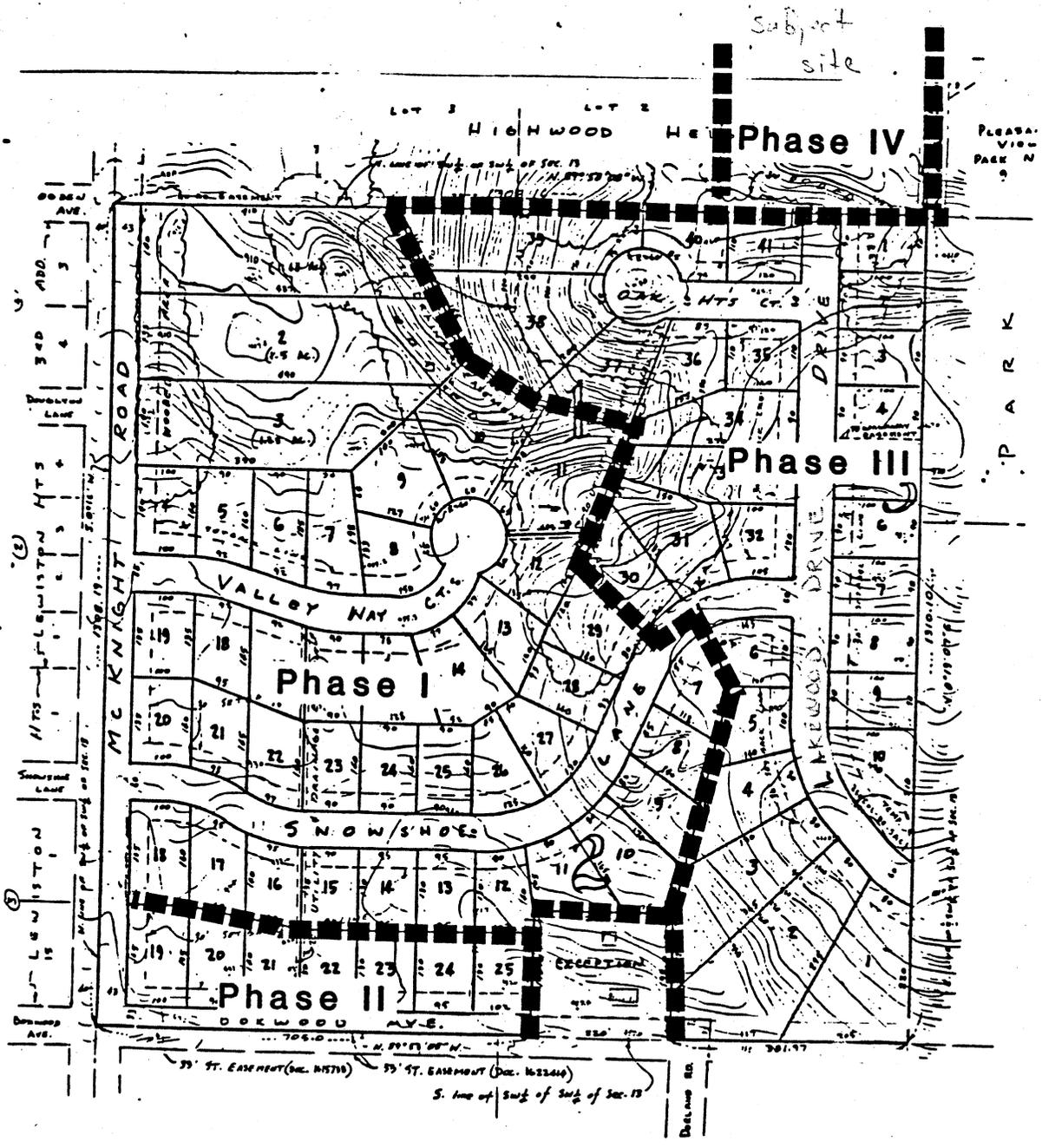


Area Street Concept Map

 Area to be platted as Gonyea's Oak Heights Third Addition

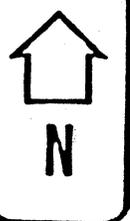
 Street to be vacated

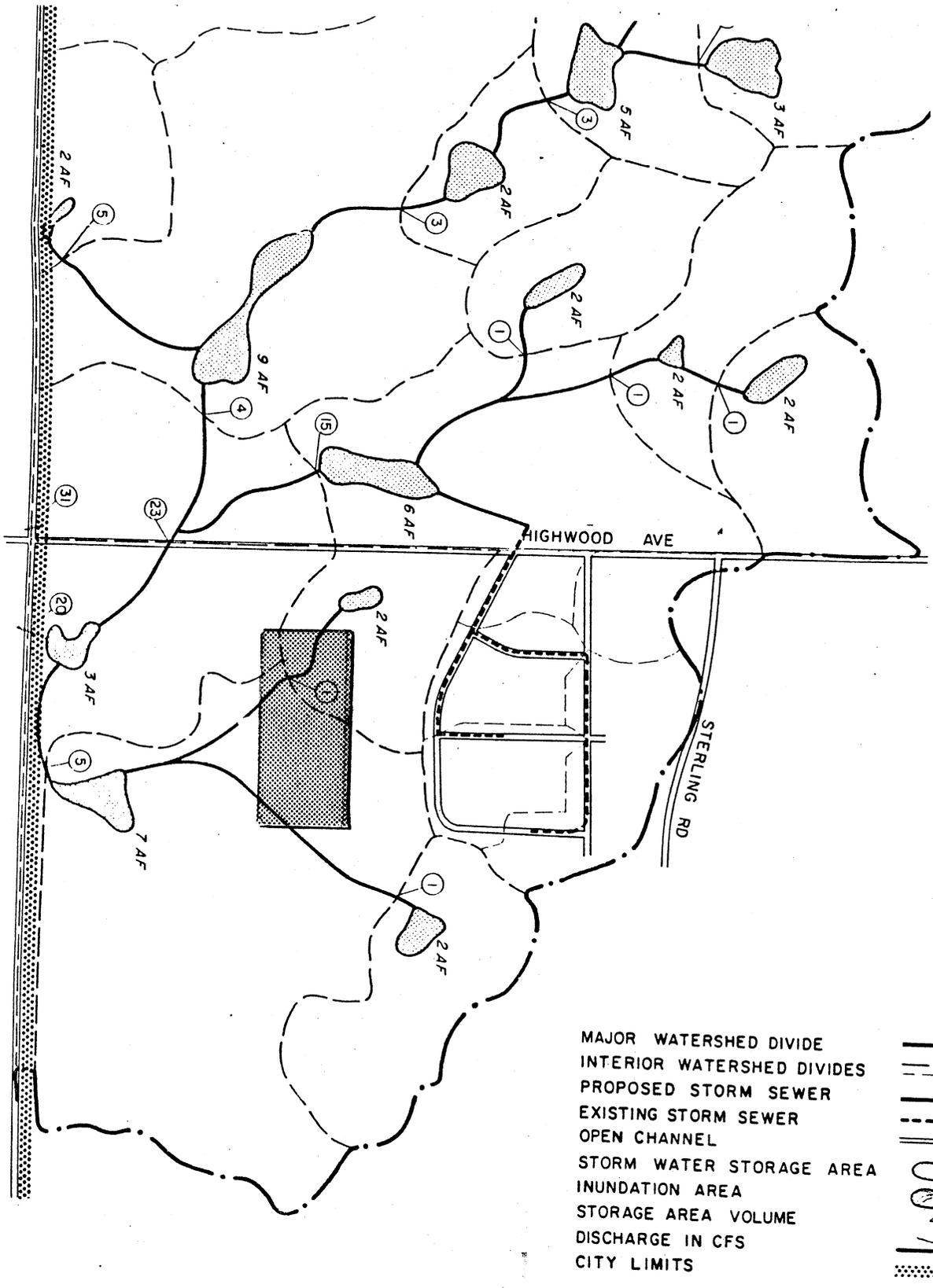




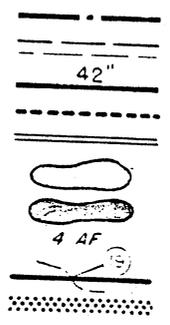
PRELIMINARY PLAT
 GONYEA'S OAK HEIGHTS

Attachment 4

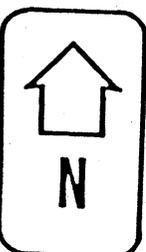


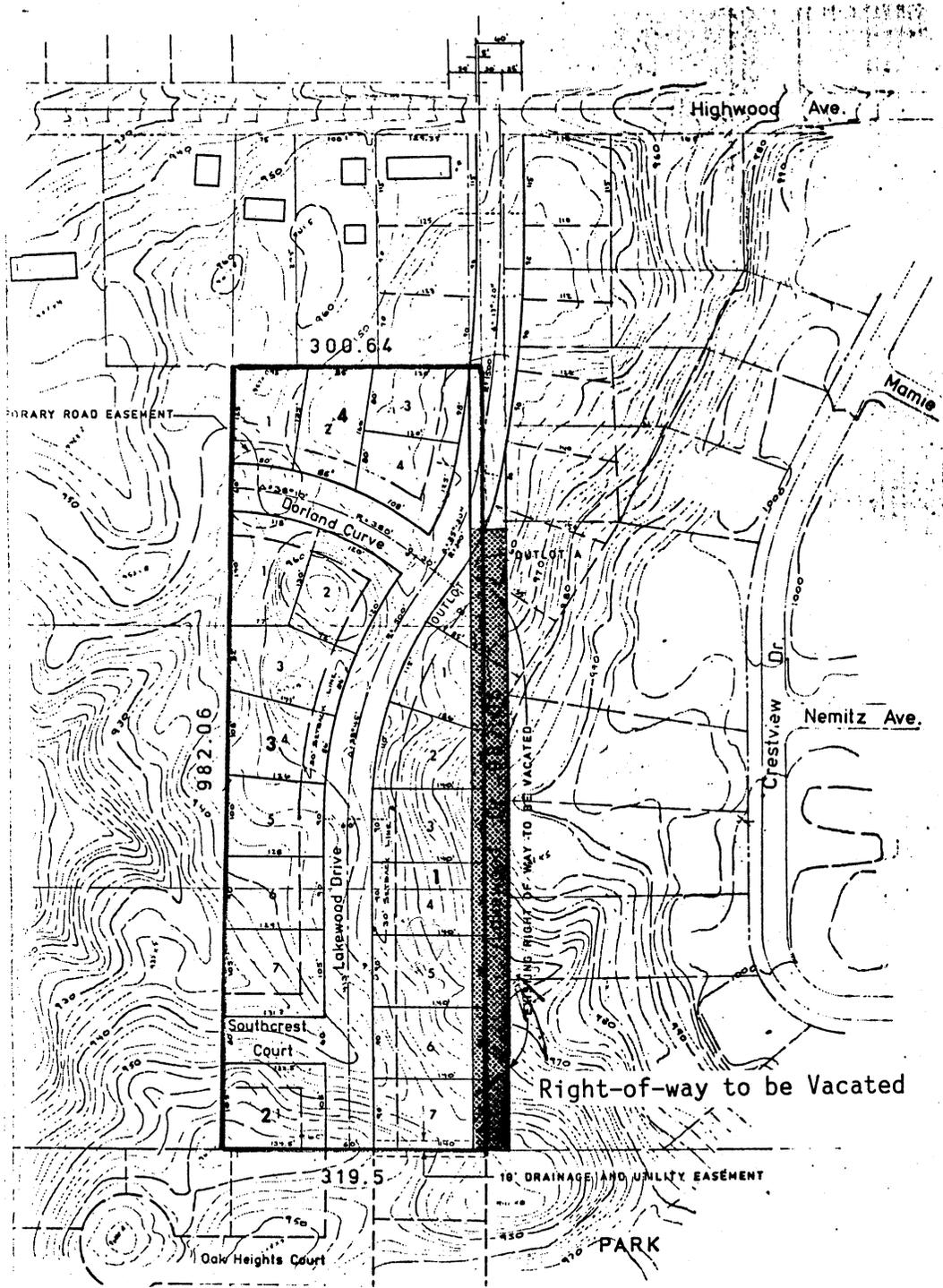


MAJOR WATERSHED DIVIDE
 INTERIOR WATERSHED DIVIDES
 PROPOSED STORM SEWER
 EXISTING STORM SEWER
 OPEN CHANNEL
 STORM WATER STORAGE AREA
 INUNDATION AREA
 STORAGE AREA VOLUME
 DISCHARGE IN CFS
 CITY LIMITS



Excerpt From The
Drainage Plan.





Gonyea's Oak Heights

PRELIMINARY PLAT



PLAN AMENDMENT RESOLUTION

WHEREAS, the City of Maplewood initiated an amendment to the Maplewood Comprehensive Plan to shift the location of a north/south minor collector or street on the south side of Highwood Avenue from Schaller Drive to Lakewood Drive.

WHEREAS, the procedural history of this plan amendment is as follows:

1. The Maplewood Planning Commission held a public hearing on August 31, 1987, to consider this plan amendment. Notice thereof was published and mailed pursuant to law. All persons present at said hearing were given an opportunity to be heard and present written statements. The planning commission recommended to the city council that said plan amendment be

2. The Maplewood City Council considered said plan amendment on 1987. The council considered reports and recommendations from the planning commission and city staff.

NOW, THEREFORE, BE IT RESOLVED BY THE MAPLEWOOD CITY COUNCIL that the above-described plan amendment be approved on the basis of the following findings of fact:

1. The present alignment is inconsistent with the intent of the Environmental Protection Ordinance to preserve significant steep slopes wherever practical.
2. An acceptable alternative alignment exists.

Adopted this day of , 1987.

Seconded by Ayes--

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Maplewood, Minnesota was duly called and held in the council chambers in said city on the _____ day of _____, 1987 at 7 p.m.

The following members were present:

The following members were absent:

WHEREAS, Dennis D. Gonyea initiated proceedings to vacate the public interest in:

Lakewood Drive street right-of-way lying north of the westerly extension of the south line of Lot Nine, Block Seven, Pleasantview Park No. 2 and south of the westerly extension of the south line of the north fifteen feet of Lot Five, Block Seven, Pleasantview Park No. 2.

WHEREAS, the procedural history of this vacation is as follows:

1. A majority of the owners of property abutting said street right-of-way have signed a petition for this vacation;
2. This vacation was reviewed by the planning commission on August 31, 1987. The planning commission recommended to the city council that this vacation be
3. The city council held a public hearing on _____, 1987 to consider this vacation. Notice thereof was published and mailed pursuant to law. All persons present at this hearing were given an opportunity to be heard and present written statements. The council also considered reports and recommendations of the city staff and planning commission.

WHEREAS, upon vacation of the above-described street right-of-way, public interest in the property will accrue to the following described abutting properties:

Lots Five through Nine, Block Seven, Pleasantview Park and, except the north 295 feet, the following part of Lots 1, 5 and 6 lying easterly of a line running from the southwest corner of the east one-half of said Lot Six to a point on the north line of and twenty feet from the northwest corner of said Lot One, Highwood Heights.

NOW, THEREFORE, BE IT RESOLVED by the Maplewood City Council that it is in the public interest to grant the above-described vacation on the basis of the following findings of fact:

Planning Commission
Minutes 8-31-87

- c. Contracts must be signed for the construction of sanitary sewer from this site to the Metropolitan Waste Control Commission's trunk sewer in Carver Avenue or to the City of St. Paul's sewer in McKnight Road.
- d. Calculations must be submitted to guarantee that the proposed ponding easement to the southwest of this site (required for phases 1-3) and the pond's outlet will be adequate. This easement shall be of record before final plat approval.
- e. Final grading, utility, drainage, erosion control and street plans must be approved by the city engineer. These plans shall include, but not be limited to:
 - (1) The street plans shall provide for an on-street trail.
 - (2) The grading plan shall include a proposed building pad elevation and contour information for each home site, as well as the areas to be disturbed for street construction. Housing styles shall be illustrated which minimize grading on sites that contain desirable mature trees and steeper slopes. Deviation from this approved grading plan for each lot may be permitted by the city engineer, provided the intent of the overall grading plan is complied with.
- f. Submittal of a temporary 100-foot-diameter cul-de-sac bulb easement for the north cul-de-sac.
- g. Submittal of a signed developer's agreement with required surety for all required public streets, utilities, erosion control and tree replanting, if necessary (see Condition k).
- h. The right-of-way for Southcrest Court shall be curved, as necessary, to the northwest to provide at least 100-feet of depth between the south property line and the future cul-de-sac bulb.
- i. "Dorland Curve" shall be changed to a name acceptable to the director of public safety.
- j. The east boundary of the plat shall include the west fifteen feet of vacated Lakewood Drive right-of-way.
- k. A plan, prepared by a qualified expert, shall be submitted for the removal of diseased trees and any other necessary thinning required for the overall health of remaining trees. This plan shall include the location, type and size of the mature trees to be removed due to disease or grading and the mature trees that will be retained. The plan shall specify the location and type of trees to be planted, if required, in accordance with the provisions of Section 9-191(5)(b) of the Environmental Protection Ordinance.

Commissioner Sletten seconded

Ayes--Barrett, Fischer, Rossbach,
Sigmundik, Sletten

MEMORANDUM

Action by Council:

TO: City Manager
 FROM: Associate Planner--Johnson
 SUBJECT: Alley Vacation
 LOCATION: Between Gordon and Fenton Avenues and
 Walter Street
 APPLICANT: John Rawson, Jr.
 DATE: August 10, 1987

Endorsed _____
 Modified _____
 Rejected _____
 Date _____

SUMMARY

Introduction

The applicant is requesting the partial vacation of an unimproved alley right-of-way that is located northwest of Gordon Avenue and Walter Street. City staff is recommending that the remainder of this right-of-way should also be vacated. Refer to the map on page 5 and the applicant's letter on page 6.

Comments

This right-of-way does not serve as an access to any of the adjoining properties. Each of the adjoining owners, including those abutting the portion proposed by staff for vacation, was surveyed. No opposition was brought to staff's attention.

Recommendation

Approve the resolution on page 8 to vacate the alley right-of-way, subject to retention of a ten-foot wide utility easement along the north half of the east/west segment and the west ten feet of a portion of the north/south segment.

The basis for approval is:

1. This right-of-way is the result of obsolete platting that occurred prior to the establishment of the city. Maplewood's policy has been to vacate alley rights-of-way whenever possible.
2. This alley does not serve as an access to any of the adjoining properties.
3. The grade south of Fenton Avenue is too steep to construct the alley.

CITIZEN COMMENTS

The ten property owners adjacent to this alley right-of-way, including the portion proposed for vacation by city staff, were asked their opinion of this proposal. Each of the four respondents is in favor of vacating the alley.

Those in favor had the following comments:

1. The property needs to be maintained and legally staked (surveyed). Please arrange to have the alley marked so that everyone will know exactly where its boundaries are.

Staff comment: It is the responsibility of the adjacent property owners to locate their property lines.

2. I don't see how an alley would help anyone.

3. No one affected ever uses the old alley area (for access).

REFERENCE

Easement Description

1. This unimproved alley right-of-way is twenty feet wide. It is being used as side and rear yard area.

2. Northern States Power and Northwestern Bell Telephone have overhead lines and poles along the east/west section and along the north/south portion adjacent to Lots 16-20, Block 5, Kavanagh and Dawson's Addition to Gladstone (page 5).

Planning

Chapter 412.851 of state law states that "the council may by resolution vacate any street, alley, public grounds, public way, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated. When there has been no petition, the resolution may be adopted only by a vote of four-fifths of all members of the council. No such vacation shall be made unless it appears in the interest of the public to do so after a hearing preceded by two weeks published and posted notice."

Public Works

1. There are no city utilities within or planned to be located within this right-of-way.

2. The slope south of Fenton Avenue has a grade of approximately 16.5 percent. Maximum street grade is 7.5 percent.

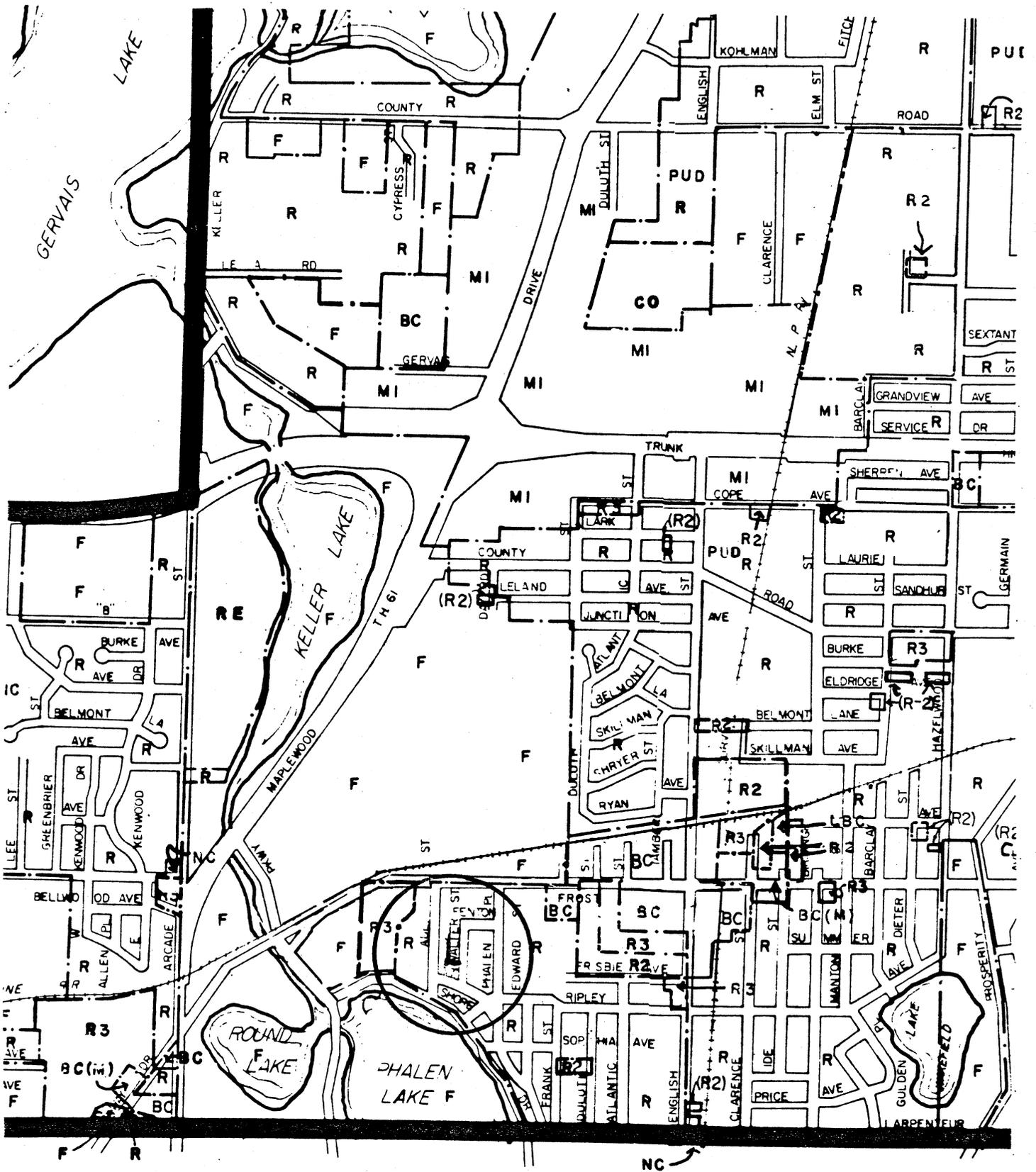
Procedure

1. Planning commission recommendation.
2. City council decision following a public hearing.

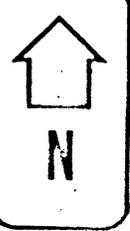
jw

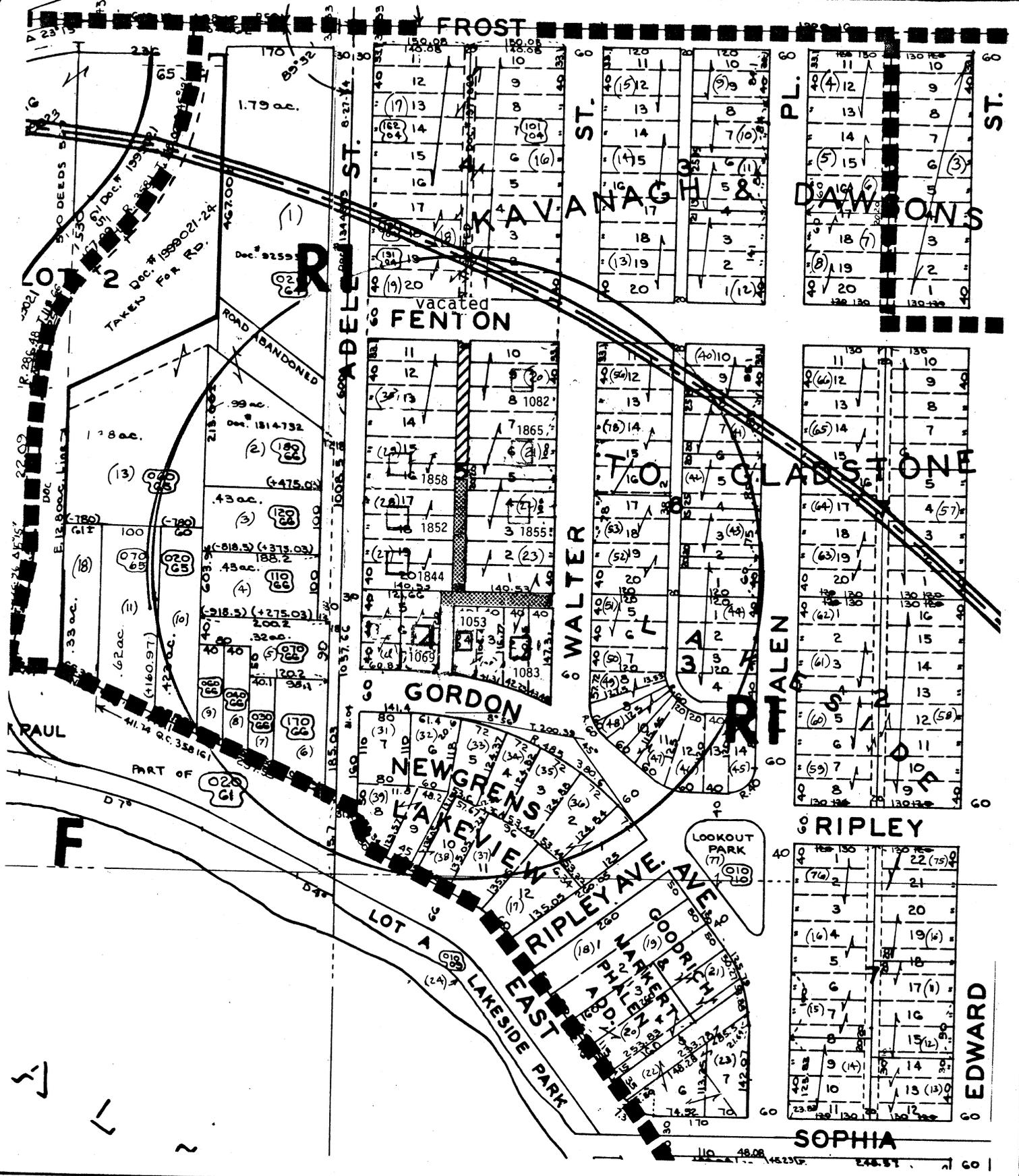
Attachments

1. Location Map
2. Property Line/Zoning Map
3. Letter from Applicant
4. Petition
5. Resolution



LOCATION MAP

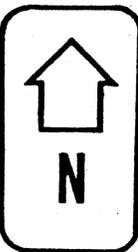




PROPERTY LINE / ZONING MAP

 Alley requested for vacation

 Proposed for vacation by city staff



Randall Johnson
City of Maplewood
1830 East County Road B
Maplewood, MN 55109

May 21, 1987

Dear Mr. Johnson;

Enclosed is a public vacation application of a city alley that runs behind my house and some of my neighbors houses as well. The reason I need to do this is for the purpose of installing a fence at my back property line for security purposes. There is a large tree that appears to be on the current property line and I would rather get an extra 10 feet so I could include the tree in my property than to put the fence in front of the tree and make my yard smaller. Also to benefit from this vacation would be the Dunshees' (#6) and the Meyers (#7). They would then be able to make seperate driveways and improve them as they felt necessary. Also it would increase the yard sizes of the Evans (#1) and the Pipitones (#4).

I feel that the public would benefit because junk could not be stored on it causing a potential health and safety hazard. I have talked with various people in your department regarding the storage of scrap lumber, metal, trailers, cars, trucks, discarded lawnmowers, snowmobiles, oil drums and other various items on this alley. I feel that this vacation would solve that public nuisance.

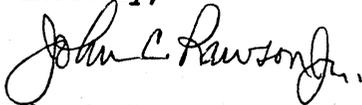
Please note that #3 on the abstract list should not be included since it does not abut the alley. I am not sure why they included it.

The portion of the alley I am requesting to be vacated is highlighted in yellow on the enclosed map.

Enclosed are two checks for the filing fee (\$48.00) and the county recording fees (\$60.00).

Thank you in advance for your prompt attention.

Sincerely,



John C. Rawson, Jr.
1844 Adele St.
Maplewood, MN 55109
776-2026 Home
298-6057 Work

PUBLIC VACATION PETITION

We, the undersigned, being a majority of the owners of land abutting on the (street), (alley), or (public easement) described as:

Alley abutting properties 1-7. (abstract listing)

do hereby petition the City Council of Maplewood, Minnesota, to vacate the above described area.

Signature	Name (Please print or type)	Abstractor's List No.
<i>John Rawson</i>	JOHN RAWSON	2 1922 AB-22
<i>Nancy Evans Robert Evans</i>	ROBERT AND NANCY EVANS	1 1950 W-22
<i>Carl R. Muser</i>	1067 Gordon CARL R. MUSER	7 1923 Gordon
<i>Wayne K Dunshee</i>	Wayne K Dunshee	6 1053 Gordon
<i>Joseph Pipitone</i>	JOE PIPITONE	4 1855 Weller
<i>Dominick Pipitone</i>	DOMINICK PIPITONE	4 "

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Maplewood, Minnesota was duly called and held in the council chambers in said city on the _____ day of _____, 1987 at 7 p.m.

The following members were present:

The following members were absent:

WHEREAS, John Rawson, Jr. initiated proceedings to vacate the public interest in the following described right-of-way:

1. The alley right-of-way in Block Four, Lakeside Park, lying north of the north line of Lots One through Four and the westerly extension of said line.

2. The alley right-of-way between the easterly extension of the south line of Lot Twenty and easterly extension of the north line of Lot Eleven, Block Five, Kavanagh and Dawson's Addition to Gladstone.

WHEREAS, the procedural history of this vacation is as follows:

1. A majority of the owners of property abutting said alley right-of-way have signed a petition for this vacation;

2. This vacation was reviewed by the planning commission on August 31, 1987. The planning commission recommended to the city council that this vacation be

3. The city council held a public hearing on _____, 1987 to consider this vacation. Notice thereof was published and mailed pursuant to law. All persons present at this hearing were given an opportunity to be heard and present written statements. The council also considered reports and recommendations of the city staff and planning commission.

WHEREAS, upon vacation of the above-described alley right-of-way, public interest in the property will accrue to the following described abutting properties:

1. Lots 1-20, Block 5, Kavanagh and Dawson's Addition to Gladstone.

2. Lots 1-5, Block 4, Lakeside Park.

All in Section 16, Township 29, Range 22, Ramsey County.

NOW, THEREFORE, BE IT RESOLVED by the Maplewood City Council that it is in the public interest to grant the above-described vacation on the basis of the following findings of fact:

1. This right-of-way is the result of obsolete platting that occurred prior to the establishment of the city. Maplewood's policy has been to vacate alley rights-of-way whenever possible.

2. This alley does not serve as an access to any of the adjoining properties.

3. The grade south of Fenton Avenue is too steep to construct the alley.

This vacation is subject to the retention of a utility easement over the following described areas:

1. The north ten feet of the alley right-of-way in Block Four, Parkside Addition.

2. The west ten feet of the alley right-of-way in Block Five, Kavanagh and Dawson's Addition to Gladstone, lying between the easterly extension of the south line of Lot Twenty and the easterly extension of the north line of the south thirty feet of Lot Sixteen.

Adopted this _____ day of _____, 1987

Seconded by _____ Ayes--

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY) SS.
)
CITY OF MAPLEWOOD)

I, the undersigned, being the duly qualified and appointed Clerk of the City of Maplewood, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of the City of Maplewood, held on the _____ day of 1987 with the original on file in my office and the same is a full, true and complete transcript therefrom insofar as the same relates to vacation of this alley right-of-way.

Witness my hand as such clerk and the corporate seal of the city this _____ day of _____, 1987.

City Clerk
City of Maplewood, Minnesota

Planning Commission
Minutes 8-31-87

VI. VISITOR PRESENTATIONS

VII. COMMUNICATIONS

VIII. NEW BUSINESS

A. Alley Vacation: Between Fenton, Walter and Gordon

John Rawson, Jr., the applicant requesting the alley vacation, was present and requested the city remove a diseased elm tree on the city's alley property. The commission suggested this matter be addressed to the city council for their direction.

Commissioner Sletten moved approval of the resolution to vacate the alley right-of-way, subject to retention of a ten-foot-wide utility easement along the north half of the east/west segment and the west ten feet of a portion of the north/south segment. The basis for approval is:

1. This right-of-way is the result of obsolete platting that occurred prior to the establishment of the city. Maplewood's policy has been to vacate alley rights-of-way whenever possible.
2. This alley does not serve as an access to any of the adjoining properties.
3. The grade south of Fenton Avenue is too steep to construct the alley.

Commissioner Sigmundik seconded

Ayes--Barrett, Fischer, Rossbach,
Sigmundik, Sletten

B. Preliminary Plat, Alley and Street Vacations: Parkway Terrace

Mario Cocchiarella, a partner in Sherman-Boosalis Companies, commented on the recommendations in the staff report concerning the storm sewer construction guarantee. A commissioner asked staff for North St. Paul's or past policy on escrow guarantees. Staff explained Maplewood's past policy and referred Mr. Cocchiarella to the City of North St. Paul for their policy.

Commissioner Rossbach moved:

I. Approval of the resolution to vacate the existing street and alley rights-of-way that cross this site. Approval is on the basis that:

1. The street and alley rights-of-way are not needed.
2. The proposed street alignment would preserve more desirable mature trees than would otherwise be possible.
3. Construction of the east/west Sandhurst Avenue right-of-way would require additional driveways onto County Road B. The proposed north/south right-of-way alignment would reduce or totally eliminate this undesirable situation.

MEMORANDUM

Action by Council:

TO: City Manager
FROM: City Engineer
SUBJECT: Southlawn Drive (Beam Avenue to County Road D)
City Project 85-17
Public Hearing
DATE: September 22, 1987

Endorsed _____
Modified _____
Rejected _____
Date _____

A public hearing is scheduled for 7:20 p.m. to consider construction of Southlawn Drive from Beam Avenue to County Road D. The feasibility study is attached.

jc

AGENDA REPORT

TO: City Manager
FROM: Assistant City Engineer
SUBJECT: Southlawn Drive (Beam to County Road D)
City Project 85-17
Order Public Hearing
DATE: September 9, 1987

INTRODUCTION

Attached is the feasibility report from September 1985, on the improvement of Southlawn Drive between Beam Avenue and County Road D. Also attached is a letter from the consultant updating the report and providing a state-aid fund estimate. Council approval of the feasibility report is required as well as calling for a public hearing on September 28, 1987.

BACKGROUND

On October 28, 1985, the city council held a public hearing to consider the construction of Southlawn Drive between Beam Avenue and County Road D on the west side of Maplewood Mall. The proposed improvement was a two-phased construction project with the first phase, the Beam Avenue one-half of the roadway, to be constructed immediately and the second phase, the connection to County Road D, to be delayed until the major property owner dedicated the required right-of-way as part of the platting process. The council tabled the project pending negotiations with the property owners for the right-of-way.

On November 11, 1985, the city council rejected a proposal in which the city would be financing the right-of-way acquisition through assessments for construction of the entire segment from Beam to County Road D. The council directed the city engineer to prepare plans and specifications only after all right-of-way was dedicated. The property owners rejected the council proposal so the project time limit expired.

On July 13, 1987, the city council approved an easement agreement with Corporate Property Investors, Inc., the owners of Maplewood Mall, for the dedication of the existing mall entrance road. This entrance road will serve as the southern segment of Southlawn Drive. The agreement also included the purchase for \$40,000 the existing roadway and utilities within the entrance road right-of-way.

On August 24, 1987, the city council reviewed a report on the municipal state-aid fund balance. The report stated that if projects were not ordered reducing the fund balance by \$861,412 prior to October 20, 1987, the unencumbered construction fund subcommittee

would recommend that the city's 1988 allotment of construction funds be reduced from approximately \$600,000 to \$300,000. The council had previously ordered Sterling Street between Mailand Road and Highwood Avenue with an estimated state-aid allotment of \$600,000. In response to the need for an additional state-aid fund expenditure and noting the roadway's need to serve the area due to the westward expansion of Maplewood Mall, the council ordered the updating of the Southlawn Drive feasibility study.

ALTERNATIVES

1. Accept the feasibility report and order a public hearing to be held on September 28, 1987 at 7:20 p.m.
2. Reject the report and hearing.

DISCUSSION

Alternative 2, reject the project, would mean certain loss of \$300,000 in state-aid dollars. The screening committee allowed the city to have an excessive balance throughout 1986 because Southlawn Drive and Upper Afton Road were pending projects at that time. The nonaction on those projects is viewed by the screening committee as the city not having funding needs to upgrade the municipality's street system and the funds can be better utilized in cities with demonstrated needs.

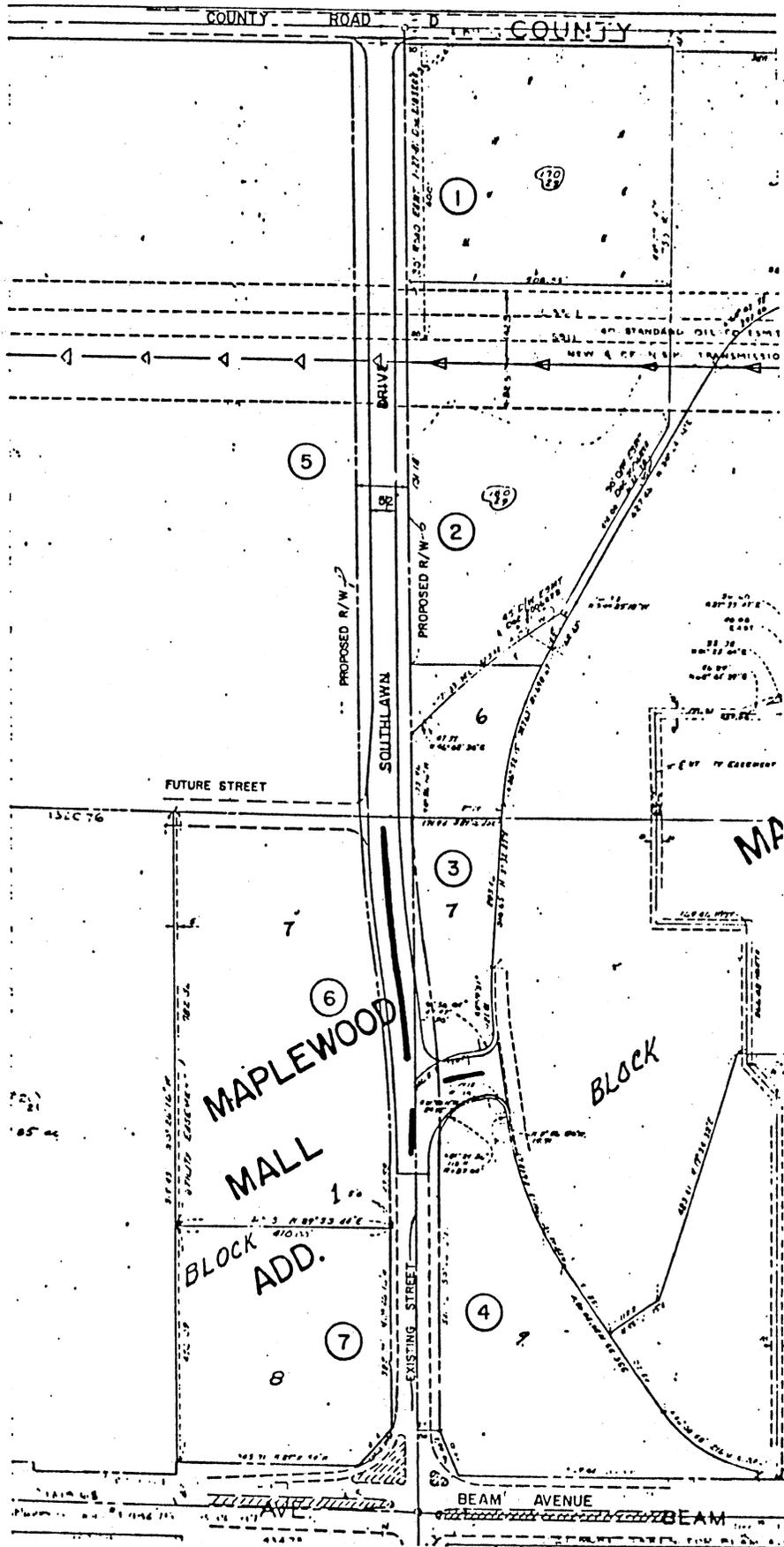
Alternative 1 will call a hearing for September 28 at which time the council will consider ordering of the project for 1988 construction. The following financing proposal represents the updated conditions:

<u>Item</u>	<u>Est. Cost</u>	<u>Asmt. Units</u>	<u>Asmt. Rate</u>	<u>Recovery</u>	<u>TIF</u>	<u>MSAS</u>
Sanitary Sewer	\$ 3,300	1 Ea.	\$3,300.00/Ea.	\$ 3,300	\$ 0	\$ 0
Water Main	76,700	2,600 FF	29.50/FF	76,700	0	0
Water Service	7,200	3 Ea.	2,400.00/Ea.	7,200	0	0
Street	<u>825,200</u>	<u>4,880 FF</u>	<u>40.00/Ea.</u>	<u>195,200</u>	<u>205,000</u>	<u>425,000</u>
Totals	\$912,400	--	--	\$282,400	\$205,000	\$425,000

It should be noted that the street cost includes costs for right-of-way and additional indirect costs due to the difficult nature of the project and the indirect costs already incurred to date.

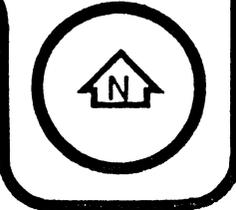
RECOMMENDATION

It is recommended that the council accept the feasibility report and order a public hearing for September 28 at 7:20 p.m. by passing the attached resolution.



IMPROVEMENT 85-17
 Southlawn Drive
 Beam Ave to CO Road D

10/10/85



9.02.87



222 EAST LITTLE CANADA ROAD, ST. PAUL, MINNESOTA 55117 612 484-0272

August 31, 1987

RE: MAPLEWOOD, MINNESOTA
SOUTHLAWN AVENUE
STREETS AND UTILITY
CONSTRUCTION
SEH FILE: 86000

Honorable Mayor and City Council
City of Maplewood
1830 East County Rd. B
Maplewood, MN 55109

c/o Chuck Ahl, Assistant City Engineer

Dear Council Members:

In accordance with your request we have reviewed the Feasibility Report for Street and Utility Construction on Southlawn Avenue which was prepared in September of 1985. We find that all conclusions and recommendations presented in the report remain relevant except for number 1. The Southlawn Avenue alignment has subsequently been designated as an MSA route. The cost estimates presented in the report also are accurate for present and projected 1988 construction. The total estimated project cost remains \$640,000.

In reviewing the cost estimates, would feel that virtually all of the Phase I and Phase II Street Construction costs would be eligible for MSA reimbursement. The total of these costs are estimated to be \$425,000.

As before, we find the project to be feasible and recommend that if authorized, construction be in general compliance with the provisions of the report.

Respectfully submitted,

SHORT-ELLIOTT-HENDRICKSON, INC.

Steve Campbell

jms

MEMORANDUM

Action by Council:

TO: City Manager
 FROM: Director of Community Development
 SUBJECT: Tax-Increment Financing Plan Revision
 DATE: September 16, 1987

Endorsed _____
 Modified _____
 Rejected _____
 Date _____

Introduction

City staff is proposing that the city's tax-increment financing plan be revised to allow the city to spend the tax increment from the Mainstreet store and new addition to the Maplewood Mall on the list of public improvement projects on page 9. Public improvements west of the mall, such as the construction of Kennard, Southlawn and Lydia Avenues, and the acquisition of the Burlington Northern corridor have been added.

Background

The city council adopted the original tax-increment financing plan on October 28, 1985 and modified it on June 23, 1986.

Discussion

Tax-increment financing is a method of financing projects with a public purpose by selling bonds and repaying them with the increase in taxes from a new development. It is anticipated that the financing for the proposed public improvement projects will maximize assessments and state-wide financing with the balance to come from tax-increment financing. The option would be to finance the balance from the general fund.

Recommendation

Approve the enclosed resolution approving the development program and tax-increment plan.

kd

Attachments

1. Resolution (Separate Attachment)
2. Development Program and Tax-Increment Financing Plan (Separate Attachment)

556X

EXTRACT OF MINUTES OF MEETING OF THE
CITY COUNCIL OF THE CITY
OF MAPLEWOOD, MINNESOTA

HELD: SEPTEMBER 28, 1987

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Maplewood, Ramsey County, Minnesota, was duly held on the 28th day of September, 1987, at _____ o'clock p.m.

The following members of the Council were present:

and the following were absent:

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION ENLARGING DEVELOPMENT DISTRICT NO. 1
AND APPROVING THE DEVELOPMENT PROGRAM RELATING THERETO,
AND ADOPTING ECONOMIC DEVELOPMENT DISTRICT NO. 1-2
AND ADOPTING THE TAX INCREMENT FINANCING PLAN
RELATING THERETO

WHEREAS:

A. It has been proposed that the City of Maplewood enlarge Development District No. 1 and adopt a development program with respect thereto and create Economic Development District No. 1-2, (the "Tax Increment District") within Development District No. 1 and adopt a tax increment financing plan with respect thereto under the provisions of Minnesota Statutes, Sections 469.174 through 469.179 and Sections 469.124 through 469.134 (collectively the "Act");

B. The Council has investigated the facts and has caused to be prepared a development program and tax increment financing plan for Development District No. 1, and has caused to be prepared a proposed tax increment financing plan for the Tax Increment District.

C. The City has performed all actions required by law to be performed prior to the creation of Development District No. 1 and the Tax Increment District and the adoption of the proposed development program and tax increment financing plan relating thereto, including, but not limited to, notification of Ramsey County and Independent School District No. 622 and Special Intermediate School District No. 916 having taxing jurisdiction over the property to be included in the Tax Increment Districts, a review by the City Planning Commission of the proposed Development Program for Development District No. 1, and the holding of a public hearing upon published and mailed notice as required by law.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Maplewood as follows:

1. Development District No. 1. There is hereby established in the City of Maplewood Development District No. 1, the initial boundaries of which are fixed and determined as shown on the attached Exhibit A.

2. Development Program. The development program for Development District No. 1, a copy of which is on file in the office of the City Manager, is adopted as the Development Program for Development District No. 1.

3. Tax Increment District.

There is established in the City of Maplewood within Development District No. 1 a tax increment financing district to be known as "Economic Development District No. 1-2." If CPI agrees to subdivide Lot 5, Block 1, Maplewood Mall Addition into two parcels reflecting the existing Maplewood Mall site and the site the mall addition will be constructed on, Economic Development District No. 1-2 shall have the initial boundaries as shown on the attached Exhibit B incorporated herein by reference. If CPI does not agree to subdivide Lot 5, Block 1, Maplewood Mall Addition in the manner described in the foregoing sentence, Economic Development District No. 1-2 shall have the initial boundaries as shown on the attached Exhibit C incorporated herein by reference.

4. Tax Increment Financing Plan. The tax increment financing plan is adopted as the tax increment financing plan for the Tax Increment Financing District, and the City Council makes the following findings:

(a) Economic Development District No. 1-2 is an economic development district as defined in Minnesota Statutes, Section 469.174 the specific basis for such determination being:

Economic Development District No. 1-2 is being created so that the tax increments derived therefrom can be used to fund the public improvements set forth in the development program which will stimulate additional development in Development District No. 1, thereby creating new jobs and expanding the City's tax base.

(b) The proposed redevelopment in the opinion of the City Council, would not occur solely through private investment within the reasonably foreseeable future and therefore the use of tax increment financing is deemed necessary.

The reasons supporting this finding are that:

The development activities within Development District No. 1 to be financed by tax increment financing are not financeable using traditional methods of municipal financing. Private investment will not finance these development activities because of prohibitive costs. It is necessary to finance these development activities through the use of tax increment financing so that other development by private enterprise will occur within Development District No. 1.

(c) The tax increment financing plan for the Tax Increment District conforms to the general plan for development or redevelopment of the City of Maplewood as a whole.

The reasons for supporting this finding are that:

- (i) The Tax Increment District is properly zoned;
- (ii) The tax increment financing plan will generally compliment and serve to implement policies adopted in the City's comprehensive plan.

(d) The tax increment financing plan will afford maximum opportunity, consistent with the sound needs of the City of Maplewood as a whole, for the development or redevelopment of the Tax Increment District by private enterprise.

The reasons supporting this finding are that:

As previously stated the development activities, consisting of public improvements, to be financed by tax increment financing are necessary so that additional commercial development by private enterprise can occur within Development District No. 1.

5. Public Purpose. The development program for Development District No. 1 and the adoption of the tax increment financing plan for the Tax Increment District conforms in all respects to the requirements of the Act and will help fulfill a need to develop an area of the City which is already built up to provide employment opportunities to improve the tax base, and to improve the general economy of the State and thereby serves a public purpose.

6. Certification. The Auditor of Ramsey County is requested to certify the original assessed value of the Tax Increment District as described in the tax increment financing plan, and to certify in each year thereafter the amount by which the original assessed value has increased or decreased in accordance with the Act; and the City Manager is authorized and directed to forthwith transmit this request to the County Auditor in such form and content as the Auditor may specify, together with a list of all properties within the Tax Increment Districts for which building permits have been issued during the 18 months immediately preceding the adoption of this Resolution.

7. Filing. The City Manager is further authorized and directed to file a copy of the development program and tax

increment financing plan for the Tax Increment District with the Commissioner of Energy and Economic Development.

8. Administration. The administration of Development District No. 1 is assigned to the City Manager who shall from time to time be granted such powers and duties pursuant to Minnesota Statutes, Sections 469.130 and 469.131 as the City Council may deem appropriate.

The motion for the adoption of the foregoing resolution was duly seconded by member _____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF MAPLEWOOD

I, the undersigned, being the duly qualified and acting City Manager of the City of Maplewood, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council of said City, duly called and held on the date therein indicated, insofar as such minutes relate to the enlargement of Development District No. 1 and the establishment of Economic Development District No. 1-2 in the City.

WITNESS my hand and the seal of said City this ____ day of _____, 1987.

City Clerk

(SEAL)

EXHIBIT B

Main Street Store - Maplewood Mall

That part of Lot 5, Block 1, Maplewood Mall Addition, Ramsey County, Minnesota, described as follows: Commencing at the northeast corner of Lot 7, Block 1, Maplewood Mall Addition; thence on an assumed bearing of S 3 degrees 32' 27" W, along the easterly line of said Lot 7, a distance of 258.25 feet, thence on a bearing of East, 44.08 feet to the actual point of beginning; thence N 3 degrees 32' 27" E., 282.72 feet; thence on a tangential curve to the right for a distance of 304.55 feet, radius of said curve is 654.67 feet; thence on a bearing of East, not tangent to last described curve, 220.00 feet; thence on a bearing of South, 27.90 feet; thence on a bearing of East, 64.97 feet; thence on a bearing of South, 543.50 feet; thence on a bearing of West, 390.00 feet to the actual point of beginning. Subject to easements, if any.

Mall Addition - Maplewood Mall

That portion of Lot 5, Block 1, Maplewood Mall Addition on which the Mall Addition will be constructed. A separate legal description for the Mall Addition will be established.

EXHIBIT C

Main Street Store - Maplewood Mall

That part of Lot 5, Block 1, Maplewood Mall Addition, Ramsey County, Minnesota, described as follows:
Commencing at the northeast corner of Lot 7, Block 1, Maplewood Mall Addition; thence on an assumed bearing of S 3 degrees 32' 27" W, along the easterly line of said Lot 7, a distance of 258.25 feet, thence on a bearing of East, 44.08 feet to the actual point of beginning; thence N 3 degrees 32' 27" E., 282.72 feet; thence on a tangential curve to the right for a distance of 304.55 feet, radius of said curve is 654.67 feet; thence on a bearing of East, not tangent to last described curve, 220.00 feet; thence on a bearing of South, 27.90 feet; thence on a bearing of East, 64.97 feet; thence on a bearing of South, 543.50 feet; thence on a bearing of West, 390.00 feet to the actual point of beginning.
Subject to easements, if any.

MLI: 09/9/87

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MODIFIED
DEVELOPMENT PROGRAM
for
DEVELOPMENT DISTRICT NO. 1

MODIFIED
TAX INCREMENT FINANCING PLANS FOR
ECONOMIC DEVELOPMENT DISTRICT NO. 1-1
(Zantigo and Maplewood Square)
HOUSING DISTRICT NO. 1-1
(Maple Ridge Apartments)
HOUSING DISTRICT NO. 1-2
(Maple Ridge Estates Apartments)
ECONOMIC DEVELOPMENT DISTRICT NO. 1-2
(Mall Addition and Main Street Store)

for

CITY OF MAPLEWOOD, MINNESOTA

September 28, 1987

This document was drafted by: BRIGGS AND MORGAN
2200 First National Bank
Building
St. Paul, Minnesota 55101

MUNICIPAL ACTION TAKEN

Based upon the statutory authority described in the Modified Development Program attached hereto, the public purpose findings by the City Council and for the purpose of fulfilling the City's development objectives as set forth in the Modified Development Program, the City Council has created, established and designated Development District No. 1 pursuant to and in accordance with the requirements of Minnesota Statutes, Section 469.126.

The following municipal action was taken in connection therewith:

October 28, 1985: The Program for Development District No. 1 was adopted by the City Council.

June 23, 1986: The Program for Development District No. 1 was modified by modifying the Project Costs.

September 28, 1987: The Program for Development District No. 1 was again modified by enlargement of the geographic Project Area and increased Project costs.

The following municipal action was taken with regard to the Tax Increment Financing Districts located within Development District No. 1:

Economic Development District No. 1-1 (Zantigo and Maplewood Square):

October 28, 1985: The Tax Increment Financing Plan for Economic Development District No. 1-1 was adopted by the City Council.

June 23, 1986: The Tax Increment Financing Plan for Economic Development District No. 1-1 was modified.

Housing District No. 1-1 (Maple Ridge Apartments):

October 28, 1985: The Tax Increment Financing Plan for Housing District No. 1-1 was adopted by the City Council.

June 23, 1986: The Tax Increment Financing Plan for Housing District No. 1-1 was modified.

Housing District No. 1-2 (Maple Ridge Estates Apartments):

October 28, 1985: The Tax Increment Financing Plan for Housing District No. 1-2 was adopted by the City Council.

June 23, 1986: The Tax Increment Financing Plan for Housing District No. 1-2 was modified.

Economic Development District No. 1-2 (Mall Addition and Main Street Store):

September 28, 1987: The Tax Increment Financing Plan for Economic Development District No. 1-2 was adopted by the City Council.

SECTION I

DEVELOPMENT PROGRAM FOR
DEVELOPMENT DISTRICT NO. 1

1.1. Definitions. The terms defined below shall, for purposes of this Development Program and Tax Increment Financing Plan, have the meanings herein specified, unless the context otherwise specifically requires:

"City" means the City of Maplewood, a municipal corporation and political subdivision of the State of Minnesota. The City has a Statutory City-Plan A form of government.

"Comprehensive Plan" means the City's Comprehensive Plan submitted to the Metropolitan Council pursuant to Minnesota Statutes, 473.173, which contains the objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and water within the City.

"Council" means the City Council of the City, also referred to as the governing body. (See "Governing Body" below.)

"County" means the County of Ramsey, Minnesota.

"Development District Act" means the statutory provisions of Minnesota Statutes, Sections 469.124 through 469.134, as amended and supplemented.

"Development District" means Development District No. 1 in the City, which is created and established hereto pursuant to and in accordance with the Development District Act, and is geographically described in Exhibit A.

"Development Program" means this Development Program for Development District No. 1, initially adopted by the Council on October 28, 1985 and modified on June 23, 1986 and September 28, 1987. As defined in Minnesota Statutes, Section 469.125, Subd. 3, a development program is a statement of objectives of the City for improvement of a development district which contains a complete statement as to the public facilities to be constructed within the district, the open space to be created, the environmental controls to be applied,

the proposed reuse of private property and the proposed operations of the district after the capital improvements within the district have been completed.

"Economic Development District" means a type of tax increment financing district which consists of any project, or portions of a project, not meeting the requirements found in the definition of redevelopment district or housing district, but which the City finds to be in the public interest because:

(a) It will discourage commerce, industry or manufacturing from moving their operations to another state; or

(b) It will result in increased employment in the municipality; or

(c) It will result in preservation and enhancement of the tax base of the municipality.

"Governing Body" means the duly elected City Council as defined in Minnesota Statutes, Section 469.125, Subd. 8.

"Housing District" means a type of tax increment financing district which consists of a project, or a portion of a project, intended for occupancy, in part, by persons or families of low and moderate income, as defined in chapter 462A, Title II of the National Housing Act of 1937, as amended, Title V of the Housing Act of 1949, as amended, any other similar present or future federal, state, or municipal legislation, or the regulations promulgated under any of those acts, as defined in Minnesota Statutes, Section 469.174, subd. 11.

"Municipal Industrial Development Act" means the statutory provisions of Minnesota Statutes, Sections 469.152 through 469.165, as amended.

"Municipality" means any city, however organized as defined in Minnesota Statutes, Section 469.125, Subd. 2.

"State" means the State of Minnesota.

"Tax Increment Bonds" means any general obligation or revenue tax increment bonds issued and to be issued by the City to finance the public costs associated with Development District No. 1 as stated in the Development Program and in the

Tax Increment Financing Plan for the Tax Increment Financing Districts within Development District No. 1. The term "Tax Increment Bonds" shall also include any obligations issued to refund the Tax Increment Bonds.

"Tax Increment Financing District" means any tax increment financing district presently established or to be established in the future in Development District No. 1.

"Tax Increment Financing Act" means the statutory provisions of Minnesota Statutes, Sections 469.174 through 469.179, inclusive, as amended.

"Tax Increment Financing Plan" means the respective Tax Increment Financing Plan for each Tax Increment Financing District located within the Development District.

1.2. Statement of Public Purpose. The Council (the "Council") in and for the City of Maplewood, Minnesota (the "City") has determined that there is a need for housing, development and redevelopment within the corporate limits of the City to provide employment opportunities, to enhance development opportunities for the private sector, to improve the tax base and to improve the general economy of the City, the County of Ramsey and the State of Minnesota. It is found that there are certain parcels of property within the Development District which are potentially more useful, productive and valuable than is being realized under existing conditions, is less productive because of the lack of proper utilization, and, therefore, are not contributing to the tax base of the City to their full potential. In addition, it is hereby found that there is a need for public improvements to encourage development.

Therefore, the City has determined to exercise its authority to develop a program for improving the Development District of the City to provide impetus for private development, to maintain and increase employment, to utilize existing potential and to provide other facilities as are outlined in the Development Program adopted by the City.

The Council has also determined that the proposed developments would not occur solely through private investment in the foreseeable future; that the tax increment financing plans proposed herein are consistent with the Development Program; and that the tax increment financing plans will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the development or

redevelopment of the Development District by private enterprise.

The Council finds that the welfare of the City as well as the State of Minnesota requires active promotion, attraction, encouragement and development of economically sound industry and commerce to carry out its stated public purpose objectives.

1.3. Statutory Authority. THE DEVELOPMENT DISTRICT ACT. The Development District Act, authorizes the City, upon certain public purpose findings by the Council, to establish and designate development districts within the City and to establish, develop and administer development programs in regard thereto, all for the purpose of creating funding for the financing of necessary activities and improvements within the City.

In accordance with the purposes set forth in Section 469.124 of the Development District Act, the Council hereby establishes Development District No. 1, as described in Exhibit A, for the purposes of enhancing the environment in which existing businesses are located, thus helping to secure their continued existence and potential additional development within the City, and promoting new and on-going development in Development District No. 1, both of which will provide employment opportunities, improve the tax base of the City and contribute positively to the economy of the State.

THE TAX INCREMENT FINANCING ACT. The Tax Increment Financing Act, provides the procedure for the establishment of tax increment districts for the use of tax increment financing authorized by the Development District Act for the funding of qualified public activities and improvements.

Within the Development District, the City plans to establish two housing districts as the types of tax increment financing district described in Section 469.174, Subd. 11 for Housing District No. 1-1 and Housing District No. 1-2 and plans to establish two economic development districts as the types of tax increment financing district described in Section 469.174, Subd. 12 for Economic Development District No. 1-1 and Economic Development District No. 1-2.

1.4 Statement of Need. The Development District is established by the City of Maplewood for the purpose of promoting the redevelopment of existing commercial areas and the development of new business opportunities within the

community. The City has found that the area within the Development District has not realized its greatest development potential due to a variety of factors. Included in the development barriers identified by the City are: inadequate public improvements, improper land use and utilization, and lack of investment. The City has found that the creation of the Development District and the utilization of tax increment financing is needed to remove these barriers and to promote development of the community.

1.5 Statement of Objectives. The Council determines that it is necessary, desirable and in the public interest to establish the Development District in the City, pursuant to the authority of the Development District Act. The Council finds that the creation of the Development District is necessary to give the City the ability to meet certain public purpose objectives that would not be otherwise obtainable in the foreseeable future without intervention by the City in the normal development process.

The City intends to satisfy the following objectives through the implementation of the Development Program:

(a) To provide safe, decent, sanitary housing for all residents of the city and in particular low and moderate income residents.

(b) To provide an adequate housing supply for all residents at a cost they can afford.

(c) To provide housing choices for low and moderate income residents who find housing opportunities are not available to them because of economic conditions.

(d) To provide project activities which will assist in making possible the construction of a planned apartment for low and moderate income residents, as well, as improving health, welfare and convenience of citizens residing in the Development District.

(e) Provide for the financing and construction of public improvements in the Development District, necessary for the orderly and beneficial development of the

Development District and adjacent areas of the City.

(f) Promote and secure the prompt development of certain property in the Development District, which property is not now in productive use or in its highest and best use, in a manner consistent with the City's Comprehensive Plan and with a minimum adverse impact on the environment, and thereby promote and secure the development of other land in the City.

(g) Promote and secure additional employment opportunities within the Development District and the City for residents of the City and the surrounding area, thereby improving living standards, reducing unemployment and the loss of skilled and unskilled labor and other human resources in the City.

(h) Secure the increase of property subject to taxation by the City, Independent School Districts Nos. 622 and 624, Ramsey County, and other taxing jurisdictions in order to better enable such entities to pay for governmental services and programs required to be provided by them.

(i) Promote the concentration of new desirable residential, commercial, office, restaurant, and other appropriate development in the Development District so as to maintain the area in a manner compatible with its accessibility and prominence in the City.

(j) Encourage local business expansion, improvement and development, whenever possible.

(k) Create a desirable and unique character within the Development District through quality land use alternatives and design quality in new and remodeled buildings.

(1) Encourage and provide maximum opportunity for private redevelopment of existing areas and structures which are compatible with the Development Program.

1.6 Boundaries of Development District. The area within the Development District is set forth in Exhibit A.

1.7 Development Activities. Development activities within the Development District must be financially feasible, marketable and be compatible with long-range development strategies of the City. The following recommendations represent the options that satisfy community development objectives for the Development District while taking advantage of opportunities which are currently available. The City will perform all project activities pursuant to the statute and in doing so, anticipates that the following may, but are not required to be undertaken:

(a) The making of studies, planning, and informal activities relating to the Development Program.

(b) The implementation and administration of the Development Program.

(c) The construction or reconstruction of streets, sidewalks, utilities, and other public improvements including but not limited to:

(i) the construction of street, water and sewer improvements on Southlawn Drive from Beam Avenue to County Road D;

(ii) the construction of street, water and sewer improvements on McKnight Road from Highway 36 to Conway Avenue;

(iii) the construction of a water tower three hundred feet north of Glendon Street and Stillwater Road;

(iv) the construction of water main on Hudson place;

(v) the installation of traffic lights at Hazelwood Avenue and Southlawn Avenue on Beam Avenue.

(vi) acquisition of land and improvement of Hazelwood Park located at County Road C east of Hazelwood Avenue;

(vii) improvement of Playcrest Park located at Lydia Avenue and McKnight Road;

(viii) acquisition and expansion of Harvest Park located at Hazelwood Avenue south of County Road C and North of Highway 36;

(ix) the construction of water, street, sanitary sewer and storm sewer improvements within an area North of Beam Avenue, South of the Northern City limit, East of Highway 61 and West of White Bear Avenue;

(x) acquisition of the abandoned Burlington Northern railroad right of way running from Larpenteur Street to Highway 694.

(d) The acquisition of property consistent with the objectives of the Development Program.

(e) The preparation of property for use including demolition of structures, clearance of sites, placement of fill, and installation of utilities.

(f) The resale of property to developers.

(g) The provision of relocation assistance to businesses and homeowners as may be required by this Development Program.

(h) The issuance of Tax Increment Bonds to finance public costs of the

Development Program or to evidence the City's obligation to reimburse developers for all or part of the public costs of the Development Program incurred or to be incurred by it pursuant to a Development Agreement.

(i) The use of tax increments derived from a Tax Increment Financing District within the Development District to pay debt service on Tax Increment Bonds or otherwise pay the public cost of the Development Program.

1.8 Payment of Public Cost. It is anticipated that the public cost of the Development Program will be paid primarily from the tax increments to be derived from the Development District, either directly or indirectly by payment of project eligible expenses, by reimbursement of Developers for items of public cost paid directly by developers, or by some combination of these methods. The City reserves the right to utilize special assessments, general property taxes, utility revenues, and other sources of revenue which the City may apply to pay the public cost.

1.9. Environmental Controls. The proposed Tax Increment Financing Districts within the Development District do not present significant environmental concerns. All municipal actions, public improvements and private development shall be carried out in a manner consistent with existing environmental standards.

1.10 Park and Open Space to be Created. Park and open space within the Development District No. 1 will be created in accordance with the zoning and platting ordinances of the City. The City may undertake the following park improvements:

(a) the acquisition of land and improvement of Hazelwood Park located at County Road C east of Hazelwood Avenue;

(b) the improvement of Playcrest Park located at Lydia Avenue and McKnight Road.

(c) the acquisition and expansion of Harvest Park located at Hazelwood Avenue south of County Road C and North of Highway 36.

1.11. Proposed Reuse of Property. The Development Program does not contemplate the acquisition of private property until such time as a private developer presents an economically feasible program for the reuse of that property. Proposals, in order to be considered, must be within the framework of the above cited goals and objectives, and must clearly demonstrate feasibility as a public program. Prior to formal consideration of the acquisition of any property, the City Council will require a binding contract, performance bond and/or other evidence or guarantees that a supporting tax increment or other funds will be available to repay the public cost associated with the proposed acquisition. It shall be the intent of the City to negotiate the acquisition of property whenever necessary. Appropriate restrictions regarding the reuse and redevelopment of property shall be incorporated into any land sale contract to which the City is a part.

1.12. Administration and Maintenance of Development District. Maintenance and operation of the public improvements will be the responsibility of the City Manager who shall serve as administrator of the Development District.

The administrator will administer the Development District pursuant to the provisions of Section 469.131 of the Development District Act; provided, however, that such powers may only be exercised at the direction of the Council. No action taken by the administrator pursuant to the above-mentioned powers shall be effective without authorization by the Council.

1.13. Rehabilitation. Owners of properties within the Development District will be encouraged to rehabilitate their properties to conform with the applicable state and local codes and ordinances, as well as any design standards. Owners of properties who purchase property within the Development District from the City may be required to rehabilitate their properties as condition of sale of land. The City will provide such rehabilitation assistance as may be available from federal, state or local sources.

1.14. Relocation. No person will be displaced and have to be relocated as a result of the Development Program. The City accepts its responsibility for providing for relocation pursuant to Section 469.133 of the Development District Act.

1.15. Amendments. The City reserves the right to alter and amend the Development Program and the tax increment

financing plans, subject to the provisions of state law regulating such action. The City specifically reserves the right to change the size of the Development District and the Tax Increment Financing Districts, the public cost of the Development Program and the amount of Tax Increment Bonds to be issued to finance such cost by following the procedures specified in Minnesota Statutes, Section 469.175, Subd. 4.

SECTION II

TAX INCREMENT FINANCING PLAN FOR
ECONOMIC DEVELOPMENT DISTRICT NO. 1-1
HOUSING DISTRICT NO. 1-1
HOUSING DISTRICT NO. 1-2
[Adopted October 28, 1985]
[Modified June 23, 1986]

2.1 Statement of Objectives.

See Section I, Subsection 1.5, Development Program for Development District No. 1.

2.2 Development Program.

See Section I, Subsection 1.3, Development Program for Development District No. 1.

2.3 Parcels to be Included in Tax Increment Financing District.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-1

Economic Development District No. 1-1 is made up of certain parcels located within Development District No. 1. The specific parcels contained in the Tax Increment District are described in Exhibit B.

HOUSING DISTRICT NO. 1-1

Housing District No. 1-1 is made up of certain parcels located within Development District No. 1. The specific parcels contained in Housing District No. 1-1 are described in Exhibit C.

HOUSING DISTRICT NO. 1-2

Housing District No. 1-2 is made up of certain parcels located within Development District No. 1. The specific parcels contained in Housing District No. 1-2 are described in Exhibit D.

2.4 Parcels to be Acquired.

At this time the City does not intend to acquire and reconvey any parcels to specific developers of property within the City. The City intends to acquire rights of way in connection with the construction of certain public improvements within the Development District. The City intends to acquire two parcels of land if it undertakes the expansion of Hazelwood Park. These parcels are described as follows:

The Fee Owners of the north parcel are Bruce M. Mogren, Eugene F. Arndt, et al.

Legal description: That part of the West 408.8 feet of the E $\frac{1}{2}$ of the SE-1/4 of Section 3, Township 29, Range 22, Ramsey Co., Minn. lying North of the South 1,243.00 feet of said E $\frac{1}{2}$ of the SE-1/4 and South of the North 912.00 feet of said E $\frac{1}{2}$ of SE-1/4, according to the U.S. Govt. Survey thereof.

Size: 4.11 acres.

Fee Owners of the south property are Lawrence S. Dotte and Donald A. Kainz, Trustees of the profit sharing trust of the Donlar Corp. and Contract Purchaser Eugene F. Arndt.

Legal description: The North 400 feet of the South 1,243 feet of the West 408 feet of the

SE-1/4, of the SE-1/4, Section 3, Township 29,
Range 22

and

The North 200 feet of the South 1,043 feet of the
East 510 feet of the West 558 feet of the SW-1/4
of the SE-1/4, of Section 2, Township 29, Range
22, except the North 30 feet of the East 100 feet
of the West 408 feet thereof, all in Ramsey Co.,
Minn. Size: 4.06 acres.

2.5 Development Activity in Development District No. 1
for which Contracts Have Been Signed.

(a) Zantigo Restaurant on County Road is being
developed by Zantigo Mexican Restaurants, Inc. on County
Road D, West of White Bear Avenue. The contractor is
William Kranz Construction and the cost of the project is
\$260,000.

(b) Maple Ridge Square Shopping Center is being
developed by Curt Johnson and Joe Weis - Weis Builders,
Inc. at the intersection of Gervais Avenue and White Bear
Avenue. The contractor is Weis Builders and the cost of
the project is \$2,318,383.

(c) Maple Ridge Apartments is being developed by
Podawiltz Development Company on County Road D, west of
White Bear Avenue. The contractor is Avon Lumber
Company, Inc. and the cost of the project is \$2,800,000.

(d) Maple Ridge Estate Apartments is being
developed by Maple Ridge Development Corporation at the
intersection of Stillwater Road and Stillwater Avenue.

The contractor is Steve Haight Construction and the cost of the project is \$3,999,000.

2.6 Other Specific Development Expected to Occur Within Development District No. 1.

(a) the construction of Century Ridge Apartments on Century Avenue south of Battle Creek;

(b) the construction of Hazel Ridge Apartments at the intersection of Hazelwood Avenue and County Road C;

(c) the construction of Beaver Creek Apartments at the intersection of Ferndale and Ivy Street;

(d) an expansion of Maplewood Mall;

(e) the rehabilitation and renovation of Keller Lake Shopping Center.

It is anticipated that the above projects will be started within one year.

2.7 Estimated Cost of Project Costs and Supportive Data.

The estimated costs of certain of the public improvements and park improvements set forth in the Development Program to be made within Development District No. 1 and financed by tax increments to be derived from Economic Development District No. 1-1 Housing District No. 1-1 and Housing District No. 1-2 within Development District No. 1 are \$2,188,870.

PUBLIC IMPROVEMENTS & PARK IMPROVEMENTS [Section 1.7(c)(i) through (viii)]	\$2,188,870.00
LEGAL FEES, PLANNING FEES, COSTS OF ISSUANCE & CONTINGENCY	\$ 33,644.35
BOND DISCOUNT	\$ 47,310.00
INTEREST ON BONDS PRIOR TO RECEIPT OF TAX INCREMENT TO FULLY FUND PRINCIPAL AND INTEREST	\$ 236,511.79
LESS INTEREST AND INCOME DURING CAPITALIZED INTEREST PERIOD EARNED AT 6%	(\$ 16,336.14)
TOTAL AMOUNTS OF BONDS TO BE SOLD	\$2,490,000.00

SUPPORTIVE DATA FOR ESTIMATED COSTS OF IMPROVEMENTS
OR DEVELOPMENT DISTRICT UNDER DEVELOPMENT PROGRAM

<u>ITEM</u>	<u>BASIS FOR ESTIMATE</u>
PUBLIC IMPROVEMENTS	Estimates by City Staff
PROFESSIONAL SERVICES	Estimates of Project Costs for legal assistance, bond issuance costs, planning provided by Miller & Schroeder Financial, Inc.
INTEREST ON BONDS PRIOR TO RECEIPT OF TAX INCREMENT TO FULLY FUND PRINCIPAL AND INTEREST	The amount of capitalized interest will be equal to an amount sufficient to pay interest on the Tax Increment Bonds from the date of issue until the date of collection of sufficient tax increments to meet scheduled interest payments when due, but not exceeding 3 years as required by Minnesota Statutes, Chapter 475. Predicting capitalized interest prior to issuance is extremely difficult as it is a function of interest rates, construction schedules and tax timing; therefore, the above figure is only an estimate of capitalized interest and is subject to change.

2.8 Estimated Amount of Bonded Indebtedness. It is anticipated that Tax Increment Bonds in the amount of \$2,490,000 will be incurred with respect to this portion of Development District No. 1.

2.9 Sources of Revenue

It is anticipated that the sources of revenue to pay the costs associated with Development District No. 1 are Tax Increment Bond proceeds, state-aid funds, special assessments and park funds.

2.10 Original Assessed Value and Fiscal Disparities.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-1:

The original assessed value of all taxable property in Economic Development District No. 1-1 as most recently certified by the Commissioner of Revenue of the State of Minnesota, being the certification made in 1985 with respect to the assessed value of such property as of January 2, 1985, for taxes payable in 1986 is estimated to be \$278,560.

Minnesota Statutes, Section 469.177, Subd. 1, requires that the original assessed value in economic development districts be adjusted on an annual basis. The rate of adjustment is equal to the average percentage increase in the assessed value of all property in the Economic Development District No. 1-1 during the five years prior to certification. The rate of adjustment for the District is approximately 1.084%.

The City hereby elects the method of tax increment computation set forth in Section 469.177, Subd. 3, clause (b).

HOUSING DISTRICT NO. 1-1

The original assessed value of all taxable property in Housing District No. 1-1 as most recently certified by the Commissioner of Revenue of the State of Minnesota, being the certification made in 1984 with respect to the assessed value of such property as of January 2, 1985, for taxes payable in 1985 is estimated to be \$3,160.

HOUSING DISTRICT NO. 1-2

The original assessed value of all taxable property in the Housing District No. 1-2 as most recently certified by the Commissioner of Revenue of the State of Minnesota, being the certification made in 1985 with respect to the Assessed Value of such property as of January 2, 1985, for taxes payable in 1986 is estimated to be \$37,440.

2.11 Estimated Captured Assessed Value.

Each year the County Auditor will measure the amount of increase or decrease in the total assessed value of Economic Development District No. 1-1, Housing District No. 1-1 and Housing District No. 1-2 to calculate the tax increment payable to the City of Maplewood. In any year in which there is an increase in total assessed valuation in Economic Development District No. 1-1, Housing District No.

1-1 and Housing District No. 1-2 above the original assessed value, a tax increment will be payable. In any year in which the total assessed valuation in Economic Development District No. 1-1, Housing District No. 1-1 and Housing District No. 1-2 declines below the original assessed valuation, no assessed valuation will be captured and no tax increment will be payable.

The County Auditor shall certify in each year after the date the original assessed value was certified, the amount the original assessed value has increased or decreased as a result of:

1. change in tax exempt status of property;
2. reduction or enlargement of the geographic boundaries of the district;
3. change due to stipulations, adjustments, negotiated or court-ordered abatements.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-1

Upon completion of the development expected to occur within Economic Development District No. 1-1 the City estimates the assessed value of the Property within Economic Development District No. 1-1 to be \$1,822,566.

The captured assessed value upon completion is expected to annually approximate \$1,233,838.73. This amount will be captured for up to 8 years or until the Tax Increment Bonds are retired. The city requests 72.8339% of the

available increase in assessed value from Economic Development District No. 1-1 for repayment of Tax Increment Bonds and current expenditures authorized by this Tax Increment Financing Plan (the balance of the increase being used to pay the fiscal disparities contribution of Economic Development District No. 1-1.).

HOUSING DISTRICT NO. 1-1

Upon completion of the development expected to occur within Housing District No. 1-1 the City estimates the assessed value of the property within Housing District No. 1-1 to be \$794,750.

The captured assessed value upon completion is expected to annually approximate \$791,590. This amount will be captured for up to 25 years or until the Tax Increment Bonds are retired. The City requests 100% of the available increase in assessed value from Housing District No. 1-1 for repayment of Tax Increment Bonds and current expenditures authorized by this Tax Increment Financing Plan.

HOUSING DISTRICT NO. 1-2

Upon completion of the development expected to occur within Housing District No. 1-2 the City estimates the assessed value of the property within Housing District No. 1-2 to be \$1,300,500.

The captured assessed value upon completion is expected to annually approximate \$1,263,060. This amount will be captured for up to 25 years or until the Tax Increment Bonds are retired. The City requests 100% of the available increase in assessed value from Housing District No. 1-2 for repayment of Tax Increment Bonds and current expenditures authorized by this Tax Increment Financing Plan.

2.12 Type of Tax Increment Financing District.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-1

Pursuant to Section 469.174, Subd. 12 of the Act, the City finds that Economic Development District No. 1-1 qualifies as an "economic development district":

1. Economic Development District No. 1-1 does not meet the requirements to qualify as either a housing or a redevelopment district.

2. The creation of Economic Development District No. 1-1 is in the public interest because it will preserve and enhance the tax base of the City and it will result in increased employment within the City.

HOUSING DISTRICT NO. 1-1:
and
HOUSING DISTRICT NO. 1-2:

Pursuant to Section 469.174, Subd. 11 of the Act, the City finds that Housing District No. 1-1 and Housing District No. 1-2 each qualify as a "housing district" because

a portion of each project is intended for occupancy, in part, by persons of low and moderate income as defined in Minnesota Statutes, Chapter 462A, Title II of the National Housing Act of 1934, the National Housing Act of 1959, the United States Housing Act of 1937, as amended, Title V of the Housing Act of 1949, as amended, any other similar present or future federal, state, or municipal legislation, or the regulations promulgated under any of those acts.

2.13 Duration of Tax Increment Financing Districts.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-1:

The Act allows "economic development districts" to remain in existence for a period of 8 years from the receipt of the first tax increment or 10 years from the approval of the tax increment financing plan, whichever is less. Based on these limitations it is anticipated that Economic Development District No. 1-1 will remain in effect until eight years from the receipt of the first tax increment.

HOUSING DISTRICT NO. 1-1:

and

HOUSING DISTRICT NO. 1-2:

The Act allows "housing districts" to remain in existence for a period of 25 years from the receipt of the first tax increment. Based on this limitation it is anticipated that Housing District No. 1-1 and Housing District No. 1-2 will remain in effect until June, 2012.

2.14 Estimated Impact of Tax Increment Financing.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-1

The estimated impact of Economic Development District No. 1-1 on the other taxing jurisdictions within Economic Development District No. 1-1 is set forth on Table I.

HOUSING DISTRICT NO. 1-1

The estimated impact of Housing District No. 1-1 on the other taxing jurisdictions within Housing District No. 1-1 is set forth on Table II.

HOUSING DISTRICT NO. 1-2

The estimated impact of Housing District No. 1-2 on the other taxing jurisdictions within Housing District No. 1-2 is set forth on Table III.

2.15 Cash Flow Analysis. See Table IV.

DEVELOPMENT DISTRICT IMPACT ON TAX BASE:

<u>JURISDICTION</u>	<u>TAX BASE</u>	<u>ORIGINAL ASSESSED VALUE</u>	<u>DISTRICT AS PERCENT OF JURISDICTION</u>	<u>FUTURE ASSESSED VALUE</u>	<u>DISTRICT AS PERCENT OF JURISDICTION</u>
COUNTY OF RAMSEY	3,200,409,041	278,560	.0087%	1,822,566	.0569%
CITY OF Maplewood	263,146,550	278,560	.1059%	1,822,566	.6926%
SCHOOL DISTRICT #622	376,434,995	278,560	.0740%	1,822,566	.4842%

DEVELOPMENT DISTRICT IMPACT ON MILL RATES:

<u>JURISDICTION</u>	<u>CURRENT MILL RATE</u>	<u>POTENTIAL TAXES GENERATED</u>
COUNTY OF RAMSEY	31.867	50,080
CITY OF Maplewood	17.747	32,345
OTHER (1)	6.310	11,500
SCHOOL DISTRICT #622	59.453	108,357

1. Other taxing jurisdictions include:

DEVELOPMENT DISTRICT IMPACT ON TAX BASE:

JURISDICTION	TAX BASE	ORIGINAL ASSESSED VALUE	DISTRICT AS PERCENT OF JURISDICTION	FUTURE ASSESSED VALUE	DISTRICT AS PERCENT OF JURISDICTION
COUNTY OF RAMSEY	3,220,409,041	3,160	.0001%	794,750	.0247%
CITY OF MAPLEWOOD	263,146,550	3,160	.0012%	794,750	.3020%
SCHOOL DISTRICT #624	227,746,171	3,160	.0014%	794,750	.3490%

DEVELOPMENT DISTRICT IMPACT ON MILL RATES:

JURISDICTION	CURRENT MILL RATE	POTENTIAL TAXES GENERATED
COUNTY OF RAMSEY	31.867	25,326
CITY OF Maplewood	17.747	14,104
OTHER (1)	6.310	5,015
SCHOOL DISTRICT #624	59.453	47,250

1. Other taxing jurisdictions include:

DEVELOPMENT DISTRICT IMPACT ON TAX BASE:

JURISDICTION	TAX BASE	ORIGINAL ASSESSED VALUE	DISTRICT AS PERCENT OF JURISDICTION	FUTURE ASSESSED VALUE	DISTRICT AS PERCENT OF JURISDICTION
COUNTY OF RAMSEY	3,220,409,041	37,440	.0012%	1,300,500	.0404%
CITY OF Maplewood	263,146,550	37,440	.0142%	1,300,500	.4942%
SCHOOL DISTRICT # 622	376,434,995	37,440	.0099%	1,300,500	.3455%

DEVELOPMENT DISTRICT IMPACT ON MILL RATES:

JURISDICTION	CURRENT MILL RATE	POTENTIAL TAXES GENERATED
COUNTY OF RAMSEY	31.867	41,443
CITY OF Maplewood	17.747	23,080
OTHER (1)	6.310	8,206
SCHOOL DISTRICT # 622	59.453	77,319

1. Other taxing jurisdictions include:

2.16 Use of Tax Increment

The City hereby determines that it will use 100% of the captured assessed value of taxable property located in Economic Development District No. 1-1, Housing District No. 1-1 and Housing District No. 1-2 and 100% of the tax increments to be derived from the Economic Development District No. 1-1. The tax increments derived from Economic Development District No. 1-1, Housing District No. 1-1 and Housing District No. 1-2 shall be used for the following activities:

1. To pay principal and interest on the Tax Increment Bonds.
2. To finance or otherwise pay the capital and administrative costs of Development District No. 1.
3. To finance or otherwise pay premiums for insurance or other security guaranteeing the payment when due of principal and interest on bonds issued pursuant to Minnesota Statutes, Chapters 462C, 469, or both.
4. To accumulate or maintain a reserve securing the payment when due of the principal and interest on the bonds issued pursuant to Minnesota Statutes, Chapters 462C, 469, or both.
5. To finance project costs described in this Tax Increment Financing Plan.

6. To finance other purposes as may be allowed by the Act.

These revenues shall not be used to circumvent levy limitations applicable to the City nor for other purposes prohibited by Section 469.176, Subd. 4 of the Act.

2.17 Prior Planned Improvements.

The City shall, after due and diligent search, accompany its request for certification to the County Auditor or its notice of district enlargement with a listing of all properties within Economic Development District No. 1-1, Housing District No. 1-1 and Housing District No. 1-2 for which building permits have been issued during the eighteen (18) months immediately preceding approval of the Tax Increment Financing Plan by the City. The County Auditor shall increase the original assessed value of Economic Development District No. 1-1, Housing District No. 1-1 or Housing District No. 1-2, as the case may be, by the assessed value of the improvements for which the building permit was issued, excluding the assessed value of improvements for which a building permit was issued during the three (3) month period immediately preceding said approval of the Tax Increment Financing Plan as certified by the assessor.

2.18 Limitation on Qualification of Tax Increment

Development on a parcel located within the Economic Development District No. 1-1, Housing District No. 1-1 and Housing District No. 1-2 by the City or by the owner of the parcel in accordance with this Tax Increment Financing Plan shall occur within four (4) years of the date of certification of the original assessed value. For the purposes of this section the term "development" shall mean including demolition, rehabilitation, or renovation of property, or other site preparation, including improvement of a street adjacent to the parcel. Development shall not include the installation of utility service including sewer and water systems. If development has not commenced within this period no additional increment shall be taken from that parcel and the original assessed value of that parcel shall be excluded from the original assessed value of Economic Development District No. 1-1, Housing District No. 1-1, or Housing District No. 1-2, as the case may be. If the City or the owner of the parcel subsequently commences development, the City shall certify the assessed value thereof as most recently certified by the Commissioner of Revenue and add it to the original assessed value of the affected Tax Increment Financing District.

2.19 Modifications of Tax Increment Financing Districts.

In accordance with Minnesota Statutes, Section 469.175, Subd. 4, any reduction or enlargement of the geographic area of Development District No. 1 or Tax Increment Financing Districts within Development District No. 1, increase in amount of bonded indebtedness to be incurred, including a determination or capitalize interest on debt if that determination was not a part of the original tax increment financing plan, or to increase or decrease the amount of interest on the debt to be capitalized, increase in the portion of the captured assessed value to be retained by the City, increase in total estimated tax increment expenditures or designation of additional property to be acquired by the authority shall be approved upon the notice and after the discussion, public hearing and findings required for approval of the original plan. The geographic area of a Tax Increment Financing District may be reduced, but shall not be enlarged after five years following the date of certification of the original assessed value by the county auditor. Economic Development District No. 1-1, Housing District No. 1-1 and Housing District No. 1-2 districts may therefore be expanded until 1990.

2.20 Limitation on Administrative Expenses

In accordance with Minnesota Statutes, Section 469.174, Subd. 14 and Minnesota Statutes, Section 469.176,

Subd. 3, administrative expenses means all expenditures of an authority other than amounts paid for the purchase of land or amounts paid to contractors or others providing materials and services, including architectural and engineering services, directly connected with the physical development of the real property in the district, relocation benefits paid to or services provided for persons residing or businesses located in the district or amounts used to pay interest on, fund a reserve for, or sell at a discount bonds issued pursuant to Section 469.178. Administrative expenses includes amounts paid for services provided by bond counsel, fiscal consultants, and planning or economic development consultants. No tax increment shall be used to pay any administrative expenses for a project which exceed ten percent of the total tax increment expenditures authorized by the tax increment financing plan or the total tax increment expenditures for the project, whichever is less.

2.21 Limitation on Duration of Tax Increment Financing Districts.

Pursuant to Minnesota Statutes, Section 469.176, Subd. 1, "no tax increment shall be paid to an authority three years from the date of certification by the County Auditor unless within the three-year period (1) bonds have been issued pursuant to Section 469.178 or in aid of a project pursuant to any other law, except revenue bonds issued pursuant to

Sections 469.152 through 469.165, prior to the effective date of the Act; or (2) the authority has acquired property within the district; or (3) the authority has constructed or caused to be constructed public improvements within the district..." The City must therefore issue bonds, or acquire property, or construct or cause public improvements to be constructed by 1988 or the County Auditor may dissolve the applicable Tax Increment Financing District.

2.22 Limitation on Qualification of Property in Tax Increment Financing Districts Not Subject to Improvement

Pursuant to Minnesota Statutes, Section 469.176, Subd. 6, "if, after four years from the date of certification of the original assessed value of the tax increment financing district..., no demolition, rehabilitation or renovation of parcel or other site preparation including improvement of a street adjacent to a property but not installation of utility service including sewer or water systems, has been commenced on a parcel located within a tax increment financing district by the authority or by the owner of the parcel in accordance with the tax increment financing plan, no additional tax increment may be taken from that parcel and the original assessed value of that parcel shall be excluded from the original assessed value of the tax increment financing district. If the authority or the owner of the parcel subsequently commences demolition, rehabilitation or

renovation or other site preparation on that parcel including improvement of a street adjacent to that parcel, in accordance with the tax increment financing plan, the authority shall certify to the county auditor in the annual disclosure report that the activity has commenced. The county auditor shall certify the assessed value thereof as most recently certified by the commissioner of revenue and add it to the original assessed value of the tax increment financing district.

2.23 Excess Tax Increments.

Pursuant to Minnesota Statutes, Section 469.176, Subd. 2, in any year in which the tax increment exceeds the amount necessary to pay the costs authorized by the tax increment plan, including the amount necessary to cancel any tax levy as provided in Minnesota Statutes, Section 475.61, Subdivision 3, the City shall use the excess amount to:

1. prepay the outstanding bonds;
2. discharge the pledge of tax increment therefore;
3. pay into an escrow account dedicated to the payment of such bond;
4. repay any loans including interest on these loans; or
5. return the excess to the County Auditor for redistribution to the respective taxing jurisdictions in proportion to their mill rate.

In addition, the City may choose to modify the financing plan as described in Part II, 2.18, in order to provide further public improvements within the development district.

2.24 Administration of Tax Increment Financing Districts.

Administration of Economic Development District No. 1-1, Housing District No. 1-2 and Housing District No. 1-2 will be handled by the Office of the City Manager.

The tax increment received as a result of increases in the assessed value of Economic Development District No. 1-1, Housing District No. 1-1 and Housing District No. 1-2 will be maintained in a special account separate from all other municipal accounts and expended only upon sanctioned municipal activities identified in the Tax Increment Finance Plan.

2.25 Annual Disclosure Requirements.

Pursuant to Minnesota Statutes, Section 469.175, Subd. 5, the City must file with the State Auditor on or before July 1, an annual financial report for all Tax Increment Financing Districts. The report shall also be filed with the school board and county board. The report shall as nearly as possible:

1. Provide for full disclosure of the sources and uses of public funds in each Tax Increment Financing District;

2. Permit comparison and reconciliation with the City's accounts and financial reports;

3. Permit auditing of the funds expended on behalf of each Tax Increment Financing District, including a single Tax Increment Financing District that is part of a multidistrict project or that is funded in part or whole through the use of a development account funded with tax increments from other Tax Increment Financing Districts or with other public money; and

4. Be consistent with generally accepted accounting principles.

In addition, the report shall contain the following information:

1. The original assessed value of the Tax Increment Financing District;

2. The captured assessed value of the Tax Increment Financing District, including the amount of any captured assessed value shared with other tax districts;

3. The outstanding principal amount of bonds issued or other loans incurred to finance project costs in the Tax Increment Financing District;

4. For the reporting period and for the duration of the Tax Increment Financing District, the amount budgeted under the Tax Increment Financing Plan, and the actual amount expended for, at least, the following categories:

A. Acquisition of land and buildings through condemnation or purchase;

B. Site improvements or preparation costs;

C. Installation of public utilities or other public improvements; and

D. Administrative costs, including the allocated cost of the City;

5. For properties sold to developers, the total cost of the property to the City and the price paid by the developer;

6. The amount of tax exempt obligations, other than those reported under clause (3), that were issued on behalf of private entities for facilities located in the Tax Increment Financing District.

SECTION III

TAX INCREMENT FINANCING PLAN FOR
ECONOMIC DEVELOPMENT DISTRICT NO. 1-2
[Adopted September 28, 1987]

3.1 Statement of Objectives.

See Section I, Subsection 1.5, Development Program for Development District No. 1.

3.2 Development Program.

See Section I, Subsection 1.3, Development Program for Development District No. 1.

3.3 Parcels to be Included in Tax Increment Financing District.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-2

Economic Development District No. 1-2 is made up of certain parcels located within Development District No. 1. The specific parcels contained in the Tax Increment District are described in Exhibit E.

3.4 Parcels to be Acquired.

In connection with Economic Development District No. 1-2 the City does not intend to acquire and reconvey any parcels to specific developers of property within the City. The City intends to acquire rights of way in connection with the construction of certain public improvements within the Development District.

3.5 Development Activity in Development District No. 1
for which Contracts Have Been Signed.

(a) Zantigo Restaurant on County Road is being developed by Zantigo Mexican Restaurants, Inc. on County Road D, West of White Bear Avenue. The contractor is William Kranz Construction and the cost of the project is \$260,000.

(b) Maple Ridge Square Shopping Center is being developed by Curt Johnson and Joe Weis - Weis Builders, Inc. at the intersection of Gervais Avenue and White Bear Avenue. The contractor is Weis Builders and the cost of the project is \$2,318,383.

(c) Maple Ridge Apartments is being developed by Podawiltz Development Company on County Road D, west of White Bear Avenue. The contractor is Avon Lumber Company, Inc. and the cost of the project is \$2,800,000.

(d) Maple Ridge Estate Apartments is being developed by Maple Ridge Development Corporation at the intersection of Stillwater Road and Stillwater Avenue. The contractor is Steve Haight Construction and the cost of the project is \$3,999,000.

(e) An addition to Maplewood Mall is being developed by CPI. The contractor is Kraus Anderson and the cost of the project is \$2,075,000.

(f) A Main Street Store at Maplewood Mall is being developed by Federated Department Stores. The contractor is Sheehy Construction and the cost of the project is \$2,000,000.

3.6 Other Specific Development Expected to Occur Within Development District No. 1.

(a) The expansion of St. John's Northeast Hospital on Beam Avenue;

(b) It is expected that additional development may occur in the Development District in the future. The nature and timing of further development cannot accurately be predicted at this time.

3.7 Estimated Cost of Project Costs and Supportive Data.

The estimated costs of certain of the public improvements set forth in the Development Program to be made within Development District No. 1 and financed by tax increments to be derived from Economic Development District No. 1-2 (together with any available tax increments from Economic Development District No. 1-1, Housing District No. 1-1 and Housing District No. 1-2 within Development District No. 1) are \$845,000.

PUBLIC IMPROVEMENTS [Section 1.7(c)(ix) and (x)]	\$ 689,000
LEGAL FEES, PLANNING FEES, COSTS OF ISSUANCE & CONTINGENCY	\$ 33,450
BOND DISCOUNT	\$ 16,550

INTEREST ON BONDS PRIOR TO RECEIPT OF TAX INCREMENT TO FULLY FUND PRINCIPAL AND INTEREST	\$ 106,000
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TOTAL AMOUNTS OF BONDS TO BE SOLD	\$ 845,000
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SUPPORTIVE DATA FOR ESTIMATED COSTS OF IMPROVEMENTS
OR DEVELOPMENT DISTRICT UNDER DEVELOPMENT PROGRAM

<u>ITEM</u>	<u>BASIS FOR ESTIMATE</u>
PUBLIC IMPROVEMENTS	Estimates by City Staff
PROFESSIONAL SERVICES	Estimates of Project Costs for legal assistance, bond issuance costs, planning provided by Miller & Schroeder Financial, Inc.
INTEREST ON BONDS PRIOR TO RECEIPT OF TAX INCREMENT TO FULLY FUND PRINCIPAL AND INTEREST	The amount of capitalized interest will be equal to an amount sufficient to pay interest on the Tax Increment Bonds from the date of issue until the date of collection of sufficient tax increments to meet scheduled interest payments when due, but not exceeding 3 years as required by Minnesota Statutes, Chapter 475. Predicting capitalized interest prior to issuance is extremely difficult as it is a function of interest rates, construction schedules and tax timing; therefore, the above figure is only an estimate of capitalized interest and is subject to change.

3.8 Estimated Amount of Bonded Indebtedness. It is anticipated that Tax Increment Bonds in the amount of \$845,000 will be incurred with respect to this portion of the development activities to be undertaken within Development District No. 1.

3.9 Sources of Revenue

It is anticipated that the sources of revenue to pay the costs associated with this portion of the development activities to be undertaken within Development District No. 1 are Tax Increment Bond proceeds and special assessments.

3.10 Original Assessed Value and Fiscal Disparities.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-2:

The original assessed value of all taxable property in Economic Development District No. 1-2 as most recently certified by the Commissioner of Revenue of the State of Minnesota, being the certification made in 1986 with respect to the assessed value of such property as of January 2, 1986, for taxes payable in 1987 is estimated to be \$151,113.

Minnesota Statutes, Section 469.177, Subd. 1, requires that the original assessed value in economic development districts be adjusted on an annual basis. The rate of adjustment is equal to the average percentage increase in the assessed value of all property in the Economic Development District No. 1-1 during the five years prior to certification. The rate of adjustment for the District is approximately 2.50%.

The City hereby elects the method of tax increment computation set forth in Section 469.177, Subd. 3, clause (b).

3.11 Estimated Captured Assessed Value.

Each year the County Auditor will measure the amount of increase or decrease in the total assessed value of Economic Development District No. 1-2 to calculate the tax increment payable to the City of Maplewood. In any year in which there is an increase in total assessed valuation in Economic Development District No. 1-2 above the original assessed value, a tax increment will be payable. In any year in which the total assessed valuation in Economic Development District No. 1-2 declines below the original assessed valuation, no assessed valuation will be captured and no tax increment will be payable.

The County Auditor shall certify in each year after the date the original assessed value was certified, the amount the original assessed value has increased or decreased as a result of:

1. change in tax exempt status of property;
2. reduction or enlargement of the geographic boundaries of the district;
3. change due to stipulations, adjustments, negotiated or court-ordered abatements.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-2

Upon completion of the development expected to occur within Economic Development District No. 1-2 the City

estimates the assessed value of the Property within Economic Development District No. 1-2 to be \$1,903,363.

The captured assessed value upon completion is expected to annually approximate \$1,752,250. This amount will be captured for up to 8 years or until the Tax Increment Bonds are retired. The city requests 70% of the available increase in assessed value from Economic Development District No. 1-2 for repayment of Tax Increment Bonds and current expenditures authorized by this Tax Increment Financing Plan (the balance of the increase being used to pay the fiscal disparities contribution of Economic Development District No. 1-2.).

3.12 Type of Tax Increment Financing District.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-2

Pursuant to Section 469.174, Subd. 12 of the Act, the City finds that Economic Development District No. 1-2 qualifies as an "economic development district":

1. Economic Development District No. 1-2 does not meet the requirements to qualify as either a housing or a redevelopment district.

2. The creation of Economic Development District No. 1-2 is in the public interest because it will preserve and enhance the tax base of the City and it will result in increased employment within the City.

3.13 Duration of Tax Increment Financing Districts.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-2:

The Act allows "economic development districts" to remain in existence for a period of 8 years from the receipt of the first tax increment or 10 years from the approval of the tax increment financing plan, whichever is less. Based on these limitations it is anticipated that Economic Development District No. 1-2 will remain in effect until eight years from the receipt of the first tax increment.

3.14 Estimated Impact of Tax Increment Financing.

ECONOMIC DEVELOPMENT DISTRICT NO. 1-2

The estimated impact of Economic Development District No. 1-1 on the other taxing jurisdictions within Economic Development District No. 1-2 is set forth on Table V.

3.15 Cash Flow Analysis. See Table VI.

TABLE V

ECONOMIC DEVELOPMENT DISTRICT NO. 1-2

ECONOMIC DEVELOPMENT DISTRICT IMPACT ON TAX BASE:

<u>Jurisdiction</u>	<u>Tax Base</u>	<u>Original Assessed Value</u>	<u>District as Percent of Jurisdiction</u>	<u>Future Assessed Value</u>	<u>District as Percent of Jurisdiction</u>
County of Ramsey	3,283,594,890	151,113	.0046%	1,903,363	.0580%
City of Maplewood	274,691,365	151,113	.0550%	1,903,363	.6929%
School District No. 622	297,420,326	151,113	.0508%	1,903,363	.6400%

ECONOMIC DEVELOPMENT DISTRICT IMPACT ON MILL RATES:

<u>Jurisdiction</u>	<u>Current Mill Rate</u>	<u>Potential Taxes Generated</u>
County of Ramsey	32.225	61,336
City of Maplewood	18.387	34,997
Other (1)	6.843	13,025
School District No. 622	59.110	112,508

1 Other taxing jurisdictions include: Metro Council, Regional Transit Commission, Mosquito Control District, County Library District and Metro Watershed Area

TAX INCREMENT CASH FLOW SUMMARY REPORT

TABLE VI
CITY OF MAPLEWOOD, MINNESOTA
MAIN STREET STORE PROJECT

YEAR	REVENUES				EXPENSES			ANNUAL BALANCE	YEAR END CUM. BALANCE	LOWEST CUM. BALANCE
	TAX INCREMENT	BOND PROCEEDS	INVESTMENT INCOME	OTHER	PROJECT COSTS	OTHER	DEBT SERVICE			
1988	0	405,000	0	0	329,250	25,000	14,204	36,546	36,546	36,546
1989	0	0	0	0	0	0	24,350	(24,350)	12,196	12,196
1990	71,230	0	0	0	0	0	24,350	46,880	59,076	21
1991	70,896	0	0	0	0	0	63,300	7,596	66,672	6,901
1992	70,562	0	0	0	0	0	66,013	(30,732)	35,940	10,547
1993	70,228	0	0	0	0	0	63,493	6,902	42,842	16,333
1994	69,896	0	0	0	0	0	65,735	4,327	47,169	19,351
1995	69,562	0	0	0	0	0	62,735	6,994	54,163	24,987
1996	69,228	0	0	0	0	0	64,505	4,890	59,053	28,339
1997	68,894	0	0	0	0	0	65,880	3,181	62,234	29,767
1998	0	0	0	0	0	0	61,980	(27,533)	34,701	34,701

	560,496	405,000	0	0	329,250	25,000	576,545			

CITY OF MAPLEWOOD, MINNESOTA
MAIN STREET STORE PROJECT

LEVY YEAR	COLL YEAR	ASSESSED VALUE (\$000)		MILL RATE	% TAX INCRMT AVAIL.	AVERAGE INVEST. RATE	ANNUAL GROWTH RATE (%) OF ASSESSED VALUE		
		TOTAL	BASE						
1987	1988	135	135	119.210	70.00	0.000	BASE	=	2.50
1988	1989	138	138	119.210	70.00	0.000			
1989	1990	995	141	119.210	70.00	0.000	TOTAL	=	0.00
1990	1991	995	145	119.210	70.00	0.000			
1991	1992	995	149	119.210	70.00	0.000			
1992	1993	995	153	119.210	70.00	0.000			
1993	1994	995	157	119.210	70.00	0.000			
1994	1995	995	161	119.210	70.00	0.000			
1995	1996	995	165	119.210	70.00	0.000			
1996	1997	995	169	119.210	70.00	0.000			

CITY OF MAPLEWOOD, MINNESOTA
 MAIN STREET STORE PROJECT

----- BONDS -----

YEAR	PRINCIPAL PAYMENTS	RATE (%)	INTEREST PAYMENTS	PRINCIPAL & INTEREST	DEBT SERVICE COVERAGE RATIO
1988	0	5.250	14,204	14,204	Cap Int
1989	0	5.250	24,350	24,350	Cap Int
1990	0	5.250	24,350	24,350	Cap Int
1991	40,000	5.250	23,300	63,300	112.53
1992	45,000	5.500	21,013	66,013	107.40
1993	45,000	5.700	18,493	63,493	111.13
1994	50,000	5.900	15,735	65,735	106.84
1995	50,000	6.100	12,735	62,735	111.41
1996	55,000	6.200	9,505	64,505	107.84
1997	60,000	6.400	5,880	65,880	105.08
1998	60,000	6.600	1,980	61,980	111.16

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405,000	171,545	576,545
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INTEREST START DATE Jan-88
 FIRST INTEREST DATE Aug-88

BOND YEARS 2,788.750
 AVERAGE LIFE 6.886 YRS.
 AVERAGE COUPON 6.151 %

TABLE VI
CITY OF MAPLEWOOD, MINNESOTA
MAPLEWOOD MALL ADDITION PROJECT

TAX INCREMENT CASH FLOW SUMMARY REPORT

YEAR	REVENUES				EXPENSES			ANNUAL BALANCE	YEAR END CUM. BALANCE	LOWEST CUM. BALANCE
	TAX INCREMENT	BOND PROCEEDS	INVESTMENT INCOME	OTHER	PROJECT COSTS	OTHER	DEBT SERVICE			
1988	0	440,000	0	0	359,750	25,000	15,454	39,796	39,796	39,796
1989	0	0	0	0	0	0	26,492	(26,492)	13,304	13,304
1990	74,426	0	0	0	0	0	26,492	47,934	61,238	58
1991	74,410	0	0	0	0	0	70,311	4,099	65,337	2,992
1992	74,360	0	0	0	0	0	67,893	(30,713)	34,624	8,272
1993	74,326	0	0	0	0	0	70,231	4,112	38,736	10,976
1994	74,280	0	0	0	0	0	67,331	6,972	45,708	16,496
1995	74,242	0	0	0	0	0	69,178	5,083	50,791	19,920
1996	74,242	0	0	0	0	0	70,640	3,602	54,393	21,662
1997	74,160	0	0	0	0	0	71,700	2,501	56,894	22,124
1998	0	0	0	0	0	0	72,310	(35,230)	21,664	21,664
=====										
	594,446	440,000	0	0	359,750	25,000	628,032			

CITY OF MAPLEWOOD, MINNESOTA
 MAPLEWOOD MALL ADDITION PROJECT

TAX INCREMENT BOND ISSUE SUMMARY REPORT

----- BONDS -----

YEAR	PRINCIPAL PAYMENTS	RATE (%)	INTEREST PAYMENTS	PRINCIPAL & INTEREST	DEBT SERVICE COVERAGE RATIO
1988	0	5.250	15,454	15,454	Cap Int
1989	0	5.250	26,492	26,492	Cap Int
1990	0	5.250	26,492	26,492	Cap Int
1991	45,000	5.250	25,311	70,311	105.85
1992	45,000	5.500	22,893	67,893	109.60
1993	50,000	5.700	20,231	70,231	105.88
1994	50,000	5.900	17,331	67,331	110.38
1995	55,000	6.100	14,178	69,178	107.38
1996	60,000	6.200	10,640	70,640	105.10
1997	65,000	6.400	6,700	71,700	103.55
1998	70,000	6.600	2,310	72,310	102.56

=====
 440,000

=====
 188,032 628,032

INTEREST START DATE Jan-88
 FIRST INTEREST DATE Aug-88

BOND YEARS 3,051.667
 AVERAGE LIFE 6.936 YRS.
 AVERAGE COUPON 6.162 %

CITY OF MAPLEWOOD, MINNESOTA
 MAPLEWOOD MALL ADDITION PROJECT

TAX INCREMENT ASSUMPTIONS SUMMARY REPORT

LEVY YEAR	COLL YEAR	ASSESSED VALUE (\$000)		MILL RATE	% TAX INCRMT AVAIL.	AVERAGE INVEST. RATE	ANNUAL GROWTH RATE (%) OF ASSESSED VALUE		
		TOTAL	BASE						
1987	1988	16	16	119.210	70.00	0.000	BASE	=	2.50
1988	1989	16	16	119.210	70.00	0.000			
1989	1990	909	17	119.210	70.00	0.000	TOTAL	=	0.00
1990	1991	909	17	119.210	70.00	0.000			
1991	1992	909	18	119.210	70.00	0.000			
1992	1993	909	18	119.210	70.00	0.000			
1993	1994	909	19	119.210	70.00	0.000			
1994	1995	909	19	119.210	70.00	0.000			
1995	1996	909	19	119.210	70.00	0.000			
1996	1997	909	20	119.210	70.00	0.000			

3.16 Use of Tax Increment

The City hereby determines that it will use 100% of the captured assessed value of taxable property located in Economic Development District No. 1-2. The tax increments derived from Economic Development District No. 1-2, shall be used for the following activities:

1. To pay principal and interest on the Tax Increment Bonds.
2. To finance or otherwise pay the capital and administrative costs of Development District No. 1.
3. To finance or otherwise pay premiums for insurance or other security guaranteeing the payment when due of principal and interest on bonds issued pursuant to Minnesota Statutes, Chapters, 462C, 469, or both.
4. To accumulate or maintain a reserve securing the payment when due of the principal and interest on the bonds issued pursuant to Minnesota Statutes, Chapters 462C, 469, or both.
5. To finance project costs described in this Tax Increment Financing Plan.
6. To finance other purposes as may be allowed by the Act.

These revenues shall not be used to circumvent levy limitations applicable to the City nor for other purposes prohibited by Section 469.176, Subd. 4 of the Act.

3.17 Prior Planned Improvements.

The City shall, after due and diligent search, accompany its request for certification to the County Auditor or its notice of district enlargement with a listing of all properties within Economic Development District No. 1-2, for which building permits have been issued during the eighteen (18) months immediately preceding approval of the Tax Increment Financing Plan by the City. The County Auditor shall increase the original assessed value of Economic Development District No. 1-2, by the assessed value of the improvements for which the building permit was issued, excluding the assessed value of improvements for which a building permit was issued during the three (3) month period immediately preceding said approval of the Tax Increment Financing Plan as certified by the assessor.

3.18 Limitation on Qualification of Tax Increment

Development on a parcel located within the Economic Development District No. 1-2 by the City or by the owner of the parcel in accordance with this Tax Increment Financing Plan shall occur within four (4) years of the date of certification of the original assessed value. For the purposes of this section the term "development" shall mean including demolition, rehabilitation, or renovation of property, or other site preparation, including improvement of

a street adjacent to the parcel. Development shall not include the installation of utility service including sewer and water systems. If development has not commenced within this period no additional increment shall be taken from that parcel and the original assessed value of that parcel shall be excluded from the original assessed value of Economic Development District No. 1-2. If the City or the owner of the parcel subsequently commences development, the City shall certify the assessed value thereof as most recently certified by the Commissioner of Revenue and add it to the original assessed value of Economic Development District No. 1-2.

3.19 Modifications of Tax Increment Financing Districts.

In accordance with Minnesota Statutes, Section 469.175, Subd. 4, any reduction or enlargement of the geographic area of Development District No. 1 or Tax Increment Financing Districts within Development District No. 1, increase in amount of bonded indebtedness to be incurred, including a determination or capitalize interest on debt if that determination was not a part of the original tax increment financing plan, or to increase or decrease the amount of interest on the debt to be capitalized, increase in the portion of the captured assessed value to be retained by the City, increase in total estimated tax increment expenditures or designation of additional property to be

acquired by the authority shall be approved upon the notice and after the discussion, public hearing and findings required for approval of the original plan. The geographic area of a Tax Increment Financing District may be reduced, but shall not be enlarged after five years following the date of certification of the original assessed value by the county auditor. Economic Development District No. 1-2 may therefore be expanded until 1992.

3.20 Limitation on Administrative Expenses

In accordance with Minnesota Statutes, Section 469.174, Subd. 14 and Minnesota Statutes, Section 469.176, Subd. 3, administrative expenses means all expenditures of an authority other than amounts paid for the purchase of land or amounts paid to contractors or others providing materials and services, including architectural and engineering services, directly connected with the physical development of the real property in the district, relocation benefits paid to or services provided for persons residing or businesses located in the district or amounts used to pay interest on, fund a reserve for, or sell at a discount bonds issued pursuant to Section 469.178. Administrative expenses includes amounts paid for services provided by bond counsel, fiscal consultants, and planning or economic development consultants. No tax increment shall be used to pay any administrative

expenses for a project which exceed ten percent of the total tax increment expenditures authorized by the tax increment financing plan or the total tax increment expenditures for the project, whichever is less.

3.21 Limitation on Duration of Tax Increment Financing Districts.

Pursuant to Minnesota Statutes, Section 469.176, Subd. 1, "no tax increment shall be paid to an authority three years from the date of certification by the County Auditor unless within the three-year period (1) bonds have been issued pursuant to Section 469.178 or in aid of a project pursuant to any other law, except revenue bonds issued pursuant to Sections 469.152 through 469.165, prior to the effective date of the Act; or (2) the authority has acquired property within the district; or (3) the authority has constructed or caused to be constructed public improvements within the district..." The City must therefore issue bonds, or acquire property, or construct or cause public improvements to be constructed by 1988 or the County Auditor may dissolve the applicable Tax Increment Financing District.

3.22 Limitation on Qualification of Property in Tax Increment Financing Districts Not Subject to Improvement

Pursuant to Minnesota Statutes, Section 469.176, Subd. 6, "if, after four years from the date of certification of the original assessed value of the tax increment financing

district..., no demolition, rehabilitation or renovation of parcel or other site preparation including improvement of a street adjacent to a property but not installation of utility service including sewer or water systems, has been commenced on a parcel located within a tax increment financing district by the authority or by the owner of the parcel in accordance with the tax increment financing plan, no additional tax increment may be taken from that parcel and the original assessed value of that parcel shall be excluded from the original assessed value of the tax increment financing district. If the authority or the owner of the parcel subsequently commences demolition, rehabilitation or renovation or other site preparation on that parcel including improvement of a street adjacent to that parcel, in accordance with the tax increment financing plan, the authority shall certify to the county auditor in the annual disclosure report that the activity has commenced. The county auditor shall certify the assessed value thereof as most recently certified by the commissioner of revenue and add it to the original assessed value of the tax increment financing district.

3.23 Excess Tax Increments.

Pursuant to Minnesota Statutes, Section 469.176, Subd. 2, in any year in which the tax increment exceeds the amount necessary to pay the costs authorized by the tax

increment plan, including the amount necessary to cancel any tax levy as provided in Minnesota Statutes, Section 475.61, Subdivision 3, the City shall use the excess amount to:

1. prepay the outstanding bonds;
2. discharge the pledge of tax increment therefore;
3. pay into an escrow account dedicated to the payment of such bond;
4. repay any loans including interest on these loans; or
5. return the excess to the County Auditor for redistribution to the respective taxing jurisdictions in proportion to their mill rate.

In addition, the City may choose to modify the financing plan as described in Part II, 2.18, in order to provide further public improvements within the development district.

3.24 Administration of Tax Increment Financing Districts.

Administration of Economic Development District No. 1-2 will be handled by the Office of the City Manager.

The tax increment received as a result of increases in the assessed value of Economic Development District No. 1-2 will be maintained in a special account separate from all other municipal accounts and expended only upon sanctioned municipal activities identified in the Tax Increment Finance Plan.

3.25 Annual Disclosure Requirements.

Pursuant to Minnesota Statutes, Section 469.175, Subd. 5, the City must file with the State Auditor on or before July 1, an annual financial report for all Tax Increment Financing Districts. The report shall also be filed with the school board and county board. The report shall as nearly as possible:

1. Provide for full disclosure of the sources and uses of public funds in each Tax Increment Financing District;

2. Permit comparison and reconciliation with the City's accounts and financial reports;

3. Permit auditing of the funds expended on behalf of each Tax Increment Financing District, including a single Tax Increment Financing District that is part of a multidistrict project or that is funded in part or whole through the use of a development account funded with tax increments from other Tax Increment Financing Districts or with other public money; and

4. Be consistent with generally accepted accounting principles.

In addition, the report shall contain the following information:

1. The original assessed value of the Tax Increment Financing District;

2. The captured assessed value of the Tax Increment Financing District, including the amount of any captured assessed value shared with other tax districts;

3. The outstanding principal amount of bonds issued or other loans incurred to finance project costs in the Tax Increment Financing District;

4. For the reporting period and for the duration of the Tax Increment Financing District, the amount budgeted under the Tax Increment Financing Plan, and the actual amount expended for, at least, the following categories:

A. Acquisition of land and buildings through condemnation or purchase;

B. Site improvements or preparation costs;

C. Installation of public utilities or other public improvements; and

D. Administrative costs, including the allocated cost of the City;

5. For properties sold to developers, the total cost of the property to the City and the price paid by the developer;

6. The amount of tax exempt obligations, other than those reported under clause (3), that were issued on

behalf of private entities for facilities located in the
Tax Increment Financing District.

Exhibit B

Zantigo:

The easterly 145 feet of that part of Lot 1, Block 3, Viking Development Addition, according to the recorded plat thereof which lies easterly of a line described as follows:

Commencing at the southeast corner of said Lot 1; thence on an assumed bearing of West, along the south line of said Lot 1, a distance of 285.00 feet to the beginning of the line to be described; thence on a bearing of North a distance of 236.91 feet, to the north line of said Lot 1 and said line there terminating.

Maple Ridge Square:

That part of Lot 2, Block 1, Maple Ridge Mall, according to the recorded plat thereof, lying east of the West line of the Northeast Quarter (1/4) of the Northwest Quarter (1/4) of Section 11, Township 29, Range 22 and lying south of the North line of the South four (4) acres of the West Half (1/2) of the North Half (1/2) of the East Half (1/2) of the Northwest Quarter (1/4) of Section 11, Township 29, Range 22 (torrens property);

together with that part of Lot 2, Block 1, Maple Ridge Mall, according to the recorded plat thereof, lying south of the South line of Lot 1 of said Block 1 and the westerly extension thereof except that part of said Lot 2 lying east of the West Line of the Northeast Quarter (1/4) of the Northwest Quarter (1/4) of Section 11, Township 29, Range 22 and lying south of the North line of the South four (4) acres of the West Half (1/2) of the North Half (1/2) of the East Half (1/2) of the Northwest Quarter (1/4) of Section 11, Township 29, Range 22 (abstract property);

together with that part of Lots 3 and 4, Block 1, Maple Ridge Mall, according to the recorded plat thereof lying west of the West line of the Northwest Quarter (1/4) of the Southeast Quarter (1/4) of the Northwest Quarter (1/4) of Section 11, Township 29, Range 22 (torrens property);

together with that part of Lots 3 and 4, Block 1, Maple Ridge Mall, according to the recorded plat thereof lying

east of the West line of the Northwest Quarter (1/4) of
the Southeast Quarter (1/4) of the Northwest Quarter
(1/4) of Section 11, Township 29, Range 22 (abstract
property).

Exhibit C

Maple Ridge Apartments - County Road D:

That part of the W 1/2 of the E 1/2 of the SE 1/4 lying south of the right-of-way of U.S. Highway No. 694, all in Section 34, Township 30, Range 22, Ramsey County, Minnesota containing approximately 5.06 acres.

Exhibit D

Maple Ridge Estates Apartments - Stillwater Road and
Stillwater Avenue:

Beginning on the East line of the Northwest Quarter of the Southwest Quarter of Section 25, Township 29, Range 22, at a point in the center of the Stillwater Road, which is 227 feet South of the Northeast corner of said Northwest Quarter of the Southwest Quarter; thence South along the Easterly line of the Northwest Quarter of the Southwest Quarter to the Southeast corner of said Northwest Quarter of the Southwest Quarter; thence Westerly along the southerly line of the Northwest Quarter of the Southwest Quarter to the Southwest corner of the Northwest Quarter of the Southwest Quarter; thence Northerly along the Westerly line of the Northwest Quarter of the Southwest Quarter to the centerline of Stillwater Road; thence Easterly along the centerline of Stillwater Road to the point of beginning; except therefrom the following: That part taken for Registered Land Survey No. 21 and also except part taken for Registered Land Survey No. 137, and also except that part lying Southeasterly of State Highway No. 212, and also except that part thereof described as follows: Commencing at the intersection of the South right-of-way line of Stillwater Avenue, a/k/a Stillwater Road Connection, and the West right-of-way line of State Highway No. 212; thence westward along the south right-of-way of Stillwater Avenue a distance of 50 feet; thence Southeasterly to a point on the West right-of-way line of State Highway No. 212, which point is 50 feet Southwest of the point of beginning; thence Northeasterly to the point of beginning. Subject to all easements of record.

EXHIBIT E

Main Street Store - Maplewood Mall

That part of Lot 5, Block 1, Maplewood Mall Addition, Ramsey County, Minnesota, described as follows: Commencing at the northeast corner of Lot 7, Block 1, Maplewood Mall Addition; thence on an assumed bearing of S 3 degrees 32' 27" W, along the easterly line of said Lot 7, a distance of 258.25 feet, thence on a bearing of East, 44.08 feet to the actual point of beginning; thence N 3 degrees 32' 27" E., 282.72 feet; thence on a tangential curve to the right for a distance of 304.55 feet, radius of said curve is 654.67 feet; thence on a bearing of East, not tangent to last described curve, 220.00 feet; thence on a bearing of South, 27.90 feet; thence on a bearing of East, 64.97 feet; thence on a bearing of South, 543.50 feet; thence on a bearing of West, 390.00 feet to the actual point of beginning. Subject to easements, if any.

Mall Addition - Maplewood Mall

That portion of Lot 5, Block 1, Maplewood Mall Addition on which the Mall Addition will be constructed. A separate legal description for the Mall Addition will be established.

MEMORANDUM

Endorsed _____
 Modified _____
 Rejected _____
 Date _____

TO: City Manager
 FROM: Associate Planner--Johnson
 SUBJECT: Flood Insurance Rate Map Amendment and Variance
 LOCATION: Keller Parkway, North of County Road C
 APPLICANT: Cynthia Kath
 OWNER: R. D. and J. D. Investment Company
 DATE: August 12, 1987

SUMMARY

Introduction

The applicant is requesting a rezoning to revise the city's flood insurance rate map (pages 9 and 10) and a shoreline setback variance to construct a single dwelling on an existing parcel adjoining Kohlman Lake. The shoreland ordinance requires a setback of 75 feet. The house can only be set back 50 feet because of insufficient lot depth. (See the site plan on page 7.)

Background

The applicant has received approval from the Corps of Engineers, the Department of Natural Resources and the Watershed District to fill a portion of this property to create a building pad.

DiscussionFlood Insurance Rate Map Amendment:

The elevation of the proposed building site would be raised to the established flood protection elevation for this area. Once the grading is completed, the Department of Natural Resources will request the Federal Emergency Management Agency (FEMA) to issue a "letter of flood hazard map correction" to the property owner. Flood hazard areas may be filled, provided the fill will not obstruct flood flows. The Watershed District has made this finding.

Setback Variance

This variance meets all the criteria for approval. The hardship is that the property cannot be built on without a variance. The spirit and intent of the ordinance would be met since the setback is being complied with as much as possible, the setback would not be out-of-character with adjacent homes, and there would be no grading within 40 feet of the shoreline.

Recommendation

1. Approve the resolution on page 11 to revise the Flood Hazard Overlay District Map to change the building site and a 15-foot buffer

strip around the building from Zone A to Zone C. Zone A is within the 100-year flood plain, and Zone C is outside of the flood plain. (At least four votes in favor are required for approval.)

2. Approve the resolution on page 13 to approve a 25-foot setback variance to allow a dwelling to be located 50 feet, rather than 75 feet, from the ordinary high water mark (OHWM) for Kohlman Lake, on the basis that:

a. Strict enforcement of the zoning code would cause undue hardship because of circumstances unique to the individual property under consideration, because:

1) The property cannot be put to a reasonable use under the conditions allowed by the official controls because the property is too narrow to permit compliance.

2) The plight of the landowner is due to circumstances unique to their property, not created by the landowner. This property was created before a building setback was required from the lakeshore.

b. The variance would be in keeping with the spirit and intent of the ordinance. If approved, the variance would not alter the essential character of the locality because:

1) Eight existing dwellings are located less than 75 feet from the Kohlman Lake OHWM--three of which have similar setbacks to that proposed.

2) This is the last lot of record on this lake that cannot be put to a reasonable use if this setback requirement were to be strictly enforced.

3) The vegetation located along the shoreline and on the northerly two-thirds of this property would not be disturbed during construction.

REFERENCE

Site Description

Gross lot area: 2.73 acres (118,800 square feet)

Area above the ordinary high water mark (OHWM): 37,800+ square feet
(Refer to the Planning Section for the definition of OHWM.)

Shoreline: At the OHWM, this site has about 700+ feet of shoreline

Existing land use: undeveloped

Prominent vegetation: numerous hardwood trees with at least six inches of trunk diameter. Refer to the grading plan on page 7 .

Surrounding Land Uses

North: A single dwelling

East and South: Kohlman Lake

West: Keller Parkway. Across the street is Gervais Lake.

Planning

1. Zoning: R-1, single dwelling
 2. Compliance with land use laws: Section 462.357, Subdivision 6, requires that the following findings be made before a zoning variance can be granted:
 - a. Strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. Undue hardship as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.
 - b. The variance would be in keeping the spirit and intent of the ordinance.
 3. Section 36-566(c)(2)(b) of the Shoreland Ordinance requires single dwellings to be set back at least 75 feet from the Kohlman Lake ordinary high water mark (OHWM).
 4. Section 36-564 defines OHWM as "A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial."
- The Department of Natural Resources has established the 859.5 contour elevation as the OHWM for Kohlman Lake. (Refer to the maps on pages 6 and 7.)
5. Section 36-497(a) of the Flood Plain Ordinance states: The Flood Insurance Rate Map for the city, dated August 5, 1986, developed by the Federal Emergency Management Agency, is hereby adopted by reference as the Official Flood Plain Zoning District Map and made a part of this ordinance (zoning code).
 6. Section 36-505 states "all amendments (to the flood plain) ordinance, including revisions to the Official Flood Plain Zoning District Map shall be submitted to and approved by the commissioner of natural resources prior to adoption. The flood plain designation on

the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the regulatory flood protection elevation and is contiguous to lands outside of the flood plain."

Comment: The building site is proposed to be filled to comply with the first floor flood protection elevation of 864.6 feet. The applicant's grading plan (page 7) is acceptable to the Watershed District and the U.S. Army Corps of Engineers. The Department of Natural Resources will accept it, provided the ground elevation within 15 feet of the structure is increased to an elevation of at least 863.6 feet. (See Public Works comments.)

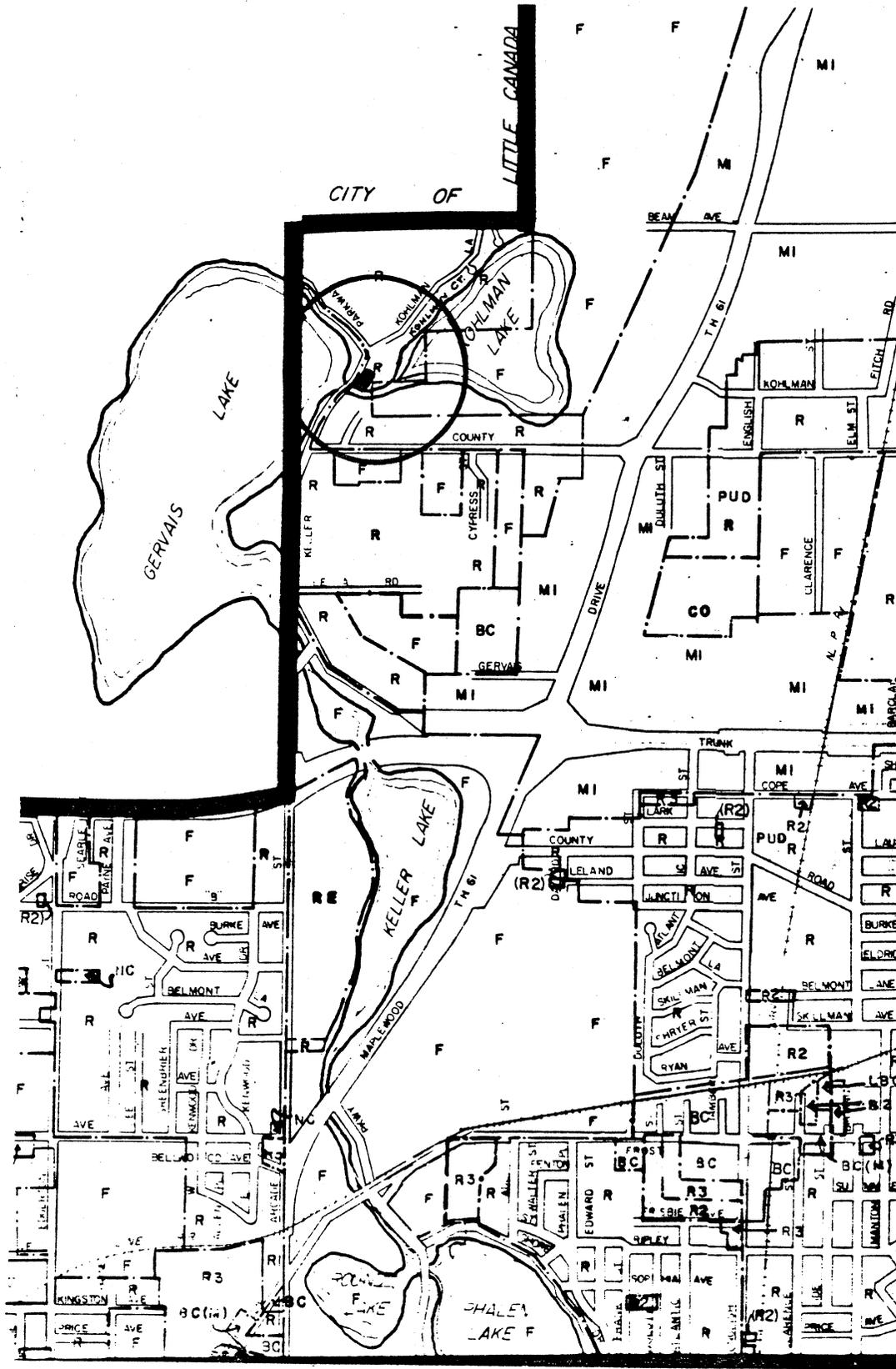
Public Works

1. The 100-year flood plain for Kohlman Lake includes property below the 863.6 contour elevation.
2. The regulatory flood protection elevation is defined as an elevation of not less than one foot above the 100-year flood plain. In the case of this property, the lowest floor must have an elevation of not less than 864.6 feet. Section 36-499(b)(4) also requires the finished fill elevation to be no lower than one foot below the regulatory flood protection elevation extending 15 feet beyond the limits of the structure.
3. Sanitary sewer is available.

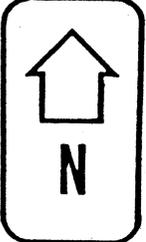
j1

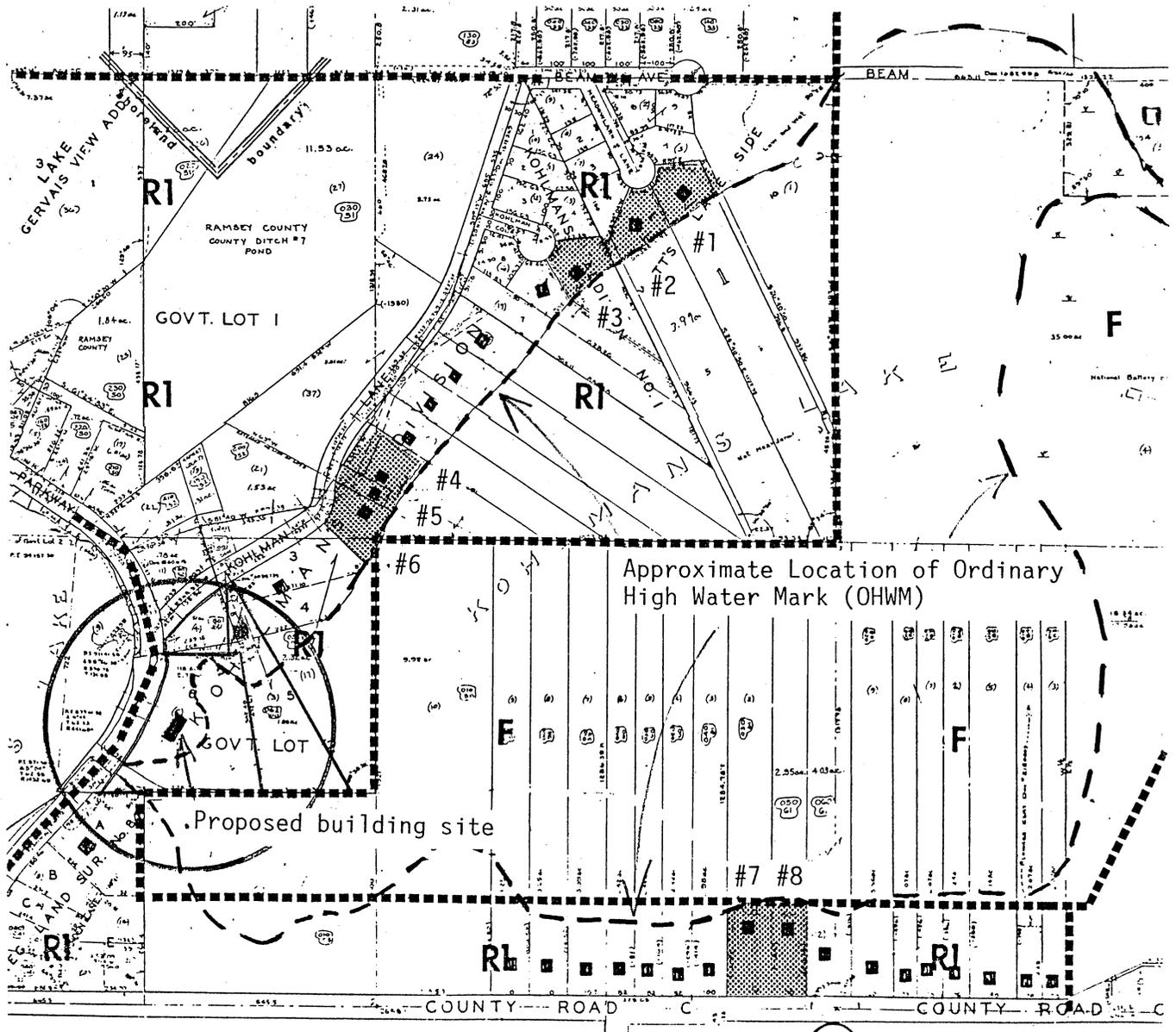
Attachments

1. Location Map
2. Property Line/Zoning Map
3. Proposed Site Plan
4. Letter of Justification
5. Flood Insurance Rate Map (present)
6. Flood Insurance Rate Map (proposed)
7. Resolution (Flood Hazard Map)
8. Resolution (Variance)



LOCATION MAP

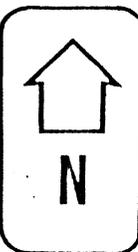


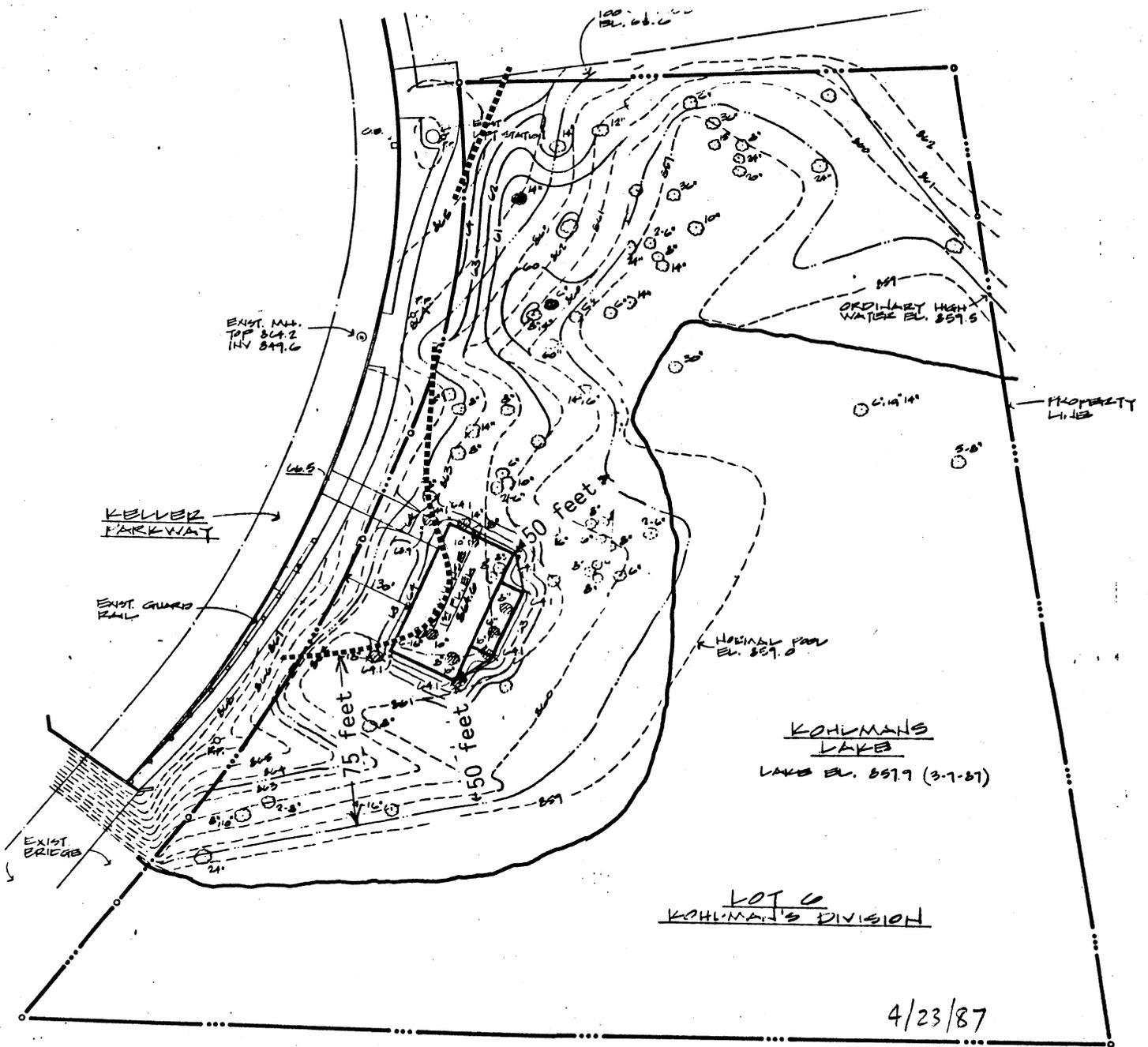


Dwellings with less than 75 feet of setback to the OHWM:
(See dwelling numbers above.)

- | | | | |
|-----------|-----------|-----------|-----------|
| #1 - 60±' | #3 - 50±' | #5 - 60±' | #7 - 50±' |
| #2 - 55±' | #4 - 65±' | #6 - 60±' | #8 - 50±' |

PROPERTY LINE / ZONING MAP





Flood Protection Elevation 864.6 feet

PROPOSED SITE PLAN

----- 75-foot building setback line from the ordinary high water elevation



April 14, 1987

Cynthia Kath
610 Capitol Boulevard
Saint Paul, Minnesota 55103

Appeals Application
City of Maplewood
1830 East County Road B
Maplewood, Minnesota 55109

To Whom it May Concern;

This letter is in request for a zoning code variance, regarding lakeshore setback.

I am designing a home for the property legally described; Lot 6, Kohlman Division, Maplewood, Minnesota. This property is located on Kohlman Lake.

I am in need of this variance because without it, there is no other way to use this property.

I would like to note that the setback of 50 feet is not out of character with the other homes on Lake Kohlman.

Sincerely,



Cynthia Kath

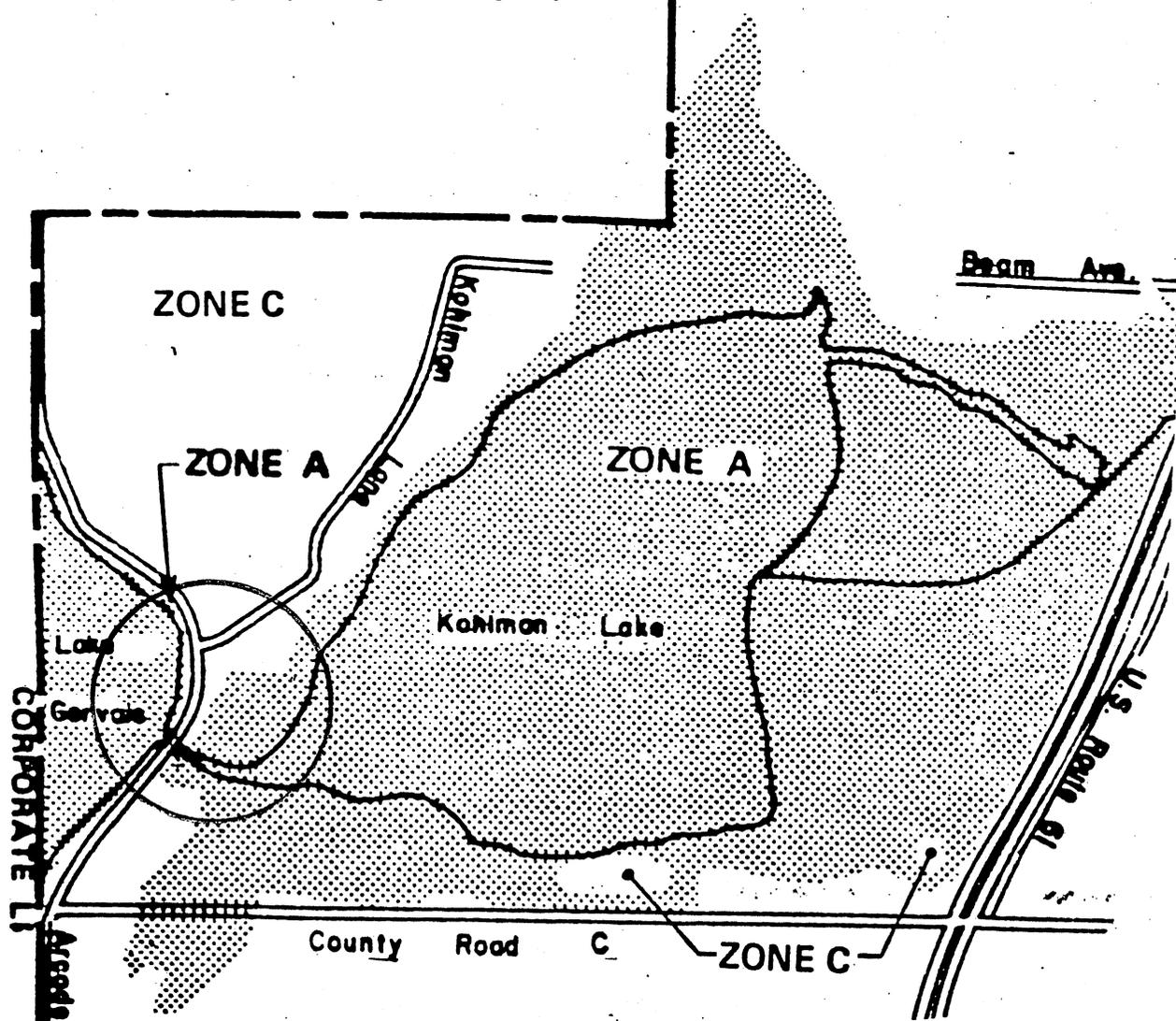
County Road D

Explanation

Zone A - 100 Year Floodplain

Zone C - Areas of minimal flooding (No shading)

Source: Federal Emergency Management Agency



FLOODPLAIN MAP
(Present)

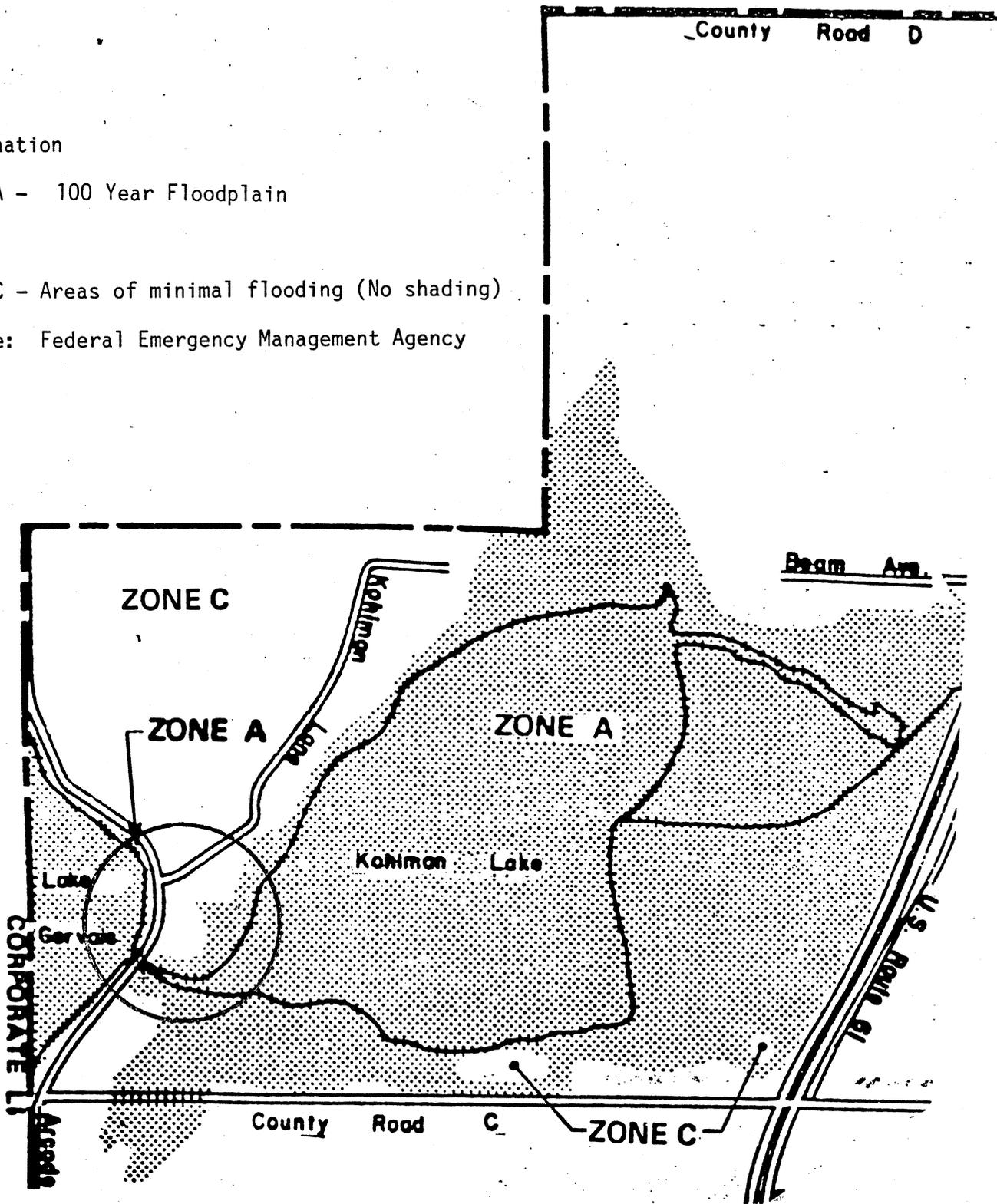


Explanation

Zone A - 100 Year Floodplain

Zone C - Areas of minimal flooding (No shading)

Source: Federal Emergency Management Agency



FLOODPLAIN MAP
(Proposed)



Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Maplewood, Minnesota was duly called and held in the council chambers in said city on the _____ day of _____, 1987 at 7 p.m.

The following members were present:

The following members were absent:

WHEREAS, Cynthia Kath initiated a rezoning to amend the August 5, 1986, Flood Insurance Rate Map from Zone A to Zone C for a portion of the following described property:

Lot Six, Kohlman Division, except the northeasterly triangular part measuring 25 feet on the east line and 208.15 feet on the north line.

WHEREAS, the procedural history of this rezoning is as follows:

1. This rezoning was initiated pursuant to Chapter 36, Article VII of the Maplewood Code of Ordinances.
2. This rezoning was reviewed by the Maplewood Planning Commission on August 17, 1987. The planning commission recommended to the city council that said rezoning be
3. The Maplewood City Council held a public hearing on _____, 1987 to consider this rezoning. Notice thereof was published and mailed pursuant to law. All persons present at said hearing were given an opportunity to be heard and present written statements. The council also considered reports and recommendations of the city staff and planning commission.

NOW, THEREFORE, BE IT RESOLVED BY THE MAPLEWOOD CITY COUNCIL that the above-described rezoning be approved on the basis of the following findings of fact:

1. The proposed change is consistent with the spirit, purpose and intent of the zoning code.
2. The proposed change will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded.
3. The proposed change will serve the best interests and conveniences of the community, where applicable and the public welfare.

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Maplewood, Minnesota was duly called and held in the council chambers in said city on the _____ day of _____, 1987 at 7 p.m.

The following members were present:

The following members were absent:

WHEREAS, Cynthia Kath applied for a setback variance for the following-described property:

Lot Six, Kohlman Division, except the northeasterly triangular part measuring 25 feet on the east line and 208.15 feet on the north line.

WHEREAS, section 36-566(c)(2)(b) of the Maplewood Code of Ordinances requires a minimum building setback of 75 feet from the Kohlman Lake ordinary high water mark;

WHEREAS, the applicant is proposing 50 feet of setback, requiring a variance of 25 feet;

WHEREAS, the procedural history of this variance is as follows:

1. This variance was applied for on April 23, 1987.
2. This variance was reviewed by the Maplewood Planning Commission on August 17, 1987. The planning commission recommended to the city council that said variance be _____.
3. The Maplewood City Council held a public hearing on _____, 1987, to consider this variance. Notice thereof was published and mailed pursuant to law. All persons present at said hearing were given an opportunity to be heard and present written statements. The council also considered reports and recommendations of the city staff and planning commission.

NOW, THEREFORE, BE IT RESOLVED BY THE MAPLEWOOD CITY COUNCIL that the above-described variance be approved on the basis of the following findings of fact:

1. Strict enforcement of the zoning code would cause undue hardship because of circumstances unique to the individual property under consideration, because:
 - a. The property cannot be put to a reasonable use under the conditions allowed by the official controls because the property is too narrow to permit compliance.

ORDINANCE NO. _____

Action by Council:

AN ORDINANCE FOR NOISE CONTROL

Endorsed _____

Modified _____

Rejected _____

Date _____

THE MAPLEWOOD CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 19-48 is added as follows:

"A. Section 19-48. **Noises Prohibited. General prohibition.** No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This prohibition does not apply to any City sponsored or authorized event or activity. This general prohibition is not limited by the specific restriction of the following subdivision.

B. **Horns, audible signaling devices, etc.** No person shall sound any audible signaling device on any vehicle except as a warning of danger. (M.S. §169.68).

C. **Exhaust.** No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

D. **Defective vehicles or loads.** No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

E. **Loading, unloading, unpacking.** No person shall create loud and excessive noise in loading, unloading, or unpacking any vehicle.

F. **Radios, phonographs, paging systems, etc.** No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound

in a distinct and loudly audible manner as to disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of 7:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

G. **Participation in noisy parties or gatherings.** No person shall participate in any party or other gathering of people giving rise to noise, disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

H. **Loudspeakers, amplifiers for advertising, etc.** No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

I. **Animals.** No person shall keep any animal that disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise.

J. **Schools, churches, hospitals, etc.** No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

Section 2. Section 19-49. **Domestic power equipment.** No person shall operate ~~a power lawn mower, power hedge clipper,~~ chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 7:00 p.m. on any weekday or between the hours of 9:00 a.m. and ~~6:00 p.m.~~ 7:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

Section 3. Section 19-50. **Refuse hauling.** ~~No person shall collect or remove garbage or refuse in any residential district except between the hours of 7:00 a.m. and 7:00 p.m. on any weekday or between the hours of 9:00 a.m. and 6:00 p.m. on any weekend or holiday.~~ No collections of garbage or rubbish shall be made except between the hours of 6:00 a.m. and 6:00 p.m. on Monday through Saturday.

Section 4. Section 19-51. **Construction activities.** No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 7:00 p.m. on any weekday, or between the hours of 9:00 a.m. and 6:00 p.m. on a Saturday; ~~or a Sunday or holiday~~ The above construction activities shall be allowed on a Sunday or holiday only with a permit issued by the City Clerk after complying with requirements and fees set by the City Council.

Section 4a. Section 19-51a. **Application; fee duration.**

a) Any person desiring a permit to engage or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment on a Sunday or holiday in the City shall make application for the same to the Clerk upon a form prescribed by the City Council. The application shall set forth:

1. The name and address of the applicant;
2. A list of the equipment which the applicant proposes to use in such construction activities;
3. The place or places in which the construction activity will occur;

4. The manner in which said construction equipment is to be used and the type of construction activity which will occur;

5. The times and dates in which the equipment will be used for construction activity.

b) Said application described in Subsection (a) in this section shall be submitted to the City Clerk, or a duly authorized representative, finds that the applicant is responsible, has proper equipment for such construction activity and that no nuisance is likely to be created by the granting of said permit, the Clerk shall endorse the approval upon the application.

c) Before any permit may be issued, the applicant shall pay to the Clerk a permit fee imposed, set, established and fixed by the City Council, by resolution, from time to time, which fee shall accompany the application.

d) No permit issued under this article shall be for a period longer than thirty days.

Section 5. Section 19-52. **Enforcement duties.** The Maplewood Police Department shall enforce the provisions of this ordinance. The Maplewood Police Department or its members may inspect private premises other than private residences and shall make all reasonable efforts to prevent violations of this ordinance.

A. **Civil remedies.** This ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

B. **Noise impact statements.** The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

C. **Criminal penalties.** Every person who violates any provision of this ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$700 or imprisonment for a term of not to exceed 90 days, or both, plus, in either case, the costs of prosecution. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

Section 6. This ordinance shall take effect upon its passage and publication."

Passed by the Maplewood City Council

this _____ day of _____, 1987.

Mayor

ATTEST:

City Clerk

COUNCIL PERSON BASTIAN MOVES TO AMEND THE PROPOSED ORDINANCE FOR NOISE CONTROL BY DELETED EVERYTHING AFTER THE ENACTING CLAUSE AND INSERTING THE FOLLOWING:

Section 1. Section 19-48 is added as follows:

A. Section 19-48. Noises Prohibited. General Prohibition. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general provision is in addition to specific restrictions, unless otherwise provided.

B. Section 19-49. Activity Contiguous To Non-residential Areas. In addition to the general provisions of Section 19-48, no person shall engage in construction, repair or maintenance in non-residentially zoned areas if the property is within 350 feet of a residential district or use between the hours of 9:00 P.M. and 8:00 A.M. This includes the collection or removal of garbage and maintenance or repair of commercial property or buildings. This section does not apply if there is an emergency repair necessary to preserve the property in the commercial area.

C. Section 19-50. Construction Activity. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine, power equipment or power tool except between the hours of 7:30 A.M. and 1/2 hour before sunset on any week day, or before 8:00 A.M. on weekends or holidays. The use of the above-described items includes starting-up and warm-up prior to actually beginning the construction ~~usage.~~ **ACTIVITY**

D. Section 19.51. Noise defined. (1) Sounds audible to the human ear shall not exceed _____ DBA's, measured from City's sideyard setback limits in effect at the time of the alleged violation, or from the living quarters of any property sharing common walls. (2) The following items are intended to be covered by this ordinance. ^{These} ~~This~~ items are for illustrative purposes only, and

are
is not meant to preclude coverage of other items by this ordinance: audible signaling devices on motor vehicles; exhaust outlets from fuel-powered machines or vehicles; any device for the production or reproduction of sound, including radios, stereos, musical instruments, mobile or stationary loudspeakers and paging systems; noisy parties or gatherings; animals; and, residential or commercial heating, air conditioning or ventilation equipment.

E. Section 19.52. Noise Exceptions. The normal operation of domestic power equipment shall not be subject to the noise level limitations in Section 19.51, however, they are subject to the hours of operation limitations set forth in section 19.49. Domestic power equipment as used herein means power lawn mowers, hedge clippers, edgers; chain saws; garden tillers; mulchers; and power saws, drills, hammers, and sanders. In cases of emergencies the hours of operation are not to be enforced.

F. Section 19.53. Civil Penalties. This noise ordinance may be enforced by injunction, action for abatement or any other appropriate civil remedy.

G. Section 19.54. Criminal Penalties. Every person who violates any provision of this ordinance is guilty of a petty misdemeanor and shall, upon conviction, be subject to a fine not to exceed \$300; or, in the discretion of the judicial officer, to community service. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

A second violation of this ordinance within one year of the first offense, is a misdemeanor, and if convicted, shall subject the person to a fine of not more than \$700 or imprisonment for a term of not to exceed 90 days, or both, plus in either case, the costs of enforcement and prosecution.

H. Section 19.55. The Council may require any person applying for a change in zoning classification or permit or license for any structure, operation, process, installation or alteration, or project that may be considered a potential noise ^o~~s~~urce to submit a noise impact statement on a form prescribed by the city manager. The Council shall evaluate each statement and take its evaluation into account in approving, conditioning or denying the license or permit applied for or the zoning change requested. The statement shall contain methods of sound abatement to be constructed or planned to assure compliance with the provisions of this ordinance.

BANNIGAN & KELLY, P.A.

ATTORNEYS AT LAW
409 MIDWEST FEDERAL BUILDING
5TH AND CEDAR
SAINT PAUL, MINNESOTA 55101
(612) 224-3781

JOHN F. BANNIGAN, JR.
PATRICK J. KELLY

JANET WILEBSKI
LEGAL ASSISTANT

September 22, 1987

The Honorable John Greavu and Council Members
City of Maplewood
1830 E. County Road B
Maplewood, MN 55109

Dear Mayor Greavu and Council Members:

It would be my recommendation to you to suggest times for operation of the following domestic power equipment as follows:

Chain saws, mulchers, garden tillers, edgers, drills and any and all other domestic power maintenance equipment

to be used on one of the following recommended times of day:

Weekdays:	7:00 a.m. to 7:00 p.m.
	7:30 a.m. to 7:30 p.m.
	8:00 a.m. to 8:00 p.m.
Saturdays:	7:00 a.m. to 7:00 p.m.
	7:30 a.m. to 7:30 p.m.
	8:00 a.m. to 8:00 p.m.

I further suggest that you suggest times for operation of the following construction power equipment as follows:

Electric, diesel or gas powered machines used in construction activities

MEMORANDUM

TO: Mayor and City Council
FROM: City Manager *Michael McQuinn*
RE: Meeting With St. Paul Water Board
DATE: September 23, 1987

At this time I have been unable to confirm a mutually acceptable time with the St. Paul Water Board. I plan on having a time by Monday night and if I have not received a response from the Water Board a meeting time should be established without their input.

MAM:lnb

Action by Council:

Endorsed _____
Modified _____
Rejected _____
Date _____

ORDINANCE NO. _____

AN ORDINANCE
AMENDING THE MAPLEWOOD CODE
RELATING TO
COLLECTING ASSESSMENTS

The Council of the City of Maplewood does hereby ordain as follows:

Section 1.

Chapter 32 of the Maplewood Code is hereby amended by adding the following:

"Sec. 32-18. PARTIAL PRE-PAYMENT OF ASSESSMENT. Whenever any property owner desires to make partial pre-payment of any assessment to the City for improvement, such property owner has the right to make partial pre-payment of the assessment to the City Clerk at any time within 30 days after the adoption of the assessment by the City Council.

Mayor

ATTEST:

City Clerk

MEMORANDUM

Action by Council:

TO: City Manager
FROM: Director of Community Development
SUBJECT: Land Use Legislation Study
DATE: September 16, 1987

Endorsed _____
Modified _____
Rejected _____
Date _____

The Governor's Advisory Council on State and Local Relations (ACSLR) is holding a public hearing on September 29 on the "Land Use Legislation Study" prepared by the ACSLR's subcommittee on Land Use Legislation.

After nearly two years of study and discussion, the Governor's Advisory Council on State and Local Relations has completed a draft of the proposed planning enabling legislation affecting city, county and township land use planning and regulatory activities. The ACSLR was created to monitor local government affairs and state local relationships, identify issues needing attention by the state and to make policy recommendations to the Governor.

The ACSLR appointed a subcommittee to assist it in carrying out its analysis of the planning legislation. The subcommittee is composed of two elected officials from a county, township, and a city, representation from each of the three associations representing local jurisdictions, an RDC commission member, legislative staff representing the House and Senate Local Government Committees and a legislator. A separate work group was also appointed to do technical research and develop recommendations for review by the subcommittee. The work group was composed primarily of technical people and practitioners like zoning administrators and planners from local governments. Also included on the work group are staff the the Municipal Board, an RDC, Metropolitan Council, State Planning and a consultant.

A draft copy of the study and a recommended response from Maplewood are attached. In addition to the specific changes in the recommended response, please note the following proposed changes in the study that are significant to the city:

1. Page 9: Planning commissions may be authorized to approve conditional use permits and some types of subdivisions.
2. Page 11: The city council may not serve as the board of adjustments.
3. Page 14: The criterion for approving a variance have been liberalized.
4. Page 22: Legalizes our park fee system.

5. Page 23: Code amendments and plan amendments may be approved with three rather than four votes if the planning commission recommends approval.

6. Page 40: If the planning commission is not given final approval authority by the city council, four votes would be required to overturn their decision.

This proposed legislation is planned to be introduced in the 1988 session.

Recommendation

Approve the attached letter to the ACSLR with recommendations for specific changes to the "Land Use Legislation Study".

jl

Attachments

1. Letter
2. Land use study

September 16, 1987

Governor's Advisory Council on State
and Local Relations
c/o Steve Reckers
Minnesota State Planning Agency
550 Cedar Street
St. Paul, MN 55101

LAND USE LEGISLATION STUDY

The City of Maplewood supports the proposed changes in Land Use Legislation Study draft dated August 3, 1987, with the exception of the specific changes recommended below:

1. Page 4, line 15

Change "and" to "or".

Comment: The proposed definition excludes nonresidential PUDs and residential PUDs that are not "mixed land uses". Our city allows these as PUDs.

2. Page 5, line 4

Insert the word "major" before the word "streets".

Comment: A land use map should not have to include minor residential streets.

3. Page 5, lines 13-15

Delete

Comment: Subdivisions should be allowed on existing streets, as they are now.

4. Page 5, lines 23-24

Delete

Comment: The adjustment of a common lot line may violate a minimum width or area ordinance and should be subject to subdivision regulations.

5. Page 11, line 8

Change "shall" to "may".

Comment: With two planning commission meetings each month, it is difficult and unnecessary to get a volunteer to also serve on a board of adjustment.

6. Page 13, line 8

Define what kind of notice is required to the public.

7. Page 14, line 36

Revise as follows: (3) "the variance was not intentionally caused by the applicant or . . ."

Comment: The finding in the draft may preclude granting a variance if an honest, but costly mistake is made, such as building a house in the wrong location. Allow the city some discretion.

8. Page 15, lines 8 and 9

Delete "nor good faith improvement of property".

Comment: See comment on item 7.

9. Page 16, lines 10 and 11

Revise as follows: "to any person who requests it."

Comment: Sending a notice immediately is unrealistic and unnecessary. It often takes a week or more to get minutes transcribed and typed. Since the applicant and interested public are generally at the meeting, they already know the board's decision. It is not necessary to send notices of the decision to the applicant or public unless requested.

10. Page 16, lines 22 and 23

Replace "receipt of notice of the" with "of the board's decision".

Comment: The only way to determine the date of receipt is to send a notice by certified mail. It is also not necessary to send a notice. See comment on item 9.

11. Page 19, line 25

Add after "plan": "where land is zoned for a higher intensity of use than shown on the city land use plan".

Comment: We agree that the state and Metropolitan Council should be concerned about inconsistencies between zoning and the land use plan, where land is zoned for a higher intensity of use than shown on the plan. A significant acreage of this kind of land could have an adverse effect on planning for regional systems. The State Planning Act should be amended to require that the zoning and land use plan be consistent in these cases.

We question the timeliness of rezoning, when the present zoning is less intensive than the land use plan. Many cities delay this type of

rezoning until it is requested by a developer and a specific plan is proposed. This allows the city and neighborhood to see what they are getting and negotiate for improvement if needed. This strategy is especially important when rezoning around single-dwelling neighborhoods. Most neighborhoods will oppose rezoning without specific proposals, because they fear the unknown and assume the worse. Whether a city chooses to use this strategy or not should be a local zoning decision. The state or Metropolitan Council should not be involved, since there is no adverse effect on regional systems.

12. Page 23, line 8

Add "or the administrative officer" after the words "planning commission".

Comments: Occasionally the administrative officer needs to initiate a rezoning, particularly as a result of a related application.

13. Page 27, line 28

Delete "but before filing of the subdivision".

Comment: Maplewood collects a park fee for each house before issuing a building permit. This is consistent with the impact fee on page 22, line 34.

14. Page 40, lines 10 and 11

Replace "after a properly completed application" with the words "following the commencement of the public hearing".

Comment: This change is consistent with the same change that is proposed for subdivision approval on page 29, line 8. The same justification stated in the margin on page 29 applies here.

15. Page 41, lines 25-30

Delete

Comment: 45 days is inadequate time for a small staff in a developing city during a busy construction season. Planning applications are somewhat seasonal and dependent on the economy. Cities must have flexibility in setting priorities for processing applications. Since most cities are opposed to hiring more planners, the result of a 45-day limit may be less quality in staff reviews. Good staff preparation reduces council and planning commission review time.

16. Page 42, lines 19-21

Replace "boundaries of the entire property owned by the applicant that includes the subject property" with the words "area to be changed".

Comment: In the case of a large parcel, only a small part may be the subject of a rezoning or conditional use permit. Measuring the 350

feet from the boundary would be excessive and contrary to the intent of the proposed revisions to this statute.

17. Page 42, lines 32-36

Delete

Comments: Where the subject parcel is surrounded by large parcels, requiring notification of the ten closest owners could result in excessive notification beyond 350 feet. This is contrary to the intent of the proposed revisions to the statutes.

18. Page 43, line 14

Add the following words after "owners": "However, a local government may require that the names and addresses be compiled and certified by an abstract office".

Comment: Our staff does not have the time to compile these lists. Allowing the applicant to prepare these lists occasionally results in unintended and intended omissions. Cities should be given the alternative to require certified lists from an abstract office.

19. Page 43, lines 30-36 and page 44, line 1

Delete

Comment: The explanatory text to the left applies to this section as well as subdivision 2. Having the public call city hall for zoning information minimizes error and misinterpretation.

20. Page 44, lines 20-21

Delete the words "and official controls adopted by the local government unit".

Comment: The intentions of this amendment are good, but it is not practical. We have several files full of unused zoning ordinances from adjacent cities, in our case eight. If we are considering a rezoning on a border and we want to know the zoning in an adjacent city, we always call. We cannot depend on the zoning ordinance in our files being current. Zoning ordinances also may require interpretation by the city.

21. Page 47, line 36

Change 1987 to 1988.

Comment: This will make the dates in lines 30 and 36 consistent.

22. Authorization and procedures are included for a planning commission and board of adjustment but not for a design review board. Our city has had such a board since 1972.

DRAFT
FOR DISCUSSION ONLY

LAND USE LEGISLATION STUDY

PROBLEMS
RECOMMENDATIONS
DRAFT LEGISLATION

PREPARED FOR THE
ACSLR SUBCOMMITTEE ON LAND USE LEGISLATION

AUGUST 3, 1987

DRAFT
FOR DISCUSSION ONLY

Land Use Planning Index to Bill Draft

	<u>Page</u>	
Section 1	Definitions	1-6
Section 2	Purpose Clause	6
Section 3	Planning Authority	7
Section 4	Planning Commission	7-10
Section 5	Director and Staff	10
Section 6	Board of Adjustment	10-16
Section 7	Comprehensive Plan	16-18
Section 8	Zoning	18-23
Section 9	Official Controls	23-24
Section 10	Nonconformity	24
Section 11	Subdivision Regulations	25-34
Section 12	Extraterritorial Authority	34-35
Section 13	Joint Advisory Board	35-36
Section 14	Joint Planning Board	36-37
Section 15	Official Maps	37-39
Section 16	Conditional Use	39-41
Section 17	Public Hearings	41-43
Section 18	Filing and Recording	43-45
Section 19	City-County Planning	45-46
Section 20	County Planning Relations With Towns	46
Section 21	Enforcement and Penalty	46
Section 22	Judicial Review	46
Section 23	Inconsistent Laws	47
Section 24	Extension of Time for Compliance	47-48

Definitions

1. The definition section of the municipal and county planning laws does not contain the same terms, also sometimes the definition of the same or similar terms is inconsistent. It is not necessary to have two definition sections.

Recommendation

Combine the definitions of the municipal and county planning law into a single section that can apply to cities, counties and towns. Where necessary expand existing definitions or add new ones which will improve understanding and provide better linkages between various planning terms. Some specific items to be handled here include providing a definition of planning commission, clarify purpose and content of comprehensive plans, add "agricultural" as a land use type to be included in the land use plan, link transportation plans, community facilities plan, and capital improvements plan to comprehensive plan, and revise definition of official map, subdivision and governing body.

1 Section 1. [394A.01] [DEFINITIONS.]
 2 Subdivision 1. [TERMS.] For the purposes of sections ...
 3 to ... the terms defined in this section have the meanings given
 4 them.
 5 Subd. 9 2. [CAPITAL IMPROVEMENT PROGRAM.] "Capital
 6 improvement program" means an itemized multiple year program
 7 setting forth the schedule and details of specific contemplated
 8 public improvements by fiscal year, including public
 9 improvements in or related to air space and subsurface
 10 areas necessary-for-mined-underground-space-development-pursuant
 11 to-sections-472B-03-to-472B-07, together with their estimated
 12 cost, the justification for each improvement, the impact
 13 that such the improvements will have on the current operating
 14 expense of the metropolitan local government unit, and such
 15 other information on capital improvements as that may be
 16 pertinent. The capital improvements program may be included in
 17 the implementation section of the comprehensive plan.
 18 Subd. 9 3. [COMMUNITY FACILITIES PLAN.] "Community
 19 facilities plan" means a compilation of policy statements,
 20 goals, standards, maps and action programs for guiding the
 21 future development of the public or semi-public facilities of
 22 the metropolitan local government unit such as public buildings,
 23 recreational, educational, and cultural, and emergency services
 24 facilities.

The definition of the comprehensive plan is unclear in both planning laws. At the present time the county planning law speaks about a comprehensive plan while the municipal planning law refers to a land use plan and a comprehensive plan.

Recommendation

Revise the definition of comprehensive plan to clarify exactly what is meant by a comprehensive plan; provide more specific guidance on what the content should be for a comprehensive plan; and ensure that the definition of the comprehensive plan is the same for cities, counties and towns.

Amend the language defining "land use plan" in the municipal law by linking the land use plan to the comprehensive plan. Also add "agricultural" as a land use type to be included in the land use plan.

The planning legislation was never very clear on the relationship of such other planning elements as the community facilities plan, transportation plan, and capital improvements program to the comprehensive plan.

Recommendation

Revise the legislation to link community facilities plan, transportation plans, and capital improvement programs to the comprehensive plan. Also make these provisions consistent for both city and county laws.

Current planning legislation does not contain a definition of "proposed land use map" or "existing land use map". These terms have also been recommended for inclusion as required elements of the comprehensive plan by the ACSLA work group.

Recommendation

Include a definition of "proposed land use map" and "existing land use map" in the definition section.

1 Subd. 9 4. [COMPREHENSIVE PLAN.] "Comprehensive plan"
2 means the a statement of goals, objectives, and
3 policies, statements, goals, and interrelated plans for private
4 and public land and water use, transportation, and community
5 facilities including recommendations for plan execution,
6 documented in text, ordinances and maps which constitute the
7 guide for the future development of the county or any portion of
8 the county and an existing and proposed land use map or maps
9 showing present and future use of land. The plan may include,
10 without limitation, a land use plan, community facilities plan,
11 transportation plan, parks and open space plan, sewer plan,
12 energy plan, water resource plan, solid waste plan, human
13 services plan, environmental protection plan, growth management
14 plan, capital improvement plan, agricultural preservation plan,
15 housing plan, and recommendations for plan execution.

16 Subd. 7 3. [CONDITIONAL USE.] "Conditional use" means a
17 land use or development as defined by ordinance that would not
18 be appropriate generally but that may be allowed with or without
19 appropriate conditions or restrictions as provided by official
20 controls upon a finding that (1) certain conditions as detailed
21 in the zoning ordinance exist, and (2) the use or development
22 conforms to the comprehensive land use plan of the county and
23 (3), that is generally compatible with the existing neighborhood
24 and desirable within a particular zoning district, has an
25 unusually significant and major impact on public facilities or
26 the use and enjoyment of nearby properties, and requires the
27 exercise of discretion in determining satisfactory locations and
28 characteristics.

29 Subd. 6. [EXISTING LAND USE MAP.] "Existing land use map"
30 means a map or drawing which graphically portrays how land is
31 presently being used.

32 Subd. 7. [GOVERNING BODY.] "Governing body" in the case
33 of cities means the council by whatever name known, and in the
34 case of a town, means the town board of supervisors, and in the
35 case of a county, means the county board of commissioners.

36 Subd. 6 8. [LAND USE PLAN.] "Land use plan" means a

1 compilation of policy statements, goals, standards, and maps,
 2 and action programs for guiding the future development of
 3 private and public property, including air space, surface, and
 4 subsurface areas. The term includes a plan designating types of
 5 uses for the entire municipality local government unit as well
 6 as a specialized plan showing specific areas or specific types
 7 of land uses, such as agricultural, residential, commercial,
 8 industrial, public or semi-public uses or any combination of
 9 such uses.

10 Subd. 9. [LOCAL GOVERNMENT UNIT.] "Local government unit"
 11 means a town, home rule charter or statutory city, or county.

12 Subd. 10. [NONCONFORMITY.] "Nonconformity" means any
 13 legal use, structure or parcel of land already in existence,
 14 recorded, or authorized before the adoption of official controls
 15 or amendments thereto that would not have been permitted to
 16 become established under the terms of the official controls as
 17 now written, if the official controls had been in effect prior
 18 to the date it was established, recorded or authorized.

19 Subd. 11. [OFFICIAL CONTROLS.] "Official controls" or
 20 "controls" means ordinances and regulations which control
 21 the use or physical development of a city-county-or-town local
 22 government unit or any part thereof of the unit including air
 23 space and subsurface areas necessary-for-mined-underground-space
 24 development-pursuant-to-sections-472B-03-to-472B-07, or any
 25 detail thereof and implement the general objectives of the
 26 comprehensive plan. Official controls may include ordinances
 27 establishing zoning, subdivision controls, site-plan
 28 regulatory sanitary codes, building-codes and official maps.

29 Subd. 12. [OFFICIAL MAP.] "Official map" means a map
 30 adopted in accordance with section 468+359 which may show
 31 existing and proposed future streets, roads, and highways,
 32 parks, schools, and other travel and public facilities of the
 33 municipality-and-county local government unit, the area needed
 34 for widening of existing streets, roads, and highways of
 35 the municipality-and-county local government unit, existing and
 36 proposed air space and subsurface areas necessary-for-mined

Recommendation

Update and clarify the definition of "Official Controls" to correspond more closely with the definition of specific official controls such as the zoning ordinance, subdivision regulations, and official map.

1 underground-space-development-pursuant-to-sections-472B-03-to
 2 472B-07, and existing and future county state aid highways and
 3 state trunk highway rights-of-way. An official map may also
 4 show the location of existing and future public land, water, and
 5 facilities within the municipality local government unit. In
 6 counties-in-the-metropolitan-area-as-defined-in-section-473r121
 7 official-maps-may-for-a-period-of-up-to-five-years-designate-the
 8 boundaries-of-areas-reserved-for-purposes-of-soil-conservation
 9 water-supply-conservation-flood-control-and-surface-water
 10 drainage-and-removal-including-appropriate-regulations
 11 protecting-such-areas-against-encroachment-by-buildings-other
 12 physical-structures-or-facilities

13 Subd. 13. [PLANNED UNIT DEVELOPMENT.] "Planned unit
 14 development" means development consisting generally of mixed
 15 land uses and housing types in which densities are calculated on
 16 a project-wide basis, permitting the clustering of houses or
 17 buildings and the provision of common open space.

18 Subd. 14. [PLAT.] "Plat" means the drawing or map of a
 19 subdivision prepared for filing of record pursuant to chapter
 20 505 and containing all elements and requirements set forth in
 21 applicable local regulations adopted pursuant to
 22 section 462r350 and chapter 505.

23 Subd. 15. [PRELIMINARY APPROVAL.] "Preliminary approval"
 24 means official action taken by a-municipality the local
 25 governing body on an application to create a subdivision which
 26 establishes the rights and obligations set forth in
 27 section 462r350 and the applicable subdivision
 28 regulation. In accordance with section 462r350, and
 29 unless otherwise specified in the applicable subdivision
 30 regulation, preliminary approval may be granted only following
 31 the review and approval of a preliminary plat or other for a
 32 preliminary plat map or drawing establishing without limitation
 33 the number, layout, and location of lots, tracts, blocks, and
 34 parcels to be created, location of streets, roads, utilities and
 35 facilities, park and drainage facilities, and lands to be
 36 dedicated for public use.

The current planning enabling legislation does not contain a definition of zoning map, rezoning or planned unit development even though these terms are discussed in the body of the legislation.

Recommendation

Insert a definition of zoning map, rezoning, and planned unit development.

1 Subd. 16. [PROPOSED LAND USE MAP.] "Proposed land use map"
 2 means a map or drawing which graphically portrays the desired
 3 future public and private use of land and buildings, including
 4 but not limited to streets, roads, highways, parks, businesses,
 5 residences, and industries.

6 Subd. 17. [REZONING.] "Rezoning" means an amendment to a
 7 zoning ordinance which has the effect of changing the zoning
 8 district classification of property.

9 Subd. 18. [SUBDIVISION.] "Subdivision" means
 10 the separation ~~division~~ of an area, parcel, or tract of land
 11 under single ownership into two or more parcels, tracts, lots,
 12 or long-term-leasehold ~~other property~~ interests where
 13 the creation-of-the-leasehold-interest ~~division~~ necessitates the
 14 creation of streets, roads, or alleys, for residential,
 15 commercial, industrial, or other use or any combination thereof
 16 except these separations:

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

21 (b) ~~Subdivision does not include divisions~~ creating
 22 cemetery lots;

23 (c) ~~Resulting from court orders,~~ or the adjustment of a lot
 24 line by the relocation of a common boundary.

25 Subd. 19. [SUBDIVISION REGULATION.] "Subdivision
 26 regulation" means an ordinance adopted pursuant to
 27 section 462-350 regulating the subdivision of land.

28 Subd. 20. [TRANSPORTATION PLAN.] "Transportation plan"
 29 means a compilation of policy statements, goals, standards, maps
 30 and action programs for guiding the future development of the
 31 various modes of transportation of the ~~metropolitan~~ local
 32 government unit and its environs, including air space and
 33 subsurface areas necessary for ~~mined~~ underground space
 34 development pursuant to sections 472B-03 to 472B-07, such as
 35 streets, roads, and highways, mass transit, railroads, air
 36 transportation, trucking and water transportation, and includes

The current definition of subdivision is unclear and contains language not appropriate for the definition section.
 Recommendation

Recommendation

Delete unnecessary language and revise certain terms to clarify meaning of the term subdivision.

There is no definition of the term, "variance" in either the city or county planning law.

Recommendation

Add a definition of the term variance to the definition section of each planning law that incorporates the concerns expressed regarding "undue hardship" and "reasonable use of property."

In current law the term, "municipality" refers to towns, home rule cities, and statutory cities. Because of the effort to codify the two planning laws it will be confusing to continue using this term to also include counties.

Recommendation

Insert the term, "local government unit", in place of "municipality", here, and anywhere else the term municipality occurs in the planning statutes.

1 a major thoroughfare plan.

2 Subd. to 21. [VARIANCE.] "Variance" means any a

3 modification or variation of a development standard of an

4 official controls where it is determined that by reason of

5 exceptional circumstances control, as applied to a particular

6 property for the purpose of alleviating unnecessary difficulty

7 that would result from the strict enforcement application of the

8 official controls would cause unnecessary hardship.

9 Subd. 22. [ZONING MAP.] "Zoning map" means a map of the

10 local government unit which shows zoning district boundaries as

11 described in the zoning ordinance.

12

13

14 Sec. 2. 462-351 [394A.02] [MUNICIPAL LOCAL GOVERNMENT

15 PLANNING AND DEVELOPMENT; STATEMENT OF POLICY.]

16 The legislature finds that municipalities local government

17 units are faced with mounting problems in providing means of

18 guiding future development of land so as to insure a safer, more

19 pleasant and more economical environment for residential,

20 commercial, industrial and public activities, to preserve

21 agricultural and other open lands, and to promote the public

22 health, safety, and general welfare. Municipalities Local

23 government units can prepare for anticipated changes and by such

24 these preparations bring about significant savings in both

25 private and public expenditures. Municipal Local government

26 planning, by providing public guides to future municipal action,

27 enables other public and private agencies to plan their

28 activities in harmony with the municipality's local government

29 unit's plans. Municipal Local government planning will assist

30 in developing lands more wisely to serve citizens more

31 effectively, will make the provision of public services less

32 costly, and will achieve a more secure tax base. It is the

33 purpose of sections 462-351 to 462-364 to

34 provide municipalities local government units, in a single body

35 of law, with the necessary powers and a uniform procedure for

36 adequately conducting and implementing municipal local

1 government planning.

2

3

4 Sec. 3. 462+353 [394.03] [PLANNING AUTHORITY.]

5 Subd. 2 Subdivision 1. [STUDIES AND REPORTS.] In
6 exercising its planning powers under-subdivision-1,
7 a municipality local government unit may collect and analyze
8 data, prepare maps, charts, tables, and other illustrations and
9 displays, and conduct necessary studies. A municipality local
10 government unit may publicize its purposes, suggestions, and
11 findings on planning matters, may distribute planning reports
12 thereon, and may advise the public on the planning matters
13 within the scope of its duties and objectives.

14 Subd. 3 2. [APPROPRIATION AND CONTRACTS.] A municipality
15 local government unit may appropriate moneys from any fund not
16 dedicated to other purposes in order to finance its planning
17 activities. A municipality local government unit may receive
18 and expend spend grants and gifts for planning purposes and may
19 enter into contracts with the federal and state governments or
20 with other public or private agencies in furtherance of the
21 planning activities authorized by sections 462+354 to
22 462+364

23 Subd. 4 3. [FEES.] A municipality local government unit
24 may prescribe fees sufficient to defray the costs incurred by it
25 in reviewing, investigating, and administering an application
26 for an amendment to an official control established pursuant to
27 sections 462+354 to 462+364 or an application
28 for a permit or other approval required under an official
29 control established pursuant to those sections. Fees as
30 prescribed shall be by ordinance.

31

32

33 Sec. 4. 394+30 [394A.04] [PLANNING COMMISSION.]

34 Subdivision 1. [COUNTY PLANNING COMMISSION.] Any-board-of
35 county-commissioners-may-by-ordinance-appoint-a-planning
36 commission-composed-of-not-less-than-five-not-more-than-eleven

The planning law is silent on whether a planning commission is required if a local government prepares plans and regulatory controls.

Recommendation

Require that local governments appoint a planning commission if they plan to prepare and adopt a comprehensive plan and official controls.

A concern in some areas of the state is that the current county planning law does not provide for adequate representation from areas outside the corporate limits. Current law requires that only two members of the planning commission be from rural areas of the county.

Recommendation

Grant the board greater flexibility in the appointment of planning commission members by removing the phrase, "at least two members shall be residents from outside the corporate limits of municipalities." Insert language requiring the board to consider both geographic areas and population when making planning commission appointments.

1 members-appointed-by-the-chair-of-the-board---At-least-two
 2 members-shall-be-residents-of-the-portion-of-the-county-outside
 3 the-corporate-limits-of-municipalities. Before exercising the
 4 authority granted by this chapter, the county shall by charter
 5 or ordinance establish a planning commission composed of not
 6 less than five members appointed by the governing body. The
 7 county board shall appoint planning commission members to fairly
 8 represent the geographic areas and population affected by the
 9 planning and zoning regulations in the county. The manner of
 10 appointment and terms of office of the members shall be as
 11 provided in the ordinance. No more than one voting member of
 12 the commission shall be a county board member, an elected or
 13 appointed officer, or employee of the county. No Not more than
 14 one voting member of the commission shall have received, during
 15 the two years prior to appointment, any substantial portion of
 16 income from business operations involving the development or
 17 sale of land within the county for urban and urban related
 18 purposes. In the ordinance establishing the planning commission
 19 the board may designate any county officer board members, or
 20 employee employees as an ex officio member members of such
 21 the commission. Ex-officio members of the commission are
 22 non-voting members. The term of office and removal of any
 23 member for nonperformance of duty or misconduct in office as
 24 well as filling vacancies on the board shall be as provided in
 25 the ordinance creating the commission.

26 Subd. 2. [CITY AND TOWNSHIP PLANNING COMMISSION.] Before
 27 exercising any authority granted by this chapter, statutory
 28 cities, home rule charter cities, and townships, shall by
 29 ordinance or charter establish a planning commission. The
 30 number of members, manner of appointment and the terms,
 31 conditions, and requirements of office shall be provided in the
 32 charter or ordinance establishing the commission. The governing
 33 body may designate itself as the planning commission or may
 34 appoint other local government officials or employees or any
 35 private citizen as members of the planning commission.

36 Subd. 3. [EXPENSES.] The members of the commission-ether

The county law does not provide specific guidance on how the planning commission can be dissolved but leaves it up to the county board to decide in the ordinance creating the planning commission. The city law provides for a two-thirds vote of the council to dissolve the planning commission. The county law provides for per diem payments to planning commission members while the municipal law is silent on this matter. These inconsistencies are unnecessary and create confusion.

Recommendation

Develop language that specifies how the planning commission can be dissolved that can be applied to both municipalities and counties. Add language on per diems and expenses for training and education.

The municipal planning law does not specify what planning commissions are required to do and is silent on membership issues, including qualifications, removal from office, vacancies, and the number of members. It also refers to planning agencies but not planning commissions.

Recommendation

Amend Subdivision 4 of M.S. 394.30 by combining the duties and responsibilities of municipal planning agencies and county planning commissions into a single section of the law.

The distinction between the planning department and the planning commission should be clarified as well as providing a better definition of what a planning agency is.

1 ~~then members of the board of county commissioners~~ may be
2 compensated in an amount determined by the county board
3 governing body. ~~All Commission members, including county~~
4 ~~commissioners~~ may be paid a per diem and necessary
5 expenses in attending to attend meetings of the commission and
6 in the conduct of the business of the commission business, or
7 attend training or educational programs. ~~Nothing in this~~
8 ~~subdivision shall be construed to prohibit the payment of a per~~
9 ~~diem to county commissioners pursuant to section 375.055,~~
10 ~~subdivision 4~~
11 Subd. 4. [MANDATORY DUTIES AND RESPONSIBILITIES.] The
12 planning commission shall ~~elect a chair and secretary from among~~
13 ~~its members and cooperate with the planning director and other~~
14 ~~employees of the county in preparing and recommending to the~~
15 board prepare and recommend to the governing body for adoption a
16 comprehensive plan, amendments to the plan, and recommendations
17 for plan execution in the form of official controls and other
18 measures, and amendments thereto. In all instances in which the
19 planning commission is not the final authority, as authorized in
20 subdivision 5, the planning commission shall review all
21 applications for conditional use permits and plans for
22 subdivisions of land and report thereon to the board governing
23 body. The commission shall review and make recommendations on
24 other planning related items as requested by the governing body.
25 Subd. 5. [ADDITIONAL DUTIES AND RESPONSIBILITIES.] The
26 board governing body may by ordinance assign additional duties
27 and responsibilities to the planning commission including but
28 not restricted to:
29 (1) the conduct of public hearings;
30 (2) the authority to order the issuance of some or all *
31 categories of conditional use permits; and
32 (3) the authority to approve some or all categories of *
33 subdivisions of land; ~~and the authority to approve some or all~~
34 ~~categories of planned unit developments~~. The planning
35 commission may be required by the board governing body to review
36 any comprehensive plans and, official controls, and any plans

1 for public land acquisition and or development sent to the
2 county local government unit for that purpose by any another
3 local unit of government or any state or federal agency and
4 shall-report-thereon-in-writing-to-the-board.

7 Sec. 5. 394+29 [394A.05] [MAY EMPLOY DIRECTOR AND STAFF.]

8 To carry out the purposes of sections 394+21 to
9 394+37 the board local government unit may employ a
10 planning director and such staff as it deems considers necessary
11 to assist the planning director in carrying out assigned
12 responsibilities, including but not limited to a zoning
13 administrator, sanitary inspector and a building official. If
14 no-planning-director-is-appointed The board governing body
15 shall designate a chief administrative officer who shall
16 administer the official controls. If a planning director is
17 appointed, the director may be designated as the chief
18 administrative officer. The board governing body may employ or
19 contract with a planning authority or commission, any agency of
20 the state or federal government, a regional development
21 commission or with, planning consultants, or with other
22 specialists for such services as it requires.

25 Sec. 6. [394A.06] [BOARD OF ADJUSTMENT.]

26 Subdivision 1. [BOARD-OF-ADJUSTMENT CREATION.] Whenever a
27 board-of-county-commissioners-shall-have-adopted the governing
28 body adopts official controls it shall at the same time as the
29 adoption of such the controls create a board of adjustment by
30 ordinance.

31 Subd. 2. [BOARD MEMBERS.] The board of adjustment shall
32 consist of at least three but not more than seven members
33 including. The board of adjustment of a county shall include at
34 least one member from the unincorporated area of the county
35 where. The appointment, term of office, or and removal from
36 the of board members shall be as-provided specified in the

The current planning legislation does not require that the local governmental unit employ a zoning administrator to administer and enforce the local controls. Moreover, the law says nothing about the zoning administrator's responsibilities, qualifications, or requirements for continuing education.

Recommendation

A chief administrator should be designated to ensure compliance with a local government's official controls. The contents of the resolution designating an administrator is left open to allow each municipality to determine the exact duties and responsibilities of the position.

There should not be a requirement that the administrator be a certain official since to require a separate position would not be financially feasible for some local governments. Qualifications for an administrator should also be left open because of financial considerations, however it is recommended that a city or county designate a person who has some knowledge of planning and its enforcement.

Board of Appeals/Board of Adjustment

In the planning enabling legislation for counties and cities there are two terms used to describe the quasi judicial body which has essentially the same functions and authorities in both cities and counties. The Board of Adjustment is the term used in the county planning law while the city planning law uses both Board of Appeals and Board of Adjustment to describe the board. This has caused some confusion for new members to planning commissions or newly appointed board members. It seems unnecessary and could be remedied by applying a single term for the board which is the same for counties and cities.

Recommendation

The term Board of Appeals, wherever it occurs in the municipal planning law, should be changed to Board of Adjustment thus making both planning laws consistent.

The authorities of the Board of Appeals/Board of Adjustment while similar for counties and cities, are scattered throughout different parts of the legislation. In addition the order in which the authorities are listed is different in the two laws. This is confusing particularly for those unfamiliar with the planning law.

Recommendation

Create a single section in the planning law that combines the Board of Adjustment authorities of counties and cities and clearly lists in a logical fashion what these authorities are. It is also recommended that the authorities be displayed in sentences that are separated so that they are easy to identify.

The two planning laws are very different in their determination of who can be on the Board of Appeals/Board of Adjustment and the number of members each must contain. In addition both laws are silent on the matter of qualifications, continuing education, and vacancies. The county law provides that the board shall consist of from three to seven members while the municipal law is silent on this matter. The county law also requires that no elected official or employee may be a member of the board. The municipal law makes no such distinction and in fact permits either the council or the planning commission to serve this function. Having the council serve this function does not seem appropriate since they are the body that originally enacted the law.

Recommendation

No elected official or employee of the local governmental unit should be allowed to sit on the Board of Adjustment except in cities and townships where the city council or the town board serve as the planning commission. Moreover the planning commission should not be permitted to serve as a Board of Adjustment. A member of the planning commission should sit on the Board. The part of the law dealing with cities should also specify that the Board of Adjustment contain from three to seven members. The local unit of government should be given authority to establish qualifications and standards for members of the Board of Adjustment and should encourage ongoing training and education of Board members.

The planning legislation for both cities and counties does not provide specific advice to local government on the need for a detailed finding of facts record. Contacts with local officials have revealed that some do not carefully document public hearings which they conduct for variances, conditional uses, zoning amendments, and appeals to the Board of Appeals/Board of Adjustment. Poor or inadequate record keeping could very likely result in a lost court case if the local government is challenged.

Recommendation

Specify in the planning legislation the necessity of keeping good records of proceedings conducted by the Board of Adjustment. Provide guidance on what that record should contain.

1 ordinance creating the board of adjustment-provided-that. No
 2 elected officer of the county local government unit nor any *
 3 employee of the board-of-commissioners governing body shall
 4 serve as a member of the board of adjustment and-that unless the
 5 governing body is also the planning commission. If the
 6 governing body is also the planning commission, one member of
 7 the governing body shall serve on the board of adjustment. One
 8 member of such the board of adjustment shall also be a member of
 9 any planning commission appointed under the provisions of
 10 sections 394v21 to 394v37 No more than one
 11 member of the board of adjustment may also be a member of the
 12 planning commission. In an ordinance creating a three member
 13 board of adjustment, provision may must be made for one
 14 alternate member. The alternate board member shall, when
 15 directed by the chairman, attend all meetings of the board and
 16 participate fully in its activities but shall not vote on any
 17 issue unless authorized to do so by the chairman. The chairman
 18 shall authorize the alternate board member to vote on an issue
 19 when a regular member is absent, physically incapacitated,
 20 abstains because of a possible conflict of interest, or is
 21 prohibited by law from voting on that issue. Any question of
 22 whether a particular issue involves a conflict of interest
 23 sufficient to disqualify a regular board member from
 24 voting thereon shall be decided by majority vote of all regular
 25 board members except the member who is being challenged. In the
 26 ordinance establishing the board of adjustment provision may be
 27 made for removal of any member for nonperformance of duty or
 28 misconduct in office and for the filling of vacancies for any
 29 unexpired term. The regular and alternate members of such the
 30 board of adjustment may be paid compensation in an amount
 31 determined by the county-board governing body and may be paid
 32 their necessary expenses in attending meetings of the board and
 33 in the conduct of the business of the board.
 34 Subd. 3. [OFFICERS; PUBLIC RECORD.] The board of
 35 adjustment shall elect a chairman chairperson and vice chairman
 36 chairperson from among its members and shall appoint a secretary

1 who need not be a member of a board. It shall adopt rules for
 2 ~~the transaction of its business and shall keep a public record~~
 3 ~~of its transactions, findings, and determinations~~ conduct of
 4 proceedings before it, including placing witnesses under oath,
 5 questioning witnesses, and accepting written material. The
 6 board shall keep a public record of all of its proceedings,
 7 including minutes of its meetings, a statement of the facts and
 8 the action taken based upon the statement of facts on each
 9 matter heard, and the final order. Staff reports and petitions
 10 must be included if available.

11 Subd. 4. [MEETINGS.] The meetings of the board of
 12 adjustment shall be held at the call of the chairman chairperson
 13 and at such other times as the board may specify in its rules of
 14 procedure may specify.

15 Subd. 5. [AUTHORITY.] The board of adjustment shall have
 16 the authority is authorized to order the issuance of variances,
 17 hear and decide appeals from and review any order, requirement,
 18 decision, or determination made action taken by any
 19 administrative official charged with enforcing any ordinance
 20 adopted pursuant to the provision of under sections 394r32
 21 to 394r37, order the issuance of permits for buildings in
 22 areas designated for future public use on an official map and
 23 perform such other duties as required by the official controls.
 24 Such appeal may be taken by any person aggrieved or by any
 25 officer, department, board or bureau of a town, municipality,
 26 county, or state. In exercising its powers under this
 27 subdivision, the board of adjustment shall take into
 28 consideration the town board's recommendation recommendations of
 29 the governing body of another local government unit when the
 30 board of adjustment's decision directly affects land within
 31 the town other local government unit.

32 Subd. 6. [APPEAL PROCESS.] An aggrieved person or officer
 33 may appeal from any order, requirement, decision, or
 34 determination action of any an administrative official shall
 35 be taken in such officer responsible for the enforcement of
 36 official controls by filing a notice of appeal with the board of

Current legislative language provides for appeals to the Board of Adjustment in two different sections. One section deals with an appeal by an aggrieved person while the other section provides for an appeal by an aggrieved person, officer, department, board or bureau of a local government unit.

Recommendation

Clarify the legislation by providing for a single section on the appeals process. Also clarify the notification procedures by specifying specific time limits for notice and decision by the board of adjustment.

1 adjustment within the time as shall be prescribed specified by
 2 the ordinance creating the board of adjustment by filing with
 3 the board of adjustment a notice of appeal specifying the
 4 grounds thereof. The notice of appeal must state the grounds
 5 for the appeal. The board of adjustment shall fix set a
 6 reasonable time for the hearing of the appeal and give due ten
 7 days' notice thereof to the appellant and, the officer from whom
 8 the appeal is taken, and to the public and decide the same
 9 within a reasonable time which shall be defined in the ordinance
 10 establishing the board of adjustment. An appeal stays all
 11 proceedings in furtherance of the action appealed from unless
 12 the board of adjustment to whom the appeal is taken certifies
 13 that by reason of the facts stated in the certificate a stay
 14 would cause imminent peril to life or property. The board of
 15 adjustment may reverse or affirm wholly or partly, or may modify
 16 the order, requirements, decision or determination any action
 17 appealed from and to that end shall have all the powers of the
 18 officer from whom the appeal was taken and may direct the
 19 issuance of a permit. The reasons for the board's decision shall
 20 be stated in writing. An appeal from an administrative decision
 21 must be decided within 90 days of the notice of appeal.

22 Subd. 4 7. [APPEALS FROM OFFICIAL MAP.] If a permit for a
 23 building in such a location is denied, the board of appeals and
 24 adjustments adjustment shall have the power, upon the filing of
 25 an appeal filed with it by the owner of the land, to grant a
 26 permit for building in such the location in any case in which
 27 the board finds, upon the evidence and the arguments presented
 28 to it that: (a) that the entire property of the appellant of
 29 which such the area identified for public purposes forms a part
 30 cannot yield a reasonable return to be put to a reasonable use
 31 by the owner unless such a permit is granted, and (b) that
 32 balancing the interest of the municipality local government unit
 33 in preserving the integrity of the official map and of the
 34 comprehensive municipal plan and the interest of the owner of
 35 the property in the use of the property and in the benefits of
 36 ownership, the grant of such the permit is required by

Apparently in some cases decisions by the board of adjustment have been unnecessarily delayed either because the public hearing wasn't held promptly or the board failed to make its decision within a reasonable amount of time.

Recommendation

Require that the board of adjustment make its decision within 90 days after the application or appeal has been submitted. Should also require that the notice of the decision be sent to the applicant and all those at the hearing requesting notice.

1 considerations of justice and equity. In addition to the notice
 2 of hearing required by section 462:3547 subdivision 2, a notice
 3 shall be published in the official newspaper once at least ten
 4 days before the day of the hearing. Before reaching a decision
 5 on the appeal, notice and public hearing requirements specified
 6 in section must be met. If the board of appeals and
 7 adjustments adjustment authorizes the issuance of a permit the
 8 governing body or other board or commission having jurisdiction
 9 shall have six months from the date of the decision of the board
 10 to institute proceedings to acquire such the land or
 11 interest therein, and if no such proceedings are started within
 12 that time, the officer responsible for issuing building permits
 13 shall issue the permit if the application otherwise conforms to
 14 local ordinances. The board shall specify the exact location,
 15 ground area, height and other details as to the extent and
 16 character of the building for which the permit is granted.

17 Subd. 7 g. [VARIANCES.] The board of adjustment shall have
 18 the exclusive power to order the issuance of variances from the
 19 terms of any official control including restrictions placed on
 20 nonconformities, when strict application would cause unnecessary
 21 difficulty. Variances shall only be permitted when they are in
 22 harmony with the general purposes and intent of the official
 23 control in cases when there are practical difficulties or
 24 particular hardship in the way of carrying out the strict letter
 25 of any official control, and when the terms of the variance are
 26 consistent with the comprehensive plan--"Hardship" as used in
 27 connection with the granting of a variance means the property in
 28 question cannot be put to a reasonable use if used under the
 29 conditions allowed by the official control.

- 30 "Unnecessary difficulty" means that:
 31 (1) the property as restricted by the official controls
 32 cannot be reasonably used for the intended purposes, including
 33 solar energy systems and earth sheltered construction;
 34 (2) the plight of the landowner is due to circumstances
 35 unique to his the property not created by the landowner;
 36 (3) the circumstances were not created by the applicant or

The language describing undue hardship is not consistent in the two planning laws nor are the standards very clear which define what an undue hardship is. Moreover, the definition of "undue hardship" is overly restrictive and where followed to grant even though the result of the variance would not be seen by the adjacent property owner and would be in keeping with the spirit and intent of the law. Many cities have indicated that they probably are in violation of this statute simply because it is too strict and not terribly practical.

Recommendation

The standard of undue hardship should be changed from the present concept of "reasonable use of property" to "unnecessary difficulty." List the criteria which must be satisfied to determine an "unnecessary difficulty".

The need for a variance because of an unnecessary difficulty shall travel with the land so that if a predecessor in title was not able to get a variance because of his/her own actions there would be no need to grant a present variance. However, a person who purchases knowing that the land would require a variance to be built on, should not necessarily be precluded from receiving such a variance.

Subdivisions 6(a) through 8 is really a state policy statement regarding handicapped persons and children and has nothing to do with variances. Because of its location in the statutes it is sometimes confused with the granting of a variance and probably should be placed in a more appropriate place.

Recommendation

Move Subdivision 6a through 8 to a more appropriate place in the statutes where state policy will not be confused with the granting of a variance. The beginning of M.S. 462.357 "Procedure for Plan Effectuation; Zoning" is an appropriate place.

1 another party that has or has had in the past an interest in the
 2 land; and
 3 (4) the variance, if granted, will not alter the essential
 4 character of the locality, will not unreasonably impair the use
 5 or development of nearby property, and will be in keeping with
 6 the spirit and intent of the comprehensive plan and official
 7 controls. Economic considerations alone shall not constitute a
 8 hardship. Neither acquiring an interest in property nor good
 9 faith improvement of property shall be construed as creation of
 10 circumstances causing the difficulty. Economic considerations
 11 alone shall not constitute an unnecessary difficulty if a
 12 reasonable use for the property exists under the terms of the
 13 ordinance. Variances shall be granted for earth-sheltered
 14 construction as defined in section 2165.067, subdivision 27, when
 15 in harmony with the official code. No variance may be
 16 granted that would allow any use that is prohibited in the
 17 zoning district in which the subject property is located. The
 18 board of adjustment may impose additional restrictions or
 19 conditions in the granting of variances to insure compliance and
 20 it considers necessary to protect adjacent properties and the
 21 public interest including, but not limited to, matters relating
 22 to appearance, lighting, hours of operation, and performance
 23 characteristics. The board of adjustment may consider the
 24 inability to use solar energy systems a "hardship" in the
 25 granting of variances. When appropriate restrictive covenants
 26 may be entered into regarding these matters. The conditions
 27 necessary for finding an unnecessary difficulty constitute the
 28 exclusive basis for granting a variance and supersede all other
 29 requirements, including those in local ordinances and in state
 30 agency regulations. Variances may be granted on a temporary
 31 basis. Variances remain in effect and attached to the subject
 32 property regardless of ownership, as long as the restrictions
 33 and conditions attached to the variance are observed.

There were several items included in the statutes regarding variances that did not seem appropriate. These included the two family dwelling variance, and permitting the Heritage Preservation Authority to grant variances.

Recommendation

Only the Board of Adjustment should be allowed to issue variances. The two family dwelling variance listed in Subdivision 6(2) should be deleted since it is a temporary type variance and is not generally sought.

The section of the law dealing with the order of the Board of Adjustment concerning when a variance becomes effective and the process to be followed in filing a board order is unclear. Apparently in some places the order for a variance is filed with the county recorder but may not be recorded until some time much later resulting in some confusion regarding when the variance is effective.

Recommendation

The statute should clearly state that the variance becomes effective when the decision is made by the Board of Adjustment not when it is filed with the county recorder. The statute should also specify that a certified copy of the Board's order shall be filed with the county recorder within 60 days following the decision by the Board of Adjustment.

There is no mention in the existing planning statutes providing authority to local governing bodies to establish qualifications and provide funds for training of board of adjustment members.

Recommendation

Add a new section to the law that grants authority to local governments to establish qualifications and provide training opportunities for board of adjustment members.

1 Subd. 8 9. [BOARD ORDER.] A certified copy of any order
2 issued by the board of adjustment acting upon an appeal from an
3 ~~order~~-~~requirement~~-~~decision~~-~~or~~-~~determination~~ any action by an
4 administrative official, or a request for a variance, shall be
5 filed with the county recorder or registrar of titles for
6 record, within 60 days after the order is issued, unless the
7 applicant agrees to an extension. The order issued by the board
8 of adjustment shall include the legal description of the
9 property involved. Notice of the order shall be mailed
10 immediately to the applicant and any other person at the hearing
11 who submits a written request for mailed notice. The board-by
12 ordinance governing body shall designate by ordinance the county
13 local government official or employee responsible for meeting
14 the requirements of this subdivision. Any order issued by the
15 board is effective when issued.

16 Subd. 9 10. [RIGHT TO APPEAL.] All decisions by the board
17 of adjustment in granting variances or in hearing appeals from
18 any administrative ~~order~~-~~requirement~~-~~decision~~-~~or~~-~~determination~~
19 action shall be final except that any aggrieved person or
20 ~~person~~-~~or~~-~~any~~-~~department~~-~~board~~-~~or~~-~~commission~~-~~of~~-~~the~~
21 ~~jurisdiction~~-~~or~~-~~of~~, local government unit, or the state shall
22 have the right to appeal within 30 days, after receipt of notice
23 of the decision, to the district court in the county in which
24 the land is located on questions of law and fact.

25 Subd. 11. [TRAINING, QUALIFICATIONS.] The governing body
26 may by resolution, establish qualifications and standards for
27 members of the board of adjustment. The governing body may also
28 appropriate funds to pay for expenses incurred by board members,
29 prior to or after appointment to the board, for attendance at
30 training or educational programs which will assist board members
31 in meeting the established qualifications and standards.

32
33
34 Sec. 7. 468-355 [394A.07] [PREPARATION, ADOPTION, AND
35 AMENDMENT OF COMPREHENSIVE MUNICIPAL PLAN.]

36 Subdivision 1. [PREPARATION AND REVIEW.] Before a local

Comprehensive Plan

For some time it has been unclear to many people if the current planning laws actually require the adoption of a comprehensive plan prior to adopting regulatory controls such as zoning and subdivision ordinances.

Recommendation

Insert language which specifically states that all local government units must prepare and adopt a comprehensive plan prior to adopting regulatory controls.

There is some confusion in the municipal planning law concerning who is responsible for preparation and review of the comprehensive plan.

Recommendation

Make it very clear that it is the responsibility of the planning commission, not the planning agency, to prepare the comprehensive plan for approval by the governing body. Language should also be inserted which requires periodic planning commission review of the comprehensive plan.

Current planning language specifies notice and hearing requirements for the adoption or amendment of the comprehensive plan in the comprehensive plan section.

Recommendation

To simplify the legislation and to avoid confusion it is recommended that notice and public hearing requirements for adoption and amendment of the comprehensive plan and official controls be dealt with in the section on public hearings.

The section on plan implementation is not particularly clear given some of the changes to the law that have been recommended in this study.

Recommendation

Make some minor technical changes that will clarify responsibilities and clean up the language.

1 government unit may adopt official controls, it must adopt a
 2 comprehensive plan in accordance with section 9, subdivision 4.
 3 The planning agency commission shall prepare the
 4 comprehensive municipal plan. In discharging this duty the
 5 planning agency commission shall consult with and coordinate the
 6 planning activities of other departments and agencies of
 7 the municipality local government unit to insure conformity with
 8 and to assist in the development and implementation of the
 9 comprehensive municipal plan. In its planning activities the
 10 planning agency commission shall take due cognizance of the
 11 planning activities of adjacent units of government and other
 12 affected public agencies. The planning agency commission shall
 13 periodically review the plan and recommend amendments whenever
 14 necessary.

15 Subd. 2. [PROCEDURE FOR RECOMMENDING PLAN ADOPTION AND
 16 AMENDMENT.] The planning agency commission may, unless otherwise
 17 provided by charter or ordinance consistent-with-the-municipal
 18 charter, recommend to the governing body the adoption and
 19 amendment-from-time-to-time of a comprehensive municipal plan.
 20 The plan may be prepared and adopted recommended for adoption in
 21 sections, each of which relates to a major subject of the plan
 22 or to a major geographical section of the municipality--The
 23 governing-body-may-propose-the-comprehensive-municipal-plan-and
 24 amendments-to-it-by-resolution-submitted-to-the-planning
 25 agency local government unit. Before adopting recommending
 26 adoption of the comprehensive municipal plan or any section or
 27 amendment-of-the-plan, the planning agency commission shall hold
 28 at-least-one-public-hearing-thereon--A-notice-of-the-time
 29 place-and-purpose-of-the-hearing-shall-be-published-once-in-the
 30 official-newspaper-of-the-municipality-at-least-ten-days-before
 31 the-day-of-the-hearing meet the notice and public hearing
 32 requirements specified in section ...

33 Subd. 3. {ADOPTION-BY-GOVERNING-BODY}--A proposed
 34 comprehensive-plan-or-an-amendment-to-it-may-not-be-acted-upon
 35 by-the-governing-body-until-it-has-received-the-recommendation
 36 of-the-planning-agency-or-until-60-days-have-elapsd-from-the

1 date-an-amendment-proposed-by-the-governing-body-has-been
 2 submitted-to-the-planning-agency-for-its-recommendation--Unless
 3 otherwise-provided-by-charter-the-governing-body-may-by
 4 resolution-by-a-two-thirds-vote-of-all-of-its-members-adopt-and
 5 amend-the-comprehensive-plan-or-portion-thereof-as-the-official
 6 municipal-plan-upon-such-notice-and-hearing-as-may-be-prescribed
 7 by-ordinance

8 Subd. 4 3. [INTERIM ORDINANCE.] If a municipality local
 9 government unit is conducting studies or has authorized a study
 10 to be conducted or has held or has scheduled a hearing for the
 11 purpose of considering adoption or amendment of a comprehensive
 12 plan or official controls as defined in section 462-352,
 13 subdivision-15, or if new territory for which plans or
 14 controls have not been adopted is annexed to a municipality
 15 local government unit, the governing body of-the-municipality
 16 may adopt an interim ordinance by majority vote of its members
 17 applicable to all or part of its jurisdiction for the purpose of
 18 protecting the planning process and the health, safety and
 19 welfare of its citizens. The interim ordinance may regulate,
 20 restrict or prohibit any use, development, or subdivision within
 21 the jurisdiction or a portion thereof for a period not to exceed
 22 one year from the date it is effective, and may be extended
 23 for such additional periods as the municipality local government
 24 unit may deem consider appropriate, not exceeding a total
 25 additional period of 12 months. No interim ordinance may
 26 halt, delay, or impede a subdivision which has been given
 27 preliminary approval prior to the effective date of the interim
 28 ordinance. Notice and a public hearing are not required for the
 29 adoption of an interim ordinance. An interim ordinance must be
 30 published within a reasonable time, but notwithstanding any law
 31 or charter provision to the contrary, is effective upon
 32 enactment.

33
 34
 35 Sec. 8. [394.08] [ZONING.]
 36 Subdivision 1. [AUTHORITY PER-ZONING.] For-the-purpose-of

Current planning enabling legislation is not clear concerning whether a public hearing is required for the adoption of an interim ordinance.

Recommendation

Make it clear that the adoption of an interim ordinance does not require a formal public hearing as is required of other official controls.

Current planning language does not specify what type of majority is necessary for the governing body to adopt an interim ordinance.

Recommendation

Make it clear that a simple majority is all that is necessary to adopt an interim ordinance. This would be consistent with what is required for comprehensive plans and zoning ordinances.

Zoning Ordinance

The language dealing with authority and general requirements for zoning is presented in an unclear and overly wordy manner. It requires a person seeking information to read through an entire paragraph to obtain the necessary information.

Recommendation

Revise the format of Subdivision 1 and 2 under M.S.462.357 dealing with zoning to provide easier access to necessary information.

There has been confusion for some time over the relationship of the comprehensive plan and the zoning ordinance and what it means to have the zoning ordinance further the purpose and objectives of the comprehensive plan.

Recommendation

Add language to the law that specifically requires the zoning ordinance to be consistent with the comprehensive plan. In addition the language should also include a definition of what it means to be consistent.

1 ~~promoting the public health, safety, morals and general welfare;~~
 2 ~~A municipality local government unit may by ordinance regulate~~
 3 ~~on the earth's surface, in the air space above the surface,~~
 4 ~~and in subsurface areas, the location, height, width, bulk, type~~
 5 ~~of foundation, number of stories, size of buildings and other~~
 6 ~~structures, the percentage of lot which may be occupied, the~~
 7 ~~size of yards and other open spaces, the density and~~
 8 ~~distribution of population, the uses of buildings and structures~~
 9 ~~for trade, industry, residence, recreation, public activities,~~
 10 ~~or other purposes, and the uses of land for trade, industry,~~
 11 ~~residence, recreation, agriculture, forestry, soil conservation,~~
 12 ~~water supply conservation, conservation of shorelands as~~
 13 ~~defined in section 105.405, access to direct sunlight for solar~~
 14 ~~energy systems as defined in section 116J.06, flood control or~~
 15 ~~other purposes, and may establish standards and procedures~~
 16 ~~regulating such uses. No regulation may prohibit earth~~
 17 ~~sheltered construction as defined in section 116J.06,~~
 18 ~~subdivision 2, or manufactured homes built in conformance with~~
 19 ~~sections 327.31 to 327.35 that comply with all other zoning~~
 20 ~~ordinances promulgated pursuant to this section for the purpose~~
 21 ~~of promoting the public health, safety, morals, and general~~
 22 ~~welfare. Official controls adopted under this authority shall~~
 23 ~~implement the purpose, objectives, and policies of the~~
 24 ~~comprehensive plan and may include the features in this section.~~
 25 ~~Official controls must be consistent with the comprehensive plan.~~
 26 ~~Consistent means not allowing land use and development that will~~
 27 ~~prevent the planned land use as designated within specific areas~~
 28 ~~in the comprehensive plan.~~
 29 Subd. 2. [ZONING DISTRICTS.] The regulations adopted under
 30 this section may divide the surface, above-surface airspace, and
 31 subsurface areas of the municipality local government unit into
 32 districts or zones of suitable numbers, shape and area. The
 33 regulations for each district shall be uniform for each class or
 34 kind of buildings, structures or land and for each class or kind
 35 of use throughout such district, but the Regulations in one
 36 district may differ from those in other districts. The

1 ordinance embodying these regulations shall be known as the
 2 zoning ordinance and shall consist of text and maps. A city may
 3 by ordinance extend the application of its zoning regulations to
 4 unincorporated territory located within two miles of its limits
 5 in any direction, but not in a county or town which has adopted
 6 zoning regulations, provided that where two or more
 7 noncontiguous municipalities have boundaries less than four
 8 miles apart, each is authorized to control the zoning of land on
 9 its side of a line equidistant between the two noncontiguous
 10 municipalities unless a town or county in the affected area has
 11 adopted zoning regulations. Any city may thereafter enforce
 12 such regulations in the area to the same extent as if such
 13 property were situated within its corporate limits, until the
 14 county or town board adopts a comprehensive zoning regulation
 15 which includes the area.

16 Subd. 2. (GENERAL REQUIREMENTS.) At any time after the
 17 adoption of a land use plan for the municipality, the planning
 18 agency for the purpose of carrying out the policies and goals
 19 of the land use plan may prepare a proposed zoning ordinance
 20 and submit it to the governing body with its recommendations for
 21 adoption. Subject to the requirements of subdivisions 3, 4 and
 22 5, the governing body may adopt and amend a zoning ordinance by
 23 a two-thirds vote of all its members. If the comprehensive
 24 municipal plan is in conflict with the zoning ordinance, the
 25 zoning ordinance supersedes the plan.

26 Subd. 4. (AMENDMENTS.) An amendment to a zoning ordinance
 27 may be initiated by the governing body, the planning agency or
 28 by petition of affected property owners as defined in the zoning
 29 ordinance. An amendment not initiated by the planning agency
 30 shall be referred to the planning agency if there is one, for
 31 study and report and may not be acted upon by the governing body
 32 until it has received the recommendation of the planning agency
 33 on the proposed amendment or until 60 days have elapsed from the
 34 date of reference of the amendment without a report by the
 35 planning agency.

36 Subd. 3. [TYPE OF REGULATION.] A local government unit may

The county and city planning laws are not consistent in terms of what can be regulated. This is unnecessary and causes confusion.

Recommendation

Add regulatory language to the county planning law and the municipal planning law which will bring them into greater conformance. No major substantive amendment to the authority is recommended.

Language referencing shoreland, floodplain, agricultural preservation, and historic preservation activities is lacking in the current law.

Recommendation

Insert the appropriate statutory references for shoreland, floodplain, agricultural preservation, and historic preservation activities.

1 establish standards and procedures regulating the use of land
 2 including:
 3 (a) The use of surface, subsurface, airspace, or surface of
 4 water for trade, industry, residence, recreation, agriculture,
 5 forestry, soil conservation, water supply conservation, surface
 6 water, drainage and removal, conservation of shorelands as
 7 defined in section 105.485, or other purposes. Official
 8 controls may also be applied to historic preservation as defined
 9 in section 471.193, agricultural land preservation as defined in
 10 section 40A.05, wetlands preservation, open space, parks, sewage
 11 disposal, protection of ground water, protection of flood plains
 12 as defined in section 104.02, protection of wild scenic or
 13 recreational rivers, protection of slope, soils, unconsolidated
 14 materials or bedrock from potentially damaging development,
 15 preservation of forests, woodlands, and essential wildlife
 16 habitat, reclamation of non-metallic mining lands, protection
 17 and encouragement of access to direct sunlight for solar energy
 18 systems.
 19 (b) The design of structures including the location,
 20 height, width, bulk, type of foundation, number of stories, size
 21 of buildings and other structures; the percentage of lot which
 22 may be occupied, the size of yards and other open spaces; the
 23 density and distribution of population; the uses of buildings
 24 and structures for trade, industry, residence, recreation,
 25 public activities, or other purposes; protective measures
 26 necessary to protect the public interest including controls
 27 relating to appearance, signs, lighting, hours of operation, and
 28 other aesthetic or performance characteristics including noise,
 29 heat, glare, vibrations, and smoke; and the area required to
 30 provide for off-street loading and parking facilities.
 31 No regulation may prohibit earth-sheltered construction as
 32 defined in section 116J.06, subdivision 2, or manufactured homes
 33 built in conformance with sections 327.31 to 327.35 that comply
 34 with all other zoning ordinances adopted under this section.
 35 Subd. 6a 4. [PERMITTED-USBS LICENSED RESIDENTIAL
 36 FACILITY.] It is the policy of this state that handicapped

Some technical changes are needed in Subd. 6a and Subd. 8 to clarify what is meant and to bring the language up to date with current terminology.

Recommendation

Add the definition of "person" to Subd. 6a rather than referencing it to another section of the statutes as is done now. Also change the use of the term "zone" to "district" to conform to language currently in use in most ordinances.

Change the title of Subdivision 4 (formerly Subd. 6a) to "Licensed Residential Facilities" to more clearly reflect the intent of this subdivision which is to prevent local governments from denying such facilities in residential neighborhoods.

Current legislation does not specify that dedication funds may be collected in cases where commercial or industrial buildings, apartments, or single family dwellings are built on existing lots where subdivision approval was not necessary.

Recommendation

Establish a new section which creates an "impact fee" that would allow local governments to collect a fee at the time the building permit is issued for projects not requiring subdivision approval.

1 persons and children should not be excluded by municipal zoning
2 ordinances or other land use regulations from the benefits of
3 normal residential surroundings. For purposes of subdivisions
4 6a-through-9 this subdivision, "person" has the meaning given in
5 section 245.702, subdivision 2 means an adult who is handicapped
6 by reason of age, mental retardation, mental illness, chemical
7 dependency, or physical handicap; a child, whether handicapped
8 or not; and for the purposes of adult day care, adult foster
9 care, and supportive living residences, an adult who is
10 functionally impaired.

11 Subd. 7. --(PERMITTED-SINGLE-FAMILY-USE) (a) A state
12 licensed residential facility serving six or fewer persons or a
13 licensed day care facility serving 12 or fewer persons shall be
14 considered a permitted single family residential use of property
15 for the purposes of zoning.

16 Subd. 8. --(PERMITTED-MULTIFAMILY-USE) (b) Unless otherwise
17 provided in any town, municipal or county local government unit
18 zoning regulation as authorized by this subdivision, a state
19 licensed residential facility serving from 7 through 16 persons
20 or a licensed day care facility serving from 13 through 16
21 persons shall be considered a permitted an allowed multifamily
22 residential use of property for purposes of zoning. A township
23 municipal or county local government unit zoning authority may
24 require a conditional use or special-use permit in order to
25 assure proper maintenance and operation of a facility, provided
26 that no conditions shall be imposed on the facility which are
27 more restrictive than those imposed on other conditional uses or
28 special-uses of residential property in the same zone district,
29 unless the additional conditions are necessary to protect the
30 health and safety of the residents of the residential facility.
31 Nothing herein shall be construed to exclude or prohibit
32 residential or day care facilities from single family zone
33 district if otherwise permitted by a local zoning regulation.

34 Subd. 9. [IMPACT FEE.] A local government unit may collect
35 an impact fee when a building permit is issued for projects not
36 requiring subdivision approval. Fees paid shall be placed in a

1 special fund to be used only for the public purposes specified
2 in section ..., subdivision 3.

Language dealing with the initiation of comprehensive plans and official controls or the initiation of amendments to these planning documents is located in different sections of the planning laws. Moreover the law is not clear on whether the local government unit must grant a hearing on the petition of owners of the subject property.

Recommendation

Locate the language dealing with the initiation of comprehensive plans and official controls and amendments thereto in a separate subdivision under "official controls" entitled "Initiation". Also include language guaranteeing a hearing on the petition for initiation of an amendment to the zoning map or a rezoning by affected property owners.

In the section of the law dealing with amendments (M.S. 462.357 Subd. 4), there is a time limit of 60 days stipulated for planning commission review. No such review period is mentioned in the county planning law (M.S. 394 Subd. 10). Also provisions in M.S. 462.357 Subd. 5 which deal with amendments for cities of the first class are inconsistent with other sections of the law dealing with amendments.

Recommendation

The language in the county planning law should provide for a 60-day review by the county planning commission just as it currently does for cities. This is another area where consistency could be achieved by combining the two laws.

There is some confusion in the municipal planning law concerning who is responsible for preparation and review of the comprehensive plan.

Recommendation

Make it very clear that it is the responsibility of the planning commission, not the planning agency, to prepare the comprehensive plan for approval by the governing body. Language should also be inserted which requires periodic planning commission review of the comprehensive plan.

According to some local officials rezoning procedures are being violated by local governments who impose special conditions or restrictions on the use of the property to be rezoned. It is felt that restrictions and conditions should more properly occur when granting conditional uses not rezonings.

Recommendation

Add a new subdivision to the law that deals with rezonings and makes it unlawful for a local governing body to impose special restrictions on requests for rezonings.

3
4
5 Sec. 9. [394A.09] [OFFICIAL CONTROLS.]
6 Subdivision 1. [INITIATION.] Comprehensive plans and
7 official controls or amendments thereto may be initiated by the
8 governing body or the planning commission. An amendment to a
9 zoning map or a rezoning amendment may also be initiated by
10 petition of all the subject property owners. Upon receipt of a
11 petition of the subject property owners the governing body or
12 planning commission must grant a hearing according to section ...
13 Subd. 2. [REFERRAL.] Any proposed comprehensive plan,
14 official control, or amendment to any existing comprehensive
15 plan or official control that is not initiated by the planning
16 commission must be referred to the planning commission, if there
17 is one, for study and report. The governing body shall not act
18 upon a proposed comprehensive plan, official control, or
19 amendment until it has received a written recommendation of the
20 planning commission on the proposal or until 60 days have lapsed
21 from the date of the start of the public hearing held on the
22 proposal.
23 Subd. 3. [NOTICE AND PUBLIC HEARING.] An official control
24 or comprehensive plan may not be adopted or amended until the
25 notice and public hearing requirements specified in section
26 are met.
27 Subd. 4. [ADOPTION.] The governing body may by resolution
28 adopt or amend an official control or comprehensive plan as
29 recommended by the planning commission by a majority of all of
30 its members. If a planning commission does not exist or fails
31 to make a recommendation within 60 days, or if the governing
32 body does not follow the planning commission's recommendation,
33 the governing body may adopt or amend an official control or
34 comprehensive map only by a two-thirds vote of all of its
35 members.
36 Subd. 5. [REZONING.] Conditional rezoning is prohibited.

1 If an amendment to a zoning ordinance constitutes rezoning, the
2 governing body may not impose conditions or special restrictions
3 on the use or development of the property as a requirement of
4 the rezoning.

5
6
7 Sec. 10. 394+36 [394A.10] [NONCONFORMITIES.]

8 Subdivision 1. [AUTHORITY TO CONTINUE.] Any nonconformity
9 including the lawful use or occupation of land or premises
10 existing at the time of the adoption of an official
11 control hereunder may be continued, except as regulated,
12 terminated or acquired by the board governing body as provided
13 in subdivisions 2 or 3, although seen the use or occupation does
14 not conform to the provisions thereof, but if such the
15 nonconformity or occupancy is discontinued for a period of more
16 than one year, or any nonconforming building or structure is
17 destroyed by fire or other peril to the extent of 50 percent of
18 its market value, any subsequent use or occupancy of the land or
19 premises shall be a conforming use or occupancy.

20 Subd. 2. [ELIMINATION.] The board governing body may by
21 ordinance adopt such regulations not contrary to law as that it
22 deems considers desirable or necessary to classify, regulate and
23 control, reduce the number or extent of and provide for the
24 gradual elimination of nonconformities and occupancies,
25 including requiring nonconformities to conform with the official
26 controls of the county local government unit or terminate within
27 a reasonable time as specified in the official controls. The
28 board governing body may by ordinance impose upon
29 nonconformities additional regulations relating to appearance,
30 signs, lighting, hours of operation and other aesthetic
31 performance characteristics including but not limited to noise,
32 heat, glare, vibrations and smoke.

33 Subd. 3. [ACQUISITION.] A nonconformity that is determined
34 by the board governing body to be detrimental to the achievement
35 of the goals and objectives of the comprehensive plan may be
36 acquired by the board governing body by purchase.

1

2

3

Sec. 11. 462-350 [394A.11] [PROCEDURE FOR

4 PLAN EFFETUATION IMPLEMENTATION; SUBDIVISION REGULATIONS.]

5

Subd. 1a Subdivision 1. [AUTHORITY.] To protect and

6

promote the public health, safety, and general welfare, to

7

provide for the orderly, economic, and safe development of land,

8

to preserve agricultural lands, to promote the availability of

9

housing affordable to persons and families of all income levels,

10

and to facilitate adequate provision for transportation, water,

11

sewage, storm drainage, schools, parks, playgrounds, and other

12

public services and facilities, a municipality local government

13

unit may by ordinance adopt subdivision regulations establishing

14

standards, requirements, and procedures for the review and

15

approval or disapproval of subdivisions. The regulations may

16

contain varied provisions respecting, and be made applicable

17

only to, certain classes or kinds of subdivisions. The

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regulations shall be uniform for each class or kind of

19

subdivision.

20

A-municipality-may-by-resolution-extend-the-application-of

21

its-subdivision-regulations-to-unincorporated-territory-located

22

within-two-miles-of-its-limits-in-any-direction-but-not-in-a

23

town-which-has-adopted-subdivision-regulations-provided-that

24

where-two-or-more-noncontiguous-municipalities-have-boundaries

25

less-than-four-miles-apart-each-is-authorized-to-control-the

26

subdivision-of-land-equal-distance-from-its-boundaries-within

27

this-area.

28

Subd. 2a 2. [TERMS OF REGULATIONS.] The standards and

29

requirements in the regulations may address without limitation:

30

the size, location, grading, and improvement of lots,

31

structures, public areas, streets, roads, trails, walkways,

32

curbs and gutters, water supply, storm drainage, lighting,

33

sewers, electricity, gas, and other utilities; the planning and

34

design of sites; access to solar energy; and the protection and

35

conservation of flood plains, shore lands, soils, water,

36

vegetation, energy, air quality, and geologic and ecologic

Subdivision Regulations

The county planning law while mentioning only very briefly the subdivision of land as an official control provides little in the way of guidance concerning authority, terms of the regulations, platting, filing and recording of conveyances and procedures for notifying towns, yet, most county subdivision regulations contain just such elements. Also most of these elements are covered in the municipal planning law.

Recommendation

The law should be amended to provide counties with the same guiding authority to develop subdivision regulations as that possessed by cities and towns.

A municipality may extend its subdivision controls two miles beyond its boundaries even if a county has subdivision controls. The only time a city may not extend its subdivision authority into the two mile area is when an adjacent town has adopted subdivision regulations. This is inconsistent with provisions in the law which restrict the city from extending zoning regulations into the two mile area if either the county or the township have adopted zoning controls.

Recommendation

The city should be prevented from extending its subdivision authority into the unincorporated area when either the county or the town has subdivision regulations in force. Making this change will make extraterritorial provisions for subdivisions and zoning consistent with each other.

1 features. The regulations shall require that subdivisions be
2 consistent with the municipality's official map if one exists
3 and its zoning ordinance, and may require consistency with and
4 other official controls and the comprehensive plan of the local
5 government unit.

6 The regulations may prohibit certain classes or kinds of
7 subdivisions in areas where prohibition is consistent with the
8 comprehensive plan and the purposes of this section,
9 particularly the preservation of agricultural lands. The
10 regulations may prohibit, restrict or control development for
11 the purpose of protecting and assuring access to direct sunlight
12 for solar energy systems. The regulations may prohibit,
13 restrict, or and control surface, above-surface air space, or
14 subsurface development for the purpose of protecting subsurface
15 areas for existing or potential mined underground space
16 development pursuant to sections 472B-03 to 472B-07, and access
17 thereto. The regulations may prohibit the issuance of building
18 permits for any tracts, lots, or parcels for which required
19 subdivision approval has not been obtained.

20 The regulations may permit the municipality local
21 government unit to condition its approval on the construction
22 and installation of sewers, streets, electric, gas, drainage,
23 and water facilities, and similar utilities and improvements or,
24 in lieu thereof, on the receipt by the municipality local
25 government unit of a cash deposit, certified check, irrevocable
26 letter of credit, or bond in an amount and with surety and
27 conditions sufficient to assure the municipality local
28 government unit that the utilities and improvements will be
29 constructed or installed according to the specifications of the
30 municipality local government unit. The regulations may permit
31 the municipality local government unit to condition its approval
32 on compliance with other requirements reasonably related to the
33 provisions of the regulations and to execute development
34 contracts embodying containing the terms and conditions of
35 approval. The municipality local government unit may enforce
36 such the agreements and conditions by appropriate legal and

There is no language in the section on subdivisions which provides for or requires the return of funds dedicated for parks or public use if the subdivision is not approved. Moreover, current legislation does not specify that dedication funds may be collected in cases where commercial or industrial buildings, apartments, or single family dwellings are built on existing lots not approved through normal subdivision procedures.

Recommendation

Require the payment of funds for parks or public use only after the subdivision has been approved but prior to filing. Also provide that local governments may collect a dedication fee at the time a building permit is issued for projects not requiring subdivision approval.

M.S. 462.358 Subd. 2b allows a city to require in its subdivision regulations that each subdivider dedicate land or an equivalent amount of money for public use. A growing number of local governments would like to use the money for development rather than land acquisition. However, many local governments do not believe the law is clear on this matter. In addition no such provision is included in the county planning law.

Recommendation

Insert language in the law that makes it clear that local governmental units may use the money dedicated for parks for either acquisition or development.

1 equitable remedies.

2 Subd. 2b 3. [DEDICATION.] The regulations may require that
3 a reasonable portion of any proposed subdivision will be
4 dedicated to the public before the subdivision is filed or
5 preserved and developed for public use as streets, roads,
6 sewers, electric, gas, and water facilities, storm water
7 drainage and holding areas or ponds and similar utilities and
8 improvements.

9 In addition, the regulations may require that a reasonable
10 portion of any proposed subdivision will be dedicated to the
11 public after the local government unit has certified final
12 approval of the subdivision application or preserved and
13 developed for public use as parks, playgrounds, trails, or open
14 ~~space-provided-that-(t)-~~. When establishing the reasonable
15 portion to be dedicated, the regulations may consider the open
16 space, park, recreational, or common areas and facilities which
17 the applicant proposes to reserve for the subdivision. The
18 local government unit must reasonably determine that it is
19 necessary to acquire that portion of land for the purposes
20 stated in this paragraph as a result of approval of the
21 subdivision.

22 ~~The municipality~~ local government unit may choose to accept
23 an equivalent amount in cash from the applicant for part or all
24 of the portion required to be dedicated to such public uses or
25 purposes based on the fair market value of the land ~~no later~~
26 ~~than-at,~~ to be paid after the time of final approval, (b)-any
27 ~~cash-payments-received-shall-be-placed-in-a-special-fund-by-the~~
28 ~~municipality~~ but before filing of the subdivision. The local
29 government unit shall place all cash payments in a special fund
30 to be used only for the purposes for which the money was
31 ~~obtained-(t)-in-establishing-the-reasonable-portion-to-be~~
32 ~~dedicated,-the-regulations-may-consider-the-open-space-park-~~
33 ~~recreation-or-common-areas-and-facilities-which-the-applicant~~
34 ~~proposes-to-reserve-for-the-subdivision-and-(d)-the~~
35 ~~municipality-reasonably-determines-that-it-will-need-to-acquire~~
36 ~~that-portion-of-land-for-the-purposes-stated-in-this-paragraph~~

In the case of dedicated land current language is unclear regarding what constitutes acceptance of the dedication. In addition it is unclear what constitutes acceptance in cases where the unit of government approving the subdivision is not the unit of government who will receive the dedication.

Recommendation

Insert language which requires that formal acceptance does not occur until the local government has passed a resolution accepting the dedicated land. Also insert language requiring that the jurisdiction doing the approving must get a resolution from the government receiving the dedication in order for the dedicated land to be officially accepted.

1 ~~as-a-result-of-approval-of-the-subdivision.~~
 2 If dedication of property is required, the local government
 3 unit approving the plan must accept the dedication by resolution
 4 or contract with another local government unit. The dedicated
 5 property must be accepted by resolution of the receiving local
 6 government before the subdivision plan may be filed for
 7 recording. Dedication is effective when the subdivision plan is
 8 filed for recording.
 9 Subd. 3a 4. [PLATTING.] The regulations may require that
 10 any subdivision creating parcels, tracts, or lots, shall be
 11 platted. The regulations shall require that all subdivisions
 12 which create five or more lots or parcels which are 2-1/2 acres
 13 or less in size shall be platted. The regulations shall not
 14 conflict with the provisions of chapter 505 but may address
 15 subjects similar and additional to those in that chapter.
 16 Subd. 3b 5. [REVIEW PROCEDURES.] The regulations shall
 17 include provisions regarding the content of applications for
 18 proposed subdivisions, the preliminary and final review and
 19 approval or disapproval of applications, and the coordination of
 20 such reviews with affected political subdivisions and state
 21 agencies. The regulations may provide for the consolidation of
 22 the preliminary and final review and approval or disapproval of
 23 subdivisions. Preliminary or final approval may be granted or
 24 denied for parts of subdivision applications. The regulations
 25 may ~~delegate~~ provide for delegating the authority to review
 26 ~~propose~~ approval or disapprove applications for some or all
 27 categories of subdivisions to the planning commission ~~but final~~
 28 ~~approval or disapproval shall be the decision of the governing~~
 29 ~~body of the municipality unless otherwise provided by law or~~
 30 ~~charter. The regulations shall require that a public hearing~~
 31 ~~shall be held on all subdivision applications prior to~~
 32 ~~preliminary approval, unless otherwise provided by law or~~
 33 ~~charter. The hearing shall be held following publication of~~
 34 ~~notice of the time and place thereof in the official newspaper~~
 35 ~~at least ten days before the day of the hearing. At the~~
 36 ~~hearing, all persons interested shall be given an opportunity to~~

The 120 day review period required for preliminary approval of a subdivision plat is not long enough for some local governments because they often meet only once a month. Yet, according to the law they are expected to send notices for public hearing, conduct the public hearing, provide for planning commission review, and allow time for review and approval by the governing body within the 120 day period.

Recommendation

Insert new language which requires that a final decision must be made within 120 days of the start of the public hearing unless a environmental assessment or an environmental impact statement is required in which case approval would be within 30 days of the approval of the EIS or the EAW.

1 ~~make-presentations or to the chief administrator of official~~
 2 ~~controls. The notice and public hearing requirements specified~~
 3 ~~in section ... must be met before preliminary approval may be~~
 4 ~~granted for any subdivision application. A subdivision~~
 5 ~~application shall be preliminarily approved or disapproved~~
 6 ~~within 120 days following delivery-of-an-application-completed~~
 7 ~~in-compliance-with-the-municipal-ordinance-by-the-applicant-to~~
 8 ~~the-municipality the commencement of the public hearing,~~
 9 ~~unless an E.I.S. or E.A.W. is required by section ..., in which~~
 10 ~~case the application shall be preliminarily approved within 30~~
 11 ~~days after final approval of the E.I.S. or E.A.W. or an~~
 12 ~~extension of the review period has been agreed to by the~~
 13 ~~applicant. When-a-division-or-subdivision-to-which-the~~
 14 ~~regulations-of-the-municipality-do-not-apply-is-presented-to-the~~
 15 ~~city-the-clerk-of-the-municipality-shall-within-ten-days~~
 16 ~~certify-that-the-subdivision-regulations-of-the-municipality-do~~
 17 ~~not-apply-to-the-particular-division. The applicant may also~~
 18 ~~agree to an extension of the 30-day period following the final~~
 19 ~~approval of the E.I.S. or E.A.W.~~

20 If the municipality local governing body or the responsible
 21 agency of the municipality local government unit fails to
 22 preliminarily approve or disapprove an application within the
 23 review period, the application shall be deemed considered
 24 preliminarily approved, and upon demand the municipality local
 25 government unit shall execute a certificate to that effect.
 26 Following preliminary approval the applicant may request final
 27 approval by the municipality local government unit, and upon
 28 such-request the municipality local government unit shall
 29 certify final approval within 60 days if the applicant has
 30 complied with all conditions and requirements of applicable
 31 regulations and all conditions and requirements upon which the
 32 preliminary approval is expressly conditioned either through
 33 performance or the execution of appropriate agreements assuring
 34 performance. If the municipality local government unit fails to
 35 certify final approval as so required, and if the applicant has
 36 complied with all conditions and requirements, the application

The current legislation is unclear concerning whether local governments can exempt certain subdivisions from the subdivision platting regulations.

Recommendation

Insert new language that specifically states that subdivisions not required to go through the normal subdivision platting procedures must be so certified by the chief administrative officer within 10 days of having received such application.

1 shall be deemed considered finally approved, and upon demand the
2 municipality local government unit shall execute a certificate
3 to that effect. After final approval a subdivision may be filed
4 or recorded.

5 When a division or subdivision to which the regulations of
6 the local government do not apply is presented to the local
7 government unit, the chief administrator of official controls
8 shall certify within ten days that the subdivision regulations
9 of the local government unit do not apply to the particular
10 division.

11 Subd. 3e 6. [EFFECT OF SUBDIVISION APPROVAL.] For one year
12 following preliminary approval and for two years following final
13 approval, unless the subdivider and the municipality local
14 government unit agree otherwise, no amendment to a comprehensive
15 plan or official control shall apply to or affect the use,
16 development density, lot size, lot layout, or dedication or
17 platting required or permitted by the approved
18 application. ~~Thereafter, pursuant to its regulations,~~ The
19 municipality local government unit may extend the period by
20 agreement with the subdivider and subject to all applicable
21 performance conditions and requirements, or it may require
22 submission of a new application unless substantial physical
23 activity and investment has occurred in reasonable reliance on
24 the approved application and the subdivider will suffer
25 substantial financial damage as a consequence of a requirement
26 to submit a new application. In connection with a subdivision
27 involving planned and staged development, a municipality local
28 government unit may by resolution or agreement ~~grant the rights~~
29 ~~referred to herein~~ extend the period for such periods of time
30 longer than two years which as it determines to be reasonable
31 and appropriate.

32 Subd. 4a 7. [DISCLOSURE BY SELLER; BUYER'S ACTION FOR
33 DAMAGES.] A person conveying a new parcel of land which, or the
34 plat for which, has not previously been filed or recorded, and
35 which is part of or would constitute a subdivision to which
36 adopted ~~municipal~~ subdivision regulations apply, shall attach to

In Subdivision 4a of M.S. 462.358 dealing with the disclosure by seller and buyer's action for damages, it is not clear what the consequences are for failing to comply with the provisions listed that relate to the conveyance of land which has not been previously recorded.

Recommendation

Language should be added which provides a remedy for failure to comply with this section of the law. Such language should spell out that failure to comply with the provisions in Subd. 4a will invalidate the subdivision and the sale. This subdivision as amended should also apply to counties.

References to practical difficulty, particular hardship, and unnecessary difficulty are common throughout the municipal and county planning laws. This creates confusion and should be remedied. The intent of the suggested change is to provide a standard that is consistent and more closely reflects common practice.

Recommendation

In Subd. 4a insert the term, "undue burden" in place of "unnecessary hardship" and provide for certification by the chief administrative officer.

1 the instrument of conveyance either: (a) recordable
 2 certification by the ~~chief-of-the-municipality~~ chief
 3 administrator of official controls that the subdivision
 4 regulations do not apply, or that the subdivision has been
 5 approved by ~~the-governing-body~~, or that the restrictions on the
 6 division of taxes and filing and recording have been waived by
 7 resolution of the governing body of the municipality local
 8 government unit in this case because compliance will create
 9 an unnecessary-hardship undue burden and failure to comply will
 10 not interfere with the purpose of the regulations; or (b) a
 11 statement which names and identifies the location of the
 12 appropriate ~~municipal~~ local government unit offices and advises
 13 the grantee that ~~municipal~~ subdivision and zoning regulations
 14 may restrict the use or restrict or prohibit the development of
 15 the parcel, or construction on it, and that the division of
 16 taxes and the filing or recording of the conveyance may be
 17 prohibited without prior recordable certification of approval,
 18 nonapplicability, or waiver from the municipality governing
 19 body. In any action commenced by a buyer of such a parcel
 20 against the seller thereof, the misrepresentation of or the
 21 failure to disclose material facts in accordance with this
 22 subdivision shall be grounds for damages, invalidation of the
 23 sale, or both. If the buyer establishes his right to
 24 damages, sale invalidation, or both, a district court hearing
 25 the-matter may in its discretion also award to the buyer an
 26 amount sufficient to pay all or any part of the costs incurred
 27 in maintaining the action, including reasonable attorney fees,
 28 and an amount for punitive damages not exceeding five per-centum
 29 percent of the purchase price of the land.

30 Subd. 4b g. [RESTRICTIONS ON FILING AND RECORDING
 31 CONVEYANCES.] In a municipality local government unit in which
 32 subdivision regulations are in force and have been filed or
 33 recorded as provided in this section, no conveyance of land to
 34 which the regulations are applicable shall be filed or recorded,
 35 if the land is described in the conveyance by metes and bounds,
 36 unless the chief administrative officer for official controls

Filing and Recording Conveyances

There is no language in the county planning law pertaining to the filing and recording of conveyances, yet the municipal law contains a fairly complete section on this issue.

Recommendation

Ensure that the procedures for filing and recording conveyances also apply to counties. For simplicity these procedures could be contained in a single section.

Some subdivisions may be approved even though they have not followed normal subdivision platting procedures as previously recommended in N.S. 462.358 Subd. 3c. Subdivision 4b does not currently provide for this situation and will be confusing unless changed.

Recommendation

Insert language that is consistent with N.S. 462.358 Subd. 3c and which provides that a conveyance may be filed and recorded if the chief administrative officer for official controls has certified the conveyance has resulted in an approved subdivision.

There is a need for further clarification regarding when certain parcels may be exempted from restrictions on filing and recording conveyances.

Recommendation

Make appropriate changes to clarify the legislation and also ensure that the language applies to counties.

1 has certified that the conveyance has resulted in an approved
 2 subdivision, or by reference to an unapproved registered land
 3 survey made after April 21, 1961 or to an unapproved plat made
 4 after such the regulations become effective. The foregoing
 5 provision This subdivision does not apply to a conveyance if the
 6 land described:

7 (1) was a separate parcel of record April 1, 1945 or the
 8 date of adoption of subdivision regulations under Laws 1945,
 9 Chapter 287, whichever is the later, or of the adoption of
 10 subdivision regulations pursuant to under a home rule charter,
 11 or

12 (2) was the subject of a written agreement to convey
 13 entered into prior to such this time,

14 (3) was a separate parcel of not less than 2-1/2 acres in
 15 area and 150 feet in width on January 1, 1966, or

16 (4) was a separate parcel of not less than five acres in
 17 area and 300 feet in width on July 1, 1980, or

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

23 (6) is a single parcel of residential or agricultural land
 24 of not less than 20 acres and having a width of not less than
 25 500 feet and its conveyance does not result in the division of
 26 the parcel into two or more lots or parcels, any one of which is
 27 less than 20 acres in area or 500 feet in width.

28 In any case in which compliance with the foregoing
 29 restrictions will create an unnecessary hardship undue burden
 30 and failure to comply does not interfere with the purpose of the
 31 subdivision regulations, the platting authority governing body
 32 may waive such compliance by adoption of a resolution to that
 33 effect and the conveyance may then be filed or and recorded.
 34 Any owner or agent of the owner of land who conveys a lot or
 35 parcel in violation of the provisions of this subdivision
 36 shall forfeit and pay to the municipality local government unit

1 a penalty fine of not less than \$100 for each lot or parcel so
 2 conveyed. A municipality local government unit may enjoin such
 3 the conveyance or may recover such penalty the fine by a civil
 4 action in any court of competent jurisdiction.

5 Subd. 9 9. [PERMITS.] Except as otherwise provided by this
 6 section all electric and gas distribution lines or piping,
 7 roadways, curbs, walks and other similar improvements shall be
 8 constructed only on a street, alley, or other public way or
 9 easement which is designated on an approved plat, or properly
 10 indicated on the official map of the municipality local
 11 government unit, or which has otherwise been approved by the
 12 governing body. When a municipality local government unit has
 13 adopted an official map, no permit for the erection of any
 14 building shall be issued unless the building is to be located
 15 upon a parcel of land abutting on a street or highway which has
 16 been designated upon an approved plat or on the official map or
 17 which has been otherwise approved by the governing body, and
 18 unless the buildings conform to the established building line.
 19 This limitation on issuing permits shall not apply to
 20 planned unit developments approved by the governing
 21 body pursuant to under its zoning ordinance. No permit shall be
 22 issued for the construction of a building on any lot or parcel
 23 conveyed in violation of the provisions of this section.

24 Subd. 6 6. ~~{VARIANCES.} Subdivision regulations may provide~~
 25 ~~for a procedure for varying the regulations as they apply to~~
 26 ~~specific properties where an unusual hardship on the land~~
 27 ~~exists, but variances may be granted only upon the specific~~
 28 ~~grounds set forth in the regulations. Unusual hardship~~
 29 ~~includes, but is not limited to, inadequate access to direct~~
 30 ~~sunlight for solar energy systems.~~

31 Subd. 7 10. [VACATION.] The governing body of a
 32 municipality may vacate any publicly owned utility, easement or,
 33 boulevard reserve, or any portion thereof, which are of the
 34 utility, easement, or reserve that is not being used for sewer,
 35 drainage, electric, telegraph, telephone, gas and steam purposes
 36 or for boulevard reserve purposes, in the same manner as

There is no definition of hardship in the section on
 variances to subdivision regulations, Subd. 6 or M.S. 462.358.

Recommendation

Remove the reference to variances that is currently found in the
 section of the law dealing with subdivision regulations. There
 should be a separate section in the law that is devoted solely
 to variances and procedures for granting them. This section
 should also include a definition of hardship.

1 vacation proceedings are conducted for streets, alleys and other
2 public ways under a home rule charter or other provisions of law.

3 A boulevard reserve means an easement established adjacent
4 to a dedicated street for the purpose of establishing open space
5 adjacent to the street and which area is designated on the
6 recorded plat as "boulevard reserve".

7 Subd. 8 11. [PLAT APPROVAL UNDER OTHER LAWS.] Nothing in
8 this section is to be construed as a limitation on the authority
9 of ~~municipalities~~ local government units which have not adopted
10 subdivision regulations to approve plats under any other
11 provision of law.

12 Subd. 9 12. [UNPLATTED PARCELS.] Subdivision regulations
13 adopted-by-municipalities of a local government unit may apply
14 to parcels which are taken from existing parcels of record by
15 metes and bounds descriptions, and the governing body or
16 building authority may deny the issuance of building permits to
17 any parcels so divided, pending compliance with subdivision
18 regulations.

19 Subd. ~~10~~ 13. [LIMITATIONS.] Nothing in this section shall
20 be construed to require a municipality local government unit to
21 regulate subdivisions or to regulate all subdivisions which it
22 is authorized to regulate by this section.

23

24 Sec. 12. [394.12] [EXTRATERRITORIAL AUTHORITY.]

25 Subdivision 1. [ZONING REGULATIONS.] A home rule charter
26 or statutory city may by ordinance extend the application of its
27 zoning regulations to unincorporated territory located within up
28 to two miles of its limits in any direction, but not in a county
29 or town which has adopted zoning regulations or in a county or
30 town represented on a joint planning board created under section
31 ... that has adopted zoning regulations which include that
32 territory; provided that where two or more noncontiguous cities
33 have boundaries less than four miles apart, each is authorized
34 to control the zoning of land on its side of a line equidistant
35 between the two noncontiguous cities unless a town or county in
36 the affected area has adopted zoning regulations. Any city may

There are inconsistencies in the application of subdivision controls and zoning controls in the fringe area of the city. Subdivision controls may be extended up to two miles into the unincorporated area of the county even if the county has subdivision controls. However, zoning may not be applied in this area if either the county or the township has zoning controls in force.

Recommendation

It is recommended that extra territorial controls be combined into a single but separate section of the law. It is also recommended that the requirements for zoning and subdivision control be consistent.

1 thereafter enforce the regulations in the area to the same
 2 extent as if the property were situated within its corporate
 3 limits, until the county, town, or joint planning board adopts a
 4 comprehensive zoning regulation which includes the area.

5 Subd. 2. [SUBDIVISION REGULATIONS.] A municipality may by
 6 resolution extend the application of its subdivision regulations
 7 to unincorporated territory located within up to two miles of
 8 its limits in any direction but not in a town or county which
 9 has adopted subdivision regulations; provided that where two or
 10 more noncontiguous municipalities have boundaries less than four
 11 miles apart, each is authorized to control the subdivision of
 12 land equal distance from its boundaries within this area.

Joint Planning Board

Cooperative planning and regulation of land by city, county, and township government has long been a problem in the fringe area of cities (area within two miles of the corporate boundary). Legislation providing for the creation of a Joint Planning Board was passed during the 1982 legislative session to provide local government with a tool to deal with land use problems in the urban fringe.

Where the Joint Planning Board has been attempted there has been a problem in getting members appointed and once appointed in getting their participation. Some of this may be due to a lack of understanding of what the joint board can do, fear of giving up control, or that the responsibilities are too threatening.

Recommendation

Make the creation of the joint planning body less threatening by giving local governments greater flexibility in how they are created and what responsibilities they should have. It is recommended that this be handled in two phases. In the first phase the body created would be called a "joint advisory board". It could be created by the passage of a resolution of one of the affected local governments. After passage of the resolution the other local governments would be required to participate. However, the joint advisory board would have no authority to prepare or adopt plans or regulatory controls. The only requirement is that they meet together to discuss common issues and problems, review existing plans and controls and make recommendations to the existing local governments.

In the second phase the body created would be called the joint planning board and would have basically the same powers as available to planning commissions under current law, i.e., prepare and adopt plans and controls, review conditional use permits, and make recommendations to the governing bodies concerning land use issues affecting growth and development and amendment of plans and official controls. Initiation of this phase would require the passage of a resolution by two-thirds of the local governments participating on the joint advisory board.

Require that the boundary within which the joint planning advisory board and the joint planning board will have jurisdiction may extend a maximum of one-quarter mile into the city. Also make it clear that the area need not include the whole area within two miles of the city limits but may include any area within and up to two miles from the city limits.

Require that the county provide staff to serve the two boards unless another arrangement can be worked out with the city or township.

14 Sec. 13. 462:3505 [394A.13] [JOINT PLANNING ADVISORY
 15 BOARD.]

16 Upon request of a home-rule charter or statutory city
 17 council or county or town board by resolution presented to the
 18 county auditor of the county of the affected territory a board
 19 shall be established to exercise planning and land use control
 20 authority in the unincorporated area within two miles of the
 21 corporate limits of a city--The board shall have members in a
 22 number determined by the city, county, and town--Each
 23 governmental unit shall have an equal number of members--The
 24 members shall be appointed from the governing bodies of the
 25 city, county, and town--Upon request of more than one county or
 26 town board with respect to the unincorporated area within two
 27 miles of the corporate limits of a single city, the parties may
 28 create one board rather than a separate board for each county or
 29 town with equal membership from each affected governmental
 30 unit--The board shall serve as the governing body and board of
 31 appeals and adjustments for purposes of sections 462:351 to
 32 462:364 within the two-mile area--The board shall have all of
 33 the powers contained in sections 462:351 to 462:364 and shall
 34 have authority to adopt and enforce the uniform fire code
 35 promulgated pursuant to section 299F.011v--The city shall
 36 provide staff for the preparation and administration of land use

1 controls-unless-otherwise-agreed-by-the-governmental-units--if
 2 a-municipality-extends-the-application-of-its-subdivision
 3 regulations-to-unincorporated-territory-located-within-two-miles
 4 of-its-limits-pursuant-to-section-462-3507-subdivision-1a
 5 before-the-creation-of-a-joint-board-the-subdivision
 6 regulations-which-the-municipality-has-extended-shall-apply
 7 until-the-joint-board-adopts-subdivision-regulations-

8 Subdivision 1. (CREATION.) Upon request of a local
 9 government unit in the designated area, by resolution presented
 10 to the county auditor of the county or counties in the
 11 designated area, an advisory board shall be established to
 12 review existing and future land use issues affecting the
 13 designated area or portion thereof identified in the
 14 resolution. The board may make recommendations to any governing
 15 body of a local government unit in the designated area. The
 16 number of board members shall be determined and appointed by the
 17 local government units within the designated area or portion
 18 thereof identified in the resolution. Each local government
 19 unit shall have an equal number of members.

20 Subd. 2. (DESIGNATED AREA.) "Designated area" means in
 21 unincorporated areas the area within two miles in any direction
 22 from the corporate limits of a city and in incorporated areas
 23 the area within one-quarter mile of the corporate limits of the
 24 city in which joint land use review or land use control
 25 authority is considered necessary as identified in the
 26 resolution requesting creation of the joint advisory board or
 27 the joint planning board.

28
 29 Sec. 14. (JOINT PLANNING BOARD.)

30 Subdivision 1. (CREATION.) Upon presentation of a
 31 resolution passed by two-thirds of all local government units on
 32 the joint advisory board to the county auditor of the county or
 33 counties in the designated area, a joint planning board shall be
 34 established and authorized to develop plans and land use
 35 controls. Membership on the joint planning board shall be the
 36 same as the joint advisory board.

The area in which the board is to have jurisdiction should be up to the individual boards to decide.

Recommendation

No recommendation on this issue. Current language seems to be fairly clear on this matter.

There seems to be some confusion regarding who will have jurisdiction in the urban fringe area if a joint planning board is created.

Recommendation

The legislation should clearly spell out that the affected cities, counties and towns will retain authority in the fringe area but that once all of them approve the plan and official controls recommended by the joint planning board they must revise their existing plans and official controls accordingly.

Official Map

An official map is another tool available to local governments to help implement the comprehensive plan. It permits the local government to preserve land from development that will be needed for future street and highway purposes and as sites for other necessary public facilities and services such as parks, libraries, and police and fire stations.

The official map has not been used very often due in part to a lack of interest but more likely due to a lack of understanding because of the complexity of the procedures necessary to put an official map in place.

Recommendation

Simplify the procedures necessary for implementing the official map by removing the requirement to adopt a thoroughfare plan and community facilities plan before adopting the official map. Instead permit the local government unit to adopt an official map after they have adopted a comprehensive plan as defined in the definition section and which is required before adopting zoning regulations. The definition of the official map should also be simplified by removing reference to counties in the metropolitan area since the authority to establish official maps exists for all municipalities and counties.

1 Subd. 2. (AUTHORITY.) The joint planning board shall serve
 2 as the planning commission for purposes of sections 462.351 to
 3 462.364 within the designated area. Adoption and amendment of
 4 plans and official controls and any other board action shall be
 5 by resolution of a majority of all members of the planning
 6 board. All board actions and recommendations must be acted upon
 7 by each local government unit represented on the joint planning
 8 board within 45 days of receipt of recommendation. If plans and
 9 official controls adopted by the board are approved by all local
 10 governments represented on the board, plans and ordinances
 11 currently in effect must be revised to reflect the board's
 12 recommendation.

13 Subd. 3. (DISSOLUTION.) The joint planning board may be
 14 dissolved upon presentation of a resolution passed by two-thirds
 15 of the governments represented on the board to the county
 16 auditor of the county in the designated area.

17 Subd. 4. (STAFFING.) The county shall provide staff to
 18 assist the joint advisory board and the joint planning board in
 19 carrying out their duties as specified in sections 13 and 14
 20 unless otherwise agreed by the local government units.

21
 22 Sec. 15. [394A.14] [OFFICIAL MAPS.]

23 Subdivision 1. (STATEMENT OF PURPOSE.) Land that is needed
 24 for future street and highway purposes and as sites for other
 25 necessary public facilities and services is frequently diverted
 26 to nonpublic uses which could have been located on other lands
 27 without hardship or inconvenience to the owners. When this
 28 happens, public uses of land may be denied or may be obtained
 29 later only at a prohibitive cost or at the expense of
 30 dislocating the owners and occupants of the land.
 31 Identification on an official map of land needed for future
 32 public uses permits both the public and private property owners
 33 to adjust their building plans equitably and conveniently before
 34 investments are made which will make such adjustments difficult
 35 to accomplish.

36 Subd. 2. (ADOPTION.) After the planning-agency-has-adopted

The law does not clearly spell out how affected parties are to be notified.

Recommendation

A standard notice requirement should be established for all land use determinations. The notice should include a description of affected property owners for each type of determination to insure adequate notice.

The law currently requires a center line survey when an official map has been prepared in unplatted areas. This has had a stifling effect on the use of the official map by both counties and cities because of the high cost of this survey.

Recommendation

Allow the local government to adopt an official map without a center line survey but require a center line survey when the city receives an application for a building permit or upon the initiation of condemnation proceedings.

There is no current requirement that an affected city or town be notified when an official map has been adopted.

Recommendation

The legislation should be amended to require that an official map will be furnished to each affected town or city once an official map has been adopted. This will be addressed in the section on filing and should be the same as that required for comprehensive plans and zoning ordinances.

1 a-major-thoroughfare-plan-and-a-community-facilities-plan, to
 2 may, for the purpose of carrying out the policies of the major
 3 thoroughfare plan and community facilities plan, prepare and
 4 recommend to the governing body a proposed local government unit
 5 has adopted a comprehensive plan, it may adopt an official map
 6 covering the entire municipality local government unit or any
 7 portion thereof. The governing body may, after holding a public
 8 hearing, adopt and amend the official map by ordinance. A
 9 notice of the time, place and purpose of the hearing shall be
 10 published in the official newspaper of the municipality at least
 11 ten days prior to the date of the hearing. The governing body
 12 may adopt and amend the official map only after the notice and
 13 public hearing requirements specified in section are met.
 14 The official map or maps shall be prepared in sufficient detail
 15 to permit the establishment of the future acquisition lines on
 16 the ground--in unplatted areas a minimum of a centerline survey
 17 shall have been made prior to the preparation of the final draft
 18 of the official map, provided that a survey by a registered land
 19 surveyor, at the expense of a local government unit or the
 20 state, shall be necessary only upon application for a building
 21 permit or upon initiation of condemnation proceedings. When a
 22 survey is required, the accuracy of the future acquisition lines
 23 shown on the official map shall be attested to by a registered
 24 land surveyor. After adoption, a copy of the official map or
 25 sections thereof with a copy of the adopting ordinance attached
 26 shall be filed with the county recorder as provided in sections
 27 462-352 to 462-364. A copy of the official map shall be
 28 furnished to the city or town clerk of each affected city or
 29 town.
 30 Subd. 3. [EFFECT.] After an official map has been adopted
 31 and filed, the issuance of building permits by the municipality
 32 local government unit shall be subject to the provisions of this
 33 section. Whenever any street or highway is widened or improved
 34 or any new street is opened, or interests in lands for other
 35 public purposes are acquired by the municipality local
 36 government unit, it is not required in such proceedings to pay

Appeals**Recommendation**

The appeals procedures for official maps and for that matter all land use decisions should be placed in one uniform section.

Amendments**Recommendation**

The amendment process for official maps should be placed in a single section that also includes the comprehensive plan and other official controls.

Conditional Use

Current language which requires the filing of every ordinance resolution, map, regulation adopted, or variance granted does not include conditional uses. Language requiring that conditional uses be filed is in a different section of the statutes. This seems unnecessary and could be clarified by a simple amendment

Recommendation

Add a new subdivision to N.S. 462.36 that will provide for the recording of variances and conditional uses in a single section of the law. This subdivision should apply to counties and cities since it is not necessary to have separate sections for both levels of government.

1 for any building or structure placed without a permit or in
2 violation of conditions of a permit within the limits of the
3 mapped street or highway or outside of any building line that
4 may have been established upon the existing street or highway
5 within any area thus identified for public purposes. The
6 adoption of an official map does not give the municipality local
7 government unit any right, title, or interest in areas
8 identified for public purposes thereon, but the adoption of the
9 map does authorize the municipality local government unit to
10 acquire such interests without paying compensation for buildings
11 or structures erected in such areas without a permit or in
12 violation of the conditions of a permit.

13

14 Sec. 16. [394A.15] [CONDITIONAL USE.]

15 Subdivision 1. [AUTHORITY.] The board governing body may
16 by ordinance designate certain types of developments including
17 planned-unit-developments land use and certain land development
18 activities, as conditional uses under zoning regulations.
19 Conditional uses may be approved upon a showing by an applicant
20 that standards and criteria stated in the ordinance will be
21 satisfied. Such standards and criteria shall include both
22 general requirements for all conditional uses and, insofar as
23 practicable possible, requirements specific to each designated
24 conditional use. All standards and criteria shall be stated in
25 specific terms, to provide meaningful guidance to an applicant
26 and the approval authority and shall be stated in quantitative
27 terms when possible.

28

29 Subd. 2. [PROCEDURES.] Conditional use permits shall be
30 issued by the officer administering the official controls only
31 upon the order of the board or the planning commission or the
32 governing body as designated by ordinance as the approval
33 authority for one or more categories of conditional uses. The
34 planning commission shall in all instances have an opportunity
35 to review conditional uses prior to any final decision by the
36 designated approval authority. In cases where the planning
37 commission is not the designated approval authority, the

Current legislative language does not contain a time limit for making a decision or issuing an order granting approval or denial of the conditional use.

Recommendation

Insert language that requires that a decision must be rendered within 120 days after a properly completed application for a conditional use permit has been submitted unless an EIS or EAW is required in which case the application shall be approved within 30 days following the approval of the EIS or EAW.

It has generally been assumed that the conditional use goes with the property. However, neither the county nor the municipal law states that this is so.

Recommendation

The language in both laws should be amended to clearly state that the conditional use permit remains with the land regardless of how many times the land changes ownership.

1 application for a conditional use shall be referred to the
 2 planning commission, if there is one, for review and the
 3 governing body may not make a decision on the application until
 4 it has received the planning commission's written recommendation
 5 or until 60 days have elapsed after the date of the referral.
 6 If the planning board makes a written recommendation, the
 7 recommendation shall be binding on the governing body unless the
 8 governing body by a two-thirds vote of all of its members elects
 9 otherwise. The designated approval authority shall make a
 10 decision and issue an order within 120 days after a properly
 11 completed application for a conditional use permit has been
 12 submitted unless an E.I.S. or E.A.W. is required by section . . . ,
 13 in which case the application shall be preliminarily approved
 14 within 30 days after final approval of the E.I.S. or E.A.W. or
 15 an extension of the review period has been agreed to by the
 16 applicant. The date that the application is received by the
 17 office of the person charged with enforcing the zoning ordinance
 18 shall be construed as the date of submission. A copy of the
 19 order shall be immediately mailed to the applicant. Public
 20 hearings shall be held in accordance with as required in section
 21 394.26 In connection with ordering the order for
 22 issuance of a conditional use permit the designated approval
 23 authority may impose such additional restrictions or conditions
 24 as it deems considers necessary to protect adjacent properties
 25 and the public interest, including but not limited to matters
 26 relating to appearance, lighting, hours of operation and
 27 performance characteristics. When appropriate, restrictive
 28 covenants may be entered into regarding such these matters.
 29 Subd. 3. [DURATION.] A conditional use permit shall remain
 30 in effect for so long as the conditions agreed upon are
 31 observed, provided that nothing in this section shall prevent
 32 the board governing body from enacting or amending official
 33 controls to change-the-status-of-conditional-uses make an
 34 approved conditional use a nonconformity and subject to
 35 additional requirements. Conditional use permits, once granted,
 36 remain attached to the subject property regardless of

The municipal and county laws are unclear on whether the permit lapses if the conditional use has been discontinued or not put in place for 12 months or more. In addition current law does not provide local governments with authority to establish time limits.

Recommendation

Present law allows controlling criteria to be altered for allowed conditional uses, should a problem develop. However, it is also suggested that language be inserted stating that the conditional use permit lapses if the conditions agreed to have not been implemented within 12 months of application.

The current legislative language does not provide for any review or appeal of a conditional use decision.

Recommendation

Insert a new subdivision to be titled "Review" which provides for a review and appeal procedure by any person, board or political subdivision within 30 days.

Public Hearings

Public hearings are required to be held before adopting or amending the comprehensive plan or regulatory controls such as the zoning ordinance or subdivision regulations. There are essentially two purposes for holding a public hearing. The first is a legal purpose providing the applicant with a opportunity to present his case (due process). The second is to provide information to the public on the case and also to provide an opportunity for public involvement in the decision making process.

The language referring to public hearings is located in several places in the municipal planning law. For example, public hearing requirements are mentioned in the sections on subdivision regulations, comprehensive plan, zoning ordinance, and board of adjustment. Public hearing requirements in the county planning law are located in one place.

Recommendation

Incorporate all the language dealing with public hearings into a single section of the law.

The procedures for public hearings are different in the two laws.

Recommendation

Where possible and appropriate combine the various city, county, and township requirements and procedures for public hearings.

1 ownership. If the conditional use has been discontinued or not
2 put in place for 12 months or more the permit lapses. An
3 amendment to the original conditional use permit may be required
4 for expansion of or changes to a conditional use. The
5 requirements for obtaining a conditional use permit must be met
6 before an amendment to a conditional use permit may be granted.

7 Subd. 4. [REVIEW.] All decisions by the designated
8 approval authority to grant or deny a conditional use permit
9 shall be final, except that any aggrieved person, or any
10 official, department, board, commission, or political
11 subdivision of the state may, within 30 days of notice of the
12 decision, appeal to the district court.

14 Sec. 17. 394+26 [394A.16] [PUBLIC HEARINGS.]

15 Subd. 1a Subdivision 1. [WHEN HELD.] In-addition-to-public
16 hearings-required-by-section-395-51-prior-to Public hearings
17 shall be held before the adoption by ordinance of any
18 comprehensive plan or amendments-thereto-or amendment, the
19 adoption of any official control or amendment thereto-public
20 hearings-shall-be-held-before, the approval or denial of any
21 conditional use permit, any variance, and-any-proposal-for-a or
22 subdivision is-approved-or-denied-by-the-responsible
23 authority plan and in circumstances where a public hearing is
24 otherwise required by sections 394+22 to 394+37
25 Such A public hearing for a conditional use permit,
26 variance, subdivision proposal, or an amendment to official
27 controls must be held within 45 days following the delivery of
28 an application completed in compliance with the municipal
29 ordinance by the applicant to the municipality, unless an
30 extension has been agreed to by the applicant. The public
31 hearings may be continued from time to time and additional
32 hearings may be held.

33 Subd. 2. [NOTICE.] Notice of the time, place, and purpose
34 of any public hearing shall be given by publication in a
35 newspaper of general circulation in the town, municipality city,
36 or other area concerned, and in the official newspaper of the

Neither the municipal law nor the county law is clear on who is responsible for ensuring that notices are distributed. In addition it is not clear to whom the notices should go in quasi-judicial/legislative matters.

Recommendation

Specify that it is the responsibility of the local government through its planning commission and staff to make sure that notices regarding public hearings are sent to the appropriate people and in a timely manner.

The distances within which notices are required to be sent are excessive in the case of variances in both cities and counties. In addition there are also problems when the local unit of government is required, as in the case of amendments to certain official controls like zoning and subdivision regulations, to notify owners of record within one-half mile of the affected property. According to some county zoning administrators, this has resulted in confusion and in certain situations has required that virtually everyone in the county be notified. Another problem has been the practice of some cities who provide notification only to their corporate limits even though their may be property owners just outside the corporate limit that are within the 500 foot requirement.

Recommendation

Reduce the distances required for notification in the case of official controls including conditional uses, variances, zoning regulations, and subdivision regulations from 500 feet to 350 feet or the nearest ten property owners in cities and unincorporated areas irrespective of jurisdictional boundaries. Notification should also be given to the adjacent local government units within 350 feet of the proposed action except counties where the adjacent land is within another city.

1 county, at least ten days before the hearing--except that notice
 2 of public hearings in connection with the adoption by ordinance
 3 of any comprehensive plan or amendments thereto or adoption or
 4 amendment of any official controls shall be given in the manner
 5 provided by section 375.517 subdivision 3. In addition to the
 6 requirements of section 375.517 subdivision 2, written notice of
 7 public hearings held by the county on all official controls and
 8 amendments thereto shall be sent to the governing bodies of all
 9 towns and all municipalities located within the county. Written
 10 notice of public hearings regarding the application of official
 11 controls to specific properties, including but not limited to
 12 conditional uses, variances, rezoning involving all or part of
 13 one or more contiguous parcels of property owned by the same
 14 person or persons or an area of less than five acres in
 15 incorporated areas and 20 acres in unincorporated areas, zoning
 16 regulations permits issued to owners of land reserved for future
 17 public use on the official map, and subdivision regulations
 18 approval, shall be sent to all property owners of record
 19 within 500 350 feet of the affected boundaries of the entire
 20 property owned by the applicant that includes the subject
 21 property in incorporated areas--in unincorporated areas--the
 22 written notice shall be sent to property owners as follows:
 23 (a) in the case of variances, to owners of record within
 24 500 feet of the affected property;
 25 (b) in the case of conditional uses, to owners of record
 26 within one-quarter mile of the affected property or to the ten
 27 properties nearest to the affected property, whichever would
 28 provide notice to the greatest number of owners;
 29 (c) in the case of all other official controls--including
 30 but not limited to zoning regulations and subdivision
 31 regulations, to owners of record within one-half mile of the
 32 affected property or to the ten owners of record of property
 33 nearest to the boundaries of the entire property owned by the
 34 applicant that includes the subject property, whichever would
 35 provide notice to the greatest number of property owners,
 36 irrespective of local government unit boundaries.

1 Written notice of hearings on conditional uses, variances,
 2 rezoning, zoning, and subdivision plan approval shall also be
 3 given to the affected board of town supervisors, and the
 4 municipal council of any municipality within two miles of the
 5 affected all local government units containing any part of the
 6 subject property. Written notice must also be given to other
 7 local government units located within 350 feet of the boundaries
 8 of the entire property owned by the applicant that includes the
 9 subject property if the property is located within an
 10 incorporated area or one-half of a mile if the property is
 11 located within an unincorporated area.

12 The person responsible for mailing the notice may use any
 13 appropriate records to determine the names and addresses of
 14 owners. A copy of the notice and a list of the owners and
 15 addresses to which the notice was sent shall be attested to by
 16 the responsible person and shall be made a part of the records
 17 of the proceedings. Failure to give mailed notice to individual
 18 property owners or defects in the notice does not invalidate the
 19 proceedings, provided that a bona fide attempt to comply with
 20 this subdivision has been made.

21 Subd. 3e j. [ASSIGNMENT.] The board governing body of the
 22 local government unit may assign responsibility to conduct
 23 public hearings for one or more purposes to the planning
 24 commission, board of adjustment or any official or employee of
 25 the county-except-as-provided-in-section-375.51 local
 26 government unit.

27
 28 Sec. 18. 462+36 [394A.17] [CERTIFIED COPIES FILED WITH
 29 COUNTY RECORDER.]

30 Subdivision 1. [REQUIRED FILINGS.] A certified copy of
 31 every ordinance or other official control adopted, including any
 32 supplemental maps or charts, shall be filed with the county
 33 recorder and registrar of titles. Ordinances, resolutions,
 34 maps, or regulations filed under sections ... to ... do not
 35 constitute encumbrances on real property. Failure to file does
 36 not affect the validity or enforceability of the ordinance,

The county planning law does not contain language claiming that, failure to give mailed notice to individual property owners does not invalidate the public hearing proceedings. The municipal law does.

Recommendation

This disclaimer language should apply to counties also. This language could easily be contained in a single section of the law that applies to counties, cities, and townships.

Language requiring the recording of every ordinance, map and regulation that is adopted is causing unnecessary work for some of the county recorders. Moreover it is probably easier for the general public to review zoning ordinances, subdivision regulations, and comprehensive plans in the offices of the city which has prepared these documents.

Recommendation

Require the recording of only conditional use permits and variances.

1 resolution, map, or regulation.
 2 Subdivision- Subd. 2. [REQUIRED DOCUMENTS RECORDING.] A
 3 certified copy of every ordinance-resolution-map-regulation
 4 adopted, conditional use permit or variance granted under the
 5 provisions of sections 462.350 and 462.355, including all
 6 attached conditions and a legal description of affected
 7 properties, shall be filed for recording with the county
 8 recorder or registrar of titles of the county or counties in
 9 which the municipality local government unit adopting it is
 10 located. Ordinances-resolutions-maps-regulations-or
 11 variances-filed-with-the-county-recorder-pursuant-to-this
 12 subdivision-do-not-constitute-encumbrances-on-real-property.
 13 The order issued by the governing body or board of appeals and
 14 adjustments as the case may be shall include the legal
 15 description of the property involved. Failure to file an
 16 ordinance-resolution-map-regulation-variance-or-order shall
 17 not affect its validity or enforceability.
 18 Subd. 3. [FILING WITH CONTIGUOUS PLANNING AUTHORITIES.]
 19 A copy of a comprehensive plan adopted by a planning agency
 20 under the provisions of sections 462.351 to 462.364 and official
 21 controls adopted by the local government unit shall be filed
 22 with the governing body of each contiguous municipality local
 23 government unit and with the regional planning agency, if any,
 24 established to serve the area in which the municipality local
 25 government unit is located.
 26 Subd. 4. [PLAT APPROVAL; FILING.] Copies of resolutions
 27 approving subdivision plats of land within a municipality local
 28 government unit, but contiguous to another municipality local
 29 government unit shall be filed with the governing body of the
 30 contiguous municipality local government unit. Copies of
 31 resolutions approving subdivision plats of land outside
 32 a municipality local government unit but subject to its
 33 subdivision regulations shall be filed with the clerk of the
 34 town in which the land is situated.
 35 Subd. 5. [DESIGNATION.] The local government unit shall
 36 designate by resolution the official or employee responsible for

Language concerning whether it is necessary to file a comprehensive plan with the school district or the watershed district is either lacking or unclear.

Recommendation

Insert language that requires, in addition to the contiguous municipality, that school districts, watershed districts and the applicable county also receive copies of the comprehensive plan.

1 meeting the requirements of this section.

2

3 Sec. 19. 394+32 [394A.18] [COOPERATION WITH MUNICIPALITIES
4 CITIES.]

5 Subdivision 1. [PLANNING AND ZONING SERVICES.] The
6 governing body of any municipality city may contract with
7 the county board for planning and zoning services to be provided
8 by the county and. The contract may provide that the
9 municipality city shall pay such fees as are agreed for the
10 services performed.

11 Subd. 2. [JOINT PLANNING ACTIVITIES.] The contract between
12 the governing body of the municipality city and the county board
13 may provide among other things for joint county-municipal
14 county-city planning activities, or it may designate the county
15 board as the planning agency for the municipality city.

16 Subd. 3. [COMPREHENSIVE PLAN AND OFFICIAL CONTROLS.] The
17 governing body of any municipality city may request a county
18 board to submit to such the governing body a comprehensive plan
19 for the municipality city setting forth such provisions as
20 that the county board deems considers applicable to
21 the municipality city and for its best interests, or to include
22 the area within the municipality city in a countywide
23 comprehensive plan, or to prepare official controls to apply to
24 the area within the municipality city. Notwithstanding the
25 adoption of the comprehensive plan and recommendations for
26 the municipality city the plan and recommendations shall not be
27 binding until official controls are adopted by the municipality
28 city in accordance with the plan or until the county adopts
29 official controls for the areas within the incorporated limits
30 of the municipality city when requested by the governing body of
31 the municipality. After the county adopts official controls for
32 areas within a municipality city, the county shall enforce the
33 controls unless the county and municipality city provided
34 otherwise by agreement. A municipality city may at any time, by
35 resolution of its governing body, take over planning functions,
36 including adoption and enforcement of official controls, with

1 respect to areas within its corporate limits for which a county
2 has adopted official controls.

3
4 Sec. 20. 394+33 [394A.19] [RELATIONS WITH TOWNS.]
5 Subdivision 1. The governing body of any town including
6 any town with the powers of a statutory city pursuant to law may
7 continue to exercise the authority to plan and zone as provided
8 by law, but after the adoption of official controls for a county
9 or portion thereof by the board of county commissioners no town
10 shall enact or enforce official controls inconsistent with or
11 less restrictive than the standards prescribed in the official
12 controls adopted by the board. Nothing in this section shall
13 limit any town's power to adopt official controls, including
14 shoreland regulations which are more restrictive than provided
15 in the controls adopted by the county. Upon the adoption or
16 amendment of any official controls the governing body of the
17 town shall file a certified copy thereof with the county
18 recorder or registrar of titles for record. A certified copy of
19 any official controls of any town which are in effect on August
20 1, 1974 shall also be filed by the governing body of the town
21 with the county recorder or registrar of titles for record
22 within one year from August 1, 1974.

23
24 Sec. 21. 462+362 [394A.20] [ENFORCEMENT AND PENALTY.]
25 A municipality local government unit may by ordinance
26 provide for the enforcement of ordinances or regulations adopted
27 under sections 462+351 to 462+364-and-provide-penalties
28 ~~for-violation-thereof~~ A municipality local government
29 unit may also enforce any provision of sections 462+351 to
30 462+364 or of any ordinance adopted thereunder by
31 mandamus, injunction, or any other appropriate remedy in any
32 court of competent jurisdiction. Violation of sections to
33 is a misdemeanor.

34
35 Sec. 22. 462+361 [394A.21] [JUDICIAL REVIEW.]
36 Subdivision 1. [REVIEW OF ACTION.] Any person aggrieved by

Current language in the county planning law regarding enforcement is wordy, vague, and unnecessary.

Recommendation

Delete the sections in the county planning law pertaining to enforcement (M.S.394.37 Subd. 1, 2, 3, and 4.) and insert the enforcement language currently in the municipal planning law. This should result in a single section on enforcement for both counties and municipalities.

Miscellaneous

The county planning law at the present time contains no language to guide judicial review. This is becoming more of a problem because judges have become much more active recently in land use decisions. The municipal law contains language on this topic but lacks judicial review language concerning variances and conditional uses.

Recommendation

It is recommended that the language in the city law regarding judicial review also apply to counties. This should be combined into a single section of the law. In addition language regarding review procedures for variances and conditional uses should also be added for both cities and counties. Again this should be a single section that applies to both levels of government.

1 an ordinance, rule, regulation, decision or order of a governing
 2 body or board of adjustments and appeals acting pursuant to
 3 sections 462-352 to 462-364 may have such the
 4 ordinance, rule, regulation, decision or order, reviewed by an
 5 appropriate remedy in the district court, subject to the
 6 provisions of this section.

7 Subd. 2. [EXHAUSTION OF REMEDIES.] In actions brought
 8 under this section, a municipality local government unit may
 9 raise as a defense the fact that the complaining party has not
 10 attempted to remedy the grievance by use of procedures available
 11 for that purpose under ordinance or charter, or under
 12 sections 462-352 to 462-364 If the court finds
 13 that such the remedies have not been exhausted, it shall require
 14 the complaining party to pursue those remedies unless it finds
 15 that the use of such the remedies would serve no useful purpose
 16 under the circumstances of the case.

17

18 Sec. 23. 462-364 [394A.22] [INCONSISTENT LAWS.]

19 Inconsistent special laws and general laws of special
 20 application are superseded by sections 462-352 to 462-364
 21 to the extent of inconsistency. Nothing in
 22 sections 462-352 to 462-364 is to be construed to
 23 affect, alter or modify the provisions of Special Laws of 1887,
 24 chapter 108, or Laws 1933, chapter 93. Laws are inconsistent
 25 when a person or entity cannot comply with the terms of each.

26

27 Sec. 24. 394-322 [394A.23] [RELATION-TO-OTHER-COUNTY
 28 AUTHORITY EXTENSION OF TIME FOR COMPLIANCE.]

29 Subdivision 1. [OFFICIAL CONTROLS.] All official controls
 30 in effect on August 1, 1974 1988, shall remain in full force and
 31 effect until amended or repealed whether such controls were
 32 adopted by resolution of the board or by ordinance and whether
 33 or not comprehensive plans had been adopted before the official
 34 controls were adopted, except as provided in subdivision 2. Any
 35 official controls and any procedures for the administration of
 36 official controls which are in existence on August 1, 1974 1987,

3. The county planning law does not contain any language on inconsistent laws and the municipal planning law, while containing language on inconsistent laws, does not specify what inconsistent means.

Recommendation

Apply the provision of inconsistent laws to both counties and municipalities in a single section of the law. Also provide a definition of what is meant by inconsistent laws.

Since the recommendation in this section is to require a comprehensive plan prior to the adoption of official controls it will be necessary to provide ample time, for local governments who currently have official controls, but no comprehensive plan, to prepare and adopt a comprehensive plan.

Recommendation

Insert a new section which allows a local government which has official controls but no officially adopted comprehensive plan up to five years to prepare and adopt a comprehensive plan.

- 1 shall be brought into compliance with Laws 1974
- 2 chapter 974 ... within five two years from August 1, 1974
- 3 1987.
- 4 Subd. 2. [COMPREHENSIVE PLAN.] Any local government unit
- 5 that has adopted official controls without adopting a
- 6 comprehensive plan must adopt by resolution and file with the
- 7 county recorder a comprehensive plan within five years from
- 8 August 1, 1988. Failure to adopt a comprehensive plan within
- 9 five years will invalidate all official controls which are in
- 10 existence before a comprehensive plan is adopted.

I-2

Action by Council:

MEMORANDUM

Endorsed _____
Modified _____
Rejected _____
Date _____

TO: City Manager
FROM: Director of Community Development
SUBJECT: Estate Lot Rezoning
DATE: September 21, 1987

Councilmember Anderson asked to have the subject of estate lot rezoning put on the September 28 agenda. If council wishes to initiate an estate lot rezoning, a specific area must be designated. One area that would be worth considering is the land south of Fish Creek.

kd

MEMORANDUM

Action by Council:

Endorsed _____

Modified _____

Rejected _____

Date _____

TO: Mayor and City Council
FROM: City Manager *Michael M. Squire*
RE: October 5th Solid Waste Meeting
DATE: September 22, 1987

Councilmember Wasiluk, who is on the Solid Waste Committee has a conflict on October 5th and requested that a new meeting date be established.

It is recommended that a meeting be scheduled for one of the following dates:

Monday, October 19th at 7:00 p.m.

Monday, November 16th at 7:00 p.m.

MAM:1nb

MEMORANDUM

Action by Council:

TO: City Manager
FROM: City Engineer
SUBJECT: City Hall HVAC Modifications
DATE: September 22, 1987

Endorsed _____
Modified _____
Rejected _____
Date _____

INTRODUCTION

Attached is a proposal from Midwestern Mechanical, the mechanical contractor for city hall. The proposal outlines a number of additions to the HVAC system that address problems encountered since the building has been put in operation.

BACKGROUND

Five items are identified in the proposal as follows:

1. Boiler controls--this equipment would allow more efficient operation of the two boilers. An outside air temperature sensor would regulate the hot water temperature. The boiler sequence would also be controlled. This would eliminate the short cycling of the boilers and the constant manual adjustments to water temperature. (Cost \$2,855)
2. Circulating pump controls--again an outside air temperature sensor would be used to control the operation of the hot water circulating pumps. Manual operation would be eliminated. (Cost \$720)
3. Modifications to the dispatch room--due to the electronic equipment in this room, extra cooling capacity is required. By adding a diffuser and some minor duct work the additional cooling can be supplied. (Cost \$400)
4. Modifications to the telephone/electrical room--this room also requires extra cooling due to electronic equipment. Adding a VAV box, some duct work and transfer grills will supply the required cooling. (Cost \$2,150)
5. Modifications to upstairs equipment room--again electronic equipment creates more heat than originally assumed. An additional VAV box, transfer grills and thermostat will supply the required cooling. (Cost \$1,950)

ALTERNATIVES

1. Install all the suggested equipment.
2. Install some of the suggested equipment.
3. Do nothing.

DISCUSSION

The entire system has been evaluated numerous times in the past year. A number of items have been identified. The five items identified

above have been deemed the most important, in fact critical items. The first two items address efficiency of the heating system. The automated controls will constantly react to changing weather. This is particularly important during spring, fall and those few extremely cold days in winter. The other three items are required for cooling expensive electronic equipment.

The second alternative obviously saves money compared to the first alternative. The question is how to choose which equipment is to be installed. All five items are considered equally important.

The last alternative costs nothing. The disadvantage is potential damage to electronic equipment and lost energy efficiency.

RECOMMENDATION

It is recommended the council authorize the expenditure of \$8,075 to make the identified modifications to the city hall HVAC system.

BUDGET IMPACT

It is recommended this work be funded by a transfer from the general fund contingency account. The current balance in this account is \$138,630.

jc

9.10.87



MIDWESTERN MECHANICAL CORP.

9103 DAVENPORT • BLAINE, MN 55434 • 612/780-1170

Architectural Alliance
400 Clifton Ave.
Minneapolis, MN 55403

September 9, 1987

Attn: Jim Corkery
Peter Potvin

Re : Maplewood City Hall

1. Provide one (1) Raypack Model Y-1 Sequence panel complete with temperature sensors and all necessary wiring, adjustable setpoints and throttling range and lead-lag switch. Outdoor air sensor with radiation shield to the north face of the building

For a sum of Two Thousand Eight Hundred Fifty-Five and no/100
(2,855.00)

2. Install an outdoor air temperature sensor to start hydronic heating pumps. Complete with a lead-lag switch and all necessary wiring to completely automate boiler operation.

For a sum of Seven Hundred Twenty and no/100 (720.00)

3. Dispatch Room #337:
 - A) Add 1 - 4' long supply air diffuser w/7" rd. neck
 - B) Re-balance VAV Box #42 400 CFM
 - C) Disconnect the diffuser currently serving Room #332 from the down stream side of VAV Box #42 and reconnect to VAV Box #43.
 - D) Re-balance VAV Box #43 to 170 CFM

For a sum of Four Hundred and no/100 (400.00)

4. Room #417 Telephone/Electrical Equipment:
 - A) Add one (1) new VAV Box #48 250 CFM with cooling only
 - B) Two (2) 1416 Transfer grilles with one fire damper in wall. Add One (1) supply air register @ 250 CFM and necessary ductwork.
 - C) Add one (1) Thermostat to room #417 to control new VAV Box.

For a sum of Two Thousand One Hundred Fifty and no/100
(2,150.00)

Page 2.

Maplewood City Hall Con.

- 5) Dispatch Equipment Room on Upper Mezzanine:
- A) Add one (1) New VAV Box #49 @ 500 CFM
 - B) Two (2) 1416 Transfer Grilles with fire damper.
 - C) Install one (1) Thermostat to Mezzanine area to control new VAV Box #49.

For a sum of One Thousand Nine Hundred Fifty and no/100
(1,950.00)

If you have any questions regarding these prices, or the work to be performed, please feel free to give me a call.

Thank you.

Sincerely,



Randy L. Strain
Midwestern Mechanical

cc: Ken Heider - Maplewood City Hall
Arnie Grismer - Knutson Construction Co.