

**CITY OF GAYLORD**  
**Planning and Zoning Commission Agenda**  
Wednesday, December 9, 2015  
5:30 p.m., City Hall

1. Call Meeting to Order
2. Consider 12-09-15 Agenda
3. Approval of Minutes –
  - a. October 14<sup>th</sup> Meeting
4. SKETCH PLAN REVIEW – School Addition (Former City/Dean Messner Property)
5. Comprehensive Plan Update Proposals (summary only, hard copies available at meeting) – Kevin McCann, City Administrator
6. Sale of Mud Lake First Addition and Meadow Wood Addition
7. Discussion Regarding Condition and Use of Properties on East Side of Town – Kevin McCann
8. Frontage Road Update – Kevin McCann
9. Open Forum - Comments from citizens in attendance
10. Other
11. Adjournment

**\*\* Denotes amendments to the most recent draft of the agenda.**

**CITY OF GAYLORD**  
**Planning and Zoning Commission Meeting**  
Wednesday, October 14, 2015  
5:30 pm, City Hall

MEMBERS PRESENT: Chairperson, Orlin Grack; Commissioners, Marilyn Bratsch, Jerry Gasow, Bill Schulte, Steve Boerner  
COUNCIL PRESENT: Jessica Uecker, Chad Muchow  
STAFF PRESENT: Kevin McCann, Administrator

1. Call Meeting to Order  
Pursuant to due call and notice, thereof, the Planning and Zoning Commission was called to order in the City Hall Chambers by Chairperson Grack at 5:35 pm.
2. Consider October 14, 2015 Agenda  
Motion made by Council Uecker; seconded Commissioner Boerner by to approve P&Z Agenda as presented. Motion passed 7-0.
3. Approval of Minutes: September 9, 2015 Regular P&Z Mtg  
Noted correction of date on header should read September 9, 2015, not August 12, 2015. Motion made by Council Muchow; seconded by Commissioner Schulte to approve September 9, 2015 P&Z Minutes with notation of correction. Motion passed 7-0.
4. Public Hearing – Variance Request – Bill and Nancy Cowell  
Bill and Nancy Cowell have submitted a variance request for a 20 foot variance from the front yard setback requirement of 30 feet from the right of way. This would allow them to construct a deck addition within 10 feet of the right of way (ROW). The request is due to hardship due to lot depth in relation to the house and most logical place for deck. Discussion held regarding other options for deck to be wrapped around to the south side of house with replacing front steps and landing. It was noted steps are not included in the variance. Motion made by Council Muchow to deny variance request due to altering the essential character of the locality by being the closest structure to the ROW and the sidewalk and waive application fee if Cowells wish to reapply for a similar structure but requesting less footage for variance; seconded by Commissioner Schulte. Motion passed 7-0.
5. Discussion Regarding Heritage Preservation Ordinance – Amy Newsom, HPC Chair  
City Administrator McCann reviewed Ordinance to revitalize downtown. Consensus by committee to move forward with Ordinance as presented.
6. Comprehensive Plan Update – Kevin McCann, City Administrator  
City Administrator McCann presented a proposal to update the Comp Plan in 2016 since the city will have nearly \$50,000 set aside for the update. RFPs which would be submitted in November with a response by the December 2015 P&Z meeting for decision of company with intent of a start date January 2016.

7. Discussion Regarding Condition and Use of Properties on East Side of Town – Kevin McCann, City Administrator  
Chairperson Grack and City Administrator McCann will make a personal visit to Terri Olson and Mike Neisen regarding condition of property.
  
8. Discussion Regarding Dean Messner Property on east side of town and possible frontage road – Kevin McCann, City Administrator  
City Administrator McCann reported Mayor Boeder will be meeting with Dean Messner regarding the acquisition of approximately seven acres to accommodate the new elementary school. Engineers are currently looking at the feasibility of a frontage road running from 13<sup>th</sup> St. to Jefferson Ave. that would accommodate businesses along the highway. They are also looking at ways to make Melro safer by closing it or adding a roundabout if one would fit. Council Uecker noted a roundabout would not be wise in this location.
  
9. Open Forum – comments from citizens in attendance - none
  
10. Adjournment  
Motion made by Commissioner Gasow; seconded by Commissioner Schulte to adjourn.  
Motion passed 7-0. Meeting adjourned at 6:50 pm.

## Kevin McCann

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**From:** Kevin McCann <kmccann@exploregaylord.org>  
**Sent:** Friday, December 04, 2015 2:54 PM  
**To:** 'Kevin McCann'  
**Subject:** RE: Messner plat

Forgot to include the subdivision language;

## CHAPTER 152: SUBDIVISION REGULATIONS

Section

### *General Requirements*

- 152.001 Purpose
- 152.002 Legal authority
- 152.003 Jurisdiction
- 152.004 Applicability
- 152.005 Conveyance of land
- 152.006 Right of building permit refusal
- 152.007 Definitions

### *Sketch Plan*

- 152.015 Submission to Planning and Zoning Commission
- 152.016 Sketch plan data

### *Preliminary Plat*

- 152.030 Advisory meeting with city staff
- 152.031 Preliminary plat required
- 152.032 Data
- 152.033 Procedures
- 152.034 Plat review charge

### *Final Plat*

- 152.045 Final plat data and supplementary data
- 152.046 Procedure

### *Minimum Improvements Required*

- 152.060 Responsibility of developer
- 152.061 General
- 152.062 Official map
- 152.063 Drainage and flood hazard areas
- 152.064 Community assets
- 152.065 Monuments and stakes
- 152.066 Public site and open space
- 152.067 Street, bicycle/pedestrian paths and block layout
- 152.068 Minimum widths for streets and alley right-of-way
- 152.069 Minimum pavement widths and surface types
- 152.070 Street grade, curves and site distances
- 152.071 Intersections
- 152.072 Lots
- 152.073 Utilities and drainage
- 152.074 Other requirements
- 152.075 Subdivision agreements
- 152.076 Easements

152.077 Public utilities

*Modifications and Exceptions*

152.090 Major subdivisions

152.091 Small subdivisions

152.092 Unusual physical conditions

*Administration and Enforcement*

152.105 Enforcement

152.106 Schedule of fees, charges and expenses

152.107 Variances

152.108 Special application requirements

152.109 Planned unit development

152.110 Violations

**GENERAL REQUIREMENTS**

**§ 152.001 PURPOSE.**

Land subdivision is the first step in the process of community development. Once land has been divided into streets, blocks, lots and open spaces, a pattern has been established which determines how well community needs for residence, business and industry will be met. It also determines, to a great extent, how well the community will be able to handle its traffic circulation problems, how well it will be able to meet the demand for more home sites and how efficiently and economically it will be able to provide the many services that are required. These subdivision regulations are designed to provide the many services that are required. These subdivision regulations are designed to provide for harmonious development of a subdivided area; for a coordinated layout; for the proper arrangement of streets; for adequate and convenient spaces for traffic, utilities, recreation, light, air and access for firefighting equipment; and for adequate provision for water, drainage, sewer and other sanitary facilities. These regulations shall not apply to land used only for agricultural purposes.

(Ord. 232, passed 11-1-2000)

**§ 152.002 LEGAL AUTHORITY.**

This chapter is enacted pursuant to M.S. § 462.358, as amended from time to time.

(Ord. 232, passed 11-1-2000)

**§ 152.003 JURISDICTION.**

The regulations herein governing plats and the subdivision of land shall apply within the corporate limits of the city as determined by plat at the time of application and the unincorporated area within two miles of its limits; provided that, where a municipality lies less than four miles from the limits of the city, these regulations shall apply only to a line equidistant from the city and the municipality; and, provided further, that, the governing body or bodies of incorporated towns adjacent to the city have not adopted ordinances for the regulation of subdivision of land or platting. Copies of resolutions approving subdivision plats of land outside the city, but not subject to township subdivision regulations shall be filed with the Clerk of the town in which the land is situated.

(Ord. 232, passed 11-1-2000)

**§ 152.004 APPLICABILITY.**

Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of this chapter, shall be prepared, presented for approval and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into three or more lots, tracts or other division of land for the purpose of sale or building development, whether immediate or future, including the re-subdivision or re-platting of land or lots.

(Ord. 232, passed 11-1-2000)

**§ 152.005 CONVEYANCE OF LAND.**

No conveyance of a parcel of land in which the parcel of land conveyed is described by metes and bounds or by reference of a plat made after adoption of these platting regulations without recommendation by the Planning and Zoning Commission, approval by Council resolution, shall be made or recorded unless the parcel is a

separate parcel of record on the effective date of this chapter or unless an agreement to convey the parcel was entered into prior to the time and the instrument showing agreement to convey is recorded in the office of the County Recorder within one year hereafter. A registered land survey identifying the lot split and the two resulting lots shall be submitted with this request. All existing structures and the setbacks from property lines, easements, adjacent streets and rights-of-way shall be identified on the survey.

(Ord. 232, passed 11-1-2000)

**§ 152.006 RIGHT OF BUILDING PERMIT REFUSAL.**

No conveyance of land which is subject to this chapter shall be filed or recorded if provisions of this chapter are not met. Conveyances not in compliance with these regulations shall be refused building permits and utility services.

(Ord. 232, passed 11-1-2000)

**§ 152.007 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ALLEYS.** Minor ways which are used primarily for vehicular service access to the backs or to the sides of properties which otherwise abut on streets.

**ARTERIAL STREETS** and **HIGHWAYS.** Those designed or utilized primarily for vehicular speeds and/or for heavy volumes of traffic.

**BLOCK.** The distance as measured along a street between intersecting streets from centerline to centerline; and where the context requires, it also means the enclosed area within the perimeter of the streets or property lines enclosing it.

**CITY FORESTER.** The City Administrator shall serve as the City Forester unless otherwise designated.

**COLLECTOR STREETS** and **HIGHWAYS.** Those designed or utilized to carry intermediate volumes of traffic from minor streets to arterial streets.

**CUL-DE-SAC.** A local street with only one outlet and having appropriate turn-around for the safe and convenient reversal of traffic movement.

**LOCAL STREETS.** Those which are used or will be used primarily for access to abutting properties and which carry limited volumes of traffic.

**LOT.** A piece or parcel of land occupied or to be occupied by a building or use or as a unit for the transfer of ownership.

**MAP.** A drawing showing one or more parcels of land.

**PLAT.** A map showing a plan for the subdivision of land which is submitted for approval and is intended in final form for recording.

**SERVICE DRIVES.** Minor streets which are parallel and adjacent to higher classified thoroughfares which serve to reduce the number of access points to those thoroughfares and thereby increase traffic safety.

**SETBACK.** The building setback line of distance as measured from the nearest street, road, property line or water shoreline.

**SKETCH PLAN.** An initial drawing of the property to be subdivided intended for use as an informal means of discussion with the Planning and Zoning Commission.

**STORM SEWER.** A constructed conduit for carrying surface waters to a drainage course.

**STREET.** A way set-aside for vehicular traffic, regardless of size or designation, but excluding private driveways serving only one parcel of land.

**SUBDIVIDER.** Any person, individual, firm, association, syndicate, co-partnership, corporation, trust or other legal entity commencing proceedings under this chapter to effect a subdivision of land.

**SUBDIVISION.** A described tract of land which is to be or has been divided into three or more lots or plots for the purpose of immediate or future transfer of ownership for the purpose of sale or of building development, including the re-subdivision or re-platting of land or lots.

**SURVEYOR.** A duly registered land surveyor employed by the subdivider for the preparation of subdivision surveys or plats as required by this chapter and state statutes, and in accordance with local and state law.

**TRANSPORTATION PLAN.** The part of the Comprehensive Plan, now or hereinafter adopted which includes a major street and highway plan and sets forth the location, alignment, dimension, identification and classification of existing and proposed streets, highways and other thoroughfares.

**UTILITIES.** Include water mains, sanitary sewer lines, storm sewer lines, power lines, gas lines, telephone lines and cable television lines.

**ZONING ORDINANCE.** The Zoning Ordinance of the city, as amended, including the Official Zoning Map which divides the jurisdiction of the Planning and Zoning Commission into districts with regulations, requirements and procedures for the establishment of land use controls.

(Ord. 232, passed 11-1-2000)

## SKETCH PLAN

### § 152.015 SUBMISSION TO PLANNING AND ZONING COMMISSION.

(A) Subdividers may prepare a subdivision sketch plan for review by the Planning and Zoning Commission. The sketch plan will be considered as having been submitted for informal discussion between the subdivider and the Planning and Zoning Commission. No fee shall be required of the subdivider for the submission of a sketch plan.

(B) Submission of a subdivision sketch plan shall not constitute formal filing of a plan with the city. On the basis of the subdivision sketch plan, the Planning and Zoning Commission will informally advise the subdivider of the extent to which the plan conforms to the Comprehensive Plan, design standards of this chapter and to other chapters of the city, county and state and will discuss possible modification necessary to secure approval of the plan.

(Ord. 232, passed 11-1-2000)

### § 152.016 SKETCH PLAN DATA.

The subdivider should provide the Planning and Zoning Commission with the following information:

- (A) Site location;
- (B) A rough sketch of the site showing its general shape and adjacent roadway, waterways and any other significant features of the immediate area;
- (C) Type of development proposed;
- (D) A preliminary road layout and lotting arrangement indicating minimum proposed lot size; and
- (E) The sketch plan shall include all contiguous property under the same ownership which is proposed to be developed at some time in the foreseeable future, not just the property to be immediately platted.

(Ord. 232, passed 11-1-2000)

## PRELIMINARY PLAT

### § 152.030 ADVISORY MEETING WITH CITY STAFF.

Before preparing a preliminary plat and submitting it to the Planning and Zoning Commission for approval and, after submitting the sketch plan, the subdivider shall meet and consult informally with the city staff for the purpose of reviewing the locations of proposed major streets, bicycle/pedestrian paths, parks, playgrounds, school sites and other planned projects which may affect the property being considered for subdivision. At the same meeting, the subdivider shall review with the city staff the minimum standards of subdivision design set forth in § 152.076. This informal review should prevent unnecessary and costly revisions in the layout and development of the subdivision. Formal application or filing of a plat with the city is not required for this informal advisory meeting.

(Ord. 232, passed 11-1-2000)

### § 152.031 PRELIMINARY PLAT REQUIRED.

Before submission of a final plat, the subdivider shall prepare and submit to the City Administrator preliminary plats of the land they propose to develop as described in § 152.033(B). The preliminary plats shall be submitted only after the advisory meeting with the city staff and prior to the making of any street improvements or the installation of any utilities. The preliminary plat shall cover all of the owner's contiguous land, but the final plat may cover only a portion of the preliminary plat, provided it is in conformity with the approved preliminary plat.

(Ord. 232, passed 11-1-2000)

**§ 152.032 DATA.**

The preliminary plat shall meet the standards of design as set forth in § 152.030 and shall show the following information:

- (A) Scale of 100 feet to one inch or larger;
- (B) Name of subdivision, name and address of the owners, the engineer or surveyor and the owners of the adjacent property;
- (C) Location of subdivision by section, town, range or other legal description together with a small scale sketch showing location within the section;
- (D) Date of preparation and of last revision (if applicable), approximate north point and graphic scale;
- (E) Acreage of land to be subdivided;
- (F) Zoning classification of lands to be subdivided and all adjacent lands within 300 feet of the preliminary plat;
- (G) Boundary lines of area to be subdivided, the bearings and distances and total acreage calculated to the nearest one-tenth acre;
- (H) Existing and proposed easements and their locations, widths and distances;
- (I) Street, lot line and easement locations within 100 feet of the proposed plat;
- (J) Shoreland management area boundaries for Mud Lake and Lake Titloe, if applicable;
- (K) Lot lines, lot numbers and approximate lot dimensions;
- (L) Sites, bike/pedestrian paths and their acreages, if any, to be reserved or dedicated for parks, recreation areas, open spaces, schools or other public uses. Sites, if any, for semi-public, commercial or multifamily uses;
- (M) Minimum building setback;
- (N) Location of railroads, streams, wetlands, lakes, marshes, wooded areas, drainage tiles, retention ponds, natural and proposed drainage courses, permanent buildings and other structures or significant physical feature;
- (O) If the preliminary plat is a rearrangement or a re-plat of any recorded plat, the lot and block arrangement of the original plat, its original name, and all revised or vacated roadway shall be shown by dotted or dashed line;
- (P) Certification by registered land surveyor certifying to accuracy and preparation of plat;
- (Q) A plan for utility service shall be presented with the preliminary plat. The utility plan shall include: utilities on and adjacent to the tract showing proposed connections to existing utility systems. Data to be provided includes types of utility; location of sanitary sewer, storm sewer and watermain lines, manholes, catch basins, hydrants and the like; approximate manhole and catch basin rim and invert elevations, size of pipe, direction of flow and required utility easements;
- (R) A plan for grading, retention landscaping and wetland preservation, and delineation per 1991 Wetland Conservation Act, being M.S. Chapter 103G shall be presented with the preliminary plat. The grading plan shall include:
  - (1) Existing contours at two-foot intervals in dashed lines and proposed contours at two-foot intervals in heavier solid lines;
  - (2) Existing and proposed methods of retention disposing of surface water drainage within and beyond the limits of the plat;
  - (3) Provisions to protect areas affected by inadequate surface drainage or subjected to periodic flooding; provide an outlet or other protection to make the area safe for occupancy and provide for adequate street and lot drainage, and emergency overflow or ponding;
  - (4) Provisions to protect existing natural features, when possible. Wooded and wetland areas to be disturbed shall be delineated. All trees eight feet in diameter or greater shall be shown;
  - (5) Proposed street grades, including; elevations at all high and low points, grades of streets within 100 feet of the plat and street elevations at plat boundaries;
  - (6) Proposed garage slab and lowest floor elevations for each lot. Lots proposed for walkouts, and lookouts shall be so noted; and
  - (7) Floodway, flood fringe boundaries and 100-year flood elevations.
- (S) Additional information to be supplied:

- (1) Statement of proposed use of lots; such as, whether residential, commercial, industrial or combination thereof. If residential, state type and number of dwelling units. Furnish sufficient details for all types of usage in order to reveal the effect of the subdivision development on traffic, fire protection and density of development;
- (2) If zoning changes are contemplated, the proposed zoning plan for the area;
- (3) Copies of the proposed deed restrictions and/or covenants, if any;
- (4) Other reasonable information, such as percolation or other soil tests, if so requested by the Planning and Zoning Commission in order to make a proper review of the site;
- (5) A location map clearly showing the plat location in the city; and
- (6) Soil boring and footing load design.

(Ord. 232, passed 11-1-2000)

**§ 152.033 PROCEDURES.**

(A) Prior to submittal of the preliminary plat, in the case of any proposed plat which includes lands abutting any existing or established trunk highway or proposed highway which has been designated by a center line order found in the office of the County Recorder, the plat shall first be presented to the Commissioner of the Department of Transportation for their written comments and recommendations. The Commissioner of the Department of Transportation shall submit written comments to the city in accordance with state law. In requesting the comments of the Commissioner of the Department of Transportation, the subdivider shall include a written statement describing the outlet for and means of disposal of surface water in the proposed platted area.

(B) Two copies of the preliminary plat and supplementary material specified shall be submitted to the City Administrator for filing with a written application for conditional approval.

(C) The City Administrator shall, upon the receipt of a preliminary plat, retain one copy and refer one copy to the Engineer for review as to completeness of information. If found to be incomplete, the application will be returned to the developer. If found to be complete, the plat will be referred to other city department heads and the utility companies (gas, telephone, electric, cable and the like) for review as necessary.

(D) Upon review by city department heads, the utilities commission, the telephone company and cable television, the copy of the plat together with all comments and suggested revisions shall be referred to the Planning and Zoning Commission for a public hearing. The preliminary plat shall receive the approval of the Engineer as to the engineering considerations prior to consideration by the Planning and Zoning Commission. A certificate of approval by the Engineer shall be attached to the preliminary plat. Recommendations from the City Forester in regard to the preservation and future planting of trees shall also be attached.

(E) The city shall notify the subdivider by mail of the time and place of the public hearing not less than ten days before the date fixed for the hearing. Similar notice shall be mailed to the owners of the land immediately adjoining the area to be subdivided as shown on the preliminary plat. Time and place of the public hearing shall be published at least once in the official newspaper at least ten days prior to the hearing. The publication shall include a drawing, which shows the location of the proposed subdivision.

(F) Within 60 days after the hearing on the preliminary plat, the Planning and Zoning Commission shall recommend approval, disapproval or approval subject to modification of the plat to the Council. Failure of the Planning and Zoning Commission to act on the preliminary plat within 60 days shall be deemed a recommendation of approval of the plat. If a plat is recommended for disapproval, reasons for the disapproval must be stated in writing. If approval subject to modifications is recommended, the nature of the required modifications shall be indicated in writing. The Planning and Zoning Commission shall then forward the preliminary plat together with its recommendations to the Council for final action. The final action of the Council shall be noted on two copies of the preliminary plat with any notations made at the time of approval, disapproval of the specific changes required. One copy shall be returned to the subdivider and the other placed on file in the office of the City Administrator.

(G) Approval of the preliminary plat shall not constitute acceptance of the final plat. The approval of the preliminary plat shall lapse unless a final plat thereon is submitted within 60 months from the date of the approval. An extension of time may be applied for by the subdivider and granted by the Council.

(Ord. 232, passed 11-1-2000)

**§ 152.034 PLAT REVIEW CHARGE.**

A filing fee will be charged at the time of filing the preliminary plat to offset administrative costs in processing the application submitted; no additional fee will be charged for filing a final plat. The fee will be computed on the basis of a minimum fee as determined by resolution of the Council.  
(Ord. 232, passed 11-1-2000)

## FINAL PLAT

### § 152.045 FINAL PLAT DATA AND SUPPLEMENTARY DATA.

The final plat shall be prepared at a scale of one inch = 100 feet in the following numbers: One mylar reproducible stamped "City Copy", signed; one cloth, stamped "Original", signed; and two cloth stamped "copy", signed. The final plat shall be prepared on sheets 20 feet wide and 30 feet in length with a two-foot left borderline and a one-fourth inch top, bottom and right border line. Also include one 11-inch x 17-inch mylar copy of the final plat. The final plat shall include the following information and any other information required by state law:

(A) Data required by state law to fully describe the land to be platted including accurate dimensions, angles, bearings to describe boundaries, streets, easements, areas reserved for public purpose and other important features;

(B) Name and right-of-way width of each street, highway, easement or other rights-of-way as required by state law;

(C) Lot numbers, lot lines and dimensions;

(D) Purpose for which sites, other than residential lots, are dedicated or reserved;

(E) Location of rivers, streams, creeks, lakes, ponds, swamps as required by state law;

(F) Location and description of monuments as required by state law;

(G) Names and location of adjoining subdivision, streets and unplatted properties;

(H) Certification on plat of title showing that the applicant is the owner and a statement by the owner dedicating street, rights-of-way and any other sites for public use;

(I) Certification on plat by surveyor as to the accuracy of survey and plat;

(J) Certification on plat by the City Administrator that the plat has been approved for recording in the office of the County Recorder;

(K) Certification that the subdivider has complied, when so required by the city, with one of the following alternatives shall be submitted with the final plat:

(1) All the improvements have been installed in accordance with the requirements of these regulations;

(2) A bond has been posted with the city which is in an amount determined by the Council to be sufficient to these regulations, is with a surety satisfactory to the Council, and which specifies the time for completion of the improvements and installations; or

(3) A subdivision agreement will be signed by the subdivider and the city relative to improvements and appurtenances to the plat.

(L) Cross-sections, profiles and grades of streets, bicycle/pedestrian paths, curbs, gutters and sidewalks showing locations of in-street utilities, and drawn to standard scales and elevations shall be submitted with the final plat, when improvements are installed under division (K)(1) or (2) of this section;

(M) Protective covenants, if any, shall be submitted with the final plat; and

(N) Letters of approval of highway access points and service roads from the Commissioner of the Department of Transportation and the County Engineer, as applicable, shall be submitted with the final plat.

(Ord. 232, passed 11-1-2000)

### § 152.046 PROCEDURE.

(A) Twelve paper print copies of the final plat together with any street profiles, other plans and certifications as indicated in § 152.045 of this subchapter, that may be required shall be submitted to the City Administrator by the subdivider.

(B) One paper print copy of the final plat shall be transmitted to the Engineer who will check the plat as to computations, monuments and the like, and that all the required improvements have been completed to the satisfaction of the city, or, in the case a security bond has been posted, that it is sufficient to cover the cost of the required improvements. If found satisfactory, the Engineer will refer the paper print copy of the final plat to the Planning and Zoning Commission with the Engineer's approval certified thereon within 30 days of receipt

thereof. The Planning and Zoning Commission shall then forward the plat together with its recommendations to the Council for final action.

(C) Within 60 days after the submittal of the final plat, the Planning and Zoning Commission shall recommend approval or disapproval of the plat. Failure of the Planning and Zoning Commission to act upon the final plat within 60 days shall be deemed a recommendation of approval of the plat. If plat disapproval is recommended, the grounds for disapproval shall be stated in the records of the Planning and Zoning Commission. A plat shall not be recommended for approval unless it conforms to the preliminary plat; conforms to the design standards set forth in this chapter; conforms to the adopted Comprehensive Plan; and is in accordance with all requirements and laws of the state. The Planning and Zoning Commission shall then forward the plat together with its recommendations to the Council for final action.

(D) It is the intent of this chapter that a paper copy of the final plat goes to the Planning and Zoning Commission and City Engineer for review and to the Council for action. No final plat shall be approved by the Council until satisfactory evidence is filed with the city that the final plat is in a form acceptable to recording in the office of the County Recorder, and until there is deposited with the city the amount of the filing fee to be charged for the record with the amount to be established by the City Council by resolution.

(E) When the final plat has been approved by the Council, the developer shall then cause the required mylar, cloth, paper and sepia prints, all of which contain the certifications, signatures (except that of the city officials and the County Recorder), and acknowledgments required to file and record same in the office of the County Recorder to be produced and submitted to the city. The city shall record the final plat in the office of the County Recorder.

(F) Upon approval of the final plat, the subdivider shall record it with the County Recorder within 270 days in the manner specified by state law. Otherwise the approval shall become void unless a request for extension has been made in writing and approved by the Council.  
(Ord. 232, passed 11-1-2000)

**MINIMUM IMPROVEMENTS REQUIRED**

**§ 152.060 RESPONSIBILITY OF DEVELOPER.**

The developer shall provide the following improvements before approval of a plat; or shall provide the necessary funds in escrow; or shall provide a performance bond in an amount necessary to ensure compliance with the installation of improvements as herein required. Provided, however, that, the Council may also accept petitions for the improvements to be installed on a special assessment basis. All of the improvements required in this section shall be constructed only after plans and specifications thereof have been approved by the city. No areas platted after the effective date of this chapter outside the city or properties subdivided by metes and bounds descriptions after the effective date of this chapter will be accepted for annexation unless it shall substantially conform or can be made to substantially conform to the minimum standards herein.

(Ord. 232, passed 11-1-2000)

**§ 152.061 GENERAL.**

If so adopted, the plat shall conform to the official map and other parts of the adopted Comprehensive Plan of the city.

(Ord. 232, passed 11-1-2000)

**§ 152.062 OFFICIAL MAP.**

Whenever a tract to be subdivided embraces any part of an arterial or collector street or highway, so designated on the official map, if so adopted, the part shall be platted by the subdivider in the location and at the width indicated on the plan.

(Ord. 232, passed 11-1-2000)

**§ 152.063 DRAINAGE AND FLOOD HAZARD AREAS.**

The right is reserved to disapprove a subdivision, which is subject to poor drainage. However, if the subdivider agrees to make the improvements as will make the area safe for residential occupancy, the subdivision may be approved, subject however, to the approval of the Engineer and in accordance with the state statute. No land shall be subdivided which is held unsuitable by the Council for reasons of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the Flood Plain Districts shall contain a

building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewer disposal facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. (Ord. 232, passed 11-1-2000)

**§ 152.064 COMMUNITY ASSETS.**

In all subdivisions, due regard shall be shown for natural features such as trees, unusual rock formations and water courses; for sites which have historical significance; and for similar assets which, if preserved, will add attractiveness and value to the subdivision and to the community. (Ord. 232, passed 11-1-2000)

**§ 152.065 MONUMENTS AND STAKES.**

All subdivision boundary corners, block and lot corners, street intersection corners, and points of tangency and curvature shall be marked with survey monuments consisting of minimum 5/8-inch steel rods 24 feet in length. Inscribed on the monument or cap, according to state statute, shall be the registration number of the land surveyor making the survey. All federal, state, county and other official bench marks, monuments or triangulation station in or adjacent to the property shall be preserved in precise position. (Ord. 232, passed 11-1-2000)

**§ 152.066 PUBLIC SITE AND OPEN SPACE.**

The following requirements are applicable to all subdivisions within the jurisdiction of the Park Board, Planning and Zoning Commission and City Council.

(A) In subdividing land or subdividing an existing plat, due consideration shall be given to the subdivision and by the Planning Committees upon review, to the dedication or reservation of suitable sites for schools, conservation areas, bike/pedestrian paths or open spaces and parks. Where a proposed public park, bike/pedestrian path, recreational area or open space, as determined by the Comprehensive Plan, Planning and Zoning Commission and Council, is located in whole or in part within a subdivision, the subdivider shall dedicate the lands to the city; provided, however, that, the total dedication (exclusive of public streets, alleys and pedestrian ways, and exclusive of all other purchased sites such as fire and police stations, water towers and treatment plants and sewer lift stations), shall be consistent with the following requirements:

(1) *Residential zoned subdivisions.* For land within a residential zone, formulas for land dedication shall be as follows:

- (a) *Zoning Districts R-1.* A land dedication of 7.5% of the undeveloped site or its fair market land value;
- (b) *Zoning Districts R-2.* A land dedication of 12% of the undeveloped site or its fair market land value;
- (c) *Zoning District Commercial and I/C-1.* A negotiated percentage of land dedication of the undeveloped site or its fair market land value; and
- (d) *Business park or industrial zoned subdivision.* None required, with exception of comprehensively planned bike/pedestrian paths shall be by easement.

(2) *Infrastructure assessment costs.* Infrastructure assessment costs incurred with any of the land dedication above shall be calculated and levied against the bike/pedestrian paths, park or open space by lineal foot of frontage. In no case shall the assessment cost levied against the park or bike/pedestrian path exceed 60% of the value of the land dedicated.

(3) *Definition.* For purposes of this division, **FAIR MARKET LAND VALUE** is defined as the market value of the land within the plat or subdivision as of the date presented to the Council for preliminary approval, as determined by the City Assessor or the sale price, whichever is higher, in the same manner as they shall determine the estimated market value of land for tax purposes, excluding from the determination any value added to the land by improvements serving the land, but including in the determination the highest and best force at the time of the platting.

(4) *Payment in lieu of dedication.* The city shall have the option of requiring a cash contribution in lieu of the land dedication set forth in division (A) above. Cash contribution shall be based on the following schedule.

- (a) *Zoning District R-1.* A cash contribution of \$215 per unit;
- (b) *Zoning District R-2.* A cash contribution of \$175 per unit;
- (c) *Zoning District Commercial and I/C-1.* A negotiated cash contribution based on its fair market land value; and

(d) *Business park or industrial zoned subdivision.* None required.

(5) *Partial dedication and partial payment.* The city may permit or require the subdivider to provide a partial dedication and a partial payment in accordance with the requirements as set forth above.

(6) *Review.* The cash and land dedication value set forth above shall be reviewed by the Park Board on an annual basis and a revised schedule, if any, shall be set forth by the Council.

(B) When structures are constructed on property which has been previously platted and on which plat no park or bike/pedestrian path dedication on record in cash or land was given to the city, a park or bike/pedestrian path dedication fee in accordance with the schedules hereinafter set forth shall be paid at the time of the subdivision agreement or when the building permit is issued. If the park or bike/pedestrian path as indicated on record has been previously satisfied at the time of platting in accordance with the requirements then in existence, then no further fee shall be levied. If a partial payment has been made, then the balance of the development shall be charged the rate set forth in division (A)(1) of this section.

(C) When building permits are issued on property which is not platted and is not required to be platted prior to receiving a building permit, a fee shall be paid at the time of building permit issuance in accordance with the above schedule.

(D) Sums of money so received by the city shall be placed in a special account to be known as the Public Sites and Equipment Fund and allocated by the Council solely for the acquisition of land or purchase of equipment for public parks, recreation areas or open spaces, bike/pedestrian path development of existing parks and recreational areas or debt retirement in connection with the land or equipment previously acquired for parks, bike/pedestrian paths, recreational areas or open areas.

(E) Pursuant to state statute, the following may be required: The subdivider shall be responsible for providing site development plans with provisions for the control of drainage, erosion, and siltation if the plans are considered necessary by the City Engineer or by law, for the purpose of soil and water conservation.

(F) In high density zoning districts, the Council may require developments of 24 units or more to create a private entity to maintain some form of on site recreation for use by the site residents; specifically preschool children.

(Ord. 232, passed 11-1-2000)

#### **§ 152.067 STREET, BICYCLE/PEDESTRIAN PATHS AND BLOCK LAYOUT.**

The following requirements are applicable to all subdivisions within the city.

(A) The subdivision shall be so designed as to be in harmony with adjacent subdivisions and provide for the continuation of existing streets and bicycle/pedestrian paths. Provisions shall be made for streets and bicycle/pedestrian paths through the subdivision for the platting of contiguous property.

(B) The street layout shall provide access adequate for emergency and public service vehicles to all lots and parcels of land within the subdivision.

(C) Where appropriate to the design, streets shall be established to avoid jogs at intersections and to promote continuity of local streets and those of higher classifications. Street jogs with centerline offsets of less than 125 feet shall be discouraged.

(D) Streets shall be established to take advantage of the contour of the land so as to produce usable lots, cause a minimum of cutting and filling, and to produce streets with reasonable grades as defined in § 152.070.

(E) Certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to provide for adequate circulation of traffic within the vicinity.

(F) Streets shall intersect other streets as near to a 90-degree angle as topography and other factors permit. Intersections of streets and arterial or collector streets shall be limited to a minimum angle of 70 degrees unless specifically approved by the Planning and Zoning Commission.

(G) Whenever there exists a dedicated or platted portion of a street, alley or bicycle/pedestrian path adjacent to the proposed subdivision which conforms to the official map, if so adopted, the remainder of the street or alley shall be platted to the prescribed width within the proposed subdivision.

(H) Half-width streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations. Where an existing half-width street adjoins a portion of the boundary of a proposed subdivision, street dedication in a width needed to make this a full-width street may be required.

- (I) Street and right-of-way widths shall conform to those required by the city. Where the widths are not prescribed, the widths shall not be less than the minimum stated in § 152.068.
- (J) Alleys shall be platted in the rear of all lots to be used for commercial or industrial purposes. Alleys will not be approved in residential areas, unless required by unusual topography or other exceptional conditions.
- (K) Lands abutting arterial or collector streets shall be platted with the view of making the lots, if for residential use, desirable for the use by cushioning the impact of heavy traffic on the trafficways; and with the view also of minimizing interference with traffic on the trafficways as well as the accident hazard. This may be accomplished in several ways:
  - (1) By not fronting the lots on the highway or thoroughfare but on a parallel local street at a distance of a generous lot depth, in which case private driveways shall connect with the local street; and/or
  - (2) By a collector street platted more or less parallel with the highway or thoroughfares, 600 to 1,000 feet distance therefrom, from which loop streets or dead end streets would extend toward the highway, the ends of which provide access to the lots abutting the highway to their rear.
- (L) Dead end streets will be approved if limited to 500 feet long provided a permanently designed turn around area having a minimum radius to the edge of the finished street or curb line of not less than 53 feet and a minimum right-of-way radius of 60 feet, is constructed.
- (M) Closed subdivisions (with one exit) shall not be permitted.
- (N) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, unless, in the opinion of the Planning and Zoning Commission, prevented by unusual topography or other physical conditions.
- (O) The lengths, widths and shapes of blocks, and lots with blocks, shall be determined with due regard to:
  - (1) Provision of adequate building sites suitable to the special needs of the principal and all required accessory uses;
  - (2) Zoning requirements as to lot sizes and dimensions, and provisions regulating off-street parking and loading spaces;
  - (3) Needs for convenient access, circulation, control and safety of street traffic;
  - (4) Limitations and opportunities of topography; and
  - (5) Generally, blocks shall not exceed 1,320 feet nor be less than 300 feet high in length measured along the greatest dimension of the block.
- (P) Residential blocks shall normally be of sufficient width for two tiers of lots. Block lengths shall be determined by circulation and other needs. Where residential blocks with lots deeper than 200 feet are proposed, a reservation for a future street through the middle of the block, longitudinally, may be required.
- (Q) Pedestrian crosswalks, not less than ten feet wide, shall be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.
- (R) Bicycle and pedestrian paths shall be designed in accordance with the Finnra Standards and laid out in accordance with the requirements of the City Council, and shall be dedicated by easement.
- (S) The number of intersecting streets along arterial and collector streets shall be held to a minimum, and where practicable, blocks along the trafficways shall not be less than 670 feet in length.

(Ord. 232, passed 11-1-2000)

**§ 152.068 MINIMUM WIDTHS FOR STREETS AND ALLEY RIGHT-OF-WAY.**

(A) For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be known in the Comprehensive Plan and where not shown therein, the minimum right-of-way width for streets, arterial highways or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

<i>Classification</i>	<i>Desirable</i>	<i>Acceptable</i>
Principal arterial highway	150 feet	100 feet
Minor arterial highway/county road	100 feet	80 feet

Collector streets	70 feet	70 feet
Local streets		60 feet
Service drives		40 feet
Alley	20 feet	16 feet
Pedestrian way/bicycle paths		10 feet See Finnra Standards
Cul-de-sac	60 feet radius	60 feet radius

(B) Where existing or anticipated traffic on principal and minor arterial highways warrants greater widths of right-of-ways, these shall be required.

(Ord. 232, passed 11-1-2000)

**§ 152.069 MINIMUM PAVEMENT WIDTHS AND SURFACE TYPES.**

The following requirements are applicable to all subdivisions within the jurisdiction of the Planning and Zoning Commission.

(A) Pavement widths for arterial and collector streets will be designated by the City Council. Where required to be provided as part of the subdivision, the subdivider will be responsible for 37 feet. The difference, if any, between the cost of the portion to be provided at the expense of the subdivider including the cost of curb and gutter, if any, and that of the total width designated by the City Council shall be borne by the city, the county or by the state's Department of Transportation where applicable, unless it is determined by the Council that the greater width will benefit the subdivider in proportion to its cost.

(B) Local streets and dead end streets shall have minimum widths of 37 feet. Where curb and gutter is required the total width, back-to-back of curb shall be 37 feet. The pavement of a turning circle at the end of a dead end street shall have a minimum paved outside diameter of 53 feet to back of curb.

(C) Alleys shall have minimum paved widths of 16 feet.

(D) Alleys, where permitted, will be constructed with a concrete pavement of a minimum thickness of six inches or of asphaltic concrete of a minimum thickness of four inches mat and ten inches base. This requirement may be varied by the Council if, in their opinion, the requirement imposes too severe a restriction when related to the projected use of the alley.

(E) The subdivider shall grade all streets from property line to property line prior to installation of water and sewer facilities. Centerline street grades are to be established by the subdivider subject to approval of the City Engineer.

(F) The subdivider shall, after grading streets and after sanitary sewer, storm sewer and watermains are in, construct a minimum of six-inch compacted gravel street 37 feet in width. The grading and graveling of the street includes installation of culverts necessary for over the ground drainage until curb and gutter is installed.

(G) Streets shall be graded full width and fully constructed with a concrete pavement of a minimum thickness of six inches or of asphaltic concrete of a minimum thickness of four inches mat and ten inches base or of a construction standard and material approved by the City Engineer, in writing. If the classification of the street justifies the construction of a thicker section, the additional cost thereof shall be borne by the city, the county or the state's Department of Transportation depending upon the agency having jurisdiction.

(H) The subdivider shall within one year provide for the construction of curb and gutter within the confines of the platted area; provided, however, the Council may extend this period where unusual drainage problems exist and the drainage cannot be installed prior to or with the curb and gutter construction, as outlined in a subdivision agreement.

(I) The subdivider shall within two years provide for the construction of the street surface within the confines of the platted area, provided, however, the Council may extend this period, as outlined in the subdivision agreement.

(Ord. 232, passed 11-1-2000)

**§ 152.070 STREET GRADE, CURVES AND SITE DISTANCES.**

The following requirements are applicable to all subdivisions within the city.

(A) The grades of any street or alley shall not be less than 0.4%. Where specifically approved by the City Engineer, alleys may be designed with a twenty-five-one-hundredths grade when constructed with concrete pavement.

(B) The grades in all streets, arterial highways, collector streets, minor streets and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

Principal arterial highway	6%
Minor arterial highway	6%
Collector street	6%
Local street	8%
Alley	8%
Pedestrian way	20% (may be increased if steps of an acceptable design are provided)

(C) All changes in street grade of 1% or more shall be connected by vertical curves. The length of the vertical curve will be determined on the basis of providing stop sign distances for each road classification where design speed for arterial and collector streets is 40 mph and local streets is 25 mph. In no case shall the length required vertical curve be less than 15 times the algebraic difference in rate of grades for arterial and collector streets or one-half of this minimum for all other streets.

(D) The radius of curvature on the center line of the street shall not be less than that required to produce stop sign distance as defined in division (C) of this section. In no case, however, shall the radius or curvature for arterial and collector streets be less than 300 feet or for local streets, service drives and alleys be less than 100 feet.

(Ord. 232, passed 11-1-2000)

**§ 152.071 INTERSECTIONS.**

The following requirements are applicable to all subdivisions within the city.

(A) At a street intersection, the street curb intersection shall be rounded by a radius of at least 15 feet.

(B) Where, in the opinion of the Engineer, the center line profiles of streets presented as part of the preliminary plat do not clearly indicate that adequate intersection design will be accomplished, the Planning and Zoning Commission may request an intersection detail at a scale not to exceed one inch equals 20 feet, which detail will clearly represent the construction details for the intersection.

(C) Intersections shall be designed so as to avoid abrupt changes in longitudinal or transverse slope.

(Ord. 232, passed 11-1-2000)

**§ 152.072 LOTS.**

The following requirements are applicable to all subdivisions within the city.

(A) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated. Lot dimensions shall conform to the requirements of the Zoning Code.

(B) Excessive depth in relation to widths shall be avoided. A proportion of not more than three to one normally shall be considered appropriate.

(C) Every lot shall abut on a street. Lots for residential purposes shall meet the size requirements of the Zoning Code, and also the requirements relative to building setback and side yard requirements.

(D) Residential lots fronting on arterial and collector streets should have extra depths to permit deep setbacks for the buildings.

(E) Double frontage lots and reversed frontage lots shall not be platted except as herein before permitted under § 152.067.

(F) Side lot lines shall be approximately at right angles to the right-of-way line of the street on which the lot fronts.

(G) Narrow, triangular lots, unusual shapes, and lots not permitting at least a 26-foot width house with side yards and driveway, rear yards and front yards are prohibited. No plat will be accepted that contains lots undesirable for building, property subject to recurrent flooding, property at grades greater than 8% or other factors that may cause the properties to be marginal in building operations and cause the property to be returned for property taxes.

(Ord. 232, passed 11-1-2000)

### § 152.073 UTILITIES AND DRAINAGE.

The following requirements are applicable to all subdivisions within the city.

(A) *Water lines.* Where an approved public water supply is within reasonable access to the subdivision as determined by the number of lots, distance from and capacity of existing mains, water lines shall be placed within the right-of-way of each street. Water lines shall have a minimum diameter of six inches. Fire hydrants shall be installed at intervals of not less than 400 feet. The minimum size water main shall be six inches in diameter and all water mains shall be looped so that water is available from two directions to any point. Water mains, fire hydrants, gate valves and appurtenances shall be installed in accordance with acceptable engineering practice. Each lot shall be provided with a connection to the watermain. In general, in new residential areas, water main services with a shutoff shall be installed to appropriate public recreational areas with the water main construction.

(B) *Sanitary sewers.* Sanitary sewers shall be constructed in accordance with a connection to a sanitary sewer. The city may accept an area for platting where the service cannot be provided when the lots are of sufficient size and soil is suitable for private systems in accordance with city and state Health Department recommendations. No private disposal systems shall be interconnected or run to a common private or public drain. The minimum size public sanitary sewer shall be eight inches in diameter. In general in new residential areas sanitary sewer services shall be installed to appropriate public recreational areas with the sewer construction. Sewage lift stations will be constructed if necessary to serve an area, provided a lift station will be constructed on an assessment basis. The lift station cost beyond the area immediately assessable will be held for future assessment to the future area to be served.

(C) *Storm drainage.* All necessary facilities including underground pipe, manholes, inlets, catch basins and other appurtenances necessary to provide adequate drainage for the property or to maintain any natural drainage course shall be the responsibility of the developer. Open drainage ditches will not be allowed unless specifically directed by the City Engineer. Platting of property is prohibited unless it is possible to drain the property by gravity drainage to the natural drainage course for the area. At a minimum no property plat will be accepted unless street grades are at least five feet above lake elevation so as to drain into the streets. The meeting of this requirement does not obligate the Council to accept the plat if there are substantial obstructions to the drainage of the property contained therein and the Council may require that the subdivider install pumping facilities for storm drainage prior to plat acceptance if the facilities are necessary. Storm drainage and retention ponds shall be required and designed in accordance with state statutes.

(D) *Extensions not in platted area.* In some cases, the proposed area to be platted will not be served at its borders by water mains or sanitary sewer. The Council may require a petition for the creation of an assessment district to extend the facilities to the platted area; or may require the subdivider to pay the cost of the extension; or may accept the plat with a separate water or sewer system; or may pay the cost thereof and hold the amount for future assessment; or may refuse acceptance of the plat.

(E) *Building permit.* No building permit shall be issued in the platted area until sewer and water mains are designed, approved and the contract for installation awarded with a satisfactory completion date. No building shall be occupied in the platted area until provided with sanitary sewer and water service and until the street is graveled and the graveling accepted as adequate by the City Engineer to serve the building. The occupancy of a

building in violation of this division shall not relieve the subdivider of any responsibility for street improvement. The transfer of property in the plat from the original subdivider to other parties shall not relieve the subdivider of his or her responsibility for initial street work as defined herein.

(F) *Design of improvements.* The City Engineer will design only the improvements to be installed by the city. A subdivider desiring to contract and install their own improvements shall have plans and specifications prepared by a state-registered engineer, which have been approved by the City Engineer and state agencies before constructing begins. All street, sanitary sewer, storm sewer and watermain improvements installed by the subdivider shall be inspected by the City Engineer and the Engineer shall furnish a written statement to the subdivider of city acceptance of the utility improvements or street as part of the city system. Any corrections to the improvements found necessary by the City Engineer shall be done by and at the expense of the subdivider before the acceptance is made.

(Ord. 232, passed 11-1-2000)

**§ 152.074 OTHER REQUIREMENTS.**

The following requirements are applicable to all subdivisions within the jurisdiction of the city.

(A) *Sidewalks.* Sidewalks at least five feet wide, constructed of concrete pavement with a minimum thickness of four inches shall be constructed on both sides of every street where the average width of lots is less than 60 feet. Sidewalks shall be constructed on one or both sides of collector and arterial streets irrespective of the width of lots where, in the opinion of the Planning and Zoning Commission, these are necessary to protect the safety of pedestrians.

(B) *Driveways.* The subdivider shall install driveways, driveway approaches and curb returns for each connection to the street.

(C) *Screen planting.* The installation of trees and shrubs to form a tight screen effective at all times shall be required along the rear line of any lot in the subdivision which backs onto an arterial or collector street.

(D) *Street names.* All streets are to be named. A proposed street which is in alignment with and which joins an existing and named street shall be given the name of the existing street. The name of a proposed street shall not duplicate the name of an existing street to which it does not connect or with which it is not in alignment.

(E) *Street name signs.* Reflectorized street name signs shall be provided at all street intersections or where a change of direction of a street requires a change of street name. The signs shall be of the size and type approved for use by the city. Normally, one sign will be required at each residential intersection; however, more may be required dependent upon the character and/or width of the streets.

(F) *Tree removal and conservation of vegetation.*

(1) Existing and healthy trees and native vegetation shall be preserved to the maximum extent feasible and shall be protected by adequate means during construction.

(2) Unless already on site, at least one suitable tree shall be planted in the front yard setback on every lot. The type or species of trees planted shall be approved by the city.

(3) Consistent with approved grading plans; existing trees shall be preserved within any right-of-way when they are suitably located and in good health.

(4) No dead trees or uprooted stumps shall remain after development.

(5) All disturbed areas shall be seeded or sodded to prevent erosion.

(6) Detailed landscaping requirements shall be set forth in a development contract.

(Ord. 232, passed 11-1-2000)

**§ 152.075 SUBDIVISION AGREEMENTS.**

An agreement shall be executed by the subdivider and the city before any plat is executed by the city. The agreement shall be recorded by the subdivider in the office of the County Recorder within 30 days of final approval.

(Ord. 232, passed 11-1-2000)

**§ 152.076 EASEMENTS.**

(A) (1) An easement for utilities, at least six feet wide, shall be provided along each side of a side line of lots and/or the rear line of lots where necessary to form a continuous right-of-way, at least ten feet in width.

(2) The easements to be dedicated and provide for utility service from street to street. The intent of the easements is to furnish utility service from the rear of the lots to the buildings.

(3) If necessary for the extension of main water or sewer lines, electrical transformer pads or similar utilities, easements of greater width may be required along lot lines or across lots. Utility easements of at least 10% in width shall be provided along the front lines adjacent to street right-of-way.

(B) Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the Council, by ordinance, upon the recommendation of the Planning and Zoning Commission.

(C) Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.

(D) (1) Where a subdivision is traversed by a water course, drainage way, channel or stream, a storm water easement, drainage right-of-way or park dedication, whichever the Planning and Zoning Commission may deem the most adequate, conforming substantially with the lines of the water course shall be provided, together with the further width or construction or both, as will be adequate for the storm water drainage of the area.

(2) The width of the easements shall be determined by the Planning and Zoning Commission.

(Ord. 232, passed 11-1-2000)

**§ 152.077 PUBLIC UTILITIES.**

(A) All new electric distribution lines (excluding main line feeders and high voltage transmission lines), telephone service lines, cable television and services constructed within the confines of and providing service to customers in a newly platted residential area shall be buried underground; unless the Council specifically shall find, after study and recommendation by the Planning and Zoning Commission, that:

(1) The placing of utilities underground would not be compatible with the development planned;

(2) The additional cost of burying the utilities would create an undue financial hardship; or

(3) Topographical, soil or any other conditions make the underground installation unreasonable or impractical.

(B) All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles. The Planning and Zoning Commission may recommend, and the Council require, that the type of overhead pole used, be of a quality and durability aesthetically in conformance with the nature of the residential development.

(C) Where telephone, electric and/or gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways in such a manner so as not to conflict with other underground services.

(D) All drainage and other underground utility installations which traverse privately owned property shall be protected by easements.

(E) The subdivider is responsible for complying with the requirements of this section and shall submit to the Planning and Zoning Commission a written record from the utilities showing that the necessary arrangements with the utility involved for the installation of the facilities have been made.

(Ord. 232, passed 11-1-2000)

**MODIFICATIONS AND EXCEPTIONS**

**§ 152.090 MAJOR SUBDIVISIONS.**

The general principles of design and minimum requirements for the layout of subdivisions set forth in §§ 152.060 through 152.077 may be varied by the Council in the case of a subdivision large enough to constitute a more or less self-contained neighborhood which is to be developed in accordance with a comprehensive plan safeguarded by appropriate restrictions, and which, in the judgment of the Council, makes adequate provision for all essential community requirements; provided, however, that no modification shall be granted by the Council which would conflict with the proposals of the official map or with the other features of the Comprehensive Plan, is so adopted or with the intent and purposes of the general principles of design and minimum requirements.

(Ord. 232, passed 11-1-2000)

**§ 152.091 SMALL SUBDIVISIONS.**

In the case of a subdivision of small size and minor importance, situated in a locality where conditions are well-defined, and containing not more than two lots fronting on an existing street not involving any new street or road or the extension of municipal facilities and not adversely affecting the adjoining property, the Council

may exempt it from the requirements stipulated in § 152.031 pertaining to the preparation of the preliminary plat. All subdivisions larger than two lots shall follow platting requirements. Large lots capable of being subdivided into more than two parcels shall be allowed only one lot subdivision, after which platting of further subdivisions is required.

(Ord. 232, passed 11-1-2000)

**§ 152.092 UNUSUAL PHYSICAL CONDITIONS.**

In any particular case where the subdivider can show that, by reason of exceptional topographic or other physical conditions, strict compliance with any requirement of this chapter would cause unusual difficulty or exceptional and undue hardship, the Council may relax the requirement to the extent deemed just and proper, so as to relieve the difficulty and undue hardship; provided that, the relief may be granted without detriment to the public good and without impairing the intent and purposes of these regulations or the desirable general development of the neighborhood and the community in accordance with the Comprehensive Plan and the Zoning Code. Any modification thus granted shall be entered in the minutes of the Council setting forth the reasons, which, in the opinion of the Council, justified the modification.

(Ord. 232, passed 11-1-2000)

## **ADMINISTRATION AND ENFORCEMENT**

**§ 152.105 ENFORCEMENT.**

(A) No plat of any subdivision shall be entitled to be recorded in the office of the County Recorder or shall have any validity until it has been approved by the Council in the manner described herein.

(B) It is unlawful for the owner or the agent of the owner to transfer or sell any land by reference to or by other use of a plat or description unless the plat has been approved by the Council as required herein.

(Ord. 232, passed 11-1-2000) Penalty, see § 10.99

**§ 152.106 SCHEDULE OF FEES, CHARGES AND EXPENSES.**

(A) The schedule of fees shall be available at the city offices and may be altered or amended only by the Council.

(B) No plat shall be reviewed until all fees have been paid in full.

(Ord. 232, passed 11-1-2000)

**§ 152.107 VARIANCES.**

(A) *Generally.* The Council may grant a variance from these regulations following a finding that all of the following conditions exist.

(1) There are special circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of their land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(B) *Considerations in granting variances.* In making this finding, the Council shall consider the nature of the proposed use of land and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. In granting a variance herein provided, the Council shall prescribe only conditions that it deems desirable or necessary to the public interest.

(Ord. 232, passed 11-1-2000)

**§ 152.108 SPECIAL APPLICATION REQUIREMENTS.**

Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning and Zoning Commission and the Council, stating fully and clearly all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Planning and Zoning Commission and the Council in the analysis of the proposed project. The plans for the development shall include the covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan. In all cases where applications for variance are

submitted for conditional approval along with the preliminary plat, the action on the conditional approval shall issue from the Council.

(Ord. 232, passed 11-1-2000)

**§ 152.109 PLANNED UNIT DEVELOPMENT.**

The Commission may authorize a variance from these regulations in case of a plan for a complete community or neighborhood which, in the judgment of the Commission, provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs. In making its findings, as required herein below, the Commission shall take into account the nature of the proposed use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The Commission shall find that:

(A) The proposed project will constitute a desirable and stable community development; and

(B) The proposed project will be in harmony with adjacent areas.

(Ord. 232, passed 11-1-2000)

**§ 152.110 VIOLATIONS.**

(A) A person violates any provision of this chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(B) Any owner or agent of the owner of land who conveys a lot or a parcel in violation of the provisions of this section shall pay the city a penalty of not less than \$100 for each parcel so conveyed. The city may enjoin the conveyance or may recover the penalty by civil action.

(Ord. 232, passed 11-1-2000)

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**From:** Kevin McCann [mailto:kmccann@exploregaylord.org]

**Sent:** Friday, December 04, 2015 2:53 PM

**To:** Don Lannoye

**Subject:** Messner plat

Hi Don,

I hope you had a nice conference.

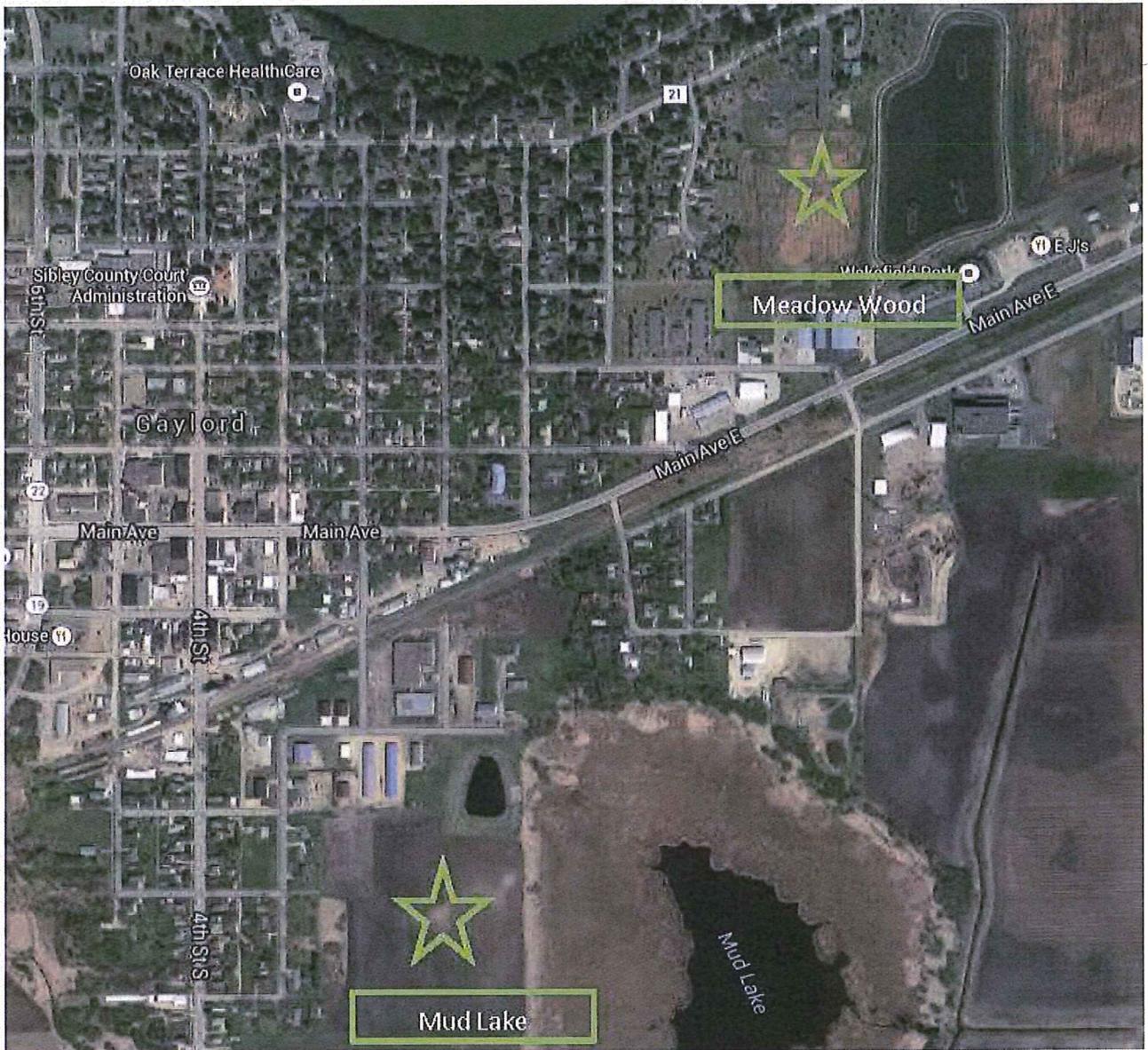
I am working on P&Z next week and Avery has prepared the Messner plat needed to transfer the deeds. He said Dean Messner wants to fast track this because his mom is not doing well. The plat is three large blocks with all easements and utilities accounted for. Block 1 has two lots: lot 1 for the school site and lot 2 the city will retain for the future Harvey Dr. extension. Block 2, lot 1 is the land the city has an option on. Block 3 is the rest of the messner land. (See attached). He also prepared a ghost plat to show how a potential road for development could be put on the site.

Essentially next week's P&Z could be the sketch plan review, but how closely do we need to follow the subdivision Ordinance? (see below). Would we still need a public hearing before a preliminary plat and final plat could be approved? I know they want to fast-track it, but I still want to do things right, even if it is only three large blocks platted by the city.

Kevin

## Comp Plan Proposals

Firm	Scope of Work	Timeline	Key Staff	Recent Comp Plan Updates- Staff or Firm	Key Staff Locations	References	Budget	Addendum: Transportation Study	Total
Bolton & Menk	Initiation, Management, public involvement with 2 workshops, open houses, and key-stakeholder meetings, data development and analysis, capital facilities analysis, implementation strategies	1/1/16 - 11/16/16	Joe Duncan- Principal, Kristi Clarke-Senior Planner, Alex Conzemius-Lead Planner	Wabasha, Chatfield, Eyota, Scandia, Sibley County	Mankato, Burnsville, Rochester	Chatfield, Wabasha, Le Sueur, Forest Lake, Aitkin	\$33,100	\$13,750	\$46,850
Hoisington Koegler Group	Project Kickoff, community audit and visioning, exploration of future direction: Vision, goals, policies, Prepare comp plan update, seek approvals	1/16 - 11/16	Brad Schreib-Principal, Jeff Miller-Project Manager, Kevin Clark-Landscape Architect	Albert Lea, Byron, Elk River, Faribault, Moorhead, Northfield, Osseo, Princeton, Red Wing, Rochester, St. Michael, Worthington, Apple Valley, Chaska, Eden Prairie, Mound, Ramsey, Rogers	Minneapolis	Wahpeton, Chaska, St. Louis Park, Osseo, Ironwood, MI; Perry, IA	\$50,000	\$10,000	\$60,000
Houston Engineering	Community Profile, Goal and planning principles, land use and community design, downtown, housing, parks, recreation, open spaces, transportation, community resources and public facilities, implementation	1/16 -8/31/16	Michael Domitrovich-Project manager, Bart Schultz-PE; Emmy Baskerville-environment, Scott Israelson - Traffic	Fargo, Sartell, Detroit Lakes, Burleigh County, ND	Fargo, Maple Grove	Lake of the Woods Park, Wahpeton Park, ND Dept. of Parks, Fargo			\$79,800
JZP	kickoff, review current plans, establish committee, kickoff, visioning, draft report, review, implementation	1/16 - 8/31/16	Jordan Zeller - principal	Cass Lake, Rice, Browerville, Motley, Menahga, Sebeka, St. Mathias Township	Clara City	Mille Lacs County, Region 5 Development Commission	\$30,600		\$30,600
SEH	Form Steering committee and public participation plan, meet with stakeholders and other public, update existing background information, Develop community vision and develop goals to achieve vision, develop draft and final plans	1/1/16-12/31/16	Justin Black-Principal, Ashley Kaisershot-Planner, Dan Ehrke-Community Development, McComb Group-subconsultant for housing and demographics	Becker, Hutchinson, Douglass County, Sibley County	Hutchinson	Becker, Hutchinson, Douglass County, Sibley County, Glencoe, Silver Lake	\$29,800		\$29,800
Weber	Identify needs, involve public, practical usable plan, strategic plan, identify issues, develop concept plan, summary of findings and issues, objectives and policies, implementation,	1/16 -10/16	Bill Weber -Project Manager, Bill Smith - Transportation, Short Elliot-streets & utilities	Waconia, Wyoming, Vadnais Heights, St. Anthony Village, Breezy Point, Eau Claire, Milaca, Hastings,	St. Louis Park	Eau Claire, Hastings, Northfield, Breezy Point, New Ulm, Waseca, Kimball, Anoka	\$37,990		\$37,990



November 17, 2015

**VIA EMAIL**

Chuck Klimmek  
KMA Design & Construction  
c/o Gaylord EDA  
320 Main Avenue  
PO Box 266  
Gaylord, MN 55334  
Email: chuck@kmaedesign.com

Dan Lannoye  
Schauer Law Office  
307 N. Pleasant  
P.O. Box H  
Winthrop, MN 55396  
Email: don@co.sibley.mn.us

**RE: Letter of Intent and Outline of Proposed Key Terms of Sale (Mud Lake)**

Dear Mr. Klimmek and Mr. Lannoye:

On behalf of 4-Square Holdings, LLC (“**4-Square**”), we hereby present the following Letter of Intent summarizing the key terms to be incorporated into a Purchase Agreement relating to our purchase of the property shown on Exhibit A attached hereto (the “**Property**”) from the City of Gaylord, Minnesota and the Economic Development Authority of the City of Gaylord, Minnesota (collectively, the “**Seller**”):

1. **Property:** Approximately 25.70 acres as shown on Exhibit A. 4-Square may purchase the Property in phases, depending upon market conditions and overall feasibility.
2. **Purchase Price:** \$1.00.
3. **Earnest Money:** \$1.00.
4. **Contingencies:** The closing on the Property will be contingent upon receipt of the following by 4-Square satisfactory to 4-Square in its sole discretion:
  - A. Clear and marketable fee title to the Property;
  - B. Satisfactory environmental review of the Property;
  - C. Satisfactory geotechnical review of the Property;
  - D. Satisfactory utility review of the Property;

- E. All governmental approvals needed to allow 4-Square's purchase and development of the Property for residential uses; and
- F. Receipt by 4-Square of tax abatement or related incentives for the Property for three calendar years post-Closing.

4-Square's obligation to purchase the Property will be expressly contingent upon obtaining all necessary approvals and financing needed to develop the Property.

- 5. **Terms of Payment:** Cash or other immediately funds on the Closing Date.
- 6. **Closing Date:** Within 90 days after preliminary and final plat approvals or no later than September 1, 2016.
- 7. **Buyer Obligations:** As a condition to Closing, 4-Square and the Seller shall enter into a Development Agreement regarding 4-Square's obligations to develop the Property for residential uses, including utility, roadway and related infrastructure improvements. Such improvements shall be paid for by 4-Square and not by the Seller, and shall be approved by the City of Gaylord Engineer regarding construction and improvement standards and methods. The Development Agreement will also set forth the final completion dates by which 4-Square must complete the utility, roadway and related infrastructure improvements.  
4-Square must abide by all laws and rules of the State of Minnesota and all City of Gaylord ordinances and policies in completing all work contemplated by the development agreement.
- 8. **Seller Responsibilities:** Seller shall provide the following information and/or updated documents (at Seller's sole cost and expense):
  - A. A current Phase I Environmental Site Assessment, if available, along with all environmental related documents in Seller's possession or control;
  - B. An updated ALTA survey of the Property, including topography and wetland delineation, if available, along with all prior surveys in Seller's possession or control;
  - C. A current title insurance commitment for an ALTA Owner's Title Insurance Policy, in the full amount of the Purchase Price, from a local title company to be mutually agreed upon by Seller and 4-Square. The title commitment must include copies of all documents shown as exceptions on title;

D. All geotechnical reports, engineering reports, studies, tests, plans and drawings regarding the Property in Seller's possession or control;

E. All utility, storm water and on-site and off-site infrastructure information regarding the Property in Seller's possession or control;

F. All other materials regarding the Property that Seller has in its possession or access to that relates to the Property; and

G. A warranty deed at closing, free from encumbrances and liens.

9. **Investigation/  
Due Diligence Period:**

For the entire period following the execution of the Purchase Agreement until the closing date (the “**Investigation/Due Diligence Period**”), 4-Square shall have the right, but not the obligation, to perform the following procedures:

Physical/Engineering: Inspect the Property.

Regulatory: Investigate all zoning code and other governmental requirements.

Environmental: Review Phase I and other studies.

Title: Review preliminary title reports and survey information.

Use: Work through City process regarding proposed use and development of the Property.

In the event that 4-Square determines for whatever reason and in its sole discretion that any matter whatsoever regarding the Property is not acceptable, 4-Square shall notify Seller thereof within the Investigation/Due Diligence Period, in which event the Purchase Agreement shall, at the 4-Square's option, terminate.

4-Square's obligation to complete the purchase of the Property will be contingent upon the verification and approval of title, survey and other matters that are customarily found in an agreement for the purchase and sale of real property, as well as obtaining approvals and licenses necessary to develop the Property for residential purposes.

4-Square and the Seller shall, within ninety (90) days after the Purchase Agreement is signed, work collectively and

collaboratively to agree upon a schedule of approvals and submittals for 4-Square's proposed development of the first phase of the Property. This schedule shall govern the timeline by which 4-Square will prepare and submit its approvals and applications, and the City will take action on those applications, to ensure that the first phase is on track for construction start in accordance with timeline that will be developed by mutual agreement between Buyer and Seller.

10. **Prorations, Costs and Deed Taxes:**

Seller will pay all real estate taxes for the Property pro-rated through the Closing Date and the state deed tax. 4-Square will pay all real estate taxes for the Property after the Closing Date.

11. **Purchase Agreement:**

4-Square and Seller will use commercially reasonable efforts to sign a mutually acceptable Purchase Agreement within thirty (30) days after Seller's execution of this Letter of Intent. 4-Square will submit a draft Purchase Agreement (the "**Purchase Agreement**") to Seller for review within two (2) business days after the date this Letter of Intent is executed by Seller. The Purchase Agreement will contain customary conditions to closing, the terms outlined in this Letter of Intent, and such other requirements as 4-Square may reasonably request. 4-Square shall have the right to assign the Purchase Agreement to an affiliated entity to facilitate the development of the Property.

12. **Real Estate Commission:**

Neither 4-Square nor Seller has engaged the services of a real estate broker or sales person with respect to the sale of the Property. Neither party shall have any responsibility for real estate brokerage fees or commissions as a result of the sale of the Property.

13. **Non-Shop:**

Seller and its employees, agents and representatives will not initiate discussions relating to the sale of the Property. In addition, Seller will not respond to solicitations by third parties relating to the purchase or sale of the Property in whole or in part, and will not enter into agreements with respect thereto with any third party. The obligations set forth herein will cease to be binding upon Seller upon failure of 4-Square to comply with the timelines or terms of this letter of intent.

14. **Cooperation:**

Seller shall cooperate with 4-Square, and 4-Square shall cooperate with Seller, in all reasonable respects regarding the

sale of the Property as contemplated by this Letter of Intent.

15. **Seller Warranties:**

The Purchase Agreement shall contain usual and customary representations and warranties by Seller about the condition of the Property, including representations regarding title to the Property, compliance with laws, environmental conditions, legal authority and other similar matters. The Seller will indemnify 4-Square against any losses, costs, or expenses arising out of any misrepresentation or breach of any warranty, covenant or agreement. 4-Square will indemnify Seller against any losses, costs, or expenses arising out of any misrepresentation or breach of any warranty, covenant, or agreement.

If the terms of this Letter of Intent are acceptable, please execute and return a signed original and pdf at your first opportunity to 4square@embarqmail.com. 4-Square will then have its counsel prepare the Purchase Agreement. If Seller has not executed this Letter of Intent or agreed to changes and delivered a copy to 4-Square via email by 5:00 p.m. on November 30, 2015, the terms of this Letter of Intent shall be automatically revoked.

Except for the non-shop provisions set forth above, this Letter of Intent shall be non-binding. This Letter of Intent is intended to outline the primary terms for the preparation of the Purchase Agreement.

Thank you for your consideration of this proposal. We look forward to working with you.

Sincerely,

Preston Fox, Chief Manager  
4-Square Holdings, LLC

**AGREED & ACCEPTED**

**Seller:**

**City of Gaylord, Minnesota**

**Economic Development Authority of the City of  
Gaylord, Minnesota**

By:   
Its: CITY ADMINISTRATOR  
Name: Kevin McCann  
Date: November 24, 2015

~~By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: November \_\_\_\_, 2015~~ 

Exhibit A

Mud Lake Property



T113 R28 S32  
Dryden



May 11, 2011  
2011 FSA Acreage Map  
Scale: 1:4,800

Farm # ~~6344~~  
7699

Tract # 1606

Legend

- Restricted Use
- ▼ Limited Restrictions
- Exempt from Conservation Compliance Provisions
- CLU Field Boundary
- Tract Boundary
- Section Lines
- CRP Contracts

Acre Summary

Total Acres	21.3
Total CRP	0
Cropland	19.88

Acre Summaries reflect Conservation Land Unit data and are not reflective of parcel information. All information contained in this summary is for FSA business purposes only.



- F. Receipt by 4-Square of tax abatement or related incentives for the Property for three calendar years post-Closing.

4-Square's obligation to purchase the Property will be expressly contingent upon obtaining all necessary approvals and financing needed to develop the Property.

5. **Terms of Payment:** Cash or other immediately funds on the Closing Date.
6. **Closing Date:** 180 days after signing the Purchase Agreement, or such other time as is provided in the Purchase Agreement.
7. **Buyer Obligations:** As a condition to Closing, 4-Square and the Seller shall enter into a Development Agreement regarding 4-Square's obligations to develop the Property for residential uses, including utility, roadway and related infrastructure improvements. Such improvements shall be paid for by 4-Square and not by the Seller, and shall be approved by the City of Gaylord Engineer regarding construction and improvement standards and methods. The Development Agreement will also set forth the final completion dates by which 4-Square must complete the utility, roadway and related infrastructure improvements. 4-Square must abide by all laws and rules of the State of Minnesota and all City of Gaylord ordinances and policies in a completing all work contemplated by the development agreement.
8. **Seller Responsibilities:** Seller shall provide the following information and/or updated documents (at Seller's sole cost and expense):
- A. A current Phase I Environmental Site Assessment, if available, along with all environmental related documents in Seller's possession or control;
- B. An updated ALTA survey of the Property, including topography and wetland delineation, if available, along with all prior surveys in Seller's possession or control;
- C. A current title insurance commitment for an ALTA Owner's Title Insurance Policy, in the full amount of the Purchase Price, from a local title company to be mutually agreed upon by Seller and 4-Square. The title commitment must include copies of all documents shown as exceptions on title;
- D. All geotechnical reports, engineering reports, studies, tests, plans and drawings regarding the Property in Seller's possession or control;

E. All utility, storm water and on-site and off-site infrastructure information regarding the Property in Seller's possession or control;

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Sincerely,

Preston Fox, Chief Manager  
4-Square Holdings, LLC

**AGREED & ACCEPTED**

**Seller:**

**City of Gaylord, Minnesota**

~~**Economic Development Authority of the City of  
Gaylord, Minnesota**~~

By:   
Its: CITY ADMINISTRATOR  
Name: KEVIN MCCANN  
Date: November 24, 2015

By:   
Its: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: November \_\_\_\_\_, 2015

