



**WORK SESSION
VIRTUAL MEETING HELD VIA WEBEX
FEBRUARY 23, 2021
6:00 PM**

Call to order

1. Presentation and discussion on draft updates to the City's Subdivision Ordinance.

Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.



STAFF REPORT NO. 05

WORK SESSION

2/23/2021

REPORT PREPARED BY: Ryan Krzos, Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director
2/17/2021

OTHER DEPARTMENT REVIEW:

CITY MANAGER REVIEW: Katie Rodriguez, City Manager
2/17/2021

ITEM FOR WORK SESSION:

Presentation and discussion on draft updates to the City's Subdivision Ordinance.

EXECUTIVE SUMMARY:

Overall

Staff is proposing to organize the Ordinance in a manner similar to that of most communities across the state. The general sections include:

- General Provisions - establishes definitions of terms, penalties, and applicability of the provisions.
- Procedures - details how subdivision requests are received and processed.
- Design standards - contains standards for how elements within subdivisions are laid out.
- Required improvements - describes obligations of the subdivider.
- Variances - a process to relieve or vary any standards of the Subdivision Ordinance.

General Provisions:

The draft Ordinance contains purpose statements to clarify reasons for and intent behind the Ordinance. The draft purpose statements are as follows:

1. Protect and promote the public health, safety, and general welfare.
2. Provide for the orderly, economic, and safe development of land.
3. Assist in the implementation of the City's Comprehensive Plan.
4. Provide adequate public services and facilities.
5. Establish standards, requirements, and procedures for the review and approval or disapproval of subdivisions.

Staff also revisited the definitions with the intent to provide clarity and to align with State Statutes. This section is a work in progress and additions may be needed as the draft is finalized.

Procedures:

Plat Review

The most pressing issue staff is would like input on is whether to assign the Planning Commission as the sole platting review authority. Minneapolis uses this model of platting review. In order to implement this change a City Charter amendment would be required. Staff is exploring this arrangement given that plat review is a quasi-judicial circumstance. As such, if an application meets the requirements of the Ordinance, generally it

must be granted. Staff believes the Planning Commission is capable to make such an assessment, and multiple layers of review creates a false impression that the City has immense discretion over platting applications. For the same reason a public hearing is proposed for only the preliminary plat.

The draft Ordinance reflects the time period between application submittal and approval that is set by State Statute. It also expands on details to be included on the preliminary plat.

Staff is proposing to include review standards to assist in the evaluation of plat requests. As proposed the City would need to make the following findings prior to approval:

1. The subdivision is in conformance with these subdivision regulations and the applicable regulations of the Zoning Ordinance.
2. The subdivision does not conflict with any goals or policies of the Comprehensive Plan or other sub area plan; the Capital Improvements Program; or any other City policy or regulation.
3. The subdivision can be economically served with public facilities and services.
4. The subdivision design mitigates potential substantial and irreversible negative impacts on the environment, including, but not limited to topography, steep slopes, trees, vegetation, naturally occurring lakes, ponds, rivers and streams, susceptibility of the site to erosion, sedimentation or flooding, drainage and storm water storage needs.
5. The subdivision will not be detrimental to the public health, safety or welfare.

Minor Subdivision

The draft proposes a minor subdivision process to take the place of a subdivision waiver. This process would be administratively approved by City staff (provided all Ordinance requirements are met), and would apply to lot line adjustments and simple divisions of up to four lots. Four lots was selected as divisions creating five or more lots must be platted per State Statute. Land subject to the process would need to be already platted and the streets and public facilities serving the lots must already be in place. It should be noted that a property could only be split by minor subdivision once every five years to discourage piecemeal development.

Pre-application:

The existing Administrative Review Committee review and review by MNDOT and/or the Hennepin County Highway Department are codified as steps in the review process. Additionally, this section would encourage a pre-application meeting between the applicant and City staff.

Design Standards

Existing street and alley width requirements remain from the current Ordinance. Staff is finalizing this section and may potentially add additional street requirements if existing specifications and policies are insufficient. For utilities, the draft Ordinance cross references code requirements for public utilities (water, sewer, and storm sewer). New sections are proposed for easements, sidewalks and trails, and street lights reflecting current practice.

Improvements

A section is proposed that would clarify that when required public elements are to be provided, such as streets utilities, sidewalks, etc. their design is to be approved by the City Engineer. Additionally, provisions are proposed which provide obligations for the subdivder to submit as-built drawings and place monumentation. Existing park dedication language is retained in the draft.

Variances

A variance section is added which describes the process and standards for variance from the Subdivision Ordinance provisions.

DIRECTION NEEDED:

Staff is looking for feedback and comments on the proposed Ordinance provisions.

BACKGROUND INFORMATION:

A. HISTORICAL CONTEXT

N/A.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

City subdivision authority is granted to cities by and subject to the Municipal Planning Act, which contains substantive and procedural requirements. The proposed ordinance was drafted to comply with these provisions which are outlined in State Statute Section 462.358.

C. CRITICAL TIMING ISSUES:

None.

D. FINANCIAL IMPACT:

None.

E. LEGAL CONSIDERATION:

When drafting and adopting a subdivision ordinance, the City is said to be utilizing its legislative authority. When using its legislative authority, the action must be constitutional, rational, and in some way related to protecting the health, safety, and welfare of the public.

ALTERNATIVE(S):

None.

PRINCIPAL PARTIES EXPECTED AT MEETING:

None.

ATTACHMENTS:

Description	Type
□ Draft Subdivision Ordinance	Ordinance

SECTION 500. - PLATS; SUBDIVISION REGULATIONS

500.X. Title Section 500 contains the subdivision regulations of the City of Richfield.

500.01. – Purpose.

It is the intent and purpose of this Section to:

- (1) Protect and promote the public health, safety, and general welfare;
- (2) Provide for the orderly, economic, and safe development of land,
- (3) Assist in the implementation of the city's comprehensive plan
- (4) Provide adequate public services and facilities;
- (5) Establish standards, requirements, and procedures for the review and approval or disapproval of subdivisions

Others?:

500.X. – Authority. The Planning Commission shall be the platting authority.

500.03. – Definitions.

Subdivision 1. For the purpose of this Section, the following words and terms shall have the meanings stated:

Subd. XX “Subdivision”. The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

- (1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
- (2) creating cemetery lots;
- (3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.
- (4) resulting from acquisition by governmental agencies for public improvements or uses.

Subd. XX “Outlot”. A parcel of land subject to future platting prior to development, or a parcel of land which is designated for public or private open space, right-of-way, utilities or other similar purpose.

Subd. XX. “Alley”. A public right-of-way other than a street to serve primarily as a means of secondary access to the side or rear of adjacent properties whose principal frontage is on a street.

Subd. XX. "Director." The Director of Community Development, unless specifically indicated otherwise.

Subd. XX. “Lot”. A parcel created by a platted subdivision which is described by a lot number, block number and subdivision name which is on file with the register of deeds of the county.

Subd. XX "Plat". The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes, Chapter 505.

Subd. XX. "Registered land survey". The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes, Chapter 508.

Subd. XX. "Right-of-way". Land acquired by reservation or dedication intended for public use, and intended to be occupied or which is occupied by a street, trail, railroad, utility lines, oil or gas pipeline, water line, sanitary sewer, storm sewer or other similar uses.

Subd. XX. "Street". A public right-of-way for vehicular traffic, whether designated as a highway, thoroughfare, arterial, parkway, collector, through way, road, avenue, boulevard, lane, place, drive, court or otherwise designated, which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property. Does not include an Alley

Subd. XX. "Subdivider". Any person, firm, corporation, partnership, or association, having sufficient proprietary interest in land to subdivide the same under this Section.

500.XX General Provisions

Subdivision 1. Scope.

All subdivisions shall be subject to the regulations set forth in this Section and subject to the approval or disapproval of the city. When a conveyance, division, or subdivision to which the subdivision regulations of the municipality do not apply is presented to the city, the City clerk shall within ten days certify that the subdivision regulations of the municipality do not apply to the particular conveyance or division.

Subd. X. Except as provided in Minn. Stat. § 462.358, subd. 4b, no conveyance of land may occur in which the land is described: by metes and bounds; by reference to an unapproved registered land survey made after April 21, 1961; or to an unapproved plat made after the effective date of this Section .

Subd. X. - Registered land surveys.

Registered land surveys shall not be used to avoid the requirements of these subdivision regulations. All registered land surveys which constitute a subdivision as defined in this Section shall be subject to the provisions herein contained. All registered land surveys shall be prepared pursuant to Minnesota Statutes, Chapter 508.

Subd. X. – Condominium and Common Interest Community Plats. Condominium plats prepared pursuant to Minnesota Statutes, Chapter 515A or common interest community plats prepared pursuant to Minnesota Statutes, Chapter 515B shall be reviewed pursuant to the provisions herein contained, except where said condominium plat or common interest community plat is prepared for the exclusive purpose

of recording the subdivision of an existing building or an existing condominium unit and common areas not involving changes to the building area, site plan or use.

Subd. X. - Violations and Penalties

- (1) Building permits. No building permit may be issued for the construction of any building on a parcel conveyed or subdivided in violation of this Section.
- (2) Penalty. Any owner or agent of any owner of land who conveys or subdivides a lot or parcel in violation of this Section shall pay to the City a penalty of \$100.00 for each lot or parcel so conveyed or subdivided as provided by law. Any penalty so levied may be collected by the City by action in a court of competent jurisdiction.
- (3) Injunction. In addition to imposing the penalty provisions of (2) above, the City may bring appropriate proceedings to enjoin any conveyance not complying with this Section.

500.XX General Subdivision Procedures.

Subdivision 1. Pre-Application conference. In order to provide for the orderly and expeditious processing of subdivision applications, subdividers are encouraged to confer with city staff before preparing a subdivision application to become familiar with all applicable ordinances, policies, regulations, and plans pertinent to the proposed subdivision.

Subd. 2. Administrative Review Committee (ARC) Review. Subdivision applications shall not be considered complete until an Administrative Review Committee (ARC) meeting is held between the applicant and staff, or the Director determines that such a meeting is not necessary. Applications must be submitted for the ARC meeting to the Director at least 28 days before the scheduled Planning Commission meeting to be considered for the agenda.

Subd. 3. Application abutting a highway. Any subdivider proposing to subdivide land adjacent to a state or county highway, must submit the proposal to state and county highway departments prior to submitting a subdivision application to the City. The City will not consider an application complete until it receives a comment letter from the applicable highway department.

500.XX. Minor Subdivisions.

Subdivision 1. This subsection is established to provide for administrative approval of subdivisions or consolidations that meet specified criteria and for the waiver of standard platting requirements specified elsewhere in this Section. It is intended largely to facilitate the further division of previously platted lots, the combination of previously platted lots into fewer lots, or for the adjustment of a lot line by relocation of a common boundary.

Subd. 2. Applicability. A minor subdivision process applies to and must comply with the following:

- (1) A property line adjustment that does not increase or decrease the number of parcels.
- (2) Lot splits resulting in no more than four parcels.
- (3) Lot combinations of previously platted lots.

- (4) The land involved has been previously subdivided by plat or Registered Land Survey and is on file and of record in the Hennepin County register of deeds or registrar of titles.
- (5) The lot or lots have frontage on an existing improved street, if required, and access to municipal (utility) services.
- (6) The application will not cause the parcel or any structure on the parcel to be in violation of this Section, the Zoning code, or the building code, unless prior or concurrent approval of a variance is granted.
- (7) The property has not been subject to a minor subdivision in the last five years.
- (8) All subdivisions not meeting the criteria for a minor subdivision are subject to the platting requirements in this Section .

Subd. 3. Application.

- (1) Applications for approval of a Minor Subdivision shall be made to the Community Development Department on forms provided by the City and shall include evidence of ownership interest. The application must be accompanied by the fee specified in Appendix D of the City Code.
- (2) Applications must include three copies of a certificate of survey drawn to an engineer's scale with the new lots and new legal descriptions including:
 - (a) Existing and proposed property lines
 - (b) Dimensions of the existing and proposed parcels.
 - (c) The area of the existing and proposed parcels.
 - (d) All existing structures, including dimensions to existing and proposed property lines.
 - (e) All visible encroachments.
 - (f) All easements of record.
 - (g) Distance between any existing driveways and existing and proposed property lines.
 - (h) Trees that will be lost due to any proposed construction.

Subd. 3. Review. The Director, and other City staff as needed, will review the application to determine compliance with this Section . The Director will approve or deny the application and will notify the applicant of the decision in writing. If the application is denied, the Director will state the reasons for the denial. Any person aggrieved by the decision of the Director may appeal to the Board of Adjustments and Appeals.

Subd. 4. Filing. The subdivider must file a final minor subdivision approval with the Office of the Hennepin County Recorder or Registrar of Titles. Evidence of proper filing must be submitted to the Director prior to issuance of any building permits. If a Minor Subdivision is not recorded within 90 days after the date of written approval, the Director may, upon ten days written notice to the applicant, revoke the approval in writing.

500.XX. Platting; Preliminary Plat

Subdivision 1. Purpose. A preliminary plat ensures that sufficient information is provided by the applicant to determine conformance with city code requirements and to evaluate the impact of the proposed plat on surrounding property and public facilities and services.

Subd. 2. Application. Application for preliminary plat approval shall be made with the Community Development Department on forms provided by the City and shall include evidence of ownership interest. The application must be accompanied by the fee specified in Appendix D of the City Code. The Director's recommendation, along with that of any other affected city department, shall accompany each application at the time of its presentation to the Planning Commission for approval.

Subd. 3. Preliminary Plat Content. The preliminary plat shall be drawn at a minimum scale of not less than one inch to 100 feet and shall contain or have attached the following information. The plat shall be prepared by a registered surveyor.

(1) Identification and Description

- (a) Proposed name of subdivision
- (b) Legal description of the property according to the records in the office of the County Recorder.
- (c) Name and contact information for the owner, owner's agent, subdivider, surveyor and designer of the plat.
- (d) Graphic scale, North point.
- (e) Date of preparation.

(2) Existing Conditions

- (a) Boundary lines, boundary line dimensions, and total acreage of proposed plat.
- (b) Location, widths and names of existing or previously platted streets or other public ways, parks and other public lands, permanent buildings and structures, easements and section and corporate lines within the preliminary plat and to a distance 100 feet beyond the boundary line.
- (c) Boundary lines of adjoining land, within 100 feet, identifying by name and ownership.
- (d) Location and size of existing sanitary sewer, water, storm sewer, telecommunications, electricity, natural gas facilities within the preliminary plat and to a distance of 100 feet beyond the boundary line. Data such as grades, rim and invert elevations, locations of catch basins and manholes, and fire hydrants shall also be provided.
- (e) Two-foot (minimum) contours showing existing and proposed ground elevations.

(3) Design Features

- (a) Layout, numbers and preliminary dimensions of lots and blocks, building setback lines, and lot width at the front setback line.
- (b) Layout of all proposed streets, showing right-of-way widths, pavement widths, center line gradients, and typical cross sections.
- (c) Location of ingress and egress to the platted area, including existing and proposed driveway locations.

- (d) Location and width of existing or proposed alleys, pedestrian ways, and trails.
- (e) Location, dimensions, and purpose of all easements.
- (f) Location, type, size, grades, and rim and invert elevations of existing and proposed sanitary sewer, storm sewer, water mains, culverts, catch basins, manholes, hydrants, and other underground structures
- (g) Schematic storm sewer, sanitary sewer, and water layouts, illustrating invert and top rim elevations, proposed gradients, direction of flow, hydrant locations, and drainage areas.

(4) Other Information

- (a) Statement of the proposed use of lots, including residential building types and number of dwelling units and types of business or industrial use.
- (b) Proposed protective covenants, deed restrictions, or homeowners' association rules.

Subd. 4. Publication; notification; public Hearing. Upon determination by the Director that a preliminary plat application is complete, the Director shall set a public hearing with the Planning Commission. Notice of the hearing shall be published in the City's official newspaper at least ten days prior to the hearing. The City will mail written notification of the hearing to all property owners located within 500 feet of the site at least ten days prior to the hearing. Failure of a property owner to receive mailed notice or defects in the notice shall not invalidate the proceedings.

Subd. 5. Planning Commission Review. The Planning Commission shall either approve or disapprove the preliminary plat within one-hundred twenty (120) days after the applicant submits a complete application, as determined by the Director, unless the applicant agrees to an extension. The Planning Commission may approve or deny all or parts of the Preliminary Plat. The Planning Commission may require such changes or revisions to the plat or conditions of approval as it deems necessary for the health, safety, general welfare, and convenience of the City.

Approval of the preliminary plat shall not constitute final acceptance of the subdivision. If the preliminary plat is not approved, the reasons for such action shall be recorded in the proceedings of the Planning Commission and transmitted to the subdivider.

Subd. 6. Approval Standards. The Planning Commission must make the following findings prior to approval of a preliminary plat:

- (1) The subdivision is in conformance with this Section and the applicable regulations of the zoning ordinance;
- (2) The subdivision does not conflict with any goals or policies of the comprehensive plan or other sub-area plan; the Capital Improvements Program; or any other City policy or regulation.
- (3) The subdivision can be economically served with public facilities and services.
- (4) The subdivision design mitigates potential substantial and irreversible negative impacts on the environment, including, but not limited to, topography; steep slopes; trees; vegetation; naturally occurring lakes, ponds, rivers and streams; susceptibility of the site to erosion, sedimentation or flooding; drainage; and storm water storage needs;

(5) The subdivision will not be detrimental to the public health, safety or welfare.

Subd. 7. Expiration. If the preliminary plat is approved by the Planning Commission, the subdivider must submit the final plat within one hundred days after said approval, or approval of the preliminary plat shall be considered void, unless a written request for a time extension is approved by the Planning Commission. Once a final plat is approved, the preliminary plat expires at the time the corresponding final plat for the first phase expires. For a multiple phase preliminary plat, once the corresponding final plat for the first phase is recorded, the preliminary plat never expires.

Subd. 8. Grading and/or footing foundation permits may be issued following preliminary plat approval. Approval of a grading or foundation permit does not obligate the City in any manner to approve a final plat.

500.XX. Platting; Final Plat

Subdivision 1. Generally. A final plat must contain all the information required for recording purposes. Preliminary plat approval is required prior to final plat approval, except where all relevant information has been provided on a previous preliminary plat as determined by the Director. Final plat approval may occur at the same meeting as preliminary plat approval or at a later date, based on the preference of the applicant.

Subd. 2. Applications for final plat approval must be on the form provided by the City and must include evidence of ownership interest and the fee specified in Appendix D of the City Code. The Director's recommendation, along with that of any other affected city department, shall accompany each application at the time of its presentation to the Planning Commission for approval.

Subd. 3. The final plat must contain all modifications required during preliminary plat review. The contents of the final plat, including certifications and size of the final plat materials, shall conform to the requirements of Minnesota Statutes and the Hennepin County Plat Manual. The final plat shall contain signature lines for the City Manager and Mayor.

Subd. 4. Planning Commission review. The Planning Commission shall either approve or disapprove the final plat application within sixty (60) days after the applicant submits a complete application, as determined by the Director, unless the applicant agrees to an extension.

Subd. 5. Filing Document. Following final plat approval, the subdivider shall submit two mylar copies of the final plat to the Community Development Department for City official signature. Prior to release of the city-signed plat, the following must occur:

- (1) The plat shall be executed by all required parties;
- (2) The public infrastructure contract shall be executed, if applicable;
- (3) Evidence of the approval resolution being recorded shall be submitted to the Community Development Department;

- (4) The submittal of all required fees and appropriate financial guarantees to the City, if any, ensuring the applicant's performance of the terms of these regulations;
- (5) The submittal, in recordable form, of all required easements and deeds as required by the City in a form approved by the City Attorney.

Subd. 6. Recording. A subdivider must file a final plat with the Office of the Hennepin County Recorder or Registrar of Titles within XXX 30 days? of approval, unless a time extension has been granted. Evidence of proper filing must be submitted to the Community Development Department prior to issuance of any building permits.

500.XX Infrastructure Construction Agreement

In order to effectuate the provisions of this Section , the owner or subdivider must enter into an *infrastructure construction agreement* with the City providing for the installation of the improvements required by this Section . The contents of the *agreement* will provide for, among other things, security to the City in such amount as the City Engineer deems to be adequate to insure the satisfactory completion of the improvements. The *infrastructure construction agreement* shall be satisfactory in form and substance to the City Attorney.

500.XX Design Standards. The provisions in subdivisions _____ through _____ are the minimum design standards for subdivisions in the City.

Subdivision 1. Lots.

- Lot dimensions. Lot dimensions must comply with the minimum standards of the zoning code, unless prior or concurrent approval of a variance is granted.
- Regular shape/Side lot lines. Side lot lines generally must be at right angles to or radial to street lines.
- Double fronts. Double frontage lots shall be avoided except where lots back on a thoroughfare or other arterial street, or where topographic or other conditions render subdividing otherwise unreasonable.
- No Split Zoning?
- Cluster Developments and PUDs
 - Exempt from street frontage. Access should be arranged – See MPLS.

Subd. X. Streets

- Arrangement: Existing: The arrangement of streets in new subdivisions or plats shall be so laid out as to provide a continuation of existing streets of adjoining areas, whether in the City or in adjoining municipalities or the projection of east-west or north-south streets of the City if there are no adjoining streets. Offset or irregular streets are prohibited unless the topography of the area concerned makes the construction of regular streets impossible or impractical.

- Width. The width of street right-of-way shall be not less than the minimum street width established herein, unless existing conditions make a street of less width more suitable as approved by the City Engineer.
 - Major streets. Major streets, which include Penn Avenue, Lyndale Avenue, Nicollet Avenue, Portland Avenue, Cedar Avenue, Standish Avenue and 66th Street, shall be 100 feet in width.
 - Xerxes Avenue, Chicago Avenue and 12th Avenue shall be 66 feet in width.
 - Minor Streets. The minimum width for minor streets shall be 60 feet.
- Half Streets: When streets abut undivided property, a half street may be dedicated. When topographic conditions are unfavorable to the construction of a half street, the subdivider may be required to provide additional land to construct a street of adequate width.
- Cross Sections: The street section shall comply with design standards as set forth in the city standard specification. All street designs are subject to review and approval of the City Engineer.
- Boulevards. Boulevard sodding shall be included as a part of the required street improvements.
- Dead End Streets?
- Grades?
- Intersections?
- Vertical curves?

Subd. X. Alleys

- Existing: Alleys shall not be required for any block except when topographic conditions make them necessary. The minimum width of an alley in a residential block shall be 15 feet with a pavement width of XX ft. Alleys may be required in the rear of all business lots and, if required, shall be at least 20 feet wide. A five (5) foot cutoff shall be made to acute alley intersections.

Subd. X. Easements

- A minimum 5 foot Utility and Drainage easement is required along property lines and shall be dedicated by appropriate language, unless exempted by the City Engineer. A minimum 20-foot drainage and/or utility easement must be provided over public storm sewer, sanitary sewer or watermain.

Subd. X. Utilities

- Water and Sewer shall be designed per City standard specifications and per Chapter VII of the city code.
- Storm water facilities shall be designed per City standard specifications, per Chapter VII of the city code, and in accordance with the City Comprehensive Surface Water Management Plan.
- Private Utilities. Unless waived by XXX, all utility facilities, including, but not limited to, gas, electric power, and communication, shall be located underground and within utility easements, or street or alley right-of-way.

Subd. X. Sidewalks and Trails. Sidewalks and/or trails may be required and shall be designed per City standard specifications.

Subd. x. Street lighting. Street lights shall meet City standards specifications, including type, spacing and illuminance.

500.XX Required Improvements.

Subdivision 1. Generally. Any required public improvements including water, sewer, stormwater drainage and storage areas, streets, alleys, sidewalks and trails, lighting, curbing, gutters, landscaping, open space, or similar utilities and improvements that the planning commission deems reasonably necessary to support the proposed development, must be provided by the subdivider as a condition of the acceptance and approval of the subdivision. The design of any public infrastructure improvements must be approved by the City Engineer.

Subd. X. As- built drawings. Where improvements are not installed by the City, and prior to the City's acceptance thereof, reproducible "as built" drawings shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvement.

Subd. X. Park Dedication. In appropriate plats or subdivisions to be developed for residential uses, the Council may require that a reasonable portion of such land of sufficient size and character be set aside and dedicated to the public for public use as parks and playgrounds. The City has the option to require cash contribution in lieu of accepting dedication of land or the City may require a combination of land dedication and cash payment. Any cash contribution received by the City will be placed in a special fund and used only for the acquisition of land for parks and playgrounds or other lawful purposes.

Subd. X. Survey Monuments. The subdivider must install official permanent monuments as required by Minnesota Statutes, section 505.021. All monument markers shall be correctly in place upon final grading and installation of utilities.

500.XX Variances

Subd. 1. Review. Subdivision variances must be reviewed and acted upon by the Board of Adjustments and Appeals. The City Council shall serve as the Board of Adjustments and Appeals.

Subdivision X. Applicability. Variations from the literal provisions of this Section may be granted by the Board of Adjustments and Appeals in instances where an unusual hardship exists upon the land.

Subd. X. Applications. Application for a variance from this Section must be made in writing by the owner or subdivider at the time the preliminary plat application is submitted. Applications for approval of a subdivision variance shall be made to the Director on forms provided by the City. All subdivision variance requests must be accompanied by the fee specified in Appendix D of the City Code.

The application must be accompanied by: a written description of the requested subdivision variance; a discussion of how the owner or subdivider believes the application meets the required findings in subdivision ____; and any supporting information.

Subd. X. Public Hearing. Upon submission of a complete variance application as determined by the Director, the Director will set a public hearing with the Board of Adjustment and Appeals. The City will publish notice of the hearing in the City's official newspaper at least ten days prior to the hearing.

Subd. X. Findings. The Board of Adjustments and Appeals must make the following findings prior to approval of any subdivision variance:

- (1) An unusual hardship exists that justifies the subdivision variance;
- (2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are generally not applicable to other property;
- (3) The unusual hardship is not the result of actions of the applicant;
- (4) The variance requested is the minimum variance necessary to address the unusual hardship;
- (5) The variance will not conflict with the purpose and intent of this Section or the goals and policies of the Comprehensive Plan; and
- (6) The variance will not have a substantially detrimental impact on neighboring property owners or the public welfare.