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**DATE** : November 6, 2017  
**TIME STARTED** : 7:01 p.m.  
**TIME ENDED** : 9:35 p.m.  
**MEMBERS PRESENT** : Councilmember Carr, Kaup, Sederstrom  
Lanoux and Mayor Huber  
**MEMBERS ABSENT** : None

Staff members present: City Attorney, Kevin Sandstrom; City Planner, Jennifer Swanson; City Engineer, Brad Reifsteck; City Treasurer, Sharon Schwarze; and Administrator/Clerk, Kim Points

**CALL TO ORDER**

The meeting was called to order at 7:01 p.m.

**PUBLIC INPUT**

- (1) Ms. Joyce Welander (no address provided) commented on solar farm energy systems noting her involvement with the community.
- (2) Mr. Kevin Nicholson, 1126 Scandia Trail, came forward and advised he is very supportive of community solar gardens.
- (3) Mr. James Drost, 8682 Jamaca Avenue, came forward and explained things are not always as they seem.
- (4) Mr. David Watts, US Solar, commented on the text amendment application that was presented at the last meeting and requested the solar ordinance be tabled until the next meeting.
- (5) Mr. Joe Jeneroo, 9777 Joliet Avenue, came forward and stated he is in favor of community solar projects.

**PLEDGE OF ALLEGIANCE**

**SETTING THE AGENDA**

**Council Member Lanoux moved to add Morehouse Grading Permit and Special Meeting Procedure to the agenda. Council Member Sederstrom seconded the motion. Motion failed with Council Member Carr, Kaup and Mayor Huber voting nay.**

**Council Member Carr moved to approve the agenda, as presented. Council Member Kaup seconded the motion. Motion carried with Council Member Lanoux and Sederstrom voting nay.**

**CONSENT AGENDA**

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October 3, 2017 City Council Meeting Minutes Approved

October 2017 Bill List, \$58,061.89 Approved

Kline Bros. Excavating, Road  
Work, \$20,067.50 Approved

**Council Member Lanoux moved to approve the consent agenda removing the October 3, 2017 City Council Meeting Minutes and the October 2017 Bill List. Council Member Sederstrom seconded the motion. Motion failed with Council Member Carr, Kaup and Mayor Huber voting nay.**

**Council Member Carr moved to approve the consent agenda, as presented. Council Member Kaup seconded the motion. Motion carried with Council Member Lanoux and Sederstrom voting nay.**

### **STAFF AGENDA ITEMS**

#### **City Engineer, Brad Reifsteck**

**Consideration of Grading Permit Revision** – City Engineer Reifsteck advised copies of the current grading permit and revised grading permit have been provided to the Council for comparison.

A few highlights to the revisions:

- Revised Reference from Ordinance 50 (741) to Zoning Code 32-341,342,343,344.
- Revised Questions 1,2 3 to solicit more direct responses that may trigger other requirements
- Added paragraph for imported material meeting MPCA “unregulated fill” requirements.
- Revised reclaiming amount from 10,000 CY to 1000 CY to trigger council approval. Most cities use 1000 CY as maximum allowed prior to considering it a commercial activity or above and beyond normal grading activities, such as a structure or building excavation. Our maximum allowed is 5,000 CY per city code 32-342. Changed base fees to reflect 1000 CY threshold and anything greater than 1000 CY to 5000 CY – Additional fee is required.

City Engineer Reifsteck noted a Grading Permit Application has been required since the adoption of City Ordinance 2004-110 and all land reclamation activities above 5,000 CY requires a Conditional Use Permit (CUP) per City Ordinance 2007-02.

City Engineer Reifsteck noted an actual permit is a separate issue from enforcement. Enforcement goes through the typical complaint process and then WSB and the City Attorney would step in if it is necessary and is not brought into compliance.

1 **Council Member Lanou moved to prosecute Mr. Morehouse for non-compliance immediately.**  
2 **Council Member Sederstrom seconded the motion. Motion failed with Council Member Carr,**  
3 **Kaup and Mayor Huber voting nay.**

4  
5 City Engineer Reifsteck advised it is his responsibility to ask questions of the applicant as to where  
6 the fill is coming from. Samples can be requested as part of the application process. It is difficult to  
7 write, regulate and enforce fill.

8  
9 Revisions to the permit were made including hours, restoration time, period of permit and language  
10 relating to no work being done until the City Engineer has signed off on the grading plan and permit.

11  
12 **Consideration of Resolution No. 2017-19, Support of Application for 2017 Local Road**  
13 **Improvement Funding** – City Engineer Reifsteck advised a Resolution of Support of an application  
14 for 2017 Local Road Improvement Program Funding for the McKusick Road Improvement project  
15 was included in the packets for Council consideration.

16  
17 City Engineer Reifsteck stated the Minnesota Department of Transportation will distribute \$25  
18 million to local units of government for road improvement projects, and cities of all sizes are eligible  
19 to apply for grants.

20 Cities over 5,000 in population may apply directly to MnDOT through the application process.  
21 Applications are due on December 1, 2017.

22 Non-municipal state aid cities—those with populations under 5,000—must secure “sponsorship”  
23 from their county prior to submitting an application.

24 **Council Member Lanoux moved to seek funding for Keats Avenue paving and installation of 24**  
25 **guard rails. Council Member Sederstrom seconded the motion. Motion failed with Council**  
26 **Member Carr, Kaup and Mayor Huber voting nay.**

27 **Council Member Lanoux moved to include both McKusick Ave and Keats Ave in the**  
28 **recommendation for County support of funding. Motion failed.**

29  
30 **Council Member Carr to adopt Resolution No. 2017-19, as presented. Council Member Kaup**  
31 **seconded the motion. Motion carried unanimously.**

32  
33 **City Planner, Jennifer Swanson**

34  
35 **Consideration of Resolution No. 2017-20, Variance Application for Septic System, 6782 Jocelyn**  
36 **Road North** – City Planner Swanson stated the Applicants and Owners (“Applicants”), Jeff and  
37 Cheryl Kargel, have requested a variance from wetland setbacks for installation of a new mound  
38 septic system on the property located at 6782 Jocelyn Road North. The existing septic system which  
39 serves the property has failed, and therefore the system must be replaced to safely serve the home.  
40 The Applicants have been working with Washington County to acquire a permit for installing the new  
41 system, and they were notified by the County that the location of the replacement system is within the

1 City’s required wetland setbacks and thus would need to obtain a variance from the city prior to being  
2 issued a permit for installation of the new system.

3  
4 On October 17, 2017 the Planning Commission held a duly noticed public hearing to consider the  
5 subject application. After public testimony and discussion the planning commission recommended  
6 unanimous approval of the requested variance with the conditions as noted within the staff report.

7  
8 The following staff report summarizes the requested variance, and existing conditions of the site as  
9 generally presented to the Planning Commission. The conditions, as reviewed by the planning  
10 commission, can be found in the attached draft resolution of approval for your review and  
11 consideration.

12  
13 **Project Summary**

Applicant & Owner: Jeff and Cheryl Kargel	Site Size: 1.5 Acres Location: 6782 Jocelyn Road North Existing Home: Constructed in 1966 Zoning & Land Use: R-1
Request: Variance from wetland setbacks and grading buffer to install a replacement subsurface sewage treatment system (ISTS) at the existing home	

14  
15  
16 As referenced above, the Applicants have requested the following variance:

- 17
- 18     ▪ Request for variance from wetland setback requirements to allow for installation of a  
19 replacement septic system on the subject property.
- 20

21 The Applicants have stated that the existing sewage treatment system that served the home is failing  
22 (failed) and must be replaced. According to the Applicant’s narrative the only location on site that  
23 can adequately support a replacement system is the proposed location which encroaches into both the  
24 sewage treatment setback from a wetland and the no-build wetland buffer.

25  
26 City Planner Swanson stated the City Code Sections 32-59 and 32-60 establish the criteria to review  
27 and approve variance requests. The variance application process requires the Applicants to prepare a  
28 statement of reasons why the request is made describing the hardship (or practical difficulty)  
29 describing how, “the proposed use of the property and associated structures in question cannot be  
30 established under the conditions allowed by this chapter or its amendments and no other reasonable  
31 alternate use exists; however, the plight of the landowner must be due to physical conditions unique  
32 to the land, structure or building involved and are not applicable to other lands, structures or buildings  
33 in the same zoning district....Economic considerations alone shall not constitute a hardship.” The  
34 Applicant’s statement can be found in Attachment A, and is also referenced within Washington  
35 County’s correspondence in Attachment C.

36  
37 The subject property is a corner lot located northeast of the 68<sup>th</sup> Court North and Jocelyn Road North  
38 intersection. The property is regular in shape, and can be accessed from both Jocelyn Road North and  
39 68<sup>th</sup> Court North. The site is sparsely vegetated with trees primarily along property lines offering

1 some buffering and privacy from adjacent homes and roadways. Based on the GIS and National  
 2 Wetland Inventory (NWI) information approximately the northern half of the subject property is a  
 3 wetland and the high buildable area is generally the southern half of the property. There is an existing  
 4 principal structure which was constructed in 1966 and it is assumed that the failing septic system was  
 5 installed in and around the time the principal structure was constructed. There is an existing detached  
 6 garage located west of the principal structure, and there is a driveway/parking area that extends from  
 7 the garage to the principal structure. The majority of the site, with the exception of the area east of  
 8 the principal structure, appears to be altered or wetland area leaving only a small area of undisturbed  
 9 land remaining on the lot.

10  
 11  
 12  
 13 The wetland setbacks are established in Chapter 12 of the City’s Code, which breaks down the  
 14 applicable standards for wetland by type, unclassified and classified water bodies. The following  
 15 description of the variance and standard is identified in the following table (See Attachment B for  
 16 Certificate of Survey):

Standard	Required	Proposed	Variance	Description
Wetland	75’	20’ +/-	55’ +/-	There is one large wetland complex on the northern half of the site. The existing principal structure (home) is centered on the southern half of the property with an existing detached garage to the west of the home. The only area outside of wetland and flood prone areas, with relatively undisturbed land is to the east of the existing home. Any septic system in this area will encroach into the required setbacks.
Wetland Buffer	50’	20’	30’	The no-grade/no-touch buffer is measured from the wetland edge. Based on the proposed plans, the installation of the septic system will disturb the buffer area.

18  
 19  
 20 City Planner Swansons stated the Applicants’ lot was created in the 1960s and the existing home was  
 21 constructed in 1966. At the time, the lot and home complied with the adopted lot standards. Since the  
 22 1970s lot size and area standards have changed and as a result the lot is now considered a legal non-  
 23 conforming lot with respect to size, area and dimensions. Given that the existing lot area and  
 24 dimensions are significantly smaller than those that regulate lots today, it would be impossible to site  
 25 a replacement septic system on the property and meet all the current setback requirements. The lot is  
 26 naturally constrained not only by natural features on the property (wetlands and hydric soils) but also  
 27 by the non-conforming nature of the lot area and dimensions. Further, due to the location of the  
 28 existing home, the detached accessory garage and the well which serves the residence the location that  
 29 a septic system could be sited is further reduced. Staff believes the proposed location of the  
 30 replacement system is reasonable and is properly located based upon topography and other natural site

1 limiting factors, and that the variance requested has been minimized to the extent possible.  
2 Additionally, the Applicant must remedy the situation to comply with the standards for septic systems  
3 as identified by Washington County.  
4

5 An email exchange with Alex Pepin from the Washington County Department of Public Health and  
6 Environment is provided in your packet which indicates that Mr. Pepin concluded that he proposed  
7 location for the new septic system is appropriate and would meet their standards. Mr. Pepin further  
8 states that “The proposed location on the property for the system is the only location on the property  
9 that will accommodate a properly sized septic system and is also not located in a wetland or flood  
10 prone area...” (Attachment C)  
11

12 The City Engineer is reviewing the attached Certificate of Survey and submitted materials. Staff will  
13 provide a verbal update at the Planning Commission meeting and, if applicable, will bring any  
14 additional information to the Planning Commission meeting.

15 The site is located in the Valley Branch Watershed District, and it is the Applicant’s responsibility to  
16 contact them to coordinate any application or permit which may be required from them to install the  
17 replacement septic system. As referenced previously, the Applicants must obtain a permit from the  
18 Washington County Department of Public Health and Environment prior to installation of the system,  
19 as they are the permitting authority for new and replacement septic systems in the City.  
20

21  
22 The following draft findings related to the hardship (practical difficulty) are provided for your review  
23 and consideration:  
24

- 25       ▪ The Applicants must replace the failing system to comply the standards of the Washington  
26 County Department of Public Health and Environment, and for the safety of their home.
- 27       ▪ Replacement of the failing system is a health, safety, and welfare issue and must be completed  
28 to the satisfaction of Washington County to protect the current, and any future, home owners  
29 as well as any adjacent properties which could be affected if the failing system were to remain.
- 30       ▪ The subject property is considered a legal non-conforming lot with respect to size, area and  
31 dimensions which constrains the buildable area on the site and limits the available locations to  
32 site a replacement septic system.
- 33       ▪ A significant portion of the subject property contains a wetland and has flood prone soils  
34 which severely limits the available area to site the replacement system.  
35

36 *Draft Conditions:*  
37

- 38       ▪ The Applicants shall be required to obtain the proper permits from the Washington County  
39 Department of Public Health and Environment prior to installation of the replacement system.
- 40       ▪ The replacement system must be placed outside of all wetland/ponding areas on the site.
- 41       ▪ The Applicants shall be required to obtain any necessary permits and/or approvals from the  
42 Valley Branch Watershed District prior to installation. A copy of any correspondence or  
43 permits shall be provided to the city prior to installation of the new system.

1  
2 **Council Member Lanoux moved to adopt Resolution No. 2017-20, as presented. Council**  
3 **Member Sederstrom seconded the motion. Motion carried unanimously.**  
4

5 **Consideration of Variance for Lot Frontage, 400 Block of Maple Street North** – City Planner  
6 Swanson advised a resolution was not prepared as staff is looking for Council feedback and direction.  
7 She advised the Owners and Applicants (“Applicants”) own two adjacent parcels described on the  
8 attached Survey as Parcel A and Parcel B that are each approximately 5-acres in size. When the  
9 Applicants purchased the parcels in 2016 they believed they had purchased two buildable lots since  
10 each lot had a separate PID. At the time of purchase, it was the Applicants intent to construct their  
11 new home on the northerly parcel (Parcel A), and they were unsure whether they would retain or sell  
12 the southerly parcel (Parcel B).  
13

14 Once the Applicants began planning their new home they found out that their friends were interested  
15 in purchasing the southerly parcel (Parcel B) and constructing a new home on the property. Given the  
16 circumstances the Applicants contacted the City to inquire what information and permits would be  
17 necessary to develop both lots with single family residences. During that conversation it was  
18 determined that a preapplication meeting would be helpful to discuss the process regarding both lots  
19 since Parcel B in its current configuration does not have frontage on a public road. Staff met with the  
20 Applicants for a preapplication meeting during which time it was determined, after discussion with  
21 the City Attorney, that a variance from the lot frontage would be required in order for Parcel B to be  
22 determined a buildable lot.  
23

24 A duly noticed public hearing was held by the Planning Commission on October 17, 2017. After  
25 public testimony and discussion by the Planning Commission, the Planning Commission failed to  
26 pass a recommendation. Three (3) planning commissioners were supportive of the requested  
27 variance, while three (3) commissioners were against the requested variance. Given the deadlock, the  
28 Planning Commission requested that staff pass along a summary of the discussion and public  
29 testimony for the City Council’s consideration:  
30

- 31 • The public testified that they were concerned about setting precedence for lots of this size and  
32 configuration. The Planning Commissioners also discussed this issue and particularly those  
33 that were against the application were also concerned about what presentence might be set if  
34 the requested variance was granted.
- 35 • The Planning Commissioners that voted against the application did not believe that the  
36 Applicant adequately demonstrated a hardship regarding the lack of frontage.
- 37 • The Planning Commissioners that were in favor of the request generally concluded that this  
38 would not set precedence and felt that the ordinance, particularly since the lot sizes of the  
39 existing lots meet our current ordinance standards.
- 40 • The public testified that they were concerned about approved lots that were substandard, or  
41 did not meet all, of the current ordinance standards in place.  
42

In response to the public testimony and the Planning Commission discussion, staff offers the following responses:

- As noted in subsequent sections of this report, staff does not believe that the requested variance will not set ‘precedence’ as the circumstances surrounding this request are unique to the property and the subsequent process that has occurred since the 1950’s on this parcel(s). Both lots meet the minimum lot area, and all other dimensional standards can be met, which is also unique to this property because most of the lots platted/divided in the late 1950s-1970s are smaller than the subject lots and current standards within the zoning ordinance.
- While the question of hardship must be considered by the Planning Commission and City Council, staff would reiterate the analysis which is provided below – the Applicant did not create this situation and access to an existing lot is generally a reasonable expectation.
- The only dimensional standard which cannot be achieved is related to frontage on Parcel B, all other standards can be met provided the variance approval is conditioned appropriately.

Since the Planning Commission was tied, and did not make a recommendation, the following review and analysis of the Applicants’ requested variance is provided for your review and consideration generally as presented to the Planning Commission.

**Project Summary**

Applicants & Owners: Dane and Stefanie Hansen	Site Size: 9.77 Acres Total (Parcel A: 4.76 Ac., Parcel B: 5.01 Ac.)
PIDs: 2103021320008, 2103021320014	Zoning & Land Use: A-2
Address: 4XX Maple Street	Description of Request: Variance from required frontage on Parcel B to allow for development with single family residential uses

As summarized above, the Applicants have requested the following variance:

- The city’s current ordinances require all buildable lots to have a minimum of 300-feet of frontage on a public road, or 60-feet of frontage on a public cul-de-sac. Parcel B as shown on Attachment B does not have frontage on a public road and the Applicants are requesting a variance from this requirement to allow for Parcel B to be developed with a single-family residential structure independently from Parcel A.

City Planner Swanson stated City Code Sections 32-59 and 32-60 establish the criteria to review and approve variance requests. The variance application process requires the Applicants to prepare a statement of reasons why the request is made describing the hardship (or practical difficulty) and submit a site plan that clearly depicts the request.



1 In addition to consideration of the Variance standards, staff would recommend reviewing Section 32-  
 2 246 Subsection (a) footnotes, as well as Section 32-246 Subsection (b)(1) and (b)(3).

3  
 4 The subject properties consist of two parcels, as shown on Attachment B, Parcel A and Parcel B.  
 5 Both lots are currently vacant and there are no structures or other improvements on the properties.  
 6 Both lots are heavily vegetated with a couple small clearings. Per the National Wetland Inventory  
 7 (NWI), and information contained on the Survey, there is a small wetland finger that runs along the  
 8 southerly lot line between Parcel A and Parcel B. In its current configuration, Parcel A has  
 9 approximately 330-feet of frontage on Maple Street which forms the lots northerly property line, and  
 10 Parcel B has no frontage on a public roadway.

11  
 12 To consider the Applicants’ request there are several sections of the City’s Code which must be  
 13 considered and reviewed. The following table identifies the applicable dimensional standards and the  
 14 existing conditions of Parcel A and Parcel B as shown on the Survey:  
 15

<b>Dimensional Standard</b>	<b>Zoning – A2</b>	<b>Parcel A</b>	<b>Parcel B</b>
Minimum Lot Size	5 Acres	4.76 Acres*	5.01 Acres*
Minimum Lot Depth	300’	627’	660’
Minimum Lot Width	300’	330’	330’
<b>Minimum Frontage (improved public road)</b>	<b>300’</b>	<b>330’</b>	<b>0’</b>

16 *\*Lot Size meets zoning ordinance per 32-243(c)(4) which would allow for adding the*  
 17 *Right-of-Way previously dedicated to Maple Street and would result in Parcel A*  
 18 *having approximately 5.02 Acres.*  
 19

20 As demonstrated on the table, both Parcel A and Parcel B meet the city’s dimensional standards with  
 21 the exception of the required frontage on Parcel B. Given the lack of frontage, staff has determined  
 22 that a variance from this standard would be required to develop the lot independently of Parcel A.  
 23 Section 32-246 Subsection (b) provides for “Additions and exception to the minimum area, height  
 24 and other requirements provided the parcel can be established as an “existing lot”. The following  
 25 review of subsection (b) and its relationship to the subject variance request is provided for your  
 26 review and consideration:  
 27

28 Per Washington County records both Parcel A and Parcel B have separate PIDs, so part of the  
 29 evaluation that must be done is to determine whether the lot is an “existing lot” of record as defined  
 30 by the City’s Code and thus would provide. Section 32-246(b)(1) defines an “existing lot” as:  
 31

1           *For the purposes of this article, the term “existing lot” means a lot or parcel of land which*  
2           *was of record as a separate lot or parcel in the office of the county recorder or registrar of*  
3           *titles on or before the date of adoption of the ordinance from which this chapter is derived.*  
4

5           Based on the information provided, and staff’s review, Parcel B was a lot of record prior to the  
6           adoption of City Code section 32-246; however, subsection (2) must also be considered which states  
7           the following:  
8

9           *Setback exemption.* Any such lot or parcel created in accordance with the city subdivision  
10           regulations and is at least 2.5 acres in size, shall be exempt from the requirements of section  
11           32-248(d), pertaining to setbacks and shall be considered buildable if the lot or parcel can  
12           comply with the remaining requirements of this section.  
13

14           There are a few items to note within this section; first Staff reviewed Ordinance 50 which was the  
15           basis from which this language was codified. Ordinance 50 was amended and subsequently adopted  
16           in 1983, and staff questioned the reference to Section 32-248(d) in the codified language because it  
17           seemed inaccurate. Review of Ordinance 50 suggested that in fact that reference is likely inaccurate  
18           and that the reference should have been to subsection (3) and (4) of this section. Regardless, it is  
19           codified with the language as provided and therefore we must review it against what has been  
20           codified. Secondly, the exception language does not address whether or not an Existing Lot is  
21           buildable if it does not have frontage, instead it is silent. Again, staff reviewed the ordinance history  
22           to determine that Ordinance 50 first introduced the ‘exception’ language in 1983. This date is  
23           relevant, because it pre-dates the ordinance amendment that introduced required lot frontage which  
24           was not incorporated into the ordinance until 1997. The timing and sequence of amendments suggests  
25           that there may be an error in the intent of the language contained within the adopted code since it does  
26           not adequately address the frontage requirement at all, in yet it details the exceptions related to the  
27           other relevant lot dimensional standards.  
28

29           City Planner Swanson advised the above ordinance history is important to consider in conjunction  
30           with the history of the Subject Parcels. First, since the ordinance is silent on frontage, it is staff’s  
31           opinion that a variance from the lot frontage on Parcel B is necessary. However, to determine  
32           whether this situation is unique, the history of the Subject Parcels is relevant particularly as it relates  
33           to any previous subdivision, rearrangement or other configurations that might suggest that the  
34           previous and current owners had a reasonable expectation that both Parcels could be developed  
35           independently.  
36

37           As provided within the Applicant’s narrative (Attachment A) a northerly and southerly parcel  
38           boundary existed back to at least 1954 (See attached deeds) where the northerly and southerly parcels  
39           each contained approximately 10 acres. In 1993 the previous owner rearranged the parcels which  
40           created the current configuration of parcels that exists today (the Subject Parcels each with  
41           approximately 5-acres, and the easterly adjacent parcel containing approximately 10-acres). The  
42           previous owner’s application stated that their intent was to rearrange the parcels to create frontage for  
43           a minimum of two 10-acre lots as stated on the application (see Attachment B). However, the  
44           application states “to vacate” the existing division, which is not the process, instead it is a lot  
45           combination and rearrangement. The County issued a review letter recommending that the

1 rearrangement be granted, but it is still not clear if any discussion transpired regarding keeping the  
2 two parcels separate on the Subject Property. What was ultimately approved is unclear because the  
3 easterly parcel which is now 470 Maple Street was combined; but the Subject Parcels were not. Staff  
4 hypothesizes that one of two things occurred; 1) either an administrative error occurred and the lot  
5 combination of the Subject Parcels did not happen, or 2) the lot combination of the Subject Parcels  
6 was recommended, but was not a condition of approval, because there was no requirement that a lot  
7 have frontage at the time the request was made in 1993 (i.e. why would the owner combine the  
8 property and give up an entitlement if not required to do so?) Based on the available information,  
9 staff cannot determine exactly why the lot combination did not occur, so we are left to evaluate the  
10 merits of granting a variance from frontage for Parcel B.

11  
12 Both lots are currently vacant with no principal or accessory structures. The Applicant submitted  
13 preliminary soil borings/septic tests to demonstrate that both Parcel A and Parcel B contain adequate  
14 area to install an individual septic treatment system. ***If the variance request is approved, staff would  
15 recommend including a condition that a septic permit must be obtained from Washington County  
16 prior to the city issuing a building permit for the subject lot.***

17  
18 Generally, cities require a property or parcel to have frontage on a road (whether public or private) so  
19 that adequate access is available. Since no frontage requirements were in place prior to 1997 this  
20 meant that other means of access were necessary, such as creating private driveway easement  
21 agreements, private accessways, shared driveways etc. This situation was contemplated within the  
22 original language of Ordinance 50 which was largely carried over into Section 32-346 Access Drives  
23 and Access with some modifications. For purposes of considering this application, the following  
24 analysis and description is provided:

25  
26 ***Section 32-346 Access drives and access*** subsections (f-i) should be considered with respect to this  
27 request understanding that Parcel B does not have frontage on a public road. First, all properties are  
28 required to have “direct physical access” to an existing public roadway. Subsection (f) *Additional*  
29 *Access* states, “In addition to the required direct physical access along the frontage of the lot or parcel  
30 to the approved existing public roadway, a lot or parcel may have private easement access drives to  
31 the lot over adjacent lots or parcels.”

32  
33 The materials submitted with the application indicate that the Applicants would provide “direct  
34 physical access” from Maple Street to Parcel B running parallel to the easterly property line.  
35 However, it was not detailed in the application whether such access would involve a ‘shared access’  
36 to the public roadway with a perpetual private driveway easement dedicated solely to Parcel B; or if  
37 two separate driveways were contemplated. Since neither lot is currently developed, this would need  
38 to be established to ensure appropriate access was available to both parcels. Additionally, it should be  
39 noted that if the requested variance is granted that shared driveways are not permitted (see subsection  
40 i). Further, ***staff would recommend if the variance is granted that a condition be included that a  
41 dedicated, perpetual, driveway easement must be granted and that such instrument must be drafted  
42 by an attorney for review by the City’s attorney to ensure access to Parcel B is perpetual and  
43 adequately provided.***

1 As shown on the attached Survey, and as referenced within the existing conditions, there appears to  
2 be a wetland ‘finger’ that runs along the property line between Parcel A and Parcel B. The wetland  
3 was not formally delineated and therefore it is not known the true extents, or Type, of wetland. Based  
4 on the submitted survey there likely would be enough room for a driveway to run parallel to the  
5 easterly lot line of both Parcel A and Parcel B outside of the wetland, but to affirmatively confirm that  
6 the driveway would be outside of all wetlands a formal delineation would be necessary. ***Staff would***  
7 ***recommend adding a condition that a wetland delineation must be prepared and approved prior to***  
8 ***issuance of any building permit on Parcel B. Further, all wetland permits, or wetland mitigation***  
9 ***must be acquired prior to any building permit being issued for Parcel B.***

10  
11 To evaluate the proposed variance, the Planning Commission considered the following definition of  
12 hardship (practical difficulty) which provides guidance on what to consider regarding the application:  
13

14 “*Hardship* means the proposed use of the property and associated structures in question  
15 cannot be established under the conditions allowed by this chapter or its amendments and no  
16 other reasonable alternate use exists; however, the plight of the landowner must be due to  
17 physical conditions unique to the land, structure or building involved and are not applicable to  
18 other lands, structures or buildings in the same zoning district; these unique conditions of the  
19 site cannot be caused or accepted by the landowner after the effective date of the ordinance  
20 from which this chapter is derived or its amendments. Economic considerations alone shall  
21 not constitute a hardship.”  
22

23 The Applicant has provided a narrative to support their position that a variance from the lot frontage  
24 requirement should be granted (Attachment A). In addition to the narrative, staff offers the following  
25 considerations:  
26

- 27 • “*...proposed use of the property and associated structures in question cannot be established*  
28 *under the conditions allowed by this chapter....and no other reasonable alternate use*  
29 *exists...*”  
30

31 If a variance from the lot frontage is not granted to Parcel B then the property cannot be  
32 developed with a single-family residential use. There are no other uses that could be  
33 developed on the property, and it would likely remain as private open space either under the  
34 current owner or a new owner. The question that must be considered is whether Parcel B is an  
35 “existing lot”, and whether this situation is unique to the existing lot due to the ordinance  
36 history and codification process. Staff performed a cursory GIS review and there are only a  
37 handful of parcels that are currently vacant and do not have frontage on a public road. further  
38 analysis of these properties would be necessary to determine the age of such parcels, but it is  
39 clear that very few parcels have the same condition as that which is described in this  
40 Application. It bears noting that there are several developed lots/properties without frontage  
41 and those properties likely developed prior to the 1997 ordinance that required frontage on a  
42 public road.  
43

- 44 • “*...the plight of the landowner must be due to physical conditions unique to the land....and*  
45 *are not applicable to other lands...in the same zoning district*”

1  
2 The landowner acquired both Parcel A and Parcel B in 2016 and did not create the current  
3 configuration. However, it is relevant to note that the Applicant did purchase the land  
4 knowing that Parcel B did not have frontage on Maple Street. The Planning Commission  
5 should discuss whether they believe the Applicants had a reasonable expectation that both lots  
6 should be able to be developed independently.

- 7  
8 • “...unique conditions cannot be caused...by the landowner”  
9

10 As stated previously, the Applicants did not create the lot lines or the existence of the separate  
11 PIDs. Further, while there was a rearrangement/subdivision process that occurred in 1993 it is  
12 not clear if an administrative error occurred, or if some other event occurred which resulted in  
13 Parcel A and Parcel B remaining as separate parcels. This series of events was not caused or  
14 created by the Applicant/landowner.  
15

16 The City Engineer has not reviewed the subject application since the application for a variance does  
17 not involve any proposed improvements. Staff would recommend including a condition that all plans  
18 for grading, access and any improvements of either lot shall be subject to the review and approval of  
19 the City Engineer.  
20

21 The site is located in the Rice Creek Watershed District, and it is the Applicant’s responsibility to  
22 contact them to coordinate any application or permit which may be required. Additionally, if the  
23 variance were to be recommended for approval, both lots would be required to obtain a septic permit  
24 from Washington County prior to any building permit being issued by the City.  
25

#### 26 Draft Findings & Conditions 27

28 The following draft findings related to the hardship (practical difficulty) are provided for your review  
29 and consideration:  
30

- 31 ■ The proposed variance will not set precedent since the lot is existing and pre-dates the  
32 adoption of ordinances that regulate frontage.
- 33 ■ The city’s codified ordinance is unclear with regard to existing lots and the required frontage,  
34 and Parcel B is one of only a few parcels with the unique circumstances as laid out within the  
35 narrative and this staff report.
- 36 ■ The proposed variance is consistent with the comprehensive plan and does not alter the  
37 character of the neighborhood or community.
- 38 ■ Both Parcel A and Parcel B will be required to follow all other dimensional standards  
39 contained within the ordinance, and will be consistent with the adopted A-2 zoning district.
- 40 ■ The variance from frontage on Parcel B will not negatively impact the health, safety, and  
41 welfare of the community.  
42

43 *Draft Conditions:*

- 1  
2     ▪ A septic permit shall be obtained from Washington County prior to a building permit being  
3     issued for Parcel A or Parcel B.  
4     ▪ Access to Parcel B shall be designed and shown on an updated survey. The driveway and  
5     access shall be reviewed and approved by the City Engineer.  
6     ▪ Access to Parcel B shall be perpetual, and such easement shall be drafted by the Applicant and  
7     submitted to the City Attorney for review and approval prior to any building permit being  
8     issued for Parcel B. The access shall comply with the City's ordinance standards for accesses  
9     and driveways.  
10    ▪ Any such easement, or other tool granting access, once approved by the City's Attorney must  
11    be recorded against both Parcel A and Parcel B at Washington County property records prior  
12    to any building permit being issued for Parcel B.  
13    ▪ The Applicant shall complete a wetland delineation, which must be approved prior to any  
14    building permit being issued for Parcel B.  
15    ▪ If any wetland fill or alteration is needed, appropriate mitigation and plans shall be subject to  
16    the review and approval of the City Engineer. Such mitigation plan shall be reviewed and  
17    approved prior to any work being performed on Parcel B.  
18    ▪ A grading permit, if applicable, shall be obtained from the City Engineer prior to any site work  
19    being completed.  
20    ▪ The Applicants shall be required to obtain any necessary permits and/or approvals from the  
21    Rice Creek Watershed District prior to installation. A copy of any correspondence or permits  
22    shall be provided to the city prior to installation of the new system.

23  
24 City Planner Swanson stated staff is seeking discussion and guidance with regard to the application.  
25 Options regarding the requested variance include:

- 26  
27     • Approval of the variance with finding and conditions;  
28     • Denial of the variance with findings; or  
29     • Table the action and request additional information from the Applicant.

30  
31 City Attorney Sandstrom noted the ordinance does allow exemptions for lots of record for setbacks  
32 but not lot frontage. If the Council believes that was the intent of the code, it should be revised to  
33 reflect that so a variance is not required for the lot frontage.

34  
35 **Council Member Kaup moved to approve variance request as presented. Council Member**  
36 **Carr seconded the motion.**

37  
38 **Council Member Kaup withdrew the motion. Council Member Carr withdrew the second to the**  
39 **motion.**

40

1 City Attorney Sandstrom advised the Council could table the application and ask the applicant to  
2 withdraw.

3  
4 **Council Member Carr moved to table Consideration of Variance Application for Lot Frontage,**  
5 **400 Block of Maple Street North. Council Member Kaup seconded the motion. Motion carried**  
6 **with Council Member Sederstrom voting nay.**

7  
8 **Consideration of Ordinance No. 2017-53, Solar Energy Systems** – City Planner Swanson advised  
9 Staff has prepared and included a draft ordinance for your review and consideration in response to  
10 the City Council’s discussion at the regular October meeting. Staff understood the City Council’s  
11 direction to be:

- 12
- 13 • Revise the draft ordinance to address residential solar installations.
- 14 • Amend the standards of the residential standards regarding setbacks, heights and roof  
15 coverage.

16  
17 The ordinance is presented for discussion, and the moratorium regarding solar installations remains in  
18 effect. Therefore, no action is required this evening and staff is simply looking for feedback from the  
19 Council regarding the latest draft ordinance.

20  
21 Through Council discussion, it was determined the revised ordinance relating to residential solar use  
22 did incorporate the revisions discussed at the last meeting.

23  
24 Final Ordinance No. 2017-53 will appear on the December City Council meeting consent agenda.

25  
26 **City Attorney, Kevin Sandstrom**

27  
28 **Consideration of Resolution No. 2017-21, Solar Energy Systems** – City Attorney Sandstrom  
29 advised the discussion at the last meeting resulted in the resolution before the Council to make a clear  
30 decision regarding the application for text amendment relating to community solar gardens.

31  
32 **Council Member Carr moved to adopt Resolution No. 2017-21, as presented. Council Member**  
33 **Kaup seconded the motion. Motion carried with Council Member Lanoux and Sederstrom**  
34 **voting nay.**

35  
36 **NEW BUSINESS**

37  
38 **Consideration of Revisions to Grant Rules of Procedure** – Staff advised the City Council adopted  
39 a City of Grant Rules of Procedure Manual in 2014. The manual has been revised several times.  
40 In an effort to clarify procedures for the City and City Council Members, revisions regarding meeting  
41 minutes and use of Town Hall should be considered by the City Council. Revisions include language  
42 regarding a quorum must be available for any Council meetings, Town Hall use must be for

1 meetings sponsored by the City and meeting minutes will be action only, with the additional of all  
2 other legal requirements for meeting minutes.

3  
4 Council should consider the following: 1) Approve the revised Rules of Procedure; 2) Make further  
5 revisions to the Rules of Procedure; or 3) Deny revisions to Rules of Procedure.

6  
7 **Council Member Carr moved to approve revisions to the Grant Rules of Procedure, as**  
8 **presented. Council Member Kaup seconded the motion. Motion carried with Council Member**  
9 **Lanoux and Sederstrom voting nay.**

10  
11 **Consideration of Revisions to Administrator/Clerk Job Description** – Staff advised the City  
12 Council formally approved the Administrator/Clerk Job Description on December 2012 based on  
13 actual job duties.

14  
15 As the Council determined at their September 2017 City Council meeting, Washington County will  
16 be administering the 2018 Elections for the City of Grant.

17  
18 The revised job description for the City position is attached reflecting the strike out of election duties  
19 previously performed by the City for the purpose of accuracy.

20  
21 Council should consider the following: 1) Approve the revised Administrator/Clerk Job Description;  
22 2) Make further revisions to Administrator/Clerk Description; or 3) Deny revisions to  
23 Administrator/Clerk Job Description.

24  
25 **Council Member Lanoux moved to go out for RFP for the City of Grant Administrator/Clerk**  
26 **position. Motion failed with no second.**

27  
28 **Council Member Carr moved to approve revised Job Description for Administrator/Clerk, as**  
29 **presented. Council Member Kaup seconded the motion. Motion carried with Council Member**  
30 **Lanoux voting nay.**

31  
32 **Consideration of City Consultant Contract Extensions** – Staff advised the City Council approved  
33 City Consultant Contracts for Planning, Legal and Engineering in December 2014 for a contract  
34 period of three years. The contracts outlined services and a fee that included increases for a three  
35 period. Those contracts expire December 31, 2017.

36  
37 Staff will note the actual budget line items for these services are a separate budget matter and are  
38 reviewed and approved annually. The contracts have no impact on the 2018 budget line items for  
39 either engineering, planning or legal.

40  
41 Staff is requesting Council direction in relation to providing updated contracts for engineering,  
42 planning and legal services for Council consideration at the December 2017 City Council Meeting.

43



1 Council Member Lanoux moved to advertise for RFP for Planning, Legal, Engineering and  
2 Inspector Services for a period of one year. Council Member Sederstrom seconded the motion.  
3 Motion failed with Council Member Carr, Kaup and Mayor Huber voting nay.

4  
5 Council Member Lanoux moved to advertise for Legal Services RFP for a period of three years.  
6 Council Member Sederstrom seconded the motion. Motion carried unanimously.

7  
8  
9 **UNFINISHED BUSINESS**

10  
11 There was no unfinished business.

12  
13 **DISCUSSION ITEMS**

14  
15 **City Council Reports/Future Agenda Items (no action taken):**

16  
17 **Transfer Station Legislation, Mayor Huber** – Mayor Huber distributed a letter of support for  
18 recommended additions to a Senate Bill relating to the regulation of commercial waste transfer  
19 stations currently operating in close proximity to Wildwood Elementary School. He requested the  
20 Council sign the letter prior to mailing. Council Member Carr, Kaup and Mayor Huber signed the  
21 letter in support of the recommended additions.

22  
23 **Staff Transparency, Council Member Lanoux** – Council Member Lanoux stated there are no  
24 records, minutes or agendas for staff meetings.

25  
26 **Council Member Carr moved to skip the rest of the discussion items. Council Member Kaup**  
27 **seconded the motion. Motion carried.**

28  
29 **Well Safety Protection of Ground Water, Council Member Lanoux** –

30  
31 **Legislative Update, Council Member Lanoux -**

32  
33 **Staff Updates (no action taken):**

34  
35 There were no staff updates.

36  
37 **COMMUNITY CALENDAR NOVEMBER 7 THROUGH NOVEMBER 30, 2017:**

38  
39 **Mahtomedi Public Schools Board Meeting, Thursday, November 9th and 26<sup>th</sup> , Mahtomedi**  
40 **District Education Center, 7:00 p.m.**

41 **Stillwater Public Schools Board Meeting, Thursday, November 9th , Stillwater City Hall, 7:00**  
42 **p.m.**

43 **City Office Closed, Thanksgiving Holiday, Thursday-Friday, November 23-24, 2017**

1 **Washington County Commissioners Meeting, Tuesdays, Government Center, 9:00 a.m.**

2

3 **ADJOURN**

4

5 **Council Member Carr moved to adjourn at 9:35 p.m. Council Member Kaup seconded the**  
6 **motion. Motion carried unanimously.**

7

8

9

10 These minutes were considered and approved at the regular Council Meeting December 5, 2017.

11

12

13

14

15 \_\_\_\_\_  
Kim Points, Administrator/Clerk

15 \_\_\_\_\_  
Jeff Huber, Mayor

16

17

APPROVED