



CITY HALL

207 Lafayette Street
P.O. Box 378
Winona, MN 55987-0378
FAX: 507/457-8212

November 4, 2015

Planning Commissioners
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, November 9, 2015, at 4:30 p.m. in the Wenonah Room** of the Winona City Hall.

1. Call to Order
2. Minutes – October 12, 2015
3. Public Hearing – Final Plat - Emerald Valley Subdivision
4. Development Code Update
5. Other Business
6. Future Action Items
7. Adjournment

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Moeller".

Mark Moeller
City Planner

PLANNING COMMISSION MINUTES

DATE: October 12, 2015

TIME: 4:30 p.m.

PRESENT: Commissioners Porter, Boettcher, Ballard, Buelow, M. Olson, and L. Olson

ABSENT: Commissioner Hahn and Davis

STAFF PRESENT: City Planner Mark Moeller

The meeting was called to order at 4:30 p.m. by Acting Chair Porter.

Approval of Minutes – September 28, 2015

Minutes from the Commission's meeting of September 28, 2015 were reviewed, and upon motion by Commissioner Boettcher, and second by M. Olson, were unanimously approved as submitted.

Public Hearing - Rezoning Request – R-3 to B-2

Acting Chair Porter called on the petitioner to provide preliminary comments. Steve Kohner, representing Pelzer Properties LLC, PO Box 30105, Winona, stated that he had acquired the Red Top Mobile Home property a number of years ago. Since then, the park has been closed and his desire is to rezone the property for future remarketing/redevelopment purposes. He encouraged approval of the request.

Acting Chair Porter then called on staff to provide a summary of its analysis. Mark Moeller, City Planner, noted that the property is located at 1845 West Fifth Street and includes approximately 5 acres of land. The property is currently zoned R-3 (Multiple Family Residential) which allows for apartments, clinics, and bed and breakfast facilities in addition to uses otherwise permitted in the R-2 zoning district. B-2 (Central Business District) Zoning has been requested. In addition to commercial uses generally permitted in the B-1 Zoning District, the B-2 District allows for retail and commercial establishments.

Mr. Moeller explained that surrounding land use and zoning to the site includes:

North: Single Family Residential – West Fifth Street/R-1 Zoning
South: JC Penney and Fastenal Company Store - B-2 Zoning
East: Multi-Family Residential - R-3 Zoning
West: Residential Properties (Apartments and a duplex rental property) - R-3 Zoning

Given review of the site's history, Mr. Moeller explained that the property had been zoned commercial through the 1940 Zoning Ordinance. In 1959/1960, following the adoption of the City's first Comprehensive Plan, the zoning of the property was changed to R-3. At that point, it is staffs understanding that a mobile home park existed on the

property. As noted by Mr. Kohner, this park existed until June of this year at which point it was officially closed as a mobile home park.

Mr. Moeller explained that although the rezoning site includes 4.98 acres of land, the applicant does own an additional 1.14 acres of land that was rezoned from R-3 to B-2 in 1983 to facilitate the construction of storage units for mobile home park residents and others. He further noted that the site is flanked by Pelzer Street on the East and West Fifth Street on the North. Following street improvements to Pelzer a couple of years ago, traffic counts on that street have increased by approximately 1700 vehicles per day. On the other hand, counts on West Fifth Street have decreased slightly during this same time period.

In summary of the staff analysis, Mr. Moeller explained that staff had concluded that:

1. There was no error or oversight in R-3 zoning of the property in question in 1959/1960.
2. The use of the property has changed and Pelzer Street has been widened since the application of R-3 zoning in 1959/1960 to warrant rezoning of the property in question.
3. Potential uses of the B-2 zoning district would not impose "undue hardship" on surrounding properties.
4. In addition to the petitioner, the proposed rezoning benefits the City because it facilitates redevelopment in an appropriate area as designated by the Comprehensive Plan. Here Mr. Moeller added that the Comprehensive Plan does recommend General Commercial use of the property.
5. Because the proposed rezoning is in-line with the Comprehensive Plan's designation of the area as General Commercial, the proposed rezoning should not be misconstrued as spot zoning.

Given its analysis, staff was recommending approval of the request. With this recommendation, options available to the Commission this afternoon included:

1. Recommend approval of the request, adopting the analysis with staff findings to Council.
2. Recommend denial of the request. In this option, specific reasons should be given. These reasons should pertain to the potential uses of the proposed zone.
3. Recommend modification of the request. Under this option, the Commission may recommend rezoning to a stricter zoning classification.
4. Table the item to allow staff additional time to answer questions.

At this point, Acting Chair Porter opened the public hearing and called for anyone who wished to speak to present first their name and address.

Jeff Reinardy, 260 Sebo Street, asked for additional information as to what forms of uses the B-2 District would provide for. In response, Mr. Moeller provided a general listing of uses to those in attendance.

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Eric Brom, 845 34th Avenue, noted that in his opinion, the request would not affect him. As such, he had no concerns of the request.

Dawn Singer, 1735 West Fifth Street, asked if a specific proposal had been made for reuse of the site. Mr. Kohner replied that it had not.

At this point, Mr. Moeller reviewed the rezoning process and emphasized that should the Commission act this afternoon, the matter would be referred to Council for an additional hearing and final action. Following that, any specific development or redevelopment of the site would need to be preceded by the submittal of site plans. As part of those processes, surrounding neighbors would again be notified to attend required hearings/meetings to offer comment.

There being no further comments from the public, the public hearing was closed by Acting Chair Porter.

Commissioner M. Olson asked how redevelopment of the site would be accessed. Mr. Moeller replied that access would more than likely occur from Fifth or Pelzer. It was noted that there are current access points from both of these streets. Mr. Moeller noted that those may be appropriate, or they may not. Again, this is an issue that would be reviewed during site plan review.

Following brief discussion, it was moved by Commissioner Boettcher and seconded by Commissioner Ballard to recommend approval of the rezoning request, given those findings as presented in the staff report.

Upon discussion, Commissioner M. Olson commended staff in preparation of its report and was pleased that that report, in part, recommended rezoning on the basis of Comprehensive Plan recommendations.

Acting Chair Porter agreed and called for a vote on the motion. The vote of the Commission was unanimous to support the motion. Acting Chair Porter stated that the next step in the process would be referral to Council for an additional hearing. He again noted that surrounding property owners would be notified of this hearing, once established.

Initiate Zoning of Annexed Properties

Acting Chair Porter called on Mr. Moeller to provide an overview of this item. Mr. Moeller stated that as part of the City of Winona/Wilson Township Orderly Annexation Agreement, two properties have been annexed into the City within the last year. These properties are located at 22743 County Road 17 and 1720 Valley View Drive. Given these actions, it was necessary to zone both properties. The purpose of bringing this forward this afternoon was to request that the Planning Commission initiate the zoning process by adopting a simple motion to that affect. He explained that as a starting point to the process, he had submitted letters to both property owners explaining what was being proposed. Given Comprehensive Plan recommendations, R-S zoning was being proposed for 22743 County Road 17 while R-1 zoning was being proposed for 1720

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Valley View Drive. Should the Commission initiate the process this afternoon, a public hearing to consider zoning would be established for the near future. Following brief discussion, it was moved by Commissioner M. Olson and seconded by Commissioner Boettcher to initiate zoning of both properties as referenced in the staff report. When the question was called, the vote of the Commission was unanimous to approve the motion.

Other Business

Acting Chair Porter stated that it was necessary to elect officers this afternoon. Given discussions with current officers, both have agreed to continue with their roles for the coming year. As such, the Nominating Committee was recommending that Wendy Davis be elected as Commission Chair and Ed Hahn be elected as Vice Chair of the Commission for the coming year. This recommendation was subsequently made into a motion by Commissioner M. Olson and seconded by Commissioner Buelow. When the question was called, the vote of the Commission was unanimous to approve the motion.

Future Action Items

At this point, Mr. Moeller provided an overview of last Monday & Tuesday's visit by representatives of Hoisington Koegler in relation to the Development Code Update Project. In this, he explained that a total of five stakeholder meetings had been held on Monday. In his participation of them, all were generally well attended and participants were fairly vocal in providing concerns and ideas. He expected that a summary of feedback from those meetings would be available for Commission review in early November. He also explained that City staff had given a tour of the City to consultants on Tuesday. This tour was designed to provide a visual understanding of issues and concerns.

Commissioner Boettcher stated that there was a very strong need in the community for motels and suggested that all do what they can to promote this concept. Commissioner Boettcher further suggested that the City and MnDOT look to completing Highway 43 from the City to the Interstate. He felt this was a priority in stimulating redevelopment at the Interstate 90 intersection.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned.

Mark Moeller
City Planner

PLANNING COMMISSION

AGENDA ITEM: 3. Public Hearing – Final Plat – Emerald Valley Subdivision

PREPARED BY: Mark Moeller

DATE: November 9, 2015

BASE DATA

Petitioner: Gregory & Gail Lemmer
VanHorn Trust (Richard & Virginia VanHorn)

Surveyor: Kleinschmidt Surveying

Location: Exhibit A. Generally, westerly of Sunnyside and Kowalewski Subdivisions in Gilmore Valley

Existing Use: Current use of the approximate 26 acre plat site is classified as vacant, subject to a U.S. Trunk Highway 14 (East/West) Road easement bisecting its northerly side.

Current Zoning: The entire platted site is presently zoned AG (Agricultural). Given that, the intent of the plat is to facilitate the construction of two one family dwellings, and requiring the following performance standards would apply:

Lot Area: 10 Acres
Lot Frontage: 300 Feet
Front Yard: 35 Feet
Side Yard: 20 Feet
Rear Yard: 50 Feet

Site History: Historically, the plat site was initially part of a larger, 40 acre, site that was acquired by the Lemmers, VanHorns, and Brezas in early 2000. Following a number of failed attempts to rezone the parcel for a residential subdivision between 2000 and 2002. The Brezas opted out of the partnership by acquiring 13.65 acres of the site in 2002. They have since built a single family home on this parcel that, in part, is served by a 60 foot wide access/utility easement from Jederman Drive Right-of-Way. It is noted that the Breza land split did not require the submittal of a plat. At that time, code standards required platting "if" any new lot did not exceed 10 acres in size. This standard was amended to 20 acres in 2010. Following a final failed attempt (by Lemmer, VanHorn) to rezone a portion of the site in early 2003, the property has since sat idle. The Lemmers and VanHorns now desire to simply split remaining land into two

(approximate 13 acre) parcels at which point their partnership will be dissolved.

Proposed Plat:

As reflected on Exhibit B, the final plat incorporates a number of components, including:

Outlots A and B – Beginning at the southerly border of the plat, these outlots reflect a present 60 foot wide access/utility easement that presently functions to provide access from the Breza home to Jederman Drive. Generally, this easement was created by the “original” three partners in 2002 through a “recorder” legal instrument entitled Private Access and Utility Easement Agreement and Restrictive Covenants (Exhibit C).

The easement provides a permanent benefit to all three parties that will formally be recognized as such on the plat. Although not reflected on the plat, the agreement does define continued maintenance responsibilities, of the access drive, by those who will benefit from it.

Lots 1 and 2 – Flowing between the northerly line of Outlots A and B and the southerly easement line of Trunk Highway 14, Lots 1 and 2 include lot slopes that range between 4% (south) and 38% (north). With this, portions of the northerly side of each lot are classified as bluffs, and will be subject to Article XVII, Chapter 43 (Bluff Ordinance). Given this ordinance, and as reflected on the plat, the Bluff TOE is established at approximately 200-300 feet north of the north line of Outlots A and B. Land southerly of this land includes the “building envelope” for each lot, while land northerly of it is a defined Bluff, requiring protection as an NSA (Natural State Area). Should the plat be approved, protection mechanisms of the area would be certified through the execution of an NSA Agreement between the City and petitioners. Prepared by the City Attorney, a copy of this agreement is attached as Exhibit D for Commission review.

Trunk Highway 14 Right-Of-Way – As reflected on plat notes, this right-of-way was condemned and acquired by the State of Minnesota Third Judicial Court Order as an “easement”. Given this, petitioner ownership of these lands are subject to the easement.

Outlots C and D – located northerly of Highway 14 Right-Of-Way, each of these parcels would be acquired with lots 1 and 2. Average slopes of these outlots are such that both

are fully classified as Bluff NSAs. As such both would be subject to terms of the NSA Agreement (Exhibit D).

Public Utilities:

In part, failed efforts to rezone the site in the early 2000s were based upon the lack of City utilities to the site, along with the inability to extend them to the site, at that time. Current locations of area City sewer and water facilities and shown on Exhibit E.

As noted, the majority of properties located along Jederman Drive and Sunnyside do not have access to City utilities. Under current procedure, although any property owner could petition for access to utilities, the decision to extend them to the property would need to be both approved and funded by Council (in these cases, although the City would provide utilities "to" a benefitting property, following payment of an access fee, the responsibility of connecting the utility with a residence would rest with the property owner.

Following discussion, staff is of the opinion that given the lack of utility availability to the site, both lots should be permitted to be developed with on-site (private) utilities.

Environmental:

Outside of Bluffland Zoning Standards the site is subject to a Zone B flood zone. As currently defined, limits of this zone are shown on Exhibit F. Additionally, given discussion with DNR Officials, outside of the fact that limits of the district are expected to shrink a bit, forthcoming new flood maps are expected to continue to recognize the area as a B Zone.

B zone flood districts generally reflect small watersheds that have not (individually) been studied for their flood impacts. As such, although they exist as a specific zone category, they are not regulated as floodways and flood fringes of larger drainage systems (i.e.: Gilmore Valley).

Notwithstanding this fact, owners of property with this designation, and who plan to develop land within the zone should be strongly advised to consider potential flooding implications-prior to development. Given recent discussion with the Brezas, although their home was constructed within the valley floor drainage area, they had hired an engineer to prepare appropriate grading plans and first floor elevations for the home they constructed. Given this, outside of occurrences of some site erosion, they were unaffected by the flood of 2007. Future developers of lots 1 and 2 should be encouraged to proceed with caution in developing their properties. In being proactive, it is further recommended

that approval of the plat be subject to a condition requiring submittal of final grading plan (to the City Engineer) prior to proceeding with any site disturbance activity. The purpose of such a submittal being to (in part) ensure a “sustainable” surface drainage system along the valley floor.

Comprehensive Plan

Reference:

As proposed, the plat would be consistent with 2007 Comprehensive Plan recommendations calling for “Limited Residential” use of developable portions of the site. In part, this designation is one, supporting housing on large lots, generally not part of a subdivision, and often served by on-site utilities.

RECOMMENDATION

Following review of the previous data staff finds that the plat, as proposed, will meet the intent and purpose of Subdivision and Zoning Codes as well as the 2007 Comprehensive Plan. Given lot structure performance standards of underlying Agricultural zoning, both lots will meet minimum lot area (10 acre) and frontage (300 feet) standards of the district.

Although it is realized that frontage requirements will be fully, or partially, met through defined access “easements” (Outlots A and B), rather than a public street, formal recognition of this feature on the plat, along with terms of the recorded (2002) Access and Utility Easement Agreement (Exhibit C), will ensure “permanent” access to all lots within the development.

Approval of the proposal is recommended subject to the following:

1. Full execution/recording of the Natural State Area Agreement (Exhibit D).
2. All on-site sewer and water facilities shall be designed and construction in accordance with County and State Standards,
3. Until such time that public dedication is proposed, the access easement through Outlots A and B shall be managed/maintained in accordance with the recorded Private Access and Utility Easement Agreement and Restrictive Covenants document entered into between the Breza, VanHorn, and Lemmer parties in 2002.
4. In promoting the sustainability of storm drainage through lots 1 and 2, and to recognize that the potential for occasional flooding of this valley has not been fully studied, no site grading of either lot may progress until the preparation, submittal, and City Engineer approval of a grading management plan. At a minimum, this plan shall show existing proposed grade/rechanneling changes, driveway and building cut/fill areas, required culvert sizes, proposed building elevations, and planned on-site well and sewer locations.
5. Final approval by MnDOT.

Attachments

EXHIBIT A Emerald Valley Subdivision



This map was compiled from a variety of sources. This information is provided with the understanding that conclusions drawn from such information are solely the responsibility of the user. The GIS data is not a legal representation of any of the features depicted, and any assumptions of the legal status of this map is hereby disclaimed.



October 2015

EMERALD VALLEY

EXHIBIT B

DEDICATOR

KNOW ALL PERSONS BY THESE PRESENTS: That Gregory S. Lemmer and Gail M. Lemmer, husband and wife, and Richard D. Van Horn and Virginia A. Van Horn, husband and wife, fee owners of the following described property:

The Southeast Quarter of the Southwest Quarter (SE 1/4 of SW 1/4) of Section Thirty (30), Township One Hundred and Seven (107) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota. Subject to the right-of-way of U. S. Trunk Highway 14 through said parcel.

Except:

That part of the Southeast Quarter of the Southwest Quarter of Section 30, Township 107 North, Range 7 West, Winona, Minnesota, described as follows:

Beginning at the southeast corner of said Southeast Quarter of the Southwest Quarter; thence North 00 degrees 28 minutes 28 seconds East, assumed bearing, along the east line of said Southeast Quarter 437.94 feet to the southerly line of Jederman Drive of Kowalewski Subdivision No. 2 according to the plat thereof on file in the office of the County Recorder, Winona County, Minnesota; thence North 06 degrees 06 minutes 23 seconds West along the southerly line of said Jederman Drive 30.04 feet to the southwest corner of said Jederman Drive; thence continue North 06 degrees 06 minutes 23 seconds West 24.84 feet; thence westerly 64.78 feet along a tangential curve concave to the south having a central angle of 34 degrees 58 minutes 12 seconds and a radius of 270.00 feet; thence South 63 degrees 55 minutes 25 seconds West 52.25 feet; thence North 26 degrees 04 minutes 35 seconds West 647.63 feet to the centerline of Minnesota Trunk Highway 14; thence South 56 degrees 39 minutes 59 seconds West along said centerline 35.00 feet; thence westerly 370.56 feet along a tangential curve concave to the north having a central angle of 9 degrees 18 minutes 00 seconds and a radius of 2280.13 feet to the west line of said Southeast Quarter of the Southwest Quarter; thence South 00 degrees 18 minutes 15 seconds East along said west line 547.76 feet to the southeast corner of said Southeast Quarter of the Southwest Quarter; thence South 04 degrees 04 seconds East along the south line of said Southeast Quarter of the Southwest Quarter 1323.02 feet to the point of beginning.

Except:

That part of Jederman Drive of Kowalewski Subdivision No. 2, according to the plat thereof on file in the office of the County Recorder, Winona County, Minnesota, described as follows:

Commencing at the southeast corner of said Southeast Quarter of the Southwest Quarter of Section 30, Township 107 North, Range 7 West; thence North 00 degrees 11 minutes 28 seconds East, assumed bearing, along the east line of said Southeast Quarter of the Southwest Quarter 437.94 feet to the southerly line of said Jederman Drive and the point of beginning of the land to be described; thence North 06 degrees 06 minutes 23 seconds West along said southerly line 30.04 feet to the southwest corner of said Jederman Drive; thence North 00 degrees 13 minutes 49 seconds East along the west line of said Jederman Drive 210.98 feet to the northwest corner thereof; thence South 89 degrees 02 minutes 19 seconds East along the north line of said Jederman Drive 25.54 feet to the east line of said Southeast Quarter of the Southwest Quarter; thence South 00 degrees 11 minutes 28 seconds West along said east line 215.13 feet to the point of beginning.

Except:

That part of Lot 10, Block 1, Lot 9, Block 2 and Sunnyside Lane of Bergler's Sunnyside Acres, according to the plat thereof on file in the office of the County Recorder, Winona County, Minnesota, described as follows:

Commencing at the southeast corner of said Southeast Quarter of the Southwest Quarter of Section 30, Township 107 North, Range 7 West; thence North 00 degrees 11 minutes 28 seconds East, assumed bearing, along the east line of said Southeast Quarter of the Southwest Quarter 437.94 feet to the south line of said Lot 9, Block 2; thence North 89 degrees 02 minutes 19 seconds West along said south line 3.91 feet to the southwest corner of said Lot 9, Block 2; thence North 00 degrees 05 minutes 19 seconds West along the west line of said Lot 9, Block 2, Sunnyside Lane and Lot 10, Block 1 a distance of 54.73 feet to the northeast corner of said Lot 10, Block 1; thence westerly along the northerly line of said Lot 10, Block 1 a distance of 6.51 feet on a nontangential curve, concave to the south, having a central angle of 00 degrees 19 minutes 08 seconds, a radius of 189.54 feet and a chord that bears North 80 degrees 48 minutes 05 seconds East to the east line of said Southeast Quarter of the Southwest Quarter; thence South 00 degrees 11 minutes 28 seconds West 55.84 feet to the point of beginning.

Have caused the same to be surveyed and platted as EMERALD VALLEY and do hereby dedicate to the public for public use the utility easements as created by this plat.

In witness whereof said Gregory S. Lemmer and Gail M. Lemmer, husband and wife, and Richard D. Van Horn and Virginia A. Van Horn, husband and wife, have hereunto set their hands this _____ day of _____, 2015.

Gregory S. Lemmer
Gail M. Lemmer
Richard D. Van Horn
Virginia A. Van Horn

STATE OF MINNESOTA
COUNTY OF WINONA

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Gregory S. Lemmer and Gail M. Lemmer, husband and wife, and Richard D. Van Horn and Virginia A. Van Horn, husband and wife.

Notary Public
Winona County, Minnesota
My Commission Expires _____

SURVEYOR'S CERTIFICATE

I, Michael P. Kleinschmidt do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all other boundaries and wet lands, as defined in Minnesota Statutes, Section 505.03, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Dated this _____ day of _____, 2015.

Michael P. Kleinschmidt
Minnesota License 10942

STATE OF MINNESOTA
COUNTY OF WINONA

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Michael P. Kleinschmidt, Minnesota License 10942.

Notary Public
Winona County, Minnesota
My Commission Expires _____

CITY PLANNING COMMISSION

Be it known that at a meeting held on this _____ day of _____, 2015, the Planning Commission of the City of Winona, Minnesota, did hereby approve this plat of EMERALD VALLEY.

Chairperson, Planning Commission, City of Winona, Minnesota _____

CITY COUNCIL

This plat of EMERALD VALLEY was approved and accepted by the City Council of the City of Winona, Minnesota at a regular meeting thereof held this _____ day of _____, 2015, and said plat is in compliance with the provisions of Minnesota Statutes, Section 505.03, Subd. 2.

Chairperson, City Council, City of Winona, Minnesota _____

COUNTY SURVEYOR

I hereby certify that in accordance with Minnesota Statutes, Section 505.02, Subd. II, this plat has been reviewed and approved this _____ day of _____, 2015.

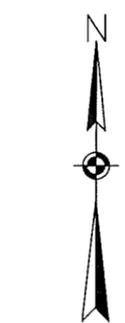
David A. Johnson, Winona County Surveyor
Minnesota License 12768

COUNTY AUDITOR AND TREASURER

Pursuant to Minnesota Statutes, Chapter 505.02, Subd. 9, taxes payable in the year 2015 on the land herebefore described, have been paid. Also, pursuant to Minnesota Statutes, Section 272.12, there are no delinquent taxes and transfer entered this _____ day of _____, 2015.

Winona County Auditor and Treasurer _____

W 1/4 CORNER SECTION 30 PREVIOUSLY SET 1/2" IRON PIPE AT LOST POSITION (NOW 2" IRON PIPE W/BRASS CAP)



- LEGEND
- = IRON ROD SET WITH LICENSE NUMBER 10942
 - = IRON PIPE PREVIOUSLY SET WITH LICENSE NUMBER 10942
 - = IRON MONUMENT FOUND
 - Δ = CENTRAL ANGLE
 - R = RADIUS
 - L = ARC LENGTH
 - CB = CHORD BEARING
 - P.O.B. = POINT OF BEGINNING
 - NSA = NATURAL STATE AREA

- SURVEYOR'S NOTES
- 1) All bearings are based on the east line of the Southeast Quarter of the Southwest Quarter of Section 30, Township 107 North, Range 7 West that is assumed to have a bearing of North 00°12'28" East.
 - 2) A "Natural State Area" (NSA) as shown on this plat is an area subject to the Environmentally Sensitive Lands Development Ordinance as defined in Section 42 of the City of Winona's zoning ordinances. Any "Land Disturbance Activity" in this area currently requires a variance from the City's Board of Adjustment. The City of Winona currently defines a "Land Disturbance Activity" as any "change in the use of land that would result in any form of topographic modification, increase in impervious surface coverage, or vegetative alteration." "Land Disturbance Activity" shall include, but not be limited to:
 - a) any grading, grubbing, filling, or excavating;
 - b) the construction of any structure, building, impervious walk or path, swimming pool, deck, patio, driveway, street, retaining wall and public or private utility;
 - c) the establishment of formal lawns and gardens, or the cutting, thinning, and/or removal of existing living and dead vegetation.
 - 3) The right-of-way of U. S. Trunk Highway 14 was condemned and accepted by the State of Minnesota by a Third Judicial District Court Order on an assessment. The Court's judgment is on file at the Winona County Recorder's office in Book 164 of Deeds on page 83.
 - 4) Outlots A and B are subject to a private access and utility easement agreement. The terms of this agreement are contained in Deed Document 458715 that is on file at the Winona County Recorder's office.
 - 5) This plat is subject to restrictive covenants. These covenants are outlined in Deed Document 458715 that is on file at the Winona County Recorder's office.

PREPARED BY
KLEINSCHMIDT SURVEYING
50 WEST SECOND STREET
WINONA, MN 55987
(507) 454-3212

Version 0.92

COUNTY RECORDER
I hereby certify that this plat of EMERALD VALLEY was filed in the office of the County Recorder for public record on this _____ day of _____, 2015, at _____ o'clock _____ M. and was duly filed as Document _____
Winona County Recorder _____

458715

**PRIVATE ACCESS AND UTILITY EASEMENT AGREEMENT
AND RESTRICTIVE COVENANTS**

Agreement made this 22nd day of August, 2002, between James J. Breza and Sonja J. Breza, husband and wife, (hereinafter "Breza"), Richard D. Van Horn and Virginia A. Van Horn, husband and wife, (hereinafter "Van Horn") and Gregory S. Lemmer and Gail M. Lemmer, husband and wife (hereinafter "Lemmer").

WHEREAS, Breza is the owner of the following described Parcel 1, and Van Horn and Lemmer are the owners of the following described Parcel 2:

Parcel 1:

That part of the Southeast Quarter of the Southwest Quarter (SE¼ of SW¼) of Section Thirty (30), Township One Hundred and Seven (107) North, Range Seven (7) West, Winona, Minnesota, described as follows: Beginning at the southeast corner of said Southeast Quarter of the Southwest Quarter (SE¼ of SW¼); thence North 00 degrees 11 minutes 28 seconds East, assumed bearing, along the east line of said Southeast Quarter of the Southwest Quarter (SE¼ of SW¼) 437.94 feet to the southerly line of Jederman Drive of Kowalewski Subdivision No. 2 according to the plat thereof on file in the office of the County Recorder, Winona County, Minnesota; thence North 81 degrees 06 minutes 23 seconds West along the southerly line of said Jederman Drive 30.04 feet to the southwest corner of said Jederman Drive; thence continue North 81 degrees 06 minutes 23 seconds West 24.64 feet; thence westerly 164.79 feet along a tangential curve concave to the south having a central angle of 34 degrees 58 minutes 12 seconds and a radius of 270.00 feet; thence South 63 degrees 55 minutes 25 seconds West 521.25 feet; thence North 26 degrees 04 minutes 35 seconds West 647.63 feet to the centerline of Minnesota Trunk Highway 14; thence South 56 degrees 39 minutes 59 seconds West along said centerline 35.00 feet; thence westerly 370.56 feet along a tangential curve concave to the north having a central angle of 9 degrees 16 minutes 00 seconds and a radius of 2291.13 feet to the west line of said Southeast Quarter of the Southwest Quarter (SE¼ of SW¼); thence South 00 degrees 18 minutes 15 seconds West along said west line 547.76 feet to the southwest corner of said Southeast Quarter of the Southwest Quarter (SE¼ of SW¼); thence South 88 degrees 42 minutes 04 seconds East along the south line of said Southeast Quarter of the Southwest Quarter (SE¼ of SW¼) 1323.02 feet to the point of beginning. Containing 13.65 acres being subject to the right-of-way of Minnesota Trunk Highway 14 along the northerly side thereof

1-5

Together with an easement for the purpose of Ingress, egress and utilities over a sixty (60) foot wide strip of land in the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Thirty (30), Township One Hundred and Seven (107) North, Range Seven (7) West, Winona, Minnesota, lying adjacent to and northerly of the following described line: Commencing at the southeast corner of said Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$); thence North 00 degrees 11 minutes 28 seconds East, assumed bearing, along the east line of said Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) 437.94 feet to the southerly line of Jederman Drive of Kowalewski Subdivision No. 2 according to the plat thereof on file in the office of the County Recorder, Winona County, Minnesota; thence North 81 degrees 06 minutes 23 seconds West along the southerly line of said Jederman Drive 30.04 feet to the southwest corner of said Jederman Drive and the point of beginning of the line to be described; thence continue North 81 degrees 06 minutes 23 seconds West 24.64 feet; thence westerly 164.79 feet along a tangential curve concave to the south having a central angle of 34 degrees 58 minutes 12 seconds and a radius of 270.00 feet; thence South 63 degrees 55 minutes 25 seconds West 521.25 feet and there terminating. The northerly line of said easement should be shortened to terminate on the west line of Jederman Drive.

Parcel 2:

The Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Thirty (30), Township One Hundred and Seven (107) North, of Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, together with and subject to an easement for the purposes of Ingress, egress and utilities over a sixty (60) foot wide strip of land in the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Thirty (30), Township One Hundred and Seven (107) North, Range Seven (7) West, Winona, Minnesota, lying adjacent to and northerly of the following described line: Commencing at the southeast corner of said Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$); thence North 00 degrees 11 minutes 28 seconds East, assumed bearing, along the east line of said Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) 437.94 feet to the southerly line of Jederman Drive of Kowalewski Subdivision No. 2 according to the plat thereof on file in the office of the County Recorder, Winona County, Minnesota; thence North 81 degrees 06 minutes 23 seconds West along the southerly line of said Jederman Drive 30.04 feet to the southwest corner of said Jederman Drive and the point of beginning of the line to be described; thence continue North 81 degrees 06 minutes 23 seconds West 24.64 feet; thence westerly 164.79 feet along a tangential curve concave to the south having a central angle of 34 degrees 58 minutes 12 seconds and a radius of 270.00 feet; thence South 63 degrees 55 minutes 25 seconds West 521.25 feet and there terminating. The northerly line of said easement should be shortened to terminate on the west line of Jederman Drive.

Except, however, that part of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Thirty (30), Township One Hundred and Seven (107) North, Range Seven (7) West, Winona, Minnesota, described as follows: Beginning at the southeast corner of said Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$); thence North 00 degrees 11 minutes 28 seconds East, assumed bearing, along the east line of said Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) 437.94 feet to the southerly line of Jederman Drive of Kowalewski Subdivision No. 2 according to the plat thereof on file in the office of the County Recorder, Winona County, Minnesota; thence North 81 degrees 06 minutes 23 seconds West along the

southerly line of said Jederman Drive 30.04 feet to the southwest corner of said Jederman Drive; thence continue North 81 degrees 06 minutes 23 seconds West 24.64 feet; thence westerly 164.79 feet along a tangential curve concave to the south having a central angle of 34 degrees 58 minutes 12 seconds and a radius of 270.00 feet; thence South 63 degrees 55 minutes 25 seconds West 521.25 feet; thence North 26 degrees 04 minutes 35 seconds West 647.63 feet to the centerline of Minnesota Trunk Highway 14; thence South 56 degrees 39 minutes 59 seconds West along said centerline 35.00 feet; thence westerly 370.56 feet along a tangential curve concave to the north having a central angle of 9 degrees 16 minutes 00 seconds and a radius of 2291.13 feet to the west line of said Southeast Quarter of the Southwest Quarter (SE¼ of SW¼); thence South 00 degrees 18 minutes 15 seconds West along said west line 547.76 feet to the southwest corner of said Southeast Quarter of the Southwest Quarter (SE¼ of SW¼); thence South 88 degrees 42 minutes 04 seconds East along the south line of said Southeast Quarter of the Southwest Quarter (SE¼ of SW¼) 1323.02 feet to the point of beginning.

AND WHEREAS, the Breza parcel is benefited by a sixty (60) foot wide easement for ingress, egress and utilities, and the Van Horn/Lemmer property is subject to and benefited by the same easement.

AND WHEREAS, a crushed rock access road, twenty (20) feet in width, is being constructed on the easement for the benefit of all of the owners.

AND WHEREAS, the owners desire to establish their rights and obligations in connection with the easement area.

NOW THEREFORE, in consideration of the agreements contained herein and the mutual benefits to the parties by this agreement, the parties agree as follows:

1. The access and utility easement shall be for the private use of Breza, Van Horn and Lemmer, and their successors and assigns. Each owner may subdivide the owner's property and each subdivided lot shall have the right to use the easement, provided, however, only subdivided lots without direct access to a public right-of-way shall be entitled to use the private easement. The easement will not be unnecessarily or unreasonably obstructed so as to prevent the reasonable and free use thereof by all owners at all times.
2. Maintenance of the entire easement area shall be split in three equal shares with Breza, Van Horn and Lemmer each paying one-third (1/3) of the cost. Each party agrees to pay their share of the cost regardless of whether or not a home is built on their property. If more than one home is built on the Breza property and if more than two homes are built on the Van Horn/Lemmer property, then the maintenance costs shall be divided by the number of family units using the easement. The road shall be maintained as a crushed rock private drive. Maintenance shall include repair of the driveway surface to maintain the road as a crushed rock, smooth four-season access, but shall not include snow removal.
3. Snow removal from the driveway shall be the responsibility of Breza until such time as the road is being regularly used by Lemmer and/or Van Horn. If one or more family units other than Breza are regularly using the easement, then the cost of snow removal shall be divided by the number of family units regularly using the easement for access to their property.
4. It is agreed by the parties hereto that any owner may pave the road but no other owner shall be required to contribute to the cost of any hard surface road.

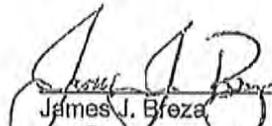
5. Any owner's driveway accessing the private access road in the easement area shall be properly engineered to maintain proper drainage within the entire property and shall be constructed at the sole expense of the owner constructing the driveway.

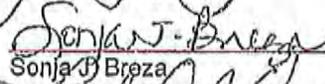
6. Dedication of the easement and road as a public right-of-way shall require the consent of all owners

7. No modular home shall be placed on Parcel 1 or Parcel 2. A modular home is defined as a home constructed off-site in one or more modular parts and brought onto the property for connection and completion.

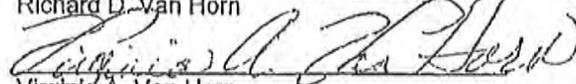
8. No part of Parcel 1 or Parcel 2 shall be used for storage, maintenance or repair of stock cars, race cars or vehicles of any type used in racing and not licensed for public road use. This shall not prohibit storage, maintenance or repair of non-licensed vehicles used for recreational (non-racing) purposes.

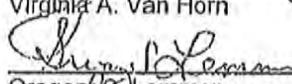
9. This agreement shall run with the land and shall bind and inure to the benefit of the successors and assigns of the parties hereto.

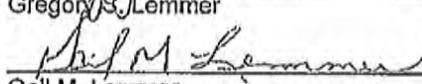

James J. Breza


Sonja J. Breza


Richard D. Van Horn

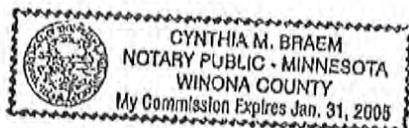

Virginia A. Van Horn

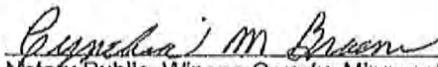

Gregory S. Lemmer


Gail M. Lemmer

STATE OF MINNESOTA)
) ss.
COUNTY OF WINONA)

The foregoing instrument was acknowledged before me this 12th day of JULY, 2002, by James J. Breza and Sonja J. Breza, husband and wife.




Notary Public, Winona County, Minnesota

CERTIFICATE OF RECORDING

State of Minnesota, County of Winona ss

I hereby certify that this instrument was recorded as document number 458715

on AUGUST 28, 2002 at 9:55 AM Fees paid: 20.00 RE

Shawn Kuchal, deputy
Robert J. Bambenek,
Winona County Recorder

Return to: LIBERA LAW OFFICE

NATURAL STATE AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20____, by and between the City of Winona, Minnesota, a municipal corporation under the laws of the State of Minnesota (hereinafter "City"), and Richard D. Van Horn and Virginia A. Van Horn, as Trustees of the Van Horn Joint Trust dated July 11, 2006, and Gregory S. Lemmer and Gail M. Lemmer, husband and wife, (hereinafter collectively "Developer").

WHEREAS, Developer has filed with the City a Final Plat for a subdivision of land to be called "Emerald Valley Subdivision"; and

WHEREAS, the real property to be included within Emerald Valley Subdivision is legally described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, the Final Plat designates certain areas as a "natural state area" (NSA); and,

WHEREAS, to assure that the area designated on the plat as a "natural state area" (NSA) remains in the desired natural condition and that any request to disturb the "natural state area" complies with the Environmentally Sensitive Lands Development Ordinance and the Bluffland Protection Ordinance contained in Chapter 42 and Chapter 43, respectively, of the Winona City Code, the Developer and the City by this Agreement desire to establish the rights and responsibilities of the Developer, the City, and any successor owners of said lots in the platted Subdivision.

NOW, WHEREFORE, in consideration of the acceptance of the plat by the City of Winona, the Developer and the City agree as follows:

1. The Developer (for themselves, their personal representatives, successors and assigns) agrees that the land designated on the final plat of Emerald Valley Subdivision as an NSA shall remain in a completely natural state in accordance with Winona City Code and the terms and conditions contained in this Agreement. The NSA

shall be set aside and maintained as permanent undisturbed open space. No person shall conduct any activity that would disturb topographical soil, or vegetative conditions, of the NSA from those conditions that existed at the time of final plat approval. The term "disturb" includes, but is not limited to, grading, filling, excavating, the constructing of buildings, fences, driveways, sidewalks, patios, retaining walls, and public/private utilities on, or the cutting, mowing, or removal of dead or living vegetation from the area unless in conformance with the requirements contained in Appendix I of Chapter 42 of the Winona City Code, the Environmentally Sensitive Lands Development Ordinance, covering the "Disturbance of Natural State Areas", or any amendments or successor provisions thereto.

The land designated as an NSA shall be maintained as permanent natural open space. Once established on the approved final plat, no person shall fill, excavate, construct buildings, fences, driveways, retaining walls, public/private utilities on, remove dead or living vegetation from, or mow, the area, unless in conformance with the requirements set forth in said Appendix I of Chapter 42 of the Winona City Code, or any amendments or successor provisions thereto.

2. Once established on the final plat of Emerald Valley, the NSA shall not be disturbed for any public or private purpose unless approved by the Winona City Planning Commission pursuant to Winona City Code, as amended. Any request to disturb the NSA under the Environmentally Sensitive Lands Development Ordinance or the Bluffland Protection Ordinance contained in Chapter 42 and Chapter 43, respectively, of the Winona City Code, shall be submitted in writing to the Department of Community Development and shall be accompanied by plans or other materials that fully explain the intended action. Following receipt of the request, the Planning Commission shall hold a public hearing and shall provide notice and follow such other procedures regarding the request as required by Winona City Code.

3. Notwithstanding the foregoing, Planning Commission approval shall not be required for the following activities:

- a. In the event that the Winona City Planner or other City designated representative, in his or her sole judgment and discretion, identifies any NSA site condition representing an immediate safety threat or hazardous condition to persons or property, the safety threat or hazardous condition shall be documented. Once documented, the underlying property owner of the NSA shall be contacted in writing and the written notification shall identify the safety threat or hazardous conditions, the steps required to remedy the same and the time period required for the responsible property owner to correct the safety threat or hazardous condition. This corrective action may employ any reasonable method provided that it is consistent with the intent and purpose of Winona City Code, Chapter 42, Appendix I, the Environmentally Sensitive Lands Development Ordinance, or any

amendments or successor provisions thereto, and will result in the least possible intrusion on remaining NSA lands.

- b. The removal of noxious weeds, as defined by Minnesota Rule, Section 1505.0751 from a designated NSA, provided that the method of removal is by hand pulling, hand cutting, and/or the hand application, excluding sprays, of appropriate herbicides. If the method of noxious weed removal involves the use of motorized or mechanical equipment spraying, or the disturbance of vegetation that is not classified as noxious, approval shall be required.

4. Following the final plat approval of Emerald Valley Subdivision, no boundary of the defined NSA may be modified unless the modification is submitted to the Planning Commission and City Council for approval pursuant to the requirements of Sections 42.03(e) and (f) of the Winona City Code or any amendments or successor provisions thereto.

5. Upon approval of the final plat of Emerald Valley Subdivision, no portion of the development may be disturbed until such time that NSAs are clearly field identified and protected pursuant to methods as outlined in the approved final grading management plan. It shall be the responsibility of the Developer and/or property owner to insure that all NSAs are clearly marked throughout all construction phases. Additionally, it shall be the responsibility of the Developer, property owner, or, in the case of those public improvements which may be administered by the City, the City, to advise contractors of the location, purpose, and intent of such areas, and to insure that such areas are not disturbed. The corners of all required NSAs shall be staked, in the field, with 1/2 inch diameter iron pipes, or as required by state law, prior to final plat approval. All such stakes shall remain in place and shall remain identifiable throughout any development of the site. If a stake is removed or lost, the underlying property owner of the NSA shall be responsible for its replacement.

6. In the case of an unauthorized activity, including but not limited to a violation of City Code, a violation of the terms and conditions of this Agreement, or other breach of this Agreement, in or affecting the NSA, the City, in addition to other remedies provided by law or in Winona City Code, may institute appropriate action or proceedings to restrain, correct, or abate such unauthorized activity. In addition to the recovery of actual damages and the obtaining of equitable relief, reasonable attorney's fees, and expenses incurred by the City as a result of the unauthorized activity shall also be recovered. In addition, and not in limitation of any of the preceding, the person violating this Agreement shall pay to the City the sum of \$300.00 per day commencing 10 days after the City mails written notice of the violation to the person violating this Agreement and continuing until the date of its full abatement. If Developer or any successor in interest fails to pay any charges as required by this paragraph within 30 days of receipt of a billing statement for such charges from the City, the unpaid charges shall constitute a lien against the real property from and after the date they were due and unpaid. The

City may take any action it is authorized under law to take to recover such unpaid charges, including certifying such unpaid charges to the county auditor for collection with taxes on the real property.

7. It is expressly understood that this Agreement and all covenants and conditions appearing herein shall constitute a restrictive and shall run with the land designated as an NSA on the plat of Emerald Valley, as described herein. The City's right to enforce this Agreement shall survive any lapse or termination of the rights of enforcement by other parties.

8. The recitals set forth above are acknowledged by the parties to be true and correct and are hereby incorporated herein by reference. The provisions of Winona City Code, Chapter 42, Appendix I, the Environmentally Sensitive Lands Development Ordinance, and Chapter 43, Article XVII, the Bluffland Protection Ordinance, as amended, are hereby adopted by reference in their entirety, unless specifically excepted, modified, or varied by the terms of this Agreement, or by the final plat as approved by the City. In the event that a provision of this Agreement is inconsistent with or in conflict with Appendix I of Chapter 42, the provisions of Appendix I of Chapter 42, as the same may be amended from time to time, shall govern.

9. The parties, by executing this Agreement, state that they have carefully read this Agreement and understand fully the contents thereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby. The parties further each represent and warrant to the other that (1) the persons signing this Agreement are authorized signatories for the persons or entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Agreement against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.

10. Any alterations, variations, modifications, amendments or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representative of the parties.

11. Except as otherwise expressly stated herein, no right or remedy herein conferred on or reserved to the City is intended to be exclusive of any other right or remedy hereby provided by law, but each shall be cumulative in, and in addition to, every other right or remedy given herein or hereafter existing at law, in equity, or by statute.

12. Developer shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Agreement.

13. This Agreement shall be deemed to have been made and accepted in Winona County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Agreement without regard to its choice of law or conflict of laws principles.

14. Any party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that party's right to assert or rely upon the terms and conditions of this Agreement. Any express waiver of a term of this Agreement shall not be binding and effective unless made in writing and properly executed by the waiving party.

15. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Agreement to the extent of its invalidity or unenforceability, and this Agreement shall be construed and enforced as if the Agreement did not contain that particular provision to the extent of its invalidity or unenforceability.

16. This Agreement shall bind the heirs, executors, administrators, assigns and successors of the parties. This Agreement shall be recorded by the Developer at the expense of the Developer as soon as practicable following execution hereof.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this instrument on the date first appearing herein.

Richard D. Van Horn, Trustee

Virginia A. Van Horn, Trustee

Gregory S. Lemmer

Gail M. Lemmer

CITY OF WINONA, MINNESOTA

By: _____
Mark Peterson, Its Mayor

By: _____
Monica Hennessy Mohan, Its City Clerk

State of Minnesota, County of Winona

The foregoing was acknowledged before me this _____ day of _____, _____, by Richard D. Van Horn and Virginia A. Van Horn, as Trustees of the Van Horn Joint Trust dated July 11, 2006.

Notary Public

State of Minnesota, County of Winona

The foregoing was acknowledged before me this _____ day of _____, _____, by Gregory S. Lemmer and Gail M. Lemmer, husband and wife.

Notary Public

State of Minnesota, County of Winona

The foregoing was acknowledged before me this _____ day of _____, _____, by Mark F. Peterson and Monica Hennessy Mohan, the Mayor and City Clerk of the City of Winona, a municipal corporation under the laws of State of Minnesota, on behalf of the corporation.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
Christopher M. Hood
Flaherty & Hood, P.A.
525 Park Street, Suite 470
St. Paul, MN 55103
(651) 225-8840

Exhibit A

Legal Description

The Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Thirty (30), Township One Hundred and Seven (107) North, of Range Seven (7), West of the Firth Principal Meridian, Winona County, Minnesota. Subject to the right-of-way of U.S. Trunk Highway 14 through said parcel.

Except,

That part of the Southeast Quarter of the Southwest Quarter of Section 30, Township 107 North, Range 7 West, Winona, Minnesota, described as follows:

Beginning at the southeast corner of said Southeast Quarter of the Southwest Quarter; thence North 00 degrees 11 minutes 28 seconds East, assumed bearing, along the east line of said Southeast Quarter of the Southwest Quarter 437.94 feet to the southerly line of Jederman Drive of Kowalewski Subdivision No. 2 according to the plat thereof on file in the office of the County Recorder, Winona County, Minnesota; thence North 81 degrees 06 minutes 23 seconds West along the southerly line of said Jederman Drive 30.04 feet to the southwest corner of said Jederman Drive thence continue North 81 degrees 06 minutes 23 seconds West 24.64 feet; thence westerly 164.79 feet along a tangential curve concave to the south having a central angle of 34 degrees 58 minutes 12 seconds and a radius of 270.00 feet; thence South 63 degrees 55 minutes 25 seconds West 521.25 feet; thence North 26 degrees 04 minutes 35 seconds West 647.63 feet to the centerline of Minnesota Trunk Highway 14; thence South 56 degrees 39 minutes 59 seconds West along said centerline 35.00 feet; thence westerly 370.56 feet along a tangential curve concave to the north having a central angle of 9 degrees 16 minutes 00 seconds and a radius of 2291.13 feet to the west line of said Southeast Quarter of the Southwest Quarter; thence South 00 degrees 18 minutes 15 seconds West along said west line 547.76 feet to the southwest corner of said Southeast Quarter of the Southwest Quarter; thence South 88 degrees 42 minutes 04 seconds East along the south line of said Southeast Quarter of the Southwest Quarter 1323.02 feet to the point of beginning,

Containing 13.65 acres being subject to the right-of-way of U. S. Trunk Highway 14 along the northerly side thereof.

Subject to,

An easement for the purpose of ingress, egress and utilities over a 60 foot wide strip of land in the Southeast Quarter of the Southwest Quarter of Section 30, Township 107

North, Range 7 West, Winona, Minnesota, lying adjacent to and northerly of the following described line:

Commencing at the southeast corner of said Southeast Quarter of the Southwest Quarter; thence North 00 degrees 11 minutes 28 seconds East, assumed bearing, along the east line of said Southeast Quarter of the Southwest Quarter 437.94 feet to the southerly line of Jederman Drive of Kowalewski Subdivision No. 2 according to the plat thereof on file in the office of the County Recorder, Winona County, Minnesota; thence North 81 degrees 06 minutes 23 seconds West along the southerly line of said Jederman Drive 30.04 feet to the southwest corner of said Jederman Drive and the point of beginning of the line to be described; thence continue North 81 degrees 06 minutes 23 seconds West 24.64 feet; thence westerly 164.79 feet along a tangential curve concave to the south having a central angle of 34 degrees 58 minutes 12 seconds and a radius of 270.00 feet; thence South 63 degrees 55 minutes 25 seconds West 521.25 feet and there terminating;

The northerly line of said easement should be shortened to terminate on the west line of Jederman Drive.

EXHIBIT E



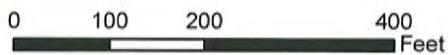
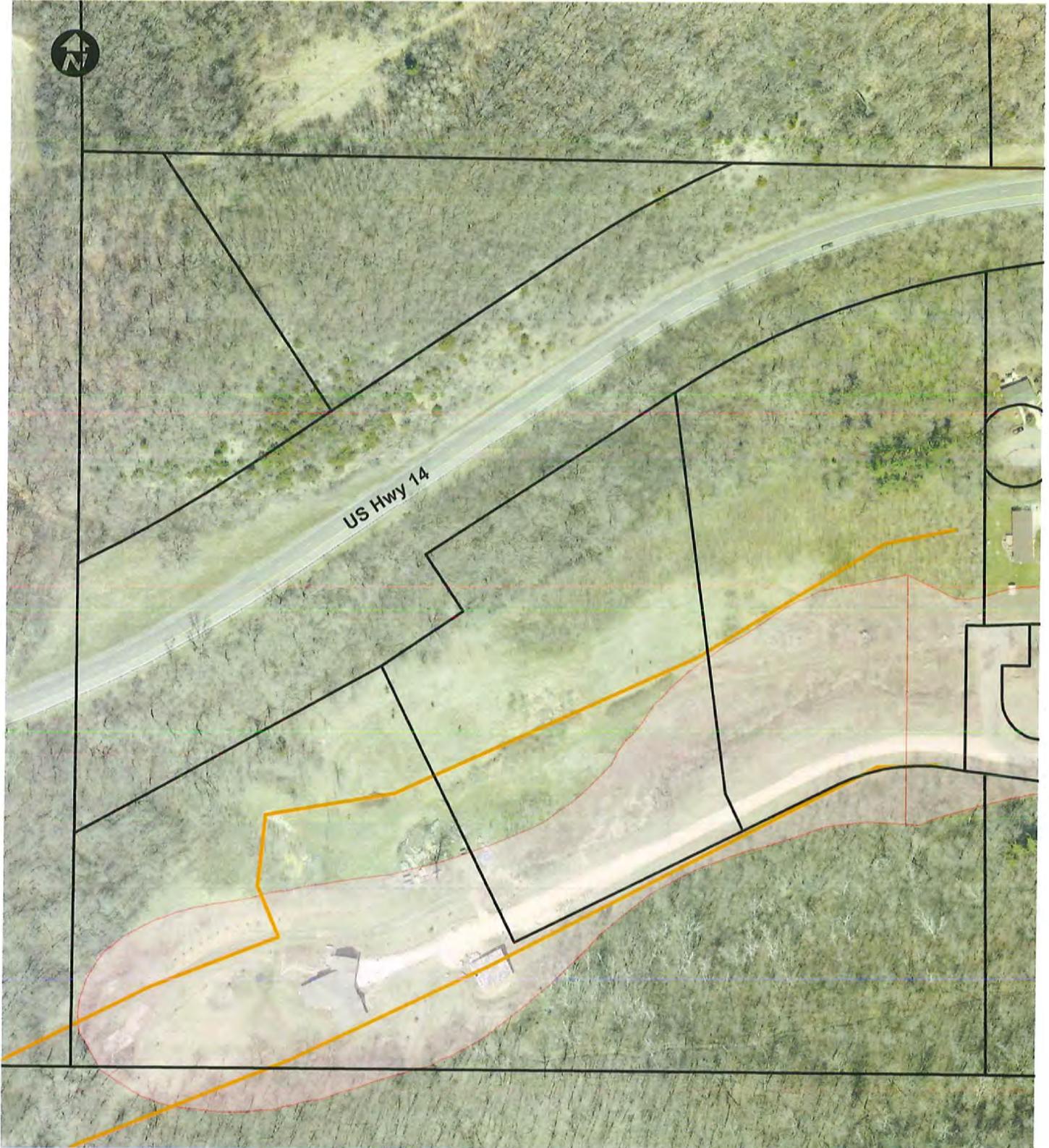
November 2015

This map was compiled from a variety of sources; 2008 LIDAR data. This information is provided with the understanding that conclusions drawn from such information are solely the responsibility of the user. The GIS data is not a legal representation of any of the features depicted, and any assumptions of the legal status of this map is hereby disclaimed.

- Hydrant
- Watermain
- Sanitary Manhole
- Sanitary Main

Gilmore Valley Utilities

Emerald Valley



-  Toe of Bluff (18% / 50')
-  Floodplain Zone B

This map was compiled from a variety of sources; 2008 Lidar data. This information is provided with the understanding that conclusions drawn from such information are solely the responsibility of the user. The GIS data is not a legal representation of any of the features depicted, and any assumptions of the legal status of this map is hereby disclaimed.



**Winona Development Code Update
Meeting with Planning Commission
November 9, 2015**

AGENDA

- A. Stakeholder listening sessions
 - Recap and discussion of input we heard
- B. City's current development codes and plans
 - Present our preliminary findings
 - Gain PC members' input
- C. Major issue themes
 - Present preliminary major themes to guide code update project
 - Gain PC members' input
- D. Upcoming public meeting
 - Schedule
 - Goals and approach
- E. Questions

MEMORANDUM

Hoisington Koegler Group Inc.



TO: Winona Planning Commission

FROM: Jeff Miller, Hoisington Koegler Group Inc. (HKGi)

SUBJECT: Development Code Update Project

DATE: November 4, 2015

CC: Mark Moeller, City Planner
Carlos Espinosa, City Planner

Greetings –

At the November 9th Planning Commission meeting, we will be presenting our preliminary findings relating to the Development Code Update project and asking the Planning Commission to provide feedback related to key issues that should be addressed in the new, Unified Development Code. As you know, on October 5th & 6th, we held six stakeholder listening sessions. The meeting notes from each stakeholder listening session are included in your meeting packet. A summary of the input will be presented at our meeting. During our trip, we also met with City Staff, including the City Manager, Economic Development Director, and City Attorney, and visited key areas of the city related to zoning issues with Staff.

We are now in the process of a comprehensive review of the City's current development codes as well as plans, including the Comprehensive Plan, Downtown Revitalization Plan, Riverfront Revitalization Plan, and Historic District Design Guidelines. Our preliminary evaluation of the plans and their relationship to this project is included in your meeting packet. Based on this review and the input received from the community, we have identified preliminary major issues or themes to guide the development code update project. We will present and discuss these major themes at the November 9th meeting in order to refine them or add to them. Thus far, we have identified the following major themes: 1) unify, reorganize, and reformat the development code; 2) clarify development procedures and roles; 3) clarify and modernize zoning districts' uses and standards; 4) comprehensive review of downtown zoning districts, including mix of uses allowed, housing types, compatibility between uses, parking, and appropriate form-based standards; 5) residential zoning districts, including housing types allowed, student vs. non-student housing, narrow/half-lots, parking, and form-based standards.

I look forward to discussing your feedback and questions at the meeting on Monday.



**Winona Development Code Update
Stakeholder Listening Sessions
October 5, 2015**

STAKEHOLDER LISTENING SESSIONS NOTES

On October 5, 2015 the project consultant team (Hoisington Koegler Group Inc. and McBride Dale Clarion) facilitated six (6) stakeholder listening sessions. The purpose of these sessions was to engage with key stakeholder groups related to the City’s Development Code Update early in the project. Participants were invited to identify current development challenges and their ideas for improving the City’s development codes and processes. A brief overview of the City’s current development codes and the code update project was provided at the beginning of each stakeholder session. The discussions were focused on the following questions:

- 1) What concerns do you have about building/development in:
 - Downtown
 - Residential Neighborhoods
 - Campus Neighborhoods
 - Commercial Areas
 - Industrial Areas
 - Natural Areas
- 2) What works or doesn’t work in the City’s application and review process?
- 3) Are there code requirements that are not up to date with today’s building practices?
- 4) What discrepancies are there between various code sections and/or the codes and the Comprehensive Plan?
- 5) Are there changes to the codes that would make them easier to use?

Schedule of Stakeholder Sessions:

| | |
|--------------|--|
| 12:00 – 1:00 | Realtors and developers |
| 2:00 – 3:00 | Colleges (Winona State University, Saint Mary’s University, Southeast Technical College) |
| 4:00 – 5:00 | Winona Housing Association members |
| 4:00 – 5:00 | Chamber Of Commerce & Main Street Program |
| 5:15 – 6:15 | City Boards and Commissions |
| 5:15 – 6:15 | City Council |

The input received during the stakeholder listening sessions is summarized on the following pages in the form of meeting notes. The project consultant team will use this input to assist with the identification of key issues to be addressed by the Development Code Update project.



**Winona Development Code Update
Stakeholder Listening Session: Realtors and Developers
October 5, 2015**

MEETING NOTES

Stakeholders Attending: 14 realtor representatives and 3 developer representatives

Consultants & City Staff Attending: Jeff Miller (HKGi), Rita Trapp (HKGi), Elizabeth Fields (MDC), Mark Moeller (City Planner)

Following is a summary of the input received from the realtors and developers:

- Parking downtown:
 - Current development code is allowing new high density residential development in downtown with no parking space requirements.
 - Concerns about increasing shortage of parking in downtown for commercial uses as a result of new residential development.
 - Parking in other areas of downtown require too much parking, e.g. commercial, industrial.
 - Parking is an issue for residential, commercial, downtown, campus areas.
 - Different parking standards for campus vs. downtown is a concern.
 - Parking requirements are based on occupancy rather than square footage.
 - No cohesive building requirement for residential units and square footage.
- Balance of commercial and residential needs in downtown:
 - How to balance growth of residential development in downtown with needs to fill vacant storefronts and commercial properties?
 - Desire to retain commercial focus in downtown storefronts.
 - The development code is not ensuring enough parking spaces in downtown overall.
- Residential neighborhood issues:
 - Substandard houses on half lots – consider possibilities for combining small lots to build larger houses that fit well into the neighborhood. Opportunity for East End. Arlington Heights neighborhood is a precedent.
 - Current setback standards do not work for houses on existing small non-conforming lots – so many of the older homes are non-conforming.
 - Issue is with homes built before zoning ordinance adopted.
 - Lots of record – redevelopment is problematic.
 - Consider creating alternative setback standards for small lots.
 - Square footage requirements for duplexes and multi-family housing prevent their development on existing small lots. Lot sizes were set at a point that prevented them from being able to fit townhouses.
 - Cluster apartments near users, e.g. WSU, so that neighborhoods are retained for families.
 - Shortage of townhomes. Opportunity to add rentals/apartments in downtown, then more single-family homes would open up for owner-occupied families/residents and less student rental houses in neighborhoods.
 - What should happen when owner-occupied duplexes that have been sold then become renter-occupied? Neighbors call the City.



Winona Development Code Update Stakeholder Listening Session: Realtors and Developers October 5, 2015

- 30% rule has made single-family rental housing more profitable.
- The City's change from a maximum of 5 to 3 unrelated persons in a household reduces pressure on rental of single-family houses, as do changes to parking standards.
- Development process:
 - Need more communication between the Board of Adjustment and Planning Commission – get boards together and figure out which entities are responsible for which processes. BOA and PC are never in the same meeting.
 - People are intimidated by the variance process, surprised when the City Code requires them to apply for a variance.
- Needs for more housing options:
 - Need for newer, higher-end housing.
 - Attached townhouses are unreasonably prohibited in most residential districts – hard to develop anything but single family. Consider ways to encourage flexibility in housing types permitted, such as townhouses.
 - Shortage of high-end rental housing for young professionals because most rental housing is targeted toward university students. Need to consider housing demands and availability beyond university students.
 - Shortage of rental single-family houses and apartments.
 - Need townhouses for retiring baby boomers that are single-level with universal access and 2-car garages.
 - Many townhomes do not allow rentals – not city policy.
 - Some resistance to non-single family housing development by neighborhood residents in Winona and Goodview.
 - Rental of single-family houses to family households has become financially unfeasible because you can't get a high enough rent price to pay the house mortgage.
 - Younger generation is more interested in different types of housing, e.g. single-family house rental, townhouse rental.
- Growth issues:
 - Commercial and industrial developments – due to environmental constraints, the City is out of space for industrial developments and auto-oriented commercial, need retail.
 - Provide additional areas to grow commercial and industrial development, e.g. annexation.
 - Issues with shoreland and bluffland standards – need to review the one mile buffer from the river. One mile buffer is significantly deterring new development.
 - Is there a plan for growth for Winona? What is the residential demand now vs. demand estimated with comp plan? Comprehensive Plan identified approximately 600 new housing units? Where will we put this amount of housing? Should the Comprehensive Plan be revisited/updated?
 - Promoting growth of any kind – don't restrict it! 30% rule is restricting growth.
 - Like the growth and development in downtown. Would be good to update zoning code in ways that keep the momentum going.



**Winona Development Code Update
Stakeholder Listening Session: Realtors and Developers
October 5, 2015**

- Allow higher density in low density districts. Relaxed density standards for zones 1, 2, and 3 – establishing minimum quality standards and parking requirements for new development.
- Other:
 - Want to enhance the riverfront – heavy industrial land is underutilized along the riverfront.
 - The Zoning Map has not changed much since the 1960s.
 - What is our long-term mission as a community – what do we want the city to be – evaluate proposals off of a plan. Not aware if the Comprehensive Plan provides enough guidance. It would be beneficial to reiterate what the Comp Plan's vision is.



**Winona Development Code Update
Stakeholder Listening Session: Colleges
October 5, 2015**

MEETING NOTES

Stakeholders Attending: Steve Ronkowski (WSU), Mike Kroening (MN State College – Southeast Technical), Jim Bedtke (Saint Mary’s University of MN)

Consultants & City Staff Attending: Jeff Miller (HKGi), Carlos Espinosa (City Planner)

Following is a summary of the input received from the colleges’ representatives:

- College development applications typically involve the City’s Building Official and the State’s Department of Labor & Industry for code review related to a proposed project.
- City gets involved in site plan review and stormwater management review for colleges’ development applications.
- Architects hired by the colleges typically submit development applications rather than college staff.
- All three colleges described their interactions with City Staff and the development application/code review process as positive experiences.
- Sometimes the Building Code seems excessive.
- The colleges all feel that they are able to provide adequate parking for their students on campuses. There may be periodic parking shortages during a day.
- WSU student vehicle parking – an issue that sometimes occurs with on-street parking is when students leave a car parked on the street for weeks
- WSU student bicycle parking – lots of bikes are abandoned by students. College must cut off padlocks to get rid of abandoned bikes.
- Requirement for number of handicapped parking spaces seems excessive sometimes, however, this requirement is not set by the City.
- MN State College – Southeast Technical does not provide campus housing.
- Saint Mary’s University feels that it becomes aware of and addresses any issues with its students who live in off-campus housing.
- WSU is currently updating its campus master plan working with a consultant – RDG.
- WSU has two campuses – Main Campus and West Campus – as well as the East Lake Apartments located near Lake Winona and owned by the WSU Foundation.
- WSU currently has one theme house, which is the Sustainability House that opened in 2012. As part of the City’s approval of the theme house, the City’s code added requirements regarding campus theme houses and established campus overlay zoning districts.



**Winona Development Code Update
Stakeholder Listening Session: Chamber of Commerce & Main Street Program
October 5, 2015**

MEETING NOTES

Stakeholders Attending: David Bittner (Main Street Program Coordinator), LaVonne Mikrut (Chamber), Rich Mikrut (Chamber), Lee Gundersheimer (Managing Director of Great River Shakespeare Festival, Main Street Program), Steve Kovala (Main Street Steering Committee Chair), Natalie Siderius (Winona County Economic Development and Sustainability Director), Lew Overhaug (Winona County Planner), David Adcock (Chamber & Main Street Program), Della Schmidt (Chamber President & Main Street Program)

Consultants & City Staff Attending: Rita Trapp (HKGI), Elizabeth Fields (MDC), Carlos Espinosa (City Planner)

Following is a summary of the input received during the listening session:

- Downtown:
 - Celebrate the diversity downtown – like to see the variety of uses and mix of uses.
 - Need to review regulations for signs, outdoor dining, etc. looks at those items. Outdoor dining not allowed – very limited downtown. High insurance requirements for sandwich boards and outdoor dining.
 - Strengthen and enhance the downtown design guidelines – make them more like standards – more teeth and protection in the zoning code.
 - The museum wanted to be downtown and it was opposed. Built in industrial area and doesn't fit.
 - Commercial area cohesive together – may need rehabbing.
- Parking
 - Too much land is being taken up with surface parking lots – should be developed into taxable productive land.
 - Some lots are underutilized – capacity is available but people don't want to walk.
 - Sea of asphalt – negative visual appearance.
 - Parking lot landscaping is lacking.
 - Development of multi-use and multi-story parking areas.
- Industrial –
 - Conflicts between industrial uses and adjacent residential neighborhoods, traffic, riverfront, etc.
 - Perception of conflict more than actual conflict.
 - Issue with rail conflicts – grain elevators that need rail access.
 - Infilling uses on undeveloped properties.
- Neighborhoods:
 - Design standards for the residential communities – basic things like front of house should face the street
 - No parking on lawns in residential districts
 - Parking regulations in residential – guaranteed parking in yards



**Winona Development Code Update
Stakeholder Listening Session: Chamber of Commerce & Main Street Program
October 5, 2015**

- Development approach:
 - Need to change things up – the current course is not working – industry will be fine but livability won't improve.
 - Process is too slow and too cumbersome.
 - Over ridge to open up development on Mankato Ave
- Streets:
 - Review truck routes – can the number be reduced?
 - Streetscape/landscaping requirements and buffering requirements.
 - Safety on our streets – cross streets.
- Other:
 - Non-conforming commercial buildings
 - Demolition of key historic buildings
 - Stormwater issues
 - More coaching prior to the meeting
- Peer cities for review:
 - Waterfront and downtown development in La Crosse
 - Red Wing
 - Eau Claire
 - Dubuque
 - Wabasha



**Winona Development Code Update
Stakeholder Listening Session: Winona Housing Association
October 5, 2015**

MEETING NOTES

Stakeholders Attending: 16 representatives from the Winona Housing Association

Consultants & City Staff Attending: Jeff Miller (HKGi), Mark Moeller (City Planner)

Following is a summary of the input received during the listening session:

- Downtown parking:
 - Concern about the 120 parking spaces lost in downtown as a result of the new river bridge construction.
 - Parallel parking converted to diagonal parking on Main Street increased the number of parking spaces.
 - Parking standard downtown should be one space per bedroom, no exemptions.
 - Parking needs to account for growing tourism downtown.
 - Should be equity in parking standards between downtown residential and non-downtown residential areas – same standards for both, otherwise, it’s unfair.
 - Currently there are five new residential development projects downtown with approximately 120 residential units and no new parking spaces are required.
 - New residential projects were not anticipated in the Central Business District (CBD) core. The parking exemption was intended to support existing commercial businesses that had very limited space on their lots to provide parking spaces.
 - Consider different parking standards for new residential development vs. commercial development in downtown.
 - Consider a moratorium on residential development in the CBD core until parking standards are addressed.
 - Change the parking standards now for downtown so that there are no exemptions.
 - Consider the potential for addition of public parking area to replace the lost 120 parking spaces in bridge area.
 - CBD parking overlay has been in place since the 1960s.
 - City’s parking ordinances is old and outdated.
 - City should contribute to parking solutions in CBD.
 - More competition for parking downtown than elsewhere. Adding residential development downtown ultimately creates such a shortage of parking that commercial businesses can’t be successful.
- Parking outside of downtown:
 - 300 ft. distance standard for off-street parking for some zoning districts/uses seems unfair.
 - Parking shortages exist anywhere within three blocks of the WSU campus.
- Downtown zoning districts:
 - CBD zoning districts and language should be more specific.
 - There are too many zoning districts within the small area of downtown.
 - Look at general use patterns downtown. Apply zoning districts that promote what the CBD should be. Should high density residential be part of downtown?



**Winona Development Code Update
Stakeholder Listening Session: Winona Housing Association
October 5, 2015**

- It is good to encourage a greater mix of uses in an area, so that things are closer to each other.
- Housing:
 - Necessary repairs to old buildings – sometimes the code requirements are excessive for simple improvements, e.g. stairways.
 - Currently the development code is too general, which leads to differences in legal opinions. An example is duplex/triplex/fourplex residential uses. Language needs to be clarified and simplified.
- Potential rezonings:
 - There needs to be fairness in rezonings. For instance, potential rezoning from M-1 to a residential zoning district now may not be fair to property owners who have struggled to fit residential development into existing zoning districts, such as M-1.
 - There has been a lot of changes since the last update of the Comprehensive Plan. Now that rezoning is being discussed, shouldn't the Comprehensive Plan be relooked at before any major rezoning occurs?
- City's plan/mission:
 - Have the housing goals of 2007 Comprehensive Plan been met?
 - Need for defining the City's mission – who are we as a community?



**Winona Development Code Update
Stakeholder Listening Session: Boards & Commissions
October 5, 2015**

MEETING NOTES

Stakeholders Attending: Dale Boettcher (Planning Commission), Ed Hahn (Planning Commission), Kendall Larson (Heritage Preservation Commission), Preston Lawing (Heritage Preservation Commission), Chris Sanchez (Board of Adjustment), Jon Krofchalk (Board of Adjustment), Brad Ballard (Planning Commission), Myron White (Development Coordinator & Staff for Heritage Preservation Commission)

Consultants & City Staff Attending: Rita Trapp (HKGi), Mark Moeller (City Planner)

Following is a summary of the input received during the listening session:

- Historic preservation:
 - Include historic preservation efforts into the process
 - Preservation goals didn't exist in 1960 – Look at Comp Plan for goals
 - Expand “neighborhood” historic designations
- Zoning district standards:
 - Building setback issues
 - Rental parking issues
- Downtown:
 - City should participate in CBD parking solutions
 - Address conflicts (Shortridge site)
 - Reuse of excess bridge land – promote expanded tax base
 - How do we promote a cohesive CBD?
 - Promote uses serving people in CBD
 - Look at CBD “walkability” all walkable
 - Look at “what” CBD should be – promote
 - Hodge-podge looks OK
- Industrial Areas:
 - Some riverfront redevelopment opportunities-tough to change – underutilized
 - Explore whether changes could reduce conflicts between industrial and residential without too much impact on industrial given that generally it was there before the residential
- Neighborhoods:
 - Workforce housing limited – taken by students – how to preserve for families?
 - Desire for infill/new development to fit in character with existing neighborhood
 - Lot of Record – if modify have to meet new standards
- Other:
 - How can we grow with what we have?
 - “Pattern” of variances – if enough of same – change code
 - Boards should meet occasionally – what are others doing?



**Winona Development Code Update
Stakeholder Listening Session: City Council
October 5, 2015**

MEETING NOTES

Stakeholders Attending: Mark Peterson, Al Thurley, Gerry Krage, Pam Eyden, George Borzyskowski, Michelle Alexander, Paul Double

Consultants & City Staff Attending: Jeff Miller (HKGi), Elizabeth Fields (MDC), Carlos Espinosa (City Planner), Judy Bodway (City Manager), Lucy McMartin (Director of Economic Development)

Following is a summary of the input received from the City Council:

- Frac sand dust impacts could be addressed by existing performance standards.
- Should better define what is public vs. private parking and implications of such.
- Parking in downtown is a problem now and will continue to be as more residential is developed there. Others stated that there is not a parking shortage downtown.
- Is the 2007 Comprehensive Plan vision still accurate? What about all the changes that have occurred since then. When is the next update of the plan?
- What are the downtown boundaries? There are currently different downtown boundaries within the code.
- Do the codes encourage redevelopment of older buildings?
- Conflicts between residential and active industrial uses – there seems to be creep between industrial and residential areas.



**Winona Development Code Update
Project Kickoff Session with Planning Commission
September 14, 2015**

MEETING NOTES

Planning Commissioners Attending: Ed Hahn, LaVerne Olson, Brad Ballard, Mandi Olson, Craig Porter, Brian Buellow, Dale Boettcher

Planning Commissioners Absent: Wendy Davis, Ken Fritz

City Staff & Consultants: Mark Moeller, Carlos Espinosa, Jeff Miller (HKGi), Rita Trapp (HKGi)

The HKGi consultant team gave a presentation to the Planning Commission that described the consultant team's members and project experience, provided an overview of the project's work scope and schedule, outlined the key project objectives, and explained the project's community engagement approach. The remainder of the meeting was devoted to the Planning Commission members' input regarding the City's current development code issues and opportunities for the development code update project. The discussion was organized around the following questions:

- 1) *What parts of the City's current development codes have been challenging to understand and use?*
- 2) *What parts of the current development codes are outdated and/or may not be needed?*
- 3) *Where might there be inconsistencies between current development codes and the City's adopted plans and policies?*
- 4) *What opportunities might there be to simplify development application and approval processes?*
- 5) *What physical areas of the City seem to have the most issues related to the current development codes?*
- 6) *What types of changes or additions to the current development codes would make them easier to use?*
- 7) *Who should be included as "stakeholder" groups in the project's community engagement process?*

Following is a summary of the input received from the Planning Commission (PC):

General: Requested that the schedule for the project's stakeholder sessions in October be shared with PC members ahead of time so that PC members could choose to attend any of the stakeholder sessions that they have particular interest in.

Question #1: *What parts of the City's current development codes have been challenging to understand and use?*

- There hasn't been a lot of new development lately due to the economic recession, so familiarity with the development codes may be relatively low currently.
- Where the Comprehensive Plan doesn't mesh with the development codes.



**Winona Development Code Update
Project Kickoff Session with Planning Commission
September 14, 2015**

- For new PC members, the development codes are hard to understand, use, and find things.
- Need to implement the Comprehensive Plan by aligning the development codes with the plan.
- The new bluff and shoreland ordinances have not necessarily aligned with the rest of the development codes.
- Consider when the new unified development code will go into effect.
- Like the idea of adding visualization of standards to the code.

Question #2: *What parts of the current development codes are outdated and/or may not be needed?*

- Development code addresses typical lots but not atypical lots, e.g. narrow lots.
- Updates are needed but concern about how things will be “grandfathered”. Should things always be “grandfathered” or should some ordinance updates/improvements be put into effect for all properties right away, so that changes start to occur?

Question #3: *Where might there be inconsistencies between current development codes and the City’s adopted plans and policies?*

- Should bring consistency to the notification processes for various development application procedures.
- There can be a long lag time between the variance process with the Board of Adjustment and the conditional use permit process with the Planning Commission, as an example.

Question #4: *What opportunities might there be to simplify development application and approval processes?*

- Board of Adjustment vs. Planning Commission processes.
- Redevelopment process is challenging in Winona’s complex environment of river shoreland, railroad lines, highways, and the multiple government jurisdictions that need to be involved, including the city, county, state, and federal levels.

Question #5: *What physical areas of the City seem to have the most issues related to the current development codes?*

- Areas where there is an interface between downtown businesses, the college campus, and residential neighborhoods.
- Accommodating new development out in the valleys.
- As background information relating to recent development, East End development was made possible by dredging of Lake Winona and moving the dredge materials to the East End.
- An annexation agreement has recently expired.
- Interest in potential commercial development toward I-90 via Hwy 43.
- Need to focus on redevelopment.



**Winona Development Code Update
Project Kickoff Session with Planning Commission
September 14, 2015**

Question #6: *What types of changes or additions to the current development codes would make them easier to use?*

- Addition of graphics to the code.
- Learning from other cities like Duluth.
- Address heritage preservation areas.
- Visualization of the bluffs, ravines, and other sensitive resources.
- No repercussions for when people develop in a way that is not permitted, e.g. keeping development out of sensitive resource areas. An example is construction of a path and dock that is not allowed in a sensitive resource area.
- Properties that are not maintained sufficiently are a big problem in the city (includes houses, fences, placement of refuse bins)
- Zoning improvements for issues related to the 30% rule, such as transitions/compatibility between student rental housing and other residential.
- Parking requirements for rental housing should be looked at.
- As background, the PC did not recommend the adoption of the 30% rule. The public went to the City Council who then adopted the 30% rule.
- Evaluate whether fees for development processes are in line with similar size cities.
- Commercial development within the historic district. The City doesn't have lots of landscaping standards to ensure nice landscaping within the historic district.

Question #7: *Who should be included as "stakeholder" groups in the project's community engagement process?*

- Architectural Review Board – a new multi-family residential building was recently reviewed by them and should be part of the consultants' tour of the city in October.

Question #8: *What are the most important things to accomplish with the development code update project?*

- There are discrepancies in the codes that need to be cleaned up. They create the problems.
- The code should be updated to reflect what the Comprehensive Plan says, what we want.
- Discrepancies. Organization. Inconsistencies between notification processes for different development application processes.
- Congruency between the Comprehensive Plan and the development codes. The PC's hands are often tied because they are required to have reasons for recommending denial of an application.
- Bring timeframes closer together between the various development application processes.
- Combining things together.
- Update things in Winona to the 21st century. Things are outdated. It seems like there is too much "grandfathering" for existing development issues.
- Enforcement.
- Alignment with the Comprehensive Plan.



**Winona Development Code Update
Project Kickoff Session with Planning Commission
September 14, 2015**

- Important that the development codes aren't so restrictive that they deter development. There is a very vocal opposition group to changes to the development codes. Need to find the fine line that works for all without being too restrictive.

Preliminary Evaluation of Existing Plans' Guidance for the Update of the Development Code

One of the objectives of the Development Code Update Project is to implement the regulatory recommendations of the City's plans. The consultant team reviewed the 2007 Comprehensive Plan, 2007 Downtown Revitalization Plan, 2007 Riverfront Revitalization Plan, and the Historic District Design Guidelines. The table below summarizes policies and actions from each of the plans and provides our preliminary evaluation of how each of the plan recommendation can be addressed in the Development Code Update Project. Please review and be prepared to discuss at the meeting whether any plan recommendations are missing, whether there are any recommendations that are no longer valid, or whether any of the recommendations relate to other areas of the development codes.

2007 Comprehensive Plan

| Land Use Plan Chapter | |
|---|---|
| <i>Policies and Actions</i> | <i>Relationship to Development Code Update</i> |
| <p>4. New Neighborhood Planning and Design. The Mixed Residential designation in the Urban Expansion Area indicates that new residential areas should be planned as integrated neighborhoods, rather than large-lot single-family subdivisions. Neighborhoods should include:</p> <ul style="list-style-type: none"> • Some diversity of housing types, including limited numbers of two-family and attached units and secondary units on single-family lots; • Small neighborhood services and office uses, providing opportunities for residents to work at home and reducing the need to drive for daily necessities; • Open space – playgrounds, parks and trails – designed to serve the neighborhood and to connect it to its surroundings; • An interconnected street system within the neighborhood, providing a variety of routes and encouraging walking and biking, with adequate connections to surrounding roads and to adjacent neighborhoods. Topography may limit street connectivity, but the use of cul-de-sacs should be limited. Where lot sizes are narrow, the use of alleys or rear service drives to parking areas can create a more attractive and pedestrian-oriented streetscape. | <p>This recommendation relates to allowable uses in residential zoning districts and design requirements for new subdivisions.</p> |
| <p>5. Conservation Design. The City will encourage conservation design for privately-owned properties that fall within the Sensitive Resources Overlay. Conservation design, sometimes called 'cluster development' is a technique for open space preservation on a parcel-by-parcel basis. In a conservation subdivision, houses are clustered on relatively small lots, while the remainder of the site is protected as open space. Essentially, conservation design concentrates allowed density on the most suitable portions of a site, while protecting sensitive natural features and, in some cases, productive farmland. Advantages of conservation design include:</p> | <p>The City has a Cluster Development Ordinance in Section 43.46 that was last modified in 2005. It may need to be updated to reflect current trends.</p> |

Preliminary Evaluation of Existing Plans' Guidance for the Update of the Development Code

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| <ul style="list-style-type: none"> • Greater design flexibility in siting houses and other development features such as roads and utilities. Frequently the length of roads and utility runs can be reduced, and the amount of site clearance minimized. • Preserving scenic views and reducing the visual impact of new development by maintaining landscaped buffer areas along roads. • Providing housing units with direct visual and physical access to common open space. • Creating environmental corridors by connecting open space between adjacent properties. • Allowing for continuation of forestry or agricultural uses, where these can be adequately buffered from nearby residential uses. | |
| <p>8. Mixed Use. The City will encourage and act to foster a mix of activities, uses and densities consistent with its traditional built form and historical development patterns. To ensure that different land uses are compatible, and that new development is in scale with its context, the City will develop zoning standards and design guidelines that:</p> <ul style="list-style-type: none"> • Permit a variety of land uses to coexist within buildings when the building is of appropriate size and character; • Recognize and reflect unique or traditional neighborhood building patterns and street and block layouts; • Provide adequate transitions to lower-density neighborhoods and districts; and • Keep sufficient separation between clearly incompatible uses, such as between intensive industrial or auto-oriented commercial and residential neighborhoods. | <p>This recommendation will be considered during the review of district uses, the creation of any new zoning districts, the development of any form based codes, and a reexamination of exterior storage and buffer requirements.</p> |
| Environment and Energy Plan Chapter | |
| <i>Policies and Actions</i> | <i>Relationship to Development Code Update</i> |
| <p>1. Continue to Strengthen Environmental Protection Standards. Environmental policies and regulations at the City, County and State level have been strengthened and enhanced since completion of the 1995 comprehensive plan. These policies and regulations include the City's Wellhead Protection Plan, Stormwater Management Ordinance and Environmentally Sensitive Lands Development Ordinance, and the Upper Mississippi National Wildlife Refuge Management Plan. Additional improvements should include:</p> <ul style="list-style-type: none"> • Requirements for the use of conservation design in sensitive resource areas. Conservation design, also known as clustering or open space development, concentrates allowable development on the least sensitive portions of a site while protecting key natural, scenic or historic resources; it can also be used to protect working farmland. (See the discussion in Section 3, Land Use Plan.) | <p>The City has a Cluster Development Ordinance in Section 43.46 that was last modified in 2005. It may need to be updated to reflect current trends. The recommendation could also be considered in reviewing impervious surface and</p> |

Preliminary Evaluation of Existing Plans' Guidance for the Update of the Development Code

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| <ul style="list-style-type: none"> • Limitations on impervious coverage in all zoning districts, so that a percentage of each parcel will remain vegetated, providing improved stormwater management, aesthetics and pedestrian comfort. • Stronger requirements for landscaping as part of the development review process, including both protection of existing vegetation and establishment of new landscape screening around site elements such as surface parking, service areas and outdoor storage. • Setbacks of structures from bluff tops and ridgelines in order to protect biodiversity and key scenic viewsheds. | <p style="text-align: center;">landscaping requirements.</p> |
| <p>4. Develop Street Standards that Minimize Impervious Coverage and Runoff. While the City's existing street system relies largely on the existing stormwater collection system, new development outside the Island has the opportunity to use drainage swales rather than the typical curb and gutter system, as a means of managing stormwater more effectively. This type of street design can be used in conjunction with sidewalks or a pathway system, either placing the swale between the sidewalk and the property line or within the planting strip between street and sidewalk. The narrower street widths recommended in the Transportation section of this plan would also reduce stormwater runoff.</p> | <p style="text-align: center;">This could be addressed in the subdivision regulations.</p> |
| <p>5. Develop a Comprehensive Tree Planting and Urban Forestry Program Street trees can reduce energy consumption and cool the urban environment while increasing the level of pedestrian comfort during the summer months. While the City's original street system was designed with street trees, placed in boulevards (planting strips) between curb and sidewalk, there is currently no street tree planting policy in place. Several steps are recommended:</p> <ul style="list-style-type: none"> • Institute a requirement for street tree planting as part of new subdivisions. Options could include requiring developers to provide trees within the street right-of-way as part of their required improvements, or for the City to plant trees, possibly under a cost-sharing arrangement. The City would then commit to maintaining street trees and replacing them if they are damaged or destroyed. • Require at least one tree to be placed on any new lot created under the subdivision ordinance, with future maintenance by the homeowner. • Assist homeowners wishing to plant trees on their properties by providing appropriate tree species at low cost or providing matching funds. Offer educational materials to homeowners on proper selection, planting and maintenance of trees. | <p style="text-align: center;">This could be addressed in the subdivision regulations.</p> |

Preliminary Evaluation of Existing Plans' Guidance for the Update of the Development Code

| Arts and Humanities Plan Chapter | |
|--|---|
| <i>Policies and Actions</i> | <i>Relationship to Development Code Update</i> |
| <p>4. A Mixed-Use District. Establish a mixed-use arts-oriented district focused on the downtown that will combine housing, studios, galleries, entertainment, retail and restaurants in a walkable setting. (See discussion of updated zoning for mixed use under Section 5, Downtown Revitalization Plan.)</p> | <p>This can be addressed in a new zoning district or by incorporating new uses and standards in existing districts.</p> |
| Historic Preservation Plan Chapter | |
| <i>Policies and Actions</i> | <i>Relationship to Development Code Update</i> |
| <p>Related actions include the following:</p> <ul style="list-style-type: none"> • Implement design standards for both contributing and non-contributing buildings, including uniform signage within the Downtown Local Historic District. (Design standards were developed in 1999 for the East Second Street Historic District, primarily focusing on building renovation standards, and are currently being updated for the Third Street Historic District.) • Implement design guidelines for the greater downtown area, focusing primarily on achieving compatibility between new infill development and surrounding traditional storefront buildings. Design guidelines can be linked to updated zoning standards (see below) or incorporated into a site plan review process. (This recommendation is also identified in the Downtown Revitalization Plan.) • Compile reference materials for building owners regarding process and time line for permitting projects within the Downtown Local Historic District and informing them of the existing tax credit attached to the National Historic District and other state, federal and local funding options. | <p>Historic design standards could be incorporated within the new UDC. While the UDC project scope does not include developing detailed historic district standards, the location for such standards can be identified in the update process.</p> |
| <p>2. Update zoning regulations to encourage preservation and context-sensitive development. Zoning standards, both in downtown Winona and in its traditional neighborhoods and commercial districts, should encourage mixed use development, emphasize pedestrian-oriented design, and encourage adaptive reuse of historic buildings. Zoning standards should provide incentives for such reuse, such as reduced requirements for off-street parking, relaxation of setback requirements, or additional density or intensity of development.</p> | <p>This recommendation will be considered in the review of existing zoning districts and the creation of new districts.</p> |

Preliminary Evaluation of Existing Plans' Guidance for the Update of the Development Code

| Housing Plan Chapter | |
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| <i>Policies and Actions</i> | <i>Relationship to Development Code Update</i> |
| <p>1. Maintain and enhance the viability of single-family housing in older neighborhoods, through existing housing rehabilitation programs, appropriate zoning standards, code enforcement, and additional neighborhood revitalization efforts. Strategies include:</p> <ul style="list-style-type: none"> • The “half-lot” single-family houses found throughout much of the East End represent an important part of Winona’s heritage, having been constructed by Polish immigrants and added on to as economic circumstances improved or to accommodate extended families. Today they provide some of the only affordable single-family detached housing in the city. However, their lot width (typically 25 feet) and ‘shotgun-style’ design make them difficult to update and often require multiple variances. Zoning standards should be revised to recognize this housing type, perhaps as a distinct sub-district, and to allow reasonable expansion. In addition, development of an architectural “plan book” for half-lot houses should be considered. Guidebooks of this type provide guidance for typical renovations or expansions that are consistent with the architectural character of these houses. | <p>The process will specifically consider strategies to ease the ability of property owners to expand or redevelop the narrow “half-lot” houses.</p> |
| <p>2. Encourage mixed use and mixed income infill and redevelopment. As shown in the Land Use Plan (Figure 2), certain areas of the City – including both industrial and residential districts – are identified as suitable for redevelopment. Many other residential neighborhoods could benefit from introduction of new housing types or complementary commercial and office uses. But can new housing types such as duplexes, townhouses, or carriage houses be introduced into a largely single-family neighborhood without threatening its character? What about offices, coffee shops or convenience stores? To ensure that any land use changes are beneficial to surrounding neighborhoods, the following strategies should be explored as part of an update of the City’s ordinances:</p> <ul style="list-style-type: none"> • Zoning and design standards that will allow for some degree of housing diversity while maintaining neighborhood character. For example, some cities have used “neighborhood conservation” overlay districts to allow for some design review of new development proposals, while others have established “form-based” zoning standards that define specific compatible building types. • A limit on the number or size of any new housing type or nonresidential use, based on percentage of block face, number of units per block, or similar standards. Similar to the City’s “30%” standard for rental properties, this type of zoning standard can help prevent replacement of entire blocks of housing with other housing types or | <p>This recommendation will be considered as part of examining use and design standards for residential zoning districts.</p> |

Preliminary Evaluation of Existing Plans' Guidance for the Update of the Development Code

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| <p>land uses.</p> <ul style="list-style-type: none"> • Consideration of the use of carriage houses or similar secondary units (typically built above detached garages) as a means of adding additional affordable units without some of the negative impacts of multifamily conversions of single-family houses. Adding secondary unit of this type can also help homeowners provide for elderly family members or provide additional rental income that can help them maintain their older homes. Secondary units can be designed to be compatible with the principal structure. | |
| Transportation Plan Chapter | |
| <i>Policies and Actions</i> | <i>Relationship to Development Code Update</i> |
| <p>10. Sidewalks and Paths in Neighborhoods.</p> <p>Sidewalks and paths are essential pedestrian features in existing and new neighborhoods. While the older parts of the city are interconnected by sidewalks, newer neighborhoods have been developed without a consistent sidewalk policy. The issue of whether or not to require sidewalks is often a controversial one. Some residents feel that the “rural character” of newer neighborhoods is incompatible with sidewalks. Others appreciate the pedestrian safety, comfort and connections that sidewalks can provide. The City will require sidewalks, or interconnected off-street trails (non-motorized) as part of new development, unless it is determined that an exception or waiver is warranted. Criteria for an exception to the sidewalk policy may include:</p> <ul style="list-style-type: none"> • Steep topography (alternative trail alignments should be considered) • Very low density and traffic volumes • Distance from schools, parks or citywide trails, making connections difficult or impractical <p>Sidewalks should generally be required on both sides of a new street, unless parkland or open space is adjacent to the street on one side, in which case an off-street trail might be preferable.</p> <p>It is important to recognize that:</p> <ul style="list-style-type: none"> • Sidewalks would be provided in future development, not in existing neighborhoods, unless specifically requested by residents. • Existing sidewalks also need to remain usable, and to be replaced on a regular maintenance cycle. • In combination with narrower street widths, sidewalks do not result in more pavement. • Sidewalks can be designed in a manner compatible with the rural character of some neighborhoods. | <p>This recommendation can be addressed in the subdivision regulations.</p> |

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12. Local Street Improvements.

Current City street design policies call for a standard 36-foot pavement width for local streets, although narrower streets may be allowed on a case-by-case basis. There is no consistent policy to require sidewalks in new development (see discussion above) and they are often omitted.

Most of Winona's older streets are 40 feet wide, but many of them are effectively narrowed by the amount of on-street parking they accommodate. Most newer streets serve larger lots and have little on-street parking. The result, combined with the lack of sidewalks, is a local street that is oversized for the traffic levels it accommodates. An overly-wide street results in additional stormwater runoff, encourages higher traffic speeds, and is not safe or comfortable for pedestrians.

Another local street safety issue is the number of uncontrolled or "yield" intersections of local streets. While stop signs are not required at such intersections, the current system is confusing to visitors and new arrivals such as students.

The following policies should be applied to local streets as they are developed or reconstructed.

- **Connectivity.** In general, streets should connect to other local or collector streets in at least one direction in order to provide pedestrian and bicycle connections and alternative routes for vehicular traffic. While the steep topography of the city's developing areas can make such connections difficult, providing such connections should always be a goal.
- **Street Design.** Local street policies should be reviewed and revised, to establish optimum widths for streets in order to promote safe traffic speeds and provide a pedestrian-friendly environment.
- **Traffic Calming.** Traffic calming should be considered for local streets or predominantly residential collector streets where problems with traffic speeds or vehicular or pedestrian safety have been identified.
- **Traffic Control Devices.** The City will consider the use of "Yield" signs or traffic calming measures such as small traffic circles at uncontrolled intersections.

The design of new local streets should provide for traffic movement while ensuring a safe, attractive, and pedestrian and bicycle friendly neighborhood environment. The following street design provides 30-feet from curb to curb and allows for two-side parking and two-way traffic.

This recommendation can be addressed in the subdivision regulations.

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2007 Downtown Revitalization Plan

| <i>Policies and Actions</i> | <i>Relationship to DC Update</i> |
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| <p>3. Updated Zoning for Mixed Use. Encourage mixed use, including commercial, housing, office and entertainment uses, throughout the downtown riverfront area, fostering pedestrian flow and activity. Mixed use can be promoted through updated zoning that offers incentives for preferred types of uses, as well as through public investments such as the Levee Park redesign. Zoning standards can also encourage a strong arts presence in the downtown area, and facilitate redevelopment of industrial sites (where industrial facilities could be relocated). Updated zoning standards should also address issues such as building height and massing, to ensure that taller buildings are carefully sited to avoid “walling off” the riverfront.</p> | <p>This recommendation will be considered during the review of zoning district uses, the creation of any new zoning districts, and the development of any form-based codes standards.</p> |
| <p>4. Design Guidelines. Implement design guidelines for the greater downtown area. The primary purpose of design guidelines is to foster high-quality development and redevelopment that is compatible with downtown’s historic buildings and streetscapes. Design guidelines can also complement public investment in streetscape or parking improvements, while reducing uncertainty in the development review process. Guidelines typically apply to new construction, major exterior additions, or site improvements such as new parking. They can be linked to updated zoning standards (see above) or incorporated into a site plan review process. Design guidelines are included as an Appendix to the Downtown Revitalization Plan.</p> | <p>Form-based zoning standards can assist with supporting quality design. The Design Guidelines recommended in the Appendix of the plan will be used as a starting point for discussion of desired elements.</p> |
| <p>7. Downtown Housing. Create additional living space in the downtown area that will enhance the vitality of the business community. In this case, Winona can draw upon housing prototypes from the Twin Cities and other riverfront communities such as La Crosse. Loft-type multifamily buildings of up to 4 to 6 stories in height, with some amount of retail at ground floor level, have proved popular both as condominiums and rental units. While the condo market may have peaked in larger cities, its potential in Winona remains untapped. Potential market segments include university faculty, staff and graduate students, empty-nesters, retirees and young professionals. Live-work combinations such as artists’ studios should also be explored. The Downtown Revitalization Plan identifies several suitable locations for conversions or new construction. Of course, detailed market studies would likely be part of any large-scale development proposal.</p> | <p>The update process will include a reevaluation of locations and types of housing for downtown. Form-based standards can be used to address structure design and massing.</p> |

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| <p>Concentrations of taller buildings can have the negative effect of 'walling off' the riverfront from public view. New buildings should be carefully sited to maintain view corridors, using techniques such as orienting buildings with their longer axis perpendicular to the riverfront (see Design Guidelines, Downtown Revitalization Plan).</p> | |
| <p>11. Parking Management and Improvements. As with many downtowns, Winona suffers from somewhat exaggerated perceptions of inadequate parking supply because of peak hour shortages of visible parking. Parking management should distinguish between different populations:</p> <ol style="list-style-type: none"> 1. Visitors and customers: highest priority for visible and convenient on- or off-street parking; 2. Employees: long-term, off-street parking, with incentives for its use and disincentives for on-street parking; 3. Downtown residents: need dedicated off-street parking, although generally at lower ratios than typical single-family housing. The issue of student housing and related parking demands will require some additional analysis. <p>The site-specific parking recommendations outlined in the Downtown Framework Plan include the following strategies:</p> <ul style="list-style-type: none"> • Conversion of several north-south street segments to one-way pairs in order to provide diagonal parking on both sides, increasing the on-street supply; • Conversion of parallel to diagonal parking on one side of several two-way streets; • Recommendations for structured parking in combination with liner retail or office uses in several central locations. ("Liner" buildings have retail or office uses wrapped around one or more facades, with parking in the interior.) • Surface parking lots in more remote locations, with incentives for employee or overflow resident use and a possible trolley or shuttle service. • Provision of resident parking on new housing or mixed use development sites. • Improved enforcement and employee training. | <p>Parking requirements and strategies will be reviewed as part of the update process.</p> |

Riverfront Revitalization Plan

| <i>Policies and Actions</i> | <i>Relationship to Development Code Update</i> |
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| <p>The Future Land Use Plan, Figure 8, shows that nearly half of the land use categories identified citywide occur along the riverfront. Riverfront land use spans the complete range from natural wetlands and open space to the heaviest industrial use category. The Downtown Mixed Use classification</p> | <p>The mix of uses in each of the Downtown zoning districts will be reviewed and updates</p> |

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| <p>covers most of the central downtown core. This category recognizes the existing diversity of retail, office, government and entertainment uses in this area, and encourages housing that takes advantage of riverfront amenities, particularly a redesigned Levee Park, and cultural facilities. The Downtown Fringe classification is proposed for the blocks west of downtown between Olmsted and Winona Street. This is a change from previous industrial use to one that supports downtown's central core but with lower densities.</p> | <p style="text-align: center;">made as needed to support the community's vision for Downtown.</p> |
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2007 Historic District Design Guidelines

The Historic District Design Guidelines describes the two downtown National Register of Historic Places (NRHP) historic districts established in the City of Winona and the associated design guidelines that should be used in preservation and redevelopment of the historic buildings therein, as well as the design of any new, infill construction. The Design Guidelines could be used to inform the development of form-based zoning standards incorporated into the UDC. In particular, the New Construction Chapter will have components appropriate for entire zoning district standards. It is unlikely though that the standards will provide a similar level of detail as is available in the Design Guidelines. Thus, the City will most likely continue to use the Design Guidelines as projects are proposed in the historic districts. Incorporation of historic district design guidelines is not currently part of the UDC project work scope.