
MEMORANDUM

TO: Planning Commission
FROM: Dusty Finke, City Planner
DATE: June 8, 2017
MEETING: June 13, 2017 Planning Commission
SUBJ: Wally and Bridget Marx – 2700-2900 Parkview Drive – Conservation Design Subdivision PUD General Plan and Preliminary Plat – *Public Hearing*

Review Deadline

Application Received: May 12, 2017

Review Deadline: September 9, 2017

Overview

Wally and Bridget Marx have requested review of a PUD General Plan and Preliminary Plat for a Conservation Design subdivision at their property at 2700-2900 Parkview Drive. The applicant proposes to divide three lots totaling 89.75 acres into six single-family residential lots and proposes to place 69.61 (11.76 acres buildable) into conservation easements.

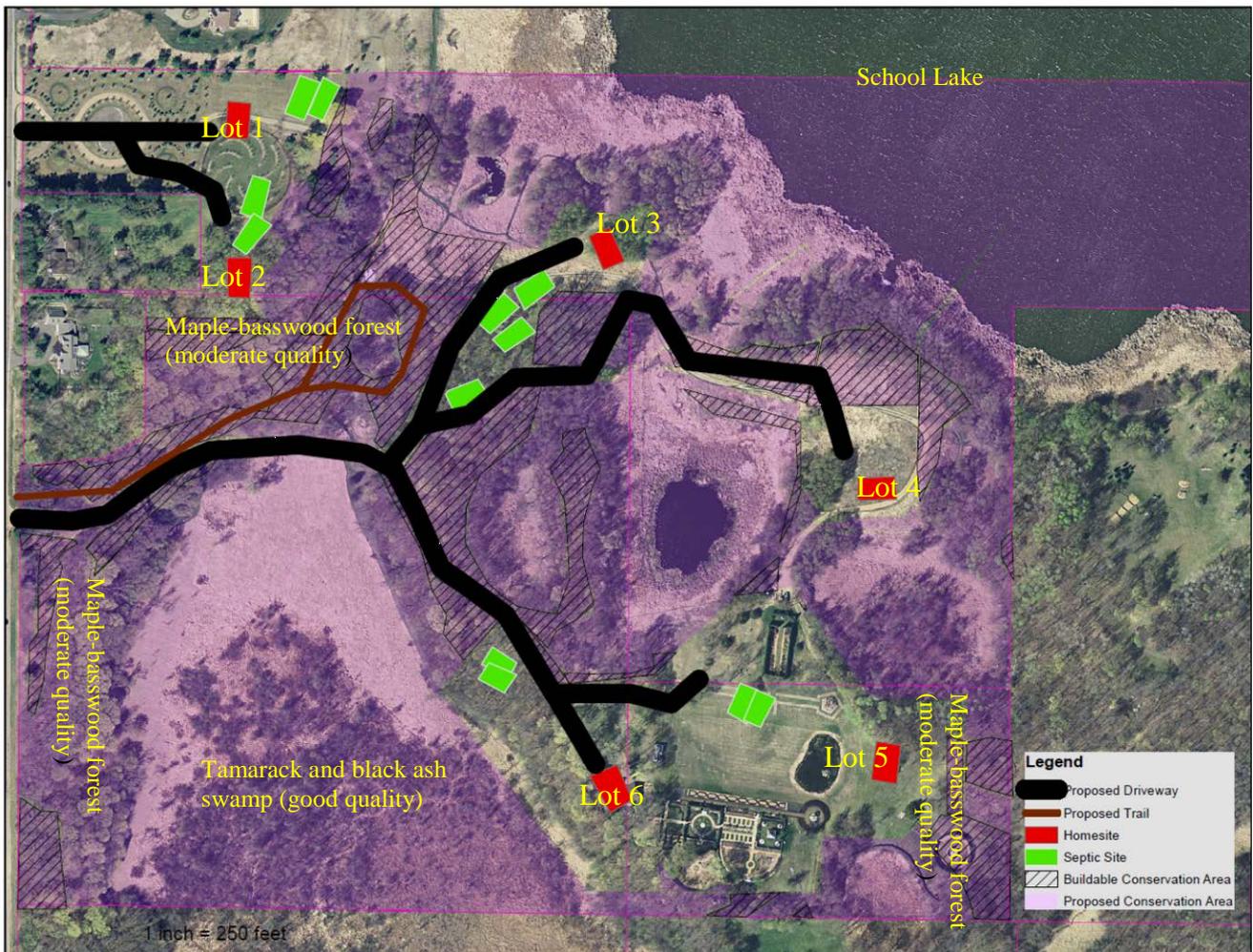
The subject properties are located on Parkview Drive, southwest of School Lake and east of the Baker National Golf Course. A significant portion of the property is either wetlands or located under the high water level of School Lake. The large wetland in the southwest portion of the site is identified as a moderate quality tamarack swamp and black ash swamp in the City's Minnesota Land Cover Classification System (MLCCS) data. The MLCCS identifies a moderate quality maple-basswood forest between this wetland and Parkview Drive, and then extending through the center of the site. Another portion of moderate-quality maple-basswood forest extends onto the property on the southeast of the site. An aerial of the site can be found on the following page.

The Conservation Design Planned Unit Development (CD-PUD) district is an overlay district which provides an applicant an option to permanently preserve portions of a property in by providing incentives to develop the property consistent with the conservation objectives of the City rather than conventional development following the standard zoning regulations. The ordinance allows the City to grant flexibility to the underlying zoning regulations in order to encourage property owners to protect natural resources and open space with conservation easements. Flexibility can include density bonuses, reduced setbacks and lot size requirements, and flexibility to park dedication or septic regulations. Flexibility can also be considered for upland buffer and tree preservation regulations on specific lots in the interests of protecting natural resources more broadly on the site.

The Planning Commission recently reviewed the CD-PUD district ordinance and the City Council has also been reviewing. The Council directed staff to place the ordinance on the consent agenda at the June 20 meeting, so staff anticipates this draft will be adopted before the City takes action final on this application. As a result, the red-lined draft is attached to this report for reference.

The City reviewed the applicant's PUD Concept Plan earlier in the year. Excerpts from the Planning Commission and City Council review are attached for reference. The primary changes from the Concept Plan are:

- 1) Lot 4 driveway was shifted to reduce wetland impacts
- 2) A looped public trail is proposed along private road, into the maple-basswood forest and providing a view of School Lake. This trail is kept separate from the private horse trail.
- 3) Potential house locations were adjusted to meet setbacks from exterior of the site.
- 4) Applicant is proposing for individual owners to own the Outlots containing the Conservation Area (rather than an association of owners).
- 5) The applicant is proposing to remove some existing invasive and pioneer tree species with native tree species.



The aerial above identifies the proposed location for homesites, septic systems, and driveways. Staff believes it is helpful to see these items in connection with the aerial. The proposed conservation areas are shown in purple.

In addition to comments from the Commission and City Council, staff had provided the following comments on the Concept Plan. A brief summary of whether the comment has been addressed follows in *italics*:

- 1) Consider relocating some of the septic sites for lots 3 and 4 in order to provide improved connectivity and to preserve wooded area.
No changes were made to the proposed septic location for lots 3 and 4
- 2) Include conservation areas within outlots in order to ensure improved long term enforcement of conservation easements.
Conservation areas are included within outlots, but the outlots are proposed to be owned by individual lot owners rather than an association.
- 3) Consider adding secondary septic site locations to conservation areas, even if left within the private lots.
All septic locations are proposed within lots.
- 4) Maintain minimum setback distances from development site perimeter. The potential house site of Lot 2 would need to be adjusted to meet this requirement.
The potential location was adjusted.
- 5) Provide trail connection to conservation areas available to the public.
A trail is proposed along the driveway and to loop in the conservation area. The Park Commission had requested a future trail all of the way to the east property line as well. The applicant is considering location for this corridor.
- 6) Any future submittal should address the comments of the City Engineer, City Fire Marshal, Hennepin County, and Minnehaha Creek Watershed.
Comments will be provided for this review as well.

Site Design Process

The CD-PUD ordinance describes a four-step “Site Design Process” which is supposed to influence the site plan. The process is described within the ordinance attached, but is summarized as follows. Also following is a summary from the applicant’s site design process, which is described more in-depth within the narrative. This summary helps explain the various colors on the applicant’s concept plan.

Step 1 – Identify Conservation Areas. This step includes first identifying “unbuildable areas” (shown in green, and dark and light blue in the applicant’s plans) and then identifying Conservation Areas which are buildable (shown in yellow in the applicant’s plans). The remaining land is potentially buildable land area (shown in grey in the applicant’s plans).

Step 2 – Locate Housing Sites. Sites should be located in relation to views and buildable land areas. The sites are shown as boxes with an “X” on the applicant’s plans.

Step 3 – Align streets and trails. Streets are shown in brown on the applicant’s plans. Trails are shown but further discussion is needed with the applicant for access from Parkview Drive to the trails and possible realignment of proposed trail.

Step 4 – Draw lot lines. Proposed lot lines provide for the six lots, outlots, and conservation areas.

Conservation Objectives and Determining Flexibility

The CD-PUD process allows the City to grant flexibility to the underlying zoning regulations as an incentive to permanently conserve natural resources and open space. According to the CD-PUD ordinance, the City has the full discretion to determine how much flexibility to grant based “the amount and quality of Conservation Area protected, the public access to or enjoyment thereof, and how well the project achieves the following conservation objectives over and above that achievable under conventional development:

- a) Parcels with opportunities to achieve the following primary conservation objectives will be given higher consideration for flexibility from performance standards.
 - (1) The protection and/or restoration of the ecological function of native hardwood forests (e.g. Maple-Basswood Forest).
 - (2) The protection and preservation of lakes, streams and wetlands beyond existing regulatory requirements.
 - (3) The protection, restoration, and/or creation of moderate to high quality ecological resources including the sensitive ecological resources identified as priority areas on the Composite Map of the Open Space Report as updated from time to time.
 - (4) The reservation of land connecting aquatic and terrestrial ecological resources to restore and/or create new ecological resources suitable for habitat movement corridors.
 - (5) The reservation of land for incorporating public and private trails in order to create connections to existing or planned trails as identified in the current Parks, Trails, and Open Space Plan.
- b) Parcels with opportunities to achieve the following secondary conservation objectives may be given consideration for flexibility from performance standards:
 - (1) The protection of scenic views and viewsheds including the views from roads identified as “Scenic Roads” on the Scenic Roads Map of the Open Space Report as updated from time to time.
 - (2) The reservation of land for incorporating public and /or private Open Space in order to achieve goals as identified in the Comprehensive Plan.

The applicant describes in their narrative how they believe these objectives are met. The applicant proposes 70 acres of conservation area, 11.76 acres of which is classified as buildable under the ordinance. An additional 3-acres of steep slopes are included in the Conservation Area which are not considered buildable. However, staff believes these areas deserve more consideration than wetlands because steep slopes are not protected under existing regulations.

The primary area of preservation which is beyond that required by standard wetland regulations and setback requirements is a 10-acre area east and west of Lot 3. The area west of Lot 3 includes the maple-basswood forest remnant referenced in the applicant’s forester’s report. In addition, two acres of the School Lake lakeshore are conserved which is beyond the general regulations. Approximately 50 acres of the Conservation Area includes wetland areas, areas within School Lake or within the setback of Parkview Drive.

As previously noted, the property does include a moderate quality maple-basswood remnant and good quality tamarack swamp. The forester’s report from Hennepin County stated that maintenance of the maple-basswood forest could raise the quality of the area, and the applicant

has indicated that they intend to propose some removal of invasive/pioneering trees and replacement with native species.

The proposed conservation area provides a corridor connection between School Lake and the tamarack swamp in the southern portion of the property. This corridor is located east and west of Lot 3. The corridor is interrupted in narrow locations by the shared driveway for lots 3-6 and the driveway for Lot 4. The septic sites for Lot 4 are also within this corridor. During concept plan review, staff had recommended finding alternative locations for some of these improvements, potentially within Lot 5.

Parkview Drive is not identified as a “Scenic Road”, although it appears that the proposed development would generally protect the viewshed from the road nonetheless. Staff believes that only one of the lots would be visible from the road.

The applicant proposes a public trail along the shared driveway from Parkview Drive which would loop into the wooded area and provide a view of School Lake. The Park Commission had also recommended a trail easement connection from Parkview Drive to the eastern property line. This easement would secure the ability for a trail connection in the future between Parkview and Willow Drive, depending on future development or purchase of easement rights on property to the east. The applicant has indicated that they are open to such an easement, but have not identified a location. Staff’s impression is that the Park Commission did not have a specific route or location in mind, but would be open to the applicant placing the trail in a location which works well for their proposed site design.

The applicant has also shown a private trail along School Lake. The applicant has indicated that they are open to providing access to this trail for property owners around School Lake, but not to the general public. Neighbors along School Lake expressed concern during the concept plan review that opening the existing private trail up to the public will cause significant trespass concerns. The applicant has attempted to address these concerns by leaving it private.

The applicant is working with Minnehaha Creek Watershed to potentially hold and enforce the Conservation Easement. Minnehaha Creek holds the easement in the Deer Hill Preserve CD-PUD and the draft easement is fairly similar. The applicant has provided a draft Land Stewardship Plan and Conservation Easement for review. Generally speaking, the Land Stewardship plan calls for very limited restoration or active management on an on-going basis. The Plan describes some removal of invasive trees and replacement with native species.

The applicant is proposing that individual homeowners own the Conservation Area adjacent to their property rather than the Conservation Area being held in common by an association. City staff is concerned that this may lead to enforcement and administrative difficulties in the long term. The applicant believes individual ownership will provide more “pride in ownership” and will improve enforcement in the long-term. They suggest it may be difficult to ensure that the owners of Lots 1 and 2, for example, take part in the management of the property on the far east or south of the subdivision, even if they were part of an association that owned the entire conservation area.

General Performance Standards

Minimum Size of Subdivision

A CD-PUD subdivision within the Rural Residential zoning district is required to be a minimum of 40 acres in size. The proposed subdivision is approximately 89.75 acres.

Required Conservation Area

A minimum of 30% of the total Buildable Land Area, or higher depending on the land and opportunities to achieve the City's conservation objectives, is required to be included in the Conservation Area.

The applicant proposes 69.61 acres within the conservation area, or 77.6% of the site. Most of this area (staff estimates 49 acres) is wetland or would be within wetland buffers required to be protected by easement under a standard development. Buildable areas consist of 11.76 acres (40% of the total buildable area on the property).

Density and Design Flexibility

The CD-PUD ordinance allows the City to grant flexibility from standard City requirements.

Density/Lot Size/Width

The applicant proposes six residential lots. Existing rural residential regulations would not allow further subdivision of the existing three parcels. The CD-PUD ordinance allows the City to grant additional density as an incentive, with the maximum number of lots limited to 2x the base density. During recent discussions, the City Council added a clause stating that "the maximum density bonus will only be granted in exceptional circumstances." The

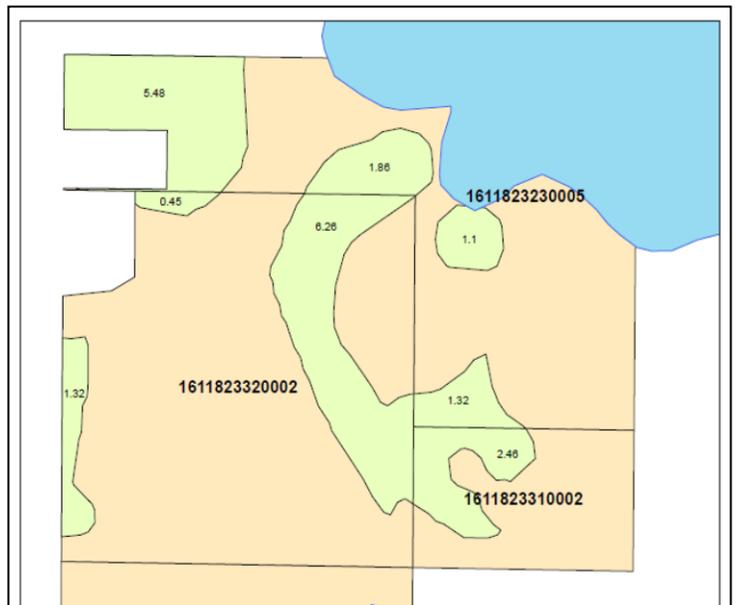
base density is determined by the standard underlying zoning designation (in this case, 5-acres of contiguous suitable soils per lot). According to Hennepin County Soils data, it appears that there is a six acre contiguous area of suitable soils in the northwest corner of the site and a twelve acre contiguous area of suitable soils in the center of the property (see insert at right).

This results in a base density of three parcels. 2 times of the base density would equate to a maximum of six lots.

The property is currently included in three PIDs. If these three lots are separate lots of record and are buildable, the applicant could not further subdivide the property under current requirements. As such, City wetland buffer and other similar requirements would unlikely be triggered upon the property.

A summary of the proposed lot sizes in the subdivision is to the right:

| | Lot Area |
|-------|-----------------|
| Lot 1 | 2.65 acres |
| Lot 2 | 2.53 acres |
| Lot 3 | 1.63 acres |
| Lot 4 | 2.99 acres |
| Lot 5 | 6.84 acres |
| Lot 6 | 3.51 acres |



Setbacks

The following table summarizes the setback requirements of the proposed CD-PUD district:

| | Proposed | RR Standard | CD-PUD Requirement |
|----------------------------|-----------------|--------------------|---------------------------|
| Setback from Parkview Dr. | 440 feet | 50 feet | 100 feet |
| Setback from Perimeter | 50 feet | 50 feet | 50 feet |
| Interior structure setback | 50 feet | 50 feet | 30 feet |
| School Lake | 172 feet | 150 feet | 150 feet |

Subdivision Review

Primary/Alternate septic sites

Standard City regulations require a primary and alternate septic site to serve each lot. The CD-PUD ordinance permits flexibility for the alternate site to be located within conservation areas.

The concept plan shows two septic sites within each proposed lot (although lot 4 requires a good deal of gerrymandering), and none within conservation areas. Staff noted that the septic sites for Lots 3 and 4 are located within the wooded portion of the property, although this portion of the woods does not appear to be part of the maple-basswood forest but is lower quality compared to much of the woods. These sites do interrupt the corridor between School Lake and the tamarack swamp to the south, and it would appear preferable if alternative locations could be found, especially for Lot 4.

Shoreland Lot Width Requirement

The City's Shoreland ordinance requires a minimum lot width of 200 feet at the ordinary high water level at the 150' structure setback. As proposed, none of the lots are actually adjacent to the lake. The entire lakeshore is included within outlots which would be subject to the conservation area. However, Lots 1-4 each are each proposed to individually own an outlot which is adjacent to the lake. Outlot B does not meet the minimum 200' lot width adjacent to the lake. In discussions with DNR staff, it is possible for the City to submit a PUD with reduced lot width from review to the DNR. The DNR would consider, similar to the consideration the City is making on the CD-PUD, if the proposed PUD protects more of the shoreline than the standard 200 foot width would protect.

Staff is awaiting comment from the DNR related to the proposal. Staff's impression is that the lakeshore being entirely subject to a Conservation Easement (although with some allowance for lots 1-4 to access the lake) will likely be seen as positive and doubts the DNR will raise concerns. The subject site has over 1200 feet of lakeshore, so the applicant is proposing fewer lots to front the lake than would be permitted through the standard 200 foot lot width.

Woodlands

The subject property includes remnants of Maple-Basswood forest which were ranked as moderate quality in the City's natural resources inventory. These areas are identified within the Composite map of the City's Open Space report and protecting the area would be consistent with the first conservation objectives.

The septic sites and driveways for Lots 3 and 4 as currently proposed, would result in tree removal over an area of approximately 1.6 acres. This area is of a lower quality and includes predominantly boxelder. Preserving more of the area would have benefits in terms of corridor connectivity. The proposed building site for Lot 2 would impact approximately 0.5 acre of the woods. These impacts would account for just over 10% of the wooded area on the site. The tree preservation ordinance allows up to 15% of the trees to be removed without replacement. Staff believes a tree survey of the entire site is not necessary, as the ordinance allows sampling. However, staff has requested specific information related to tree removal to verify compliance.

Wetlands and Floodplains

The applicant shifted the driveway location for Lot 4 in order to minimize wetland impacts. The driveway proposes to use an existing field road, so some minimum impacts may occur to widen the driveway. Otherwise, no wetland impacts are proposed.

The applicant has shown wetland buffers adjacent to the wetlands on the property which generally exceed City requirements (in order to meet Minnehaha Creek standards). The exception is for the buffer along the wetland south of the proposed shared driveway for lots 3-6. The existing driveway location prevents establishing a buffer with the minimum required width. Staff recommends that the applicant average the width of the buffer along the driveway in order to meet the required average width. Staff would recommend a condition that requisite easements, signage, and vegetation are provided for the buffers.

The applicant has also identified floodplain locations adjacent to School Lake and within the Tamarack swamp. No impacts are proposed.

Septic setbacks from wetlands

All septic sites appear to meet the minimum setback requirement of 75 feet from wetlands and 150 feet from the ordinary high water level of the lake. Staff recommends a condition that the applicant verify the setback for the septic location for Lot 6, as it is close to the required setback.

Stormwater

The applicant proposes stormwater improvements to be constructed in connection with the expansion of the shared driveway for lots 3-6. It is not practical to construct a stormwater system for the construction on the lots within the subdivision. As such, each lot will be required to incorporate stormwater improvements in connection with construction in the future.

Transportation/Access

Lots 1 and 2 are proposed to share a driveway which would access Parkview Drive in the location of the existing orchard driveway at 2900 Parkview Drive.

Lots 3-6 are proposed to share a driveway in the location of the existing driveway for 2700 Parkview Drive. This driveway is proposed to be widened to 20 feet in width and paved in order to provide emergency access. The shared driveway would be 20 feet in wide to the point where it splits into two shared driveways (one driveway for lots 3 and 4 and one driveway for lots 5 and 6). The City Engineer has provided comments related to the design of the shared driveway for lots 3-6, and staff also recommends a condition requiring the applicant to abide by the requirements of Hennepin County.

Easements

Staff recommends a condition requiring the preliminary plat to dedicate drainage and utility easements around the perimeter of each lot, over the outlot containing the shared driveway, and over all wetland areas.

Park Dedication

The Park Commission is scheduled to review park dedication at their meeting on June 21.

According to the subdivision ordinance, the City can require the following for park dedication

- 1) Up to 10% of the buildable (non-wetland) land – approximately 4 acres in this case
- 2) Cash-in-lieu – 8% of the pre-developed market value subject to a minimum of \$3500 per unit and maximum of \$8000 per unit - \$24,000 in this case
- 3) Combination of the above.

Staff estimates that the area of the proposed trail easement is approximately 1/2 acre and the trail easement to the eastern property line will likely account for another 1/2 acre. Staff would recommend the remaining 75% of the park dedication to be paid in cash-in-lieu.

The CD-PUD ordinance does permit the City to provide flexibility with regards to park dedication requirements as an incentive for conservation design. The Park Commission and City Council can discuss whether this is appropriate in this case.

Review Criteria/Discretion

Ultimately, the Planning Commission and City Council have full discretion to determine if a proposed CD-PUD subdivision better serves the conservation objectives of the City than would conventional development. The Planning Commission and City Council have complete discretion to determine the extent to which the flexibility described in the CD-PUD district, including density bonuses, is justified by the proposed conservation.

Staff believes that the proposed site is a good candidate for consideration of a conservation design subdivision and staff has suggested some potential alterations to the plan which would seem to better serve the conservation objectives of the CD-PUD district. The primary question would be how much flexibility, especially bonus density, is appropriate as an incentive for the permanent conservation.

If the Planning Commission and City Council determine that the proposal is consistent with the conservation objectives of the City and supports flexibility (perhaps with some plan alterations), staff would recommend the following conditions be applied to any recommendation of approval:

1. The Applicant shall submit final construction plans in connection with the final plat application for review and approval by the City Engineer.
2. The Applicant shall enter into a development agreement with the City, which shall be in a form and of substance acceptable to the City and which shall include the conditions described in this approval as well as other requirements of City ordinance or policy.
3. The Applicant shall provide to the City a letter of credit prior to any site construction in an amount recommended by the City Engineer to ensure completion of the required improvements.

4. Except as explicitly authorized by City resolution or ordinance, all aspects of this subdivision shall comply with all applicable state laws, city codes, ordinances and regulations.
5. The Applicant shall submit a preliminary plat which dedicates drainage and utility easement as recommended by the City Engineer.
6. The Applicant shall obtain wetland replacement plan approval prior to approval of the final plat.
7. The Applicant shall abide by the requirements of the wetland protection ordinance, including easement, signage, and vegetation requirements.
8. The Applicant shall submit covenants for review and approval of the City. Such documents shall ensure maintenance of conservation areas, stormwater facilities, shared driveway(s), and other common elements.
9. Shared driveways shall meet relevant standards and include a reciprocal easement and maintenance agreement satisfactory to the City, which shall be recorded against the properties.
10. The Applicant shall grant trail easements in the locations shown on the plans received by the City on May 12, 2017. The Applicant shall also provide a trail easement to the eastern property line and pay to the City a fee-in-lieu of dedicating additional land after the area of these easements have been deducted.
11. Conservation easements shall be granted over all conservation areas and shall be in a form and of substance acceptable to the City. The easement shall include enforcement and collection methods by which the easement holder can ensure payment of ongoing annual maintenance costs of the conservation areas by the homeowners within the subdivision. The easement holder for the conservation area shall be secured prior to application for final plat and be willing to accept the easement in the manner required by the CD-PUD District Ordinance.
12. Details on any significant tree removal and compliance with the tree preservation ordinance shall be provided.
13. Final land stewardship plan shall be provided in connection with the application for final plat for review and approval by the City.
14. The Applicant shall address all comments from the City Attorney, City Engineer, Hennepin County, and Minnehaha Creek Watershed.
15. The Applicant shall submit title evidence satisfactory to the City Attorney at the time of submission of the final plat application.
16. The Developer shall obtain necessary approvals and permits from the Minnehaha Creek Watershed District, Hennepin County, the Minnesota Pollution Control Agency, the Minnesota Department of Health, and other relevant agencies.
17. The application for final plat shall be submitted to the City within 360 days of preliminary approval or the preliminary plat shall be considered null and void.
18. The Applicant shall pay to the City a fee in an amount sufficient to reimburse the City for the cost of reviewing the Planned Unit Development, preliminary plat, construction plans, and other relevant documents.

Attachments

1. Document List
2. Conservation Design-PUD Ordinance

3. Excerpt from DRAFT 1/10/2017 Planning Commission minutes
4. Excerpt from DRAFT 2/7/2017 City Council minutes
5. Comments from City Engineer dated 6/8/2017
6. Comments from Building Official dated 5/26/2017
7. Applicant Narrative
8. Forest Analysis
9. Land Stewardship Plan
10. Lot Summary
11. Plans received by the City 5/12/2017

Project: LR-17-205 – Marx CD-PUD General Plan and Preliminary Plat

The following documents constitute the complete record of the above referenced request, even if some documents are not attached, or are only attached in part, to Planning Commission and City Council reports. All documents are available for review upon request at City Hall.

Documents Submitted by Applicant:

| Document | Received Date | Document Date | # of pages | Electronic | Paper Copy? | Notes |
|-----------------------|---------------|---------------|------------|---------------------------------------|-------------|-------|
| Application | 5/12/2017 | 5/12/2017 | 3 | Application | Y | |
| Fee | | | | | | |
| Narrative | 5/12/2017 | N/A | 7 | Narrative | Y | |
| Labels | 5/12/2017 | N/A | 1 | Labels | Y | |
| Land Stewardship Plan | 5/12/2017 | 5/10/2017 | 15 | Land Stewardship Plan | Y | |
| Conservation Easement | 5/12/2017 | N/A | 17 | Conservation Easement | Y | |
| Plans | 5/12/2017 | 5/8/2017 | 6 | Plans | Y | |
| Lot size calculation | 5/12/2017 | 5/8/2017 | 1 | Lot Size Summary | Y | |

Documents from Staff/Consultants/Agencies

| Document | Document Date | # of pages | Electronic | Notes |
|-----------------------------|---------------|------------|--------------------------------------|-------|
| Legal Comments | 5/25/2017 | 1 | Legal Comments | |
| Engineering Comments | 6/8/2017 | 2 | Engineering Comments | |
| Building official comments | 5/26/2017 | 1 | Building Comments | |
| Preliminary Review/Schedule | 6/9/2017 | 2 | 120day Letter | |
| Legal Notice | 6/1/2017 | 12 | Notice | |

Public Comments

| | Document Date | Electronic | Notes |
|--|---------------|------------|-------|
| | | | |

CITY OF MEDINA

ORDINANCE NO. ###

**AN ORDINANCE REGARDING CONSERVATION DESIGN;
AMENDING CHAPTER 8 OF THE CITY CODE**

The City Council of the City of Medina ordains as follows:

SECTION I. Section 827.51 eq. seq. of the code of ordinances of the city of Medina is amended by deleting the ~~stricken~~ language and adding the underlined language as follows:

CONSERVATION DESIGN DISTRICT (CD)

Section 827.51. Conservation Design (CD) – Purpose.

The purpose of this district is to preserve the City’s ecological resources, wildlife corridors, scenic views, and rural character while allowing residential development consistent with the goals and objectives of the City’s Comprehensive Plan and Open Space Report as updated from time to time. The specific conservation objectives of this district are to:

1. Protect the ecological function of native hardwood forests, lakes, streams, and wetlands.
2. Protect moderate to high quality ecologically significant natural areas.
3. Protect opportunities to make ecological connections between parks and other protected lands and ecologically significant natural areas.
4. Protect important viewsheds including scenic road segments.
5. Create public and private trails for citizens to access and enjoy Open Space resources.
6. Create public and private Open Space for citizens to access and enjoy ~~Open Space resources.~~

Section 827.53 Applicability.

Subd. 1. Conservation design is an option that a property owner is encouraged to consider as an alternative to Conventional Development, as defined herein. The City will give heightened consideration to conservation design applications that achieve significant such requests where the opportunities to achieve conservation objectives ~~are significantly higher than that available~~not otherwise attainable through conventional development. Conservation design may be considered on qualifying parcels lying in the Rural Residential District, ~~and~~ all sewered residential districts, and commercial or business districts.

Section 827.55 Intent.

Subd. 1. It is the intent of the City to accomplish the stated purpose of this District by approving a Planned Unit Development. In exchange for achieving the conservation

objectives, it is the intent of the City to ~~provide-permit additional~~ density and to provide design flexibility and to encourage development review through a Collaborative Process.

Subd. 2. The permitted, conditional and accessory uses and other regulations set forth in the existing zoning districts shall apply unless specifically addressed in this District, the PUD District, or if determined by the City Council to be inconsistent with the purpose and intent of this District, as part of the final PUD documents.

Subd. 3. The procedures and regulations set forth in the PUD District shall apply unless specifically addressed in this District. If a final PUD plan is approved by the City, the subject property shall be rezoned to Conservation Design-PUD District (CD-PUD). The permitted uses and all other regulations governing uses on the subject land shall then be those found in the CD-PUD zoning district and documented by the PUD plans and agreements. The following subsections are requirements for all CD-PUDs unless exceptions, as part of a PUD, are otherwise approved by the City Council.

Section 827.57. Definitions.

Subd. 1. Base Density. The maximum number of units or lots that are allowed on a parcel in accordance with the standards of the existing zoning district and the Zoning and Subdivision Codes.

Subd. 2. Buildable Land Area. The total land area in a proposed Conservation Design Subdivision less the amount of land that includes: slopes greater than 18%, wetlands, required wetland buffers, lakes, and land contained within the 100 year floodplain.

Subd. 3. Collaborative Process. A development review process that results in a development plan in which clearly defined conservation objectives are achieved in exchange for greater flexibility from the requirements of the base zoning district and the Zoning and Subdivision Codes.

Subd. 4. Conventional Development. Development that meets the standard minimum requirements of the City's ordinances regulating development.

Subd. 5. Conservation Easement. As defined in Minnesota Statutes, Chapter 84C: A nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

Subd. 6. Conservation Design Subdivision. Any development of land that incorporates the concepts of designated Conservation Areas and clustering of dwelling units.

Subd. 7. Conservation Area. Designated land within a Conservation Design Subdivision that contributes towards achievement of one or more of the conservation objectives. A Conservation Easement is placed on Conservation Areas to permanently restrict the Conservation Area from future development. Conservation Areas may be used for preservation of ecological resources, habitat corridors, passive recreation, and for pasture, hay cropping and other low impact agricultural uses.

Subd. 8. Homeowners Association. A formally constituted non-profit association or corporation made up of the property owners and/or residents of a development for the purpose of owning, operating and maintaining common Conservation Areas and/or other commonly owned facilities and Open Space.

Subd. 9. Open Space. Land that is not designated as a Conservation Area that is used for parks, trails or other uses. Open Space may be owned and managed by the City, homeowner's association or other entity.

Subd. 10. Viewshed. The landscape or topography visible from a geographic point, especially that having aesthetic value.

Subd. 11. Yield Plan. A conceptual layout that shows the maximum number of lots that could be placed on a parcel in accordance with the standards of the existing zoning district and the Zoning and Subdivision Codes. The Yield Plan shows proposed lots, streets, rights-of-way, and other pertinent features. Yield Plans shall be drawn to scale. The layout shall be realistic and reflect a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, and existing easements.

Section 827.59. General Performance Standards.

Subd. 1. Minimum Size of Subdivision.

(a) The minimum land area required for development shall be:

- (1) 40 contiguous acres in the Rural Residential District
- (2) 20 contiguous acres in sewerred residential districts
- (3) 10 contiguous acres in commercial or business districts

(b) A subdivision in the Rural Residential District of over 20 contiguous acres but less than 40 contiguous acres may apply for approval if they-it meets all the requirements for-of the CD-PUD District, and the visual impact of the subdivision from existing adjacent roadways is mitigated by existing topography, existing vegetation, and/or acceptable vegetative buffers.

Subd 2. Required Conservation Area. The minimum required Conservation Area within the CD development shall be:

- (a) At least 30% of the total Buildable Land Area in the Rural Residential District, or higher depending on the land and opportunities to achieve the City's conservation objectives.
- (b) At least 20% of the total Buildable Land Area in sewerred residential, commercial,

or business districts, or higher depending on the land and opportunities to achieve the City's conservation objectives.

~~Subd. 3. Designating Conservation Areas.~~

~~(a) The required amount of Conservation Area shall be designated and located to maximize achievement of the City's conservation objectives. Opportunities for achieving these objectives will vary depending on the location, size and specific qualities of the subject parcel. Each parcel will be evaluated for opportunities to achieve the following primary and secondary conservation objectives over and above that achievable under conventional development:~~

~~(1) Parcels with opportunities to achieve the following primary conservation objectives will be given higher consideration for flexibility from performance standards:~~

~~(1) The protection and/or restoration of the ecological function of native hardwood forests (e.g. Maple Basswood Forest), lakes, streams and wetlands.~~

~~(2) The protection, restoration, and/or creation of moderate to high quality ecological resources including the sensitive ecological resources identified as priority areas on the Composite Map of the Open Space Report as updated from time to time.~~

~~(3) The reservation of land connecting these aquatic and terrestrial ecological resources in order to restore and/or create new ecological resources suitable for habitat movement corridors.~~

~~(2) Parcels with opportunities to achieve the following secondary conservation objectives may be given consideration for flexibility from performance standards:~~

~~i. The protection of scenic views and viewsheds including the views from roads identified as "Scenic Roads" on the Scenic Roads Map of the Open Space Report as updated from time to time.~~

~~ii. The reservation of land for incorporating public and private trails in order to create connections to existing or planned trails as identified in the current Parks, Trails, and Open Space Plan.~~

~~iii. i. The reservation of land for incorporating public and /or private Open Space in order to achieve goals as identified in the Comprehensive Plan.~~

~~Subd. 4. Perimeter Setbacks.~~ ~~Structure setbacks from the perimeter of the subdivision shall be the same as the existing zoning district.~~

~~Section 827.60 Open Space Report Composite Map Appeal Process.~~ ~~In the event that an applicant is not in agreement with the Composite Map of the Open Space Report or the data contained within a report on which the Composite Map is based upon, the applicant may present an appeal to the city.~~

~~Subd. 1.~~ ~~The applicant shall put the appeal in writing, accompanied by the fee as described by the City's Fee Schedule, and is responsible to provide documentation supporting their appeal.~~

~~Subd. 2.~~ The appeal shall be reviewed by city staff, with the assistance of any technical consultants which city staff shall determine are appropriate. Such consultants may include, but are not limited to, environmental engineers, wetland scientists, arborists and other similar experts. City staff shall make a determination on the appeal within sixty days of receipt of a complete appeal application.

~~Subd. 3.~~ The applicant may appeal city staff's decision to the city council. The appeal must be filed within thirty days of staff's determination.

~~Subd. 4.~~ The applicant shall be responsible for the costs accrued by the City in review of the appeals described above, including the costs of technical consultants hired by the City.

Section 827.61. Density and Design Flexibility.

Flexibility from the requirements of the existing zoning district or other requirements of this code may be granted at the discretion of the City Council. In considering the amount, if any, of such flexibility, the City will evaluate the amount and quality of Conservation Area protected, the public access to or enjoyment thereof, and how well the project achieves the following conservation objectives over and above that achievable under conventional development ~~and the amount and quality of conservation area protected.~~

Subd. 1. Conservation Objectives and Determining Flexibility. Conservation Area(s) shall be designated and located to maximize achievement of the City's conservation objectives. Opportunities for achieving these objectives will vary depending on the location, size and specific qualities of the subject parcel. Each parcel will be evaluated for opportunities to achieve the following primary and secondary conservation objectives over and above that achievable under conventional development.

(a) Parcels with opportunities to achieve the following primary conservation objectives will be given higher consideration for flexibility from performance standards.

(1) The protection and/or restoration of the ecological function of native hardwood forests (e.g. Maple-Basswood Forest).

(2) The protection and preservation of lakes, streams and wetlands beyond existing regulatory requirements.

(3) The protection, restoration, and/or creation of moderate to high quality ecological resources including the sensitive ecological resources identified as priority areas on the Composite Map of the Open Space Report as updated from time to time.

(4) The reservation of land connecting these aquatic and terrestrial ecological resources in order to restore and/or create new ecological resources suitable for habitat movement corridors.

(5) The reservation of land for incorporating public and private trails in order to create connections to existing or planned trails as identified in the current Parks, Trails, and Open Space Plan.

(b) Parcels with opportunities to achieve the following secondary conservation objectives may be given consideration for flexibility from performance standards:

(1) The protection of scenic views and viewsheds including the views from roads identified as “Scenic Roads” on the Scenic Roads Map of the Open Space Report as updated from time to time.

~~The reservation of land for incorporating public and private trails in order to create connections to existing or planned trails as identified in the current Parks, Trails, and Open Space Plan.~~

~~(1)(2)~~ The reservation of land for incorporating public and /or private Open Space in order to achieve goals as identified in the Comprehensive Plan.

Subd. ~~12~~. Additional Density.

(a) Density, in addition to the Base Density, may be granted at the discretion of the City Council. Any additional density or additional number of dwelling units shall be calculated as a percentage of Base Density. The Base Density shall be that established by regulations in the relevant existing zoning district. The granting of additional density shall be at the full and complete discretion of the City based upon the amount and quality of the Conservation Area protected, public access to or enjoyment thereof, and the extent to which the proposal meets the objectives over and above that achievable through Conventional Development.

(1) In the Rural Residential District, Base Density shall be determined by calculating the number of 5-acre areas of contiguous soils suitable for a standard sewage disposal system that are located on the subject property.

(2) In sewered residential districts, a Yield Plan shall be developed to determine Base Density. Regulations of the base district and all other relevant land use regulations of this Code shall be used for completing the Yield Plan.

(b) The total number of dwelling units in a CD-PUD development shall be guided by the density limitations contained in the Comprehensive Plan and may be:

(1) ~~Up to 200% of~~ A maximum of twice the amount of the calculated Base Density in the Rural Residential District, provided that the maximum density bonus will only be granted in exceptional circumstances.

(2) ~~Up to 120% of~~ A maximum of 1.2 times the calculated Base Density in all sewered residential districts.

Subd. 23. Other areas of flexibility

(a) In the Rural Residential District, flexibility may include:

(1) Lot size, lot width and structure setbacks provided setbacks comply with the following minimums:

i. Setback from local streets: 35 feet.

ii. Setback from Arterial and Collector Streets: 100 feet.

~~iii.~~ Interior structure setbacks: 30 feet.

~~iii.~~iv. Perimeter setbacks: Minimum structure setbacks from the perimeter of the subdivision shall be 50 feet.

(2) Housing type.

(3) Upland buffers and tree preservation regulations provided that the objectives of these regulations are met for the site as a whole.

(4) Due consideration may be given for conservation easements granted when calculating park dedication requirements.

(5) Variations to City regulations regarding septic systems.

(b) In all sewer residential districts, flexibility may include:

(1) Lot size, lot width, and structure setbacks, except that setbacks from the perimeter of the subdivision shall be equal to or greater than that required in the underlying zoning district.

(2) Housing type.

(3) Landscaping.

(4) Screening.

(5) Upland buffers and tree preservation regulations provided that the objectives of these regulations are met for the site as a whole.

(6) Buffer yard.

(7) Due consideration may be given for conservation easements granted when calculating park dedication requirements.

(c) In commercial or business districts, flexibility may include:

(1) Lot size, lot width, and structure setbacks.

(2) Building height limitations, provided that the City determines that adequate emergency and fire access are provided in consultation with the fire department.

(3) Landscaping.

(4) Screening.

(5) Loading dock and outside storage requirements.

(6) Upland buffers and tree preservation regulations provided that the objectives of these regulations are met for the site as a whole.

(7) Buffer yard.

(8) Due consideration may be given for conservation easements granted when calculating park dedication requirements.

Section 827.63. Conservation Area Protection and Ownership.

Subd. 1. Land and improvements in areas designated as Conservation Areas in a CD-PUD shall be established, protected and owned in accordance with the following guidelines:

- (a) Designated Conservation Areas shall be surveyed and subdivided as separate outlots.
- (b) Designated Conservation Areas must be restricted from further development by a permanent Conservation Easement (in accordance with Minnesota Statute Chapter 84C.01-05) running with the land. The Conservation Easement must be submitted with the General Plan of Development and approved by the City Attorney.
 - (1) The permanent Conservation Easement may be held by any combination of the entities defined by Minnesota Statute Chapter 84C, but in no case may the holder of the Conservation Easement be the same as the owner of the underlying fee.
 - (2) The permanent Conservation Easement shall be recorded with Hennepin County and must specify:
 - i. The entity that will maintain the designated Conservation Area.
 - ii. The purposes of the Conservation Easement, that the easement is permanent, and the conservation values of the property.
 - iii. The legal description of the land under the easement.
 - iv. The restrictions on the use of the land and from future development.
 - v. To what standards the Conservation Areas will be maintained through reference to an approved land stewardship plan.
 - vi. Who will have access to the Conservation Area.
 - (3) Ownership of the underlying fee of each designated Conservation Area parcel, may be held by any combination of the following entities:
 - i. A common ownership association, subject to the provisions in the PUD District.
 - ii. An individual who will use the land in accordance with the permanent Conservation Easement.
 - iii. A private nonprofit organization, specializing in land conservation and stewardship, that has been designated by the Internal Revenue Service as qualifying under section 501 (c) (3) of the Internal Revenue Code.
 - iv. A government agency (e.g. park and/or natural resource agency or division).
 - v. The City of Medina, in rare situations when there are no other viable options.
- (c) Open Space areas that do not achieve the City's conservation objectives may be established under a homeowner's association without protection by a Conservation Easement. Such areas shall be regulated according to provisions of the PUD District.

Section 827.65. Land Stewardship Plan.

Subd. 1. Plan Objectives. Where a CD-PUD has designated Conservation Areas, a plan for the development, long-term use, maintenance, and insurance of all Conservation Areas, may be required. The plan shall:

- (a) Define ownership and methods of land protection.
- (b) Establish necessary regular and periodic operation and maintenance responsibilities.
- (c) Estimate staffing needs, insurance requirements, and other associated costs associated with plan implementation and define the means for funding the same on an on-going basis. This shall include land management fees necessary to fund monitoring and

management of the Conservation Easement by the easement holder. The fees shall be estimated and validated by the proposed easement holder.

(d) Meet the requirements of the future conservation easement holder.

Subd. 2. Plan Submittal Requirements. A preliminary Land Stewardship Plan shall be submitted with the General Plan of Development. A Final Land Stewardship Plan shall be submitted with the Final Plan Stage of PUD development. The plan shall contain a narrative describing:

(a) Existing conditions, including all natural, cultural, historic, and scenic elements in the landscape;

(b) Objectives for each Conservation Area, including:

(1) The proposed permanent or maintained landscape condition for each area.

(2) Any restoration measures needed to achieve the proposed permanent condition, including:

i. Measures for correcting increasingly destructive conditions, such as erosion and intrusion of invasive plant species.

ii. Measures for restoring historic features (if applicable).

iii. Measures for restoring existing or establishing new landscape types.

(3) A maintenance plan, including:

i. Activities needed to maintain the stability of the resources, including mowing and burning schedules, weed control measures, planting schedules, and clearing and cleanup measures and schedules.

ii. An estimate of the annual on-going (post restoration) operating and maintenance costs.

Subd. 3. Funding of Operation and Maintenance. At the discretion of the City, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of Conservation Areas for up to four years depending on restoration measures.

Subd. 4. Enforcement. In the event that the fee holder of the Conservation Areas, common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the City in coordination with the holder of the easement, may serve written notice upon such fee holder setting forth the manner in which the fee holder has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the fee holder-, or any successor organization, shall be considered in violation of this Ordinance, in which case the City shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the City shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

Section 827.67. Conservation Area Design Standards.

The following Conservation Area design standards shall also be considered in designing the CD-PUD:

Subd. 1. Conservation Areas should be interconnected wherever possible to provide a continuous network of Open Space within the PUD and throughout the City. It should coordinate and maximize boundaries with Conservation Areas and Open Space on adjacent tracts.

Subd. 2. Incorporate public and private trails with connections to existing or planned regional trails as identified in the most recent Park, Trail and Open Space Plan.

Subd. 3. Designated public access trails shall be protected by an access easement owned by the City.

Subd. 4. Incorporate public and/or private Open Space as designated in the Comprehensive Plan.

Subd. 5. Views of new dwellings from exterior roads and abutting properties should be minimized by the use of existing topography, existing vegetation, or additional landscaping. Ridge and hilltops should be contained within designated Conservation Areas wherever possible. Trees should not be removed from ridges and hilltops.

Subd. 6. The boundaries of designated conservation areas shall be clearly delineated and labeled on CD-PUD plans. These areas shall be delineated in the field with signage or other measures approved by the city.

Subd. 7. Stormwater management facilities may be located in designated conservation areas.

Subd. 8. Existing land in row-cropping use shall be converted to a use that supports the achievement of the City's conservation objectives.

Section 827.69. Landscape Design Standards.

Subd. 1. Street trees may be planted, but are not required, along internal streets passing through common Conservation Areas or Open Space.

Subd. 2. Irregular spacing is encouraged for street trees, to avoid the urban appearance that regular spacing may invoke.

Subd. 3. The selection of vegetation should be guided by the natural community types identified in the City's 2008 Natural Resources Inventory.

Subd. 4. Planted buffers between clusters of residential lots are encouraged to enhance privacy and a rural appearance between lots.

Subd. 5. Buffers consisting of an informal arrangement of native plant species combined with infrequent mowing are strongly encouraged, to create a low-maintenance, natural landscape.

Subd. 6. Planted buffers are also encouraged along natural drainage areas to minimize erosion.

Subd. 7. Grading for Conservation Areas and other common landscaped areas and stormwater management areas shall be avoided to reduce compaction and impacting water infiltration rates. Soil testing and decompaction may be required if site construction activities negatively impact soil permeability.

Subd. 8. Better Site Design/Low Impact Development practices as identified in the Minnesota Stormwater Manual published by the Minnesota Pollution Control Agency shall be used to design sites and meet the performance standards.

Section 827.71. Subsurface Sewage Treatment Facilities.

~~**Subd. 1.** Where city services are not available, CD-PUD developments may be platted to accommodate home site lots with either individual septic tanks and all required drainfields/mound systems located on the lot, or individual septic tanks and primary drainfield/mound system located on the lot and secondary drainfields/mound system located in the designated Conservation Area or other Open Space.~~

Subd. 21. Where city sanitary sewer service is not available, Aall septic systems shall conform to the current performance standards of Minnesota Rules Chapter 7080 and its appendices, or the amended Rules in effect at the time of installation. Except in instances where flexibility has been explicitly granted by the City, septic systems shall also conform to relevant City regulations, including the requirement to identify a primary and secondary drainfield site.

Subd. 32. The City may consider shared sewage treatment systems which are consistent with Minnesota Pollution Control Agency (MPCA) regulations and relevant City ordinances, provided adequate agreements are in place related to monitoring and maintenance procedures and replacement of the system in case of a failure.

Subd. 43. Lots within CD-PUD developments may be designed so that individual septic tanks and all required treatment and dispersal areas are located within the lot, or so that individual septic tanks and the primary treatment and dispersal area is located within the lot and the secondary treatment and dispersal area located in the designated Conservation Area or other Open Space. Secondary ~~drainfields/mound systems~~ treatment and dispersal areas may only be located in designated Conservation Areas and other Open Space provided that:

- (a) ~~They~~ The treatment and dispersal area is are located within a limited distance of the lots ~~they it~~ serves.
- (b) Construction of treatment and dispersal area drainfields/mound systems do not result in the destruction of ecological resources.
- (c) The Conservation Area or Open Space parcel containing the treatment and dispersal area drainfield/mound system is owned in fee by a common ownership association which owns non-Conservation Area land within the subdivision and in which membership in the association by all property owners in the subdivision is mandatory.
- (d) The individual lot owner is responsible for maintenance and repair of the treatment and dispersal area drainfield/mound system.
- (e) The ground cover over the treatment and dispersal area drainfield/mound system is maintained according to the Land Stewardship Plan.
- (f) Recreational uses are prohibited within 50 feet of the treatment and dispersal area drainfields/mound systems.
- (g) The Conservation Easement for the dedicated Conservation Area parcel describes the location of individual drainfields/mound systems treatment and dispersal areas.
- ~~(g)~~(h) The City may consider the impact of the future construction of the treatment and dispersal area(s) when determining the value of the Conservation Area, the extent to which the Conservation objectives have been met, and the amount of density and design flexibility which is granted.

Section 827.72 Open Space Report Composite Map Appeal Process. In the event that an applicant is not in agreement with the Composite Map of the Open Space Report or the data contained within a report on which the Composite Map is based upon, the applicant may present an appeal to the city.

Subd. 1. The applicant shall put the appeal in writing, accompanied by the fee as described by the City's Fee Schedule, and is responsible to provide documentation supporting their appeal.

Subd. 2. The appeal shall be reviewed by city staff, with the assistance of any technical consultants which city staff shall determine are appropriate. Such consultants may include, but are not limited to, environmental engineers, wetland scientists, arborists and other similar experts. City staff shall make a determination on the appeal within sixty days of receipt of a complete appeal application.

Subd 3. The applicant may appeal city staff's decision to the city council. The appeal must be filed within thirty days of staff's determination.

Subd. 4. The applicant shall be responsible for the costs accrued by the City in review of the appeals described above, including the costs of technical consultants hired by the City.

Section 827.73. Site Design Process.

At the time of PUD Concept Plan development and review, applicants shall demonstrate that the following design process was performed and influenced the design of the concept site plan.

Subd. 1. Step 1—Identify Conservation Areas. Identify preservation land in two steps. First identify “unbuildable” areas which include: slopes greater than 18%, wetlands, wetland buffers, lakes, and land within the 100 year floodplain. Next, identify Conservation Areas which include those areas designated as Conservation Areas (Section 827.59 Subd. 3.) The remaining land shall be identified as the potentially Buildable Land Area. The applicant shall identify the quantity of land designated as unbuildable, Conservation Area, and potentially Buildable Land Area.

Subd. 2. Step 2—Locate Housing Sites. Locate the approximate sites of individual houses in regard to protected views and the potentially buildable land areas.

Subd. 3. Step 3—Align Streets and Trails. Align streets in order to access the lots. New trails and connections to regional trail systems, if any, should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

Subd. 4. Step 4—Lot Lines. Draw in the lot lines.

Section 827.75. CD-PUD Application Processing.

The review and approval procedures of the PUD District shall be used to review and approve CD-PUDs. Prior to the Concept Plan Stage PUD application, the City encourages applicants to engage in an informal collaborative project goal setting process with the City. The purpose of this process is to jointly develop site design and conservation objectives and assess areas of regulatory flexibility for achieving developer and City objectives for the specific parcel of land. The Collaborative Process may include council members, city commission members, land owners, developers, city staff, other governmental jurisdiction staff, the potential future Conservation Easement holder, and other participants as appropriate. The outcome of the process is a Project Guidance Report prepared by city staff. The report will summarize the project concept, project objectives, and preliminary understanding of regulatory flexibility needed to achieve the objectives.

SECTION II. This ordinance shall become effective upon its adoption and publication.

Adopted by the Medina city council this ____ day of _____, 2017.

Bob Mitchell, Mayor

Attest:

Jodi M. Gallup, City Clerk

Published in the Crow River News on the ____ day of _____, 2017

Public Hearing – Wally and Bridget Marx – 2700 – 2900 Parkview Drive – Planned Unit Development (PUD) Concept Plan for a 6 Lot Conservation Design-PUD Subdivision with the Permanent Preservation of Land

Finke explained the intent for the conservation design-PUD subdivision and the flexibility that can be gained through the preservation of land. He stated that the property does include various aspects of natural resources that have been identified in the City's natural resources and open space reports. He identified the high-quality tamarack swamp and area of maple basswood. He explained the potential access proposed and displayed the concept plan as proposed by the applicant. He identified the proposed conservation areas. He explained the intent of the ordinance, noting that the objectives provide a little more detail on those elements. He stated that there are six proposed lots which would be a 200 percent density bonus, as normal development would allow for three lots. He stated that the typical buildable lot size ranges from 1.6 acres to 6.5 acres, with the majority of the lots coming in with 2 to 3 acres of buildable land. He stated that over 75 percent of the property is proposed for conservation, noting that only 11.5 acres of that land is considered buildable. He noted that the site in total has 28 acres which still makes the conservation proposed to be 40 percent of the total buildable land and therefore exceeds the 30 percent threshold of the ordinance. He provided additional details on the section of land that staff recommended for inclusion in the conservation area. He stated that lots one and two would not meet the minimum lot width for the shoreline and provided additional details on possible conservation that could be designated to avoid the issue of non-compliance. He stated that staff spoke with the septic provider to determine that reasonable septic service and site locations could be provided on the lots. He stated that this is simply a process to allow input, and formal action is not required tonight. He stated that staff believes that this property would be a good candidate for conservation, but discussion would be needed regarding the potential density bonus. He stated that the forester indicated that a little stewardship could push the wooded areas into a higher quality categorization.

R. Reid referenced building site three and asked if that has been eliminated.

Finke stated that area was marked as a higher priority conservation area and therefore the lots were shifted.

R. Reid noted that the change was not listed in the conditions and asked if that should be one of the conditions for approval.

Finke stated that one comment referenced a reduction to the number of septic systems and therefore shifting the lot would be one of the ways to accomplish that.

Barry referenced the five contiguous acres of suitable soils stipulation and asked if that is per lot or proposal.

Finke stated that the base zoning of the rural residential zoning district requires five acres of contiguous suitable soils per lot. He explained that simply determines the base density and then during the review of the conservation design-PUD request, there would need to be a determination as to whether there would be justification of a bonus density; and if so, the percentage of density bonus that would be allowed.

R. Reid referenced site number three and asked if that meets the shoreline overlay requirements for setback.

Finke confirmed that the lot would meet those requirements.

Rengel asked and received clarification on the flexibility that is provided under the conservation design-PUD ordinance.

Albers asked for information on what appears to be a road near the lake.

Finke replied that is a field road currently and noted that it is very steep and therefore he is not sure if that would be practical to reuse.

Kent Williams, 1632 Homestead Trail, stated that he is present to represent the applicant on this proposal. He stated that they are looking for feedback from the Planning Commission and City Council and will then consider that input in regard to their potential proposal. He stated that the Marx family has lived on the property since 1998 and have put a substantial amount of work into the property as it was formerly a pig farm. He stated that the result has been an explosion of wildlife to and from School Lake. He stated that Mr. Marx has also established the largest privately owned English garden that has received international accolades. He stated that the proposal from staff would move lot three into the garden and therefore they would not agree with that element because of the work that Mr. Marx put into the garden and the accolades it receives. He noted that he himself was part of the Planning Commission when the conservation design-PUD ordinance was enacted. He stated that he was also on the Commission when Mr. Marx brought forward two other requests for a conservation design-PUD on the property. He noted that he was disappointed by the first request, but the Marx family came back with a much improved request in 2012 that was approved by the Planning Commission and City Council. He stated that the Marx family then discovered part of the land could not be developed until 2016. He noted that he was disappointed at that time because he felt the City was losing out on the conservation of valuable resources. He stated that he was happy when Mr. Marx contacted him to state that they would like to try it again as all the property is now available for development. He noted that this is a challenging site because of the topography and wetlands. He stated that this is the highest percentage of land proposed for a conservation design-PUD that the City has ever considered, and is also high quality elements. He noted that a total of 70 acres would be put into conservation easement as there would be unbuildable land in addition to the 11.5 acres of buildable land. He noted that part of the conservation is contained on the lots and will further restrict what can be done on that land. He stated that the conservation proposed far exceeds the development proposed. He discussed what would happen under typical development of the site. He stated that these types of resources need to be managed and this is a method to ensure that happens as the land would be put under stewardship with a management plan that ensures that not only is the land not built upon, it is also managed in a responsible and reputable manner. He stated that they proposed that lot three remain in the current location as it is the lowest quality wooded area and only contains boxelder trees which are not even protected by the tree ordinance. He stated that they would much prefer to have the garden over the boxelder trees. He stated that they did contemplate clustering the homes, but wanted to stay with the more rural character rather than have a suburban character. He referenced the existing field road and agreed that it is very steep. He noted that it is often washed out and would possibly be a hazard during the winter months.

Murrin asked who would manage the conservation easement land.

Mr. Williams replied that they are in conservation with two potential organizations and provided the examples.

Michael Pressman, applicant's conservation consultant, confirmed that the intent would be that the steward would maintain the land in a similar manner. He provided additional details stating that the subdivision would also have a list of dos and don'ts of what could be done.

Murrin stated that the property is beautiful and would encourage the stewards to follow the method that Mr. Marx has used. She asked if the apple orchard would be cut down to build a home.

Mr. Williams stated that whoever purchases the lot would have the options to either build a home and remove the orchard, could build a home and keep a portion of the orchard, or the person who purchases the neighboring lot could choose to purchase that lot as well to keep as an orchard.

Albers referenced the placement of one of the lots and the neighboring home.

Mr. Williams replied that they are willing to move the alignment of the lot slightly, but want to be cautious to ensure that the viewsheds of the other lots are not impacted to maintain the rural character.

Albers asked if there has been consideration to making lots one and two just one lot.

Mr. Williams stated that currently there is a field directly adjacent to the neighboring home owner and was unsure what they could see from their home, but believed perhaps a portion of the orchard could be seen. He recognized that the neighboring homeowner would be able to see a home if the development is approved.

Murrin asked if the owners of lot five would be able to maintain the garden or choose to do what they like with it.

Mr. Marx replied that the owner of the lot would be able to do what they desire with it. He stated that it is costly and cumbersome to maintain. He stated that he will not be able to maintain the garden forever. He stated that hopefully lot five would be the last lot sold. He stated that if he sold the entire property as one lot, the home would be built where lot one is proposed. He noted that most likely lot one would be the only home that would be visible.

Albers noted that lot one is the location of the five contiguous acres of suitable soils and therefore if sold as one property, that would be the location that someone would build even if the property wasn't subdivided.

Mr. Marx stated that he has attempted to donate the garden to the Arboretum but they asked how many millions of dollars he would give to help maintain the land. He stated that he also attempted that with Three Rivers Park District and was declined. He explained that there is not a public entity that will accept the donation.

Albers opened the public hearing at 7:58 p.m.

No comments made.

Albers closed the public hearing at 7:58 p.m.

Rengel stated that she does not have anything she would proposed to change, but at some point in the process would like to see a land stewardship plan.

Finke noted that is part of the first formal step of the process.

R. Reid referenced the site design done by staff and asked if that was done before or after the applicants.

Finke stated that he did it six years ago, and did it again after he saw this application. He stated that to a certain extent, things that he found in the site design were similar to what he had done.

R. Reid asked if staff would still recommend using their site design over the applicant's.

Finke stated that he is not suggesting that the staff design supersede the applicant's, but is a process of the request to see what would be the same and what would be different. He stated that the staff version is done looking at the open space report and natural resources report. He stated that staff recognizes that this ordinance has to include an incentive if it is going to be a tool that the City is going to use to create open space without the City having to buy property for conservation. He provided additional input regarding the septic systems.

Mr. Marx provided additional details on horse trails.

Barry stated that his concern was that lot four might be too far to access the septic, but was satisfied with the engineering comments.

Finke stated that the Council is set to review the concept plan on February 7th and the Park Commission will discuss at their meeting next Wednesday.

Wally Marx – Conservation Design Subdivision PUD Concept Plan – 2500-2900 Parkview Drive (7:46 p.m.)

Johnson noted that this was first brought forward to the Council in 2010/2011 but the property was found to be in agricultural preserve and therefore had to wait until 2016.

Sparks stated that the property is currently three parcels that would be proposed to be developed into six lots. He stated that of the 90 acres, about 70 acres would be in easement and of that 40 percent would qualify for the buildable acre clause. He stated that this property is currently zoned and guided for rural residential use. He stated that the property includes two areas of moderate quality maple basswood forest and a good quality tamarack swamp land that were identified in the open space report. He noted that those elements would be proposed to be conserved. He explained the purpose of the ordinance, which creates and protects the conservation ordinance. He stated that the base density of the three parcels would allow three lots, and therefore this would be a 200 percent density bonus. He noted that they are proposing conservation of 77.6 percent of the site. He provided additional details on the lot layouts, access, and septic locations. He stated that the purpose of a concept plan is for the applicant to gain input from the Commissions and Council in regard to what they would be expecting when the applicant submits their actual application. He noted that the staff conditions were included in the packet along with the comments of the Planning and Park Commissions. He stated that a neighboring property owner submitted a letter stating that they did not like the number of units proposed for the property.

Martin referenced the applicant's concept plan and the four septic sites, asking for clarification on locations and the types of trees in those areas.

Sparks noted that the specific area had boxelder trees.

Cousineau asked if the trees could be restored to create a corridor.

Sparks agreed that the area is lower quality but could be restored to a higher quality with some work. He noted that restoration of some of the woodlands would improve the quality.

Martin referenced the staff concept plan and asked where on the property homes could be placed. She asked for, and received, clarification on certain elements of the plans. She referenced a man-made wetland on the property and asked if there is a difference in protection.

Mark Gronberg, Gronberg and Associates, replied that the wetland has been delineated as a wetland and therefore there is no difference.

Laura Domyancich, Minnehaha Creek Watershed District, stated that if there is a wetland on the plan that has been delineated as a wetland but does not have a classification it would not have the same protection as a wetland. She stated that if preservation of the wetland is desired a MnRam would need to be done for the wetland to determine a management plan and classification.

Kent Williams, 1632 Homestead Trail, stated that he is speaking on behalf of the applicants at their request. He stated that the applicant submitted a narrative with the concept plan, noting that this is the third time Mr. Marx has come to the Council with an attempted project. He stated that under any measure this project is one that provides significant value to the City. He stated that the Marx family purchased the land in 1998 and spent 20 years restoring the property, as it

was previously a pig farm. He stated this is one of the last few groves of trees left and would be protected. He stated that the Marx family has proposed to put 40 percent of buildable land into conservation easement, noting that there has not been a request that has come before the City with that high of a percentage. He noted that the percentage of buildable land is quite low already for this property and therefore this is a significant sacrifice. He stated that the conservation elements that are being protected through the easements should justify the density bonus itself. He noted that it is important to note that on top of the buildable land, the Marx family would be conserving another 60 acres of unbuildable land. He noted that they are not asking for a large number of homes in return for this conservation, they simply believe in the conservation of the land. He highlighted the conservation benefits that would be provided through this proposal. He highlighted what would happen under normal development of this property, which would create three lots and the future landowners could do a lot of things with their land, outside of building, that could be detrimental to the natural features. He stated that this is a harmonious plan with a single easement holder and would provide a benefit to the City. He stated that this provides more conserved land and less buildable homes than any application before. He referenced the park dedication requirement for the horse trail around the lake. He stated that the lake is entirely private at this time, along with the horse trail, and is used by invitation only and not used by the public. He stated that there has been pushback from the neighbors on the lake that they do not want that path open to the public at large and those neighbors would close their segments of the trail. He also noted that there would be issues with parking for people attempting to access the trail. He noted that there was a lengthy discussion at the Park Commission meeting. He noted that an alternate trail location was discussed in the southern portion of the property, which would keep the trail away from the homes. He noted that the intent then would be for it to be a nature trail. He stated that the Park Commission wanted the ability to provide trail connection to the properties east and west. He noted that there are not currently trails to the east or west. He noted that the applicant is conserving not only the required buildable land but also 60 additional acres of non-buildable land and therefore asked that the Council waive the requirement for park dedication. He stated that a lot of thought went into this concept plan.

Martin referenced a gravel drive and asked if the existing configuration would continue or whether there would be a relocation. It was noted this is the existing horse trail. She stated that on the applicant's proposal she noticed buildable area that is going into conservation and compared that to the staff plan. She also noted what seemed to be a straight line of trees and asked for more information.

Wally Marx replied that the line of trees is very straight because they purchased the land in 1998 and there were 400 hogs on the property before they purchased the property. He noted that the pigs devastated the land. He stated that in order to create more conserved land they have limited the housing footprint to one acre each.

Charlie Schroder, 2910 Parkview, stated that they are the neighbor immediately to the north and are present to understand what is going on. He stated that they are new neighbors and have found this background information to be helpful. He asked how the PUD is superior to the conventional development, as he did not quite see how the land would be better under the PUD. He stated that having the trail open to the public would be problematic with parking. He stated that a north/south trail on Parkview would be objectionable. He stated that this seems like a lot of density relative to a conventional development plan.

Pederson stated that he was on the Council in 2011 and stated that this request is considerably better than that request. He stated that he has concerns with the proximity to the lake. He

stated that the trail would be problematic because the other property owners do not want that. He stated that with the trails at Baker Park he was unsure why additional trails would be needed here. He stated that it would be difficult to give up park dedication, noting that he does not have any interest in dropping park dedication.

Mitchell provided background information on the Long Lake Hounds.

Anderson agreed that this is a substantially better plan than what was presented in 2011. He stated that he does have concerns with the closeness of lots one and two. He stated that it seems that the buildable acreage is in pieces rather than one contiguous piece and therefore could not find how it would benefit the City. He agreed that the park dedication should not be waived.

Williams stated that they attempted to not make the conservation areas fragmented. He noted that the green and yellow areas are proposed for preservation, identifying corridors.

Martin stated that lots one and two seem close together and would also need a variance. She stated that other than that she likes the fragmentation of the lots as it seems more rural and less planned. She stated that there was conscious thought from the applicant to preserve land in corridors. She stated that she would want the conservation areas to be placed in outlots to minimize the amount of conserved areas within the lots. She asked which areas were the highest value in terms on conservation, noting that the tamarack swamp is high quality but would be protected as a wetland. She stated that the maple basswood forest would protect the tree line and view shed from the road. She stated that perhaps there could be a trail that would provide a vista of the lake. She stated that she would avoid the horse trail. She stated that she would preserve a trail further east that could be built out at a further time. She stated that she would give park dedication for trails that are built. She stated that she would like to see protection of the wooded areas more and would recommend the staff suggestion for layout with a trail that could overlook the lake. She stated that she would like to see the setbacks met and would keep the roads out of the middle woodland area to loop around a bit more as staff recommended.

Cousineau stated that she appreciates that staff moved lot three to the southern part, but noted that it seems that may be crowded. She stated that she would support a trail becoming public overlooking a vista of the lake but would not support the horse trail. She stated that park dedication is important.

Mitchell stated that he just does not understand it, as it seems that this is attempting to get ten pounds of flour into a five-pound sack. He stated that in the rural area the effort is for less houses. He stated that he does not see any public benefit to this land. He stated that he does not understand how the little bits of yellow on the map would be justification for double density. He stated that three homes would preserve the most trees, the animal corridor, the marshes, and wetlands. He stated that he does not see that this meets the minimum ordinance standards.

Williams stated that there seems to be a misunderstanding of what could be done and what could not be done under conservation or regular ownership. He stated that the property owner could buy wetland mitigation credits and fill wetlands. He stated that the natural elements could be left to the whim of a future land owner or they could choose to protect and conserve the rare and disappearing elements that exist on the land. He stated that you would not get the same

level of land stewardship and management under this request compared to traditional development.

Cousineau stated that if you go to five homes, there is already one home and you would only be adding four homes. She stated that this is a large area of land and therefore would be comfortable with some additional homes.

Anderson asked if the applicant feels that they received feedback from the Council.

Williams stated that it seems that there is some antagonism towards the ordinance itself rather than the project. He stated that if you hate the ordinance you can say no to every request, noting that there will not be a lot of these requests. He stated that it does not seem that this should rise or fall on five or six homes when the applicants would be conserving 70 acres of land. He stated that the conservation aspects on this request far exceed what was gained through Stonegate, and this request is only asking for three additional homes. He appreciated the honest feedback but felt that the Council is providing negative comments against the ordinance itself.

Cousineau stated that lots one and two do not conform to the DNR shoreline regulations. She agreed that this was a hot topic tonight but noted that there would have to be some conformity in order to discuss the 200 percent density bonus.

Williams stated that if the parcels should be expanded, it would make them more saleable as they would gain more shoreland. He explained that the lots are smaller because of the conserved shoreline. He did not feel they would have trouble presenting the case to the DNR.

Mitchell stated that it seems that they could just do a PUD to approve additional lots.

Batty stated that is not what the applicant has requested and would have different standards for review.

Mitchell stated that he did not understand how this would meet the objectives of the conservation design ordinance.

Michael Pressman stated that he has spent about 25 years on conservation development, as this is his career. He stated that he began looking at this property when he was working with the Minnehaha Creek Watershed District and he made an offer at that time to purchase a conservation easement to secure what is proposed to the City for free. He stated that he secured an easement to the north. He stated that he was attracted to this property because of the natural features of the site. He noted that while the yellow area may seem small that is connected to the green areas that would also be preserved. He stated that he joined his profession to look ahead and ensure conservation when changes come in the future. He stated that this project has come before the Council three times now. He stated that this site contains areas identified in the City's open space plan and meet the requirements of the ordinance.

Martin asked how many homes could be built on this property if this property were rezoned in the future as single family detached or attached.



June 8, 2017

Mr. Dusty Finke
Planner
City of Medina
2052 County Road 24
Medina, MN 55340-9790

Re: Marx PUD Concept – Engineering Review
City Project No. LR-17-205
WSB Project No. 03433-170

Dear Mr. Finke:

We have reviewed the Marx PUD Concept application and plans dated May 12, 2017. The applicant proposes to construct a six single family parcels.

The documents were reviewed for general conformance with the City of Medina’s general engineering standards and Stormwater Design Manual. We have the following comments with regards to engineering and stormwater management matters.

Site Plan & Civil

1. Note proposed driveway grades.
2. Show the location of the public access trail referenced in the narrative.
3. With future submittals, please provide the following:
 - a. A drawing showing or exhibit showing fire truck turning movements and access through site.
 - b. Soil borings or hand augers shall be provided to confirm that 12-inches of class 5 and a geotextile fabric exist.
 - c. Show a proposed street typical section detail on the plans. With future submittals submit cross sections along the roadway at least every 50 feet to confirm the construction limits of the proposed road widening.
 - d. Add curve data and roadway grades to the proposed road profile on Sheet 5.

Stormwater

4. Show stormwater treatment locations within each lot and consider grading implications.

5. With future submittals, please provide the following:
 - a. Stormwater calculations showing compliance with the City's rate control, water quality, infiltration and freeboard requirements.
 - b. Documentation that a permit application has been sent to Minnehaha Creek Watershed District. Provide the final permitting documents prior to the start of construction.
 - c. Indicate existing high water levels and overflow routes of School Lake and the large wetland complexes on the plans in order to evaluate compliance with the freeboard requirement.
 - d. The development is proposed on what appears to be the overflow route for School Lake to the south, labeled Outlot A and I. Verify adequate freeboard is provided to future development and that the capacity of the EOF is not impacted.

Wetlands

6. Wetland C is shown entirely within Lot 5. Provide an easement to fully encompass this wetland area including the appropriate buffers.
7. It appears wetland impacts are being avoided to a great extent, but provide a more detailed plan showing the roadway to Lot 4 as that passes through a very narrow area between Wetlands E and F.
8. Provide appropriate documentation of compliance with WCA for any proposed wetland impacts.
9. Wetland H should be connected to Wetland F – the final approved delineation did not include Wetland H, simply one connected wetland named F.
10. It does not appear the applicant will meet the minimum 30' buffer width required on the north side of Wetland B.
11. The applicant is proposing wetland management classifications that differ from those shown City of Medina's Wetland Management Classification map. The applicant provided a document outlining the proposed classifications on June 6, 2017. Following a review of the document, the City agrees with the proposed wetland management classifications.

Please contact me at 763-287-8532 if you have any questions.

Sincerely,

WSB & Associates, Inc.



Jim Stremel, P.E.
City Engineer

METRO WEST INSPECTION SERVICES, INC.

Loren Kohnen, Pres.

(763) 479-1720
FAX (763) 479-3090
Mtrowst76@aol.com

Metro West Inspection Services, Inc.
Box 248
Loretto, MN 55357
May 26, 2017

To: Debra Peterson
From: Loren Kohnen

Item: School Lake Nature Preserve
Wallace Marx
Six lot proposal
East of Parkview Drive, SW side of School Lake

I have reviewed the proposal and checked the septic design and locations. All will meet code and must be protected before any road or driveway construction begins.

The design of the driveways must be submitted and approved by the Fire Chief and Fire Marshal (Loretto Fire Department) before final approval of the plat by Medina City Council. Most driveways are very long and though poor soil.

Respectfully,



Loren Kohnen
Fire Marshal

