



MEMORANDUM

DATE: April 10, 2023

TO: Honorable Mayor and City Councilmembers
Dave Perrault, City Administrator

FROM: Jessica Jagoe, Community Development Director

SUBJECT: Planning Case #23-003 – Public Hearing Required
Applicant: Mike Mezzenga
Property Location: 1174 Edgewater Avenue
Request: Minor Subdivision and Variance

Budgeted Amount:	Actual Amount:	Funding Source:
N/A	N/A	N/A

Council Should Consider

- Hold the required public hearing for Planning Case 23-003, an application for a Minor Subdivision and Variance for the property located at 1174 Edgewater Avenue (“Subject Property”). The Minor Subdivision and Variance would allow for the splitting of the Subject Property into two parcels for future development with single-family residential buildings. The City Council will be asked to make a formal decision regarding the application under Agenda Item 10C.

Background

1. Overview of Request

Mike Mezzenga (“The Applicant”) has requested the approval of a Minor Subdivision and Variance for the property located at 1174 Edgewater Avenue (“Subject Property”). The Applicant is proposing to split the property into two lots for future redevelopment with single-family residential dwellings. To construct this proposal, the Applicant is seeking three variances based on applicable zoning code definitions and minimum lot standards.

- 1) **Lot Width:** The R-2 Zoning District minimum lot width shall be 85 feet. The Applicant is requesting a variance for Lot B to decrease the lot width to allow 60 feet as measured abutting Edgewater Avenue.

- 2) **Lot Depth:** The R-2 Zoning District minimum lot depth shall be 120 feet. The Applicant is requesting a variance for Lot A to decrease the lot depth as defined by code to 103 feet and to consider the east and west orientation of the lot at a depth of 188 feet in satisfaction of this requirement.
- 3) **Rear Yard Setback:** The R-2 Zoning District minimum rear yard setback is 30 feet. The Applicant is a variance for Lot A and Lot B to decrease the rear yard setback to 5 feet as measured from the south property line. The Applicant is requesting consideration of the west property line abutting Lake Josephine in satisfaction of this requirement.

2. Existing Site Conditions

The Subject Property, 1174 Edgewater Avenue, is a 1.31-acre (56,806 SF) parcel located on the northeast side of Lake Josephine, west of Lexington Avenue. The Property is zoned R-2, Single & Two-Family Residential District and is guided as Low Density Residential (LDR) in the 2040 Comprehensive Land Use Plan. The Subject Property is currently vacant land. All surrounding parcels are also zoned R-2, Single & Two-Family Residential District and designated for Low Density Residential Uses in the Land Use Plan.

The Subject Property was the site of the (now demolished) St. Paul Lodge #2 – I.O.O.F, also known as the Oddfellow’s Lodge. The Applicant was issued a building permit to demolish the existing structure in September 2022. The Subject Property was originally approved as a lodge under a Conditional Use Permit (then called a Special Use Permit) in Planning Case #70-36. Since then, an amendment and a minor subdivision have been approved by the City Council. The following planning cases have been reviewed since the original CUP was adopted:

Planning Case	Application	Request	CC Action
05-03	Special Use Permit Amendment	Reduce the size of the originally approved parking lot	Approved
006-004	Minor Subdivision	Consolidate three previously subdivided parcels into one conforming residential parcel	Approved

3. Site Data

2040 Future Land Use Plan:	LDR – Low Density Residential
Existing Land Use:	Vacant (former structure demolished in September 2022)
Zoning:	R-2, Single & Two-Family Residential District
Lot Size:	1.31 acres

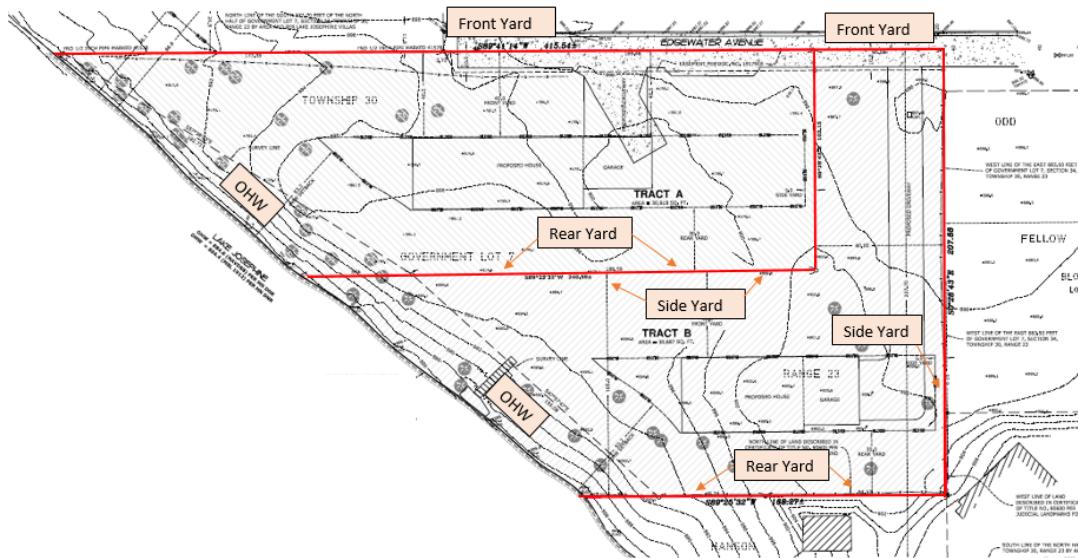
4. Proposed Use

The Applicant is proposing a Minor Subdivision and Variance to split the Subject Property into two residential parcels. As part of the subdivision review, the Applicant is requesting flexibility on setbacks with an evaluation of the lot layout for both parcels in an east and west development

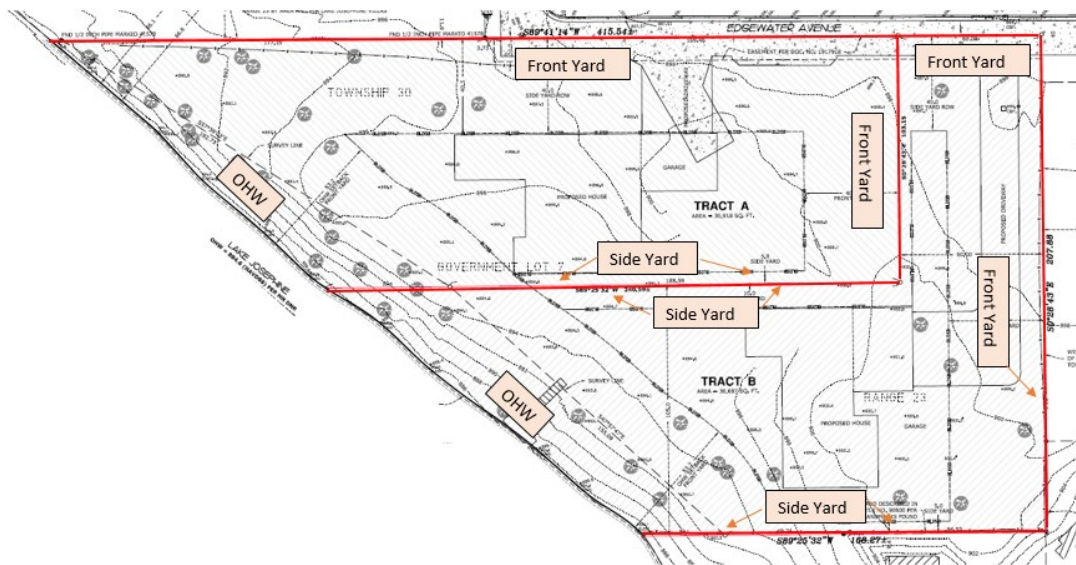
pattern to be consistent with existing development along Lake Josephine. Arden Hills Zoning Code defines the lot front yard as the boundary abutting the roadway (i.e. Edgewater Avenue). Mr. Mezzenga’s application narrative is requesting a review of the parcels with the eastern property line as the front yard and the property line abutting Edgewater Avenue considered a side yard. To construct this proposal, the Applicant is seeking three variances based on applicable zoning code definitions and minimum lot standards for lot width, lot depth, and rear yard setback.

City Code Section 1325.04, defines the front lot line as “the boundary of a lot abutting a street” and the rear lot line as “the lot line most nearly parallel to and most remote from the front lot line.” The Applicant is asking the City Council to consider the side of the lot abutting Edgewater Avenue as the side lot line. Mr. Mezzenga has stated this rationale for flexibility from this definition would allow future residential dwellings to be built within the proposed building pads without the need for additional setback variances. In his application, the Applicant has included two site plans of the same Minor Subdivision in terms of lot dimensions . Site Plan A displays the potential building pads adhering to setbacks based upon the definitions of “lot” for front, side, and rear yards and with only the variances for lot width and lot depth. Site Plan B displays the proposed building pads with an additional variance from rear yard setbacks to be granted. The Applicant is seeking review and approval of Site Plan B.

Site Plan A – Based on Lot Definitions



Site Plan B – Applicant Requested Approval



The Applicant has indicated that if both lots were to be oriented with their front yards facing east rather than facing Edgewater Avenue, Lot A would meet the minimum lot depth requirement, and the total buildable area would increase. The Applicant has pointed out that this would be more consistent with the orientation of neighboring lakefront properties to the north of the Subject Property which have front yards facing east. Additionally, the Applicant has stated that his proposed lot configuration in Site Plan B is able to accommodate a building pad that could meet setbacks, minimum lot coverage, minimum lot area per dwelling unit, maximum dwelling unit density, and minimum landscaped area requirements for the R-2 District and the Shoreland Overlay District.

The Applicant is proposing to construct a single-family dwelling on each parcel. For the City Council review, the Applicant has submitted a Certificate of Survey identifying the proposed lot configuration and house footprint of Tract A and Tract B. At this stage, the Applicant is seeking City Council review on the variance portion of the minor subdivision in advance of developing civil plans, house floor plans, and renderings.

5. Planning Case Background

The City Council previously reviewed a concept plan for the proposed Minor Subdivision and Variance at the work session on September 2, 2022 (Planning Case 22-016). From the preliminary analysis, planning staff did identify that Parcel A would also require a variance to allow a shorter lot depth than what was required by the city code. At this meeting, the City Council was generally supportive of the lot dimensions for a two parcel Minor Subdivision as presented. Planning staff noted that the Applicant may need to seek additional variances based on the description of setbacks as verbally presented during the concept review.

At their meeting on March 8, 2023, the Planning Commission voted 4-1 to recommend approval with conditions of the planning case. The Commission voted 5-0 to add a condition of approval

recommending the side yard setback as measured from the south property line for Tract A shall be 10 feet. This has been added to the draft conditions of approval outlined in the New Business Memo.

Ramsey County GIS Aerial Map (prior to demolition)



Approvals

1. Minor Subdivision and Variance

The City Council is being asked to determine if a Minor Subdivision and Variance request should be approved to split the Subject Property located at 1174 Edgewater Avenue into two separate parcels. The evaluation of the proposal should be based on the requirements of Chapter 11 – Subdivisions, the District Provisions in Section 1320, the requirements in Section 1330 – Shoreland Regulations, and the requirements for a Variance in Section 1355.04, Subd. 4.

Plan Evaluation

Chapter 11, Subdivisions

1. Section 1130, Minimum Design Standards

- A. **Street Plan and Streets** – No new streets would be constructed for the Minor Subdivision. Both lots would have frontage and access on Edgewater Avenue.
- B. **Easements** – City subdivision regulations require a 12-foot wide utility and drainage easements dedicated to the City along the right-of-way and centered on common lot lines. The survey does not include drainage and utility easements along all lot lines that conform to this requirement. The Applicant will be required to dedicate the proposed drainage and utility easements with Ramsey County as part of the Minor Subdivision being recorded.

- C. **Lots, Location and Size** – All lots are required to abut by their full frontage on a public street and meet the minimum lot dimensions required by the Zoning Code. The two lots have frontage on a public street. The Applicant is seeking a variance to meet the minimum standards of the R-2 District for lot width on Tract B.

2. Section 1130.08, Park Development Fee

The Subdivision ordinance requires developers of subdivisions to dedicate to the public a reasonable percentage of the tract to be developed. Section 1130.08 Subd. 3 of the Subdivision Ordinance indicates that for a subdivision that results in new dwelling units of less than 2.5 units per acre, the applicant shall dedicate 10 percent of the buildable land area in the subdivision or pay a park development fee of \$6,500 per residential unit. Ten percent of the development would be 0.13 acres which would not allow for a feasible park area. As a recommended condition of approval, the developer would be required to pay a park development fee of \$6,500 for the proposed newly created single-family residential lot B. This fee would only be applied to the proposed Tract B.

3. Section 1150.03, Minor Subdivision of Unplatted Property

The Subdivision ordinance allows for a Minor Subdivision of an unplatted tract of land to be exempted from the platting requirements of this chapter and may be allowed to be accomplished by means of a survey or registered land survey provided that the following requirements have been met:

- A. The resultant parcels abut on and have access to an existing public street, road, thoroughfare or highway. **Criteria met.**
- B. The subdivision will not involve the opening, widening or extension of any public or private street, road, thoroughfare or highway and will not involve the dedication, reservation or construction of any type of public utility. **Criteria met.**
- C. The subdivision will not obstruct future streets which have been planned by the City. **Criteria met.**
- D. The subdivision will not be detrimental to the public welfare or injurious to adjacent tracts in the area in which the subdivision tract is located. **Criteria met.**
- E. The registered land survey conforms in all respects to the provisions of M.S. § 508.47 (4), as amended, the terms of which are incorporated herein by reference, or the survey contains the minimum requirements as outlines in Section 1150.03, Subd. 2, E items 1-13. **Criteria met.**
- F. Monuments or stakes shall be placed and installed at all corners and angle points of the resultant parcels. **Criteria to be met. Recommended condition of approval.**
- G. The resultant parcels will not have setbacks and dimensions less than those required in the zoning ordinance, as amended. **Criteria not met. The Subdivision ordinance for minimum design standards requires all newly created lots to abut by their full frontage on a publicly dedicated street. The Applicant is requesting a variance for the lot width for Tract B to allow 60 feet as measured abutting Edgewater Avenue. Additionally, the Applicant is proposing in Site Plan B to consider the eastern property line as the front yard for both parcels.**

- H. Drainage and utility easements along lot lines and any other easements required by this chapter. **Criteria to be met. Recommended condition of approval.**
- I. A grading plan with drainage calculations shall be submitted if required by the city engineer. **Criteria to be met. Recommended condition of approval.**
- J. The subdivider has complied with the requirements of this chapter which the planning commission or City Council have made the subdivision by registered land survey or survey specifically subject to. **Criteria met.**

4. Section 1150.01, Granting Variances

The City Council may grant a variance from the regulations contained in this chapter as part of the plat approval process following a finding that all of the following conditions exist:

- A. The hardship is not a mere inconvenience;

According to the Applicant's narrative, the hardship is converting a property from a commercial use to a residential use.

- B. The condition or conditions upon which the request is based are unique and not generally applicable to other property;

According to the Applicant's narrative submitted as a part of his application, the Subject Property includes unique circumstances due to its nontraditional shape and former use of the property. The Applicant states the former gathering hall/lodge having only one access off of Edgewater Avenue has limited the potential for future residential development. In order to be able to subdivide the parcel and construct a home on both lots that each meet setback requirements, the Applicant must seek these variances.

- C. The granting of a variance will not be substantially detrimental to the public welfare and is in accord with the purpose and intent of this chapter, the zoning ordinance and comprehensive plan.

According to the Applicant, by placing the houses in line in an east/west orientation with the neighboring houses along Lake Josephine, all setbacks will be consistent and more pleasing to the eye. According to the Applicant, the proposed single-family housing will be consistent with future land use plans outlined in the City of Arden Hills 2040 Comprehensive Plan.

Chapter 13, Zoning Regulations Review

1. District Provisions (R-2 Single and Two-Family Residential District) – Section 1320.06

Lot Size and Dimensions – Variance Requested

Under the proposed Minor Subdivision, the Subject Property would be comprised of two 31,000-square-foot lots. Section 1320 – District Provisions of the Zoning Code requires a minimum lot size of 11,000 square feet per single-family dwelling unit in the R-2 District. The Applicant is

requesting a variance for the lot width for Tract B to allow 60 feet as measured abutting Edgewater Avenue.

Parcel	Total Lot Area (Square Feet)	Width (Feet)	Depth (Feet)
R-2 District Minimum	11,000	85	120
A	30,918	169.46	103.15
B	30,687	60	207.88

Structure Setbacks – Variance Requested

In the R-2 District, the minimum front, rear, and side setbacks are 40 feet, 30 feet, and 5 feet, respectively. The Applicant is requesting a variance for Lot A and Lot B to decrease the rear yard setback to 5 feet as measured from the south property line. The Applicant is requesting consideration of the west property line abutting Lake Josephine in satisfaction of this requirement for rear yard setback.

Parcel	Front Yard (Feet)	Rear Yard (Feet)	Side Yard (Feet)
R-2 District Minimum	40	30	5/15
A	40 (North)	5 (South)	53.2 (West)/40 (East)
B	40 (North)	5 (South)	53.2 (West)/40 (East)

Landscaped Area, Structure Coverage, and Floor Area Ratio – Intends to Comply

In the R-2 District, the minimum landscaped area for lots is 65%, and the maximum Floor-Area Ratio is 0.3. Additional information would be needed from the Applicant to determine whether these criteria are met. Mr. Mezzenga is processing the minor subdivision and variance request in advance of developing civil plans, house floor plans, and renderings. Staff shall evaluate these criteria at the time of building permit review. The Applicant has stated an intention to comply with all other R-2 District minimum and design standards.

2. Tree and Landscaping Preservation – Section 1325.055

Both site plans provided for this application denote existing trees on the Subject Property. The Applicant has not provided as part of this application a tree inventory of existing significant trees on the Subject Property or an analysis of the proposed tree removal on Tract A or B. As a recommended condition of approval, the Applicant shall be required to submit a Tree Preservation Plan as part of the Building Permit application and tree replacement may be required depending on the number of significant trees impacted by the proposed development. Any tree removal shall be subject to city code requirements as outlined in Section 1325.055.

3. Shoreland Regulations – Section 1330

The Minor Subdivision for the vast portion of the review is in relation to the minimum requirements of the underlying zoning district. As previously noted, the Subject Property abuts Lake Josephine which means both proposed lots in the Minor Subdivision would be subject to

Shoreland Regulations as outlined in Section 1330. The Applicant has stated it is his intention to comply with all applicable shoreland regulations and is not seeking a variance from these regulations. Upon review, Planning staff has determined that the site plans for referenced setback from OHW would need to be revised to be in compliance with Section 1330.

OHW Setbacks/Adjacent Lots – Intends to Comply

In Section 1330.03 - General Provisions, the City requires a structure setback of 50 feet as measured from Ordinary High Water (OHW) for properties abutting a lake classified as General Development. Additionally, this provision states that any shoreland lot where the adjacent lots have existing dwellings that exceed the minimum setback from the OHW level, the shoreline setback for a new dwelling unit or an addition to an existing dwelling unit shall not be less than the average of the setbacks from the OHW level for such adjacent dwellings minus ten (10) feet subject to the following:

1. In no case shall the new structure or addition be within the minimum setback from the OHW level as stated in Section 1330.03 Subd 1.
2. In no case shall the new structure or addition be nearer to the OHW level than the nearest adjacent structure.
3. The minimum structure setback in Section 1330.03 Subd. 1 shall be used for the adjacent lot when calculating the setback if an adjacent lot is:
 1. Vacant;
 2. Has a use other than single or two-family residential; or,
 3. Has a dwelling unit that encroaches on the minimum structure setback.

In this case, the site plans submitted identify the dwelling to the north is setback at 66.6 feet from OHW and the structure to the south is setback at 59.7 feet from OHW. The average between those two setbacks is 63.15 feet. The Applicant has shown on both site plans a proposed setback from OHW of 53.2 feet after subtracting the 10 additional feet. Planning staff has discussed with the Applicant that in this scenario the placement of the new homes would not be entitled to minus the 10 feet due to condition B (as shown above) that no new structure can be nearer to OHW than the nearest adjacent dwelling. In this case, the property to the south is setback at 59.7 feet which is further from OHW than the proposed 53.2 feet. Since a new dwelling cannot be nearer to OHW than the nearest adjacent dwelling, the minimum setback to OHW for the proposed Minor Subdivision becomes 59.7 feet.

Planning Staff has requested from the Applicant that he verify the setback from OHW for the adjacent property to the south. From Ramsey County GIS it appears that the distance shown on the site plans submitted is measured from a detached accessory structure. The calculation for adjacent lot setbacks shall be from the adjacent dwelling, not an accessory structure. The Applicant has confirmed it is not their intent to seek a variance from any of the requirements as outlined in the Shoreland Regulations. As a recommended condition of approval, the Applicant shall be required to comply with all applicable provisions of Section 1330, Shoreland Regulations and to submit an updated certificate of survey in satisfaction of these requirements prior to issuance of a building permit. By addressing this planning comment via a condition, the Applicant can continue through the Minor Subdivision review without modifying all of the survey documents at this time. Any future building permit application for the new home

construction would be subject to compliance with this provision and staff would verify this provision has been satisfied as part of the permitting process.

4. Variance Review

The role of the City Council is to determine and consider how the facts presented to them compare with the city's articulated standards. The Council should base their decision on the facts presented and then apply those facts to the legal standards contained in city ordinances and relevant state law. Neighborhood opinion alone is not a valid basis for granting or denying a variance request. While the City Council may feel their decision should reflect the overall will of the residents, the task in considering a variance request is limited to evaluating how the variance application meets the statutory practical difficulties factors. Residents can often provide important facts that may help in addressing these factors, however, unsubstantiated opinions and reactions to a request do not form a legitimate basis for a variance decision.

The City Council may impose conditions when granting variances as long as the conditions are directly related and bear a rough proportionality to the impact created by the variance. For instance, if a variance is granted to exceed the front setback limit, any conditions attached should presumably relate to mitigating the effect of the encroachment.

5. Variance Requirements – Section 1355.04, Subd. 4

The Applicant requests a variance to decrease the minimum required lot width, lot depth, and rear yard setback of the Subject Property. The City Council will need to make a determination utilizing the following variance findings and criteria on whether there are practical difficulties with complying with the zoning regulations. If the Applicant does not meet all the factors of the statutory test, then a variance should not be granted. Variances are only permitted when they are in harmony with the general purposes and intent of the ordinance.

1. Purpose and Intent. The variance request shall comply with the purpose and intent of the provisions of the City's Zoning Regulations and with the policies of the City's Comprehensive Plan.

The variance request for 1174 Edgewater Avenue is for flexibility in requirements of minimum lot width, lot depth, and rear yard setbacks. The Subject Property is zoned R-2, Single and Two-Family Residential District and is guided as Low Density Residential (LDR) in the 2040 Land Use Plan.

2. Practical Difficulties. The Applicant for a variance shall establish that there are practical difficulties in complying with the provisions of the Arden Hills Zoning Regulations. The term "Practical Difficulties" as used in the granting of a variance means:
 - a. *Reasonable Use.* The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.

According to the Applicant, the proposed use for this line is consistent with land use plans outlined in the 2040 Comprehensive Plan.

- b. *Unique Circumstances.* The plight of the property owner is due to circumstances unique to the property not created by the landowner.

According to the Applicant, the Subject Property includes unique circumstances due to its nontraditional shape. To construct a home on both subdivided lots that each meet setback requirements, the Applicant must seek these variances.

- c. *Character of Neighborhood.* The variance, if granted, will not alter the essential character of the neighborhood.

According to the Applicant, by placing the houses in line with the neighboring houses along Lake Josephine, all setbacks will be consistent and more pleasing to the eye.

- 3. **Economic Consideration.** Economic consideration alone does not constitute a practical difficulty.

The proposed variance is not based on economic consideration.

- 4. **Access to Sunlight.** Inadequate access to direct sunlight for solar energy systems shall be considered a practical difficulty.

A solar energy system is not proposed.

Plan Evaluation Summary

The table below provides the minimum district requirements for the R-2 District and Shoreland regulations along with a preliminary analysis for the proposed development:

	R-2 District Standards	Shoreland Overlay District	Parcel A	Parcel B
Minimum Lot Area	11,000 square feet	14,000 square feet	30,918 square feet	30,687 square feet
Minimum Lot Width	85 feet measured at public roadway	75 feet measured at OHW setback	169.46 feet – street, 192.73 feet - OHW	60 feet – street*, 155.09 feet - OHW
Minimum Lot Depth	120 feet	N/A	103.15 feet*	207.88 feet
Minimum Front Yard Setback	40 feet	40 feet	40 feet	40 feet
Minimum Rear Yard Setback	30 feet	N/A	5 feet*	5 feet*
Minimum Side Yard Setback	5 feet (min)/15 feet (total)	50 feet from OHW (west) & Adjacent Lots	53.2 feet/40 feet	53.2 feet/40 feet

*Variance requested by applicant.

Additional Review

Building Official

The Building Official has reviewed the Minor Subdivision and has no additional comments at this time. A Building Permit will be required prior to construction activity taking place.

Public Works Director/City Engineer

The Public Works Director/City Engineer has reviewed the Minor Subdivision and has no additional comments at this time. PW permits will be required prior to any connection of utilities (i.e. sewer and water), land disturbance, or right-of-way work. These items have been included in the draft recommended conditions of approval.

Minnesota Department of Natural Resources

The Minnesota Department of Natural Resources has reviewed the application and has no additional comments at this time.

Rice Creek Watershed District

The Rice Creek Watershed District has completed a preliminary review of the plans and indicated a permit will be required based on the proposed scope of project. This permit requirement has been included in the draft recommended conditions of approval. The Applicant shall be required to provide this verification to the City prior to issuance of city permits.

Public Notice and Comments

A public hearing notice was prepared by the City. The notice was published in the Pioneer Press and mailed to properties within 1000 feet of the Subject Property on March 30, 2023. No comments have been received regarding this application as of April 4, 2023.

There was one public comment at the Planning Commission meeting regarding a private easement. Three public comments were submitted in advance of the Planning Commission meeting that were opposed to the Minor Subdivision due to the application including a request for variances.

Attachments

- A. Land Use Application
- B. Location Map
- C. Applicant Narrative
- D. Certificate of Survey
- E. Site Plan A
- F. Site Plan B
- G. Planning Commission Memo
- H. Draft Planning Commission Minutes
- I. Presentation