



Norwood Young America Planning Commission

Wednesday, January 3, 2018

**Norwood Young America City Council Chambers, 310 Elm St. W.
6:00 p.m.**

AGENDA

**Bill
Grundahl**

1. Call to Order
Pledge of Allegiance

**JR
Hoernemann**

2. Oath of Office
3. Appointment of Officers and to Commissions

**Mark
Lagergren**

4. Adoption of Agenda

**Mike
Eggers**

5. Approve Minutes of December 5, 2017 meeting

**Craig
Heher
Council
Liaison**

6. Public Hearing
A. Towers
7. Old Business
A. Code Standards: Towers
8. New Business
A. Vickerman Company Concept Plan
9. Miscellaneous
A. December Building Permit Report

10. Commissioner's Reports

11. Adjourn

12. Work Session – Subdivision Code

UPCOMING MEETINGS

January 8th – City Council meeting 6:00 p.m.

January 10th – Joint Meeting - Planning Commission, City Council, EDC, and
Chamber of Commerce 6:30 p.m.

January 16th – Parks & Recreation Commission meeting 5:30 p.m.

January 22nd – City Council Work Session/EDA/Regular meeting 6:00 p.m.

February 6th – Planning Commission meeting 6:00 p.m.

*Norwood Young America
Planning Commission Minutes
December 5, 2017*

Present: Commissioners Mike Eggers, Craig Heher, Bill Grundahl, Mark Lagergren, and JR Hoernemann.

Staff: City Administrator Steve Helget and Planning Consultant Cynthia Smith Strack.

1. Call to Order.

The meeting was called to order by Chair Heher at 6:03 pm. All present stood for the Pledge of Allegiance.

2. Adoption of Agenda.

Chairperson Heher introduced the agenda. Strack requested item 6(B) be added, site plan for a small addition at 125 Railroad Street East for Diversified Plumbing and consideration of item 7(B) reschedule January meeting from the 2nd to the 3rd. Discussion regarding work session also occurred. Commissioners reached consensus to determine whether or not to postpone the work session at the time the agenda topic was reached, in consideration of length of discussion during the regular agenda.

Motion – Eggers, second Grundahl to approve the agenda with the proposed additions. The agenda was approved 5-0.

3. Approval of Minutes from the Regular Meeting November 9, 2017.

Heher introduced the minutes from the November 9, 2017 regular meeting.

Motion – Hoernemann to approve November 9, 2017 regular meeting minutes. Second by Lagergren. With all in favor the minutes were approved 5-0.

4. Public Hearings.

Amendment to Conditional Use Permit: 13050 Stewart Avenue – Molnau Trucking LLC

Heher introduced the agenda item and provided an overview of the public hearing process. The public hearing was opened at 6:07 p.m.

Strack noted the Norwood Young America City Council, on March 24, 2014, approved Resolution 2014-11, entitled “Resolution Approving A Conditional Use Permit to Allow Limited Outdoor Storage at 13050 Stewart Avenue”. Earlier this year Nick Molnau d.b.a. Molnau Trucking constructed an expanded berm on-site prior to securing input from the City of NYA. Molnau is now requesting amendment of the existing CUP to allow additional outdoor storage on site. Strack stated Resolution 2014-11 limits the on-site area allowed for outdoor storage. Development of the site is impacted by shoreland overlay and wetland preservation standards.

Strack stated the City Code includes the following definition: “**Impervious Surface.** An artificial or natural surface through which water, air, or roots cannot penetrate including roofs, driveways, parking lots, sidewalks and similar hard surfaces”. The City has in the past considered compacted gravel as an impervious surface. Shoreland overlay standards restrict the maximum impervious surface coverage within the shoreland overlay to twenty-five (25) percent of the site area. Wetland buffers are required and

dependent on the functional value of the subject wetland and can range from 25 to 50 feet in width.

Strack noted her memo indicated she had requested Molnau provide a survey outlining proposed outdoor storage area and how it correlated with maximum impervious surface in the shoreland overlay district and wetland buffer standards.

Strack review materials provided by Carver County Watershed Management Organization relating to wetland buffers and shoreland overlay.

Heher inquired of Nick Molnau what he was planning on storing in the expanded area, if approved. Molnau stated he did not have specific plans for what would be stored in the area, just what the initial conditional use permit had allowed. In addition Molnau was requesting the CUP be amended to allow berming landscaping installed at a height of six feet instead of the ten foot requirement.

Hoernemann noted Molnau was suggesting 70 new parking spaces. Molnau responded that number was simply a calculation based on proposed area. Hoernemann asked where Molnau obtained the soil used to construct the berm. Molnau stated it was from Preserve 5th Addition.

Motion – Lagergren to close the public hearing. Second by Eggers. With all in favor the hearing was closed at 6:22 p.m.

Eggers asked Strack about options for considering the request. Strack stated the Commission could postpone action in favor of receipt of a survey produced by a licensed professional illustrating the exact area proposed for outdoor storage, the exact location of the new berm, the percentage of impervious surface coverage both existing and proposed contained within the shoreland overlay district and representing wetland buffers of fifty feet in width. Alternately, the Commission could consider a recommendation conditioned on meeting both wetland buffer and shoreland impervious surface coverage and with review by the Minnesota Department of Transportation. Strack recommended the first option.

5. Old Business.

A. Draft Code Standard: Towers and Antenna.

Heher introduced the agenda item.

Strack noted the Planning Commission reviewed draft tower and antenna standards at the November meeting. After review, the Commission requested the draft be again considered at the December meeting, in particularly how the proposed standards related to existing zoning. Strack referenced the zoning ordinance and draft standards included in the packet. The standards include:

(1) A statement of purpose and intent.

(2) Definitions.

(3) Exempt activities, including but not limited to, (a) household antenna and satellite dishes, (b) adjustment, repair, or replacement of existing antenna or antenna elements, (c) placement of additional antenna on existing towers provided the overall height of the structure was not increased, (d) antenna and structures used by the City for public purposes, (e) antenna on water towers or the sides of roof of existing structures, (f) emergency repairs, and (g) transmitters needed for emergency operations.

(4) Where telecommunications facilities could be placed: (a) Towers over 20 feet in height supporting amateur radio operations would be allowed in side or rear yards in residential districts under CUP. (b) Towers, antenna, and support facilities would be allowed in industrial districts under CUP and provided they industrial parcel did not abut Highway 212.

(5) Performance standards: (a) Maximum height vary by nature of use. Towers, antenna, and related equipment attached to existing structures not to exceed 20 feet in height. Towers supporting amateur radio operations are not to exceed seventy feet in height. All other towers not to exceed 175 feet in height. (b) Setbacks: If attached to an existing structure setback equal to that portion of the tower height above secure attachment. If freestanding, equal to the height of the tower plus ten feet, except if located next to a residential zone, then height of the tower plus 100 feet. (c) Colocation is required. (d) Several design standards for structures and towers were reviewed.

(6) Miscellaneous standards relating to abandoned towers, interference, and radiation.

Grundahl suggested a standard contained in the 'exemption' provisions be adjusted to reference the highest point of a roof to clarify the placement. Helget suggested a statement referring to setbacks be adjusted to refer to 'adjacent to' as opposed to 'next to' as was presented. The Commission concurred with both suggestions.

Motion – Lagergren to call for a public hearing on January 3rd. Second by Eggers. With all in favor the motion was approved.

6. New Business.

A. Amendment to Conditional Use Permit: 13050 Stewart Avenue – Molnau Trucking LLC

Heher introduced the agenda item for business discussion.

Strack referenced the discussion during the public hearing and summarized potential actions.

Eggers stated a definite preference for requiring a survey and postponing action. Heher concurred.

Lagergren inquired as to how many total acres on site existed. Molnau stated the parcel consisted of nearly 20 acres. Lagergren then inquired of Strack as to when the Carver County Watershed Management Organization would review the item. Strack noted local (city) action was needed prior to CCWMO review of impervious surface and stormwater control. Strack noted the Applicant is responsible for securing any needed permits from CCWMO after the City takes action.

Heher reiterated his preference for a survey. A discussion of the 60-day review rule followed. Strack was directed to draft a letter extending the review period.

Motion – Lagergren to postpone action until a survey of the site is completed. Second by Grundahl. Motion approved 5-0.

B. Site Plan Approval: 125 Railroad Street East – Diversified Plumbing Minor Building Addition.

Heher introduced the agenda item.

Strack stated Collin King, Diversified Plumbing, has filed an application for approval of a small addition to an existing structure at 125 Railroad Street East. The expansion is a 1,280 square foot addition to an existing 2,400 square foot building. The expansion is to the east of the existing building and setback eight feet from the existing building front so as to accommodate the irregular lot shape and not further intensify existing encroachment. The addition will be office space. Site plan review is required under Section 1210,08, Subd. 2 of the Code for any new construction or enlargement of an existing structure in the C-3 District.

The Applicant represents: the existing structure is proposed to be expanded by 1,280 square feet (40' X 32'); no changes to the remainder of the lot are proposed; and, construction type is wood frame and the exterior will be sympathetic to the existing structure.

The Applicant, Collin King, further described the site plan. The addition is proposed to be wood frame construction. The Commission noted the C-3 District has zero setbacks and 100% site coverage pertaining to the addition.

The Applicant alluded to plans to create a traditional parking lot and return the remainder of the lot to pervious surface in the future.

Motion – Grundahl to recommend the City Council approve the site plan. Second by Hoernemann. Motion approved 5-0.

7. Miscellaneous.

A. November Building Permit Report.

The commission reviewed the November building permit report.

B. Reschedule January Planning Commission Meeting to Wednesday, January 3, 2018 from Tuesday, January 2, 2018.

Motion – Eggers to reschedule the January meeting to January 3, 2018. Second by Lagergren. Motion approved 5-0.

8. Commissioner Reports.

Hoernemann commented on the holiday decorations at Peace Villa, The Haven, and The Harbor.

Grundahl noted he attended a comprehensive plan update meeting and a joint meeting with guests from the City of Henderson.

Heher noted the Council had addressed non-compliance at Southwest Paving and scheduled a public hearing to consider CUP revocation for the January 8th regular Council meeting. The Council also renewed contracts with the Carver County Sheriff's Office and the County Attorney's Office. The Council also review CUP review and compliance procedures.

Helget provided updates on issues raised by PC Member Eggers at the previous meeting. Helget

reported he had spoken with Loomis Construction and the City Building Inspector regarding deployment of silt fences rather than biologs for erosion control purposes. Helget, going forward, will request builders use silt fences rather than biologs.

Helget noted he and Public Works Superintendent Voigt had looked at a culvert in The Preserve and concurred it needed to be cleaned-out. This will be done next spring.

Helget reported he contacted the DNR and CCWMO regarding removal of cattails in storm water ponds. The DNR noted it was not considered a public water. CCWMO noted removal was possible, however, such vegetation provided beneficial filtering of stormwater.

Helget noted he also reviewed the sidewalk at 1045 Fox Crossing and noted City staff's judgment is the sidewalk settled and caused the cracking. The City will repair in 2018.

Eggers noted the trail in The Preserve 5th Addition was cleaned up and would be a beneficial addition to the City's trail system. He stated 855 Lakewood Trail had a survey performed and noted the lot line was not where originally thought to be. Setbacks and drainage were discussed. Strack suggested the City consider requiring a certificate of final grade.

9. Work Session: Subdivision Process

The Commission received information on the subdivision process and reviewed/discussed standards typically contained in development agreements which accompany plat approvals. Next month the Commission will review sample covenants and detail contained in preliminary and final plats.

10. Adjourn

Motion – Grundahl, Second Hoernemann, with all in favor the meeting adjourned at 7:45 p.m.

Respectfully submitted,

Steve Helget
Zoning Administrator



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: January 3, 2018

Re: Public Hearing: Ordinance Amending Chapter 12 of the City Code by Amending Sections 1210.06, Subd. 3(B)(2) and 1230.03, Subd. 4(D), and by Adding Section 1270 Pertaining to Towers and Antennae

BACKGROUND

In December, the Planning Commission called for a public hearing on a draft ordinance entitled: Public Hearing: Ordinance Amending Chapter 12 of the City Code by Amending Sections 1210.06, Subd. 3(B)(2) and 1230.03, Subd. 4(D), and by Adding Section 1270 Pertaining to Towers and Antennae.

Following is an overview of proposed standards:

- (1) A statement of purpose and intent.
- (2) Definitions.
- (3) Exempt activities, including but not limited to, (a) household antenna and satellite dishes, (b) adjustment, repair, or replacement of existing antenna or antenna elements, (c) placement of additional antenna on existing towers provided the overall height of the structure was not increased, (d) antenna and structures used by the City for public purposes, (e) antenna on water towers or the sides of roof of existing structures, (f) emergency repairs, (g) transmitters needed for emergency operations.
- (4) Where telecommunications facilities could be placed: (a) Towers over 20 feet in height supporting amateur radio operations would be allowed in side or rear yards in residential districts under CUP. (b) Towers, antenna, and support facilities would be allowed in industrial districts under CUP and provided they industrial parcel did not abut Highway 212.
- (5) Performance standards: (a) Maximum height varied by nature of use. Towers, antenna, and related equipment attached to existing structures not to exceed 20 feet in height. Towers supporting amateur radio operations are not to exceed seventy feet in height. All other towers not to exceed 175 feet in height. (b) Setbacks: If attached to an existing structure setback equal to that portion of the tower height above secure attachment. If freestanding, equal to the height of the tower plus ten feet, except if located next to a residential zone, then height of the tower plus 100 feet. (c) Colocation is required. (d) Several design standards for structures and towers were reviewed.
- (6) Miscellaneous standards relating to abandoned towers, interference, and radiation.

REQUEST

The Planning Commission is to hold the public hearing and recommend an action to the City Council.

**CITY OF NORWOOD YOUNG AMERICA
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING CHAPTER 12 OF THE CITY CODE BY
AMENDING SECTIONS 1210.06, SUBD 3(B)(2) AND 1230.03, SUBD 4(D),
AND BY ADDING SECTION 1270 PERTAINING TO TOWERS AND
ANTENNAE**

I. THE CITY COUNCIL OF THE CITY OF NORWOOD YOUNG AMERICA, MINNESOTA HEREBY ORDAINS:

II. SECTION 1210.06, SUBD. 3(B)(2) OF THE NORWOOD YOUNG AMERICA CITY CODE IS HEREBY AMENDED AS FOLLOWS.

2. Reserved. ~~Antennas, Satellite Dishes, Communication and Amateur Radio Towers.~~

~~a. In all residential districts, only one of the following are permitted per lot:~~

~~i. Satellite dish~~

~~ii. Amateur radio tower~~

~~iii. Ground mounted vertical antenna~~

~~b. A ground mounted satellite dish shall not exceed fifteen (15) feet in height above the ground level.~~

~~c. No ground mounted satellite dish, amateur radio tower, or ground mounted vertical antenna shall be located within the required front yard setback or side yard setback.~~

~~d. Ground mounted satellite dish, amateur radio tower, or ground mounted vertical antennas shall be set back from all adjoining lots a distance equivalent to the height of the dish, tower, or antenna. If a portion of the tower or antenna is collapsible or securely fastened to a building, only the portion which can fall will be used to determine the setback from the property lines. Location shall not adversely obstruct views form adjacent property.~~

~~e. A building permit shall be required for the installation of any satellite dish, amateur tower, or ground cover mounted vertical antenna. Building permit applications shall require the submission of a site plan and structural components.~~

~~f. Each satellite dish, amateur radio tower, and ground mounted vertical antenna shall be grounded to protect against natural lightning strikes and be designed and installed in conformance with the National Electrical Code.~~

III. CHAPTER 1230.03, SUBD 4(D) PERTAINING TO CONDITIONAL USES IN THE T/A TRANSITIONAL AGRICULTURAL DISTRICT SHALL BE AMENDED AS FOLLOWS:

D. Reserved. ~~Antennas, satellite dishes, communication and radio towers;~~

IV. CHAPTER 12 OF THE CITY CODE SHALL BE AMENDED BY ADDING SECTION 1270 AS ILLUSTRATED IN EXHIBIT A, ATTACHED HERETO.

V. EFFECTIVE DATE: THIS ORDINANCE IS EFFECTIVE UPON ITS ADOPTION AND PUBLICATION AS PRESCRIBED BY LAW.

Adopted by the City of Norwood Young America on the ____ day of _____, 2018.

Attest:

Carol Lagergren, Mayor

Kelly Hayes, City Clerk

Adopted:
Published:

EXHIBIT A

Section 1270 – Antennas and Towers

1270.01. Purpose and Intent. The purpose of this section is to manage the placement, construction, and modification of telecommunication towers, antennas, and related facilities in order to protect the health, safety, and welfare of the public while accommodating the communications needs of the public, residents, and businesses.

1270.02 Definitions.

Antenna: Any device which is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves including but not limited to directional and omni-directional antennae such as microwave dishes, satellite dishes and whip antennae.

Antenna support structure: A building, water tower, or other structure, other than a telecommunications tower, which can be used for location of telecommunications facilities.

Applicant: A person who applies for a permit to develop, construct, build modify or erect a tower or antenna under this section.

Application: The process by which the owner of a plot of land within the city or other person submits a request to develop, construct, build, modify or erect a tower or antenna upon that land.

Commercial wireless telecommunication services: Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and television similar services that are marketed to the general public.

Telecommunications facilities: Cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of telecommunications located or installed on or adjacent to a tower or antenna support structure.

Tower: Any ground or roof mounted pole, spire, structure or combination thereof exceeding 20 feet in height including supporting lines, cables, wires, braces and masts intended primarily for the purpose of mounting an antenna or similar apparatus above grade.

Wireless Service Provider: A direct provider of wireless services to end users.

1270.03 Exemptions. The following are exempt from permit requirements contained in this Section.

- A. Household television antennas extending less than 20 feet above the highest point of the roof of a residential structure.
- B. Satellite dish receiving antennas two meters or less in diameter.
- C. Adjustment, repair, or replacement of an antenna or the elements of an antenna, provided that such work does not constitute an increase in the height of the tower structure.
- D. Placement of additional antennas on existing towers provided that such work does not constitute an increase in the height of the tower structure.
- E. Antennas and antenna support structures used by the City for City purposes.
- F. Antennas mounted on water towers or on the sides or roof of existing structures.
- G. Antennas placed in public rights-of-way which are owned and operated by a wireless service provider, providing the antenna is placed on an existing structure.
- H. Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels, and provided that such work does not constitute a clear safety hazard.
- I. Two-way communication transmitters used on a temporary basis by a “911” emergency services, including fire, police and emergency aid or ambulance service.

1270.04 Prohibited Towers. Towers, antenna, and support facilities not specifically provided for herein shall be prohibited.

1270.04 Zoning District Standards.

- A. Towers over twenty feet in height specifically and solely designed to support amateur radio operations and antenna are allowed in the side or rear yards in residential districts provided a conditional use permit is issued.
- B. Telecommunications towers, antennas, and support facilities are allowed in industrial zoning districts provided a conditional use permit is issued and the subject parcel does not abut T.H. 212.

1270.05 Performance and Design Standards.

- A. Tower or Antenna Height:
 - 1. Antennas, towers, and related equipment attached to existing structures shall not exceed twenty (20) feet in height.
 - 2. Antennas, towers, and related equipment supporting amateur radio operations shall not exceed seventy (70) feet in height.
 - 3. All other towers shall not exceed 175 feet in height.
- B. Setbacks.
 - 1. Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel on which it is located.

2. Amateur radio towers when not rigidly attached to a building shall be setback from all property lines the minimum of a distance equal to the height of the antenna and tower. Setbacks for amateur radio towers rigidly attached to a building may be reduced by an amount that is equal to the distance from the point of attachment to the ground.
3. All other towers shall have a minimum setback from any property line equal to the height of the tower plus 10 feet, except that towers located adjacent to a residential zone shall have a setback equaling the height of the tower plus 100 feet.

C. Co-location required.

1. Any proposed tower over sixty (60) feet in height shall be designed for co-location of at least one additional antenna.
2. Any proposed tower over one hundred (100) feet in height shall be designed for co-location of at least two (2) additional antennas.

D. Design Standards.

1. Towers shall be designed and certified by a licensed and qualified professional engineer to conform to the latest structural standards and all requirements of the State Building Code, the Electronics Industry Association, and the National Electric Code.
2. Towers shall be designed to ensure that visual intrusiveness and impacts on nearby properties are mitigated to the greatest extent possible.
3. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.
4. Towers may not be artificially lit except as required by the Federal Aviation Administration.
5. Towers not requiring Federal Aviation Administration painting or marking must have durable exterior finishes and shall be light blue, gray, or other similar color which minimizes visibility.
6. Towers shall be designed to allow for future rearrangement of equipment upon the structure, and to accept attachments mounted at varying heights.
7. The use of any portion of a tower or antenna for signs other than warning, identification, emergency contact information, or equipment information is prohibited.
8. Freestanding towers must be self-supporting without the use of wires, cables, beams, or other means. The suggested design is a monopole configuration or open framework which collapses on itself in the event of structural damage.
9. To prevent unauthorized entry, towers shall be provided with security fencing as needed or when required by the City.
10. Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving, and switching equipment, it shall meet setback requirement contained in the underlying zoning classification and be designed, constructed, and screened to blend in to the surrounding environment and adjacent land uses.
11. Towers and antennas should be located in areas that provide natural or existing structural screening for off-site views of the facility when feasible. Existing on-site vegetation that provides screening shall be preserved to the extent possible. Vegetative screening at the perimeter of the tower is encouraged.

1270.06 Abandoned or Unused Towers. Abandoned or unused towers or antennas shall be removed within twelve (12) months of the cessation of operations at the site.

1270.07 Interference. No new or existing tower, antenna, or related equipment shall interfere with public safety communications. Before the introduction of a new service or a change in existing services, equipment providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

1270.08 Radiation. Towers, antennas, and related equipment placed within the City shall be subject to State and Federal regulations, as amended. The cost of verification of compliance shall be borne by the owner and operator of the communications facilities and equipment.



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: January 3, 2018

Re: Concept Plan – Vickerman Company

BACKGROUND

City staff and Vickerman Company and their consultants have been discussing a potential expansion of operations in Norwood Young America. The development project could include purchase of additional lots from the City and construction of a sizable distribution facility.

At this time the project timeline is condensed and the project will require several regulatory reviews including: preliminary and final plat (re-subdivision of previously platted lots), easement vacation, variance consideration (landscaping, setbacks, and perhaps building height), and site plan approval. The Developers plan to submit complete applications in early January in advance of the February 6th meeting deadline.

As a means of introducing the project, concept plan review is proposed for the January 3rd meeting. The item is being included on the agenda at this time (holiday week). We are awaiting additional information from the Developer at this time. When received the information will be distributed under separate cover and made available to the public.

REQUEST

The Planning Commission is to receive a concept plan for discussion at the January 3rd meeting.



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: January 3, 2018

Re: Work Session: Subdivision

BACKGROUND

The PC will continue a work session regarding subdivision of property. The purpose of the work session is to review items and processes related to platting of property. This is a work item for 2018.

The PC will continue reviewing the following:

1. Development review flowchart and subdivision process.
2. Full sized preliminary plat and full sized final plat (available at work session only).
3. An executed developer's agreement.
4. Sample covenants.

TYPICAL REVIEW PROCESS

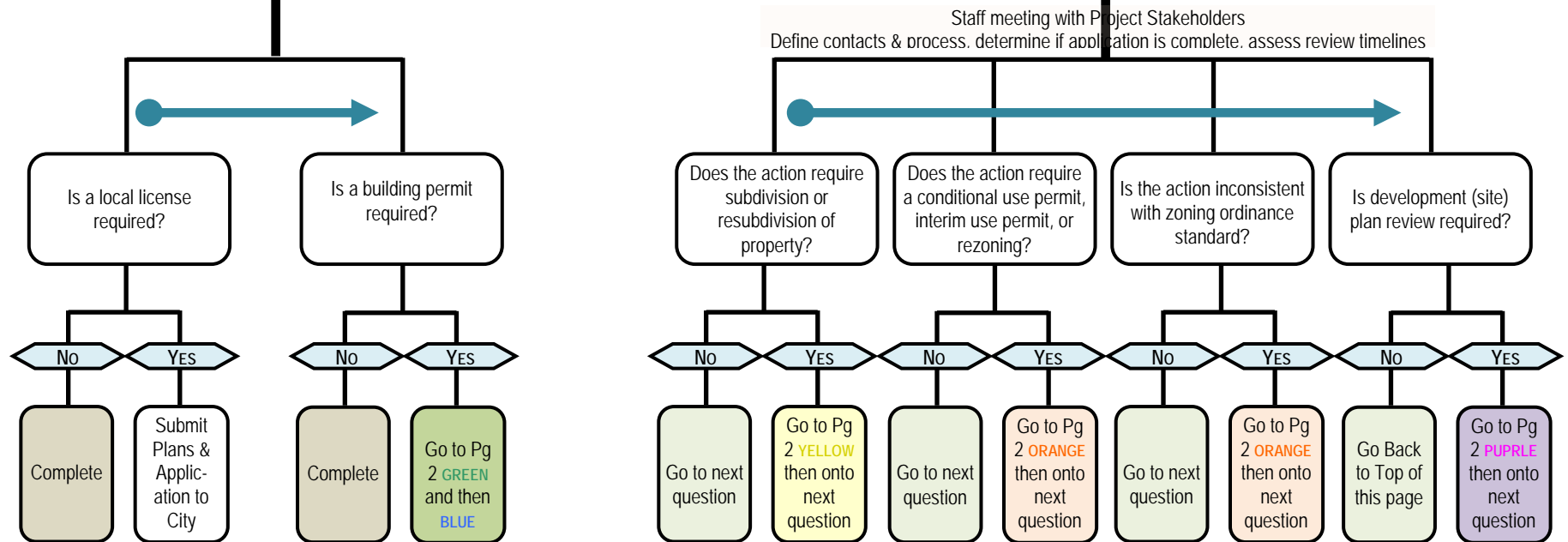
(Special conditions may apply)

CONTACT CITY HALL REGARDING PROPOSED ACTION

DOES THE REQUEST REQUIRE ZONING REVIEW BY THE CITY?

No

YES



CITY DEVELOPMENT REVIEW PROCESS

	Pre-application Review (Optional)	Subdivision Review	Zoning Review	Site Plan	Building Plan	Inspection
What to expect	<p>Although this is an optional step for the developer and/or applicant, it is highly encouraged and the initiation point of most projects. At this step the developer and/or applicant can expect the City and/or its staff & consultants to:</p> <ol style="list-style-type: none"> 1. Explain the procedures and requirements which apply to the project. 2. Estimate fees for project review/final product (non-binding, subject to change). 3. Identification of potential issues. 4. Identification of any exemptions which may apply. 5. Corrections which may be needed. 6. Identification of land status (sewer, zoning class, legal, etc.) 	<p>Required if land is to be subdivided or re-subdivided whether through a conventional plat, a PUD, or an administrative subdivision. A good indicator of whether or not platting is needed for a particular parcel is to review legal, if metes and bounds description, the project will likely need to be subdivided. Items the City will be reviewing include:</p> <ol style="list-style-type: none"> 1. Appropriateness of contemplated use of property, intensity, density & how it relates to zoning ordinance. 2. If an environmental review is required. 3. Impact on municipal sewer, water, storm sewer, park and govt admin. systems & capacity in systems to accommodate proposed subdivision. 4. Development phasing plan, when building is to occur. 5. Impact on existing and proposed transportation system. 6. Compliance with Subdivision Ordinance. 	<p>Required as identified within the Zoning Ordinance. Common review items include:</p> <ol style="list-style-type: none"> 1. Conditional/interim use permits. 2. Variance requests. 3. Rezoning and or text amendments. <p>Items reviewed include the appropriateness of the proposed land use within the applicable zoning classification, consistency with identified general lot requirements and consistency with applicable development standards.</p>	<p>This is the most common type of review required. Typical review items include:</p> <ol style="list-style-type: none"> 1. Site design: proposed intensity of use, proposed density, setbacks, structure height, surface coverage, compatibility with neighborhood. 2. Vehicle and pedestrian traffic: driveways, side walks, circulation patterns, parking lots, ingress/egres & traffic impact. 3. Construction aspects: drainage, grading, and flood plain/shoreland. 4. Environmental impact: landscaping, water quality. 5. Utility service. 6. Fire service. 	<p>Reviewed in conjunction with issuance of a building permit. Items reviewed may include:</p> <ol style="list-style-type: none"> 1. Health/safety. 2. Taps. 3. Electric service. 4. Industrial waste. 5. Construction: occupancy, access/exits, structural, mechanical, electrical, plumbing, energy and fire. 6. Signs. 7. Underground tanks. 	<p>Site and building plan compliance.</p> <p>Building Code enforcement.</p>
Timeframe	Varies depending on nature of project and extent of review required along with entities involved, estimate two to four weeks.	After a complete application is submitted estimate 120 days for preliminary plat review and an additional 60 for final plat review. Review period can be extended. The applicant bears the burden of submitting a complete application. If incomplete information is supplied you can expect the timeline to be extended.	After a complete application is submitted estimate 60 days for review (can be extended). Applicant bears burden of complete application. If incomplete information is supplied, expect the timeline to be extended.	After a complete application is submitted estimate 60 days for review. Review period can be extended. Applicant bears burden of complete application. If incomplete expect extended timeline.	After a complete application is submitted estimate 60 days for review. Review period can be extended. The applicant bears the burden of submitting a complete application. If incomplete information is supplied you can expect the timeline to be extended.	As requested depending on pace of construction. Maximum duration of building permit is typically six months.
Notice, if Required	None.	Property owners within 350 feet when required by the Subdivision Ordinance. The Planning Commission holds the public hearing.	If needed, property owners within 350 feet. Planning Commission or Board of Appeals holds hearing.	If needed, property owners within 350 feet.	None.	None.
Approval Authority	Not Applicable, Information Review.	Planning Commission reviews and makes recommendation to City Council. City Council has approval authority.	Planning Commission reviews and makes recommendation to the City Council. City Council has approval authority.	PC reviews and makes recommendation to the City Council. City Council has approval authority. Zoning administrator may have authority.	Building Official conducts development review.	Building Official.
Final Product	Summary report from meeting.	Preliminary and final plat.	Approval/denial of specific request.	Site plan approval.	Building permit issuance.	Certificate of occupancy

CARVER COUNTY
RECORDER/REGISTRAR OF TITLES
DOCUMENT COVER SHEET

Document No. A651600
OFFICE OF THE COUNTY RECORDER
CARVER COUNTY, MINNESOTA

Recorded on -September 13, 2017 9:43 AM

Fee: \$48.00

COPY



Kaaren Lewis
County Recorder

DOCUMENT
TITLE:

Development Agreement

DOCUMENT
DATE:

September 12, 2017

DOCUMENT
NAMES:

Loomis Homes LLC

City of Norwood Young America

DEVELOPMENT AGREEMENT

CA 29826 (2) THIS AGREEMENT, is made and entered into this 12th day of September, 2017, by and between the City of Norwood Young America, a municipal corporation organized under the laws of the State of Minnesota (the "City"), and Loomis Homes, LLC, a Minnesota Corporation, (the Developer).

RECITALS:

WHEREAS, the City has approved the Final Plat for The Preserve Fifth Addition, generally described as a residential development, encompassing 37 single-family lots hereafter to be known as the Property.

WHEREAS, the execution of this Agreement by Developer is a condition of the City's final approval of the subdivision and plat of the Property;

NOW, THEREFORE, in consideration of the premises and the mutual promises and conditions hereinafter contained, it is agreed as follows:

I. Approvals.

- A. Approval by the City of the plat for The Preserve Fifth Addition shall be subject to the terms and conditions of this Agreement, which shall become effective upon approval of the final plat.
- B. The Developer agrees to the installation of the Developer Improvements, subject to the terms and conditions of this Agreement, and grants the dedications as herein provided and as dedicated in the plat of the Property.
- C. The Developer shall comply with all terms and conditions of plat approval including but not limited to those set forth in City Resolution Number 2017-13.

II. Representations of Developer.

As inducement for the City's approval of the engineering specifications, its authorization to proceed with construction, and its entering into this Agreement, the Developer represents and warrants to the City:

- A. That the Developer has the authority to enter into this agreement and that the developer is prepared to develop the property.
- B. That the Developer intends to use the Property solely for the purpose of establishing a residential development in accordance with the plat for The Preserve Fifth Addition.

- C. That the proposed subdivision complies with all County, State and Federal laws and regulations.
- D. That the subdivision does not require an Environmental Assessment Worksheet or an Environmental Impact Statement, but shall prepare the same if required to do so by any other governmental entity pursuant to law and shall reimburse City for reasonable expenses incurred by City in connection with the preparation of the review, including staff time and attorneys' fees.
- E. That the subdivision complies with all wetland protection laws.
- F. That the Officers who execute this agreement certify that they have the legal authority to execute this agreement and further that the execution of this agreement is in compliance with the organizational documents of the Developer and that no provision in this Agreement is in violation of any corporate authority of the Developer.

III. Municipal Improvements.

- A. The City has constructed the necessary trunk service lines for sanitary sewer and water to serve the Subdivision and the Residential Lots, (the "Municipal Improvements"). The City and the Developer agree that the Developer will pay to the City the availability charges identified in Section XIV (B) hereof.; provided, that the availability charges for all lots, whether a home has been constructed or not, will be paid to the City by the Developer no later than three (3) years from the date hereof.
- B. The City has improved County Road 34 to facilitate the Preserve development. The Developer agrees to pay to the City a County Road 34 charge per Section XIV (C) hereof.
- C. The Developer agrees to pay to the City an outlet charge for discharge of storm water into Barnes Lake per Section XIV (C) hereof.

IV. Developer Improvements.

Developer agrees that it will provide for and pay for, as well as coordinate the installation of the following items within the development:

1. Surveying, platting and recording requirements.
2. Monuments at lot corners as reasonably required.
3. Electricity, telephone, cable, fiber optic, and gas lines (to be buried).

4. Gravel base and bituminous surfacing or roads.
5. Concrete curb and gutter.
6. Sanitary sewer mains.
7. Water mains and fire hydrants.
8. Water and sewer service hookups for individual lots.
9. Storm sewer, surface water drainage, ponding (including necessary retention ponds) and drainage controls, including drain tile, if necessary.
10. Soil borings, if necessary.
11. Lot grading, including stabilization and erosion controls.
12. Street and traffic signs.
13. Street lights.
14. Reproducible mylar as-built drawings.
15. Installation of trees as depicted on the final plan, including at least two trees in front yards outside right of way that are at least two inches in diameter, and are of a species approved by the City.
16. Mailboxes.
17. Sidewalks and trails.
18. Wetland mitigation in compliance with the approved mitigation plan for The Preserve.
19. All other items or site improvements necessary, appropriate and incidental to the completion of the development contemplated herein, with any modifications or additions duly made by change orders, add-ons or add-alternatives.

All of the improvements shall be completed in accordance with City standards, and plans and specifications to be prepared by the Developer's engineer, Otto Associates, as follows: The Preserve 5th Addition, Loomis Homes, LLC/May 11, 2017. Installation shall be subject to on-site inspections by an inspector designated by the City and paid for by Developer. The Developer shall commence construction of the improvements upon approval of the final plat by the City. Upon notice by Developer of Completion of construction of the project, City shall inspect the project. If it is satisfied with the work, City shall provide to Developer a Certificate of Completion.

V. Bituminous Surfacing.

The City agrees that the last course of bituminous surfacing may be installed in the construction season following that in which the initial construction and first course are completed, for the purpose of resolving any settling issues. If Developer installs the last bituminous course in the construction season following initial construction, Developer's warranty on the roads shall commence on completion and acceptance of the last course by the City.

VI. Street Signs.

The Developer agrees to pay for production and installation of all City street signs. At its option, the City may purchase the signs and the Developer shall promptly reimburse the City.

VII. Miscellaneous Additional Developer Provisions.

1. The Developer shall prepare restrictive covenants for the subdivision, subject to approval of the City. The covenants shall include such landscaping requirements as the City may reasonably require, covering matters such as construction of concrete or blacktop driveways in accordance with the plans for previously approved by the City, seeding or sodding of lawns, planting of trees and shrubs, and so forth. Such covenants shall be approved and filed prior to conveyance of the first lot in subdivision, or issuance of the first building permit, whichever comes first.
2. The enforcement of restrictive covenants shall be by the property owners and not the City. In the event any such requirements are not completed at the time of issuance of a building permit, funds sufficient to complete the improvements shall be placed in escrow with an acceptable third party bank or title company to insure completion, which in any event must be accomplished no later than one year from the issuance of the occupancy permit. If the requirements are not completed within one year, the City shall be entitled to cause the same to be completed and draw on the escrowed funds for the purpose of paying the cost thereof.
3. The Developer shall deposit with the City the sum of \$2,000 per lot, as a security deposit for the safe care and keeping of the City's infrastructure (primarily streets, curbs, sidewalks, water lines, sewer lines, valves and connections). The Developer shall deposit an additional \$900 per lot to assure compliance with landscaping, tree planting, and driveway construction requirements. The deposits shall be made at the time a building permit is requested for each such lot. The security deposit for each

such lot shall be released by the City after the completion of construction, landscaping and sodding for such lot; and within thirty (30) days of the City determining that no damages exist or have been repaired.

4. The Developer recognizes the City has incurred and/or will incur out-of-pocket legal, planning, engineering, building inspection and other costs in connection with review of the proposed developed, preparation of this Agreement, and review and inspection of work in conjunction with construction of the project. Developer shall be responsible for said costs. As security for payment of said costs, Developer has previously deposited into an escrow the amount of \$ 10,000 from which City will reimburse itself. If the escrow falls below \$5,000, Developer shall make additional deposits to bring the escrow back to its original balance.
5. The Developer shall submit to the City, prior to commencement of any work on the project, evidence of a commitment for a mortgage or other financing sufficient to fund construction of the project and Developer Improvements. If the City rejects the evidence, Developer shall have fourteen (14) days to submit alternate evidence of adequate financing. If such submission is determined by the City to be inadequate, the City may terminate this Agreement.
6. The Developer warrants all work it performs under this Agreement against defective material and faulty workmanship for a period of two (2) years after its completion and acceptance by City.
7. Prior to commencement of work on the project, Developer will present title demonstrating to City that Developer owns the property to be developed in fee simple free and clear of all encumbrances. The title evidence shall be acceptable to the City in its sole discretion.
8. The Developer shall maintain the project site in a good condition acceptable to the City. The Developer shall not bury trees, stumps, garbage or construction debris or materials on the property, and shall keep City streets clean and obstruction. No weeds, grass, brush, or other rank vegetation shall be allowed to any height exceeding six (6) inches.
9. The Developer acknowledges that an eagles nest may exists on or near the property. Developer shall obtain all required permits and comply with all laws relating to the presence of the nest.

VIII. Street Lighting Systems.

The Developer agrees to provide a street lighting system according to City and Electric Company standards. The street lighting system shall be substantially identical to the system of street lights in the Preserve Development. The street lighting system shall be completed and energized prior to the issuance of any building permits.

IX. Utilities.

The Developer agrees that all utilities installed in the Subdivision shall be underground; specifically including all the electrical, telephone, cable television and gas service. The Developer hereby represents that these services will be available to use prior to occupancy of any dwelling in the Subdivision.

X. Occupancy.

No occupancy of any building in the Subdivision shall occur until water, sanitary sewer, and a hard driving surface on necessary streets are available for use. Sidewalks as they abut a particular lot shall be installed and completed prior to commencement of any excavation or construction for a dwelling upon any particular lot.

XI. Permits.

During the performance of this Agreement, the Developer, to the extent necessary, shall promptly apply for and obtain all permits, approvals, licenses, or other documents from any and all necessary government agencies (which may include the City, Carver County, Minnesota Pollution Control Agency, Carver County Water Management Organization and Department of Natural Resources) as concerns any activity the Developer may engage in upon the property.

XII. Park Dedication.

Developer agrees to deed Outlot A on the plat to the City. Developer shall also deed trail easements as identified on the plat and construct and maintain trails within the easements as identified in construction plans to be approved by the City. Developer shall also grant to the City a trail easement between Lots 8 and 9, Block 3. No additional monetary amount shall be required of the Developer.

XIII. Insurance.

The Developer shall provide and maintain at all times during the process of constructing the project and Developer Improvements the following:

1. Builder's risk insurance written on the so-called "Builder's Risk-Completed Value Basis" in an amount equal to one hundred percent (100%) of the insurable value of the project and Developer Improvements with coverage on the so called "all risk" form of policy.
2. Commercial general liability including public liability insurance naming the City as a co-insured with limits for bodily injury or death not being less than two million (\$2,000,000) dollars for each occurrence.
3. Worker's Compensation insurance with statutory coverage as required by Minnesota law.

All policies of insurance shall be taken out and maintained in responsible insurance companies authorized to do business in the State of Minnesota. Developer shall provide proof of said insurance to City.

Developer agrees to notify the City immediately in the case of damage to the project or Developer Improvements exceeding Twenty-Five Thousand (\$25,000) dollars.

The City shall be notified of any change or cancellation of said insurances.

XIV. Security for Cost of Developer Improvements and Access Charges.

- A.** Developer shall prior to commencement of the Developer Improvements provide the City with cash, a performance bond or any irrevocable letter of credit, in form satisfactory to the City, in the amount of \$1,092,803.06, a sum equal to 125% of the estimated total of all costs of the improvements to be constructed by the Developer, which will be dedicated to the City ("Developer Improvements"), to be deposited before the Developer commences construction of any portion of such improvements. The cash deposit, performance bond, letter of credit or other surety shall be maintained continuously by the Developer until the Developer Improvements are completed to the City's satisfaction. Developer shall be entitled to a reduction in the amount of security upon completion of the first lift of bituminous road surface, in an amount equal to 100% of the actual cost of the Developer Improvements completed as of such date, provided however that the remaining amount of the security shall be equal to at least 125% of the estimated costs of the remaining improvements.
- B.** The City will charge water and sewer availability charges, water and sewer hook-up fees, and a water meter fee at the time of issuance of a building permit. Developer shall provide the City with cash or an irrevocable letter of credit in form satisfactory to the City, in the sum of \$179,161.77, which

represents an estimated 100% of the current charges for these items. The sum shall be deposited before the Developer commences construction of any portion of the Developer Improvements contemplated by this agreement. Said letter of credit will be a guaranty to the City that the charges will be paid. The cash or letter of credit shall be continuously maintained by the Developer until the Developer improvements are completed to the City's reasonable satisfaction and all charges are paid in full. Prior to drawing on the cash or letter of credit, the City agrees to provide 15 days written notice of the Developer of the City's intention. The cash or letter of credit may be reduced once per year as fees are paid, provided however that the remaining amount of the security shall be equal to at least 100% of the estimated costs of the unpaid access charges.

- C. Developer shall pay all pertinent City development fees upon execution of this Agreement, including but not limited to the following:
 - i. Barnes Lake Outlet Charge \$250/per lot
 - ii. County Road 34 Charge \$634/per lot
 - iii. Sewer Trunk Fees \$3,900/per lot
 - iv. Water Trunk Fees \$3,900/per lot
 - v. Storm Sewer Fees \$750/per lot

XV. Responsibility for Costs and Hold Harmless.

- A. The Developer shall pay all costs incurred by it in connection with the development of the Subdivision, including but not limited to construction of Developer Improvements, and shall hold the City and its officers and employees harmless from the same.
- B. The Developer shall reimburse the City for its costs and attorneys' fees incurred in connection with any proceeding to enforce this Agreement.
- C. The Developer agrees to pay for any Environmental Assessments and/or Environmental Impact Statements, if required.
- D. The Developer shall hold the City and its officers and employees harmless from claims arising out of any of the actions of the Developer in connection with the platting and subdivision of the Property, the construction of the Developer Improvements, and the sale of the Lots within the subdivision.

XVI. Prohibitions Against Assignment of Agreement.

- A. Developer agrees not to assign its rights nor its liabilities and obligations under this agreement, without written consent of the City.
- B. In the absence of a written agreement signed by the City releasing the Developer, no such transfer, nor any approval thereof by the City, shall be deemed to relieve Developer from any of its obligations. Provided, that in the event City approves a substitute Developer and the Property is transferred to said substitute, the City agrees to relieve the Developer of liability for performance as described in this contract. Said substitute shall assume all responsibilities and rights of the Developer under this contract.

XVII. Events of Default and Defined.

Following shall be Events of Default under this Agreement:

- 1. Failure by the Developer to observe and perform any covenant, condition, obligation, or agreement to be observed or performed by it under the terms of this Agreement.
- 2. If the Developer shall admit in writing its inability to pay its debts generally as they become due, or shall make an assignment for the benefit of its creditors, or shall consent to the appointment of a receiver of itself or of the whole or any substantial part of the Property.
- 3. If the Developer shall file a petition under the Federal bankruptcy laws, or is adjudicated a debtor in an involuntary proceeding.
- 4. If the Developer fails to diligently pursue the project to completion.
Diligently pursue means the Developer has completed the platting, zoning and development process during the calendar year 2017, has installed the basic infrastructure during the 2018 construction season, and has paid the access charges for at least 20% of the lots in each year commencing with the year 2018.

XVIII. Notice/Remedies of Default.

Whenever any Event of Default occurs, the City shall give written notice of the Event of Default to Developer by United States mail at its last known address. If the Developer fails to cure the Event of Default within fifteen (15) days of the date of mailed notice, in addition to any other remedy provided in this Agreement, and without waiver of any such right, City may avail itself of any or all of the following remedies for so long as the Developer is in default:

1. Halt all plat development work and construction of Developer Improvements until such time as the Event of Default is cured.
2. Refuse to issue building permits or occupancy permits as to any lot until such time as the Event of Default is cured.
3. Apply to a court of competent jurisdiction to enjoin continuation of the Event of Default.
4. If the Event of Default is the failure to Developer to complete, construct, install, or correct the Developer Improvements in accordance with the plans and specifications and this Agreement, the City may perform the construction or work and the Developer shall reimburse City for its expenses. This provision shall be license granted by the Developer to the City to act, but shall not require the City to take any such action. Developer consents to such action by City and waives any claim Developer may have against City for damages in the event City exercises its rights in accordance with this provision.
5. Terminate this Agreement by written notice to Developer, at which time all terms and conditions as contained herein shall be of no further notice and effect and all obligations of the parties as imposed hereunder shall be null and void.
6. Draw upon the utilize Developer funds and/or security in order to cover the costs of the City to correct the Event of Default.

No remedy available to the City shall be exclusive of any other remedy, nor shall an election by the City to pursue a particular remedy preclude any other remedy, except that the City shall not be entitled to a double benefit which could occur by enforcement of alternate remedies.

XIX. Miscellaneous.

1. This Agreement shall be binding upon the parties, their heirs, successors, or assigns, as the case may be.
2. If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Agreement is for any reason held invalid, such decision shall not affect the validity of the remaining portions of this Agreement.
3. The action or inaction of the City shall not constitute a waiver or amendment of the provisions of this Agreement. To be binding, amendments or waivers must be in writing, signed by the parties, and approved by written resolution of the City Council. The City's failure to

promptly take legal action to enforce this Agreement shall not be a waiver or release.

4. Future residents of this subdivision shall not be deemed to be third party beneficiaries of this Agreement.
5. All parties to this Agreement acknowledge they have been represented by counsel and have entered into this Agreement freely and voluntarily.

XX. Notices.

Required notices to the Developer shall be in writing and shall be either hand delivered to the Developer, or mailed to the Developer by United States mail, postage prepaid to the following address:

Loomis Homes, LLC
1485 White Oak Drive
Chaska, MN 55318

Notices to City shall be in writing and either hand delivered to the City Administrator or mailed to the City by United States mail, postage prepaid to the address:

City of Norwood Young America
310 Elm Street W.
P.O. Box 59
Norwood Young America, MN 55368-0059

IN WITNESS WHEREOF, City and Developer have signed this Developer Agreement the day and year first written above.

CITY:

DEVELOPER:

CITY OF NORWOOD YOUNG AMERICA

LOOMIS HOMES, LLC

By: Carol Lagergren
Carol Lagergren, Its Mayor

By: Scott Moore

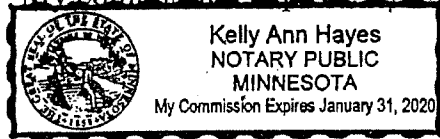
By: Steven Helget
Steven Helget, Its City Administrator

State of Minnesota)
) ss.
County of Carver)

The foregoing Instrument was acknowledged before me on this 12 day of September 2017, by Carol Lagergren, the Mayor, and Steven Helget, the City Administrator of Norwood Young America, a Minnesota Municipal Corporation.

Kelly Ann Hayes
Notary Public of the State of Minnesota.
My commission expires: 1/31/20

State of Minnesota)
) ss.
County of Carver)



The foregoing instrument was acknowledged before me on this 12 day of September 2017, by Scott Loomis on behalf of Loomis Homes, LLC, a Minnesota Corporation.

Kelly Ann Hayes
Notary Public of the State of Minnesota
My commission expires: 1/31/20

RASW: 90425



This instrument was drafted by:

Rupp, Anderson, Squires & Waldspurger, P.A.
Jay T. Squires
333 South Seventh St.
Suite 2800
Minneapolis, MN 55402

Legal Description

Outlot A, The Preserve 4th Addition, Carver County, Minnesota

**CARVER COUNTY
RECORDER/REGISTRAR OF TITLES
DOCUMENT COVER SHEET**

Document No. A651601
OFFICE OF THE COUNTY RECORDER
CARVER COUNTY, MINNESOTA

Recorded on -September 13, 2017 9:43 AM

Fee: \$48.00



Kaaren Lewis
County Recorder

**DOCUMENT
TITLE:**

Declaration of Covenants/Restrictions

**DOCUMENT
DATE:**

September 11, 2017

**DOCUMENT
NAMES:**

Loomis Homes LLC

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR**

**LOTS 1-5, BLOCK 1;
LOTS 1-9, BLOCK 2
LOTS 1-23, BLOCK 3
THE PRESERVE 5TH ADDITION**

CA 29826 (3)
This Declaration is made this 11 day of September, 2011 by Loomis Homes, LLC, a Minnesota Limited Liability Company ("Developer").

RECITALS

A. The Developer is the fee owner of the land in Carver County, Minnesota, legally described as follows:

**LOTS 1-5, BLOCK 1;
LOTS 1-9, BLOCK 2;
LOTS 1-23, BLOCK 3;
THE PRESERVE 5TH ADDITION**

B. Each of the Lots described in Recital A are referred to herein as a "Lot". All of the Lots described in Recital A are referred to herein collectively as the "Property".

C. Developer desires to impose upon and subject the Property to certain covenants, conditions, and restrictions for the benefit of the Property and the Property owners.

DECLARATION

NOW, THEREFORE, the Developer hereby declares, imposes upon, and makes all of the Property subject to the following covenants, conditions, and restrictions, which shall run with the Property and benefit and burden all persons who now or hereafter have any right, title, or interest in the Property:

**ARTICLE I
GENERAL COVENANTS AFFECTING ALL LOTS**

Section 1. Residential Purposes. Each Lot shall be used only for residential purposes. Residential purposes include houses and other Residential Improvements (as defined in Article II, Section 1 of this Declaration). No Lot may be used for any business or industrial purposes, except:

- a. home occupations that are permitted by applicable zoning ordinances and also permitted by the Architectural Control Committee; or
- b. temporary sales offices and model homes for sale or rentals of houses or lots by or on behalf of professional home builders.

Section 2. Building Specifications.

- a. Height. No dwelling shall be erected, altered, or placed on a Lot or permitted to remain there other than one detached single-family house not to exceed two stories in height, as measured from grade. If the house includes a walk-out basement, the basement shall not be counted as a story.
- b. Garages. Each house shall have one or more attached fully-enclosed garages but no carports or detached garages. There must be garage space for two or more cars, but from the street in front of the house it must appear that there is garage space for no more than three cars. Plain flush doors are unacceptable; raised panel doors being required.
- c. Storage Structures. No more than one detached structure for storage purposes shall be permitted and permission requires approval of the Architectural Control Committee established hereafter in Article II. Approval shall require, at a minimum, that the structure's exterior be similar to that of the residence and that the size shall not exceed 12' x 12'.
- d. Completion. Each house or other structure constructed or placed on a Lot shall be completely finished on the exterior thereof within six months after commencement of construction.
- e. Utility Meters. All utility meters shall be shielded from view from public streets by design placement or shrubs/landscaping.

Section 3. Setbacks. Building setbacks from all Lot boundaries shall comply with city ordinances, as modified by any applicable planned unit development special use permit.

Section 4. Nuisance. No noxious or offensive trade or activity shall be carried on or upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the Property.

Section 5. Prohibited Dwellings. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time (either temporarily or permanently) as a dwelling.

Section 6. Windmills. No ornamental, operational or other windmill shall be constructed, erected, installed, placed, or used on any lot at any time.

Section 7. Antennas. No exterior antenna, aerial, tower, wire, line, cable, or other device for transmitting or receiving radio, television, microwave, laser, or other electromagnetic signals ("antenna") shall be constructed, erected, installed, placed, or used on any Lot. Notwithstanding the foregoing provisions of this Section 7 and as required by the Federal Telecommunications Act of 1996,

the Architectural Control Committee shall have the authority to approve the installation of a broadcast satellite dish that is less than 24 inches in diameter. In its approval process, the Architectural Control Committee shall not reasonably delay or prevent use of, unreasonably increase the costs of, or preclude the owner or occupant of any lot from receiving an acceptable quality signal from a direct or multi-point distribution source.

Section 8. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats and other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes. The total number of dogs and cats kept on a Lot at any one time shall not exceed three (3).

Section 9. Driveways; Parking; Vehicles. All driveways and parking areas constructed on any Lot shall be paved with an asphalt, brick, concrete, or bituminous surface. Driveways are to be hard surfaced at the time of closing upon the initial sale of the completed structure. The Architectural Control Committee may waive this requirement in unusual circumstances, such as adverse weather conditions, and in lieu thereof, require a sufficient monetary escrow to ensure compliance as soon as reasonably possible. Operable automobiles may be kept, stored, or parked only on paved driveways on paved parking areas, or in enclosed garages. All other vehicles shall be kept, stored, or parked only in enclosed garages. "All other vehicles" means all motorized and all non-motorized vehicles except operable automobiles, including (without limitation) the following: automobiles that are inoperable, trucks, vans, recreational vehicles, all-terrain vehicles, ambulances, hearses, motorcycles, motorbikes, bicycles, snowmobiles, watercraft, aircraft, house trailers, camping trailers, other trailers, and tractors.

Section 10. Rubbish. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, and other waste shall be kept in sanitary containers. Such containers shall be shielded from view from public streets, except on trash collection days. Storage of any firewood on the premises must be in a structure approved by the Architectural Control Committee.

Section 11. Signs. No sign of any kind shall be displayed to the public view on any Lot except as follows:

- a. One sign no larger than 6 square feet in area, may be placed on each Lot advertising the Lot for sale, unless the Lot is a corner lot, in which case one such sign for each side of street frontage is permitted.
- b. During the initial construction and sales period of the Property, one additional sign no larger than 12 square feet in area may be placed on any Lot containing a model home.

Section 12. Utility and Drainage Easements. Easements for installation and maintenance of utilities and drainage are reserved as shown on the recorded plat of the Property.

Section 13. Soil Removal. No sod, soil, sand, or gravel shall be sold or removed from any Lot, except for the purpose of excavating for the construction or alteration of a house on the Lot or appurtenances thereto, or for the proper grading thereof, or for road improvement.

Section 14. Rights of Developer. Until the last residential lot in The Preserve 5th Addition or any replat thereof is sold and conveyed to an owner other than Developer or a professional home builder, the following actions by the Developer or a professional home builder will not be deemed violations of the foregoing restrictions:

- a. The use of a house for model and sales office purposes;
- b. The storage of equipment, materials, and earth during the construction of new houses; or
- c. The display of signs of any legal-size advertising lots or houses in The Preserve 5th Addition or any replat thereof.

ARTICLE II ARCHITECTURAL CONTROL COMMITTEE.

Section 1. New Improvements. No Residential Improvement shall be commenced upon any Lot by anyone except Developer without the prior written approval by the Architectural Control Committee ("Committee"). "Residential Improvement" shall mean the clearing of some or all of the trees from the Lot, the grading of the Lot, or the construction, erection or installation of any structure on the Lot, including (without limitation) the following structures: any house, garage, shed or other building; any porch, deck or balcony; any fence, wall or gate; any kennel, dog house or other animal enclosure; any mailbox, newspaper box, exterior clothesline, or light post; any antenna subject to regulation under Article I, Section 7; driveway or parking area; any tennis court; and any swimming pool (whether above ground or below ground). The planting of tree, shrubs, and other vegetation shall not be deemed Residential Improvements.

Section 2. Changed Improvements. The exterior color, style, and materials of any structure on a Lot shall not be changed by anyone except the Developer without the prior written approval by the Committee of the person who will actually perform the proposed work and of the plans and specifications for the work.

Section 3. Committee Members. The Committee shall consist of three individuals appointed by the Developer until the earlier of:

- a. The fifteenth (15th) anniversary of the date of this Declaration; or
- b. The date Developer no longer owns any land in The Preserve 5th Addition or any replat thereof.

Thereafter, the Committee shall consist of three individuals appointed by the vote of a majority of the fee owners of the Property then subject to the terms of this Declaration.

Section 4. Committee Chairman. The Committee shall appoint one of its members to be its chairman. The chairman shall call meetings of the Committee. A quorum of the Committee shall

consist of two of its members. The Committee may act upon the vote or written consent of any two of its members. The chairman of the Committee is authorized to execute certificates of approval, notices of disapproval and similar instruments effectuating decisions of the Committee.

Section 5. Submission of Plans and Specifications. At least seven (7) days before work on a Lot is commenced, the owner of the Lot shall submit to the Committee one complete set of plans and specifications (including, without limitations, full site plans, grading and drainage plans, building elevations, roof pitches, exterior colors, and materials), along with the name of the builder who will actually perform the proposed work.

Section 6. Review of Plans and Specifications. Within seven (7) days after receipt of plans and specifications and the name of the builder, the Committee shall approve or disapprove them in writing. The Committee may disapprove a builder if the Committee determines, in its sole discretion, that such builder does not meet the Committee's standards of credit worthiness and/or does not build Residential Improvements of the same quality and in the same price range as the other builders in the Property approved by the Committee. Notwithstanding the foregoing, the Committee may disapprove a builder for any reason or for no reason as long as Developer has the right to appoint the members of the Committee pursuant to Section 4 of this Article. The Committee may disapprove plans and specifications for one or more of the following reasons:

- a. Non-Compliance. Non-compliance with this Declaration, municipal ordinances or other governmental regulations.
- b. Incompatibility with the Lot. Failure of the proposed Residential Improvement to be compatible with the Lot upon which it is to be built, in terms of topography, soils, and existing vegetation.
- c. Incompatibility with the Property. Failure of the proposed Residential Improvement to be compatible with the houses and other structures in the Property to be built by the builders approved by the Committee or already built by anyone, in terms of style, general size, heights, and width, quality of construction, price range and obstruction of views.
- d. Non-Compliance with Architectural Control Committee Guidelines. The Architectural Control Committee shall consider the following guidelines and rules in its approval process; to-wit:
 - (i) Minimum Floor Space. Unless the Architectural Control Committee determines, in its sole discretion, that the exterior design is exceptional, no dwelling shall be approved unless it meets the following, above-grade and finished minimum square footages:
 - Rambler - 1350 Sq. Ft.
 - Two Story - 1800 Sq. Ft.
 - Multi-Level - 1120 Sq. Ft. Footprint

- Others – Case by Case Determination

- (ii) Roofs. Roof pitches must be a minimum of 6/12. Soffit and fascia may be vinyl, aluminum, steel, or wood products. Only natural and dark color roofing will be approved.
 - (iii) Garages. In addition to the Covenants, it will be encouraged that garage doors contain windows or other decorative features and that side walls be broken up with vertical trim or other methods.
 - (iv) Front Exterior. All exterior fronts to include some brick or stone. Exterior colors will be white or earth tones. Exceptions may be granted by the Architectural Control Committee if the exterior design is exceptional.
 - (v) Side Elevations. For corner lots, the elevation facing any street should have some design elements and not just blank walls.
 - (vi) Fencing. Fencing will be allowed only in the rear yards. All fencing material and design must be approved by the Architectural Control Committee.
 - (vii) Dog Kennels. The fencing for dog kennels must be as approved by the Architectural Control Committee. Any kennels must be located adjacent to the home to the rear and not to the side of the residence so that it does not impact the neighbors. Landscape screening around the kennel will be encouraged. Invisible fencing will be encouraged for perimeter yard control.
 - (viii) Sodding and Seeding. All front yards shall be sodded to a line running through the back line of the home. The sodding shall be completed as soon as weather permits and under no circumstances shall be incomplete by July 1 of the year following home closing. The remainder of the lot shall be sodded or seeded following the same time frame as outlined for the front yard.
- e. Inadequate Information. Failure of the plans and specifications to show all information necessary to evaluate the foregoing characteristics.

The Committee's determinations concerning the builder and plans and specifications shall be conclusive. If the Committee disapproves the builder or the plans and specifications, it shall state in writing the reason for such disapproval and, in the case of disapproval of the plans and specifications, the deficiencies which must be cured to obtain approval. Notwithstanding the foregoing, the Committee shall not be required to state its reasons for disapproving the builder as long as the Developer has the right to appoint the members of the Committee pursuant to Section 4 of this Article.

Section 7. Remedies Against Owners. If construction of or exterior changes to a Residential Improvement or trimming or removal of trees or brush are commenced without the Committee's approval of the builder and/or approval of the plans and specifications, or if construction of or exterior changes to a Residential Improvement or trimming or removal of trees or brush are completed not in accordance with approved plans and specifications, then the Developer, or any owner of a Lot in the Property, may bring an action to enjoin further construction and to compel the owner to conform the Residential Improvement with plans and specifications approved by the Committee. Any such action must be commenced and a notice of lis pendens shall be filed no later than ninety (90) days after the date on which the certificate of occupancy is issued by the appropriate municipal authority, in the case of a house, or no later than ninety (90) days after the date of completion, in the case of any other Residential Improvement.

Section 8. Remedies Against Committee. In the event that the Committee and/or the members of the Committee shall fail to discharge their respective obligations under this Article III, then the Developer, or any owner of a Lot in the Property may bring an action to compel the discharge of said obligations. Any such action must be commenced no later than ninety (90) days after the date on which the certificate of occupancy is issued by the appropriate municipal authority, in the case of a house, or no later than ninety (90) days after the date of completion, in the case of any other Residential Improvement. Such an action shall be the exclusive remedy for failure of the Committee and/or its members to discharge such obligations. Under no circumstances shall the Developer, the Committee or members of the Committee be liable to any person for damages (direct, consequential, or otherwise).

Section 9. Retention of Records. The Committee shall retain for a period of one (1) year all plans and specifications submitted to it and a record of all actions taken with regard to them.

Section 10. Home Occupations. The Committee shall have the power to approve home occupations conducted on the Lots. The Committee may adopt general rules approving certain home occupations and/or it may approve home occupations on a case-by-case basis. In reviewing home occupations, the Committee shall take into account the pedestrian traffic, vehicular traffic, parking and noise likely to be generated by the home occupation, as well as any other adverse impacts of the home occupation on Lots and streets in the Property.

ARTICLE III ADMINISTRATIVE PROVISIONS

Section 1. Duration. Articles I and II of this Declaration shall remain in full force and effect until 30 years from the date hereof unless otherwise terminated pursuant to this Article.

Section 2. Severability. Invalidation of any one or more of the provisions herein by judgement or court order shall not affect any of the other provisions, which shall remain in full force and effect until the date of expiration.

Section 3. Mode of Enforcement. The Developer or any owner of any portion of the Property shall have the right to enforce the provisions of this instrument in his/her own name by proceedings in law to recover damages or by proceedings in equity to restrain any violation; provided that the remedies described in Article II and not the remedies of this Section 3 shall apply to violations of Article II.

Section 4. Amendment/Termination. Except as set forth hereafter in Section 5, this Declaration may be amended or terminated only by an instrument executed by all of the following persons:

- (a) the fee owners of at least 75% of the Lots in the Property; and
- (b) the Developer, so long as the Developer is the record owner of any land in The Preserve 5th Addition or replats thereof.

Any amendment or termination instrument need not be executed by any other person holding an interest in the Property.

Section 5. Addition of Property. Notwithstanding the provisions of Article III, Section 4, as long as the Developer owns property location within the Plat of The Preserve 5th Addition, the Developer shall have the exclusive right to subject additional property to the terms, covenants, and restrictions contained in this Declaration provided that such additional property is hereafter replatted from Outlots A-F, The Preserve 5th Addition, as now platted and provided further that only additional single-family residential lots contained therein may be made subject to the terms of this Declaration. To exercise this right, the Developer shall record an Amended Declaration of Covenants which shall reference this Declaration, the recording information herefrom and shall describe the additional property specifically made subject to the terms, covenants, and conditions herein. The recording of the Amended Declaration shall subject the additional properties to the terms, conditions, and covenants herein effective upon the date of recording.

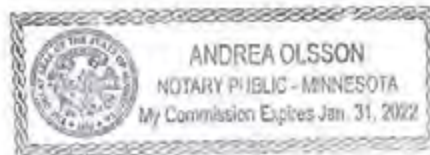
IN WITNESS WHEREOF, the Developer has executed this Declaration as of the date and year first above written.

LOOMIS HOMES LLC
a Minnesota Limited Liability Company

By: Scott Loomis

Its: Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF CARVER)



This instrument was acknowledged before me this 11 day of September, 2017
by Scott Loomis, the Chief Manager
of Loomis Homes LLC, a Minnesota Limited Liability Company, on behalf of the Company

Andrea Olsson
Title (and Rank): Closer/Notary
My Commission expires: 1/31/22

THIS INSTRUMENT WAS DRAFTED BY:
Loomis Homes LLC
1458 White Oak Drive
Chaska, MN 55318
952-303-5029