



**Norwood Young America Planning Commission**  
**Tuesday, December 5, 2017**  
**Norwood Young America City Council Chambers, 310 Elm St. W.**  
**6:00 p.m.**

**AGENDA**

**Bill  
Grundahl**

**JR  
Hoernemann**

**Mark  
Lagergren**

**Mike  
Eggers**

**Craig  
Heher**  
Council  
Liaison

1. Call to Order  
Pledge of Allegiance
2. Adoption of Agenda
3. Approve Minutes of November 9, 2017 meeting
4. Public Hearing
  - A. Amendment to Conditional Use Permit: Outdoor Storage
5. Old Business
  - A. Draft Code Standards: Towers
6. New Business
  - A. Amendment to Conditional Use Permit: Outdoor Storage
7. Miscellaneous
  - A. November Building Permit Report
8. Commissioner's Reports
9. Work Session
  - A. Subdivision Code Review
10. Adjourn

**UPCOMING MEETINGS**

- December 11<sup>th</sup> – City Council meeting 6:00 p.m.  
December 19<sup>th</sup> – Parks & Recreation Commission meeting 5:30 p.m.  
December 27<sup>th</sup> – City Council Work Session/EDA/Regular meeting 6:00 p.m.  
January 2<sup>nd</sup> – Planning Commission meeting 6:00 p.m.

***Norwood Young America  
Planning Commission Minutes  
November 9, 2017***

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

**Absent:** Bill Grundahl.

**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 6:00 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, a discussion of event rental in residential districts.

Motion – Lagergren, second Eggers to approve the agenda with the proposed addition. The agenda was approved 4-0.

**3. Approval of Minutes from the Regular Meeting October 3, 2017.**

Heher introduced the minutes from the October 3, 2017 regular meeting.

Motion – Hoernemann to approve October 3, 2017 regular meeting minutes. Second by Eggers. With all in favor the minutes were approved 4-0.

**4. Public Hearings.**

None.

**5. Old Business.**

A. Conditional Use Permit Compliance – Southwest Paving .

Heher introduced the agenda item.

Strack reviewed a staff memo providing information on the history of the site and current compliance.

Strack noted a CUP was issued on March 27, 2006 as Resolution 2006-33 allowing for the contractor operation and outdoor storage. Conditions on the use permit referenced a memo provided by the Applicant detailing how operations would be conducted and what the Applicant was committed to perform to limit impact of the use on adjacent areas. An amendment to the initial CUP was approved on May 26, 2015 as Resolution 2015-13. The amendment rescinded a requirement for complete perimeter fencing which was a condition of the initial CUP. The Applicant proposed detailed site landscaping as per a landscape plan he submitted in lieu of perimeter fencing. The Council agreed to rescind perimeter fencing requirement provided the landscape plan was implemented prior to October 31, 2015.

In the fall of 2016 the Planning Commission discussed compliance of the site pertaining to necessary landscaping. The Commission found the CUP holder had not performed as represented. A letter was mailed to the Property Owner in November 2016 alerting him to the fact his site was not in compliance and allowing him until summer 2017 to install necessary landscaping.

At this time Strack reported her audit of the site finds: (1) Black Hills Spruce trees have been placed on the berm adjacent to Highway 212 as illustrated in the landscape plan approved under Resolution 2015-13. (2) Under the landscaping plan five Black Hills Spruce trees were to be planted along the east property line with an initial size of six feet. Although there are three deciduous trees on the east side of the property parallel to Railroad Street, no spruce trees have been installed in the side property line as illustrated on the landscape plan. (3) A total of eleven Norway Pine trees were to be planted along the west property line with an initial size of four feet. One Spruce tree is present. (4) Under the landscape plan the following were to be installed in the front yard: (a) 14 Black Hills Spruce trees at an initial size of six feet, (b) five Norway Pine with an initial size of four feet; (c) six Swiss Stone Pine with an initial size of four feet; (d) three Amur Maacki with an initial size of 15 inches; (e) 48 flame grass plantings with an initial size of 18 inches and 59 boxwood or low bush honeysuckle with an initial size of 24 inches. At this time a total of eight spruce trees have been planted in the front yard – five are west of the building front and three east of the building front. (5) The property owner committed to keeping the grounds neat with grass mowed as needed. Nearly all of the south, east, and west sides of the property have not been mowed. (6) The southern part of the lot is a mix of countless piles of material and weeds.

Strack acknowledged the CUP holder has made an effort to store equipment on the site in an orderly manner on appropriate surfaces, an improvement from years past. However, the site remains inconsistent with approved standards particularly related to landscaping.

Heher stated the Applicant promised he would install landscaping pursuant to a plan he developed and presented to the Council. He has failed to perform. Heher noted the landscaping plan was only considered and approved because the CUP holder had failed to fence the perimeter of the lot, another action he, himself, suggested and said he would do. Heher stated it was too late for planting at this time of the year and opined the City should not continue to allow violations on a consistent basis. Heher stated the CUP was the property owner's contract for doing business at the site and he had violated the contract repeatedly. Heher opined the City must be firm and require compliance as it has done with other property owners.

Eggers inquired as to whether the CUP is subject to renewal. Heher stated the CUP runs with the land. Lagergren opined the landscaping should be easy to accomplish. Heher suggested another letter be mailed to the property owner. Eggers suggested taking the issue of non-compliance to the City Council for action prior to dispatching a letter.

Heher inquired as to the process for rescinding CUP. Strack noted CUP could be revoked for non-compliance pursuant to a hearing scheduled by the City Council providing the property owner an opportunity to testify. Lagergren requested input from Strack regarding next step.

Strack suggested, as Commissioner Eggers had suggested, that the City Council invite the property owner to appear at a formal meeting to discuss non-compliance issue. This would not be a formal hearing to revoke the CUP but a serious discussion about non-compliance issues. Following discussion a letter could be dispatched itemizing the meeting outcome.

Motion – Lagergren, Second Eggers to recommend the City Council request the CUP holder attend a City Council meeting to review CUP non-compliance issues followed by mailed correspondence

itemizing meeting outcomes. Motion approved 4-0.

B. Draft Code Amendment: Telecommunications Facilities.

Heher introduced the agenda item. Strack stated the Commission initial discussed telecommunications, antenna, and tower standards in May pursuant to a request for a new tower. Existing standards are inconsistent with existing conditions. As such, the Commission requested sample language be drafted and presented at a future meeting.

Strack referenced draft standards included in the packet. The standards included:

(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.

Lagergren inquired as to what next steps could be. Strack noted the Commission could call for a public hearing or take time to digest information and then call for a hearing. Lagergren clarified that under existing standards all towers, antenna, and satellite dishes technically require a CUP. Strack confirmed that was her literal interpretation.

Heher requested input from Hoernemann and Eggers regarding calling for a public hearing or reviewing one more time at the next meeting. Hoernemann suggested either option was fitting. Eggers stated the draft language seemed fitting, however, he suggested the Commission contemplate the impact of the proposed language on existing zoning classifications and areas subject to those classifications. Heher agreed.

The Commission reached consensus to reflect on the draft language and review the standards with consideration of the location of existing zoning classes. The item will be placed on the December PC agenda.

C. 2017 Annual Report to City Council and 2018 Goals.

Heher introduced the agenda item.

Strack noted after speaking with Administrator Helget she had compiled an annual report and 2018 potential goals for Commission review. Strack noted the Commission will have met 13 times by the close of the year and held 15 public hearings. She thanked the Commission for their commitment to shaping the community.

The Commission reviewed the report and goals for 2018. Goals will include: (1) Reviewing potential locations for auto repair shops, (2) Consideration of accessory dwelling units, (3) Participation in the 2040 Comprehensive Plan Update process, (4) Review of subdivision regulations, (5) Familiarization with the zoning map, (6) Updating tower standards, (7) CUP audits.

**6. New Business.**

A. Discussion: Subdivision Code Standards

Heher introduced the agenda item.

Strack noted the Commission has had a goal to review and become more familiar with subdivision regulations for the past few years. She noted a copy of existing standards were included in the packet and provided a general overview of each section of the subdivision regulations.

Helget suggested the Commission may wish to request review of design standards from the City Engineer and/or to work with the Parks and Rec Commission to discuss park land dedication standards.

At the next meeting the Commission will conduct a work session in an effort to become more familiar with the subdivision process. Items to review are: full scale preliminary and final plat samples, a process flow chart (including environmental and title review), review of a standard development agreement, and review of sample covenants.

B. Discussion: Event Rental in Residential District One Family Dwelling.

Heher introduced the agenda item.

Strack requested input from the Commission regarding 'event center' type uses such as crafting weekends, scrapbooking weekends, trunk shows, and similar activities in a non-homestead residential dwelling in a residential district. The events could occur any time of the week and may or may not include guests staying overnight. The one-family dwelling would not otherwise be occupied, for example, homesteaded or residential rental.

Heher expressed concern for how such a use could impact a residential neighborhood in terms of traffic, parking, noise, and general activity level. He noted if the dwelling was owner-occupied that would likely naturally limit volume of activity.

Lagergren stated concern for neighbors being subjected to increased traffic and noise. He noted he did not want to limit a business, but did want to balance potentially competing interests.

Hoernemann opined limiting the nature of activity could be difficult.

Eggers opined the type of use proposed would best fit in a downtown district where storefront could be used for commercial activities and apartment above used to accommodate overnight lodging.

The Commission reached consensus to recommend the proposed activity be conducted in a Downtown District as opposed to a residential district.

## **7. Miscellaneous.**

### **A. October Building Permit Report.**

The commission reviewed the October building permit report.

## **8. Commissioner Reports.**

Eggers inquired about issues relating to development and maintenance: silt fencing, sidewalk repair, holding pond maintenance, and trail installation.

Heher stated the Council followed the PC's recommendations from the previous meeting pertaining to: a small addition to All Saints Church, rezoning of a portion of Railroad Street East, and rezoning school property.

## **9. Adjourn**

Motion – Lagergren, Second Eggers, with all in favor the meeting adjourned at 7:43 p.m.

Respectfully submitted,

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*Steve Helget*  
Zoning Administrator



To: Chairperson Heher  
Members of the Planning Commission  
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: December 3, 2017

Re: Amendment of Conditional Use Permit: Outdoor Storage

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**Applicant:** Nick Molnau, d.b.a. Molnau Trucking

**Subject Property Address:** 13050 Stewart Avenue

**Property ID:** 110131100

**Zoning Class:** I-1 Light Industrial District

**Request:** Amendment of conditional use permit to allow additional outdoor storage at the subject site.

#### **BACKGROUND**

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".

Nick Molnau d.b.a. Molnau Trucking has constructed an expanded berm on-site prior to securing input from the City of NYA and now requests amendment of the CUP to allow additional outdoor storage. 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.

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.

Aforementioned standards appear to apply to the proposed activity. As such a survey of the subject property illustrating the following has been requested:

1. Shoreland overlay.
2. Wetland classification and required buffer.
3. Exact area proposed for expanded outdoor storage.
4. Location of constructed berms.
5. Impervious surface coverage (including compacted gravel) calculation.

The Applicant requests an expanded outdoor storage area and the ability to install landscaping at a height of six feet versus ten feet as required by the existing CUP. A copy of Resolution 2014-11 is attached along with an aerial of the site illustrating approximate location of existing wetland and shoreland impact area on site. A 2017 aerial image of existing outdoor storage is also attached.

**ACTION:**


Recommended action is to open the public hearing, allow for discussion, and extend the public hearing to the January meeting so as to receive additional input.



# Planning and Zoning Application

421

City of Norwood Young America  
310 Elm St. W, PO Box 59  
Norwood Young America, MN 55368  
Phone: (952) 467-1800 Fax: (952) 467-1818

Applicant's Name <i>Molnar Trucking LLC</i>		Telephone Home <i>952-467-2292</i> Work/Cell <i>952-240-0689 Cell</i>
Address (Street, City, State, ZIP) <i>13050 Stewart Ave Norwood MN 55368</i>		
Property Owner's Name (If different from above) <i>Molnar Properties</i>		Telephone Home <i>952-467-2292</i> Work/Cell
Location of Project <i>13050 Stewart Ave, Norwood, MN 55368</i>		
Legal Description		
Description of Request (Attach separate sheet, if necessary) <i>Amend CUP for outside storage with installation of new berm w/ 6' trees on new berm. 700/10 = 70 new parking stalls. South side of berm to be graded w/ Class 5 as needed</i>		
<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p><b>Proposed Action(s): Check all that apply</b></p> <p><input type="checkbox"/> Annexation \$300.00</p> <p><input type="checkbox"/> Application for Appeal \$150.00</p> <p><input type="checkbox"/> City Code Amendment \$250.00</p> <p><input type="checkbox"/> Parking Reduction \$100.00</p> <p><input type="checkbox"/> CUP/IUP \$200.00 (Residential)</p> <p><input checked="" type="checkbox"/> CUP/IUP \$300.00 (Non Residential)</p> <p><input type="checkbox"/> Variance \$200.00 (Residential)</p> <p><input type="checkbox"/> Variance \$300.00 (Non Residential)</p> <p><input type="checkbox"/> Lot Split \$200.00</p> <p><input checked="" type="checkbox"/> Public Hearing Notice \$75.00</p> </div> <div style="width: 35%;"> <p><input type="checkbox"/> Comp Plan Amendment \$500.00 + Escrow</p> <p><input type="checkbox"/> Sketch Plat \$200.00 + Escrow</p> <p><input type="checkbox"/> Site Plan \$300.00 + Escrow</p> <p><input type="checkbox"/> PUD Sketch Plan \$200.00 + Escrow</p> <p><input type="checkbox"/> PUD Plan Amendment \$300.00 + Escrow</p> <p><input type="checkbox"/> PUD Final Plan \$300.00 + Escrow</p> <p><input type="checkbox"/> PUD Gen. Concept Plan \$400.00 + Escrow</p> <p><input type="checkbox"/> Prelim Plat \$350.00 + \$10.00/Lot + Escrow</p> <p><input type="checkbox"/> Final Plat \$250.00 + \$10.00/Lot + Escrow</p> <p><input type="checkbox"/> Wetland Mitigation Plan \$100.00 + Escrow</p> </div> <div style="width: 30%;"> <p><input type="checkbox"/> Storm Water Plan \$250.00</p> <p><input type="checkbox"/> Rezoning \$350.00</p> <p><input type="checkbox"/> Street/Alley Vacation \$150.00</p> <p><input type="checkbox"/> Zoning Text Amendment \$300.00</p> <p><input checked="" type="checkbox"/> Recording Fee \$46.00+</p> <p><input type="checkbox"/> Boundary Line Adjustment \$100.00</p> <p><input type="checkbox"/> Other _____</p> </div> </div>		
<p>ALL ESCROW MUST BE PAID BY CERTIFIED CHECK</p> <p>Escrow Deposit \$2,000.00</p> <p>Escrow Deposit - Site Plan Review: \$15,000 (Tacoma West Industrial Park), \$5,000.00 (All other site plan reviews)</p> <p>Escrow Deposit - Development Review (paid at Sketch Plan): \$10,000.00</p> <p>ALL PLANNING &amp; ZONING APPLICATION FEES ARE IN ADDITION TO LEGAL, ENGINEERING AND ASSOCIATED COSTS.</p> <p><b>*APPLICATIONS WILL BE PROCESSED ONLY IF ALL REQUIRED ITEMS ARE SUBMITTED*</b></p>		
The undersigned certifies that they are familiar with application fees and other associated costs, and also with the procedural requirements of Chapter 11 and Chapter 12 of the City Code and other applicable ordinances.		
Applicant's Signature: 		Date <i>11-8-17</i>
Fee Owner's Signature:		Date
<b>For Office Use Only</b>		
Accepted By:	Amount	Date

820 Ft of New Barn  
6ft trees on top of Barn

Google Maps

13050 Stewart Ave

700ft

120ft

New Barn

13050 Stewart Ave

13050 Stewart Ave

Google

Imagery ©2017 Google, Map data ©2017 Google 50 ft

Mohau trucking





Google



# RESOLUTION NO. 2014-11

## A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW LIMITED OUTDOOR STORAGE AT 13050 STEWART AVENUE

BE IT RESOLVED by the City Council of Norwood Young America, Carver County, Minnesota as follows:

WHEREAS, the City of Norwood Young America requires a conditional use permit for outdoor storage, a proposed subordinate accessory use, in the I-1, Light Industrial District; and

WHEREAS, Molnau Trucking, (the "Applicant") has applied for a conditional use permit to allow limited outdoor storage (the "Use") at 13050 Stewart Avenue, in Norwood Young America (the "Property") in conjunction with use of the property for a Trucking operation; and

WHEREAS, the City of Norwood Young America Planning Commission held a public hearing to consider the Applicants' request for the conditional use permit during the regular meeting on February 18, 2014; and

WHEREAS, the Planning Commission considered public input and reviewed the request during the regular meeting on March 18, 2014; and

WHEREAS, the Planning Commission recommended the City Council approve the request contingent on several limiting conditions; and,

WHEREAS, the City Council reviewed the request during the March 24 regular City Council meeting.

THEREFORE, BE IT RESOLVED, that the City Council of Norwood Young America, Carver County, Minnesota, hereby makes and adopts the following findings of fact:

1. The Applicant has requested a Conditional Use Permit for limited outdoor storage at 13050 Stewart Avenue in the I-1 Light Industrial District.
2. Contractor operations are a permitted use in the I-1 District, accessory outdoor storage is a conditional use in the same district.
3. The use is consistent with goals, policies and objectives of the Comprehensive Plan and the future land use map and urban growth boundary contained in the 2008 NYA Comprehensive Plan.
4. The outdoor storage accessory use will not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements, subject to certain conditions listed below.
5. The outdoor storage accessory use will not have an undue impact on the public health safety or welfare, subject to certain conditions listed below.
6. The outdoor storage accessory use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
7. The outdoor storage accessory use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
8. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

THEREFORE, BE IT FURTHER RESOLVED, that the City Council of Norwood Young America, Carver County, Minnesota, hereby approves the Applicants' request for a conditional use permit to allow limited outdoor storage, on the subject property, subject to the following conditions:

1. Approval of a VARIANCE from 1210.06 Conditional Use Permits, Subd. 3(B)11(b) which requires: *"All raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building, provided, however, that motor vehicles necessary to the operation of the principal use and of not more than three-quarter ton capacity may be stored within the permitted parking lot space"*.
2. Annexation of the Property into the City, and zoning of the Property to I-1, Light Industrial.
3. Connection to municipal services within one (1) year of when they are extended to and become available to the Property.
4. Maintenance of perimeter lot screening reasonably similar to that existing as of the date of approval and as illustrated in a memo from the Consulting Planner dated February 3, 2014. Vegetation on the berming shall be replaced as needed or directed by the City. At a minimum vegetation replacement species shall be substantially similar to species currently existing. Replacement vegetation shall be a minimum of ten (10) feet in height.
5. The approval specifically authorizes accessory outdoor storage at the subject property. Said outdoor storage is strictly limited to the following:
  - A. The combined maximum combined area for outdoor storage consists of approximately two acres and is illustrated in Exhibit A attached hereto.
  - B. The only items that may be stored outdoors are identified in Exhibit B. No junk vehicles, engine parts, or equipment not being utilized as part of the business shall be parked outdoors at the site.
  - C. The entire area where outdoor storage is allowed shall be continuously surfaced with a minimum of four inches of Class 5 gravel or red rock.
  - D. The entire area where outdoor storage is allowed shall be maintained free of grass, weeds, trees, etc. at all times. The intent of this condition is to completely eradicate any potential the growth of weeds, grass, or other vegetative materials under, around, or between items stored on the site.
  - E. The entire area where outdoor storage is allowed shall be maintained in a dust-free state at all times.
  - F. The property owner shall provide the City, upon written request, an inventoried list of the items stored out of doors at the site. The inventoried list may include but is not limited to information regarding: the license plate numbers for all dump trucks, semi-trucks, and snow trucks; type of equipment; the purpose for which it is used; whether or not the item is fully operational; and whether or not the item is currently licensed. In the event of a disagreement over the definition of equipment allowed to be stored on-site, the CUP holder shall physically appear before the Planning Commission to address said disagreement or remove the item/debris in question from the site within

seven (7) days of the mailing of a written notice. The Planning Commission shall determine whether or not the item/debris in question may be stored on site.

- G. Items such as personal property, personal equipment, other persons property, miscellaneous equipment parts, tires, barrels, batteries, other containers, culverts, pipes, contractor trailers, brush, tree parts, horse, stock, or travel trailers, boats, campers, unlicensed passenger vehicles, buses, agricultural equipment, portions of heavy construction equipment, heavy construction equipment exceeding its normal lifecycle, or similar items are expressly prohibited from being stored out of doors at the site.
- H. All equipment stored on site shall be owned and/or leased by the property owner and related to the contractor operation conducted at the site.
- I. Construction equipment stored on the site shall be in operable condition or undergoing minor repair.
- J. One fuel dispensing and containment system may be installed out of doors, on site provided a maximum of four tanks are allowed (i.e. one of each of the following capacities: 10,000 gallons, 2,000 gallons, 1,000 gallons, and 500 gallons). A building permit is required prior to establishment of the containment system. Prior to building permit issuance the Applicant shall submit evidence of review/approval by the Minnesota Pollution Control Agency, and the containment system shall be approved by the NYA Fire Chief. Tanks are limited to storage of various grades of diesel fuel.
- K. Storage of used oil, petroleum products, or hazardous material is prohibited except as approved by the City Building Official. If permitted by the Building Official storage of used oil, other petroleum products, or hazardous material shall only be allowed indoors.
- L. A maximum of eleven (11) concrete bunkers for storage of retail landscape materials e.g. rock material, wood chips, concrete sand, etc. are allowed on site at one time. Landscape material stored on site shall be limited to processed materials such as washed products, treated products, crushed and sized concrete or bituminous aggregate, sorted organic aggregate material, washed and sized rocks, boulders, pulverized top soil, and chipped wood/organic mulch. Materials shall be processed at a different location and delivered to the site as a finished, processed product. Outdoor storage of non-processed materials including, but not limited to, concrete masses or portions thereof exceeding three (3) inches in diameter, unsorted or unsifted top soil, top soil containing roots, rocks, or grass, sod, leaves, logs, bituminous masses or portions thereof exceeding three (3) inches in diameter, and non-washed/sorted rock is specifically and strictly prohibited.
- M. Red rock may be stored on-site outdoors independent of the aforementioned bunkers provided the total volume does not exceed one-thousand (1,000) cubic yards and that the storage pile is not in any way visible from any point within the Minnesota Highway 212 right of way.
- N. Salt/sand may be stored on site temporarily between the period of November 1 and April 30 provided it is stored within the aforementioned bunkers and is covered at all times.



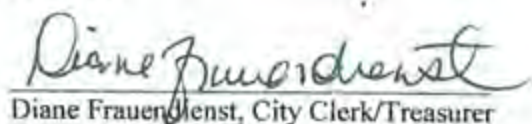
6. This approval is applicable only to the property at 13050 Stewart Avenue.
7. This approval shall expire one year after date of approval unless the Applicants have commenced operation of the Use on-site.
8. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.
9. The permit shall be subject to annual inspection and audit by the City. The owner shall provide the City with reasonable access to the property for inspection.
10. The City may revoke the CUP upon violation of the conditional use permit standards in the Zoning Ordinance or violation of the conditions of this resolution, subject to the requirements of Section 1210.06, Subd. 5 "Revocation of Conditional Use Permits" of the Zoning Ordinance.
11. The conditional use permitted under this Resolution shall be revoked if the Use ceases for more than 12 consecutive months.
12. The Use permitted under this Resolution may change to a permitted use in the I-1 District without further action by the City Council; however the Use may not change to another conditional use without a new application and approval by the City Council.
13. An increase in the area used for outdoor storage; an increase in the number, size, or volume of items stored outdoors, or a change in the type of outdoor storage shall require amendment of this conditional use permit.
14. The Property Owner grants a right of reasonable access to the property for purposes of inspection and/or Conditional Use Permit auditing.
15. Conformance to recommendations from the Minnesota Department of Transportation and the City Engineer relative to ingress and egress to TH212 and other transportation and access issues.

Adopted by the City Council this 24<sup>th</sup> day of March 2014.



Mayor

ATTEST:



Diane Frauenhienst, City Clerk/Treasurer



Attached to NYA City Council Resolution 2014-11 Entitled 'A Resolution Approving a Conditional Use Permit to allow Limited Outdoor Storage at 13050 Steward Avenue.

Outdoor storage area limited to confines of this yellow polygon. This area is approximately two (2) acres. Employee and public passenger automobile parking is exempt from this storage area and shall be established near the principal structure. Any change which increases this storage area to greater than two (2) acres or results in the storage of any item beyond the confines of this outdoor storage area shall require an amendment of the conditional use permit.

EXHIBIT A (NYA RESOLUTION NO. 2014-11)



March 13, 2014

MOLNAU TRUCKING LLC EQUIPMENT LIST FOR CUP AND VARIANCE  
LOCATED AT 13050 STEWART AVE, NYA, MN 55368

All items on said property will pertain to operations of MT LLC. This list has been prepared to help clarify any questions pertaining to CUP / Variance applications for NYA Planning a Zoning Board, City Council and any parties pertaining to this matter.

Dump trucks, semi tractors, semi trailers, motor graders, company owned autos and construction equip attachments

Single axle plow trucks, wheel loaders, bobcats and all corresponding attachments for snow removal operations

All equipment will pertain to the operations of MT LLC and no personal property will be stored at location

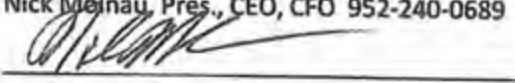
Processed material ie: sand/gravel/mulch/pulverized black dirt/salt-sand and washed rock products that would be used on instillation of new landscaping

MT LLC would like to inform parties we do not process material at this location ie: no concrete piles

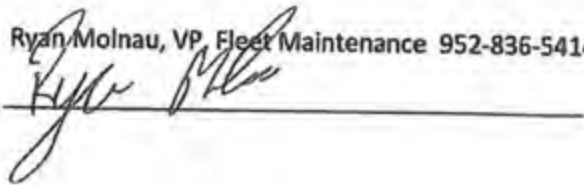
Our goal is to confine all equip and material stored outside to designated screened area to minimize visual pollution of surrounding areas

In conclusion MT LLC employees and personnel hope this letter will clarify questions about our operations and our plans for this property. If you have any questions re this matter or re our company policies, please feel free to contact any of us.

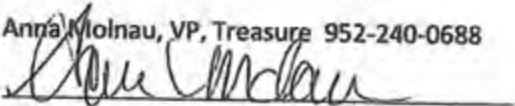
Nick Molnau, Pres., CEO, CFO 952-240-0689



Ryan Molnau, VP Fleet Maintenance 952-836-5414



Anna Molnau, VP, Treasure 952-240-0688



**EXHIBIT B: NYA RESOLUTION 2014-11**

Exhibit B is hereby attached to NYA City Council Resolution 2014-11 which is Entitled 'A Resolution Approving a Conditional Use Permit to Allow Limited Outdoor Storage at 13050 Stewart Avenue'.





This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.

Map Date: 11/25/2017



Google Maps 13050 Stewart Ave



Imagery ©2017 Google, Map data ©2017 Google 100 ft

11/25/2017

13050 Stewart Ave - Google Maps



**13050 Stewart Ave**

Norwood Young America, MN 55368

**At this location**

**Robb's Custom Woodworking Inc**

Woodworker · 13050 Stewart Ave



# RESOLUTION NO. 2014-11

## A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW LIMITED OUTDOOR STORAGE AT 13050 STEWART AVENUE

BE IT RESOLVED by the City Council of Norwood Young America, Carver County, Minnesota as follows:

WHEREAS, the City of Norwood Young America requires a conditional use permit for outdoor storage, a proposed subordinate accessory use, in the I-1, Light Industrial District; and

WHEREAS, Molnau Trucking, (the "Applicant") has applied for a conditional use permit to allow limited outdoor storage (the "Use") at 13050 Stewart Avenue, in Norwood Young America (the "Property") in conjunction with use of the property for a Trucking operation; and

WHEREAS, the City of Norwood Young America Planning Commission held a public hearing to consider the Applicants' request for the conditional use permit during the regular meeting on February 18, 2014; and

WHEREAS, the Planning Commission considered public input and reviewed the request during the regular meeting on March 18, 2014; and

WHEREAS, the Planning Commission recommended the City Council approve the request contingent on several limiting conditions; and,

WHEREAS, the City Council reviewed the request during the March 24 regular City Council meeting,

THEREFORE, BE IT RESOLVED, that the City Council of Norwood Young America, Carver County, Minnesota, hereby makes and adopts the following findings of fact:

1. The Applicant has requested a Conditional Use Permit for limited outdoor storage at 13050 Stewart Avenue in the I-1 Light Industrial District.
2. Contractor operations are a permitted use in the I-1 District, accessory outdoor storage is a conditional use in the same district.
3. The use is consistent with goals, policies and objectives of the Comprehensive Plan and the future land use map and urban growth boundary contained in the 2008 NYA Comprehensive Plan.
4. The outdoor storage accessory use will not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements, subject to certain conditions listed below.
5. The outdoor storage accessory use will not have an undue impact on the public health safety or welfare, subject to certain conditions listed below.
6. The outdoor storage accessory use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
7. The outdoor storage accessory use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
8. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

THEREFORE, BE IT FURTHER RESOLVED, that the City Council of Norwood Young America, Carver County, Minnesota, hereby approves the Applicants' request for a conditional use permit to allow limited outdoor storage, on the subject property, subject to the following conditions:

1. Approval of a VARIANCE from 1210.06 Conditional Use Permits, Subd. 3(B)11(b) which requires: *"All raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building, provided, however, that motor vehicles necessary to the operation of the principal use and of not more than three-quarter ton capacity may be stored within the permitted parking lot space"*
2. Annexation of the Property into the City, and zoning of the Property to I-1, Light Industrial.
3. Connection to municipal services within one (1) year of when they are extended to and become available to the Property.
4. Maintenance of perimeter lot screening reasonably similar to that existing as of the date of approval and as illustrated in a memo from the Consulting Planner dated February 3, 2014. Vegetation on the berming shall be replaced as needed or directed by the City. At a minimum vegetation replacement species shall be substantially similar to species currently existing. Replacement vegetation shall be a minimum of ten (10) feet in height.
5. The approval specifically authorizes accessory outdoor storage at the subject property. Said outdoor storage is strictly limited to the following:
  - A. The combined maximum combined area for outdoor storage consists of approximately two acres and is illustrated in Exhibit A attached hereto.
  - B. The only items that may be stored outdoors are identified in Exhibit B. No junk vehicles, engine parts, or equipment not being utilized as part of the business shall be parked outdoors at the site.
  - C. The entire area where outdoor storage is allowed shall be continuously surfaced with a minimum of four inches of Class 5 gravel or red rock.
  - D. The entire area where outdoor storage is allowed shall be maintained free of grass, weeds, trees, etc. at all times. The intent of this condition is to completely eradicate any potential the growth of weeds, grass, or other vegetative materials under, around, or between items stored on the site.
  - E. The entire area where outdoor storage is allowed shall be maintained in a dust-free state at all times.
  - F. The property owner shall provide the City, upon written request, an inventoried list of the items stored out of doors at the site. The inventoried list may include but is not limited to information regarding: the license plate numbers for all dump trucks, semi-trucks, and snow trucks; type of equipment; the purpose for which it is used; whether or not the item is fully operational; and whether or not the item is currently licensed. In the event of a disagreement over the definition of equipment allowed to be stored on-site, the CUP holder shall physically appear before the Planning Commission to address said disagreement or remove the item/debris in question from the site within



seven (7) days of the mailing of a written notice. The Planning Commission shall determine whether or not the item/debris in question may be stored on site.

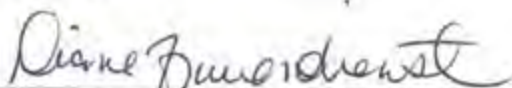
- G. Items such as personal property, personal equipment, other persons property, miscellaneous equipment parts, tires, barrels, batteries, other containers, culverts, pipes, contractor trailers, brush, tree parts, horse, stock, or travel trailers, boats, campers, unlicensed passenger vehicles, buses, agricultural equipment, portions of heavy construction equipment, heavy construction equipment exceeding its normal lifecycle, or similar items are expressly prohibited from being stored out of doors at the site.
- H. All equipment stored on site shall be owned and/or leased by the property owner and related to the contractor operation conducted at the site.
- I. Construction equipment stored on the site shall be in operable condition or undergoing minor repair.
- J. One fuel dispensing and containment system may be installed out of doors, on site provided a maximum of four tanks are allowed (i.e. one of each of the following capacities: 10,000 gallons, 2,000 gallons, 1,000 gallons, and 500 gallons). A building permit is required prior to establishment of the containment system. Prior to building permit issuance the Applicant shall submit evidence of review/approval by the Minnesota Pollution Control Agency, and the containment system shall be approved by the NYA Fire Chief. Tanks are limited to storage of various grades of diesel fuel.
- K. Storage of used oil, petroleum products, or hazardous material is prohibited except as approved by the City Building Official. If permitted by the Building Official storage of used oil, other petroleum products, or hazardous material shall only be allowed indoors.
- L. A maximum of eleven (11) concrete bunkers for storage of retail landscape materials e.g. rock material, wood chips, concrete sand, etc. are allowed on site at one time. Landscape material stored on site shall be limited to processed materials such as washed products, treated products, crushed and sized concrete or bituminous aggregate, sorted organic aggregate material, washed and sized rocks, boulders, pulverized top soil, and chipped wood/organic mulch. Materials shall be processed at a different location and delivered to the site as a finished, processed product. Outdoor storage of non-processed materials including, but not limited to, concrete masses or portions thereof exceeding three (3) inches in diameter, unsorted or unsifted top soil, top soil containing roots, rocks, or grass, sod, leaves, logs, bituminous masses or portions thereof exceeding three (3) inches in diameter, and non-washed/sorted rock is specifically and strictly prohibited.
- M. Red rock may be stored on-site outdoors independent of the aforementioned bunkers provided the total volume does not exceed one-thousand (1,000) cubic yards and that the storage pile is not in any way visible from any point within the Minnesota Highway 212 right of way.
- N. Salt/sand may be stored on site temporarily between the period of November 1 and April 30 provided it is stored within the aforementioned bunkers and is covered at all times.

6. This approval is applicable only to the property at 13050 Stewart Avenue.
7. This approval shall expire one year after date of approval unless the Applicants have commenced operation of the Use on-site.
8. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.
9. The permit shall be subject to annual inspection and audit by the City. The owner shall provide the City with reasonable access to the property for inspection.
10. The City may revoke the CUP upon violation of the conditional use permit standards in the Zoning Ordinance or violation of the conditions of this resolution, subject to the requirements of Section 1210.06, Subd. 5 "Revocation of Conditional Use Permits" of the Zoning Ordinance.
11. The conditional use permitted under this Resolution shall be revoked if the Use ceases for more than 12 consecutive months.
12. The Use permitted under this Resolution may change to a permitted use in the I-1 District without further action by the City Council; however the Use may not change to another conditional use without a new application and approval by the City Council.
13. An increase in the area used for outdoor storage; an increase in the number, size, or volume of items stored outdoors, or a change in the type of outdoor storage shall require amendment of this conditional use permit.
14. The Property Owner grants a right of reasonable access to the property for purposes of inspection and/or Conditional Use Permit auditing.
15. Conformance to recommendations from the Minnesota Department of Transportation and the City Engineer relative to ingress and egress to TH212 and other transportation and access issues.

Adopted by the City Council this 24<sup>th</sup> day of March 2014.

  
Mayor

ATTEST:

  
Diane Frauendienst, City Clerk/Treasurer



Attached to NYA City Council Resolution 2014-11 Entitled 'A Resolution Approving a Conditional Use Permit to allow Limited Outdoor Storage at 13050 Steward Avenue.

Outdoor storage area limited to confines of this yellow polygon. This area is approximately two (2) acres. Employee and public passenger automobile parking is exempt from this storage area and shall be established near the principal structure. Any change which increases this storage area to greater than two (2) acres or results in the storage of any item beyond the confines of this outdoor storage area shall require an amendment of the conditional use permit.



March 13, 2014

MOLNAU TRUCKING LLC EQUIPMENT LIST FOR CUP AND VARIANCE

LOCATED AT 13050 STEWART AVE, NYA, MN 55368

All items on said property will pertain to operations of MT LLC. This list has been prepared to help clarify any questions pertaining to CUP / Variance applications for NYA Planning a Zoning Board, City Council and any parties pertaining to this matter.

Dump trucks, semi tractors, semi trailers, motor graders, company owned autos and construction equip attachments

Single axle plow trucks, wheel loaders, bobcats and all corresponding attachments for snow removal operations

All equipment will pertain to the operations of MT LLC and no personal property will be stored at location

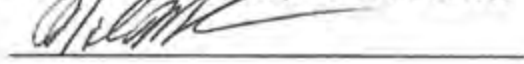
Processed material ie: sand/gravel/mulch/pulverized black dirt/salt-sand and washed rock products that would be used on instillation of new landscaping

MT LLC would like to inform parties we do not process material at this location ie: no concrete piles

Our goal is to confine all equip and material stored outside to designated screened area to minimize visual pollution of surrounding areas

In conclusion MT LLC employees and personnel hope this letter will clarify questions about our operations and our plans for this property. If you have any questions re this matter or re our company policies, please feel free to contact any of us.

Nick Molnau, Pres., CEO, CFO 952-240-0689



Ryan Molnau, VP, Fleet Maintenance 952-836-5414



Anna Molnau, VP, Treasure 952-240-0688



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To: Chairperson Heher  
Members of the Planning Commission  
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: December 5, 2017

Re: Draft Code Standards: Towers

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## **BACKGROUND**

At the October meeting the PC reviewed draft language pertaining to towers, antenna, and satellite dishes. At the meeting the PC reached consensus to review the proposed language again at the December meeting, especially as it pertained to the zoning map. Attached please find a copy of the official zoning map and draft language. 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**

This item is for review and discussion. If comfortable, the PC may call a public hearing on the proposed standards for the January meeting (Monday is a holiday – Wednesday).

## 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 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 next 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.



**CITY OF NORWOOD**  
**YOUNG AMERICA**  
**COMBINED ADDRESS-ZONING MAP**

**LEGEND**

- LIFT STATION
- FILTER PLANT (PUMP HOUSE)
- STOP LIGHTS
- TOWERS
- MISCELLANEOUS UTILITIES

**ZONING**

- P-1 PARKS/OPEN SPACE
- R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
- R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
- R-3 MEDIUM DENSITY MIXED RESIDENTIAL
- R-4 MULTIPLE FAMILY RESIDENTIAL
- RC-1 RESIDENTIAL/NEIGHBORHOOD COMMERCIAL
- C-2 GENERAL COMMERCIAL
- C-3 DOWNTOWN DISTRICT
- B-1 BUSINESS INDUSTRIAL
- I-1 LIGHT INDUSTRIAL
- TA TA TRANSITION/AGRICULTURE

**BOLTON & MENK, INC.**  
Consulting Engineers & Surveyors  
MANKATO, MN FAIRMONT, MN SLEEPY EYE, MN BURNSVILLE, MN  
WILLMAR, MN CHASKA, MN RAMSEY, MN MAPLEWOOD, MN  
BAXTER, MN ROCHESTER, MN AMES, IA SPENCER, IA

APRIL, 2013

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To: Chairperson Heher  
Members of the Planning Commission  
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: December 5, 2017

Re: Work Session: Subdivision

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### **BACKGROUND**

The PC will be conducting 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 review 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

Is a local license required?

No

Yes

Complete

Submit Plans & Application to City

Is a building permit required?

No

Yes

Complete

Go to Pg 2 **GREEN** and then **BLUE**

Staff meeting with Project Stakeholders  
Define contacts & process. determine if application is complete. assess review timelines

Does the action require subdivision or resubdivision of property?

No

Yes

Go to next question

Go to Pg 2 **YELLOW** then onto next question

Does the action require a conditional use permit, interim use permit, or rezoning?

No

Yes

Go to next question

Go to Pg 2 **ORANGE** then onto next question

Is the action inconsistent with zoning ordinance standard?

No

Yes

Go to next question

Go to Pg 2 **ORANGE** then onto next question

Is development (site) plan review required?

No

Yes

Go Back to Top of this page

Go to Pg 2 **PURPLE** then onto next question

## 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 &amp; consultants to:</p> <ol style="list-style-type: none"> <li>1. Explain the procedures and requirements which apply to the project.</li> <li>2. Estimate fees for project review/final product (non-binding, subject to change).</li> <li>3. Identification of potential issues.</li> <li>4. Identification of any exemptions which may apply.</li> <li>5. Corrections which may be needed.</li> <li>6. Identification of land status (<b>sewer</b>, zoning class, legal, etc.)</li> </ol>	<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"> <li>1. Appropriateness of contemplated use of property, intensity, density &amp; how it relates to zoning ordinance.</li> <li>2. If an environmental review is required.</li> <li>3. Impact on municipal sewer, water, storm sewer, park and govt admin. systems &amp; capacity in systems to accommodate proposed subdivision.</li> <li>4. Development phasing plan, when building is to occur.</li> <li>5. Impact on existing and proposed transportation system.</li> <li>6. Compliance with Subdivision Ordinance.</li> </ol>	<p>Required as identified within the Zoning Ordinance. Common review items include:</p> <ol style="list-style-type: none"> <li>1. Conditional/interim use permits.</li> <li>2. Variance requests.</li> <li>3. Rezoning and or text amendments.</li> </ol> <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"> <li>1. Site design: proposed intensity of use, proposed density, setbacks, structure height, surface coverage, compatibility with neighborhood.</li> <li>2. Vehicle and pedestrian traffic: driveways, side walks, circulation patterns, parking lots, ingress/egres &amp; traffic impact.</li> <li>3. Construction aspects: drainage, grading, and flood plain/shoreland.</li> <li>4. Environmental impact: landscaping, water quality.</li> <li>5. Utility service.</li> <li>6. Fire service.</li> </ol>	<p>Reviewed in conjunction with issuance of a building permit. Items reviewed may include:</p> <ol style="list-style-type: none"> <li>1. Health/safety.</li> <li>2. Taps.</li> <li>3. Electric service.</li> <li>4. Industrial waste.</li> <li>5. Construction: occupancy, access/exits, structural, mechanical, electrical, plumbing, energy and fire.</li> <li>6. Signs.</li> <li>7. Underground tanks.</li> </ol>	<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.	<p>After a <b>complete</b> 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 <b>complete</b> application. If incomplete information is supplied you can expect the timeline to be extended.</p>	<p>After a <b>complete</b> application is submitted estimate 60 days for review (can be extended). Applicant bears burden of <b>complete</b> application. If incomplete information is supplied, expect the timeline to be extended.</p>	<p>After a <b>complete</b> application is submitted estimate 60 days for review. Review period can be extended. Applicant bears burden of <b>complete</b> application. If incomplete expect extended timeline.</p>	<p>After a <b>complete</b> application is submitted estimate 60 days for review. Review period can be extended. The applicant bears the burden of submitting a <b>complete</b> application. If incomplete information is supplied you can expect the timeline to be extended.</p>	<p>As requested depending on pace of construction. Maximum duration of building permit is typically six months.</p>
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

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DOCUMENT  
TITLE:

Development Agreement

DOCUMENT  
DATE:

September 12, 2017

DOCUMENT  
NAMES:

Loomis Homes LLC

City of Norwood Young America

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## DEVELOPMENT AGREEMENT

CA 29826 ② THIS AGREEMENT, is made and entered into this 12<sup>th</sup> 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 5<sup>th</sup> 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 Loomis

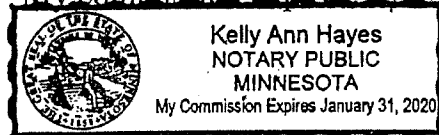
By: Steven Helget  
Steven Helget, Its City Administrator

State of Minnesota     )  
                                      )  
County of Carver        )     ss.

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

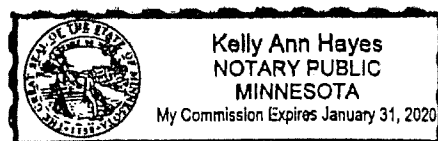
State of Minnesota     )  
                                      )  
County of Carver        )     ss.



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 4<sup>th</sup> 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

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**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 5<sup>TH</sup> 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 5<sup>TH</sup> 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 5<sup>th</sup> 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 5<sup>th</sup> 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 (15<sup>th</sup>) anniversary of the date of this Declaration; or
- b. The date Developer no longer owns any land in The Preserve 5<sup>th</sup> 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 5<sup>th</sup> 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 5<sup>th</sup> 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 5<sup>th</sup> 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.

