



PLANNING REPORT – Minor Subdivision

TO: City of Sunfish Lake Mayor and City Council
FROM: Emily Shively
DATE: September 25, 2013
RE: Sunfish Lake – Flynn/Park Minor Subdivision
FILE: 211.01 – 13.10

10/1/13 CC Mtg.
Agenda
Item
6a

BACKGROUND

William and Mary Park, and Linda Flynn are requesting City Council approval of a minor subdivision of a parcel located at Lot 4, Block 1, Knutson Addition (PID 38-42600-040-01). The applicants currently share joint ownership of the parcel and are proposing a minor subdivision to split the property in half. The north half of the split parcel is to be recombined with the Flynn property to the north, located at 2324 Angell Road, whereby Linda Flynn will then have 100% ownership of the north portion of the split parcel. The south half of the split parcel is to be recombined with the Park property to the south, located at 15 Sunnyside Lane, whereby William and Mary Park will then have 100% ownership of the south portion of the split parcel.

Section 1302.01.A of the Subdivision Ordinance states that in the case of a request to divide a portion of a lot where the division is to permit the adding of a parcel of land to an abutting lot so that no additional lots are created and both new lots conform to the required lot size minimum standards, the application may be reviewed as a Minor Subdivision. Further, Section 1302.04 of the Subdivision Ordinance allows approval of the minor subdivision by the City Council (rather than following the preliminary/final plat procedure, which would also require review by public hearing and the Planning Commission) if the application relates to a boundary adjustment, and provided that the application complies with applicable provisions of the Ordinance.

Some drainage and utility easements exist on the Park parcel and the lot to be split that will no longer be necessary after the minor subdivision is completed. These easements will be vacated and all parties have agreed to grant new drainage and utility easements with the minor subdivision. The city attorney has advised that the process outlined in Minnesota Statutes §412.851 *Vacation of Streets* must be followed in order to vacate the current easements.

The parcel to be split is currently vacant, and conforming homes and driveways currently exist on both the impacted Flynn and Park properties. No additional site or building improvements are being proposed with the minor subdivision at this time. With the lot split, the applicants will vacate certain drainage and utility easements and create new drainage and utility easements. The impacted properties are zoned R-1 Single Family Residential and Shoreland Overlay District.

APPROVALS REQUIRED	
Minor Subdivision	To permit a lot split which divides Lot 4, Block 1, Knutson Addition, with the north half of the split parcel to be combined with a parcel located at 2324 Angell Rd. (owned by Linda Flynn), and the south half of the split parcel to be combined with a parcel located at 15 Sunnyside Ln. (owned by William and Mary Park).
Vacation of Existing Drainage and Utility Easements	To vacate existing drainage and utility easements along a portion of the western boundary of Lot 4, the north-south boundary of Lot 4 and the parcel located at 15 Sunnyside Ln., and the eastern boundary of Lot 4.
Establishment of New Drainage and Utility Easements	To establish new drainage and utility easements that will be dedicated to the city that shall run along the perimeter of the newly combined lots.

Attached for reference:

Exhibit A – Legal Description of Parcels and Easements

Exhibit B – Existing Parcels Survey

Exhibit C – Proposed Lot Split Survey

ANALYSIS

Lot Requirements. Subdivided lots are required to meet lot area and setback provisions outlined in the Zoning Ordinance. The following table displays the applicable lot area, width, and setback requirements for both applicable zoning districts, in addition to indicating the subdivision's compliance with those standards.

R-1 District Standards	Required	Proposed (15 Sunnyside Ln.)	Proposed (2324 Angell Rd.)	Compliant
Front Accessory Setback (setback to the public street)	100 feet	est. 160 feet	est. 230 feet	Yes
Side Accessory Setback	25 feet	est. 95/220 feet	est. 180/190 feet	Yes
Rear Accessory Setback	25 feet	est. 250 feet	est. 130 feet	Yes
Shoreland Overlay District Standards	Required	Proposed (15 Sunnyside Ln.)	Proposed (2324 Angell Rd.)	Compliant
Buildable lot area above OHWM*	2.5 acres	3.77 acres	4.35 acres	Yes
Frontage on improved public street/private road	200 feet	exceeds 350 feet	exceeds 350 feet	Yes

Lot width at building setback line	200 feet	exceeds 350 feet	exceeds 350 feet	Yes
Lot width at OHWM of abutting water body	150 feet	N/A	N/A	N/A
Building setback from OHWM	200 feet	N/A	N/A	N/A
Building setback from property line adjacent to street	100 feet	est. 70 feet	est. 160 feet	Yes**
Surface building side yard setback	50 feet	est. 145/110 feet	est. 145/195 feet	Yes

*OHWM (Ordinary High Water Mark)

**This is an existing, legally non-conforming lot condition, which will not be increased or impacted as a result of the minor subdivision, and may be allowed to continue as is.

As shown in the table, given the proposed subdivision the subject properties will continue to meet the lot requirements of the Zoning Ordinance.

Subdivision Design Standards. The proposed minor subdivision must be consistent with the design requirements as outlined in the City's Subdivision Ordinance. Section 1307.04 of the Subdivision Ordinance outlines the provisions which must be met with regards to lot formation. The following outlines these provisions and the proposed subdivision's compliance with the required design criteria:

Lot Area: The minimum lot area, width and depth shall not be less than that established by the City Zoning Ordinance in effect at the time of adoption of the final plat.

Comment: Lots in the Shoreland Overlay District are required to have a net lot area of at least 2.5 acres, not including wetlands, land seasonally flooded on an annual basis, land containing drainage ways and/or surface water or land containing aquatic vegetation, and land in excess of twelve (12) percent slope. Any analysis of these conditions on the subject properties suggests that the lots may be legally non-conforming as pertains to net lot area, in that one or both lots exhibit significant areas of steep slopes. However, Zoning Ordinance Section 1215.02 pertaining to non-conforming uses states that it is lawful to allow changes to a non-conforming parcel of land as long as that change lessens the non-conformity, which is the case here. Upon approval of the requested lot split/combination, both 2324 Angell Rd. and 15 Sunnyside Ln. will be larger, such that any existing non-conformity pertaining to minimum lot size would have been reduced as opposed to increased, as allowed by Ordinance.

Lot Frontage: Every lot must have the minimum frontage on a City approved public street as required in the City Zoning Ordinance or onto a City approved private drive.

Comment: According to the Shoreland Overlay District 200 feet of frontage must be provided on either a public or private street. After the proposed lot split and combination, both impacted properties will continue to meet this requirement.

Access: Each lot shall directly access a public street or shall have a private drive access approved by the City under Section 1307.04.D or the Interim Use Permit provisions as specified in Section 1241 of the City Zoning Ordinance.

Comment: Both impacted properties currently have access to a public road. This access condition will not be impacted by the proposed subdivision.

Setback Lines: Setback or building lines shall be shown on all lots and shall not be less than the setback required by the City Zoning Ordinance, as may be amended.

Comment: As demonstrated in the above table the subject properties will continue to meet setback standards after the proposed minor subdivision. The one exception is the Park property, which currently exhibits a substandard setback from the front property line. This is an existing legally non-conforming condition which will not increase with the proposed lot split and combination, and as such may be allowed to continue as is.

Drainage: Lots shall be graded so as to provide drainage away from building locations, subject to the recommendation of the City Engineer and approval by the City Council.

Comment: The applicant has submitted a site survey showing all existing buildings and grading on the subject properties. These conditions are not anticipated to be impacted by the proposed minor subdivision.

Features: In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots or similar conditions, which, if preserved, will add attractiveness and stability to the proposed development.

Comment: The proposed lot split and combination will not impact landscaping or natural systems on either property. Any future site improvements which will impact the subdivided lot area will need to meet all Ordinance requirements as pertains to tree removal, preservation and installation (as described in Section 1208.02, Section 1218.03, and Section 1243.04 of the Zoning Ordinance).

Lot Remnants: All remnants of lots below minimum size for the respective zoning district in which they are located must be added to abutting lots or lots immediately adjoining rather than to remain as unusable parcels.

Comment: The "Existing Parcel Survey" notes a narrow gap between the Sunfish Heights Addition (Flynn property falls within) and Knutson Addition (Park property and parcel to be split falls within). Once the lot split and combination is approved and Linda Flynn owns the land on both sides of the gap area, she will commence a court action to establish title in her name for the gap area.

Outlots: The creation of outlots is to be discouraged, except in such cases where title discrepancies exist and their establishment has been determined by the City Attorney to constitute the most effective means of dealing with the issue. I

Comment: The applicant is not proposing the creation of any new outlots as a part of the minor subdivision request. An existing outlot adjacent to the Flynn property will not be impacted by the proposed lot split/combination, and will continue to be owned by Linda Flynn.

Driveway Culvert: A minimum culvert size of 15 inches shall be installed under any driveway requiring storm water runoff to pass through the driveway.

Comment: The applicant is not proposing to construct any additional dwelling units as a part of this request, however, need for a culvert in the future shall be at the discretion of the City Engineer.

Easements. According to Section 1307.10 of the Subdivision Ordinance, all easements shall be shown on the Certificate of Survey in the case of a minor subdivision. Section 1307.10.A requires that easements of a minimum of 10 feet wide centered on rear and other lot lines be provided for drainage and for public and private utilities. Further, Section 1302.01.B.2 of the Minor Subdivision Ordinance requires that when a public drainage and utility easement would have been dedicated to the City incident to a full platting process, the landowners involved in the minor subdivision must grant the City, at no cost to the City, the public drainage and utility easements required.

The submitted "Lot Split Survey" provides 10 foot drainage and utility easements running along all property lines on both the Flynn and Park properties, including the new north/south boundary between the two properties resulting from the proposed lot split/combination of Lot 4, Block 1, Knutson Addition. Legal descriptions of the existing Flynn and Park Parcels, Parcel A and Parcel B of the split lot (to be combined with the Flynn and Park parcels), and all proposed drainage and utility easement areas has been provided by the applicants.

The submitted "Existing Parcel Survey" also provides the location of existing drainage and utility easements along the north boundary of the Park property, and the south boundary of the parcel to be split, which will be vacated as a result of the proposed lot split/combination.

The City Attorney has reviewed the legal descriptions for the drainage, utility and roadway easements as provided on the submitted survey, and has drafted an easement document. As a condition of approval, the applicant will need to work with Dakota County to record and convey the easement documents (the applicant shall pay for the cost of recording the easements).

SUMMARY AND RECOMMENDATION

The applicants are requesting approval of a minor subdivision to allow the division and recombination of the parcel located at Lot 4, Block 1, Knutson Addition. Planning staff recommends approval of the minor subdivision based on finding that the proposal will have minimal impact on site conditions related to vegetation, land alteration, or neighboring property, and that upon subdivision the subject parcel will continue to meet

all Subdivision Ordinance and lot design requirements. This recommendation would be conditioned upon the following:

1. The applicant record the approved survey (demonstrating site conditions, new lot lines, and the legal description of existing parcels, split/combined Parcel A and Parcel B, and drainage and utility easements), and the existing survey (demonstrating drainage and utility easements to be vacated) with Dakota County.
2. The combined parcel described below shall be one tax parcel:

Lot 4, Sunfish Heights, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

Outlot A, Sunfish Heights, according to the recorded plat thereof, said Dakota County, except that part of said Outlot A platted as KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota, which lies northerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

3. The applicant shall provide evidence to the City that the property described above has been combined by Dakota County to form a new single tax parcel.
4. The combined parcel described below shall be one tax parcel:

Lot 5, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County, which lies southerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

5. The applicant shall provide evidence to the City that the property described above has been combined by Dakota County to form a new single tax parcel.
6. The applicants record and convey drainage and utility easement documents, as provided by the Sunfish Lake City Attorney, with Dakota County.

c: Cathy Iago, City Clerk
David Neameyer, City Building Official
Don Sterna, City Engineer
Jim Naves, City Forester
Tim Kuntz, City Attorney
William and Mary Park, Applicant
Linda Flynn, Applicant

Legal Description for
Parcel A

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota, which lies northerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

Legal Description for
Parcel B

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota, which lies southerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

Legal Description for the Combination of
Parcel A and
the Property Owned by Linda Flynn

Lot 4, SUNFISH HEIGHTS, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

Outlot A, SUNFISH HEIGHTS, according to the recorded plat thereof, said Dakota County, except that part of said Outlot A platted as KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota, which lies northerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

Legal Description for the Combination of
Parcel B and
the Property Owned by William and Mary Park

Lot 5, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County, which lies southerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

Legal Description for the
Proposed Drainage and Utility Easements
Across Parcel A and
the Property Owned by Linda Flynn

The westerly 10.00 feet, the northwesterly 10.00 feet and the northeasterly 10.00 feet of Lot 4, SUNFISH HEIGHTS, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

The southerly 10.00 feet of the westerly 35.13 feet of Lot 4, said Sunfish Heights.

Together with:

The northeasterly 10.00 feet and the easterly 10.00 feet of that part of the following described property:

Outlot A, SUNFISH HEIGHTS, according to the recorded plat thereof, said Dakota County, except that part of said Outlot A platted as KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County.

Together with:

The westerly 10.00 feet, the easterly 10.00 feet and the southerly 5.00 feet of the following described property:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota, which lies northerly of a line described as commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

Legal Description for the
Proposed Drainage and Utility Easements
Across Parcel B and
the Property Owned by William and Mary Park

The westerly 10.00 feet, the southerly 10.00 feet and the easterly 10.00 feet of Lot 5, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

The westerly 10.00 feet, the easterly 10.00 feet and the northerly 5.00 feet of the following described property:

That part of Lot 4, Block 1, said KNUTSON ADDITION, which lies southerly of a line described as commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3

degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

Notes

1. This survey was performed without the benefit of a Title Commitment. There may or may not be other easements of record encumbering this property.
2. We have not placed a Gopher State One Call for this survey. There may or may not be other utilities serving this site. Therefore extreme caution must be exercised before any excavation takes place on or near this site. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002.
3. The topographic features, shown hereon, were obtained from the Dakota County GIS department. Not all features are necessarily shown on this survey.
4. Note that there is an approximate 4 foot wide gap in the ownership of the land lying between Lot 4, Block 1, Sunfish Heights and Lot 4, Block 1, Knutson Addition as shown hereon. This gap is due to the difference in the legal descriptions between the plat of Sunfish Lake and Knutson Addition. The client's counsel may wish to pursue this matter further, so as to claim title to this area.

FEET	SCALE
0	10
50	50
100	10



**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 13-_____

**RESOLUTION PROVIDING FOR VACATION OF CERTAIN PUBLIC DRAINAGE
AND UTILITY EASEMENTS LOCATED WITHIN LOT 4 AND LOT 5, BLOCK 1,
KNUTSON ADDITION, DAKOTA COUNTY, MINNESOTA**

WHEREAS, a petition to vacate has been duly presented to the City of Sunfish Lake, signed by the owners of the property on which the following described public drainage and utility easements are located in the City of Sunfish Lake, Dakota County, State of Minnesota, to wit:

All of the drainage and utility easements as dedicated in Lots 4 and 5, Block 1, Knutson Addition, according to the recorded plat thereof, Dakota County, Minnesota.

WHEREAS, a notice of hearing on said petition to vacate has been duly published, posted and mailed in accordance with the applicable Minnesota Statutes; and

WHEREAS, a public hearing before the City Council of Sunfish Lake was held on said petition on October 1, 2013, at St. Anne's Episcopal Church located at Highway 110 and Charlton Road (2035 Charlton Road), Sunfish Lake, Minnesota; and

WHEREAS, the City Council of Sunfish Lake then proceeded to hear all persons interested in said petition and all persons interested were afforded an opportunity to present their views and objections to the granting of said petition; and

WHEREAS, the City Council of Sunfish Lake has determined that the vacation of said public drainage and utility easements would be in the public interest.

NOW THEREFORE BE IT RESOLVED BY THE CITY OF SUNFISH LAKE, MINNESOTA:

1. That all of the drainage and utility easements as dedicated in Lots 4 and 5, Block 1, Knutson Addition, according to the recorded plat thereof, Dakota County, Minnesota are hereby vacated pursuant to Minn. Stat. § 412.851.

2. The Notice of Completion of Vacation shall not be recorded until the owners of Lots 4 and 5, Block 1, Knutson Addition and Lot 4 and Outlot A, Sunfish Heights have granted to the City of Sunfish Lake new drainage and utility easements in the manner required by the Council pursuant to the Council's approval of the minor subdivision for Lot 4, Block 1, Knutson Addition.
3. Nothing contained in Resolution No. 13-____ or in the Notice of Completion of Vacation shall be deemed to vacate any drainage and utility easements that are subsequently granted to the City of Sunfish Lake by the owners of the affected properties and that are recorded subsequent to the recording of the Notice of Completion of Vacation.

Adopted by the City Council of Sunfish Lake this 1st day of October, 2013.

Mike Hovey, Acting Mayor

ATTEST:

Catherine Iago, City Clerk

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

**NOTICE OF COMPLETION OF VACATION OF CERTAIN DRAINAGE AND
UTILITY EASEMENTS AS DEDICATED IN LOTS 4 AND 5, BLOCK 1, KNUTSON
ADDITION, DAKOTA COUNTY, MINNESOTA**

TO WHOM IT MAY CONCERN:

PLEASE TAKE NOTICE:

1. Pursuant to Minnesota Statutes, Section 412.851, a petition to vacate certain drainage and utility easements as dedicated on Lots 4 and 5, Block 1, Knutson Addition, Dakota County, Minnesota was duly presented to the City of Sunfish Lake. The petition was signed by the majority of the owners of the property containing and abutting the following described drainage and utility easements in Lots 4 and 5, Block 1, Knutson Addition, City of Sunfish Lake, Dakota County, Minnesota, to wit:

All of the drainage and utility easements as dedicated in Lots 4 and 5, Block 1, Knutson Addition, according to the recorded plat thereof, Dakota County, Minnesota.

2. The public hearing on said petition was preceded by two (2) weeks published and posted Notice in accordance with Minnesota Statutes, Section 412.851. Notice of the public hearing was mailed to each property owner affected by the proposed vacation at least ten (10) days before the hearing in accordance with Minnesota Statutes, Section 412.851.
3. A public hearing was held on said petition on October 1, 2013, in the City Council Chambers at St. Anne's Episcopal Church located at Highway 110 and Charlton Road (2035 Charlton Road) in Sunfish Lake, Minnesota. At the public hearing, all interested persons were afforded an opportunity to present their views and objections to the granting of said petition.

4. That on October 1, 2013, the City Council of Sunfish Lake pursuant to Minnesota Statutes, Section 412.851 did duly adopt Resolution No. 13-____ and did thereby vacate the following described drainage and utility easements on Lots 4 and 5, Block 1, Knutson Addition, City of Sunfish Lake, County of Dakota, State of Minnesota, to wit:

All of the drainage and utility easements as dedicated in Lots 4 and 5, Block 1, Knutson Addition, according to the recorded plat thereof, Dakota County, Minnesota.

That the vacation of the above-described drainage and utility easements was completed by the adoption of the aforesaid resolution.

5. Upon information and belief, the undersigned states that the vacation of the afore-described drainage and utility easements does affect the following described properties in the City of Sunfish Lake, Dakota County, Minnesota:

- Lot 4, Block 1, Knutson Addition, Dakota County, Minnesota;
- Lot 5, Block 1, Knutson Addition, Dakota County, Minnesota;
- Lot 4, Sunfish Heights, Dakota County, Minnesota; and
- Outlot A, Sunfish Heights, Dakota County, Minnesota.

6. Nothing contained in Resolution No. 13-____ or in this Notice of Completion of Vacation shall be deemed to vacate any drainage and utility easements that are subsequently granted to the City of Sunfish Lake by the owners of the affected properties described in paragraph 5 above and that are recorded subsequent to the recording of this Notice of Completion of Vacation.

IN WITNESS WHEREOF, the City Clerk of the City of Sunfish Lake has executed this Notice of Completion of Vacation pursuant to Minnesota Statutes Section 412.851.

CITY OF SUNFISH LAKE

By: _____
Catherine Iago, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this _____ day of October, 2013, before me a Notary Public within and for said County, personally appeared Catherine Iago, City Clerk of the City of Sunfish Lake, to me known to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

Notary Public

PERMANENT UTILITY AND DRAINAGE EASEMENT

THIS PERMANENT UTILITY AND DRAINAGE EASEMENT (Easement) is made, granted and conveyed this 1st day of October, 2013, between **H. William Park and Mary J. Park**, husband and wife (hereinafter collectively referred to as “Landowners”) and the **City of Sunfish Lake**, a municipal corporation organized under the laws of the State of Minnesota (hereinafter referred to as the “City”).

The Landowners own the real property situated within Dakota County, Minnesota as described on the attached **Exhibit A (hereinafter “Landowners Property”)**.

The Landowners in consideration of the sum of One Dollar and other good and valuable consideration to it in hand paid by the City, the receipt and sufficiency of which is hereby acknowledged, do hereby grant and convey unto the City, its successors and assigns, the following:

A **permanent easement for utility and drainage purposes and all such purposes ancillary, incident or related thereto** (hereinafter “**Permanent Easement**”) under, over, across, through and upon that real property legally described on **Exhibit B** (hereinafter the “**Permanent Easement Area**”) attached hereto and incorporated herein by reference.

The Permanent Easement rights granted herein are forever and shall include, but not be limited to, the construction, maintenance, repair and replacement of any sanitary sewer, water mains, storm water facilities, drainage facilities and any utilities, underground pipes, culverts, conduits, other utilities and mains, and all facilities and improvements ancillary, incident or related thereto, under, over, across, through and upon the Permanent Easement Area.

The Permanent Easement rights further include, but are not limited to, the right of ingress and egress over the Permanent Easement Area to access the Permanent Easement for the purposes of construction, maintenance, repair and replacement of any sanitary sewer, water mains, storm water facilities, drainage facilities any utilities, underground pipes, conduits, culverts, other utilities, mains and all facilities and improvements ancillary, incident or related thereto.

EXEMPT FROM STATE DEED TAX

The rights of the City also include the right of the City, its contractors, agents and servants:

- a.) to enter upon the Permanent Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, replacement, grading, sloping, and restoration relating to the purposes of this Easement; and
- b.) to maintain the Permanent Easement Area, any City improvements and any underground pipes, conduits, or mains, together with the right to excavate and refill ditches or trenches for the location of such pipes, conduits or mains; and
- c.) to remove from the Permanent Easement Area trees, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the pipes, conduits, or mains and to deposit earthen material in and upon the Permanent Easement Area; and
- d.) to remove or otherwise dispose of all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to, the Permanent Easement Area or the Landowner's Property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowners, their successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Landowners, for themselves and their heirs, successors and assigns, do hereby warrant to and covenant with the City, its successors and assigns, that they are well seized in fee of the Landowners Property described on Exhibit A and the Permanent Easement Area described on Exhibit B and that they have good right to grant and convey the Permanent Easement herein to the City.

IN TESTIMONY WHEREOF, the Landowners and the City have caused this Easement to be executed as of the day and year first above written.

CITY OF SUNFISH LAKE

By: _____
Mike Hovey
Its Acting Mayor

ATTEST:

Catherine Iago, City Clerk

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this 1st day of October, 2013, before me a Notary Public within and for said County, personally appeared Mike Hovey and Catherine Iago to me personally known, who being each by me duly sworn, each did say that they are respectively the Acting Mayor and City Clerk of the City of Sunfish Lake, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Acting Mayor and Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

LANDOWNER

H. William Park

Mary J. Park

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of October, 2013, before me a Notary Public within and for said County, personally appeared H. William Park and Mary J. Park, husband and wife, to me personally known to be the persons described in and who executed the foregoing instrument and they acknowledged that they executed the same as their free act and deed.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Timothy J. Kuntz
LeVander, Gillen, & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

**AFTER RECORDING, PLEASE
RETURN DOCUMENT TO:**

Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNERS PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

Lot 5, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County, which lies southerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

EXHIBIT B
LEGAL DESCRIPTION OF PERMANENT EASEMENT AREA

A **permanent easement for utility and drainage purposes and all such purposes ancillary, incident or related thereto**, over, under, across, through and upon the following:

The westerly 10.00 feet, the southerly 10.00 feet and the easterly 10.00 feet of Lot 5, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

The westerly 10.00 feet, the easterly 10.00 feet and the northerly 5.00 feet of the following described property:

That part of Lot 4, Block 1, said KNUTSON ADDITION, which lies southerly of a line described as commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

PERMANENT UTILITY AND DRAINAGE EASEMENT

THIS PERMANENT UTILITY AND DRAINAGE EASEMENT (Easement) is made, granted and conveyed this 1st day of October, 2013, between **Linda L. Flynn**, a single person (hereinafter referred to as “Landowner”) and the **City of Sunfish Lake**, a municipal corporation organized under the laws of the State of Minnesota (hereinafter referred to as the “City”).

The Landowner owns the real property situated within Dakota County, Minnesota as described on the attached **Exhibit A (hereinafter “Landowner’s Property”)**.

The Landowner in consideration of the sum of One Dollar and other good and valuable consideration to it in hand paid by the City, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto the City, its successors and assigns, the following:

A **permanent easement for utility and drainage purposes and all such purposes ancillary, incident or related thereto** (hereinafter “**Permanent Easement**”) under, over, across, through and upon that real property legally described on **Exhibit B** (hereinafter the “**Permanent Easement Area**”) attached hereto and incorporated herein by reference.

The Permanent Easement rights granted herein are forever and shall include, but not be limited to, the construction, maintenance, repair and replacement of any sanitary sewer, water mains, storm water facilities, drainage facilities and any utilities, underground pipes, culverts, conduits, other utilities and mains, and all facilities and improvements ancillary, incident or related thereto, under, over, across, through and upon the Permanent Easement Area.

The Permanent Easement rights further include, but are not limited to, the right of ingress and egress over the Permanent Easement Area to access the Permanent Easement for the purposes of construction, maintenance, repair and replacement of any sanitary sewer, water mains, storm water facilities, drainage facilities any utilities, underground pipes, conduits, culverts, other utilities, mains and all facilities and improvements ancillary, incident or related thereto.

EXEMPT FROM STATE DEED TAX

The rights of the City also include the right of the City, its contractors, agents and servants:

- a.) to enter upon the Permanent Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, replacement, grading, sloping, and restoration relating to the purposes of this Easement; and
- b.) to maintain the Permanent Easement Area, any City improvements and any underground pipes, conduits, or mains, together with the right to excavate and refill ditches or trenches for the location of such pipes, conduits or mains; and
- c.) to remove from the Permanent Easement Area trees, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the pipes, conduits, or mains and to deposit earthen material in and upon the Permanent Easement Area; and
- d.) to remove or otherwise dispose of all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to, the Permanent Easement Area or the Landowner's Property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowner, her heirs, successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Landowner, for herself and her successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, that she is well seized in fee of the Landowner's Property described on Exhibit A and the Permanent Easement Area described on Exhibit B and that she has good right to grant and convey the Permanent Easement herein to the City.

IN TESTIMONY WHEREOF, the Landowner and the City have caused this Easement to be executed as of the day and year first above written.

CITY OF SUNFISH LAKE

By: _____
Mike Hovey
Its Acting Mayor

ATTEST:

Catherine Iago, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 1st day of October, 2013, before me a Notary Public within and for said County, personally appeared Mike Hovey and Catherine Iago to me personally known, who being each by me duly sworn, each did say that they are respectively the Acting Mayor and City Clerk of the City of Sunfish Lake, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Acting Mayor and Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

LANDOWNER

Linda L. Flynn

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of October, 2013, before me a Notary Public within and for said County, personally appeared Linda L. Flynn, a single person, to me personally known to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same as her free act and deed.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Timothy J. Kuntz
LeVander, Gillen, & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

**AFTER RECORDING, PLEASE
RETURN DOCUMENT TO:**

Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

Real Property located in the City of Inver Grove Heights, Dakota County, Minnesota, described as follows:

Lot 4, SUNFISH HEIGHTS, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

Outlot A, SUNFISH HEIGHTS, according to the recorded plat thereof, said Dakota County, except that part of said Outlot A platted as KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota, which lies northerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

EXHIBIT B
LEGAL DESCRIPTION OF PERMANENT EASEMENT AREA

A **permanent easement** for **utility and drainage purposes and all such purposes ancillary, incident or related thereto**, over, under, across, through and upon the following:

The westerly 10.00 feet, the northwesterly 10.00 feet and the northeasterly 10.00 feet of Lot 4, SUNFISH HEIGHTS, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

The southerly 10.00 feet of the westerly 35.13 feet of Lot 4, said Sunfish Heights.

Together with:

The northeasterly 10.00 feet and the easterly 10.00 feet of that part of the following described property:

Outlot A, SUNFISH HEIGHTS, according to the recorded plat thereof, said Dakota County, except that part of said Outlot A platted as KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County.

Together with:

The westerly 10.00 feet, the easterly 10.00 feet and the southerly 5.00 feet of the following described property:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota, which lies northerly of a line described as commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING A MINOR SUBDIVISION TO DIVIDE A JOINTLY
OWNED PARCEL (PIN 38-42600-040-01), TO BE COMBINED WITH THE ADJACENT
PARCELS LOCATED AT 2324 ANGELL ROAD AND 15 SUNNYSIDE LANE**

WHEREAS, Linda Flynn and William and Mary Park submitted an application for a minor subdivision of a jointly owned parcel, located between their lots at 2324 Angell Road and 15 Sunnyside Lane, legally described as:

Lot 4, Block 1, KNUTSON ADDITION

Said parcel to be split and recombined as follows:

Lot 4, Sunfish Heights, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

Outlot A, Sunfish Heights, according to the recorded plat thereof, said Dakota County, except that part of said Outlot A platted as KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota, which lies northerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

And:

Lot 5, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County, which lies southerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

WHEREAS, the properties are zoned R-1 Single Family Residential and Shoreland Overlay District, and the subdivided properties will continue to meet lot area, width and setback standards within these districts; and

WHEREAS, the subdivided properties will continue to meet lot design requirements as outlined in Section 1307.04 of the Subdivision Ordinance; and

WHEREAS, City staff reviewed the application and judged it to be complete and outlined their review comments and recommendations in a planning report dated August 28, 2013, prepared by Northwest Associated Consultants; and

WHEREAS, the Sunfish Lake City Council considered the application for a minor subdivision at their meeting on September 3, 2013 and agrees with the findings of the planner as outlined in the report dated August 28, 2013; and

NOW THEREFORE BE IT RESOLVED THAT the City Council of the City of Sunfish Lake hereby approves the minor subdivision request dated July 31, 2013 for the properties located at 2324 Angell Road and 15 Sunnyside Lane, with the following conditions as outlined in the planning report dated August 28, 2013:

1. The applicant record the approved survey (demonstrating site conditions, new lot lines, and the legal description of existing parcels, split/combined Parcel A and Parcel B, and drainage and utility easements), and the existing survey (demonstrating drainage and utility easements to be vacated) with Dakota County.
2. The combined parcel described below shall be one tax parcel:

Lot 4, Sunfish Heights, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

Outlot A, Sunfish Heights, according to the recorded plat thereof, said Dakota County, except that part of said Outlot A platted as KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota, which lies northerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

3. The applicant shall provide evidence to the City that the property described above has been combined by Dakota County to form a new single tax parcel.
4. The combined parcel described below shall be one tax parcel:

Lot 5, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, Dakota County, Minnesota.

Together with:

That part of Lot 4, Block 1, KNUTSON ADDITION, according to the recorded plat thereof, said Dakota County, which lies southerly of the following described line:

Commencing at the northwest corner of said Lot 4; thence southerly on an assumed bearing of South 3 degrees 35 minutes 02 seconds East, along the westerly line of said Lot 4, a distance of 117.64 feet to the point of beginning of the line to be described; thence North 86 degrees 42 minutes 20 seconds East to the easterly line of said Lot 4 and said line there terminating.

5. The applicant shall provide evidence to the City that the property described above has been combined by Dakota County to form a new single tax parcel.
6. The applicants record and convey drainage and utility easement documents, as provided by the Sunfish Lake City Attorney, with Dakota County.

This resolution is adopted by the City Council of the City of Sunfish Lake this 3rd day of October, 2013.

Mike Hovey, Acting Mayor

Attest:

Catherine Iago, City Clerk