



CITY of NOVI CITY COUNCIL

Agenda Item 2
January 11, 2016

SUBJECT: Consideration of a request from Mirabella Estates Condominium Association for a variance from: 1) Section 2-210 of the Ordinance to waive the required legal review escrow deposit, in the amount of \$2,039 associated with the review of legal document exhibits for the dedication of the road and utilities in the condominium; and 2) Section 11-301 of the Ordinance to waive the required fees in the amount of \$8,900 for the City to prepare the record drawings showing the completed utility locations on the project.

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division *BTC RFA*

CITY MANAGER APPROVAL: *KFA*

BACKGROUND INFORMATION:

The Mirabella Estates Condominium Association, through their Attorney, has requested a variance from Section 2-210 requiring the deposit of an escrow for legal review fees associated with dedication of the condominium's roads and utilities, and a variance from Section 11-301(1) requiring a payment to the City for the preparation of record drawings, which provides the City with the as-built information about the utilities that are being dedicated to the City. The Association is requesting that the City waive the \$10,939.22 fee that is required to pay outside consultants to complete the final steps in the project close-out process.

The site plan for Mirabella Estates was originally approved on September 25, 2003. The Ordinance at the time of approval allowed developers to either have record drawings prepared by their engineer (and then reviewed by the City's consultant), or prepared by the City's engineering consultant (see excerpt of original ordinance, attached). The Ordinance was revised on May 14, 2007 to require that all record drawings be prepared by the City's consultant due to inconsistencies in compliance with the City's standards for record drawings prepared by the developer's engineer. When the project started in 2003, the developer chose to have their engineer, Arpee/Donnan, create the record drawings and submit them to the City for review. These drawings were subsequently rejected by the City on October 23, 2007 and were never resubmitted for review.

The City contacted the developer in 2014 to begin the project close-out process, which begins when 90% of the sites within the development have received a certificate of occupancy. As part of this process, the City's consultant, Spalding DeDecker, prepared a fee estimate to provide construction inspection for the remaining work, legal review of the outstanding acceptance documents, and preparation of the record drawings for the improvements to be accepted. An invoice for these fees was sent to the developer on August 28, 2014.

On February 11, 2015, the developer requested that the City continue to review the record drawings prepared by their engineer. This request was rejected because the records needed to verify the record drawings were no longer available. The majority of the site development occurred ten years ago under the inspection of the City's previous engineering consultant, Stantec, and the records were not provided to the City at that time as required in the current contract with Spalding DeDecker. Further, the ordinance in place in 2004 states "no public utility, roadway or other improvement shall be accepted prior to the approval of as-built (record) drawings." Therefore, the developer is technically in violation of the original ordinance and missed the timing for the record drawings to be accepted under that ordinance.

In October of 2015, the Mirabella Estates Condominium Association applied to become the successor/developer of the condominium and requested the transfer of all performance guarantees and responsibilities from the original developer, Mirabella Estates, LLC, to the Mirabella Estates Condominium Association. The Association voluntarily assumed the role of successor/developer while City staff were actively working with the original developer to complete the outstanding site work items. The Condominium Association at that point then assumed all responsibilities for completing the outstanding site work, including the subsequent acceptance documents and outstanding fees.

The developer paid the City \$19,453 for construction inspection and record drawing review in 2004 and those funds were exhausted by the City's consultant in 2011. The developer never paid a deposit for legal review escrow. The Association recently submitted fees for the City Attorney's review of easement and roadway dedication documents, but the fact is that there are no funds to pay Spalding DeDecker to review the easement and roadway exhibits necessary for the dedication of the utilities and streets – an essential step in the legal review process. The developer also took much longer to complete the development than is typical, which required more of the consultant's time; and the developer also failed to provide record drawings and present the utilities for dedication at the beginning of the project.

If the applicant's request for a variance from the legal review and record drawing preparation fees is granted, the City would be obligated to compensate Spalding DeDecker using City funds to complete the dedication paperwork. There have been other developments in this predicament; however, the City has never waived fees that are necessary to pay for outside consultants. Therefore, staff recommends denial of the variance request for the following reasons:

- The fees are necessary to pay a City consultant to complete the documentation that is required in Sections 11-301 and Section 26.5-33, prior to the acceptance of streets and utilities and does not result in an exceptional, practical difficulty to the applicant.
- The alternate proposed by the applicant is for the City to waive the fees, but since outside expertise is required to complete the necessary paperwork this request would require the use of City funds and substantially deviate from the strict enforcement of the ordinance.
- The original developer failed to meet requirements of the ordinance to provide approved record drawings and to dedicate the utilities to the City prior to constructing homes; and the applicant, as the successor developer, is now fully responsible for compliance with the ordinance requirements regarding dedication of streets and utilities.

- The applicant's request does not address or demonstrate a financial hardship which would be the only exception permitted under the Ordinance (see Beth Saarela's letter, attached).
- There are other developments in a similar situation in which the Developer or Association could request a waiver of fees. If this request is granted, it could encourage others to seek similar relief, which would put at issue the allocation of an unknown amount of City funds to cover outside consultants for other private development projects in the future.

It is City staff's opinion that these fees continue to be assessed to ensure the quality and continuity of the acceptance documents and record drawings for the site improvements.

RECOMMENDED ACTIONS:

Denial of a request from Mirabella Estates Condominium Association for a variance from: 1) Section 2-210 of the Ordinance to waive the required legal review escrow deposit, in the amount of \$2,039 associated with the dedication of the road and utilities in the condominium; and 2) Section 11-301 of the Ordinance to waive the required fees in the amount of \$8,900 for the City to prepare the record drawings showing the completed utility locations on the project for the following reasons:

- The fees are necessary to pay a City consultant to complete the documentation that is required in Sections 11-301 and Section 26.5-33, prior to the acceptance of streets and utilities and does not result in an exceptional, practical difficulty to the applicant.
- The alternate proposed by the applicant is for the City to waive the fees, but since outside expertise is required to complete the necessary paperwork this request would require the use of City Funds and substantially deviate from the strict enforcement of the ordinance.
- The original developer failed to meet requirements of the ordinance to provide approved record drawings and to dedicate the utilities to the City prior to constructing homes and the applicant, as the successor developer, is now fully responsible for compliance with the ordinance requirements regarding dedication of streets and utilities.
- The applicant's request does not address or demonstrate a financial hardship which would be the only exception permitted under the Ordinance.
- There are other developments in a similar situation in which the Developer or Association could request a waiver of fees. If this request is granted, it could encourage others to seek similar relief, which would put at issue the allocation of an unknown amount of City funds to cover outside consultants for other private development projects in the future.

OR

Approval of the request from Mirabella Estates Condominium Association for a variance from: 1) Section 2-210 of the Ordinance to waive the required legal review escrow deposit, in the amount of \$2,039 associated with the dedication of the road and utilities in the condominium; and 2) Section 11-301 of the Ordinance to waive the required fees in the amount of \$8,900 for the City to prepare the record drawings showing the completed utility locations on the project for the following reasons:

- While the fees are necessary to pay a City consultant to complete the documentation that is required in Sections 11-301 and Section 26.5-33 prior to the acceptance of streets and utilities, these additional fees result in an exceptional, practical difficulty to the applicant as a Homeowners Association that is attempting to complete the development and that is at an unusual disadvantage given the loss of information and the amount of expenditures to date to complete the outstanding site work left incomplete by the Developer.
- The alternate proposed by the applicant is for the City to waive the fees, but since outside expertise is required to complete the necessary paperwork this request could be paid using development escrow forfeiture revenue and would not substantially deviate from the strict enforcement of the ordinance in this case.

AND

Approval of a resolution authorizing the allocation of \$10,940 for this work from the General Fund using development escrow forfeiture revenue.

| | 1 | 2 | Y | N |
|-----------------------------|---|---|---|---|
| Mayor Gatt | | | | |
| Mayor Pro Tem Staudt | | | | |
| Council Member Burke | | | | |
| Council Member Casey | | | | |

| | 1 | 2 | Y | N |
|-------------------------------|---|---|---|---|
| Council Member Markham | | | | |
| Council Member Mutch | | | | |
| Council Member Wrobel | | | | |

RESOLUTION

NOW, THEREFORE BE IT RESOLVED that the following
Budget Amendment for a variance for the Mirabella Estates
Condominium Association is authorized:

| | INCREASE (DECREASE) |
|--|--------------------------------|
| General Fund | |
| REVENUES | |
| Licenses, Permits, & Charges for Services | 10,940 |
| TOTAL REVENUES | <u>\$ 10,940</u> |
| APPROPRIATIONS | |
| Department of Public Services - Engineering | |
| Other Services and Charges | 10,940 |
| TOTAL APPROPRIATIONS | <u>\$ 10,940</u> |
| Net Increase (Decrease) to Fund Balance | <u><u>\$ -</u></u> |

I hereby certify that the foregoing is a true and complete copy of a
resolution adopted by the City Council of the City of Novi
at a regular meeting held on January 11, 2016

Maryanne Cornelius
City Clerk

LAW OFFICE OF DAVID A. GOLDBERG, P.C.

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FRANKLIN, MI 48025

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(248) 538-0294 (fax)

goldy6@sbcglobal.net

December 4, 2015

Sarah Marchioni
Novi Community Development Department
45175 W. Ten Mile Road
Novi, Michigan 48375-3024

Via Email and US Mail

RE: JSP05-0033
Mirabella Estates Condominium
Road and Utility Dedication
Appeals as to Application of City Code

Dear Sarah:

I am in receipt of the City of Novi's Invoice #00184386 dated October 23, 2015 in the amount of \$10,939.22 (the "Invoice") for acceptance document review and creation of record drawings for the Mirabella Estates Condominium public road and utility dedication. My firm represents the Mirabella Estates Condominium Association (the "Association") with regard to this matter.

As a follow up to my email dated November 2, 2015 to you and Adam Wayne, from the City's Engineering Department, and the others copied therein, please consider this letter as the Association's formal written appeal to the costs being charged in the Invoice. The Invoice represents charges being issued pursuant to Section 11-301 of the City Code for record drawing preparation and Section 2-210 of the City Code for document review in connection with the dedication of the Condominium's public road and utilities. This appeal is being requested pursuant to Section 2-211 of the City Code.

As a matter of background, the Mirabella Estates condominium project was initially developed in 2005 and 2006, at which time a majority of the development improvements were installed (less the final road wearing course). Following installation, it is our understanding that the road and utility dedication process was commenced by the Developer, Mirabella Estates LLC, aka Vista Homes, aka ASCH, LLC (collectively, the "Developer"), but never taken through to completion. It is also our understanding that the easements for the dedication documents were prepared by the Developer but never reviewed by the City, and about 85% of the record drawings were completed by the Developer and informally submitted to the City for review, but never finalized and never formally submitted to the City for review and acceptance.

Further, once the project reached the point described above it came to a screeching halt in 2007 as our local and national economy went into recession. As a result, this project essentially went stagnant. The few owners that had already purchased homes or that purchased homes at that time ended up sharing more than their fair share of the development's expenses, and when the Developer finally went bankrupt and walked away from the project, the owners were left with a partially completed development and all the maintenance expenses. The project then sat for approximately 7 years until this year when the Association initiated action and began dialogue with the now defunct Developer and the City to determine how their roads can be completed. Had the Association not taken this initiative, for all we know the roads would still be falling further into disrepair and the City would still be figuring out what it should do?

Most homeowners in Novi when they purchase new homes, particularly those ranging from \$600,000 to \$1,000,000, anticipate they will receive completed developments, with the roads and utilities installed by the developer and accepted by the City, without having to be involved in the process, let alone oversee and pay for it. The residents and the Association of Mirabella Estates have not been afforded that expectation. Instead, they have been left with the stark reality of playing developer and incurring many of the costs associated with that privilege.

To date, the costs originally anticipated by the City, the defunct Developer, the City's consultant, SDA, and the paving contractor are much greater since the roads have fallen further into disrepair and other right-of-way improvements originally acceptable now are not. In addition to the road and right-of-way improvements, there were outstanding site review fees and legal review fees that were never paid. All of the costs needed to finish the roads and right-of-way, as well as pay the review fees, have reached over \$101,000, which already includes \$13,106.50 in legal review and SDA inspection fees. Of the \$13,106.50, \$3,162.50 is for the City Attorney to review the City prepared form documents that have had nominal modifications. The only amount of money that the Association is receiving to help them pay these costs is a little over \$61,000 that the defunct Developer has agreed to allow the City to release to the Association, when available, to help defray these costs. The balance of these obligations falls on the Association, which is over \$40,000. Now, to compound matters, the City is asking the Association play developer to an even greater extent and go further into its pockets (to the tune of another \$10,939.22) for costs that they struggle to understand why they are paying, particularly since 85% of the work has already been done and they are being told cannot be used because the Ordinance changed since the time of the original development. This last part has proven to be extremely frustrating to them, and frankly, where they are asking to draw the line. Please remember, this is not a 100 unit development ... this is a 10 unit project with 10 families paying all the costs.

Had the Association not stepped up, gotten the ball rolling, convinced the defunct Developer to contribute some costs, and taken on the responsibility of overseeing the completion of the roads and right-of-way, the City would have been left with nothing more than a lawsuit against the defunct Developer and their own tax paying residents, the Association. This would have been a time consuming and costly endeavor, would have potentially taken years to resolve, and left all parties involved further indebted than they currently are. Instead, the Association did the right thing, avoided this cost and burden on the City and additional cost to themselves, and finished the job.

As a result, the roads and right-of-way are complete and ready for dedication, and we hope, litigation has been avoided. However, an additional result, and benefit to the City, is that the City has not had to incur any additional costs, particularly litigation costs, nor has it had to go through the embarrassment of having to sue its residents. In addition, had the City taken action much sooner than 8 years later, the costs to complete the project would have been far less, since far less disrepair would have occurred.

All of the foregoing has led to the Association respectfully requesting to the City that any additional costs to them be waived, including the \$10,939.22 outstanding, and the project be final approved and accepted. If the City wants the remaining 15% of the original as-built plans finished, they are willing to work with the defunct Developer to get that done, at their expense. However, if the City wants its own consultant to go out and do what has already been done, then they ask that the City incur the cost to have that done. In addition, the easement exhibits that are attached to the dedication documents are very simple and can in no way, together with the review of the dedication documents themselves, cost over \$3,162.50 to review. If there is a cost to have the exhibits reviewed above and beyond what the Association has already paid the City attorney to review those documents and exhibits, then they ask that the City incur that cost as well.

If you need additional information from the Association, please let me know.

Best regards and thank you,

A handwritten signature in black ink, appearing to read 'David A. Goldberg', with a long, sweeping horizontal line extending to the right.

David A. Goldberg

Cc: Mirabella Estates Condominium Association



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Elizabeth Kudla Saarela
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January 4, 2016

Adam Wayne, Construction Engineer
CITY OF NOVI
Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: *Mirabella Estates*
DCS Variance Request – Record Drawings
Variance Request – Legal Review Fees

Dear Mr. Wayne:

We have received and reviewed correspondence, dated December 4, 2015, from David Goldberg, counsel representing the Mirabella Estates Condominium Association. In the correspondence, Mr. Goldberg requests two variances on behalf of the Association from requirements from the City Code relating to utilities and street construction and acceptance. The requested variances are as follows:

1. A variance from Section 11-301 of the City Code requiring preparation of record drawings of public utility, roadway or other improvements by the City's consultant upon payment of a record drawing preparation fee by the Association; and,
2. A variance from Section 2-210 of the City Code requiring submittal of legal review fees for review of easements and other conveyance documents necessary to complete acceptance of roads and utilities for the development.

We will address the standards for the review of each requested variance separately, bellows.

Record Drawings

The standards for consideration of the variance request from Section 11-301 are set forth in Section 1-12 of the City Code, and require the applicant to show the following:

A variance may be granted by the City Council from regulatory provisions of this Code when all of the following conditions are satisfied:

- (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- (2) The alternative proposed by the applicant will be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and
- (3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.

In this case, the applicant has requested that as an alternative to the payment of the record drawing fee by the Association, the Association be permitted to complete a draft of the record drawings that were initiated by the Developer's engineer prior to 2007. It is our understanding that even in the event that this was considered as a viable option, the City's Consulting Engineer would still be required to review the completed drawings and would incur substantial costs for review since based on the delay in completion, the City's consultant has changed, the City no longer has any field verified information to review the record drawings against. On this basis, the cost of review may be equivalent to the cost for the City's consultant to complete the entire set of record drawings.

All fees submitted by the original Developer have previously been exhausted on construction inspections and no fees remain on hand for either completion or review of record drawings. As such, the City would be required to incur the cost of the Consultant's review from the *General Fund* or other City fund. This factor may be considered as a substantial deviation from the performance of the standard if strictly enforced since no other developments have been provided with this type of waiver. Furthermore, this may be considered to be contrary to the purpose and goal of the chapter on the basis it would cause the general public to incur the cost of private development.

Alternatively, if the record drawings are not completed due to cost, the City's Public Services Department could be expected to encounter significant negative impacts relating to operation and maintenance of the roads and utilities within Mirabella Estates, including, but not limited to the following:

- (1) The inability to accurately mark utilities in response to miss-dig requests;
- (2) The expenditure of additional time and labor for maintaining and operating utilities due to lack of documentation of utility length, quantity of valves or structures, and connection points;
- (3) The responsibility for potential damages caused during utility failures associated with delays in shut-offs for water or locating back-ups in sanitary sewer.

The December 4, 2015 correspondence does not address how impacts such as the above may be mitigated if the variance is granted.

Legal Review Fees

The standard for consideration of the variance request from Section 2-210 of the City Code is set forth in Section 2-111, and requires the applicant to that the applicant has been "aggrieved" by application of the ordinance, as follows:

Sec. 2-211. - Appeal.

In the event a person or entity called upon to pay or escrow monies under section 2-210, above, feels aggrieved based upon the administration of such section, such person or entity may appeal decisions made in the administration of this section. Such appeal must be taken within twenty-one (21) days of the decision to be appealed by submitting a letter or other signed writing to the city clerk requesting the appeal; a copy of such letter shall be provided to the city manager, who shall set a timely hearing and thereafter make a written report and recommendation on the appeal, which shall include the reasons for the conclusions reached. The report and recommendation shall be sent to the city council. If requested by any member of the council prior to or at the next meeting of the council held following distribution of the manager's recommendation, the appeal shall be placed on the agenda of the next available meeting of city council; and, after providing the person making the appeal and the city attorney with the opportunity to be heard, the council shall make a final determination on the appeal, specifying its reasons for granting or denying the appeal. Unless the appeal is formally reviewed based upon the request of a member of the council in the manner stated above, the manager's recommendation shall be deemed the final determination on the appeal. If an appeal is granted, unless it is disclosed that the amount incurred for the review was arbitrarily or unreasonably high, the city shall pay to the city attorney the amount of fees not covered by the escrow out of general fund moneys, or from such other source as the city council shall determine.

In this case, the applicant is requesting that estimated \$3,162.50 for engineering review of easement exhibits and other conveyance documents necessary to complete dedication of the roads and utilities for the development be waived on the basis that: (1) the Association has already incurred development costs; and, (2) the City has standard form easements that can be used which should limit the cost of review.

Despite the economic downturn that impacted developments throughout the City, we are unaware of any other waiver that has been granted pursuant to Section 2-211 of the Code. The only exception this generally applicable under the ordinance (absent unusual circumstances) is the waiver provided under Section 2-210(h) for a "financial hardship." The applicant in this case has not provided documentation under Section 2-210(h) that the applicant "does not have adequate funds to pay for the review," as required by the subsection. Otherwise, the applicant must show that it "feels aggrieved," based on the administration of the ordinance.

The only factor that the applicant has identified that may indicate how the applicant is "aggrieved" by the application of the ordinance, is the applicant's perspective that review time should be minimal based on the City's development of "form" easements.

Although the City has developed standard form easement to help streamline the utility and street acceptance process, there are no "forms" available with respect to reviewing the exhibits describing *the location* of each road and improvement. In the event that the roads and improvements are not properly described in the easement exhibits prepared by the applicant and the City does not identify the errors prior to sending them for recording, the City may end up owning the wrong easement location, and/or Oakland County Records may reject the description for inaccuracies or mistakes.

In this case, the close-out of this project requires the preparation and review of a significant number of easement exhibits, including:

- a. Storm Drainage Facility Maintenance Easement Agreement
- b. Storm sewer and Storm Water Drainage Easements
- c. Water main easement
- d. Sanitary sewer easement
- e. Bill of sale for the Water and Sanitary
- f. 20' easement for detention basin access (to be included with the SDFMEA)
- g. Conservation easement
- h. Maintenance bond for the Water and Sanitary (or you can request to waive this requirement from City Council as the utilities have been installed for approximately 10 years)
- i. Waivers of Lien and Sworn Statements for utilities
- j. Warranty deed for Carmela Court and additional 27' of ROW along the frontage of Meadowbrook Road
- k. Maintenance Bond for the Street
- l. Waivers of Lien and Sworn Statements for the top course of asphalt

Although easement forms are intended to streamline the review process, they do not alleviate the need for review of the metes and bounds legal descriptions identifying the easement locations. Furthermore, the terms of at least two of the above documents (Conservation Easement and Storm Sewer Easements) would vary from project to project and a standard form could not be used without modification, and/or confirmation that the appropriate type of Storm Sewer Easement, and/or Conservation Easement is being used. There are various forms of both types of easement and terms may vary further from the forms. In short, the forms are meant to be a *starting point*, however, many forms require modification to address variations on a project-by-project basis and do not eliminate the need for either legal or engineering consultant review.

In sum, the use of form documents does not eliminate or decrease the review time necessary to for the City consulting engineer to review metes and bounds legal descriptions to ensure that the City is obtaining the correct easement *locations*.

Adam Wayne, Construction Engineer

January 4, 2016

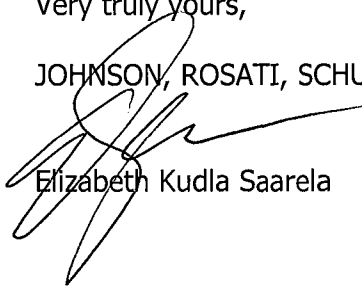
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In the event that City Council determines that the applicant has been aggrieved by the application of the ordinance on the basis that "form" easements are available, Section 2-211 would provide for payment of the fees from the General Fund, unless the fees were determined to be improperly calculated or improperly assessed.

Please feel free to contact me with any questions or concerns in regard to this matter.

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth Kudla Saarela

EKS

C: Maryanne Cornelius, Clerk
Charles Boulard, Community Development Director
Brian Coburn, Engineering Manager
Aaron Staup, Construction Engineering Coordinator
Kristin Pace, Treasurer's Office
Sarah Marchioni, Building Permit Coordinator
Brittany Allen and Ted Meadows, Spalding DeDecker
Theresa C. Bridges, Construction Engineer
Thomas R. Schultz, Esquire

OLD ORDINANCE

DESIGN AND CONSTRUCTION STANDARDS

§ 11-304

Secs. 11-282—11-300. Reserved.

ARTICLE XIII. "AS-BUILT" DRAWINGS,
PROCEDURES AND REQUIREMENTS

Sec. 11-301. Review and approval of "as-built" drawings by the engineer.

"As-built" drawings shall be submitted to the engineer for review and approval: (1) In the case of a subdivision, before the granting of the first building permit, including models; (2) in the case of a site plan, before the granting of a temporary certificate of occupancy. No public utility, roadway or other improvement shall be accepted prior to the approval of "as-built" drawings.

(Ord. No. 86-124, § 14.01, 4-21-86; Ord. No. 93-124.06, Pt. LXXXXIII, 2-1-93; Ord. No. 96-124.07, Pt. XXXXXXV, 12-16-96)

Sec. 11-302. Submission to city.

Two (2) sets of blue-line prints of "as-built" drawings shall be initially submitted for review and comment. Upon the approval of the "as built" drawings by the city engineer, one (1) complete set of reproducible mylar drawings, a minimum of three (3) mils thick, together with two (2) complete sets of blue-line prints, and an AutoCAD compatible CADD drawings file on computerized disk shall be submitted to the city engineer.

- (1) The computerized disk shall be in an AutoCad. DXF format, with a file extension of. DXF, on a three and one-half-inch microdisk (double-sided/high density) formatted by a DOS or UNIX operating system, a Iomega Zip Disk in a Zip format, or comparable, or CD-ROM. Guidelines for the layout of individual drawings within the computerized disk are available with the city engineer and must be utilized in preparation of the "as-built" drawings.

(Ord. No. 86-124, § 14.02, 4-21-86; Ord. No. 90-148, Pt. II, 8-20-90; Ord. No. 96-124.07, Pt. XXXXXXVI, 12-16-96; Ord. No. 99-124.11, Pt. XXXXIII, 7-26-99)

Cross reference—Microfiche copies of "as built" plans, § 7-20.

Sec. 11-303. Alternative preparation of "as-built" drawings.

In lieu of the submission of "as-built" drawings by the developer pursuant to sections 11-301 and 11-302, the developer may pay to the city an amount, as set by resolution of the city council, for the preparation of such "as-built" drawings by the city, and the conversion of such completed "as-built" drawings to an AutoCAD compatible CADD drawing. The decision to pay such amount in lieu of submission of "as-built" drawings shall be communicated to the city and such amounts paid prior to final plat approval or final site plan approval.

(Ord. No. 86-124, § 14.03, 4-21-86; Ord. No. 93-124.06, Pt. LXXXXIV, 2-1-93; Ord. No. 96-124.07, Pt. XXXXXXVII, 12-16-96)

Sec. 11-304. Plan criteria.

"As-built" drawings shall contain all the information shown on the approved construction drawings with the addition of but not limited to the following information:

- (1) *Sanitary sewers and storm sewers.*
 - a. Plan location of all sewers with respect to property and right-of-way lines.
 - b. A minimum of three (3) witnesses (dimensions) to all force main bends.
 - c. Length of sewer as measured from center of manhole to center of manhole (this information should be shown on both plan and profile).
 - d. Length of stubs out of manholes.
 - e. The following "as-built" elevations on a U.S.G.S. datum:
 1. Manhole, inlet, and catch basin covers;
 2. Invert elevations of pipes within each manhole;
 3. Invert elevations for the ends of sanitary service leads;
 4. Changes in percents between manholes.

- f. List of material used for construction. (Example)

Manholes: Precast, concrete specialties, press wedge flex-joint.

Pipe: Eight-inch V.C.P. Clow
No Bel six-inch V.C.P. Logan
O-Ring

- g. Any changes in pipe and manhole locations of more than ten (10) feet shall be redrawn on the plan and profile. The original plan locations of these facilities should be "x-ed" out on the plans.
- h. Any changes to the total quantities shall be lined out and the correct "as-built" quantity indicated.
- i. The following "as-built" information for all sanitary service leads:
 1. Station of wye;
 2. Length of lead;
 3. Length of riser;
 4. Tie from nearest manhole to end of lead.

(2) *Retention and detention ponds.*

- a. "As-built" of pond;
- b. The following "as-built" elevations on a U.S.G.S. datum:
 1. Overflow spillway;
 2. Inlet and outlet pipe inverts;
 3. Outlet structure cover;
 4. Outlet and inlet ditch elevations;
 5. Bottom and top of bank slopes.
- c. A statement of final computed volume of the pond as measured from high water elevation to the invert of the outlet pipe.

(3) *Roadways.*

- a. Top of curb elevations (U.S.G.S. datum) at high and low points. Edge of pavement elevations shall be provided in the case of open ditch road designs.

- b. "As-built" profiles for any changes in road design.

(4) *Water mains.*

- a. Plan location of all water mains with respect to property lines.
- b. Rim (cover) elevations on gatewells (U.S.G.S. datum).
- c. Fire hydrant bury line elevations (U.S.G.S. datum).
- d. Distances between gatewells, fittings, and fire hydrants.
- e. Type of materials used in construction.
- f. Any changes in pipe and structure locations exceeding five (5) feet shall be redrawn on the plan. The original plan locations of these facilities shall be "x-ed" out on the plan.
- g. Any changes to the total quantities shall be lined out and the correct "as-built" quantity indicated.

(5) *Floodways.* "As-built" ground elevations of all areas located within a floodway as defined in Appendix A, "Zoning Ordinance."

(Ord. No. 86-124, § 14.04, 4-21-86)

Sec. 11-305. Certification.

All "as-built" plans shall contain a statement by an engineer or land surveyor, who is currently registered in the state certifying the drawings to be "as-built." All plans must also contain the seal and signature of such registered engineer or surveyor.

(Ord. No. 86-124, § 14.05, 4-21-86)

Sec. 11-301. - Preparation of record drawings.

No public utility, roadway or other improvement shall be accepted by the city prior to the completion of record drawings. "Record" drawings shall mean engineering drawings prepared after installation of utility, roadway or other improvement which shall contain a statement by a registered engineer or surveyor certifying this to be "record drawings" and shall include, but not be limited to, information regarding length, location, property lines, materials, and mechanical, electrical, and structural details of the improvement. The term "as-built" drawings, as used throughout this code, and within other applicable laws and regulations shall mean, and shall refer to the term "record" drawings. The city's consultants shall prepare all record drawings for approval by the city:

- (1) For private developments, the developer shall pay to the city a record drawing preparation fee in an amount set by resolution of the city council, for the preparation of such record drawings by the city's civil engineering field services consultant, and the conversion of such completed record drawings to an AutoCAD compatible CADD drawing. The developer shall pay the preparation fee for record drawings prior to final plat approval or final site plan approval. In addition to the fee, the developer shall submit paper and electronic versions of the construction drawings for the development prior to the start of construction. For all projects, the city's consultant shall create the record drawings as construction progresses.
- (2) For public projects, the cost of record drawing preparation will be included in the calculation of the contract amount. The city's roadway/utility consultant shall create the record drawings as construction progresses.
- (3) Officers, employees, consultants and agents, of developers and contractors shall be obligated to act and work in cooperation with the city to bring about completion of the record drawings, and shall provide the city with all drawings, contracts, documentation, public and private correspondence, agreements and other materials relating to any such improvements necessary for the city's consultants to timely and accurately complete the drawings. The city's consultants shall complete the "record" drawings in accordance with a written guidelines and procedures provided by the city.

(Ord. No. 07-124.17, § 1, 5-14-07)

CURRENT ORDINANCE