

CITY OF ROCKVILLE

City Hall 229 Broadway Street East PO Box 93 Rockville, MN 56369

Planning/Zoning Commission Meeting Tuesday, March 5, 2019 6:00 p.m. at City Hall

AGENDA

- 1. Roll Call**
- 2. Additions/Approval of Agenda**
- 3. Approval of February 5, 2019 Meeting Minutes**
- 4. Final Plat Schneider Farm**
- 5. February 2019 Building Permits**
- 6. Other Business**
 - a) Next meeting Tuesday, April 2, 2019, 6:00 p.m.
- 7. Adjournment**

*This agenda has been prepared to provide information regarding an upcoming meeting of the Rockville City Planning Commission. This document does not claim to be complete and is subject to change.

MINUTES OF THE CITY OF ROCKVILLE PLANNING AND ZONING COMMISSION MEETING
Tuesday, February 5, 2019, 6:00 p.m. – Rockville City Hall

Item 1) Roll Call - The meeting was called to order by Chair Bill Becker at 6:00 p.m. Roll call was taken and the following members were present: Bill Becker, Dave Meyer, Corey Schreifels, and Chad Schmitt.

Absent: Brian Herberg.

Staff present: City Administrator, Martin Bode.

Others present: Jerry Tippelt and Sam DeLeo.

Item 2) Oath of Office

Martin M. Bode, City Administrator swore in Planning Commission member, Chad Schmitt.

Item 3) Approval of Agenda/Amendments

Motion by Meyer, second by Schreifels, to approve the agenda as presented. Motion carried unanimously.

Item 4) Approval of November 13, 2018 Meeting Minutes

Motion by Becker, second by Meyer, to approve the November 13, 2018 meeting minutes as presented. Motion carried unanimously.

Item 5) Concept Plan – John Lutgen

Sam DeLeo, professional land surveyor, presented the committee with a subdivision concept plan for John Lutgen's 30-acre property located on County Road 139.

Discussion included:

- Road entrance
- City maintained road
- Lot acreage = 5+/-
- RR (rural residential)
- PUD (planned unit development)

Jerry Tippelt, expressed concern about using a RR-PUD district to skirt around the five-acre requirements of the RR zoning district.

The consensus of the Planning Commission was evenly split between using the RR-PUD versus requiring developer to reduce the number of lots to meet the five-acre RR requirement. Surveyor DeLeo stated he would again look at the possible options.

Item 6) November 2018, January 2019 Building Permits

The November 2018 and January 2019 building permits reports were reviewed by the Planning Commission members.

Item 7) Other Business

- a. Next meeting scheduled for Tuesday, March 5, 2019 at 6:00 p.m.

Item 8) Adjournment

Motion by Meyer, second by Schreifels, to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 6:47 p.m.

Respectfully submitted,

Martin M. Bode
Zoning Administrator

STAFF REPORT

March 5 and March 13, 2019

RE: Property Subdivision/Final Plat
Irene T. Schneider Trust and Jonathan M. Schneider

Owner: Irene Schneider Trust and Jonathan Schneider
Property Address: 7788 County Road 41
Plat known as: Schneider Farm
Parcel I.D. 76.42170.0051 and 76.42170.0050 - Section 25, Township 123, Range 029

Request:

Final Plat application of eleven (11) new lots and one (1) existing.

Relevant Information:

1. Property is zoned RR.
2. Total plat area is 94.65 +/- and 10.00 +/- acres.
3. There are eleven (11) new lots and one (1) existing lot being proposed to be subdivided.
4. Purpose is residential development.
5. Not conducive to long-term agriculture use; wooded area, rock outcroppings and marginal soils.
6. Developers Agreement has been drafted.

Recommendation:

Consider approval of:

1. Final Plat
2. Developers Agreement

Submitted by:
Martin M. Bode
Zoning Administrator

CITY OF ROCKVILLE
APPLICATION FOR FINAL PLAT
PLATTING FEE: \$300.00

PLEASE NOTE: any costs (i.e. legal, engineering, administrative, etc.) incurred over and above the application fee are the responsibility of the petitioner.

Date of Pre-application Meeting: _____

Date Application Submitted 2-21-19 Parcel # 76.42170.0051

Name of Plat SCHNEIDER FARM Plat File # 76.42170.0050

Plat Location: Section 25 Township 173 Range 29

Legal Description Lot 2 Block 1 Schneider Terrace

Currently Zoned R.R. Zoning Requested _____ Total Acreage Amount 94.64

Owner's Name IRENE SCHNEIDER TRUST Jonathan Schneider Phone (320) 267-4292
First Name Middle Initial Last Name

Address 15302 150th St Email _____

Developer Mike Schauder Phone ³²⁰ 267-4292

Address Same

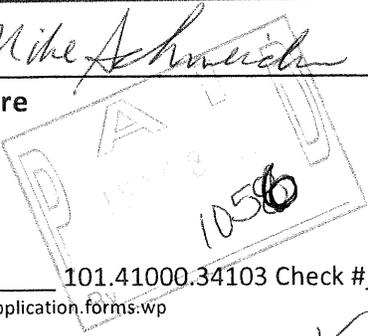
Surveyor OMALLEY and KRON Phone 685-5905 Fax _____

Address COLD SPRING

The following **must be submitted** with the final plat:

- Applicant must submit application at least ten (10) working days before the next regularly schedule Planning Commission meeting (1st Tuesday of each month).
- Submit required fee (\$300.00).
- Submit one full-size (24"x 36") copy and one 11" x 17" copy of the final plat.

* Mike Schauder _____ 2/27/19
Signature Date



R# 101.41000.34103 Check # 1056 Date 2-27-19 Final Plat Fee \$300.00 Permit # 19-01 ~~1056~~ ^{FP}

✓1057 \$13,200 - Park Land ded.

OMALLEY & KRON LAND SURVEYORS, INC.
340 CHAPEL HILL ROAD
COLD SPRING, MN 56320
PH. 326-685-5905

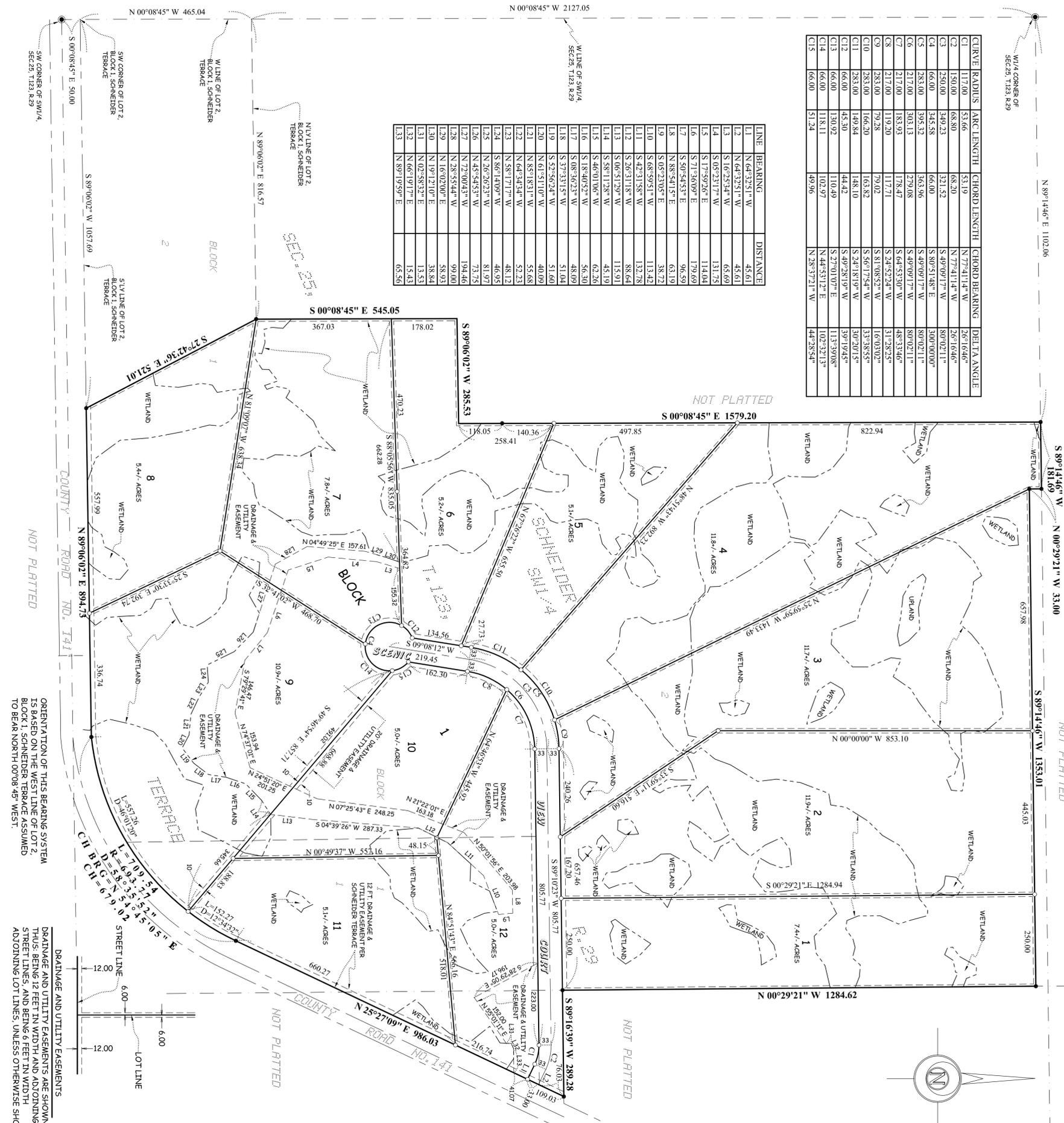
Legend
INDICATES IRON MONUMENT PLACED WITH
REGISTRATION NO.42621 INSERTED THEREIN
INDICATES STEARNS COUNTY CAST
IRON MONUMENT



SCHNEIDER FARM

CURVE RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	117.00	53.66	N 72°41'42" W	26°16'46"
C2	150.00	68.80	N 77°41'14" W	26°16'46"
C3	250.00	349.23	S 49°09'17" W	80°02'11"
C4	660.00	345.58	S 80°51'48" E	300°00'00"
C5	283.00	395.32	S 63°56'36" E	80°02'11"
C6	217.00	303.13	S 49°09'17" W	80°02'11"
C7	217.00	183.39	S 64°53'30" W	48°33'46"
C8	217.00	119.20	S 24°52'24" W	11°28'25"
C9	283.00	79.28	S 81°08'52" W	16°03'02"
C10	283.00	166.20	S 56°17'54" W	33°38'55"
C11	283.00	149.84	S 24°18'19" W	30°20'15"
C12	660.00	45.30	S 49°28'19" W	39°19'45"
C13	660.00	130.92	S 27°01'07" E	113°39'08"
C14	660.00	118.11	S 44°53'12" E	102°32'13"
C15	660.00	51.24	S 28°37'21" W	44°28'54"

LINE	BEARING	DISTANCE
L1	N 64°32'51" W	45.61
L2	N 64°32'51" W	45.61
L3	S 16°25'34" W	65.69
L4	S 05°21'17" W	131.75
L5	S 17°59'26" E	114.04
L6	S 21°36'09" E	179.69
L7	S 50°54'53" E	96.59
L8	N 88°54'15" E	63.19
L9	S 05°23'05" E	38.72
L10	S 68°59'51" W	113.42
L11	S 42°31'58" W	132.78
L12	S 26°31'18" W	88.64
L13	S 06°51'29" W	115.91
L14	S 58°11'28" W	45.19
L15	S 46°01'06" W	62.26
L16	S 18°40'52" W	56.30
L17	S 08°36'23" W	48.09
L18	S 37°33'15" W	51.04
L19	S 52°56'24" W	51.60
L20	N 61°51'01" W	40.09
L21	N 65°18'11" W	55.68
L22	N 64°34'54" W	52.25
L23	N 58°17'17" W	48.12
L24	S 86°14'09" W	46.95
L25	N 26°26'23" W	81.97
L26	N 45°54'53" W	73.75
L27	N 22°00'43" W	194.46
L28	N 28°55'44" W	99.00
L29	N 16°02'00" E	58.93
L30	N 19°12'10" E	38.84
L31	N 02°58'32" E	13.53
L32	N 66°19'17" E	15.43
L33	N 89°19'59" E	65.56



KNOW ALL PERSONS BY THESE PRESENTS, That Michael Schneider, Karen Schlangen, and Roy Schneider, as Trustee of Irene T. Schneider Trust, dated December 13, 2011, owners of the following described property situated in the County of Stearns, State of Minnesota:
Lot 2, Block 1, SCHNEIDER TERRACE, according to the recorded plat thereof, Stearns County, Minnesota.

Less and Except:
That part of Lot 2, Block 1, SCHNEIDER TERRACE, according to the recorded plat thereof, Stearns County, Minnesota, Beginning at the southwest corner of said Lot 2, thence North 00 degrees 08 minutes 45 seconds West, on an assumed bearing, along a westerly line of said Lot 2, a distance of 465.04 feet, to a northerly line of said Lot 2, thence North 89 degrees 06 minutes 02 seconds East, along said northerly line, a distance of 816.57 feet, thence South 27 degrees 42 minutes 36 seconds East, a distance of 521.01 feet to a southerly line of said Lot 2, thence South 89 degrees 06 minutes 02 seconds West, along said southerly line, a distance of 103.70 feet, to point of beginning.

That Jonathan M. Schneider, a single person, fee owner of the following described property situated in the County of Stearns, State of Minnesota:
Lot 1, Block 1, SCHNEIDER TERRACE, according to the recorded plat thereof, Stearns County, Minnesota.
Has caused the same to be surveyed and platted as SCHNEIDER FARM and does hereby dedicate to the public, for public use the public way and the easements as shown on this plat for drainage and utility purposes only.

In witness whereof said Michael Schneider, Trustee of the Irene T. Schneider Trust, dated December 13, 2011, has hereunto set her hand this _____ day of _____, 20____.
Michael Schneider, Trustee of the Irene T. Schneider Trust, dated December 13, 2011.
STATE OF MINNESOTA
COUNTY OF _____
The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Michael Schneider, Trustee of the Irene T. Schneider Trust, dated December 13, 2011.
(Notary Signature) _____ (Notary Printed Name)
NOTARY PUBLIC, _____ COUNTY, STATE OF MINNESOTA
MY COMMISSION EXPIRES: _____

In witness whereof said Karen Schlangen, Trustee of the Irene T. Schneider Trust, dated December 13, 2011, has hereunto set her hand this _____ day of _____, 20____.
Karen Schlangen, Trustee of the Irene T. Schneider Trust, dated December 13, 2011.
STATE OF MINNESOTA
COUNTY OF _____
The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Karen Schlangen, Trustee of the Irene T. Schneider Trust, dated December 13, 2011.
(Notary Signature) _____ (Notary Printed Name)
NOTARY PUBLIC, _____ COUNTY, STATE OF MINNESOTA
MY COMMISSION EXPIRES: _____

In witness whereof said Roy Schneider, Trustee of the Irene T. Schneider Trust, dated December 13, 2011, has hereunto set her hand this _____ day of _____, 20____.
Roy Schneider, Trustee of the Irene T. Schneider Trust, dated December 13, 2011.
STATE OF MINNESOTA
COUNTY OF _____
The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Roy Schneider, Trustee of the Irene T. Schneider Trust, dated December 13, 2011.
(Notary Signature) _____ (Notary Printed Name)
NOTARY PUBLIC, _____ COUNTY, STATE OF MINNESOTA
MY COMMISSION EXPIRES: _____

In witness whereof said Jonathan M. Schneider, a single person, has hereunto set her hand this _____ day of _____, 20____.
Jonathan M. Schneider
STATE OF MINNESOTA
COUNTY OF _____
The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Jonathan M. Schneider, a single person.
(Notary Signature) _____ (Notary Printed Name)
NOTARY PUBLIC, _____ COUNTY, STATE OF MINNESOTA
MY COMMISSION EXPIRES: _____

I, Daniel M. Kron, hereby certify that I have surveyed and platted the property described on this plat as SCHNEIDER FARM, that this plat is a correct representation of the survey; that all distances are correctly shown on the plat in feet and hundredths of a foot; that all monuments have been correctly placed in the ground as shown; that the outside boundary lines are correctly designated on the plat; and that there are no wet lands (as defined in MN Statute 305.01 subd 3) or public ways to be designated other than shown.
Daniel M. Kron, Professional Land Surveyor
Minnesota Registration No. 42621
STATE OF MINNESOTA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Daniel M. Kron, Professional Land Surveyor, Minnesota Registration No. 42621.
(Notary Signature) _____ (Notary Printed Name)
NOTARY PUBLIC, _____ COUNTY, STATE OF MINNESOTA
MY COMMISSION EXPIRES: _____

Recommended for approval by the Planning Commission for the City of Rockville, Minnesota, at a regular meeting thereof, on this _____ day of _____, 20____.
Chairperson - City of Rockville _____
We do hereby certify that on the _____ day of _____, 20____, the City Council of Rockville, Minnesota, approved this plat.
Mayor - City of Rockville _____ Clerk - City of Rockville _____

This plat was examined by me and recommended for approval on the _____ day of _____, 20____.
Stearns County Surveyor _____
Minnesota Registration No. _____
I hereby certify that the taxes on the land described hereon are paid for the year 20____, and all years prior to the year 20____, and transfer entered.
Date _____
Stearns County Auditor/Treasurer _____ Deputy Auditor/Treasurer _____ Tax Parcel Number _____

Stearns County Recorder _____ Deputy Recorder _____
I hereby certify that this instrument was filed for record in the Office of the County Recorder in and for Stearns County, Minnesota on this _____ day of _____, 20____, at _____ o'clock _____ M. as Document No. _____ in plat cabinet _____ No. _____



Real People. Real Solutions.

2040 Highway 12 East
Willmar, MN 56201-5818

Ph: (320) 231-3956
Fax: (320) 231-9710
Bolton-Menk.com

MEMORANDUM

Date: March 4, 2019
To: Honorable Mayor Willenbring, Members of the City Council and Members of the Planning Commission – Rockville, Minnesota
From: Justin L. Kannas, P.E.
City Engineer
Subject: Schneider Subdivision – Final Plat
Rockville, Minnesota
BMI Project No: W14.117750

I have reviewed the Final Plat for Schneider Farm submitted on February 21, 2019 and have the following comments:

- 1) The Final Plat is in substantial conformance with the approved Preliminary Plat.
- 2) The drainage swales over lots 7, 9, 10 and 12 shall be contained within a drainage and utility easement.
- 3) City Code requires drainage and utility easements be provided over all wetlands. However, due to the number, location, isolation, and minimal size of wetlands relative to the large lots on this development I would recommend that this not be required. The wetland locations are all shown on the Final Plat document which will be recorded and property owners would be aware of the wetland locations via the plat.
- 4) Drainage and utility easements shall be 6' in width along side and rear lot lines and 12' in width along front lot lines and around the plat perimeter according to Subd. Ordinance Section 7.4.1.

Final Construction Plan Comments:

The following comments shall be addressed on the Final Construction Plans and approved by the City Engineer prior to construction:

- 1) The Preliminary Plans that were submitted with the Preliminary Plat in 2017 proposed a 24' wide paved street plus 2' gravel shoulders as was discussed with the previous City Engineer. City ordinance specifies a minimum street width of 32'; however, the ordinance does not specifically mention a street width for urban vs. rural roadways. At the request of the City Engineer and City Staff, the Developer has agreed to modify the proposed construction plans to a paved street width of 28' plus 1' gravel shoulders for a total width of 30'. City staff and the City Engineer support this modified street width and it is recommended that the street width be approved at 28' wide paved plus 1' gravel shoulders.
- 2) The stormwater management plan shall be modified to address comments of the City Engineer.
- 3) The location of the building pad, driveway, and septic site shown on the plans is for conceptual purposes only to show everything is conceptually feasible to meet City standards. A site survey and grading plan will be required to be submitted with each individual lot at the time of the building permit and may be modified as long as it continues to meet all City and State standards. The survey and grading plan shall be approved by the City Engineer prior to a building permit

being issued. Septic sites will also be required to be approved by Stearns County as part of the building permit requirements. The following modifications shall be made on the Developer plans to show these items can be conceptually met:

- a. Proposed driveway grades shall be shown on final construction plans. Ordinance requires a maximum driveway grade of 5%.
 - b. The Developer shall show that the wetland buffer requirement of 10' for wetlands of 0-5 acres in size and 20' for wetlands greater than 5 acres can be met. The buffer shall be shown on the plans.
- 4) The paved cul-de-sac radius shall be modified to a 50' radius.
 - 5) Additional drainage detail shall be provided for the CR 141 ditch near the Scenic View Court intersection. Show the drainage route beyond the boundary of the plat. Show any existing culverts along the drainage route.
 - 6) A rip-rap EOF shall be provided for both ponds. The EOF shall be a minimum of 1' below the top of the berm. The berm elevation may need to be raised to accommodate this requirement. Provide sufficient detail on the plans to show this.
 - 7) 4" perforated edge drain with coarse filter aggregate shall be installed under the first 300' of Scenic View Court starting at CR 141. The edge drain shall outlet into the ditch with a concrete headwall.
 - 8) Include the following additional details on the Final Plans:
 - a. HWL of all ponds
 - b. Street and ditch cross sections
 - c. The right-of-way widths shall be shown on the street typical section.
 - 9) Submit a copy of the geotechnical report
 - 10) A copy of the MPCA NPDES Construction Stormwater permit shall be submitted to the City Engineer prior to construction.

I recommend approval of the Final Plat contingent upon the above comments.

JLK/jk

cc: Martin Bode, City Administrator, City of Rockville
Susan Kadlec, City Attorney, City of Rockville
Mike Schneider, Developer
Brian Schultz, P.E., Schultz Engineering & Site Design
Dan Kron, L.S., O'Malley & Kron Land Surveyors, Inc.

Legend

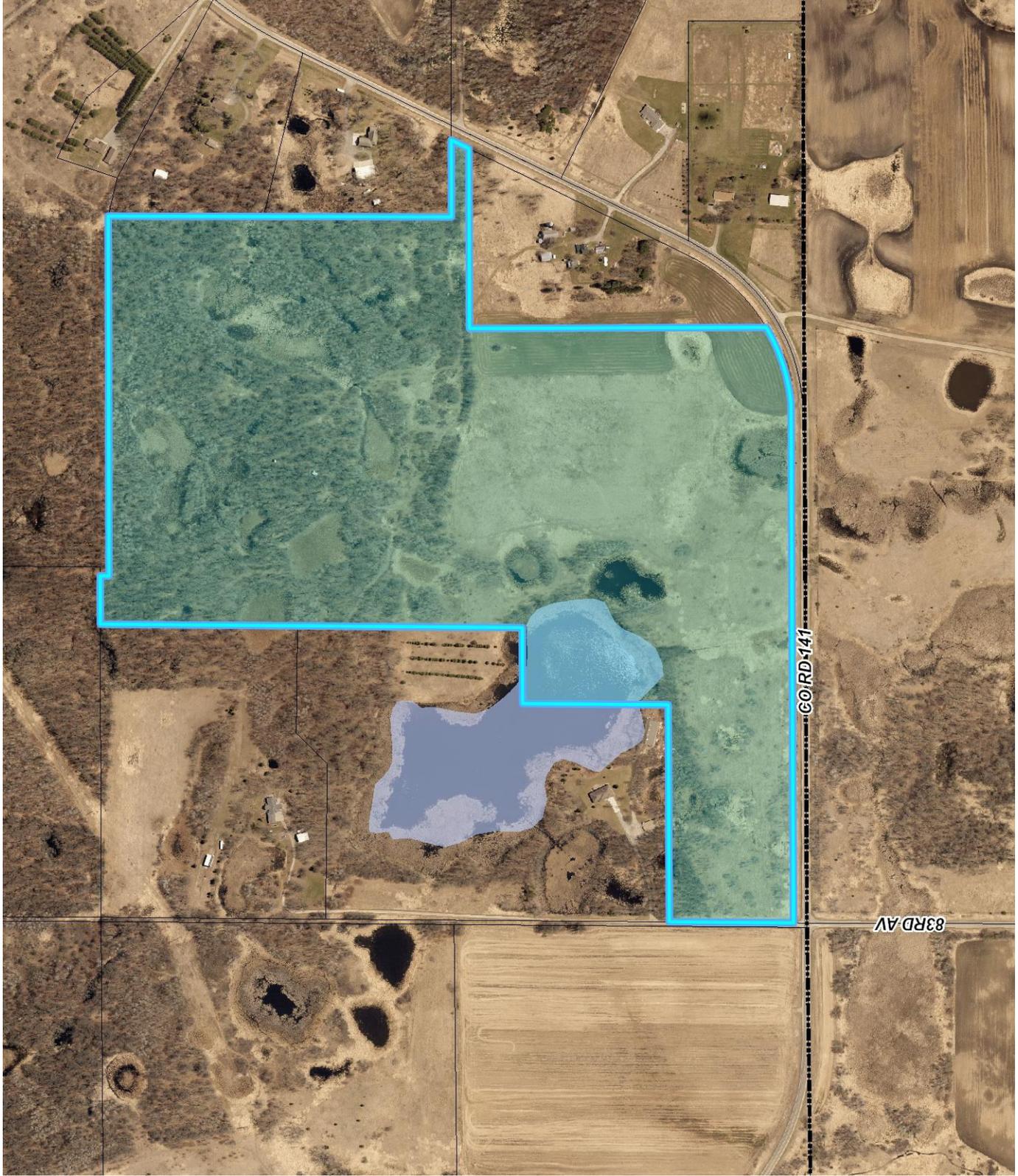
-  City Limits
-  Parcels
-  PWI Watercourse
-  PWI Basin



Map Name

Disclaimer:

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of Rockville is not responsible for any inaccuracies herein contained.



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0 527 Feet

© Bolton & Menk, Inc - Web GIS 2/28/2019 1:42 PM

DEVELOPMENT AGREEMENT
(SCHNEIDER FARM)

THIS AGREEMENT is made effective _____, 2019, between the **CITY OF ROCKVILLE**, a Minnesota municipal corporation (hereinafter called the "City"); and IRENE T. SCHNEIDER TRUST, a trust organized under the law of Minnesota, (hereinafter called the "Developer").

RECITALS:

- A. Developer owns the real property located in the City and legally described on **Exhibit A** attached hereto (the "Development Property").
- B. The Development Property will be developed in one phase.
- C. The City has approved a Preliminary Plat of the Development Property, attached hereto as **Exhibit B**, and conditionally approved a Final Plat known as SCHNEIDER FARM, attached hereto as **Exhibit C** (the "Plat"), subject to the execution of this Development Agreement.
- D. As a condition of its approval of the Developer's platting of the Property and as a condition to Developer's installation of municipal improvements to service the Development Property, the City requires that Developer enter into this Agreement.
- E. This Agreement shall govern the development of the residential lots within the Development Property.
- F. This Agreement shall be recorded in the Office of the Recorder for Stearns County.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements contained herein, the parties agree as follows:

ARTICLE 1 INCORPORATION

1.1 RECITALS INCORPORATED. The Recitals above are incorporated as if fully set forth herein.

ARTICLE 2 MUNICIPAL IMPROVEMENTS

2.1 MUNICIPAL IMPROVEMENTS REQUIRED. As required by the City Code, the City requires that the developer provide for certain municipal improvements for the development of the Development Property, in accord with the Plans and Specifications approved by the City pursuant to Article 2.6, including, but not limited to, necessary municipal storm water improvements pursuant to Article 5, streets, street signage, and park improvements pursuant to Article 14 (hereafter all such improvements are collectively referred to as the "Municipal Improvements"). The Municipal Improvements for the development will include storm water, bituminous streets, street signs, regulatory and warning signs, wetland mitigation, and erosion control.

2.2 PRIVATELY INSTALLED MUNICIPAL IMPROVEMENTS. The Municipal Improvements will be privately installed by Developer. Developer will construct and pay all costs of the Municipal Improvements for the development in accord with the Plans and Specifications, including all costs of storm water improvements, bituminous streets, street signs, street lighting, regulatory and warning signs, wetland mitigation, and erosion control.

2.3 UNDERGROUND UTILITIES REQUIRED. Developer agrees that all utilities within the Development Property will be installed underground, including without limitations electrical, telephone, cable television and natural gas. Where possible, current aboveground utilities shall be relocated underground.

2.4 UNDERGROUND UTILITIES EXEMPTION. Developer may receive an exemption from this requirement if Developer demonstrates to the City Engineer that underground utilities would not be physically possible. Any exemption shall be limited to the minimum area necessary.

2.6 CITY ENGINEER TO APPROVE PLANS AND SPECIFICATIONS. The Municipal Improvements must be constructed in accordance with the plans and specifications as approved by the City Engineer (hereafter referred to as the “Plans and Specifications”).

2.7 COSTS ATTRIBUTED TO MUNICIPAL IMPROVEMENTS. Developer will be responsible for all costs of Municipal Improvements within the Development Property, including holding ponds, and other publicly dedicated property.

2.8 COMPLETION DATE AND INSPECTION. The work the Developer is to perform under this Agreement must be completed by Developer in a good and workmanlike manner within **twenty-four (24) months** of the approval by the City of the Plans and Specifications for the final plat. The Municipal Improvements will be subject to inspection and approval by the City and the City Engineer. If any material or labor supplied is rejected by the City or the City Engineer, as defective or unsuitable, then such rejected material or labor shall be removed and replaced with approved material or labor, to the satisfaction and approval of the City, entirely at the cost and expense of the Developer. The approval of the City and City Engineer shall not be unreasonably withheld. Developer grants to the City, its agents and employees, a license to enter upon the Development Property to make inspections and for such other purposes reasonably related to the performance of this Agreement.

2.9 OWNERSHIP OF MUNICIPAL IMPROVEMENTS. Upon completion of the work and construction required by this Agreement for the development, and upon acceptance by the City, the Municipal Improvements shall become the property of the City. Prior to and as a condition of its acceptance of the Municipal Improvements, the City may require Developer to furnish an affidavit and/or certification, certifying that all work has been completed in accordance with the terms of this Agreement. The Municipal Improvements will only be accepted after the City’s Engineer’s review, inspection, and recommendation to the City Council that the Municipal Improvements have been satisfactorily constructed pursuant to the terms and conditions of this Agreement. The City’s acceptance will not be effective until the acceptance is in writing signed by the City Engineer and delivered to the Developer.

If the installation of municipal improvements requires the permanent dedication of property to the City, Developer shall make such dedication by plat.

2.10 CONSTRUCTION INFORMATION. Within thirty (30) days of the City’s acceptance of the Municipal Improvements, Developer will provide to the City the following:

- A. A complete set of reproducible record plans or “as-builts”.

- B. An electronic file of the record plans or “as-builts” in digital format (Autocad .DWG, .DXF, Microstation, or other format as specified by the City).
- C. A GPS locate of all utilities.

2.11 TIME IS OF THE ESSENCE. Time is of the essence for the completion of the Municipal Improvements.

2.12 DEDICATION OF STORM WATER IMPROVEMENTS. Developer will dedicate to the City, after their completion, all storm water improvements installed by Developer and shown in the Plans and Specifications. Developer will provide to the City any and all necessary easements and/or dedications to ensure that the City has the ability to construct, maintain, repair, replace or modify the drainage systems and ponds located on the Development Property.

2.13 ENGINEERING SERVICES. The Developer will retain an engineer satisfactory to the City to prepare complete construction Plans and Specifications for the Improvements. The Developer shall make his engineer aware of the provisions in this Agreement. The Developer’s engineer shall:

- A. Arrange for soil borings and/or such other subsurface investigations as the City may require.
- B. Prepare construction plans, specifications, and preliminary engineer’s estimate in accordance with the City’s Subdivision Ordinance.
- C. Secure all necessary permits including those required by the Minnesota Pollution Control Agency, Sauk River Watershed District, the Minnesota Department of Transportation, the Minnesota Department of Health, the Department of Natural Resources, Stearns County, or any other regulatory agency that has jurisdiction.
- D. Submit Soils Analysis, Engineer’s Preliminary Estimate, Construction Plans, Construction Specifications/Project Manual, Completed Bid Forms, Contractor’s Bond and Insurance, Permits, and Construction Schedule prior to beginning any construction in the development.
- E. Conduct preconstruction conference, with City Engineer present, prior to beginning any construction in the development.
- F. Complete an Environmental Assessment Phase I, if necessary, and any other related environmental documents, reports, or studies as may reasonably be required by the City.

- G. Provide all necessary construction staking and related survey work.
- H. Provide construction administrative services on behalf of the Developer, including the following: review shop drawings, coordinate construction staking, monitor permit requirements, process applications for payment, prepare change orders, monitor completion dates, coordinate field issues with Contractor and Developer, and participate in final inspection. Prepare operation and maintenance manuals. Submit Shop Drawings and Change Orders in a timely manner during construction.
- I. Prepare record drawings. Submit Item 2.10 to the City Engineer within 30 days of receiving field measurements from the City's on-site representative.
- J. Prepare and submit such other documentation as the City may require.

2.14 The City Engineer Shall:

- A. Provide such City project standards, including special details, insurance requirements and specifications, as the City may require.
- B. Review and approve Plans and Specifications.
- C. Provide a City Representative for construction observation of municipal improvements throughout the construction period.
- D. Provide field information to the Developer for use in preparing record drawings.
- E. Conduct a final inspection and review final construction documentation.
- F. Recommend acceptance of Improvements to the City.

ARTICLE 3
SECURITY

3.1 BOND/LETTER OF CREDIT. To guarantee compliance with the terms of this Agreement, payment of costs incurred by the City, payment of costs of all Municipal Improvements, and the construction of all Municipal Improvements, Developer shall

furnish to the City an irrevocable letter of credit or such other security as is acceptable to the City. The security shall be in an amount equal to one and one-quarter (1 ¼) times the City Engineer's estimated cost of the Municipal Improvements, based on the approved Plans and Specifications. In the event an approved contractor provides a payment and performance bond in favor of the City, Developer may only be required to provide an unconditional irrevocable letter of credit or other acceptable security in an amount equal to 25% of the cost of the Municipal Improvements.

Based upon the Opinion of Probable Construction Cost prepared by Developer and reviewed by the City's Engineer, initial security is required in an amount of \$ [REDACTED]. This amount may be adjusted as revised estimates of construction costs become available.

In addition, Developer shall deposit \$15,000 in cash with the City to secure payment of the City costs as outlined in Section 6.2 below. The City may draw down this deposit at any time if invoices for City costs are not timely paid. The City may require Developer to replenish this cash deposit and may withhold permits or other approvals under this Agreement until such deposit has been made.

3.2 DURATION OF SECURITY. The security shall be posted and in effect prior to the commencement of any work on the Development Property. The security shall remain in effect until: 1) all Municipal Improvements have been completed; 2) iron monuments for lot corners have been installed; 3) all financial obligations to the City have been satisfied; 4) the construction information in Section 2.10 has been received by the City; 5) a warranty security is provided; and 6) the Municipal Improvements are accepted by the City.

3.3 REDUCTION IN SECURITY. After 50% of the Municipal Improvements have been installed/completed and accepted by the City, Developer may make a request to the City Engineer for a reduction in the letter of credit based on the percentage of the project so installed, completed, or accepted. Upon receipt of a request from Developer, the City Engineer shall make a determination as to the completeness of the Municipal Improvements and make a recommendation to the City Council as to the amount of any possible reduction. The City reserves the right in its sole discretion to determine whether to allow a reduction and, if so, by what amount. The City's determination shall be final.

ARTICLE 4 WARRANTY

4.1 DEVELOPER WARRANTY. The Developer warrants all Municipal Improvements required to be constructed by it pursuant to this Agreement against poor material and faulty workmanship. To ensure this warranty, Developer shall submit

either: 1) a warranty/maintenance bond for one-hundred percent (100%) of the cost of the Municipal Improvements, or 2) a letter of credit for twenty-five percent (25%) of the cost of the Municipal Improvements. The bond or letter of credit must remain in effect during the warranty periods provided for in this Article 4.

4.2 STREETS. The required warranty period for street construction, including trails, materials and equipment shall be two (2) years from the date of final written acceptance by the City.

4.3 OTHER. Other Municipal Improvements, including, but not limited to, Storm Water Improvements required pursuant to Article 5, and park improvements required by Article 14, shall be warranted by Developer for a period of two (2) years after final written acceptance by the City.

ARTICLE 5 STORM WATER IMPROVEMENTS/ASSESSMENT

5.1 DEVELOPER TO CONSTRUCT STORM WATER IMPROVEMENTS. As part of the Municipal Improvements Developer will, at Developer's sole cost and expense and in accord with the Plans and Specifications and approved drainage plan for the Development Property, construct all drainage ways, storm sewer systems, sedimentation ponds, holding ponds and out-fall devices (hereinafter referred to as the "Storm Water Improvements").

5.2 ASSESSMENT. Developer shall pay the actual costs of the construction of the Storm Water Improvements.

5.3 SEDIMENTATION/HOLDING PONDS.

5.3.1 Dedication of Pond Areas. Developer will dedicate and/or provide all drainage and storm sewer utility easements, including those for holding pond purposes, shown on the Preliminary or final Plat and/or as required by the Plans and Specifications.

5.3.2 Cleaning of Ponds. During construction activity on the Development Property, Developer shall be responsible for cleaning, dredging, and maintenance of the holding ponds, as well as maintaining the area within the dedicated easement surrounding the holding ponds (including the buffer area). Cleaning, dredging, and maintenance shall be performed at such time and to such extent as determined appropriate by the City's Engineer or in a manner consistent with the Developer's Construction Site Storm Water Permit and Storm Water Pollution Prevention Plan for the Development Property.

The scope and nature of the cleaning, dredging, and maintenance will be limited to that which is reasonably necessary for the adequate and efficient operation in conjunction with the Development Property and reasonably related to maintaining the area free from a nuisance condition. Developer may over-excavate holding ponds in order to eliminate or reduce the need for on-going maintenance during construction. However, if the City Engineer determines it to be necessary, and construction on the Development Property has been sufficiently completed, Developer must clean/dredge all holding ponds and storm sewer pipes on the Property. In the event the ponds and storm sewer pipes require cleaning/dredging prior to the completion of all such construction, the City Engineer may request in writing that the Developer undertake the appropriate remedial action.

In the event the Developer does not respond to a request by the City Engineer to perform cleaning, dredging, and/or maintenance within a reasonable time, the City may undertake such cleaning, dredging, and/or maintenance to recover the cost from Developer by: 1) drawing on any of Developer's security placed with the City; 2) legal proceedings; or 3) assess the cost against the Development Property. Developer is responsible for all permits relating to cleaning and dredging of ponds, including permits, if any, required by Stearns County or any of its instrumentalities, or any other governmental agency.

- 5.3.3 Buffer Area Adjacent to Ponds. All ponds servicing the Development Property whether such ponds are located on City owned property, easements running in favor of the City or on private property must be constructed with a minimum of a 10' natural buffer from the high-water mark. This buffer must be maintained during the life of the pond. Notwithstanding the above, one access to each pond may be created by the City in a location determined by the City in its sole discretion. Developer shall be responsible for the cost of signage around said buffer areas indicating that the buffer area may not be disturbed without the written permission of the City. Said signs shall be posted in locations reasonably determined by the City.

ARTICLE 6 RESPONSIBILITY FOR CITY COSTS

- 6.1 INTERPLEADER. In the event the City receives claims from laborers, materialmen, or others that work required by this Agreement has been performed, the sums due them have not been paid, and the laborers, materialmen, or others are

seeking payment from the City, the Developer hereby authorizes the City to commence an Interpleader action pursuant to Rule 22 of the Minnesota Rules of Civil Procedure, to draw upon the security posted pursuant to Article 3 above in an amount up to one-hundred and twenty-five percent (125%) of the claim(s) and deposit the funds in compliance with the Rule; and upon such deposit, the Developer shall release, discharge, and dismiss the City from any further proceedings as it pertains to the security, except that the District Court shall retain jurisdiction to determine attorneys' fees pursuant to this Agreement.

6.2 CITY COSTS. The Developer shall pay all costs incurred by it or the City, including, but not limited to, legal, planning, administrative, engineering, and inspection expenses, in connection with the development, approval, and acceptance of the Preliminary Plat and/or any Final Plat of the Development Property, review of construction plans and documents, the preparation of this Agreement, as well as other required agreements, and all costs and expenses incurred by the City in monitoring and inspecting the construction of the Municipal Improvements.

6.3 COSTS OF ENFORCEMENT. If the City must bring and incur costs in an enforcement action upon the default of the Developer, and the City prevails in the enforcement action, then Developer shall reimburse the City for costs incurred in the enforcement action, including reasonable engineering and reasonable attorneys' fees.

6.4 TIME OF PAYMENT. Developer shall pay in full all bills submitted by the City for obligations incurred under this Agreement within thirty (30) days of submission to Developer. Bills not paid within thirty (30) days shall accrue interest and/or penalty consistent with City policy. Failure to remit payment within thirty (30) days shall constitute a default of this Agreement.

ARTICLE 7 INSURANCE

7.1 INSURANCE REQUIRED. Developer shall take out and maintain, or cause to be taken out and maintained, until six (6) months after the City has accepted the Municipal Improvements, public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of Developer's design and work, or the work of its subcontractors, or by one directly or indirectly employed by any of them. The minimum limits shall be not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.

7.2 CITY AS ADDITIONAL INSURED. The City and the City Engineer shall be named as additional insureds on the insurance required to be provided pursuant to Section 7.1 above.

7.3 WORKERS COMPENSATION. Developer shall provide Workers' Compensation insurance for all of its employees and, in case any work is subcontracted, Developer will require the subcontractor to provide Workers' Compensation insurance.

7.4 EVIDENCE OF INSURANCE. Evidence of the required insurance shall be submitted to and approved by the City prior to and as a condition of the City's authorization to proceed with any construction activity on the Development Property.

7.5 NO WAIVER BY CITY. Nothing contained herein shall be construed on the part of the City as a waiver of common law and statutory immunities, or limits on liability pursuant to Minnesota Statutes Chapter 466.

7.6. NOTICE. All insurance contracts for the provision of insurance under this Article shall provide for written notice to the City thirty (30) days prior to cancellation, termination, non-renewal, or material change in coverage.

ARTICLE 8 DEVELOPER'S REPRESENTATIONS

8.1 REPRESENTATIONS OF DEVELOPER. Developer represents and warrants to the City:

- 8.1.1 That Developer owns the Development Property and has authority to enter into this Agreement;
- 8.1.2 That Developer has disclosed to the City all lienholders or other parties in interest who should be joined in this Agreement and that no other person or entity shall have an interest in the Development Property prior and superior to this Agreement.
- 8.1.3 Developer has submitted and received approval of its Preliminary Plat from the County Surveyor, the Director of Public Works for Stearns County, and any other governmental entity or agency required by law or this Agreement to review the Preliminary Plat prior to approval of any final plat for the Development Property;
- 8.1.4 That the final plat complies with all City, County, State and Federal laws and regulations, including, but not limited to, City subdivision ordinances

and zoning ordinances and that all future final plats must comply with those regulations applicable at the time of such final plat;

- 8.1.5 That the Developer will meet all requirements for recording and will record, with Stearns County, the final plat of any property upon which Municipal Improvements are to be constructed prior to the initiation of construction of the Municipal Improvements on the Development Property.

ARTICLE 9 BUILDING/OCCUPANCY PERMITS

9.1 ISSUANCE OF BUILDING PERMITS. The City wants to ensure that measures are taken to protect roads during their construction and to ensure that the lots are accessible by emergency vehicles during construction. Therefore, building permits will not be issued for construction on any property with a final plat except as follows:

- A. The road leading to the affected lot has been completed with the aggregate base to the satisfaction of the City Engineer and Fire Chief; or
- B. Developer receives written permission from the City. Developer may make a written request to the City for authorization to obtain building permits for any number of model homes within that final plat where a building permit would otherwise be prohibited by this Section 9.1. Developer must demonstrate that an alternative access to the lot in question is feasible and does not require the use of roads which have not been substantially completed. The City reserves the right to grant or deny such a request in its sole discretion.

9.2 OCCUPANCY PERMITS. No certificate of occupancy permit will be issued for any home within a final plat until all Municipal Improvements are substantially completed (one lift of blacktop for streets) or repaired, and all other improvements or repairs required by this Agreement or other rule, regulation, or ordinance, which directly serve or directly relate to the subject Lot, have been completed. An occupancy permit may be issued for a house if the house has an access alternative which is acceptable to the City in its sole discretion, and if the City determines that the completion of the remaining Municipal Improvements will not be hindered by the issuance of the occupancy permit.

ARTICLE 10 DAMAGE TO MUNICIPAL IMPROVEMENTS

10.1 DAMAGE DURING CONSTRUCTION. Developer understands and acknowledges that it is responsible for all damage to streets and storm sewers that occurs either: 1) during construction of the improvements; or 2) results from Development Activity on the Development Property after their dedication and acceptance by the City. "Development Activity" includes the installation of the improvements required under this Agreement as well as the construction of residential units within the Development Property.

In the event the City determines, in its sole discretion, that repairs must be made, the Developer or builder will be given ten (10) days written notice. If the Developer or builder fails to make the repairs within the ten (10) day time period, the City may: 1) withhold all approvals related to the Development Property; 2) withhold all approvals related to the affected area of the Development Property; 3) make the necessary repairs, the cost of which Developer agrees to reimburse to the City; or 4) draw upon Developer's security posted with the City to affect the repairs in the manner it deems expedient.

Upon transfer of any lot within the Development Property, Developer shall be released from the obligations contained in this Section 10.1 to the extent the damage was not caused by the acts of Developer, its agents, or subcontractors; and the transferee shall thereafter be primarily responsible for damage to improvements on or appurtenant to the transferred lot. In the event the City is unable to determine whether responsibility lies with Developer or the lot transferee, Developer shall be responsible to the City for repair but retain its ability to recover from the lot transferee.

ARTICLE 11 STREET MAINTENANCE DURING CONSTRUCTION

11.1 DEVELOPER RESPONSIBLE PRIOR TO ACCEPTANCE BY THE CITY. The Developer shall be responsible for all street maintenance for the development, including snow plowing, until the streets are accepted by the City.

11.2 WARNING SIGNS. Warning signs shall be placed in streets when hazards develop to prevent the public from traveling under or near dangerous or unsafe conditions, and direct attention to detours when appropriate. If and when streets become impassable, such streets must be barricaded and closed by Developer.

11.3 OCCUPANTS ALONG UNFINISHED STREETS. In the event residences are occupied prior to the completion of and acceptance by the City of the streets, Developer shall maintain a smooth surface and provide proper surface drainage to ensure that the streets are passable at all times to traffic and emergency vehicles.

11.4 DIRT AND DEBRIS. Developer shall be responsible for keeping streets within and without each final plat clean of dirt and debris that may spill, track, or wash onto the street from construction activity within the Development Property. Developer shall provide for periodic street cleaning in and immediately adjacent to the Development Property. At a minimum, scraping and sweeping shall take place on a regular basis. Developer shall provide the City, for its approval, a plan for cleaning the streets, identifying how it will be accomplished, and the frequency of the cleaning. The cleaning plan must be approved by the City prior to the commencement of any construction activity. Nevertheless, the City reserves the right to unilaterally determine that cleaning is needed to a degree and at a time other than specified in the approved cleaning plan. Upon receipt of a written notice from the City, Developer will immediately undertake the cleaning as directed.

11.5 SNOW PLOWING. Prior to final acceptance of the Municipal Improvements, Developer may request, in writing, that the City keep the streets open during the winter months by plowing snow from the streets. The City has sole discretion as to whether the City will perform the snow plowing. The City shall not be responsible for repairing damage to the streets caused by snow plowing. Snow plowing services shall not constitute final acceptance of the streets by the City.

11.6 SPRING WEIGHT RESTRICTIONS. During any period of spring weight restrictions, when the streets within the Development have the first lift of pavement, but prior to final acceptance of the improvements by the City, the Developer shall post signage at each entrance to the Property as notice restricting access to vehicles with an axle weight of five tons or less.

ARTICLE 12 EROSION CONTROL

12.1 EROSION CONTROL AND THE MINNESOTA POLLUTION CONTROL AGENCY'S (THE "MPCA") NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM, PHASE II CONSTRUCTION PERMIT. Developer acknowledges that if the development of the Development Property is subject to the MPCA's Phase II Construction Permit issued pursuant to Phase II of the National Pollution Discharge Elimination System ("NPDES"), the Developer will obtain the permit, develop the required Storm Water Pollution Prevention Plan ("SWPPP") and submit a copy of the permit (including the SWPPP) to the City prior to the initiation of construction of the Municipal Improvements for the development. Developer's compliance with the permit and accompanying SWPPP is a term and condition of this Agreement and enforceable by the City. In addition, the City may impose additional erosion control requirements if in the opinion of the City Engineer such requirements are necessary to retain soil and prevent siltation of streams, ponds, lakes, or other adjacent properties, or of City utility

systems. The Developer shall comply with the erosion control plans and with any such additional instruction it receives from the City. All areas disturbed by the excavation and backfilling operations shall be reseeded forthwith after the completion of the work in that area. Seed shall include rye grass or other fast-growing seed to provide a temporary ground cover as rapidly as possible. All seeded areas shall be mulched and disc-anchored as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion.

Upon transfer of any portion of the Development Property to an individual owner or builder, Developer shall prepare and file notices of termination and adequately transfer continuing construction erosion control and storm water management compliance to subsequent owners. The City may withhold any and all approvals from owners or builders found to be non-compliant with applicable NPDES permit standards.

In the absence of applicable erosion control regulation, the Developer shall, at a minimum comply with the erosion control standards of Stearns County.

ARTICLE 13 SITE GRADING

13.1. Site grading shall meet all of the requirements set forth in the City's Subdivision Ordinance, and in the MPCA's Phase II Construction Permit.

13.2 When the site grading has been completed:

- A. The Developer shall verify by field survey that the site grading has been completed in accordance with the approved grading plan submitted with the preliminary plat documents and/or as required by the Plans and Specifications. The Developer shall submit the verified site plan to the City for approval.
- B. Elevations shall be taken on all lot corners, all buildings pads, and on drainage breaks, ponding sites, ditches, and swales. Arrows shall show how the lot is to drain.
- C. The approved site grading plan shall become the Development Plan.
- D. The Developer shall make the Development Plan available to subsequent owners of the lots purchased from the Developer, and to their builders. Upon completion of the final lot grading by the lot owner, elevations shall closely match those set forth on the Development Plan.

ARTICLE 14
PARK DEDICATION

14.1 PARK DEDICATION. Developer agrees to pay to the City, at the time of approval of the final plat, a total cash-in-lieu payment based upon the City's per lot fee of \$1200 per lot for 11 lots resulting in a total park dedication fee of \$13,200.00. Park dedication fees must be paid at the time of execution of the final plat, and Developer may not begin any work on the Development Property until the park dedication fees are paid.

ARTICLE 15
MAINTENANCE OF BERM, LANDSCAPE SCREENING AND DEVELOPMENT SIGN

15.1 DEVELOPMENT SIGN. Developer may create a sign easement on a private lot within the Development Property on which Developer may place a sign identifying the development. Any such easement must provide that the lot owner is responsible to ensure that the area around the sign is maintained to remove weeds and control other vegetation. In addition, the easement will require that the lot owner maintain the sign in a presentable condition (including repainting, repair or other necessary maintenance) at the lot owner's sole cost and expense. These maintenance obligations must run in favor of the other lot owners and the City and must provide that the City may enforce the maintenance obligations.

15.2 BERM OR LANDSCAPE SCREENING. Developer may create a berm on a portion of the Development Property which will be platted into lots. Developer must record a covenant (in a form approved by the City Attorney), running in favor of the remaining lot owners and the City, which covenant requires lot owners to maintain any portion of the berm located on their lot. This maintenance must include ensuring that grass is watered, mowed and maintained with re-seeding or sodding as needed to retain a uniform and well-kept appearance from any public right of way. In addition, said lot owners must maintain and replace any and all trees planted by Developer on that portion of the berm which is located on their lot. In the event that the berm is not maintained, the covenant must allow the City to enter onto the lot, maintain the berm as determined necessary in the City's sole discretion, and special assess the maintenance cost to the lot responsible or those lots subject to the covenant.

ARTICLE 16
DISCLOSURES

16.1 RIGHT TO FARM DISCLOSURE. The Developer shall record, against the Development Property, the Right to Farm Disclosure attached as **Exhibit D** in the office of the County Recorder in and for Stearns County.

16.2 HIGHWAY NOISE DISCLOSURE. The Developer shall record, against the Development Property, a Highway Noise Disclosure to be prepared by the Developer and reviewed by the City.

ARTICLE 17 MAILBOXES

21.1 INSTALLATION. Locations and types of mailboxes to be installed by Developer must be approved by the City and United States Postal Service prior to installation.

21.2 INDIVIDUAL MAILBOXES AND NEWSPAPER BOXES RESTRICTED. Except as otherwise required by law or the United States Postal Service and approved by the City in writing, no individual newspaper receptacles shall be permitted on any lot within the Development Property.

ARTICLE 18 WETLAND MITIGATION AND PROTECTION

18.1 PERMITTING. The development of the Development Property must comply with all wetland protection legislation and Developer will be responsible for any permitting necessary. Notwithstanding anything in this Agreement to the contrary, the Developer shall be responsible for all wetland mitigation that is required for construction of any of the Municipal Improvements. Developer will complete and pay for all permitting, credit purchases, and/or other mitigation costs that may be involved. The City may, however, take action to minimize charges or costs to the City in the event the Developer fails to obtain all permits and complete all mitigation that may be necessary for the construction of the Municipal Improvements.

18.2 DELINEATION. Developer will survey and correctly delineate all wetlands on the Development Property, and obtain from Stearns County, a certification as to the accuracy of the delineation. The County's approval must be provided to the City prior to the commencement of any earthmoving, filling, or construction on the Development Property.

18.3 PROTECTION. Neither Developer nor any future owner of any portion of the Development Property may fill or disturb the wetlands on the Development Property except with the written consent of the City and with appropriate state and federal

permits. Developer will execute and cause to be recorded against each final plat of the Development Property the Conservation Restriction attached hereto as **Exhibit E**.

18.4 SURVEY AND POSTING. The limits of the wetlands on the Development Property must be surveyed and monuments placed for future reference. In addition, Developer will post the wetland's boundary with permanent signs in locations approved by the City that clearly inform the readers that wetlands lie beyond the sign that are protected by State and Federal Law and that tampering or removing the signs is prohibited. The type of post and sign, and the locations of the signs must be approved by the City.

ARTICLE 19 INDEMNIFICATION

19.1 INDEMNIFICATION. Anything to the contrary herein notwithstanding, the City and Council, its officers, agents, employees, and representatives shall not be liable or responsible in any manner to the Developer, contractor or subcontractors, materialmen, laborers, or to any other person or persons whomsoever, for any claims, demands, damages, actions, or causes of action of any kind or character whatsoever arising out of or by reason of the execution of this Agreement; the design, performance, and completion of the Municipal Improvements and any and all work which is the Developer's obligation to perform pursuant to this Development Agreement; the grant by the City and its Council of any approval related to the Development Property, including, but not limited to, approval of any grading plan, drainage plan, preliminary, or final plats for the Development Property; the failure by Developer to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Development Agreement; the failure by the Developer to pay contractors, subcontractors, laborers, or materialmen; the failure by Developer to pay for materials; the failure by Developer to obtain necessary permits and authorization to construct the work described in this Development Agreement; because building permits were issued prior to the completion and acceptance of the Municipal Improvements; or the City's exercise of any of its rights in the event of a default by Developer. Developer further agrees to indemnify, defend, and hold the City, its officers, engineers, agents and employees harmless from all such claims, demands, damages, actions, or causes of action, and all costs, disbursements, and expenses resulting from such claims, including attorneys' fees. The release and indemnification in this provision shall not include the engineering firm of Bolton & Menk ("B&M") in the performance of engineering services for the design and development of the plans and specifications for the Municipal Improvements on behalf of Developer.

ARTICLE 20 MISCELLANEOUS

20.1 STREET NAMING. Street names must be approved by the City.

20.2 PROFESSIONAL CONSULTANT FEES. If the City must bring and incur costs in an enforcement action upon the default of the Developer, and the City prevails in the enforcement action, then Developer shall reimburse the City for costs incurred in the enforcement action, including reasonable fees of the City's professional consultants.

20.3 DEFAULT AND REMEDIES. If Developer fails in any way to perform or observe any covenant, condition, or obligation contained in this Agreement or the any other agreement between Developer and the City relating to the Development Property, Developer agrees that the City may do any, all, or any combination of the following: (i) halt all further approvals regarding platting, improvements or issuance of building permits or occupancy permits relating to the Development Property; (ii) seek injunctive relief; (iii) terminate this Agreement and all of the obligations contained herein without terminating Developer's obligation to reimburse the City for costs it has incurred with regard to this Agreement or the Development Property; (iv) draw on or utilize any funds or other security provided to the City pursuant to this Agreement and complete the Municipal Improvements; (v) suspend any work or improvement on the Development Property by issuing a stop work order; and/or (vi) take any other action at law or in equity which may be available to the City.

20.4 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. If any agreement contained in this Agreement is breached by the Developer and thereafter waived in writing by the City, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breaches hereunder. All waivers by the City must be in writing to be effective.

20.5 NO REMEDY EXCLUSIVE. No remedy herein conferred upon or reserved to the City shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to the City, it shall not be necessary to give notice.

20.6 ASSIGNMENT. This Agreement may not be assigned by Developer except upon obtaining the express written consent of the City. Developer's obligations hereunder shall remain in full force and effect even if the Developer sells or otherwise transfers one or more lots, any entire final plat, or any part of a final plat.

20.7 INTEGRATION. This Agreement contains all of the understandings and agreements between the parties. This Agreement may not be amended, changed, or modified without the express, written consent of the parties hereto.

20.8 EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

20.9 GOVERNED BY MINNESOTA LAW. This Agreement shall be interpreted under the laws of the State of Minnesota.

20.10 BINDING ON SUCCESSORS AND ASSIGNS. This Agreement shall run with the Development Property and will be binding on and enforceable by and against the parties, their successors, legal representatives and assigns.

20.11 NO 3RD PARTY RECOURSE. Third parties shall have no recourse against the City under this Agreement.

20.12 **LEGAL REPRESENTATION. Jovanovich, Kadlec & Athmann, P.A., represents the City with regard to this Agreement. Developer is hereby advised to seek independent legal advice prior to execution of this Agreement.**

20.13 SEVERABILITY. In the event any provision or part of this Agreement is determined to be void or unenforceable, the remainder of the Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

CITY OF ROCKVILLE, MINNESOTA

By _____
Its Mayor

ATTEST:

By _____
Administrator-Clerk

IRENE T. SCHNEIDER TRUST

By _____
Its Trustee

STATE OF MINNESOTA)

THIS INSTRUMENT DRAFTED BY:

Susan M. Kadlec - 0290385
Jovanovich, Kadlec & Athmann, PA
1010 W. St. Germain, Suite 420
St. Cloud, MN 56301
Telephone: (320) 230-0203

EXHIBIT A

(Legal Description of Development Property)

23

EXHIBIT B

(Preliminary Plat)

24

EXHIBIT C

(Final Plat)

EXHIBIT D**(Right to Farm Disclosure)****RURAL ACTIVITY
&
RIGHT TO FARM DISCLOSURE**

This Disclosure is made on _____, 2019, by the undersigned as owner and developer of the real property legally described in the attached **Exhibit A** (the "Property"). The Property is being developed according to the final plat approved by the City of ROCKVILLE known as SCHNEIDER FARM

The Property is being developed in an area that has traditionally been a rural area and which has recently been farmed. Some of the adjoining properties may continue to be used for agricultural endeavors. These endeavors may include, without limitation, such things as cropping fields, the use of organic fertilizers, maintaining domesticated animals, and the operation of farm machinery and equipment.

THIS DISCLOSURE IS INTENDED TO ENSURE THAT, AS A BUYER OF ONE OF THE LOTS IN THE PROPERTY, YOU ARE MADE AWARE OF THE FACT THAT YOU WILL BE MOVING INTO A TRADITIONALLY AGRICULTURAL AREA AND MAY BE SUBJECTED TO THE SIGHTS, SOUNDS, AND SMELLS OF AGRICULTURAL ACTIVITIES.

The following language is adapted from Stearns County's Right to Farm Disclosure:

An agricultural operation (the use of agricultural land for the production of crops, tree farming, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in the processing of agricultural products) conducted or maintained on agricultural land shall not be or become a nuisance, public or private, if the operation was not a nuisance when it began. This provision shall not apply:

- a. To a condition or injury that results from the negligent or improper operation of an agricultural operation or from operations conducted and maintained in a manner that is contrary to commonly accepted agricultural practices; or
- b. When an agricultural operation causes injury or direct threat of injury to health or safety of any person; or
- c. When an agricultural operation causes the pollution of, or change in

the condition of, waters of the State or the water flow of water on the lands of any person; or

d. When an agricultural operation causes the obstruction of free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, street, or highway.

IRENE T. SCHNEIDER TRUST

By _____
Its Trustee

STATE OF MINNESOTA)
) SS
COUNTY OF _____)

On this ___ day of _____, 2019, before me, a Notary Public for this County, personally appeared _____, to me personally known, who, being by me duly sworn did say that he/she is the Trustee of the Irene T. Schneider Trust, and that said instrument was signed on behalf of said Trust.

Notary Public

THIS INSTRUMENT DRAFTED BY:
Susan M. Kadlec - 0290385
Jovanovich, Kadlec & Athmann, PA
1010 W. St. Germain, Suite 420
St. Cloud, MN 56301
Telephone: (320) 230-0203

EXHIBIT E**CONSERVATION RESTRICTION**

This Conservation Restriction is made effective _____, 2019, by IRENE T. SCHNEIDER TRUST (“Developer”) in favor of the City of ROCKVILLE, Minnesota (the “City”).

RECITALS

- A. Developer is the owner of property legally described in the attached **Exhibit A**.
- B. Developer has presented a plat to the City for approval.
- C. As a condition of its approval, the City required certain space within Developer’s plat be restricted and not developed to protect wetlands.
- D. The portion of the Property to be designated for protection is shown on the plat of SCHNEIDER FARM as “wetlands” (the “Wetlands”).
- E. As a condition of approval of the final plat for Developer’s Property, the City requires that Developer execute and record this Conservation Restriction restricting the uses of the Wetlands.

Now, therefore, in consideration of the above recitals, Developer agrees as follows:

1. Developer agrees that the Wetlands may only be used for purposes consistent with their preservation as wetlands as defined by state and federal law.
2. Developer agrees that the Wetlands will not be impacted or developed beyond the development shown in and consistent with the final plat approved by the City of ROCKVILLE. Developer agrees for itself and its successors in interest not to seek a permit or exemption from the county, state or federal government to fill any part of the Wetlands not required to be filled in the course of development consistent with the final plat approved by the City of ROCKVILLE.
3. Neither Developer nor any future owner of any portion of the Wetlands may remove trees or other vegetation from the Wetlands, except with the written permission of the City and in accord with all state and federal regulations.
4. No structure, deck, driveway, patio, fence or other improvements shall be located within the following setback limits:

- a. 10 feet from the limit of a wetland 0-5 acres in size.
 - b. 20 feet from the limit of a wetland greater than 5 acres in size.
5. The restrictions set out herein will apply unless and until the land is released by the City.
 6. This Conservation Restriction shall run with the land and shall burden and bind Developer and Developer's successors and assigns and all future owners of the Property.

IRENE T. SCHNEIDER TRUST

By _____
Its Trustee

STATE OF MINNESOTA)
) SS
COUNTY OF _____)

On this ____ day of _____, 2019, before me, a Notary Public for this County, personally appeared _____, to me personally known, who, being by me duly sworn did say that he/she is the Trustee of the Irene T. Schneider Trust, and that said instrument was signed on behalf of said Trust.

Notary Public

THIS INSTRUMENT DRAFTED BY:
Susan M. Kadlec - 0290385
Jovanovich, Kadlec & Athmann, PA
1010 W. St. Germain, Suite 420
St. Cloud, MN 56301
Telephone: (320) 230-0203

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**EXHIBIT A
TO CONSERVATION RESTRICTION**

(LEGAL DESCRIPTION)

Building Permits: February 2019

Parcel #	REASON	ADDRESS	DATE	PERMIT #	Valuation	Permit \$	Review	SSC	Fees
76.41741.0017	Furnace Replacement	407 Aspen Ct E	2/12/2019	2019-00005	\$ 4,000.00	\$ 40.00	\$ -	\$ 1.00	\$ 41.00
76.41741.0030	Siding	532 Walnut St	2/19/2019	2019-00006	\$ 5,750.00	\$ 25.00	\$ -	\$ 1.00	\$ 26.00
76.41633.0900	Furnace Replacement	23721 Co Rd 8	2/22/2019	2019-00007	\$ 4,261.00	\$ 40.00	\$ -	\$ 1.00	\$ 41.00
76.41741.0080	Mechanical	209 Walnut Circle	2/6/2019	2019-00013		\$ 40.00	\$ -	\$ 1.00	\$ 41.00
76.42146.0801	Mechanical Commercial	1340 Prairie Drive	2/22/2019	2019-00014	\$ 13,162.00	\$ 131.62	\$ 85.55	\$ 6.58	\$ 223.75