

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: IZZY CARLSON, LICENSE AND PERMIT TECHNICIAN
SUBJECT: CONSIDERATION OF VARIANCES REQUESTED BY TRACT
DATE: OCTOBER 21, 2025

BACKGROUND

Tract is seeking a variance from the following provisions of City Code Section 152.153(J) Final Plan, due to the multi-year development process.

Requested Variances from City Code Section 152.153(J):

1. Tract is seeking to defer submission of final architectural drawings until the Site plan review stage for each phase of development
2. Tract is seeking to defer submission of final engineering plans and specifications for streets, drainage, utilities and other public improvements until the Site plan review stage for each phase.
3. Tract is seeking to extend the one (1) year construction commencement requirement to accommodate the long-term, phased buildout of the project. Construction shall be deemed to have commenced upon the City's initiation of construction of the Public Improvements, which are designed by and paid for by the applicant. Specifically, Tract will complete design and funding of the City's construction of public water and sanitary sewer improvements within four (4) years from the date of Final Plan approval. This coordinated effort between the Applicant and the City satisfies the requirement that construction has commenced under the applicable code provisions.

On October 13th, the Planning Commission voted in favor of the variances; recommended approval to City Council.

The following exhibits are enclosed to further describe the proposal:

1. City Code Section 152.153(J)
2. Resolution Approving Variances to City Code Section 152.153(J).

STAFF RECOMMENDATION

Staff recommends the approval of the requested variances to City Code Section 152.153(J).

REQUESTED CITY COUNCIL ACTION

Motion to approve Tract's variances to City Code Section 152.153(J).

§ 152.153 PROCEDURE FOR PROCESSING A PLANNED UNIT DEVELOPMENT.

(A) *Stages of PUD.* The processing steps for a PUD are intended to provide for an orderly development and progression of the plan, with the greatest expenditure of developmental funds being made only after the city has had ample opportunity for informed decisions as to the acceptability of the various segments of the whole as the plan affects the public interest. The various steps represent separate applications for purpose of review, compliant with M.S. § 15.99, as it may be amended from time to time, outlined in detail in the following sections:

- (1) *Pre-application staff meeting.* Preliminary discussions between the applicant and city staff;
- (2) *General concept plan application.* Consideration of overall concept and plan;
- (3) *Development stage plan application.* One or more detailed plans as part of the whole final plan; and
- (4) *Final plan application.* The summary of the entire concept and each development stage plan in an integrated complete and final plan.

(B) *Pre-application meeting.* Prior to filing of an application for PUD, the applicant of the proposed PUD shall arrange for and attend a city staff meeting. At the pre-application meeting, the applicant shall be prepared to generally describe the proposal for a PUD. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data.

(C) *Neighborhood meeting.* The city may recommend the property owner/applicant hold a neighborhood meeting for informal comment and feedback prior to submitting a formal concept application.

(D) *Application.* The person applying for a planned unit development shall fill out and submit to the Zoning Administrator an official application form together with a fee per the city's fee schedule. The request for planned unit development shall be placed on the agendas of the Planning Commission according to the city's deadline and meeting schedule.

(E) *Planned unit development/rezoning.* Planned unit development/rezoning application shall be posted and advertised in accordance with §§ 152.035 through 152.043 of this chapter at time of development stage PUD.

(F) *Planned unit development/conditional use permit.* Planned unit development/conditional use permit applications shall be posted and advertised in accordance with §§ 152.035 through 152.043 of this chapter at time of development stage PUD.

(G) *Public hearings.* Public hearings shall be held at the PUD development stage.

(H) *General concept plan.*

(1) *Purpose.* The general concept plan provides an opportunity for the applicant to submit a plan to the city showing the basic intent and the general nature of the entire development without incurring substantial cost. This concept plan serves as the basis for public hearing so that the proposal may be publicly considered at an early stage.

(2) *General concept plan submission information.*

(a) *General information.*

1. *Owner.* The landowner's name, address and telephone number and his or her interest in the subject property;
2. *Applicant.* The applicant's name, address and telephone number if different from the landowner. The applicant may designate an agent to be contacted by the city, who may speak for the applicant;
3. *Consultants.* The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor; and
4. *Title of applicant.* Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report and other evidence as the City Attorney may require to show the status of title or control of the subject property.

(b) *Present status of premises and adjacent properties.*

1. *Description.* The address and legal description of the subject property. A survey is required;
2. *Zoning.* The existing zoning classification and present use of the subject property and all lands within 350 feet of the subject property; and
3. *Map.* A single reproducible map or aerial photograph at a scale of not less than one inch equals 100 feet, depicting the existing development of the subject property and all land within 100 feet thereof and showing the precise location of existing streets, property lines, utilities, easements and wetlands.

(c) *Narrative description.* A written statement generally describing the proposed PUD and the market which it is intended to serve, showing its relationship to the city's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the city.

(d) *Site conditions.*

1. Where deemed necessary by the city, graphic reproductions of the existing site conditions at a scale of one inch equals 100 feet or less shall be submitted and shall contain the following:

- a. Survey showing lot dimensions and existing easements and utilities;
- b. Contours; minimum two-foot intervals;
- c. Location, type and extent of tree cover;
- d. Slope analysis;
- e. Location and extent of waterbodies, wetlands and streams and floodplains within 300 feet of the subject property;
- f. Existing drainage patterns;
- g. Vistas and significant views; and
- h. Soil conditions as they affect development.

2. All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

(e) *Concept drawing.* Schematic drawing of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.

(f) *Number of units.* A statement of the estimated total number of dwelling and/or other units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

1. Area devoted to residential uses;
2. Area devoted to residential use by building or structure or use type;
3. Area devoted to common open space;
4. Area devoted to public open space;
5. Approximate area devoted to streets;
6. Approximate area and potential floor area devoted to commercial uses; and
7. Approximate area and potential floor area devoted to industrial or office uses.

(g) *Staged development.* When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of stages or units shall be submitted stating the approximate beginning and completion date for each stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each stage and the overall chronology of development to be followed from stage to stage.

(h) *Common areas.* When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of open space or service facilities. If it is proposed that open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of the entity shall be submitted during the development stage.

(i) *Covenants.* General intent of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

(j) *Market feasibility.* Where deemed necessary, a market feasibility study including an analysis of the proposal's economic impact on the city.

(k) *Exclusion of information.* The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

(l) *Inclusion of information.* The Planning Commission may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.

(3) *Schedule.*

- (a) Developer meets with city staff to discuss the proposed development.
- (b) Developer submits the necessary data as required in division (H)(2) above at least 30 days prior to Planning Commission meeting.
- (c) A technical staff report shall be prepared on the proposed development and distributed to the Planning

Commission and the applicant prior to the meeting.

(d) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.

(e) Planning Commission makes a recommendation to the City Council on the general concept plan.

(f) City Council reviews all recommendations and approves/denies application(s).

(4) *Optional submission of development stage plan.* In cases of single stage PUDs or where the applicant wishes to begin the first stage of a multiple stage PUD immediately, the applicant may, at his or her option, submit development stage plans for the proposed PUD simultaneously with the submission of the general concept plan. In that case, the applicant shall comply with all provisions of the ordinance applicable to submission of the development stage plan. The Planning Commission and City Council shall consider the plans simultaneously and shall grant or deny development stage plan approval in accordance with the provisions of this chapter.

(5) *Effect of concept approval.* PUD concept approval only provides direction for the applicant to proceed to PUD development stage submission. The concept plan approval does not convey any development rights or privileges to the applicants.

(I) *Development stage.* Development stage submissions shall depict and outline the proposed implementation of the PUD general concept stage. Information from the general concept stage may be included for background and to provide a basis for the submitted plan.

(1) *Application.* Requests for PUD development stage as provided within this chapter, shall be filed with the Zoning Administrator on an official application form. The application shall be accompanied by a fee as provided for by the City Council resolution. This fee shall not be refunded. The application shall also be accompanied by ten copies of detailed written and graphic materials fully explaining the proposed change, development or use and a list of affected property owners within 350 feet of the subject property obtained from the current tax rolls provided by the county offices.

(2) *Submission information.* The PUD development stage submission information shall include:

(a) *Zoning required.* Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan;

(b) *Site plan/preliminary plat.* Drawn to a scale of one inch equals 100 feet or less, containing the following information:

1. *Project name.* Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the county where the subject property is situated);

2. *Survey.* Property boundary lines and dimensions of the property and any significant topographical or physical features of the property. An accurate legal description of the entire area within the PUD;

3. *Preliminary plat.* Preliminary plat, if applicable, shall comply with all the performance standards of the city subdivision regulations and this chapter;

4. *Buildings.* The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area or proposed buildings and existing buildings which will remain, if any;

5. *Traffic circulation.* Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements;

6. *Common areas.* Location, designation and total area of all common open space;

7. *Public open space.* Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities; and

8. *Locate existing structures.* The location, use and size of structures and other land uses on adjacent properties within 100 feet of the property boundaries.

(c) *Residential tabulation.* A tabulation indicating the number of residential dwelling units by number of bedrooms and expected population/housing profile;

(d) *Areas of use.* A tabulation indicating the approximate gross square footage, if any, of commercial and industrial floor space by type of activity (e.g., drug store, dry cleaning, supermarket);

(e) *Architectural plans.* Preliminary architectural plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings and architectural guidelines for future development phases;

(f) *Landscape plan.* A detailed landscaping plan including the type, size and quantity of all existing and proposed plantings;

(g) *Grading and drainage plan.* Preliminary grading and drainage plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan;

(h) *Erosion control.* A soil erosion control plan clearly illustrating erosion control measures to be used during construction;

(i) *Document changes.* A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with revised copies of any document, plan or data;

(j) *Preliminary plat.* A preliminary plat conforming to the city subdivision regulations;

(k) *Lighting plan.* A plan illustrating site lighting along with a photometric plan;

(l) *Additional data.* Additional information as the Zoning Administrator, Planning Commission or City Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof; and

(m) *Excuse for submittal.* The Zoning Administrator may excuse an applicant from submitting any specific item of information or document required in this section which it finds to be unnecessary for the consideration of the specific proposal for PUD approval.

(3) *Schedule/review.*

(a) *Meeting.* The developer meets with city staff to discuss specific development plans.

(b) *Filing of application.* The applicant shall file the development stage application within six months of concept plan review, together with all supporting data and filing fee, as established by City Council ordinance.

(c) *Staff review/technical assistance reports.* Upon receipt of an application for a PUD development stage, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.

(d) *Other agency review.* When appropriate, the Zoning Administrator shall forward the PUD development stage application to other special review agencies such as the Department of Natural Resources, soil conservation services, highway departments or other affected agencies.

(e) *Hearing.* The Zoning Administrator, upon verification of a complete application, shall instruct the City Administrator to set a public hearing for the next regular meeting of the Planning Commission. The Planning Commission shall conduct the hearing and make recommendations to the City Council. Notice of the hearing shall be published in the official newspaper at least ten days prior to the hearing and written notification of the hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question.

(f) *Failure to receive notice.* Failure of a property owner to receive the notice shall not invalidate any proceedings as set forth within this chapter.

(g) *Request for additional information.* The Planning Commission and city staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, the information to be declared necessary to established performance conditions in relation to all pertinent sections of this chapter.

(h) *Appearance.* The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.

(i) *Planning Commission review.* Within 60 days of receiving a complete application, unless extended by the city, the Planning Commission shall review the reports and plans and submit its written report and recommendations to the Council and applicant. The report shall contain the findings of the Planning Commission with respect to the conformity of the development stage plan to the approved general concept plan. Should any changes be found to exist, the Planning Commission shall comment with respect to the merit or lack of merit of any departure of the development stage plan from substantial conformity with the concept plan and with respect to the compliance of the development stage plan with the provisions of this chapter and all other applicable federal, state and local codes and ordinances. If the Planning Commission shall find conformity or any changes merit approval and the Planning Commission shall further find the development stage plan to be in all other respects completed and in compliance with this chapter and other applicable federal, state and local codes and ordinances, it shall recommend denial of approval. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.

(j) *City Council action.* Within 60 days of receipt of a complete application, unless the review period is extended in accordance with M.S. § 15.99, as it may be amended from time to time, the City Council shall grant approval, resubmit the plan to the Planning Commission for further consideration of specified items or deny approval of the plan.

(k) *PUD agreement.* The Zoning Administrator shall instruct the City Attorney to draw up a PUD agreement which stipulates the specific terms and conditions approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor of the city, City Administrator and the applicant within 30 days of City Council approval of the development stage plan. Where the development stage plan is to be resubmitted or denied approval, the City Council action shall be by written report setting forth the reasons for its action. In all cases, a certified copy of the document evidencing City Council action shall be promptly delivered to the applicant by the Zoning Administrator.

(4) *Limitation on development plan approval.* Unless a final plan covering the area designated in the development stage plan as the first stage of the PUD has been filed within six months from the date the City Council grants development stage plan approval, or in any case where the applicant fails to file final plans and to proceed with development in accordance with the provisions of this chapter and/or an approved development stage plan, the approval shall expire. Upon application by the applicant, the City Council may at its discretion extend for not more than six months, the filing deadline for any final plan when, for good cause shown, the extension is necessary. In any case where development plan approval expires, the City Council shall forthwith adopt a resolution repealing the general concept plan approval and the development stage plan approval for that portion of the PUD that has received final plan approval and re-establishing the zoning and other ordinance provisions that would otherwise be applicable.

(J) *Final plan.*

(1) *Purpose.* The final plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other city ordinances as the land use regulation applicable to the PUD. The final plan is intended only to add detail to and to put in final form, the information contained in the general concept plan and the development stage plan and shall conform to the development stage plan in all respects.

(2) *Final plan submission information.* After review of a general concept plan for the PUD and approval of a development stage plan for a section or sections of the proposed PUD, the applicant will submit the following material for review by the city staff prior to issuance of a building permit:

(a) *Recording proof.* Documents establishing the recording of any easement or other documents required by the city prior to the sale of any land or dwelling unit included in the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility;

(b) *Final plans, structures.* Final architectural drawings of all structures;

(c) *Final engineering plans.* Final engineering plans and specifications for streets, drainage, utilities and other public improvements, together with a development contract providing for the installation of the improvements and financial guarantees for the completion of the improvements;

(d) *Other plans.* Any other plans, agreements or specifications necessary for the city staff to review the proposed construction. All work shall be in conformance with the Building Code of the city;

(e) *Recording of final plan.* Within 60 days of its approval, the applicant, or at its election, the city shall cause the final plan, or portions thereof as are appropriate, to be recorded with the County Recorder or Registrar of Titles, at the expense of the applicant. Certified copies of all relevant recorded documents shall be furnished to the city;

(f) *Building and other permits.* Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved final plan and development agreement have been recorded, all appropriate officials of the city may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved final plan or intermediate development stage plan provided, however, that no permit shall be issued unless the appropriate official is first satisfied that all requirements which are applicable to the permit sought, have been satisfied; and

(g) *Limitation on final plan approval.* Within one year after the approval of a final plan for PUD, or the shorter time as may be established by the approved development schedule, construction shall commence in accordance with the approved plan. Failure to commence construction within the period shall, unless an extension has been granted and hereinafter provided, automatically render void the PUD permit and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of the zoning regulations and other zoning provisions, applicable in the district in which it is located. In that case, the Council shall adopt a resolution repealing the PUD permit and PUD approvals and re-establishing the zoning and other provisions that would otherwise be applicable.

(3) *Schedule.*

(a) Upon approval of the development stage plan and within the time established by division (1)(3) above of this section, the applicant shall file with the Zoning Administrator a final plan consisting of the information and submissions required by division (J)(2) above of this section for the entire PUD or for one or more stages. This application will be considered at the next regularly scheduled Planning Commission meeting.

(b) The findings and recommendations of the Planning Commission shall be forwarded to the City Council for consideration. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.

(c) Within 60 days of receipt of a complete PUD final plan application, unless the review period is extended in accordance with M.S. § 15.99, as it may be amended from time to time, and receipt of the findings and recommendations of the Planning Commission, the City Council shall grant approval or denial of the request.

(d) The applicant shall cause the final plan, or portions thereof as are appropriate, to be recorded with the County Registrar. The applicant shall provide the city with a signed copy verifying county recording within 40 days of the date of approval.

(4) *Building and other permits.* Except as otherwise expressly provided herein, upon receiving notice from the Zoning

Administrator that the approved final plan has been recorded and upon application of the applicant pursuant to the applicable ordinances of the city, all appropriate officials of the city may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved final plan provided, however, that no permit shall be issued unless the appropriate official is first satisfied that the requirements of all codes and ordinances in which are applicable to the permit sought, have been satisfied.

(5) *Limitation on final plan approval.* Within one year after the approval of a final plan for PUD, or shorter time as may be established by the approved development schedule, construction shall commence in accordance with the approved plan. Failure to commence construction within the period shall, unless an extension has been granted and hereinafter provided, automatically render void the PUD permit and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of the zoning regulations and other ordinances, applicable in the district in which it is located. In that case, the City Council shall forthwith adopt an ordinance repealing the PUD permit and all PUD approvals and re-establishing the zoning and other ordinance provisions that would otherwise be applicable. The time limit established by this section may, at the discretion of the City Council, be extended for not more than one year by ordinance or resolution duly adopted.

(6) *Inspections during development.*

(a) *Compliance with overall plan.* Following final plan approval of a PUD, or a stage thereof, the Zoning Administrator shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development within the approved development schedule.

(b) *City Council notification.* If the Zoning Administrator finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, he or she shall immediately notify the City Council. Within 30 days of the notice, the City Council shall either by ordinance revoke the PUD permit, and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take steps as it deems necessary to compel compliance with the final plans as approved; or shall require the landowner or applicant to seek an amendment of the final plan.

(Prior Code, § 11-10-4) (Ord. 258, passed 5-4-2006)

**CITY OF CANNON FALLS
DAKOTA COUNTY AND GOODHUE COUNTY, MINNESOTA**

RESOLUTION NUMBER 2838

**RESOLUTION APPROVING VARIANCES FROM CITY CODE SECTION 152.153(J)
FOR CANNON FALLS TECHNOLOGY PARK**

WHEREAS, MNLCO Two, LLC and MNLCO Three, LLC (“Applicant”) is the applicant for a Variance for Cannon Falls Technology Park for the following deviations from the City Code of Ordinances:

- To Section 152.153(J)(b), in order to defer submission of final architectural drawings until the Site plan review stage for each phase of development.
- To Section 152.153(J)(c), in order to defer submission of final engineering plans and specifications for streets, drainage, utilities and other public improvements until the Site plan review stage for each phase.
- To Sections 152.153(J)(g) and 152.153(J)(5), in order to extend the one (1) year construction commencement requirement to accommodate the long-term, phased buildout of the project and so that construction shall be deemed to have commenced upon the City’s initiation of construction of the public sewer and water improvements, which are designed by and paid for by the Applicant.

(collectively, the “Variances”) located in the City of Cannon Falls legally described on the attached Exhibit A (the “Property”);

WHEREAS, City staff studied the matter, made a report, and provided other information to the Planning Commission and City Council; and

WHEREAS, on September 8th, 2025, the Planning Commission held a public hearing and considered the Applicant’s Variance application, and subsequently recommended approval of the Variances on October 13th, 2025; and

NOW, THEREFORE, the City Council of the City of Cannon Falls makes the following findings, as recommended by the Planning Commission:

FINDINGS

1. The Applicant is requesting the Variances from City Code § 152.153(J), which requires certain information, including final architectural plans and final engineering plans and specifications to be submitted for review by city staff prior to the issuance of a building permit, and which further requires construction to commence within one (1) year after the approval of the final plan for PUD.

2. The Applicant is seeking the Variances from this section of the code due to the multi-year, phased nature of the data center campus development.

3. The Property is part of the proposed Cannon Falls Technology Park and Planned Unit Development for a Data Center and Data Center Substation. The Variances would apply to the land legally described in Exhibit A.

4. Minn. Stat. § 462.357 grants to the City, for the purpose of promoting the public health, safety, morals and general welfare, the authority to regulate use of land within the City through zoning regulations.

5. The granting of variances within the City is governed both by the City Code and State Statutes.

6. Minn. Stat. § 462.357, subd. 6 allows variances only when they are in harmony with the general purposes and intent of the City Code and consistent with the City's comprehensive plan. Further, the Applicant must establish that there are practical difficulties in complying with city ordinance.

7. City Code § 152.100 states:

The purpose of this subchapter is to provide for deviations from the literal provisions of this chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant the variances only when it is demonstrated that the actions will be in keeping with the spirit and intent of this chapter.

8. City Code § 152.103 requires the City Council sitting as the Board of Adjustment and Appeals to make the following findings, which are met as follows:

The Board of Adjustment and Appeals shall not approve any variance request unless it finds failure to grant the variance will result in undue hardship on the applicant, and, as may be applicable, all of the following criteria have been met.

(A) Because of the particular physical surroundings, shape or topographical conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

This finding is met, as the scale and complexity of the Property and the Project, which will include multiple buildings and infrastructure systems over 250+ acres, necessitates a phased development approach that will occur over several years. Requiring full architectural and engineering plans at the Final Plan stage for the full 250+ acres would impose a hardship by forcing premature submissions that are not feasible at this time and would inevitably change by the time construction commences. The parcel does not have immediate access to City sewer and water today. The

infrastructure necessary for improvements to a site of this size, including more than a mile of sewer and water main extensions, as well as power transmission lines, will likely take several years. Given the unique nature of the site, including, size, topography, and geographic location, requiring construction to commence within one year is not only a hardship but is not feasible given the planning and engineering required.

(B) The conditions upon which an application for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.

This finding is met, as the proposed development is a master-planned, data center campus with specialized infrastructure and a phased construction timeline on a parcel of land that is more than 250 acres. Given the unique nature of the parcel's size and distance from critical infrastructure that is necessary to develop the Project, requiring submittal of final plans at this time and requiring construction to commence within one year is not only a hardship but is not feasible given the planning and engineering required. These unique characteristics are not typical of other properties in the zoning district, making the requested variance uniquely applicable to this parcel.

(C) The purpose of the variance is not based exclusively upon a financial hardship, or a desire to increase the value or income potential of the parcel of land.

This finding is met, as the variance is requested to align procedural requirements with the practical realities of a multi-year, phased development. It is not driven exclusively by a financial hardship but by the need to accommodate the Project's complexity and timeline. To the contrary, Applicant intends to expend considerable financial resources once the Project is approved in order to commence construction within the requested four (4) years.

(D) The alleged difficulty or hardship is caused by this chapter and has not been created by any persons having an interest in the parcel of land and is not a self-created hardship.

This finding is met, as the hardship results from the ordinance's requirement to submit final plans and commence construction within one year, which may work for other smaller-scale projects, but is not designed for a large multi-year, multi-phase project. This timeline is incompatible with the large scale nature of the Project and was not created by the applicant.

(E) The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the parcel of land is located.

This finding is met, as the project includes extensive landscape buffers, screening, and infrastructure planning to ensure compatibility with surrounding uses, particularly to the residential development to the north. A 200-foot buffer has been negotiated with the Township, ensuring that a natural vegetative and screened landscaped buffer area will separate the Project from the adjacent properties. The variance will not negatively impact public welfare or neighboring properties.

(F) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets or increase the danger of fire or endanger the public safety.

This finding is met, as the variance does not affect building placement or density in a way that would impair light or air. Traffic and safety impacts will be addressed through the site plan review process, which will require sound and lighting studies, and the Project includes measures to mitigate noise, lighting, and utility impacts.

(G) The variance is the minimum action required to eliminate the hardship.

This finding is met, as the requested variance still requires the submittal of all information necessary and required under the City Code, but simply allows the applicant to defer submission of final plans until the site plan review stage, which aligns with the phased nature of the project. This is the least deviation necessary to accommodate the development timeline.

(H) The variance does not involve a use that is not allowed within the respective zoning district.

This finding is met, as data centers, data center substations and associated infrastructure are conditional uses within the I-2 district. The variance pertains only to the timing and procedural requirements of plan submission and construction commencement.

9. The Variance request is in harmony with the general purpose and intent of the City Code and is consistent with the Comprehensive Plan. The Variances to deviate from City Code section 152.153(J) are consistent with the standards set forth by the Cannon Falls City Code and Minnesota law.

10. The time limit for a decision on the Applicant's application will not expire until November 6, 2025.

DECISION

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cannon Falls based upon the information received and having made the above Findings:

1. The City Council of the City of Cannon Falls does hereby approve the following Variances as requested by the Applicant:
 - To Section 152.153(J)(b), in order to defer submission of final architectural drawings until the Site plan review stage for each phase of development.
 - To Section 152.153(J)(c), in order to defer submission of final engineering plans and specifications for streets, drainage, utilities and other public improvements until the Site plan review stage for each phase.
 - To Sections 152.153(J)(g) and 152.153(J)(5), in order to extend the one (1) year construction commencement requirement to accommodate the long-term, phased buildout of the project and so that construction shall be deemed to have commenced upon the City's initiation of construction of the public sewer and water improvements, which are designed by and paid for by the Applicant.

ADOPTED by the City Council of the City of Cannon Falls this 21st day of October, 2025

Matt Montgomery, Mayor

ATTEST: _____
Jon Radermacher, City Administrator

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Parcel 1:

That part of the Southwest Quarter of Section 1, Township 112, Range 18, Dakota County, Minnesota, lying east of the easterly right of way line of Trunk Highway No. 52.

TOGETHER WITH

Parcel 2:

That part of the Southeast Quarter of Section 1, Township 112, Range 18, Dakota County, Minnesota, lying south of County Road No. 86.

EXCEPTING

That part of the above described property being described as:

Commencing at the southeast corner of said Southeast Quarter of Section 1; thence North 00 degrees 16 minutes 48 seconds West, assumed bearing, along the east line of said Southeast Quarter, a distance of 425.92 feet to the point of beginning of the parcel to be described; thence North 89 degrees 36 minutes 26 seconds West, a distance of 230.40 feet; thence North 00 degrees 24 minutes 07 seconds West, a distance of 95.43 feet; thence North 89 degrees 36 minutes 26 seconds West, a distance of 373.66 feet; thence North 00 degrees 24 minutes 20 seconds West, a distance of 1312.91 feet to the southerly right of way line of said County Road No. 86, a.k.a. County State Aid Highway No. 86, as shown on Dakota County Right of Way Map No. 410, filed in the Office of the County Recorder in and for said Dakota County as Doc. No. 3040659; thence South 56 degrees 59 minutes 18 seconds East, along said southerly right of way line, a distance of 427.21 feet; thence North 00 degrees 17 minutes 07 seconds West, continuing along said southerly right of way line, a distance of 5.98 feet; thence South 56 degrees 59 minutes 18 seconds East, continuing along said southerly right of way line, a distance of 228.96 feet; thence southeasterly 71.36 feet, continuing along said southerly right of way line, along a tangential curve, concave to the southwest, having a radius of 1382.29 feet and a central angle of 02 degrees 57 minutes 29 seconds, to said east line of the Southeast Quarter; thence South 00 degrees 16 minutes 48 seconds East, along said east line, a distance of 1020.54 feet to the point of beginning.

Dakota County, Minnesota
Abstract Property

Parcel 3:

That part of the following described property:

That part of Government Lot 10 in Section 6, Township 112 North, Range 17 West in Goodhue County and State of Minnesota lying West of the centerline of Old Highway 52, and more particularly described as follows, to-wit:

Beginning at the Northwest corner of said Lot 10; running thence South 20 chains to the Southwest corner of said Lot 10; thence East 22 chains and 50 links to St. Paul Road; thence North 46 degrees West 29 chains to the North line of said Lot 10; thence West 1 chain and 50 links to place of beginning, excepting therefrom the following:

Beginning at a point on the South line of said Government Lot 10, 22 chains and 50 links East of the Southwest corner thereof on the Westerly line of St. Paul Road; thence North 46 degrees West along said line for 18.6 chains to center line of former State Highway 52; thence Southeasterly along said center line for 11.4 chains, more or less, to the South line of Government Lot 10; thence East along said South line 7.3 chains, more or less, to place of beginning.

Being described as:

Beginning at the southwest corner of said Government Lot 10; thence North 00 degrees 16 minutes 48 seconds West, assumed bearing, along the west line of said Government Lot 10, a distance of 425.92 feet; thence North 39 degrees 30 minutes 44 seconds East, a distance of 725.47 feet to the centerline of Goodhue County Road No. 29; thence South 31 degrees 00 minutes 01 second East, along said centerline, a distance of 1150.61 feet to the intersection of said centerline with the south line of said Government Lot No. 10 in Section 6, Township 112, Range 17; thence North 89 degrees 57 minutes 51 seconds West, along said south line, a distance of 1052.11 feet to the point of beginning.

Goodhue County, Minnesota
Abstract Property

McCoy Subdivision Parcel:

All that part of the Northeast Quarter of the Northwest Quarter of Section 12, Township 112, Range 18, lying easterly of State Trunk Highway No. 52.

AND

All that part of the Northeast Quarter of Section 12, Township 112, Range 18, lying easterly of the centerline of State Trunk Highway No. 52, except a strip of land 100 feet in width owned by the Chicago and Northwestern Transportation Company.

EXCEPTING that part of the Northeast Quarter of Section 12 lying southerly of said 100 feet wide strip of land owned by the Chicago and Northwestern Transportation Group.

Dakota County, Minnesota
Abstract Property