REPORT/RECOMMENDATION

To:	MAYOR AND COUNCIL	Agenda Item	Item No. IV.C
From:	Cary Teague, Community Development Director	☒	Action
		☐	Discussion
Date:	May 15, 2012	☐	Information
Subject:	Resolution No. 2012-62 Denying Preliminary Plat, Subdivision & Variances, JMS, Brookview Avenue		
Deadline for a City Decision:	June 15, 2012		

ACTION REQUESTED:
Approve the attached Resolution No. 2012-62, denying a Preliminary Plat, Subdivision and Variances at 6120 Brookview for JMS Custom Homes.

INFORMATION/BACKGROUND:
At the May 1, 2012 meeting, the City Council directed staff to draft findings and a resolution denying the applicants above mentioned request. The attached resolution has been drafted by staff and the city attorney denying the request.

Planning Commission Recommendation: On March 28, 2012, the Planning Commission recommended denial of the proposed Preliminary Plat and Variances subject to the findings outlined in the staff report dated March 28, 2012. Vote for denial: 8-1.

ATTACHMENTS:
- Resolution No. 2012-62 denying a Preliminary Plat, Subdivision and Variances at 6120 Brookview for JMS Custom Homes.

RESOLUTION NO. 2012-62
DENYING A PRELIMINARY PLAT, SUBDIVISION, AND VARIANCES FOR PROPERTY AT 6120 BROOKVIEW AVENUE IN EDINA

City of Edina

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

1.01 JMS Custom Homes, LLC ("Applicant") has applied for preliminary plat approval, subdivision approval, and zoning variances for property with a street address of 6120 Brookview Avenue legally described as:

Lots 5 and 6, Block 23, Fairfax, Hennepin County, Minnesota ("Subject Property").

1.02 Applicant is a spec house builder that builds houses and then looks for buyers.

1.03 Applicant purchased the Subject Property in 2009. Applicant removed a house and constructed a new house off to one side of the property. Applicant proposes to subdivide the Subject Property and construct a second spec house.

1.04 The two lots that constitute the Subject Property are held in common ownership by Applicant. Subsection 850.07, Subd. 20B4a of the Zoning Ordinance provides: "If a non-conforming lot or parcel is, or at any time since October 22, 1951, has been, held in common ownership with all or part of an adjoining or abutting parcel or lot which together comply with, or come close to complying with, the minimum width, depth, area, and lot width to perimeter ratio, requirements of this Section, then such non-conforming lot or parcel and such adjoining or abutting parcel or lot shall be considered as one lot and shall not be decreased in size below such minimum requirements. If in a group of two or more adjoining or abutting lots or parcels owned or controlled by the same person, any single lot or parcel does not meet the full minimum depth, width, area or lot width to perimeter ratio requirements of this Section, such single lot or parcel shall not be considered as a separate lot or parcel able to be conveyed and developed under this Code."

1.05 The Subject Property is guided Single Family Residential under the City's Comprehensive Plan and is zoned R-1, Single Dwelling Unit District.

1.06 Applicant proposes to subdivide and plat the Subject Property into two lots: Lots 1 and 2, Block 1, Fairfax 4th Addition.

1.07 Applicant has applied for multiple zoning variances:

1. Lot width variances from the 75 feet required in the R-1 zoning district to 50 feet for each lot.

2. Lot area variances from the 9,000 square feet required in the R-1 zoning district to 6,676 square feet for the proposed Lot 1 and 6,671 square feet for the proposed Lot 2.

3. Lot depth variance from the 133.8 feet in the R-1 zoning district to 133.7 feet for the proposed Lot 2.

1.08 On March 28, 2012, the Planning Commission recommended denial of the preliminary plat, subdivision and variances.

1.09 On April 17, 2012, the City Council held a public hearing and continued action on the applications to May 1, 2012.

1.10 On May 1, 2012, the City Council directed preparation of findings for denial of the preliminary plat, subdivision and variances.

Section 2. FINDINGS.

2.01 The proposed plat and subdivision do not meet ordinance standards for a subdivision, because the proposed lots do not meet the minimum Zoning Ordinance requirements for lot area, lot width, and lot depth.

2.02 The variance standards have not been met:

1. The Subject Property is a conforming single-family residential lot with a new single-family house and has a taxable market value of $801,700.00. Reasonable use of the property exists today.

2. The proposed variances are not in harmony with the general purpose and intent of the zoning ordinance which is to require nonconforming lots in common ownership to be developed as a single parcel.

3. There are no practical difficulties in complying with the zoning ordinance standards. Applicant does not propose to use the property in a reasonable manner prohibited by the zoning ordinance. The Subject Property is only 4,347 square feet larger than the required minimum lot size. The proposed lots which are approximately 25% below the minimum lot size requirement are not reasonable.

4. The practical difficulty is self-created by Applicant's proposal to subdivide the property.

5. The need for the variance is created only by Applicant's desire to maximize the return on its investment. Such economic considerations alone do not constitute practical difficulties.

6. There are no circumstances unique to the Subject Property that justify granting multiple variance to enable the Applicant to create nonconforming lots. The Subject Property is similar in size to several lots in the neighborhood including the lots on both sides of the Subject Property.

7. Applicant's decision to build the existing house on one side of the Subject Property rather then in the center does not make the Subject Property unique.

Section 3. The preliminary plat, subdivision and variances are denied.

Adopted this 15th day of May, 2012.

ATTEST:_____ _____
Debra A. Mangen, City Clerk James B. Hovland, Mayor

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss. CERTIFICATE OF CITY CLERK
CITY OF EDINA)

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution was duly adopted by the Edina City Council at its Regular Meeting of May 15, 2012, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2012.

_____
City Clerk