

**North Oaks Planning Commission
Meeting Minutes
City of North Oaks Community Meeting Room and Via Teleconference
September 24, 2020**

CALL TO ORDER

Chair Azman called the meeting of September 24, 2020, to order at 7:03 p.m.

Pursuant to Minnesota Statute 13D.021, the meeting was conducted via Zoom, with Chair Azman, Administrator Kress and Grover Sayre III present in the Council Chambers.

OATH OF OFFICE

Chair Azman led Grover Sayre III, in the Oath of Office:

“I, Grover Sayre III, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of Minnesota, and that I will discharge faithfully, the duties of the Office of City of North Oaks Planning Commission, in the County of Ramsey, State of Minnesota, to the best of my judgment and ability.”

ROLL CALL

Present: Chair Mark Azman, Commissioners David Cremons, Jim Hara, Nick Sandell, Grover Sayre III, Joyce Yoshimura-Rank and City Council Liaison Rick Kingston.

Absent: Commissioner Stig Hauge.

Staff Present: Administrator Kevin Kress, City Attorney Bridget Nason, City Planner Bob Kirmis, City Engineer Larina DeWalt.

Others Present: Videographer Maureen Anderson, North Oaks Company President Mark Houge.
A quorum was declared present.

PLEDGE OF ALLEGIANCE

Chair Azman led the Pledge of Allegiance.

APPROVAL OF AGENDA

Chair Azman asked to add a brief update on what is happening at the Nord Development Site, noting that he, as well as others, received an email from a concerned citizen about the grading, and he has asked Staff to take a look.

Administrator Kress said they would add that to 8d under New Business. He also has an addition 7b in the Consent Agenda of the May 28, 2020 Minutes.

MOTION by Yoshimura-Rank, seconded by Cremons, to approve the agenda as submitted. Motion carried unanimously by roll call.

CITIZEN COMMENTS

None.

APPROVAL OF PREVIOUS MONTH'S MINUTES**a. Approval of the July 30, 2020 Planning Commission Minutes****b. Approval of the May 28, 2020 Planning Commission Minutes**

MOTION by Cremons, seconded by Yoshimura-Rank, to approve the Minutes of the July 30, 2020 and the May 28, 2020 Planning Commission Meetings. Motion carried by roll call. VOTE: Ayes 5, Nays 0, Abstain 1 (Sayre).

BUSINESS ACTION ITEMS

- Chair Azman noted tonight is not a review of whether the plans submitted tonight on Gate Hill or Red Forest are compliant, but is a determination on whether the Applicant has submitted all appropriate materials, documents and studies for purpose of the Commission and Council to review the application.
- Attorney Nason stated what the Commission has before them tonight is a Preliminary Plan Completeness Review. In most jurisdictions, Completeness Review is done by Staff, who would determine if the application is or is not complete. If an application is incomplete, it would be rejected by Staff before going before the Planning Commission or any other City body. Under the North Oaks Ordinances, completeness review is conducted at the Planning Commission level, who reviews the submittals against the criteria for the particular application, and if all of the boxes are checked as far as required elements for a submission, the Planning Commission is asked to deem the application complete. At that point, a public hearing will be scheduled for the substantive analysis of the application itself, which is an opportunity for the public itself and for the Planning Commission to review the application and materials to determine if it complies with all of the requirements for the development. Under State statute, a City has 15 days from date of receipt of a completed application to make that completeness determination. If deemed incomplete, the Applicant is advised of that and it resets the clock; if deemed complete, the application moves on to the next process. She noted a timing element and that the Planning Commission needs to make a decision tonight, following the presentation and discussion, the Commission will be asked to consider adoption of a resolution deeming the applications complete. Alternatively, the Commission has the option to deem the applications incomplete, in which case they should articulate the reasons for incompleteness and what additional information is necessary and required pursuant to the PDA and applicable zoning and subdivision ordinances so the developer knows what they need to bring forward next time.

a. Consider Resolution 2020-04, Determining Completeness for Gate Hill Development Gate Hill Development and Setting Public Hearing.

- City Planner Kirmis described the project, noting the North Oaks Company (NOC) is requesting preliminary plan or subdivision approval of a low-density subdivision upon the Gate Hill parcel. The site measures 32 acres and is Site G in the East Oaks Plan Development Agreement and calls for the creation of 73 lots upon the site, comprised of 33 detached townhomes and 40 twin-homes which would exist between 20 buildings.
- Chair Azman asked for Exhibit B6, a map, to be put onscreen.

- City Planner Kirmis continued, and said according to the PDA, the City's Residential Commercial Mixed (RCM), the zoning district provisions apply to the property. All proposed lots or dwellings are proposed to be served by municipal sewer and water. He noted the City has received the Wetland Delineation Report, as it is 50 pages it was not included in the Commissioners' packet. Staff has found the application to be complete and is recommending that the Planning Commission adopt Resolution #2020-04 with the insertion of a public hearing date.
- Commissioner Cremons said he counted 21 twin-homes on the screen, but noted the application says 20 twin-homes.
- Mr. Kirmis said he may have to defer to the Applicant regarding that question.
- Mr. Mark Houge, President of North Oaks Company (NOC), noted the map shows an alternate site where the cursor is onscreen. He said there are two locations to consider, but the intent is for there to be 20 twin-homes and they are looking for guidance from the Commission on where it would be most logical to remove one of the 21 that are shown.
- Commissioner Cremons said as they go forward with the preliminary plan review, will the proper number of units be reflected.
- Mr. Houge said they are looking for the feedback from the Commission, noting that NOC can choose to remove one at their discretion or the Commission can give some guidance.
- Commissioner Cremons looked at the zoning code and he couldn't find an RCH-PUD (which is written in the letter), but found an RCM-PUD.
- Mr. Houge stated he may have misspoke, RCM-PUD is correct and there was a typo in the letter.
- Commissioner Hara said regarding which of the twin-homes might be removed, there is a space in the middle and if they remove one of the proposed sites on the North side, the people on that side of the development would have an easier time getting to the amenity space. Right now, he said they'd have to go almost back to the entrance.
- Mr. Houge thanks Commissioner Hara and said that is a good idea.
- Chair Azman asked Mr. Kirmis from a planning standpoint is there any advantage to removing one in a certain location.
- Mr. Kirmis noted when he looked at the center island which is supposed to be available for the neighborhood, it strikes him as very restrictive; he would feel that he is in the backyards of private homes. There is not much exposure to the ring road, and usually if one enters a park or open space, they like to see some green along the road frontage, and he thinks it seems a little bit tight and constricted.
- Chair Azman noted Commissioner Hara had a good idea to remove one of the Northern homes to create access on the North side.
- Mr. Kirmis said where the trail enters the center area, if there was more open space, there would be more of a visual of the green space from the ring road.
- Commissioner Hara asked regarding the backyard space to the North and South, he asked if that was wetland, noting the yellow and green areas on the map.
- Mr. Houge said the yellow and green areas are placeholders. Yellow was envisioned to be a garden space, and the green area was more active, which could be something like a pickleball court. He said those could be manipulated to be wherever they need to be. Looking at the layout, the other suggestion was to perhaps open things up where Unit 26 is because that would be opposite some parking and would be relatively close to the trail going off to the

North. He added that the lot boundaries look more congested but noted the footprint of the houses is pretty generous and it will feel a lot more open than what the map implies.

- Commissioner Yoshimura-Rank asked if there is an easement for the outer-ring homes for those people to get to the center space.
- Mr. Houge replied there will be an easement, after they work with North Oaks Home Owners' Association (NOHOA) on exactly how the interior courtyard will be configured.
- Commissioner Yoshimura-Rank asked if that center area was chosen because it is more elevated.
- Mr. Houge said it was chosen because the configuration of the road has a circular design, and it also comes from a vision of an interior space that residents can use as a small community gathering space.
- Chair Azman asked what would be procedurally best for the Applicant or Commission to deal with the extra unit, should they deal with it now as it is part of the application.
- Attorney Nason said it sounds like Mr. Houge is soliciting feedback from the Commission and the public at the time of public hearing, so unless there is more specific guidance, further conversation could be deferred until the time of that public hearing. She noted any potential preliminary plan approval would have to include as a condition that the total number of units matches what the Applicant has stated the total number of units is.
- Commissioner Yoshimura-Rank said at some point they would be receiving a new map.
- Attorney Nason said it would potentially depend on what the guidance is, it could be simply removing the unit from the map so the plan is approved with the removal of that unit.
- Mr. Houge added there would not be any other changes to the plan, for instance the grading, it would literally be removing that one unit and nothing else would change with the design.
- Chair Azman stated perhaps they should deal with this during plan review and depending on how things proceed, the Commission could take a position through a vote on a unit to be removed. He asked regarding completeness, in the traffic report for Gate Hill, the Westwood report seems like there is something missing. He asked if there are any needed changes at Centerville Road.
- Mr. Houge said NOC engaged Westwood to do their analysis as a traffic engineer is generally made available by the Applicant to advise, and they concurred there are no turn lanes required and NOC has talked to Ramsey County, who said the same thing. Ramsey County would like to do a study to see if signalization would be justified, and have said it's a controlled intersection, which could be controlled either by stop sign or traffic signals and they would like to analyze that piece but would not change the configuration of the road or intersection.
- Commissioner Yoshimura-Rank asked when the last traffic study on Centerville Road was done.
- Mr. Houge said Westwood's analysis was done within the last 12 months, and he believes it was 6 months ago. Ramsey County does traffic studies on a recurring basis and he's not sure when they did the last study irrespective of this development.
- Commissioner Hara said Mr. Houge's suggestion of removing Unit 28 across from parking makes sense and in the interest of making the public review simple, it would be easier to present a map that has 20 rather than debating which of the units should be removed.
- Commissioner Cremons and Commissioner Yoshimura-Rank agreed.

- Mr. Kirmis suggested a compromise, noting it's a great idea to provide some accessibility from the Northern parking area and asked what if two units were removed, one unit from the twin-home South of that parking area and one unit from the Southern trail access, essentially losing two units, but everything would be bumped over. Then each trail access would be widened up a bit at points where parking is provided. He clarified instead of removing a whole building, take one unit and everything shifts over.
- Mr. Houge said the idea behind the twin-homes is to have a shared wall which leads to more affordability, so if they did that, there would be two individual detached townhomes.
- Mr. Kirmis clarified he is saying the width of access would be one unit; the twin-home would just be shifted East or South.
- Attorney Nason outlined the motions the Planning Commission could consider: 1) to deem the application incomplete and such motion-maker should articulate the grounds which are found on the checklist documents; 2) adopt Resolution 2020-04, she noted there is a blank in section 3 and will be further discussion tonight about meeting times.
- Administrator Kress said the earliest they could meet based on the paper deadlines is October 23, 2020 and they need to give 10-days' notice to the public.

MOTION by Hara, to adopt Resolution #2020-04 Gate Hill Preliminary Plan Application to be deemed Complete, provided the final number of twin-homes shown on the preliminary plan for consideration is 20, and to schedule a Public Hearing on October 29, 2020 at 6:00 p.m.

- Commissioner Sandell noted he has no issue with one unit being removed, however if the Commission is making a determination of completion right now, he asked if it seems odd that they have a condition for the future to determine something is complete in the present. He said it will need to be evaluated when they review the plan.
- Chair Azman said the issue is whether or not they can deem it incomplete based on the issue.
- Attorney Nason stated the developer's intent is clear in all of the application materials, which is that they intend to develop 20 units, but ultimately the Commission can decide whether to deem it incomplete because of the units, which seems unnecessary.

Motion seconded by Yoshimura-Rank.

- Commissioner Sayre noted he is the newbie, but his thinking for making a motion that everything that needs to be in the application is there, and as the application makes the journey through the approval process, things will change. They've already heard a unit will be removed and some configuration and public space may change, and the Commission will hear from the public and based on what they hear there, things may change a bit, as well. He thinks this just gets the process started because the application is complete enough at this point in time.

Motion carried unanimously by roll call.

b. Consider Resolution 2020-05, Determining Completeness for Red Forest Way Development and setting Public Hearing.

- Mr. Kirmis summarized the application and noted the North Oaks Company (NOC) is requesting a preliminary plan or subdivision approval of Phase 1 of a two-phase single family residential subdivision entitled Red Forest Way South. This parcel was previously referred to as North Black Lake. All proposed lots are proposed to be served by on-site wells and septic systems. One item of note is that it is an unsewered project. Staff has found the application to be complete and is recommending that the Planning Commission adopt Resolution #2020-05 with the insertion of a public hearing date.
- Commissioner Cremons asked regarding zoning and density, when he looks at the zoning code, it says there is a minimum lot size of 1.45 acres adjusted lot area to comply with the zoning for the site. When he looks at the code, the adjusted lot area is gross area minus road right-of-way; in Phase 1, he sees 5 sites that appear to fall below that minimum level.
- Mr. Houge noted he thinks the document is being misinterpreted, and clarified the sites do comply.
- Commissioner Cremons gave the example of Lot 6, noting when the road right-of-way is considered, it's considerably below 1.5 acres.
- Mr. Houge responded it is a misinterpretation of the ordinance that the roadway be removed from the area calculation.
- Commissioner Cremons said he'd go back and check it, but thought the definition was that the roadway be backed out.
- Attorney Nason said she believes Commissioner Cremons is referencing the Residential Small Lot (RSL) zoning district 151050, in the zoning ordinance it says the average size of every lot or parcel created by subdivision shall have a minimum area of 1.45 acres and in no event shall any lot, track or parcel land so created have a minimum area of less than 1.25 acres. She noted language that talked about excluding easements.
- Commissioner Cremons asked if the roadway is an easement.
- Mr. Kirmis replied that the roadway is an easement. He noted when he started in North Oaks, this was a question he asked early on, and typically they look at plats and they are right-of-way, and obviously are not part of the lot. He posed that question to the previous City Administrator and was advised that the area that lies within the roadway easement is in fact counted as lot area. It is his understanding that is how it's been handled.
- Chair Azman asked if it's average lot-size or per-lot evaluation.
- Commissioner Cremons referred to Mr. Houge's language in the letter that says each parcel is larger than the minimum 1.45 acres required in the PDA. He said it sounds like a point they need to clarify in talking about this site.
- Chair Azman said it would be a fairly significant issue as it would be grounds to deem the application incomplete. He asked Attorney Nason to take a look at the ordinance while the Commission asks any questions they may have.
- Commissioner Sandell asked if it would make the application incomplete, as the PDA assessment is in the preliminary phase.

- Mr. Houge said he stands by what was said earlier, the way it's being interpreted is that the land area for the lot is defined by the size of the lot and the easement, because it's unique to North Oaks as they are private roads rather than public, that is why the area covered by the road isn't removed from the lot area calculation. He noted this is how it's always been done and he thinks the ordinance and the PDA supports that.
- Chair Azman asked about the report on soil suitability, and said it seemed that there was an opinion missing from Wenck that the soils were suitable. He noted they said they studied the soils and took samples but never made the conclusion that the soils were suitable for on-site sewage systems. He asked what the company's position or comment is on that.
- Mr. Houge asked to show the drawing of the suitable septic areas, noting there are two 5,000 square foot areas on each site and the only thing to be provided later is a document that has more detailed soil borings.
- City Engineer DeWalt said when Staff went through to check for completeness, she raised the question regarding the soil suitability information and she requested a letter from Wenck validating that they did the work and what was shown in the plans is the appropriate soil suitability. She asked for that report to be provided with the preliminary plan for full review if the completeness resolution was passed tonight.
- Mr. Houge noted on screen the areas identified for suitable septic and he recalls the report was submitted recently and it is in the position of the City at this time.
- Chair Azman asked Ms. DeWalt to recap her comments again; does she think that portion of the application is complete.
- Ms. DeWalt said as she was reviewing for completeness, she identified that the areas as required are shown in the plan, but she did not see information accompanying it that would detail the soil investigation to deem the suitable areas. She noted she was comfortable with asking for a letter from Wenck, because she knew they were finalizing the report, stating that yes, the professional engineers had been in the field and were finalizing the report. If the City received the report prior to tonight's meeting (which they did receive, although it is not in the packet), she is comfortable saying the information is complete. She noted the tan portions on the screen are the two suitable septic areas per site.
- Commissioner Sayre noted the area was to be serviced by well water and asked if the water has been tested. He said awhile back there was some underground water contamination from his neighbor that was migrating toward his house.
- Mr. Houge responded NOC is relying on the quality of the water in the adjoining properties, which all have wells. He noted if Mr. Sayre is referring to contamination that would be farther South, near Ski Hill Lane. He said it's not a requirement of the completeness application, but he doesn't think it's an issue at all.
- Commissioner Cremons said regarding the phasing: Phase 1 appears to be all lots to the North and West and asked if the infrastructure, roads, cul-de-sac, is all going in with Phase 1 even though the lots aren't being developed and the subdivision for that side isn't yet up for approval.
- Mr. Houge noted they could do it either way, at this point, he envisions it being done at a later date; they showed it in documents for the conceptual nature of it so everyone would

understand the potential length of the cul-de-sac. The plan now is to do the loop road and not build that short section of road that would lead to a cul-de-sac.

- Ms. DeWalt said it is her understanding that the Phasing is planned as it's shown on Sheet 2, which shows just the loop road.
- Chair Azman stated they need to deal with the lot size issues. He asked if they should take a five minute break to look at it, or is compliance with lot size a completeness issue or a plan review issue. He noted he'd be reluctant to determine completeness under these circumstances.
- Administrator Kress said if he were to look at it, he'd pull another development of the same zoning to see if the issue was there as well and approved for completeness. He doesn't know if the Commission would have the opportunity to deny completeness on this site. He deferred to Attorney Nason.
- Attorney Nason said she'd been digging through the Code as requested.
- Commissioner Sandell asked if the lot size is a PDA issue.
- Attorney Nason responded no, there are performance standards within the PDA itself regarding setbacks, minimal building height, etcetera; the size of the lot is found in both the Zoning Ordinance and the Subdivision Code. There is both an average lot size and a minimum lot size and language about how to calculate that. She noted she's working on the fly which is never the best way to do an in-depth legal analysis, but she sent a document to Administrator Kress to help facilitate the conversation so the Commission can review the wording in the code.
- Commissioner Cremons asked if the Commission agrees to completeness, they are in no way compromising their ability to deal with this issue at the preliminary or final plan approvals. Rather than delay the project a month unduly, can they look at it between now and October 29, 2020, so they have the issue resolved. He said if it turns out that lot sizes don't meet the code requirements at that future date, he would vote to reject the project, but he wouldn't say he'd vote for incompleteness because of that tonight.
- Attorney Nason said there is some language that proves the preliminary plan is consistent with the master development plan.
- Ms. DeWalt added on Staff's checklist as part of the completeness review, they've identified that proof that the preliminary plan is consistent would be determined as part of plat review along with a number of other items that need to be reviewed as part of a thorough plan review. She added that as City Engineer there are many things that she will be thoroughly reviewing and would most definitely comment on as part of that review that hasn't been looked at yet.
- Attorney Nason reported it does talk about consistency if what is shown appears to be consistent and can be deemed complete; it does not wave or bind the Planning Commission to a determination that anything is in fact compliant. She walked through some definitions onscreen, noting the language at the top from the RSL City Zoning Ordinance, talks about suitable site, usable area, calculations for lots, and the definition of an easement, setback, road/street. She included a definition for Gross Lot Area, which is the total area excluding road easements, however that was not included within the definitions above. She continued on the Subdivision definitions look almost identical to Zoning for what is usable area,

suitable site, setback and easement. She reported those are the words in the Code that she agrees with Ms. DeWalt that some additional legwork will be required before the public hearing to evaluate the application, and to come up with a Staff recommendation regarding compliance for Planning Commission, consideration and discussion.

- Chair Azman asked where the language is that says they must exclude easements in determining average lot size.
- Administrator Kress noted it's in the usable area.
- Mr. Houge said what referenced onscreen refers to usable area, rather than lot size.
- Attorney Nason said there are three different requirements for lot area for subdivision. 1) The average size of each lot must meet the minimum area of 1.5 acres and in any event shall no lot be less than 1.25 acres; 2) it provides information on how to determine and calculate average sizes; 3) must meet the definitions of a suitable site and usable area. She stated these are the three areas that must be explored.
- Commissioner Cremons said he thinks they should take the time to explore it rather than taking the time right now. He pointed to the letter where it reads "each parcel is larger than the minimum 1.45 acres required in the PDA." He looked at that language and wondered if that is correct as the definitions don't seem to require 1.45, as it states it may require 1.25; however, his initial question was based off the NOC's letter. He said it will take some time to figure out, noting he supports moving ahead with a completeness approval and making sure they get the issue resolved.
- Chair Azman said Mr. Kress and Attorney Nason will continue to look at this issue. He stated it's bringing back some bad memories of analyzing these statutes in that particular issue about a year ago in determining average on the ordinance.

MOTION by Yoshimura-Rank to adopt Resolution #2020-05, Red Forest Way Preliminary Plan Application to be deemed Complete, with a public hearing to be scheduled on November 10, 2020 at 6:00 p.m.

- Commissioner Yoshimura-Rank asked whether they need to have any other language included.
- It was determined they need to schedule a time for the public meeting. Chair Azman said with the last applications they did two very close together and it was difficult.
- Mr. Houge said given the amount of work before the Commission, he would request that they consider a special meeting, as many Planning Commission meetings occur every two weeks and North Oaks meets once a month.
- Attorney Nason said regarding the 120-day deadline, she knows there was a compressed timeline with the last applications that went through, so the thought here is that the Planning Commission is setting the public hearing meeting. At that public hearing, the questions is whether or not the Commission will take action on the applications on that same meeting night, or would they have the public hearing and then another meeting to take action on those applications. She noted Council may appreciate having a little more time to digest information, so she suggests the Planning Commission have that meeting sometime the week of October 25, 2020.

- Chair Azman suggested doing on public hearing on October 29, 2020 and one the following Thursday, November 5, 2020.
- Commissioner Hara noted they received input from the League of Women Voters and there seemed to be an overwhelming amount of questions regarding the planning process and citizen input to have information to make timely input. He thinks doing what the voting public is looking for, he doesn't think they should be rushing this, but should give them enough time to feel that their input is heard and incorporated into whatever decisions are made.
- Chair Azman asked when the NOHOA Board meets.
- Mr. Houge noted he sits on the NOHOA Board and it is the first Thursday of each month.
- Commissioner Sayre suggested meeting two weeks after October 29, 2020 to space them out a bit to do the projects justice and he would oppose doing them both in the same week.
- Commissioner Sandell asked to clarify if Commissioner Sayre is suggesting having two meetings for each site or splitting each site up.
- Commissioner Sayre suggested doing public hearing and the Planning Commission's consideration on the same night, and their decision on the same night...with two separate nights, one for each of the projects.
- Commissioner Sandell agreed with that and thinks that is the right way to do it. He thinks they found there was enough conversation on each of the developments that warrants its own night and meeting, but he likes that there are all aspects of it on one night.
- Chair Azman said he doesn't want to get too far down the line, and if there is a significant amount of interest, they will need a continued public hearing. He suggested October 29, 2020 for Gate Hill and November 10, 2020 for Red Forest Way.
- Administrator Kress said he'd have to ask Consultants for their availability on November 10, 2020 and noted Veterans Day is on November 11, 2020, so offices are closed on that Holiday and he believes meetings are not allowed on Holidays (other than Columbus Day).
- It was determined that Consultants, Applicant, and Commissioners are available on November 11, 2020 at 6:00 p.m.
- Administrator Kress noted Commissioner Yoshimura-Rank made a motion.
- Chair Azman asked if there is a second to that motion.

Motion seconded by Cremons. The Commission scheduled the Public Hearing on November 10, 2020 at 6:00 p.m. Motion carried unanimously by roll-call.

c. Consider Resolution 2020-06, Changing/Setting meeting dates for October – December.

- Administrator Kress said the dates they've determined are October 29, 2020 at 6:00 p.m. and November 10, 2020 at 6:00 p.m. The idea behind it is that they would have a Public Hearing but wouldn't need to schedule another special meeting after those dates, they would already know in the next meeting whether to extend the Public Hearing or ask for approval or denial of either application series. He said November is tricky because of Thanksgiving, but they could potentially hold a meeting the week of November 16, 2020; generally there is no

business done the week of Thanksgiving (November 23-27), and then they'd be into December.

- Chair Azman asked if they need one and should set one in case they need it and can cancel.
- Administrator Kress' idea was the Commission could set the meetings and if they need them they're there and if they don't need them, they cancel.
- Chair Azman asked when the regular meeting is in November, 2020.
- Administrator Kress answered there usually isn't one, as it's cancelled due to Thanksgiving.
- Chair Azman asked about the previous Thursday.
- Administrator Kress said depending on the time, the previous Thursday would be a Natural Resources Committee meeting, which he usually attends, but could have the liaison sit on his behalf.
- Chair Azman clarified that would be November 19, 2020 and asked to set a meeting at 6:00 p.m.
- The Commissioners agreed that would work.
- Commissioner Sayre asked the reason for setting the additional meetings as he doesn't recall it being done in the past.
- Administrator Kress answered the reason is if they need to extend the Public Hearings and to meet the 120-day deadline, which is towards the end of December.
- Attorney Nason said looking at September 17, 2020 as the application date, the 120 days would run on January 15, 2020.
- Administrator Kress noted the City Council will most likely need to adjust their meeting dates around to accommodate the 120-day schedule.
- Chair Azman asked about the Planning Commission meeting in December.
- Administrator Kress noted that would be on December 31, 2020 and the offices are closed, so they will need to move that meeting, as well. He said they would perhaps need to look at the first week in December to allow the Council enough time to take a look.
- Chair Azman suggested December 1, 2020 and they could switch the regular Planning Commission meeting to December 22, 2020, which is before the Christmas Holiday.
- Commissioner Hara noted December 22, 2020 is Christmas week and for those traveling it's not the best time.
- After discussion, the Commission agreed to December 2, 2020 (a regular meeting) at 6:00 p.m. and December 16, 2020 (a regular meeting) at 6:00 p.m.

MOTION by Yoshimura-Rank, seconded by Cremons to adopt Resolution 2020-06 as amended and presented. Motion carried unanimously by roll call.

d. A brief update on the Nord Development Site

- Chair Azman explained there have been concerns submitted regarding the Site about some of the activities going on, in particular grading issues up to the wetlands. He asked Ms. DeWalt or Mr. Kress to give an update on their review of that. He confirmed this is really a City Council issue as it's up to them to review and make decisions on, however, Nord generated a

good amount of interest in the community and he thinks it's of interest for Commission members and the public, although they don't have authority over it, to hear the status of what the Staff is doing.

- Ms. DeWalt shared that the City Council granted the Applicant, North Oaks Company (NOC) permission to conduct preliminary grading activities on the site, pursuant to the approved preliminary plans through Resolution 20-1390 in July 2020. Since the site work has commenced, Ms. DeWalt has been on-site to observe progress, inspect erosion control measures, meet with the Applicant to review any concerns. She noted she has had a few concerns and has raised those with the Applicant, and those concerns have been immediately addressed. She stated the City has received a number of questions from concerned residents. Ms. DeWalt has gone to the site to take measurements, walked the site up and down multiple times each week, and each concern has been investigated and discussed with the appropriate authority – partnering with VLAWMO (Vadnais Lakes Area Water Management Organization), other City Staff and NOHOA (North Oaks Home Owners' Association). After that investigation, it is Ms. DeWalt's opinion that all work completed thus far is consistent with the approval granted by the City Council. The mass grading activity is nearly complete, there were some finishing touches done today and Ms. DeWalt will be out there again tomorrow afternoon to check on the progress.
- Commissioner Hara said his understanding is a grading permit was issued for a road and asked if that is correct.
- Ms. DeWalt answered the permit as written within the Resolution approved the mass grading and preliminary grading activities for the site. Essentially, NOC's application was for the road, the storm sewer and the ponds, they're not developing a lot, so essentially the development is the road. However, the work intended and needed to prepare the site for the construction of the road requires additional work outside of the 24-foot bituminous. She clarified the work that has been done is the work shown on the preliminary plans and approved through the Resolution.
- Commissioner Hara asked how much additional land needs to be graded to accommodate a 24 foot road.
- Ms. DeWalt answered it really depends. In this case there is the 24 foot bituminous section, 2 foot shoulders on each side and approximately 10 foot ditches on each side and the tie-in to existing grades. The equivalent width of that grading would be well over 100 feet in some cases. She understands it can sometimes be difficult to visualize that when looking at a 2-Dimensional construction plan on 11x17 paper and a small scale, but that is what is shown on the grading plans.
- Commissioner Hara said when he does the math of 24 feet, 2 feet on each side, 10 feet and 20 feet equals 48 feet. He said he went out to the site as he received comments from some people living near the area and the road ranges from about 130 feet wide to as much as 180 feet wide. His other question is, what is the required grading or earth disturbance from a wetland.
- Ms. DeWalt said she would suggest rather than doing math on the fly with her estimated distances of what is required, she would refer back to what was approved on the grading plan and they could measure on the plan what was actually shown. She noted she is not required

to go out with the survey crew and measure every single distance, but she has walked the site multiple times and it appears that it is consistent with what was approved. She was not prepared to answer questions specific to the wetlands, but she can say she's been in contact with VLAWMO and BSWR (Board of Water and Soil Resources) and it appears that what is being done is consistent with what was approved.

- Commissioner Hara noted there is a 30 foot setback as he understands it, so he doesn't think anyone would've approved that. He thinks there is a disconnect here where they get in trouble with the community, there was a contentious process with comments from citizens, it did go through and then when they went out to look at it, it looks like they could land planes out there as a large swath of mature woodlands is gone. He thinks that is the issue in front of people; they thought one thing was being done and when they go out and look, it seems it's very unreasonable from the rest of the roads they've seen in North Oaks and it does go right up to a wetland in a couple different spots. He noted there is some evidence there that construction equipment is actually in a wetland.
- Ms. DeWalt stated she intended for this to be a high-level overview of the progress that has happened on the Nord site and perhaps not a debate of what has been done versus what was approved. However, she believes there are some misconceptions regarding setbacks versus buffers. She clarified setbacks as referred to in the ordinance refers to a horizontal width from the edge of a wetland for structures, and NOC hasn't built any structures within the setback. Grading and clearing, or land disturbance is approved within the buffer per VLAWMO's water policy – they can grade and clear within a buffer as long as that area is de-compacted, reseeded, and restored upon completion.
- Chair Azman asked if the investigation is not yet complete based on the concerns submitted and asked if Staff is still investigating.
- Ms. DeWalt noted she has submitted her responses and she will defer to Administrator Kress on the status of how and when those will be shared with the concerned parties. She believes as of today, the investigation is complete.
- Administrator Kress' intention is to look at things tomorrow morning with Staff and Consultants, then he will forward it to the Planning Commission and City Council and the residents who asked the questions.
- Chair Azman said if anyone would take enforcement action, it would have to be at the Council level. He just wanted the courtesy of giving the Commissioners an update as to what is happening.
- Attorney Nason noted Planning Commission has the opportunity to schedule a site visit for the group. If they want to do that they would need to call a special meeting, give notice, it would have to be open to the public. Otherwise, as she understands the NOC is willing to give access as long as they contact the Company to arrange that in advance with them.
- Administrator Kress reminded the Commissioners they should be talking to NOC anytime they are on site of any development area because it is private property and they should be giving the Company that courtesy any time they intend to go onsite beforehand. He noted best practice is to go through him (Mr. Kress) and he will coordinate with NOC and he will know who is there and when so they're not violating the open meeting law.
- Mr. Houge asked to comment as the property owner.

- Chair Azman said of course.
- Mr. Houge said he'd be happy to arrange to show Commissioners the site, but he must insist that no one goes on that site without permission from the Company for safety reasons, among others. He noted it is a construction site and is not safe for residents or people not accompanied by a representative of the Company to be on site. It has been marked No Trespassing and the Company asks that everyone honors that request.
- Commissioner Hara said in order to restore confidence with the public, it wouldn't be a bad thing to walk the site. He noted it would be good for everyone to understand what transpired there and if it is all within what the grading permit allows and the soil disturbance next to the wetlands is acceptable, then there isn't anything to discuss. However, it didn't seem that way and the proximity to the wetland and the mature trees taken down has been commented upon. He said having looked at it, he was surprised to see the site basically razed – he thought there would be more of an effort to retain some of the North Oaks natural environment and that was disappointing.
- Mr. Houge reminded everyone that NOC is working very closely with the City Forester, who has reviewed and approved everything that's been done at the site. He said it is a little deceiving when one goes out there, given that the property is 55 acres, the road and its associated construction area is probably less than 10% of that overall area and he'd like to put peoples' mind at ease that they are following exactly to the letter.

COMMISSIONER REPORTS

None

ADJOURN

MOTION by Yoshimura-Rank, seconded by Sandell, to adjourn the Planning Commission meeting at 9:06 p.m. Motion carried unanimously by roll call.

Kevin Kress
Kevin Kress, City Administrator

Mark Azman
Mark Azman, Chair

Date approved 10/30/2020