

**North Oaks Planning Commission
Meeting Minutes
City of North Oaks Community Meeting Room and Via Teleconference
November 10, 2020**

CALL TO ORDER

Chair Azman called the meeting of November 10, 2020, to order at 6:00 p.m.

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

ROLL CALL

Present: Chair Mark Azman, Commissioners David Cremons, Jim Commissioner Hara, Stig Hauge, Nick Sandell, Grover Sayer III (joined the meeting at 6:10 p.m. after technical difficulties), Joyce Yoshimura-Rank.

Absent: None.

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, Gary Eagles.

A quorum was declared present.

PLEDGE OF ALLEGIANCE

Chair Azman led the Pledge of Allegiance.

APPROVAL OF AGENDA

Chair Azman noted one change as there are no meeting minutes to approve and they will deal with that at the next meeting. Item No. 6 will be removed from the agenda.

**MOTION by Yoshimura-Rank, seconded by Hara, to approve the agenda as amended.
Motion carried unanimously by roll call.**

CITIZEN COMMENTS

None.

APPROVAL OF PREVIOUS MONTH'S MINUTES

This item was removed from the agenda.

BUSINESS ACTION ITEMS

a. Public Hearing: Preliminary Plan/Preliminary Plat (Subdivision) Application - Red Forest Way South

Chair Azman noted this public hearing is for the subdivision known as Red Forest Way South Phase 1, a portion of Site K in the Planned Development Agreement (PUD) between the Applicant and the City. The hearing will allow the public an opportunity to be heard.

- City Planner Bob Kirmis reported that the North Oaks Company (NOC) is seeking preliminary plan approval of Phase 1 of a two-phase single-family residential subdivision entitled Red Forest Way South. The subject site is located upon 91 acres of land located north of County Road H2 and west of Centerville Road. This is a two-phase subdivision and at this time only Phase 1 is under formal consideration. Phase 1 consists of 17 lots and one lot on which no dwelling unit is proposed. Phase 1 occupies the northwest area of the site. Phase 2 is conceptually illustrated in the southeast area of the site and incorporates a total of 16 lots. Combined Phases 1 and 2 results in a total of 33 single family lots proposed on the site. Considering that Phase 2 is conceptual at this point, it is illustrated basically for reference purposes, and it will be subject to future preliminary plan processing by the Planning Commission and City Council. As indicated by Chair Azman, this property occupies a portion of Site K as illustrated in the Easts Oaks PDA. Site K makes a specific allowance for detached single family dwellings, such as those proposed at this time. Presently, 41 lots exist within the Red Forest Way subdivision to the north; if they include the 73 additional lots which are proposed in Phase 1 and conceptually in Phase 2, a total of 74 dwelling units would exist within Site K. The East Oaks PDA provides for a total of 64 units upon Site K with a permitted density increase of up to 30% and that would result in a maximum of 83 units, thus the proposed 74 units are within the allowances provided by the PDA. According to the PDA and the City's zoning map, the City's Residential Single-Family Load (RSL)-PUD, residential single-family load density zoning district provisions apply to this property. Additionally, the southern 1/3 of the site lies within the shoreland management area of Black Lake which is designated as a natural environment lake. Mr. Kirmis summarized some comments in the report: as noted, this was previously subject to conceptual review by the Planning Commission, specifically back in February, the intent of the conceptual review was to provide feedback early on in the review process that can be considered by the Applicant as part of the refinement of the plan. For comparison purposes, the concept plan which was considered in February is incorporated into the report as Exhibit E, additionally, specific feedback provided by the Planning Commission is provided in a memo attached as Exhibit F. In considering preliminary plan applications, there are really two aspects of the review 1) the question, "Is it consistent with the East Oaks PDA and the purposes of that document?" In this regard, some of the various purposes of the PDA included intent to provide creative and flexibility in environmental design that is not provided via the strict enforcement or application of the City's subdivision and zoning ordinances. Additionally, the PDA is intended to encourage the preservation and enhancement of desirable site characteristics and significant wildlife habitat and also to encourage a more creative and efficient use of the land, and encourage a development pattern which is in harmony with the City's objectives for land use, residential density, environmental protection, and habitat conservation. Beyond that, it is important to consider the various regulations which are used to implement the East Oaks PDA. Basically, those

relate to regulations incorporated into the City's zoning and subdivision ordinances. A comment about the effect of preliminary plan approval: the Planning Commission should keep in mind that approval of the preliminary plan with or without conditions essentially represents approval of the design. It is at this stage where the acceptability of lot arrangements, street configurations, etcetera, are determined. While the City Council will consider a final plan application at some future point, it is really considered an implementation step intended to do what is needed to be done to implement the approved preliminary plan. Mr. Kirmis noted the City's existing 2030 plan and draft 2040 plan designate this site specifically for low-density residential use; specifically, the plan says only strictly single family detached housing is to be allowed with no multiple family attached residences allowed. The Comprehensive Plan also states that areas guided for low density residential use must place a heavy emphasis on the preservation and protection of the natural environment. The plan indicates uses with a low-density residential guidance may be developed with or without sanitary sewer facilities. Mr. Kirmis shared a comment about site access and subdivision design: as part of the previous concept plan review, the Planning Commission raised concern about the length of the incorporated cul-de-sac, which measured approximately 3,000 feet in length. Specific concern was cited related to the ability to provide emergency service provider access. In this regard, the Planning Commission suggested that the Applicant consider alternative access possibilities as part of the preliminary plan submission. In response, the proposed cul-de-sac has been eliminated in favor of an internal loop street which is accessed via a northern extension of Black Lake Road and a new access from Catbird Lane to the west. While the Catbird Lane access is considered positive from a traffic flow and safety standpoint, it is important to note that the access location varies from that shown in the conceptual street and access plan which is included in the East Oaks PDA as Exhibit B2. The plan illustrates two access points, but they differ from that which is presently proposed. It includes a connection to Black Lake Road which is provided in the submitted preliminary plan; however, it also illustrates a northerly connection to the subdivision. Considering that the property to the north has already been developed and an opportunity for a street connection is not possible, the street and concept illustrated in the plan cannot be achieved, literally. The proposed street configuration and access points are deemed to be well-conceived, final determination related to the acceptability of the access should be made by City officials. A comment on lots: The submitted Preliminary Plan illustrates a total of 33 lots for single family dwellings, and this compares to 34 lots which were illustrated on the previously submitted concept plan. Regarding lot size, the RSL - PUD zoning district imposes a minimum area requirement of 1.5 acres. In addition, properties which lie within the shoreland ordinance are to provide a minimum lot size requirement of 80,000 square feet. Staff is recommending as a condition of approval that the ordinary high-water level of Black Lake boundary be illustrated on the preliminary plan to confirm that lots which lie within the shoreland overlay district comply with that 80,000 square foot lot area requirement. A comment about outlot: As part of concept plan review, the Planning Commission raised some concern about a "flag lot" along the site's northern boundary. The flag lot was intended to incorporate a pole barn and deer barn which were intended to be torn down to accommodate future home construction. The

Planning Commission asked the Applicant to explore a reconfiguration of the lots in that area of the site, such that the “flag lot” could be eliminated. In response to that concern, the lot arrangement near the referenced out-buildings has been modified and the “flag lot” has been eliminated. In this regard, the pole barn and deer barn are proposed to occupy a separate outlot where no dwelling unit is proposed. While the outlot designation is understood to ensure that no additional dwellings will be provided, some concern exists related to the creation of an outlot within a registered land survey. Typically, they see outlots in plats which incorporate lots and blocks and right-of-way dedication, etcetera. Staff is recommending that the outlot be renamed and identified as a lot within the subdivision, with an acknowledgement that no new dwelling may be constructed upon it. A comment about staging: as indicated, the subdivision is intended to be created in two phases. As part of the previous concept plan review, the Applicant indicated that the first phase is expected to be complete in 2021 and the second phase is expected to be complete on or before the summer of 2025. As indicated, only Phase 1 is presently under consideration. In discussions with City Staff, the Applicant has indicated that consideration will be given to providing sanitary sewer and water service to Phase 2 of the development.

- Commissioner Hauge asked Mr. Kirmis to show the map he referred to (the appropriate map that shows the configuration as it is now suggested from the Company). He has seen it a couple of times but thinks people may be easily confused. He thinks the map is H or J.
- Engineer DeWalt said she believes Exhibit I shows the phases.
- Administrator Kress showed a map of Exhibit H onscreen.
- Mr. Kirmis said consistent with the Trail Easement Plan (see attached Exhibit M), an easterly trail connection has been proposed to an existing trail to the east. Specifically, a trail link is proposed between lots 6 and 7 of Phase 2. While details related to trail construction are considered a matter to be determined between the Applicant and NOHOA, Staff is suggesting that consideration be given to constructing the trail connection to the existing trail as part of Phase 1 development, considering the timeline for Phase 2 development.
- Mr. Kirmis continued with a comment about setbacks: Within RSL - PUD zoning district, a minimum 30-foot structure setback from all property lines is required. In addition, a 150-foot setback structure and sewage treatment setback required from the ordinary high-water level of Black Lake, specifically 150 feet. Staff is recommending that the preliminary plan be modified to illustrate that ordinary high-water level of Black Lake such that it can be confirmed that lots within the Shoreland overlay district which abut the ordinary high-water mark can satisfy that 150-foot setback requirement.
- As in the case of previously considered subdivision applications, an attempt has been made to provide some tree preservation efforts. While both the City’s Comprehensive Plan and the East Oaks PDA highlight the preservation of natural resources as a primary community objective, City ordinances do not include any specific tree preservation requirements. Recognizing the importance of this issue, it is recommended that certain recommendations as provided by the City Forester be satisfied to the extent considered practical. Those recommendations are included in the Staff report.
- Based on Staff review of the application, it is their opinion that the submitted Red Forest Way South preliminary plan is consistent with the East Oaks PDA and the Master

Development Plan and with conditions, will satisfy applicable zoning and subdivision ordinance requirements. As a result, Staff has recommended approval of the preliminary plan subject to the fulfillment of the ten conditions listed in the Staff report. Mr. Kirmis noted that Condition 10 of the list cross-references the comments of the City Engineer so they are incorporated by reference. Specifically, those comments are included in the Staff report.

- Commissioner Hara asked in looking at the new plat versus the original, is the far cul-de-sac that serves lots 5 and 6 materially different than the objection that it was a long way from the access point. In looking at the two different maps it looks like it is almost in the same spot.
- Mr. Kirmis explained the preliminary plan differs from the concept plan in that, and as part of the concept plan all lots were provided access from one single point. The end of the cul-de-sac, near the flag-lot measured approximately 3,000 feet in length, which is considered significant. The preliminary plan introduces the loop street and Phase 2 of the project would basically incorporate a cul-de-sac extension from that loop street. However, the cul-de-sac is significantly less than that which was illustrated on the concept plan in that two alternative access points are provided.
- Commissioner Hara said if the original plan was that this was to connect to Cherrywood, why wasn't the road connected into Cherrywood as per the PDA.
- Mr. Kirmis cannot speak to the previously approved subdivision; perhaps North Oaks Company President Mark Houge might be able to provide a historical perspective. As far as he knows, there was no street stub provided as part of that subdivision which would provide an opportunity for a connection.
- Commissioner Hara would like to know why there is a deviation from the original plan as Cherrywood was not developed that long ago, which is creating a deviation from the PDA for a second access off of Catbird; he asked why, when Cherrywood was developed, the road was not connected there. Lot 8 Cherrywood comes right off that outlot and looks like it would have been a relatively easy connection.
- Mr. Houge answered Mr. Commissioner Hara and said he was not here when that was designed, although Mr. Eagles is on the call tonight and can perhaps shed some light. His understanding is that the Company chose to develop this in phases and at the time it was deemed most appropriate to have a similar loop road going from Catbird Lane (what is now labeled as Cherrywood Circle) out and back. He does not know if it had to do with topography, but whatever the reason there was not an extension to the south. For those listening, the previous phases of Red Forest Way were developed several years ago and the most recent was Phase 2B which was completed in 2017. He asked Mr. Gary Eagles to offer any other comments relative to the history.
- Mr. Eagles said 2B was an extension of 2A, which was done 8-9 years ago. Due to physical constraints of wetlands and topography, NOC decided to do a loop road, Cherrywood Circle, rather than continue to the south.
- Commissioner Yoshimura-Rank asked regarding the issue of the outlot, has it been figured out, will it just be cornered off and remain a lot with a couple of buildings, or will it be donated to NOHOA as passive recreation.

- Mr. Kirmis does not know the conveyance but there was a concern about incorporating an outlot in a registered land survey (RLS). He noted it is a bit out of his area but he understands that it would be more appropriate to actually identify it as a lot. They still want to make sure it does not become a title to an additional lot, which is not anticipated. Therefore, there is a condition in the Staff report that it be acknowledged that it is not intended to be a site for a new dwelling. Mr. Kirmis' perspective is whatever the County recorder requires in terms of whether it is designated as outlot or lot and whatever is appropriate with the RLS.
- Commissioner Sayer said he has seen those designated as outlots before and has seen it go both ways. He asked who will own the lot long-term if there will not be a structure on it.
- Mr. Houge replied the long-term plan is for it to be retained by the NOC and it could become combined with the adjoining parcel to the east, which is the 45-acre parcel that the Hill House sits on. To Commissioner Yoshimura-Rank's question, at this point, NOC does not have specific plans for those buildings, they are anticipated to remain for the foreseeable future. There is no intent to put another home on that site.
- Commissioner Yoshimura-Rank is a believer that at some point they will start running out of room for septic systems in looking at the variances they see now. She asked why, especially Phase 2 with the lots adjoining the wetland, those weren't considered for City water/sewer and could hook up with whatever will be built at Island Field.
- Mr. Houge responded that NOC was following the guidance set forth in the Comprehensive Plan and in discussions with the Staff, they wanted to fully conform with both the PDA and the Comprehensive (Comp) Plan. The Company would be open to discussing that, and would want to make sure the Comp Plan is amended to accommodate it. At this point, in following the Comp Plan, it is identified as septic and well.
- Chair Azman asked City Engineer Larina DeWalt to share on the engineering comments of the report and then they can get to the Company, unless there are other questions.
- Commissioner Sandell noted one of the phases is looked at to be considered for sewer and water, so would one of the phases have a different designation in the Comp Plan than the other phase.
- Mr. Houge answered in NOC's proposal, they communicated it would all be septic and well given the current Comp Plan and they would be open to further discussions about sanitary sewer into this area. They are not proposing it to be different at this time.
- Commissioner Sandell thought he read somewhere that one of the phases was considered for water and sewer and he apologized.
- Chair Azman said actually, he thought he read the same thing and asked Administrator Kress to clarify.
- Administrator Kress said Phase 1 is proposed to be septic and well; Phase 2 is water and sewer for the White Bear Township portal. That would require a Comp Plan amendment, so at this time all they have is the concept series that is shown on the screen right now. Until something is submitted by the Company, it technically would have to be septic and well unless the Comp Plan is changed to reflect a difference from well and septic to water and sewer installation.

- Commissioner Cremons asked how difficult it is to amend the Comp Plan, because he thinks well and septic versus sewer and water on Phase 2 is a big deal and he would feel much more comfortable if everyone says that is where they intend to go and figure out the steps, they need to take on Phase 2.
- Administrator Kress said initially whoever the Applicant is would have to request a Comp Plan amendment of the Planning Commission, need a public hearing, the recommendation would go to the City Council for consideration of the Comp Plan change, and would make its way to Metropolitan (Met) Council for final designation.
- Chair Azman said at this point they don't even have approval of the current plan.
- Administrator Kress said at this point it would be extremely difficult, almost non-existent, if they were to try and propose that at this time to Met Council.
- Chair Azman said that prompts him to start thinking about proposed Phase 2.
- Kress said in general it is not a big deal, however in the 2040 Comp Plan is toward the end stages of its life, so to propose a change at this time would take a lot of time to fix.
- Commissioner Sandell asked if it is a zoning thing.
- Kress replied no.
- Mr. Kirmis said incorporated in the Comp Plan, both the existing 2030 plan and 2040 plan is a map which is identified Proposed Areas where Sanitary Sewer and Water would be provided, and this particular site is not identified as having municipal services. That map would have to be modified. One thing in regard to the processing of amendments, the Met Council will not accept Comp Plan amendments until such time as updates are approved by the City and the Met Council. Because the City's Comp Plan is in process, they will not accept an amended application. That change could be incorporated as part of the update, which they think is a cleaner path, basically changing the map as part of the final submission to the Met Council. There is really not an opportunity to amend the plan at this point.
- Chair Azman asked if there is engineering submitted that can demonstrate that the Phase 2 lots can handle septic to specific sites and if not, could that impact road location, lot size and placement for Phase 1.
- Administrator Kress said absent of a preliminary application, they have not reviewed any of that.
- Commissioner Sayer said in talking about Phase 2 and going through a Comp Plan amendment, or when the Comp Plan gets settled down, this is what is in the plan, when does NOC think Phase 2 will come online...will it be quite a way down the road when all of this has already transpired.
- Mr. Houge said as mentioned earlier, NOC does not see Phase 2 going forward for a couple of years, due to the absorption of lots in North Oaks. One of the Company's goals is to preserve value for all the residents in North Oaks, so one challenge in bringing this many lots on at one time is the value would erode both for the value of these lots as well as the adjoining properties within the community. They will have to see how the market responds to the Phase 1 lots but he would envision a couple years before they would be back in front of the Planning Commission looking at Phase 2, which may time out well to an amendment to the Comp Plan if that is what the City wants to pursue.

- Commissioner Yoshimura-Rank asked with the Villas at Wilkinson Lake, Nord, Anderson Woods, and now Gate Hill, is there hurry to look at Red Forest Way now or is it something they look at next year as NOC has a lot on their plate right now.
- Mr. Houge noted the type of lot proposed in Red Forest Way is very different from that proposed at Gate Hill and also the condominiums. That is purposeful, as NOC has received inquiries from residents and people interested in moving into North Oaks for different types of properties. He said it takes a long time to get through the process from the time they present a concept to the City to the time NOC can actually sell a lot to a homeowner. They will need these lots when they are delivered and they are very different from Gate Hill and Island Field and that is the reason NOC chose to go forward with the three projects.
- Commissioner Yoshimura-Rank asked if the lots are similar to Nord.
- Mr. Houge answered they are similar to Nord and NOC chose to start with that project because there is one lot left in Rapp Farm and just a few lots left in Red Forest to the north. They will hopefully have lots available in Nord soon and these lots will be at least a year behind those in Nord.
- Commissioner Yoshimura-Rank asked if the Nord lots will be ready next year.
- Mr. Houge noted they hoped the lots would be ready this fall and have run into a few stumbling blocks. At the latest, they would be ready in the spring of 2021; given there are only 12 lots, that supply will not last very long. Thus, it will become that much more important that NOC has more lots available.
- Commissioner Hara asked how many lots are left in Cherrywood.
- Mr. Houge answered presently there are 9 lots left and they are in discussions with buyers on two lots, and possibly a third. They could be down to 6 lots shortly.
- Commissioner Yoshimura-Rank asked if NOC has a developer in mind for Red Forest Way South.
- Mr. Houge said he assumes she is asking about a builder.
- Commissioner Yoshimura-Rank replied yes.
- Mr. Houge replied historically these lots have been made available to any homeowner who has a qualified builder and they can choose to bring a builder in to this project and would be subject to Architectural Supervisory Committee (ASC) approval. He noted they do not envision this development being dedicated to any one builder and would leave that up to the homeowner.
- Commissioner Cremons said regarding the issue with the 1,000-foot shoreland management area related to Black Lake, which appears to cut significantly into this development, he asked if there is reliable information as to where the shoreland management area boundaries are.
- Mr. Kirmis said they do have a zoning map which illustrates the boundaries of the shoreland overlay districts within the City. However, it is at a high-level view of boundaries; what Staff is asking for here is a little more detail related to the ordinary high-water level and the resulting shoreland area boundary which relate to topography and elevations on site. They can look at the zoning map, which is very generalized, but are looking for more detail so there is more assurance that the lots within the Shoreland overlay district meet that 80,000 square foot minimum area requirement.

- Mr. Houge stated NOC provided some clarity on this to Kress through a drawing (Kress put the map onscreen). He said the red line at the top of the page is essentially the demarcation of the 1,000 feet from the ordinary high-water mark. As mentioned earlier, those lots that fall within that area conform by virtue of their size and NOC provides for additional setback that is also required in the shoreland district. This is the specific area that Commissioner Cremons was referring to.
- Chair Azman asked who created the drawing.
- Mr. Houge replied NOC's Civil Engineer created the drawing.
- Chair Azman asked when the drawing came in.
- Kress believes it was this afternoon.
- Commissioner Cremons asked if Staff has had the opportunity to confirm that the lots that are in Phase 1 and also within the management area do conform to the requirements, as it sounds like a short period of time to apply a fairly complicated set of rules to these properties.
- Mr. Kirmis said Staff basically took that boundary which was illustrated on the zoning map and attempted to overlay it upon the site as part of their review. They do recognize that is a very generalized line depicted at a Citywide scale and are looking for more detail. He noted he has not looked at this in detail and he does not think Ms. DeWalt has, either. Generally, it seems to be similar to what they had anticipated as using the zoning map as a guide.
- City Engineer Larina DeWalt noted she has not had much time to look at this drawing in detail as they just received it today based on their request for additional information on the plans to demark that line. It appears that those lots do conform to the 80,000 square foot requirement; she would have asked the developer offline in a review how that line was arrived at. She assumes there was not field verification of the ordinary high-water level but that it was created by a 3D surface created off of the existing topographic survey. If that is the case, she would ask that if they move to final plan approval, on the final construction plans there is field verification of that ordinary high-water level and not an interpolation based on the existing conditions. That would be her only comment at this point on this map.
- Commissioner Sayer said this submission is essentially a start of satisfying condition 5a which says in the Staff recommendation: this Applicant's engineer shall confirm and identify the DNR ordinary high-water elevation. He said maybe that should be clarified to say it will be done with field verification, which is his understanding of how that is normally done if it is to be done the right way. They go out and identify where it is in the field and then measure from there.
- Ms. DeWalt agreed with that assessment of the 5a condition.
- Commissioner Yoshimura-Rank asked regarding wetland No. 4, it looks like in one of the maps that it abuts Catbird Lane and Black Lake Road and in the delineation study it said it was quite full or saturated with water, even along the fringe. Even with the buffer, she is wondering if that will be a problem down the road with the road right there.
- Ms. DeWalt thinks that is a good question to ask. In terms of preliminary plan review, they look at grading plans and do not have a storm water management report which would identify high water levels and specific drainage into those wetlands. She cannot comment on

the elevation of the high-water level expected to be there. It is a requirement and a condition for future plan development to provide those calculations, analysis, and report, which would detail that information.

- Chair Azman asked if that would be part of the final plan approval.
- Ms. DeWalt said that is correct.
- Chair Azman asked Ms. DeWalt to give any engineering comments on her thoughts and then get to the public hearing.
- City Engineer Larina DeWalt said gave a high-level review, as Mr. Kirmis went into lots of detail. She said this review is focused on Phase 1 of the Red Forest Way South development which is 17 single family lots accessed by a loop road. Primarily proposed to have a rural section for the majority of it, with a small portion proposed to be curb and gutter for drainage purposes. In the Staff packet, there are approximately 13 pages of engineering comments. She said hopefully that illustrates the plans were reviewed in great detail and that most of them are very technical in nature and are not concerning in and of themselves; it just illustrates that these are preliminary plans and the design has not been baked through all the way. Ms. DeWalt noted a couple items to call out as far as comments that would materially change the design. She mentioned a section of roadway is proposed to be curb and gutter with storm sewer and according to the North Oaks Comp Plan, through the ordinances, it indicates the City will maintain the present rural character of the road system, so she has noted in her comments that she would like the Applicant to complete an alternate design concept for that section of roadway to demonstrate the feasibility of a rural section. If that is able to be done, that conversion may eliminate the need for storm sewer in that area. Ms. DeWalt stated regarding septic versus sewer, there is the Comp Plan consideration, and as far as the question regarding soils and area available, the Applicant's engineer did in-situ soil assessment for subsurface sewage treatment systems. That soil assessment is illustrated on the plans and in looking at most of the grading plans and detailed plans, there is a tan shaded area showing the suitable soil areas for septic systems. Further, the septic areas proposed are shown as rectangles and there are two on each lot; Applicant has illustrated on the plans that there is sufficient suitable soil area for two septic systems per the code. There are a number of areas where those septic site locations encroach into the setback, so this would be another condition of approval for final plans; that the plans need to be addressed so that there is no encroachment into the setback areas. Ms. DeWalt said the focus was mostly on Phase 1, there were a couple items on Phase 2 that she noted based on a cursory review of the plans. Regarding wetlands, as the Commissioners can see the extension from Black Lake Road is shown within the setback area of wetland 2 and potential buffer areas of wetland 2 and 3, so she wants to note that for the road construction extension, a variance may be required through Vadnais Lakes Area Water Management Organization (VLAWMO) for this road construction and will need to be addressed. Regarding wetland buffers and setbacks, setback is shown; with future plan development they will require that a current wetland functional assessment report is done for all the wetlands so that those appropriate buffers can be determined, shown on the plans, and designed accordingly.

- Commissioner Hara said it seems to him that they need to be looked at, at the same time. He goes back to what has already been established in previous plan reviews that the maps they are using are old and not up-to-date and not always accurate, so that is a concern. Going back to Cherrywood, when that was plotted it probably seemed that was a good call to do it that way, but now they have the adjacent development coming and realize there should have been a road that went through and now they have to change what was intended in the PDA to put another access point in. As Phase 1 is developed and the roads are put in, and then they go on to Phase 2, will they be in the same situation. He noted it seems like that must at least be part of the plan – that these are compliant and buildable lots that meet all the requirements without plotting them and knowing they will need to approve a variance for putting septs in setbacks, which is not an ideal way to start a development.
- Chair Azman said as an observation, it is really hard to just set Phase 2 aside now and focus on Phase 1, rather than considering both and the bigger picture. He asked to hear from the Applicant to provide comments.
- Mr. Houge noted they have talked about many of the things he would have mentioned in his formal remarks. They touched on the reason for the phasing, and to Commissioner Hara's comment, NOC did take a little more time to look at Phase 2 to make sure that it does work so they do not run into the problems mentioned earlier [regarding Cherrywood]. At this point, NOC does not intend to go in to any detailed engineering but at a high level they believe what is shown is something that conforms to both the PDA as well as something they would be comfortable building. The one thing that has not been discussed is that the location of the roads as currently proposed were intended to follow the existing farm roads as best they can, which helps to preserve the existing trees. In several other meetings it has been noted that their interests are aligned; the Company would like to preserve as many of the significant trees as possible and one way they did that with Red Forest Way is to follow the existing farm roads. Mr. Houge said they do have some questions about the City Engineer's comment relative to the curb and gutter; although NOC totally agrees that the preferred design is a rural section, curb and gutter does allow them to minimize/reduce the grading in some cases and in turn, save some trees. There is a tradeoff there that they can talk through going forward. Mr. Houge offered to answer any questions from the Commissioners.
- Commissioner Cremons asked about the outlot, relating to the owners of the adjacent properties, is NOC willing to commit that there won't be any development of any kind on the outlot. It will stay the way it is now with the buildings that are there or the right to remove those buildings but will not be anything else.
- Mr. Houge replied in essence, the short answer is yes. The PDA lays out what NOC can and cannot do and there is a restriction on the adjoining parcel which is 45 acres and by combining this with that larger parcel they would stay consistent with the PDA. They do not see any development happening on that outlot.
- Chair Azman asked for a motion to open the public hearing.

Hauge moved, Sayer seconded, to open the public hearing at 7:10 p.m. Motion carried unanimously by roll call.

- Thomas Dybsky, 9 Catbird Lane, has lived at the address for about 22 years. He, along with two colleagues tonight, represent the residents from Red Forest Way and Catbird Lane and have some issues relative to the new road coming on to Catbird. He noted recently they learned that a new road was dumping on to Catbird Lane to be servicing 30+ homes now being considered under Red Forest Way South development. This road has raised several concerns. Mr. Dybsky said all of them have been in this North Oaks community for 25-35 years and when they purchased their property on Catbird 22 years ago from Dick Leonard, at the time Mr. Leonard said nothing will be built across Catbird, because of the wetlands. He understands homes will come into play and does not have an issue with that. However, the road is something entirely different because as that road comes on to Catbird, there is now traffic coming into their living rooms. They think that will have a direct impact on the values of their homes, as well as an impact on the safety, security, and the environment. He thinks as they saw tonight, this road from his perspective was almost an afterthought. It was not in the 1998 EAW (environmental assessment worksheet) or the 1999 PUD (planned unit development), in fact they did not even see it in Exhibit E which was posted in February of this year. It seems that this was an afterthought and did not have a thorough investigation in terms of impact on the community. In looking at Exhibit H, Mr. Dybsky said they are concerned that this road does in fact encroach on wetlands; and they do not feel that the wetlands mapped out by the NOC a number of years ago are expansive enough. They believe those wetlands go further south than what is currently marked. Additionally, they have never seen any current environmental impact analysis, although it has been done in the past. They believe things have changed and would like to see something current as they have some serious concerns with that. Finally, Mr. Dybsky noted they do not see the practicality of this road dumping on to Catbird Lane, as people come out, they will still need multiple turns and will go on a road that is already very stressed and there is concern that it is even wide enough. The main drive of Catbird Lane is just a short distance down from where they would be coming out anyways. A proposal or consideration that they would like the Commission to give is as follows: 1) as residents of Red Forest Way and Catbird Lane, they strongly oppose this road. As such they would ask that members of this Planning Commission to join the residents on a walkthrough to discuss current plan and consider more reasonable alternatives to this road. They would like to know when and who made the decision for this road to occur, despite not being part of the original PUD or EAW or even maps from earlier this year. They ask for an updated comprehensive environmental impact study to be completed and shared. Until these steps have been taken, they ask that it not move forward with this plan. He said again, this is their lives and community and they do not see a need to rush into this. As heard tonight, there is a lot more work and analysis that needs to be done, so what is the rush. Mr. Dybsky noted many of them are long term residents of North Oaks and believe that they earned due consideration. As a community, what they are most disappointed with is that they have seen in other development projects, such as the east side development has been conducted, it feels that it is done under a veil of secrecy; there has been little to no communication or transparency with the residents, no consideration for the impact on the value of their homes, security, and environment. About two years ago, Mr. Dybsky went to the NOC with four other residents in the Catbird area

because of the east side development and some irregularities that they saw. As part of that discussion, he asked what the pink flags across Catbird in the wetlands were for. The response he received was that it was a mistake and should not have happened. He knows that was not the truth; the plan was underway and that was a perfect opportunity for the NOC to sit with them and tell them the plans and direction and receive input. If it would have been done two years ago, they would not be having this discussion today about the road coming on to Catbird. He noted that is not the legacy he has experienced for the 33 years he has lived in North Oaks and they would like that consideration.

- Jim Peyton, 4 Catbird Lane, has lived in North Oaks for just over 20 years. He thanked the Planning Commission for the opportunity to have a hearing and to be able to raise their voices about this particular development. He understands that this is a critical gate in the process, as from here, if the Commission chooses to proceed with the preliminary plan it is forwarded to the City Council and they have a very short time to make those plans final. As such, they want to pose some questions. Two years ago, or so when he first heard of this development through neighbors, many heard about the initial plans and the road coming all the way from Centerville Road into the heart of North Oaks through Catbird Lane. Thankfully, the citizens brought their concerns to the Planning Commission and the City Council and were able to reign things in a bit and turn the focus around to the PDA and PUD and being compliant with those plans that were done in 1999. That was a great victory and the initial plans were also small, high density lots and they were able to back things off and get it compliant with the PDA. He is glad to hear the statements around whether the current development plan on the table meet the PDA as that is very important. Mr. Peyton said since the time of the initial plan, they have seen the plan submitted back in February that had the long cul-de-sacs in there and there were not any roads coming into Catbird Lane. He noted the agenda for this meeting is the first time it really came to their attention that there were plans with this road coming in and that is a pretty significant change. They appreciate the fact that the Commission is going to be very deliberate about the changed plans and looking at them. Mr. Peyton has a couple of questions. First, what other alternatives can be or have been considered for that development as far as roads in to Catbird Lane. He said the first area talked about was on the north in Cherrywood and it seemed like there were opportunities to go in there but the Commission has explored those. There is also Red Forest Way on the north side and it seems like there would be room to go in there, which would allow more than one exit out of that neighborhood into the rest of North Oaks. The current plan calls for a lot of the traffic from the development to the north of Red Forest as well as this new development in Phase 1 of Section K spilling traffic down Catbird Lane or down Black Lake Road, which both funnel in to Bent Tree Lane so it ends up with a lot of traffic being funneled down one section. If they could open it up to Red Forest Way, it would allow them to split some of that traffic to go to the north and go west from there, as well as go south. It seems like with a configuration, there are wetlands on both sides of where these roads are, but they would avoid the wetland where it is dumping into Catbird Lane and would come in right across Catbird Lane, down and out Red Forest Way. That is one of the questions he has. The second question from Mr. Peyton has to do with timing; if the Planning Commission approves this preliminary plan, the City Council has a very short period of time

to approve those plans. Is there any thought to letting the new City Council review and approve these plans, as in about 60 days or so there will be a change of City Council, since they will have to be the ones that must govern to these plans going forward.

- Steve Healy, 1 Catbird Circle, has three areas he would like to cover. First is understanding the proposal itself; reading the materials, and being here tonight, it sounds like what was in the packet as Exhibit E was, until February, what was being proposed. Now it has been modified to Exhibit H which is what dumps out on to Catbird Lane. His question is, has there been a previous opportunity for the public to comment on that change. Secondly, he understands the area can be developed and NOC has every right to develop it, but he wants to make sure as that happens, not only the roads in the new development are treated appropriately, but the roads leading into it will need care. Bent Tree, Catbird Lane, Black Forest Lake Road, are in tough shape today and the request is as they agree on something that works for everyone and as the development moves forward, taking care of the roads are part of that plan. The third area relates to the homeowners on Catbird Lane; all of them bought their homes and invested significant amounts of money into those homes and were being guided by a plan that until a few months ago did not contemplate any roads dumping out on Catbird Lane. It was never contemplated in any previous documentation. Earlier today, NOC talked about preserving value and he thinks everyone would agree that if this road dumps out into someone's homes and have dozens of lights running across your house every night, it will do nothing but take away from the value of the homes. He thinks NOC, and he would request the Planning Commission really needs to consider the full impact of what they're being asked to do. It is not the right plan today, it needs to be changed, and the homeowners on Catbird Lane need to be considered.
- Mr. Dybsky asked in terms of the Planning Commission's process, what happens from here and will they receive response to any of these questions.
- Chair Azman said they would try. Process-wise they will see if anyone else is online who would like to comment. If nothing is left, they will close the public hearing and open it up for discussion among the Commissioners and to ask questions of Staff and the Applicant to get answers to the questions presented if possible.
- Mr. Peyton received a text question from his wife Anne Peyton; she asked regarding the environmental impact study and the precautionary principle...has the study been updated as it has been a long time since the last study. There were some questions earlier from the Commission around the environmental impact and if that study would be renewed.
- Chair Azman asked if anyone participating online had their hands up for public comment.
- Mary Dybsky had her hand up but technical difficulties occurred. Chair Azman asked Ms. Dybsky to email him her question.
- Chair Azman asked if anyone participating online had their hands up for public comment.
- Mary Dybsky had her hand up but technical difficulties occurred again.
- Chair Azman asked if anyone participating online had their hands up for public comment.
- Administrator Kress asked Mr. Grahek to raise his hand and test the platform.

- Kevin Grahek tested the platform and it worked. Mr. Grahek is at 11 Catbird Lane and thanked the residents who came to the meeting and noted they summed it up well and he does not need to add any additional comments.
- Mary Dybsky called Thomas Dybsky and he held the phone up to the podium microphone. She said she echoes Commissioner Hara and others and says there seems to be some real uncertainties that need to be addressed and maybe it is a more complex undertaking and perhaps more time is needed to study. She noted it was mentioned before that residents were informed and there was discussion with residents; she explained that nobody in the area was ever informed or contacted and discussion was never initiated.
- Chair Azman asked if anyone else had any comments or hand up online for public comment.
- Anne Peyton 4 Catbird Lane called Jim Peyton and he held the phone up to the podium microphone. She noted that her husband Jim expressed most of what she wanted to say but added some additional comments. She believes that North Oaks roads have a very beautiful and unique configuration and so traffic challenges do not and never will support heavy trucks and major construction. Ms. Peyton said unless they are all willing to sacrifice the current ecosystem and safety, first, she witnessed too much heavy construction on their roads and she again said there is no way the roads in her area can support anymore construction without reconfiguring the roads and changing the way the builders do their business. She clarified when there is construction in her neighborhood and other neighborhoods in North Oaks; most of the construction vehicles are parked out on the North Oaks roads and makes it almost impossible to pass or navigate the roads safely. This is something that needs to be considered.
- Chair Azman asked if anyone else had any comments or hands up online for public comment.
- There were no additional comments.

Commissioner Cremons moved, Commissioner Yoshimura-Rank seconded to close the public hearing at 7:39 p.m. Motion carried unanimously by roll call.

b. Discussion/Action: Preliminary Plan/Preliminary Plat (Subdivision) Application - Red Forest Way South

- Chair Azman noted this is the time to have discussion on this particular application. He noted there were some questions by community members on timing issues and the environmental impact study, which he thinks may have been referencing the environmental assessment worksheet that was part of the PDA. He asked for some comment from Staff or consultants on that particular issue, or if any Commissioners had any comment.
- Commissioner Hauge asked in order to make it a little structured, could Mr. Kress or Chair Azman summarize the comments from the citizens and from Commissioner Hara; he noted there were technical issues during the public hearing and it would be good for everyone to have it summarized.
- Administrator Kress sent a summary document earlier today and asked Ms. DeWalt to start going through that list.

- City Engineer DeWalt listed the comments and concerns delivered briefly before the meeting:
 - A comment about the EAW and the PUD not mentioning the road and that the early documents suggested the road might be connected to Cherrywood development.
 - There was mention of the road potentially encroaching on the wetlands on the east side of Catbird.
 - A question regarding current environmental impact analysis and concerns regarding an update to environmental analysis.
 - A question regarding viability of alternatives to what is being proposed.
 - A proposal asking members of the Planning Commission to join residents on a walk to discuss the current plan.
 - A question asking who made the decision for the new road, despite it not being on the original PUD or the EAW.
 - Residents asked that an updated, comprehensive environmental impact study be completed and asked that until those steps have been taken the plan not move forward.
- Ms. DeWalt noted that Mr. Kirmis takes thorough notes during the public hearing and if there are additional comments raised, he may be able to provide a summary.
- Commissioner Hauge said there was an additional comment about the high-water level at Black Lake.
- Chair Azman stated it had to do with having an appropriate map of the ordinary high-water mark in order to determine the shoreland ordinance and the obligations of lots that fall within the shoreland ordinances.
- Commissioner Hara noted Commissioner Sayer brought up the fact that it may need to be looked at in the field at a high-water mark with an actual field dimension and not rely on some of these older maps.
- Ms. DeWalt said before the meeting started, there was discussion about condition 5a and adding in field verification to that condition.
- Commissioner Sayer said that is correct and is his recollection of that dialogue; that it would be inputted into 5a and it may already be there but clearly, they will go out into the field, do the measurements, and find out where those flood lines are.
- Commissioner Hauge said that is a very good suggestion and he will support that.
- Commissioner Hara stated if they approve tonight, regardless of what they find out from that actual measurement, the plan is approved.
- Commissioner Sayer said his understanding is that this is preliminary.
- Commissioner Hara noted in reading what it says, if the Commission says “Aye” on this tonight, it is approved for this body, although it still needs to go to City Council. It can be subject to conditions, but the Commission is approving it.
- Chair Azman noted Commissioner Hara is right, if the Commission votes approval and it goes up to the Council and they approve it, there are conditions that they would have to comply with and if they recommend imposing the condition of 5a to Council, they would

have to comply with that. The implications of that may mean the design would have to change. He does not want to get too far afield.

- Commissioner Hauge stated there are many comments that people were concerned about and had discussed quite seriously among themselves and the NOC needs to answer those.
- Commissioner Sayer noted some other questions he wrote down including concern about the existing roads, and the other had to do with congestion as the construction vehicles come along and homes are built. He said the last one might be the easiest and he has an idea on how to resolve it. He asked Mr. Houge if the outlot could be reserved as a sort of staging area where trucks could park when they have to be parked in the area to minimize the impact on existing roads.
- Administrator Kress asked if the outlot would serve as a construction inlet.
- Mr. Houge answered the NOC could take that into consideration; he clarified they are asking if they could take the construction vehicles in via that outlot in some way. He noted the issue becomes they are crossing private property to get there which is owned by Doug and Mari Harper and he cannot make that promise without speaking to them. He noted there is congestion sometimes when there are construction activities and there is no place to park on the lot where the home is being built. They try to be dutiful with the builder and the deputy sheriff to restrict parking to one side of the street, given that is the City's ordinance and what NOHOA's rules require. He said sometimes people do come and go from the construction sites and they don't always know to park on only one side of the street. Mr. Houge said they try to make staging areas available whenever possible on adjoining lots and these are less of a problem because they are generally larger than a lot, they would be building on in Rapp Farm.
- Commissioner Hauge said Commissioner Sayer also suggested a parking area so they could actually park off of the road and away from the actual construction which would be helpful, perhaps even near the pole barn area.
- Mr. Houge said they can definitely try to find a parking spot for workers; however, they are bringing tools and materials in so they will need to be realistic about how it is managed.
- Commissioner Cremons has some sympathy for these people on Catbird that their expectations of the property have changed by this access. The original plans that the Commission looked at earlier this year involved the long cul-de-sacs and asked what the thought process was behind eliminating those and putting the Catbird connection in.
- Mr. Houge said he can give his perspective on it; it was somewhat in response to concern by the fire marshal as well as dialogue with Staff on this being the preferred alternative. He asked to defer to Mr. Kress and Mr. Kirmis on that.
- Administrator Kress showed the concept plan from December 30, 2019 onscreen.
- Commissioner Hauge remembered the cul-de-sac being very long and he believes it was a comment from Commissioner Hara pointing out the length of the cul-de-sac.
- Administrator Kress pointed out on the map from the concept plan the flag lot that was previously in the plan, multiple cul-de-sacs, dumping on to Black Lake.
- Chair Azman recalls comments asking if there was an alternative to try and reduce the length of that because of emergency vehicles getting back there.

- Commissioner Hara had a thought, noting he went and looked at this and walked around there and he also empathizes with the folks on Catbird Lane, this proposed road is essentially right in the middle of someone's house. He asked if there is a way to make it work so they can pick up the lot to the north and to configure things so it connects to the existing road. He said the argument that the cul-de-sac is long from one plan to the other doesn't seem that materially different between the plans.
- Commissioner Sayer said he has seen a lot of these developments over the years, and emergency vehicles like to be able to loop around. He asked why couldn't they loop around and T right in to that road rather than into the back of someone's house or living room window.
- Chair Azman stated that is a question for City consultants and a reaction from the Applicant.
- Mr. Houge said there are tradeoffs with all of these designs; some of the issues have been referred to. One benefit of the loop road is it takes a bit of pressure off the Black Lake Road connection and splits the traffic between two locations. He noted NOC is always getting requests from the fire marshal to make the cul-de-sacs shorter even though North Oaks has a lot of longer cul-de-sacs in North Oaks and that has become the norm. They looked at where they could tie in to Catbird Lane on that north leg, and NOC will always be mindful not to encroach on the wetlands, so this current location works and the grades provide for it because there was a farm road in this proximity years past. If they were to move it further north, in looking at a 2-dimensional drawing he agrees it would be nice to line it up directly with the Red Forest Way street to the west. The challenge NOC ran into was trying to navigate the wetlands and the grade; he said they can change the grade to a certain extent, but it would require pretty much taking all the trees out in proximity to those lots. He noted again, there are tradeoffs. Mr. Houge said the current proposed location seemed to be the best in terms of compromise and perhaps it could be adjusted slightly to move a bit further south so it lines up more with the property lines as opposed to coming in through the middle of a lot. These are things NOC can adjust in the final plan review and once they get out in the field, to make sure everyone agrees on what those tradeoffs are relative to the trees, for instance.
- Commissioner Hauge said he hears Mr. Houge say it is still possible, but not desirable, to take the road north, and negotiate the wetland, although he cannot see that from the map.
- Mr. Houge replied NOC did look at that and he is not sure it is possible. He stated they can sure take another look at it; there is another drawing that might illustrate the point and it may also help to get Ms. DeWalt's perspective, but in looking at Exhibit K, it shows the proposed location and on sheet 5c of 6 they can see by virtue of the lines being close together, it demonstrates that there is a great degree of slope and grade change so it would be a pretty steep road coming from the top end of that road loop down to Catbird. This was another concern and his understanding of good street design is they do not want excessive slope, especially in this climate with snow and ice. He said they can make the road flatter in its current location rather than moving it to the north. When introducing the third dimension it gets more complicated, however, he is not saying it is impossible. What is proposed is much preferable from an engineering point-of-view.
- Ms. DeWalt added that it appears there is probably about 30-35 feet of grade change from the intersection at Red Forest Way and Catbird from where the intersection is to the approximate

farm road location adjacent. That is a substantial amount of grade change to make up; to Mr. Houge's point, they may be able to make it work, it is several hundred feet that they would be making the grade change up between. However, the more grade change they have to make up, the larger the grading limits, the additional trees would need to come out. As they have seen in developments like Nord, when there is a lot of grading, there are a lot of trees that come out. The more grade change there is, the wider the grading limits will be. She agrees that following the alignment of the existing farm road minimizes that work. She is not saying it cannot be done, but she would have to see a concept grading plan showing what the impacts are.

- Commissioner Hara said Nord was pretty flat and asked where she is talking about a grade change there, as he walked the entire stretch of road before they put anything in.
- Ms. DeWalt said if there is a flat site, they do not have to make up the proposed grade to the existing grade, but there was discussion at NORD where there is the cul-de-sac and they have to tie into the existing grade and do not want to go at too steep a slope. They need a horizontal distance to make up that grade change. Instead of there being a 75-foot cul-de-sac, there was 200 feet of grading limits, and that is how it works. They need to make up that grade between proposed and existing. The greater the change in grade between proposed and existing, the wider the impact width will be.
- Commissioner Cremons likes the suggestion of at least looking at moving the Catbird entrance to the south, cutting across the corner of the first lot so that it empties out between B560 and C560 and at least it does not target one property. They also need to keep in mind that it will not be hundreds of cars per day, it will be a sporadic series of cars coming through from a relatively limited neighborhood. He said he was just driving around North Oaks yesterday and tried to figure out how many cars get lights shined into their house because the roads bend around. He noted it is something most of "us" encounter in one form or another. He thinks they could diminish the impact on that one property without having to redo the entire neighborhood. He would support taking a look at that alternative of moving the entrance to the south a little bit.
- Chair Azman asked which entrance.
- Commissioner Cremons replied the northern entrance on to Catbird...they would push it south 20-30 feet and take off a corner of Lot 1 so the road empties on to Catbird on the lot line of the lots across the street as opposed to directly into Mr. Dybsky's home.
- Commissioner Hauge asked if it would be possible to go out and take a look at this tomorrow with NOC, as there is a certain level of uncertainty and perhaps Commissioner Cremons' suggestion may solve the problem, but it is hard to envision.
- Chair Azman noted there was some talk about going north and there was talk about an elevation change, but there are elevation changes all over the City.
- Commissioner Hauge stated it is not like this is mountainous area, it is flat everywhere with respect to where he comes from in Norway.
- Mr. Houge responded it may help to look at sheet 5c of 6 which may answer Commissioner Hauge's question, the grading sheet that shows topography. It appears that it is relatively flat on that lot south of the road, which tells him they probably could move that further south to maybe align with the lot line on the west side of the road. It would require NOC to change a

couple of lots on the south side of the road to make sure they have ample square footage, septic and so forth. From a topography point-of-view, they can see that it is relatively flat there.

- Commissioner Hara asked if the Catbird folks would have an opportunity to look at the new proposed plan and comment on that before the Commission approves and says go ahead.
- Chair Azman said from a timing standpoint, the deadline on this application is January 15 for the 120-day review. By no means is there a rush to get it done now. He would rather take it slow and take another look at things and come back if they need to for further discussion. He said the whole thing kind of makes him uncomfortable.
- Commissioner Yoshimura-Rank agreed and said she would like to go as a group and walk the whole area.
- Commissioner Hauge agrees with Commissioner Yoshimura-Rank, at least those on the Commission that want to go, and take a look themselves because there are certainly questions here that he does not feel comfortable with. Also, they will have several meetings before the new year so they can revisit this in a quick manner after answering the questions they have uncertainties about.
- Commissioner Sayer noted that is his observation as well, he recalls a number of meetings scheduled and they ought to be able to find time to look at this and still meet the January deadline.
- Commissioner Hauge said this is the reason they wanted to summarize; they want to look at where the road comes in, and where the neighbors are upset because it will shine light into their living room windows. They want to see that. Also, there are additional alternative roads and ways those roads could go and they want to see that. It is probably not that difficult to walk the area and take a look as they must answer that properly – they cannot hand this over to the City Council the way it is right now.
- Commissioner Yoshimura-Rank said it would be nice to see the lay of the land, especially if they are talking about removing a lot of trees and also how close the wetland is to the road.
- Commissioner Sayer noted not all of the lots will be preserved.
- Chair Azman would like to look at a couple of options, rather than just moving the road south a little bit, as they are still dealing with cars and headlights going right into the home. He is not convinced that some elevation change is something that is out of the question. He gets the feeling that tonight is not the night to vote on this one.
- Commissioner Hara commented on the actual usable lot size and asked if Staff has studied that and are okay that the proposed lots with the shoreline issue and wetlands all meet the requirements for size.
- Mr. Kirmis said Staff was looking for the ordinary high-water level of Black Lake to be identified, as well as the boundary of the 1,000-foot shoreland overlay district depiction to verify that lots comply with lot area requirements as well as setbacks. Based on the information provided in the zoning map, Staff found that the lots do meet the requirements but would like to verify that with more detailed information. Some of that was sent over this afternoon.

- Chair Azman said he received the items in the packet where there was a lot of colored highlighting of the different ordinances that come in to play, but his concern is if they do not know exactly where the 1,000-foot Shoreland setback is, then they do not know exactly which lots would be impacted.
- Commissioner Cremons asked when they can get field verification of the boundary and an accurate drawing of the 1,000-foot line for the Commissioners to look at so that it isn't an issue. Right now, they are operating off of some fuzzy facts. He asked if someone could get out there, determine where the boundary is, draw the line in a place where they know it is the correct location and then the Commission can look at it and verify that the lots meet the requirements.
- Mr. Eagles said the trail around Black Lake is definitely above the OHW, so what NOC has surveyed is a little downstream of the trail. If they walk the trail, it will be at least above the OHW and they can get a pretty good idea of what the 1,000 feet is from that. He said there is not going to be a substantial change from what NOC has provided with what the zoning map shows.
- Mr. Kirmis noted Staff would like to see it depicted on the preliminary plan, both the OHW level and the 1,000-foot shoreline boundary. They want to confirm that the lots meet the area requirements of the shoreland ordinance.
- Commissioner Cremons said it would be helpful to have the septic systems shown within the boundaries of the lot and no longer in the setbacks. He noted they have a chance to correct some of these elements that do not work right now, so when they look at the plan for preliminary approval, they don't have to deal with this stuff again. He would like to get as many of those things out of the way as possible so when they send it to the Council, they have confidence that the Commission has approved something that meets the code and the PDA.
- Mr. Eagles asked to comment on septic design and said the designs shown are just placeholders and they were set just basically to show relative size and what the requirement is for a septic drain field size. Those are not depicted exactly where they could go, or the shape that they could be to fit the requirements. They can adjust those to show a more accurate depiction of where they would lay out.
- Ms. DeWalt noted they should be shown so they are not encroaching within the setbacks and if that can easily be done, it should be done.
- Mr. Eagles said NOC would work with their septic designer and he can adjust those.
- Commissioner Cremons would like Attorney Nason to explain the 1.25 and the 1.45 acre calculations and what gets counted and what doesn't.
- Attorney Nason said the issue is the gross density requirement. She noted onscreen some depictions of what they had put together regarding some of the terms and what is required for the area requirements. Within each PUD phase, the area requirement in the RSL zoning district is that they have a gross density of 1.45 acres. Gross density is defined as the total areas within a planned unit development or a phase, excluding DNR protected waters, DNR protected wetlands and VLAWMO designated wetlands, divided by the total number of dwelling units. There are other definitions included, including gross lot area and suitable site. For example, suitable site is a usable site of at least 25,000 contiguous square feet for

lots which is what they have here. A usable site area is the area of the lot excluding all required setbacks, easements, and wetlands, and during subdivision process only when calculating the usable area of a proposed lot, the sub-divider can include any trail easements over 2,000 square feet. She invited Mr. Kirmis to speak.

- Mr. Kirmis started with suitable area and said to him, that could easily be called suitable area or to accommodate sanitary sewer, or to onsite septic. Specifically, two area requirements are identified for properties with a central sewer system, at least 15,000 contiguous square feet must be provided on a lot. For individual sewage treatment systems, 25,000 contiguous square feet must be provided. To Mr. Kirmis, that term is specific to sewer service, there is a certain amount of area on a lot depending on the type of sewer service provided to the lot. It is a term that gets mixed up – does suitable mean the same as usable – he explained usable area is similar to what in most client cities they talk about buildable area. What is left after imposing easements, setback requirements, wetland buffers...how much of that is actually usable when those restrictions are placed on the property. Lot size, according to the definition within the ordinance, a lot cannot be less than 1.25 acres. The average size of a lot within a subdivision must be at least 1.45 acres in size. Lot size excludes lakes, DNR protected wetlands, and VLA WMO designated wetlands. What is intended to be depicted on the graphics, for instance the lot size graphic, it identifies a DNR protected wetland so that cannot be included in the lot size. If it is not protected, it can be included in the gross lot area. Typically, lot size, the legal description of the lot a person purchases; they own “this amount” of land. Getting in to the term “usable area” they are subtracting all these various restrictions that limit the area of a site upon which structures can be built.
- Commissioner Cremons said that makes sense and it is important to know.
- Chair Azman asked Mr. Kirmis, regarding how these lots are designed, the conclusion of the consultants is that they appear to comply.
- Mr. Kirmis replied in the affirmative.
- Chair Azman asked about storm water management and he does not see any specific or separate storm water parcels, other than the outlot that NOC says they will hang on to. There is no separate lot that is dedicated as something that might be expected to transfer to NOHOA as a storm water collection basin.
- Ms. DeWalt said that is correct, all storm water management facilities are proposed to be under easements.
- Chair Azman stated in NOHOA’s letter, they continue to be concerned about responsibility for ownership and maintenance. On page three, paragraph 7 of the letter, it says “NOHOA is reviewing the concept of storm water infrastructure and the impacts of ownership and maintenance responsibilities and are not quite at a point where comment can be provided.” In the meantime, what does the Planning Commission do. He asked Ms. DeWalt if traditionally the City would own these and maintain them. He noted here they do not see that and it continues to be an issue for Mr. Azman. Perhaps it is more rhetorical or open-ended but he does not see an answer for it and if they move towards approving these plans and kick the can down the road as to who will maintain these things.
- Attorney Nason noted this is one of the challenges in North Oaks; the proposal is to require the storm water pond easements and also require that there would be a storm water

maintenance agreement. This would be entered into between the City and the Company and would be a condition of development contract approval. The maintenance obligation could then be transferred to a homeowner or NOHOA; typically, when it is a homeowner's responsibility it is done in a commercial development and is part of the property, so it is a bit strange to have it in this residential setting. Ultimately, the City would seek to make sure someone is maintaining that storm water facility appropriately. If they are not, the City could step in, which is not the typical role for the City in North Oaks with respect to these facilities, from her understanding. In other cities, typically they would get a grant and easement to the city but that is not how it is set up in North Oaks. Moving forward, Ms. Nason thinks this will be a challenge the City has to figure out how best to deal with.

- Chair Azman asked with the existing applications that have been recommended by the Commission and have gone up to the Council for approval, what has happened. Has there been an actual agreement submitted to the City for approval.
- Attorney Nason replied no, because that would be done at the time of final plan approval. Bear in mind, there are any number of storm water ponds all across the City.
- Chair Azman said perhaps none have been submitted to the City, and asked what is the status, are there any discussions, draft agreements circulating, as at some point, something will need to happen on these.
- Attorney Nason stated correct, that is a bigger problem for a future date, with respect to some applications that have been approved so far, it was a requirement of the preliminary plan application to have a storm water facilities maintenance agreement be entered into between the Company as the property owner and the City. She said nothing has been executed yet, there have been no draft documents circulated in that respect, but it is an ongoing challenge.
- Chair Azman does not know that he would want the City to be in that responsibility to do it. He noted at this time, he does not think they can do anything more because there is more to be done by consultants, perhaps a trip organized out to the property. He suggests if the Commission can go without a quorum, then they would not have to provide notice of a special meeting and would be logistically easier. He announced it is likely that everyone will go out at some point, just not as a quorum.
- Mr. Houge requested if the Commissioners would like to tour, NOC would like to accompany the groups as there are locked gates and difficulties with going out on their own. He said the Commission can determine how large the group needs to be and NOC would try to accommodate their schedules.
- Chair Azman said absolutely they will seek permission or cooperation for that.
- Commissioner Sayer said in particular, unless it is marked, they need to know where the proposed road cuts into Catbird Lane.
- Ms. DeWalt suggested that NOC stake the alignment in the field, possibly edges of wetlands and other things that would be of significance and interest to the group, making the potential trip effective and productive. This way, the issues that have been raised can be discussed productively in the field.
- Commissioner Hara noted there are some markings out there and he does not know what it designates, but it looks like the road on the map.

- Chair Azman asked Mr. Kress what his thought is on having a group go out.
- Administrator Kress said about the only time they could go as a group would be the following Thursday when they have a meeting scheduled, but it would be after hours and dark out. He suggested going in groups of two if possible and scheduling them at different times so there is not a quorum.
- Chair Azman clarified for everyone, that four is a quorum, so three would be the limit.
- Attorney Nason took some notes and wants to make sure from a consultant Staff side she understands what the Planning Commission is looking for at its next meeting information-wise. She noted there is a question regarding taking a look at where the road comes in off Catbird Lane; there is a request to view the location in the field; and there was a request to the Company to take a look at alternative locations for that road – perhaps shifting it south, and she though she heard Mr. Houge say that is something the Applicant would be able to do. She said perhaps that is something that could be staked in the field, as well, so if there is a minor access modification to that road, the Planning Commission can see that. Ms. Nason stated there is also discussion about taking a look at ways alternative roads could go and she did not hear feedback from the Company about that suggestion. She would like to clarify what the expectations of Planning Commission are, as they have plans submitted before them and must evaluate them. The Company can modify them as they see fit or are able to and she is concerned about what the expectations of Planning Commission are with respect to some of the discussion topics. She deferred to the Applicant to respond to that. A third issue raised as far as a staff concern was to request the Applicant to provide updated plans that show the location of the ordinary high water (OHW) level of Black Lake and the 1,000 foot setback from the OHW and show on the plans so Staff is able to definitively confirm that the Phase 1 lots comply with the size requirements for the shoreland overlay district. Obviously, if there are any issues with the Phase 2 lots, those would be adjusted before any formal application would be brought in if needed. She asked if she is missing anything.
- Commissioner Cremons noted they also talked about having the lots be shown with the septic systems out of the setback and located on the lots.
- Attorney Nason said that is correct and thanked him.
- Chair Azman understands the idea of having the loop road from a safety standpoint because then they do not have to turn around the larger emergency vehicles. There was a potential discussion of moving the Catbird connection south but is there also an opportunity to talk about moving it north to meet up with Red Forest, he knows the discussed elevation and he is not particularly convinced that is a reason to dispense with it out of hand.
- Commissioner Sayer said his intention is to walk through the field and see how steep that hill is. If it is really steep, that is a big problem. He would like to get a visual of the elevation measurements. He realizes they will get close to the wetland if they move the road over there and perhaps there are ways to avoid impacting that, but asked to add that to the list.
- Attorney Nason suggested looking to the Applicant to ask whether they have any interest in looking at proposing that type of amendment to their submitted plans to show a different road, or are they willing to look at some minor road revisions, but they have submitted the plans and are looking for Planning Commission to make a decision on the plan submitted.

- Chair Azman noted, obviously NOC gave a lot of thought to moving that road north and they do not think it works well, but he would welcome the opportunity to demonstrate that when they are out in the field. He said they can look at all these things and provide feedback as to why NOC thinks the current location would work better than further north and they are open to have that discussion. NOC would try to flag these locations so the Commissioners can see what the impact would be, typically they would mark the center line of the road and he does not think any of that survey work has been done yet, so they would have to see how quickly the surveyor can get out and mark those locations. NOC has completed some work to get the drawings updated and they can add those to the sets the Commission receives beforehand and make adjustments to the septic layouts as best they can. His suggestion in looking at the northerly location is to combine the site visit with some of the other practical issues they ran into when they picked the current location.
- Commissioner Sayer said in terms of timing, it looks like the Commission has a scheduled meeting on November 19, 2020 and another on December 2, 2020. He asked if these things can be accomplished the December 2, 2020 meeting.
- Chair Azman said he thinks it is workable.
- Administrator Kress noted most people may be traveling during Thanksgiving week and Staff is trying to get information done on November 19, 2020. He said to keep in mind the Island Field public hearing on December 2, 2020, as well.
- Mr. Houge noted NOC should be able to get the stakes placed within a few days. If Commissioners' schedules permit, they should be able to do site visits within the next week, starting Monday, November 16, 2020.
- Chair Azman said to see how it goes as he is not personally ready to commit to putting it on November 19, 2020.
- Administrator Kress said they would have to get the information out to the Planning Commission either Friday, November 12, 2020 or Monday, November 16, 2020. He noted Staff can share things on the fly, as well, as see where they are at come December 2, 2020.
- Chair Azman said there has been a decent amount of public input here and they never like to hear concerns about lack of knowledge or transparency, so he thinks they should up their game a bit and make sure if there are revisions to these plans, they get them out for people to look at. He knows they scheduled a number of meetings and asked what is left.
- Administrator Kress noted they have a meeting scheduled for November 19, 2020 but there is nothing on for that so it will likely be cancelled. December 2, 2020 is for Island Field, and December 31, 2020 but the Commission will probably need to look at rearranging December a bit.
- Mr. Houge asked for clarification. He believes he heard that the Commission would like ample time to look at the updated drawings as defined by if NOC got the information to them by Friday of this week, which would be November 13, 2020. The other question was when could the Commission get out and walk the site and if they could get it staked on or before Monday, November 16, 2020, then they would have Monday through Thursday to walk the site before the next meeting. If that works for their schedule, he thinks the Company can commit to get that done.

- Chair Azman said he would like to see how it goes. He thinks they are moving forward in measured steps and that is the best way to go.
- Commissioner Yoshimura-Rank asked if the Commissioners should email Mr. Kress to set up the site visits.
- Administrator Kress answered yes, he will get some times from Mr. Houge and set things up in blocks of two or three Commissioners at a time.
- Mr. Houge said he thinks he and Mr. Eagles' schedules are pretty flexible so they can meet the groups out at the site and try to accommodate their schedules.
- Attorney Nason said in looking at her notes, there were a few other comments raised that have not been specifically addressed. Several citizen comments were related to potential environmental impacts and the environmental impact study related to the development. There were also questions regarding the roads, as well. Would the Commission ask that Staff prepare a response to those comments and feedback or would they like to have a discussion about those things now.
- Chair Azman said in his notes, he has alternatives, timing, environmental impact issue, traffic, wetland impacts, etcetera. He asked if there are specific questions from anyone now, or basis to suggest an updated environmental study, rather than trying to respond to that on the fly.
- Commissioner Cremons would like to know whether they are legally required to do any environmental assessment or whether it is discretionary. Also, where the road ends up being located will drive the environmental piece, so doing an actual environmental study before they have an idea of where the proposed road will be, would be premature. He thinks they should find out that answer from Attorney Nason and Mr. Kirmis.
- Attorney Nason said regarding the question about the environmental impact study, what is being referenced there is the Environmental Assessment Worksheet (EAW). There was an EAW completed for the entire East Oaks development before the 1999 PDA was executed and was part of the process during the subdivision at that time. It was determined at that time that there was not a likelihood of any substantial environmental impacts and was no need for an Environmental Impact Study (EIS) to be prepared. If there is a negative declaration, which there has been in this case, but before a project has received all approvals or been implemented; if it is determined by the RGU-Regional governing unit (which in this case would be the Council) that a substantial change has been made in the proposed project or has occurred in the project circumstances which may affect the potential for significant adverse environmental affects not addressed in the existing EAW, then they would need a new EAW. There are some standards with respect to those significant environmental impacts. Nothing proposed so far seems to rise to the level of meeting that definition of a significant environmental impact. With respect to the development site, the developer has provided information with respect to wetland impacts and other similar impacts. She wants to clarify as she heard several residents express comments and concerns related to environmental impacts so it would be helpful to understand. Some of those wetland impacts are shown in the preliminary plan submissions by the Company. At this time there is no mandatory legal requirement for the City to take any specific action with respect to that.
- Ms. DeWalt added that EAWs do not expire.

- Commissioner Cremons said that answers his question.
- Chair Azman said they had this discussion on prior applications.
- Ms. DeWalt said they had this conversation on Anderson Woods.
- Chair Azman thinks even in 2019 in a broader aspect. He believes he recalls a need for an evaluation as to whether there has been a material change and what that means in order to even begin to think about whether they can demand a new, supplemental, or updated EAW.
- Ms. DeWalt is not sure she was around for that discussion, but in prior preliminary plan approval discussions they had the conversation and clarified that as Attorney Nason noted, a substantial change is what may affect the potential for significant adverse environmental impacts. Substantial change, of course, is not defined, but also Minnesota rules governing EAWs do not have thresholds for changes that would require a new EAW. Therefore, it is discretionary.
- Commissioner Cremons asked procedurally, what does the Commission need to do in order to postpone the consideration of the preliminary approval to the subsequent meeting.
- Commissioner Sayer said they are scheduled on November 19, 2020 and should they hold that date open just in case.
- Administrator Kress does not think they would have the information by that date to present to the Planning Commission. He thinks they are looking more at December 2, 2020 at this point and the Commission would table the discussion until then.

MOTION by Commissioner Hauge to table the discussion.

- Chair Azman noted they went through some of these issues with Nord and for those the Commission kept the public hearing itself open. Here, the hearing portion is not the public comment section of the hearing. He wants to make sure procedurally they do not get caught having to do a series of motions in order to undo what they did.
- Commissioner Hauge agrees with all the comments they have made, they have decided to go out and study in the field, and no decision has been taken. He noted he has made the motion and if he gets a second, they can still discuss it.

Commissioner Sayer seconded the motion.

- Commissioner Sayer sympathizes with the neighbors who have come out tonight and appreciates the opportunity to see with his own eyes how that road shines in to someone's house and what the hill to the north is like.
- Commissioner Hauge agrees with Commissioner Sayer, he understands the neighbors' comments and hopes they can find a better solution for the neighbors than what is on the table right now.
- Commissioner Sayer said for clarification, Commissioner Hauge is moving to table the discussion until December 2, 2020.
- Commissioner Hauge said that is correct.

Motion carried unanimously by roll call.

COMMISSIONER REPORTS

Commissioner Yoshimura-Rank congratulated Commissioner Hara and also thanked Commissioner Sandell and Chair Azman for running because she thinks that is a real dedication to the community and she appreciates all of the participation.

Chair Azman noted this may be Commissioner Hara's last meeting with the Commission and with the Certificate of Election coming through, he will be sitting with the City Council. He noted it has been good to work with Mr. Commissioner Hara.


Commissioner Hara said it has been good to work with them, also, and thanked the Commission.

ADJOURN

MOTION by Yoshimura-Rank, seconded by Cremons, to adjourn the Planning Commission meeting at 8:54 p.m. Motion carried unanimously by roll call.



Kevin Kress, City Administrator



Mark Chair Azman, Chair

Date approved 2-25-2021



Recently we learned that a new road, dumping onto Catbird Lane, servicing some 30+ homes is now being considered In the Red Forest Way South development plan. We have several concerns with this new development.

1. When we purchased our properties several years ago, and then again in reviewing the 1998 EAW, and the 1999 PUD there was never any mention of this road. In fact these early documents suggested that this road might be connected to the Cherry wood development.
2. Recently, in reviewing respective maps it appears that this road may encroach on the wetlands on the east side of Catbird.
3. Additionally, we have never seen any current environmental Impact analysis and have serious concerns In this regard.
4. Finally, we do not see the practicality of this road, given that Black Lake Rd., the main South entrance Is a short distance away. Thus It seems that there may be several more viable alternatives.

Proposal: Given the present application as a community we strongly reject it. As such we ask the following:

1. We invite members of the Planning Committee to join us on a walk through to discuss the current plan and consider other more reasonable alternatives.
2. We'd like to know when and who made this decision for the new road, despite not being on either the original PUD or EAW.
3. We ask that an updated comprehensive Environmental Impact study be completed and shared with us.
4. And we ask that until these steps have been taken that this plan not be move forward.

. As many of our Red Forest Way and Catbird neighbors have been in this community for 2 or even 3+ decades we believe we have earned due consideration. It is most disappointing to see how this and other development projects have been conducted under the veil of secrecy. There has been no communication or transparency with the residents, nor consideration for the impact on the value of their homes. This not the No. Oaks Legacy we have come to know.