

**North Oaks Planning Commission
Meeting Minutes
City of North Oaks Via Electronic Means and Community Room
February 24, 2022**

CALL TO ORDER

Chair Azman called the meeting of February 24, 2022, to order at 7:00 p.m.

Pursuant to Minnesota Statute 13D.021, the meeting was conducted with attendees and Commissioners participating both in the Community Room and via Zoom.

ROLL CALL

Present in the Community Room: Chair Mark Azman, Commissioner Nick Sandell

Present via electronic means: Anne Conroy, Joyce Yoshimura-Rank, David Cremons, Scott Wiens, Robert Ostlund, Councilors Jim Hara, Tom Watson (joined late) City Administrator Kevin Kress

Other Staff Present electronically: City Engineers Tim Korby and John Morast, City Attorney Jim Thompson

A quorum was declared present.

PLEDGE OF ALLEGIANCE

Chair Azman led the Pledge of Allegiance.

CITIZEN COMMENTS

Jordan Stewart, owner of lot at 16 Sherwood Trail, wanted to thank the Commission for its efforts in reviewing his project. They are trying to build a walkout basement on the 5-acre lot, and is available to answer any questions.

APPROVAL OF AGENDA

Chair Azman asked to move Agenda item 7d to 7a, and to move 7c to 7b.

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

APPROVAL OF PREVIOUS MONTH'S MINUTES

a. Approval of January 6, 2022 and January 27th Planning Commission Meeting Minutes

MOTION by Yoshimura-Rank, seconded by Wiens, to approve the previous months minutes. Motion carried by roll call vote. Conroy & Cremons abstained, all others approved.

BUSINESS ACTION ITEMS

a. Public Hearing – Ordinance 151.034 – Fences, Screening, Planting Strips, and Landscaping. Discussion and possible action on Amending Ordinance 151.034.

- Administrator Kress noted that the current City fence ordinance encompasses all districts. We only have 1 industrial zone within North Oaks. Typically, industrial has higher height requirements and NOHOA is looking to make this adjustment.
- NOHOA Engineer is requesting a higher fence height for the Mel's industrial area. This will provide more security, minimize trespassing as well as provide screening. They are requesting a max height of 120" for a solid wall, with maximum height of 10 feet.
- As community grows, they've had pedestrians, bikers and cars going through there and the extra fence height should help provide security in general.
- Kress spoke with neighbor on Turtle Lake side with concerns on what type fence will be going up.
- Maintenance center is within the NOHOA boundaries so it will have to go to the ASC. There is sand and salt that is stored there as part of winter operations. A salt storage shed is possible in future. They will try to install in manner to save trees. Would start with fence on South, then side, then work their way to towards the North side as funds permit.
- Elfering clarified that the maximum height would be 10 feet and solid wall could go that height.
- Conroy suggested the proposed language is ambiguous – if it meant L1 limited Industrial district in all bullet points. Item #2 may want flexibility of not having it be solid – partial solid and partial with 30% open.
- Attorney Thomson suggested leaving point #2 then adding, with exception of fences in L1 Limited industrial district.

MOTION by Conroy, seconded by Sandell, to open the public hearing at 7:34 p.m. Motion carried unanimously by roll call vote. (Yoshimura-Rank dropped off due to technical issues).

There were no public comments.

MOTION by Conroy, seconded by Cremons, to close the public hearing at 7:35 p.m. Motion carried unanimously by roll call vote.

MOTION by Azman, seconded by Cremons, to approve the proposal to amend 151.034 subject to the revision to strike out the new proposed language, and replace “with the exception of fences in L1 Limited Industrial district”. Motion carried unanimously by roll call vote.

This recommendation for approval will go to the March 10th, 2022 City Council meeting for final review and discussion.

b. Continue Public Hearing – 14 Cherrywood Circle Conditional Use Permit Discussion and Possible Action

- This is a CUP for excess home height and garage space. Kress noted at the prior Planning Commission meeting we had asked the applicant to go back and verify the FAR which has been provided in the packet. Administrator Kress noted there are 2 outstanding issues: setback requirement and slope concern. The staff interpretation is that for every foot of excess height, there must be an additional 2 feet set back for the building. Since the code references “building”, staff interprets that to apply to all sides of the building must be set back additional, not just one side.
- Staff believes that the setback requirement is still unsatisfied due to the additional setback only being met in the back of home. The setbacks in the plan are 45.1 at front left corner, 32.6 at the rear left corner, 36.5’ at the right front corner, and 63.7 at the lookout on the east side of the house. Therefore, only the rear side meets the set back required to accommodate the extra height.
- Commissioner Conroy agrees with the staff perspective that all 4 sides should be the new setbacks.
- Councilor Watson stated he also believes that the additional setback requirements have to be met on all sides, and that has been how it’s been enforced historically.
- Chair Azman notes the intent to minimize extra height with neighbors, which would mean the entire building should meet the setback.
- Kress noted the steep slope section of the City code may come into play. Engineer Morast stated the slope goes diagonally through the house with about 13.7% slope. The house is sitting in the steepest portion of the lot. To meet this requirement the applicant may need to shift the house on the property.
- If this project hadn’t come before us with a CUP, the building permit process would need to include engineer review due to the steep slope.
- Commissioner Cremons suggested that the applicant be advised they need to meet the setbacks on all sides and make sure they are considering the slope concern to ensure no soil problems in future.
- Morast stated the fill requirements vary slightly, when grading for the property, they will have to take this into account.
- Chair Azman asked if the garage CUP review can move forward separately. It was noted that more info needed on grade and final location of setback.

MOTION by Yoshimura-Rank, seconded by Conroy, to open public hearing for CUP application for height in excess of 35 feet, and garage in excess of 1,500. Motion carried unanimously by roll call.

Applicant Joel Larson, property owner, thanked commissioner for opportunity to speak on this issue. At the January 27th Planning Commission meeting, they interpreted it to be applicable if only within 50 feet of adjacent property lines. They believe the rear setback is the only one that is adjacent to a property, and therefore the additional set back complies. Applicant note that he had not heard any concerns on slope or requests from City since the last meeting.

Attorney Thomson asked for clarification from the applicant if their position is that in Paragraph E, which states anytime the side or rear elevations of the building exceed more than 35' within 50 feet of adjacent property lines, that an additional 2 feet is required for each foot of excess height – that it applies to only the one side in which additional setback is required. The applicant that is accurate and their position. The rear is the only side this applies to and they believe they comply.

Applicant stated on the right side of property, the retaining wall is 62' feet from the property line.

MOTION by Conroy, seconded by Cremons, to close the public hearing. Motion carried unanimously by roll call.

Chair Azman called the public hearing to order at 8:08 p.m.

Chair Azman proposed options:

- Take roll call vote on project.
- Take additional 60 days for Applicant and Kevin to discuss offline, as well as get input from City Council on this issue.

The Builder of project stated there will be no grading that will go beyond the ordinance, and feels extending deadline is just kicking their project down the road.

- Councilor Hara stated that the claim has merit, and the verbiage in ordinance does have merit.
- Councilor Watson stated if they want Council to review the language, it will require extension to meet on it for March council meeting and then back to Planning Commission at the end of March.
- Applicant stated he did not receive a 60-day notice. Attorney Thomson will look into it.
- Councilor Watson noted options appear that either the applicant gives us time, or not. If not – there will be a debate on the 60-day notice, and a vote might as well as be taken.
- Administrator Kress noted staff had no issues with the garage.
- The builder restated that according to their plans, at no point on the side or rear elevation does the elevation exceed 35 within 50' of an adjacent property line – which is how the code is written. They are not willing to grant an extension in time.

MOTION by Azman, seconded by Sandell, to approve the garage in excess of 1,500 CUP with staff recommendation. Motion carried unanimously by roll call.

MOTION by Conroy, seconded by Cremons, to deny Conditional Use Permit for excess height of 35 feet. Motion carried unanimously by roll call.

c. Discussion of Interpretive Guidelines for Heights CUPs - public comment will be accepted

- Chair Azman explained at the January meeting there was discussion of the 4 CUPs at Sherwood Trail. Much discussion took place regarding the ordinance verbiage is “naturally suited” for walkouts. City Council asked the Planning Commissioners to take a look at this topic again and review the applications again. Meetings took place between engineers and councilmembers to discuss the issue, and guidelines were drafted and circulated to Planning Commissioners. He noted that the applicant has withdrawn 10 Sherwood from discussion at the current meeting.
- Councilor Watson met with owners of 6 Sherwood on site at their lot. Also met with Gonyea architects this week so they are aware of the thought process. The applications on 14 and 16 Sherwood appear to meet the proposed guidelines. The properties at 6 and 10 would need to shift to a lookout. He noted the property owner at 6 Sherwood was open to lookout / egress windows.
- Engineers also reviewed ordinance in Sunfish Lake for how other communities address this issue.
- Commissioner Cremons suggested the #4 in the proposed language to read “a grade difference from the highest front elevation to the lowest rear elevation, up to 2 feet”. He feels it is still a reasonable proposal that will allow walkouts in many areas where suited.
- Council Hara noted that many of these lots are hilly and may be harder to identify what the measurements are.
- Engineer Morast noted they also talked about average where there may be difference – suggested a 2-3 feet average of cut and/or fill.
- Watson mentioned that if the fill required is in excess of 500 feet it would also have to go under the CUP process for review. Under conditions 2 feet could be added for drainage option, 8 feet for a walkout. The topographical conditions would need to be evaluated before any changes have happened to the land – to make determination of walkout is possible.
- Conroy suggested possibly moving the 2 feet for drainage to a separate section for clarity.
- Cremons mentioned that the 100 cubic yards may not needed to be in guidelines as they already exist as a separate CUP. Watson responded that having it there makes it easier for a checklist for applicants/contractors.
- Morast looked for industry standards or rule of thumb. He found construction guidelines, and talked to others that 6’ plus 2 feet of cut/fill to bring it to 8 feet from front of house to back was reasonable.
- Attorney Thomson mentioned once the planning commission agrees to the guidelines, he will need to know whether they need to be put in the formal code.
- Sandell asked if the guidelines would prevent a lot of developments going forward. Watson did not think that would be the case as there any many areas such as Red Forest and Catbird that have a much greater elevation.

d. Continued Discussion on 6, 10, 14 and 16 Sherwood Trail

- Chair Azman noted that 10 Sherwood Trail was going to be postponed until the next meeting for design changes.

Review of 6 Sherwood Trail:

- Engineer Morast shared the redesign of 6 Sherwood which now includes an egress window with a sliding glass door on the right back of the home – in place of the original walkout. There is a knoll on one corner. The east side 1.2' fill, on the west there is 3.5 feet and, on the rear, there is a 2.0' cut to be the lowest floor elevation. The floor will be at 913 feet. They balanced the cut and fill, and the sport court will have the egress window.
- Cremons mentioned that reviewing the project against these new guidelines provide a good compromise to what meets both needs.
- 8 Foot was selected to allow for basement height.

MOTION by Cremons, seconded by Conroy, to approve CUP #21-15 for 6 Sherwood with conditions set forth in the staff report. Motion carried unanimously by roll call.

Chair Azman noted that the recommendation for approval will go before the Council at their next meeting on March 10, 2022 for final consideration.

- Councilor Watson will make edits based on discussions. Council will provide feedback, and then send back to planning commission at the March meeting to act on it.
- Sandell asked that consideration be given to making it 6 feet to allow more flexibility.
- Attorney Thomson recommended that the Council provide direction based on the Planning Commissions discussion, and then determine whether it becomes a policy or becomes code.
- Kress stated if becomes code – then it will have to come back to Planning Commission as it is part of the Land Use ordinances.

Review of 14 Sherwood Trail:

- City Engineer Morast reviewed the design for 14 Sherwood Trail and the amount of fill needed on this project to accommodate the walkout. Based on guidelines, this appears to meet setback guidelines to accommodate the extra height and walkout based on the naturally suited topography.

MOTION by Sandell, seconded by Yoshimura-Rank, with conditions listed in staff report approve the CUP #21- 19 for extra height at 14 Sherwood Trail. Motion carried unanimously by roll call.

Review of 16 Sherwood Trail:

- City Engineer Morast reviewed the design for 16 Sherwood Trail with a front/rear natural elevation difference of 6.3 feet. 16.4 front by garage, 9.101 at the corner which is a 16.3 foot elevation difference. The fill is listed at 2.5, 2.1, with a 1.7 cut and small.9 fill on the lower left hand. The fill requirements are balanced. The 50 setbacks have been met. The building elevation at rear is 43 1/8 inch finished floor to highest point of roof, front is 34.3 1/4 to the highest point. Setbacks have been met to accommodate the greater height. Based on guidelines, this appears to meet setback guidelines to accommodate the extra height and walkout based on the naturally suited topography.
- Commissioner Cremons mentioned that this home is already shorter than some of the other homes proposed. This home is smaller to start with and he feels like it's a natural walkout and would be supportive.
- Engineer Morast confirmed that the plan is 916.4 highest, lowest 910.1 = 6.3 differential. Morast stated garage floor elevation is 918.7 so there would be 2 feet less fill.
- Jon Connelly with Gonyea Homes stated from a builder stand point most engineered build pads are 6-foot fall, and any fill is used on lot with 2 feet on the front. On this project the new design reflects reduced the garage floor elevation, and a basement floor of 910.3' which is now more consistent with the natural contour.
- Applicant Jordan mentioned they appreciated the natural environment and finding a lot that was suitable with natural environment with minimal impact to nature.

MOTION by Cremons, seconded by Conroy, to approve the CUP #21-20 for extra height at 16 Sherwood Trail subject to conditions in staff report. Motion carried unanimously by roll call.

Jen Otto, the builder for 10 Sherwood, has met with the clients to review the need to move from basement to egress windows and they are agreeable. They ask we have a special meeting to review the new plans to try to keep this moving forward for the March 10th Council agenda. A special meeting will be held Thursday, March 3rd at 6:00 p.m. to review the revised plans.

COMMISSIONER REPORTS

- Yoshimura-Rank thanked Chair Azman, Councilor Watson and the engineers on putting together quantifiable guidelines for walkouts.
- Councilor Watson thanked Gonyea Homes for the time working with them on these projects.

ADJOURN

MOTION by Cremons, seconded by Yoshimura-Rank, to adjourn the meeting. Motion carried unanimously by roll call. Meeting ended at 10:10 p.m.

Kevin Kress

Kevin Kress, City Administrator

Mark Azman

Mark Azman, Chair

Date approved 3/31/2022