

**North Oaks Planning Commission  
Meeting Minutes  
City of North Oaks Community Meeting Room and Via Teleconference  
April 29, 2021**

**CALL TO ORDER**

Chair Azman called the meeting of April 29, 2021, to order at 7:00 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, Stig Hauge, Nick Sandell, Grover Sayre III, Joyce Yoshimura-Rank.

Absent: Anne Conroy

Staff Present: Administrator Kevin Kress, City Attorney Bridget Nason.

Others Present: City Councilmember Tom Watson.

A quorum was declared present.

**PLEDGE OF ALLEGIANCE**

Chair Azman led the Pledge of Allegiance.

**CITIZEN COMMENTS**

There were no citizen comments.

**APPROVAL OF AGENDA**

Cremons asked about the completeness review based upon what the Council has just done and whether that affects how the Planning Commission will function going forward.

Kress replied no, for any preliminary application it would still go to Planning Commission for formal completeness review as has been done before. That is followed by compliance review by City Staff and consultants during preliminary approvals. Kress stated the Council wants to weigh in on the completeness factor for the final application series, which is what they saw at the special meeting.

Azman said in terms of the Planning Commission, they do not become involved in completeness review and final plan applications.

Kress replied that is right; the only time that would happen is if the Council chose to send it down to Planning Commission for review.

Cremons clarified the Planning Commission continues to do their part at the beginning and the Council is at the end.

Kress answered yes, the Planning Commission does the preliminary review, passes it to Council, and the final approval is deemed complete by Kress and the Council then acts on the application to determine if it fulfills all the requirements of the preliminary plan, final plan, and plat.

**MOTION by Cremons, seconded by Sandell, to approve the agenda. Motion carried unanimously by roll call.**

### **APPROVAL OF PREVIOUS MONTH'S MINUTES**

#### **a. Approval of February 25, 2021 Planning Commission Meeting Minutes**

**MOTION by Yoshimura-Rank, seconded by Hauge, to approve the agenda. Motion carried by roll call with Chair Azman and Councilmembers Hauge, Sandell, Sayre, Yoshimura-Rank voting for; Councilmember Cremons abstained as he was not present at the meeting.**

### **BUSINESS ACTION ITEMS**

#### **a. Public Hearing Conditional Use Permit for property located at 17 Evergreen Road**

Azman opened the public hearing at 7:07 p.m. and read the notice posted in the newspaper. The Conditional Use Permit (CUP) is for a garage space greater than 1,500 square feet, pursuant to City Code Section 151.050 sub D9 of the zoning ordinance. Notice was also provided to neighboring properties.

Attorney Nason said a CUP is a permit issued by the City for use identified within the City code as a use that would be permitted within a particular zoning district provided certain conditions are met. If the conditions are met and if conditions can be imposed on the CUP application, which address any particular concerns raised by the application, generally they are granted. Since it is a CUP application it is guided by the applicable City code provisions. In the packet this evening, there are some proposed Staff conditions; the report indicates that Staff recommends approval. She noted there are some additional considerations at the end of the Staff memo which may require discussion regarding calculation of the floor area ratio (FAR).

Kress gave a high-level overview. The subject property is a 1.12 acre site zoned in Residential Single Family Low-Density (RSL). The applicant is looking to get a CUP over 1,500 square feet for a garage totaling 1,809 square feet. Included in the packet is the site location, applicant narrative, grading drainage, and erosion control, site plan, building elevations, and engineering comments. Throughout the Staff report it is stated the garage cannot exceed 3,000 square feet and that condition has been satisfied. The garage shall be constructed in the same architectural style, and the standard is also met. Currently they meet the floor area ratio (FAR) at .1199 as illustrated in the chart. No use of the garage shall be permitted other than private residential non-commercial. Factors set forth in 151.076 CUP's shall be considered and there are some criteria such as relationship to the proposed conditional use to the Comprehensive Plan. Kress noted they found the site to be guided and zoned to accommodate single family dwellings. This property is a legally non-conforming lot established in 1959 which is why it is 1.12 instead of 1.45 acres. The subject site is in the RSL zoning district to accommodate large homes on large lots and is similar

in size and character to other lots in the neighborhood. The proposed home will have 5,584 square feet of floor area; it is not expected to depreciate the area in which it is proposed. Traffic is within the capabilities of Evergreen Road; Staff has provided certain conditions to minimize potential impacts to not disrupt reasonable use and enjoyment of other properties. The property is private well and septic. Home plans will be required to comply with applicable provisions of the zoning ordinance as well as State building code. Grading, drainage, and erosion control plans will be subject to review and approval by the City Engineer as part of the building permit application. The proposed use is not anticipated to endanger the public health, safety, comfort, convenience, or general welfare. The proposed use will not be detrimental to any person's land or the general welfare because of the excess production of traffic, smoke, noise, fumes, waste, toxins, glare, or odors. Lighting must be consistent with 151.031 and the setback is outside of the 30 foot setback. Staff recommendation incorporates that in accordance with the square footage referenced in the applicant's narrative, a total of 1,809 square feet of accessory structure or garage space shall be allowed upon the subject property. Garage shall be used for private residential, non-commercial use.

- Attorney Nason said regarding the floor area ratio (FAR), for both the RSL zoning district requirements as well as the specific garage size CUP, the FAR cannot exceed 0.12. As defined in the zoning ordinance, FAR is the total floor area of all buildings to the gross lot area excluding two-thirds of any wetland. The total floor area is defined as the area of all stories, including garages, that are not part of the basement. The gross lot area is the total area of a platted lot excluding road easements. She noted the tricky piece here comes with the definition of building. In the plans, there is a proposed deck attached to the house. In the City zoning ordinance, a building is defined as including a deck and a deck is defined as a horizontal unenclosed platform with or without attached railings attached or functionally related to a principal use or site at any point extending more than 3 feet above ground. The definition of a building in the North Oaks zoning ordinance includes a deck. The calculations are right at the maximum for the FAR without including the deck square footage – they do not know what the exact size of the deck will be – so there is a concern that if they build a deck it would then push the FAR over the maximum of 0.12. Attorney Nason's understanding is that the City's building official indicated that past practice has not included deck square footage in those calculations despite being defined as part of a building in the zoning ordinance. They have not been treated as part of a building for these types of calculations.
- Kress reached out to both the previous and current building officials and a few Councilmembers. They were all of the impression that decks were not included in the FAR calculation. It is illustrated in the zoning code; from his understanding, the intention is that decks are not to be included within the FAR. Kress thinks if they were included the City would run into issues on other properties where they would then exceed the FAR.
- Bob Moser, Moser Homes Inc., said specific to the deck question they have constructed homes in North Oaks previously and based on past experience a deck has not been included in the calculations. He noted there is an application form on the North Oaks website that specifically talks about submittal requirements and one is specified as a FAR worksheet

calculation and on that form it says “excluding decks.” Mr. Moser did notice decks are referenced in two sections of the description and one refers to “covered porches and decks” – which seems if a deck or porch is covered it would count toward the FAR – he noted it is confusing.

- Azman asked to hear about the desire for having a larger garage.
- Chad Wojtowick, Applicant, would like to have a garage big enough to store the things they have so they do not need to keep vehicles on the driveway. He thinks it is better aesthetically and as he stated in the letter, if it was not allowed, they would then put the 300 square foot back into the FAR so the house would not be smaller. Essentially they are using some of the square footage they could normally use for house and would like a little bit larger garage to keep as many vehicles off the driveway as possible.
- Azman noted in the plans, the garage is integrated into the design of the home.
- Mr. Wojtowick noted they tried to build it so when looking at the front of the house one does not see all garage; it is as subtle as possible off to the side.
- Azman noted the application mentions a garage door at the back so they can drive through and there could be access to the back of the home where the well is located for servicing.
- Mr. Wojtowick replied that is correct, they would not want to drive on the other side as that is where the septic field would be. There would essentially be no other way to access the backyard if they did not have the back access. He stated they want to keep as many trees as possible on the side of the house.
- Yoshimura-Rank appreciates the letter from Mr. Wojtowick and said it was well thought out that he would be putting his RV and boats in a garage. She noted there is an ordinance about RV's and boats sitting in a driveway, which believes it is 30 days. She also appreciates the whole design and trying to save as many trees as possible during construction. She thinks it looks really nice.
- Mr. Wojtowick noted Kress helped with some of the rules and design. They definitely do not want to store those things in the driveway and that is really the goal.
- Azman noted the Applicant has been interacting with him, and he believes Kress, since early December and has been very cooperative and inquisitive about what can and needs to be done, as well as ironing out issues as early as possible. That was a very positive way to start the process. Azman said in looking at the report on page 7, he saw the definition of building and total floor area. What threw him is on the FAR which includes a series of items separated by commas, and then has “covered porches and decks.” That signaled to Azman that porches and decks would both be covered. In combination with the past practice that Kress and Bob Kirmis has explained to Azman, decks have not been included. He sees the concern, but it would be his belief and recommendation that they not change the practice as it has been applied in the City for quite some time with this particular applicant. Should there be an approval, they should include with the recommendation a suggestion to the Council that there be a modest clarification in the ordinance so applicants in the future do not have to deal with this confusion.
- Sayre noted it says covered porches and decks. In his mind that is a covered deck, which looks like it is part of the structure from a distance. If they do not want structures getting too big for the land area, he can see if it is covered it looks like it is too big. He noted a deck is

hardly visible. Of course, water can pass through decks so impervious surface is not really being impacted. He said perhaps a clarification is needed and he can understand why they have been interpreting things the way they have over the years.

**MOTION by Sayre, seconded by Cremons, to open the public hearing/public comment portion at 7:32 p.m. Motion carried unanimously by roll call.**

**MOTION by Yoshimura-Rank, seconded by Sayre, to close the public hearing/public comment time at 7:34 p.m. Motion carried unanimously by roll call.**

**b. Discussion and possible action on Conditional Use Permit for property located at 17 Evergreen Road**

**MOTION by Cremons to approve the Conditional Use Permit application for 17 Evergreen Road with conditions as listed by Staff.**

- Azman suggested that includes a recommendation that the Council address the need for clarification on the deck issue.
- Sayre suggested having that as a separate motion.
- Cremons agreed.
- Kress stated they can list it as a separate discussion item. Right now it does not impact the CUP but rather would impact the building permit.
- Azman agreed they should do it separately and that was his intent.

**Motion seconded by Yoshimura-Rank. Motion carried unanimously by roll call.**

Azman said the recommendation will go before the Council at their next meeting on May 13, 2021.

**c. Discussion and possible action on minute taking**

Azman said some time ago the Council decided they wanted to have a separate company prepare a transcript of the meeting minutes. That has gotten to be quite expensive, and the Council is giving consideration to moving away from that method of minute taking to a more efficient, less costly method. The Council has asked the Planning Commission to review what they think they would like to do in terms of minute taking. From Azman's standpoint, having a transcript of meeting minutes that are 13-14 pages long is unnecessary and, he believes, inconsistent with traditional practice of what minutes are supposed to be. He agrees with some of the concerns of the Council that there is not a need to expend significant amounts on the preparation of a transcript. The next question is, what should the Planning Commission do? Under the new ordinance for the Planning Commission in chapter 34, it requires the Commission to maintain minutes and records of its proceedings and another section requires City Staff to maintain the minutes and records for the Commission. There is a suggestion to consider having one of the

Commission members keep minutes; Azman does not think that is a prudent way to proceed as Commissioners have enough to do without the distraction of trying to take minutes on what is happening. He recommends the Commission simply follow the ordinance as written and have Staff take appropriate minutes.

- Yoshimura-Rank asked what the bill is for the transcription service?
- Kress replied it depends on how long the meeting is, but some of those minute taking procedures can be anywhere from \$500 to over \$1,000 depending on what is happening at the meeting. It is based on the number of pages, the font, whether it is verbatim or not. He noted there are lots of different options and right now it is straight verbatim, which is the lengthiest version they can get, and that is why the cost is so high.
- Azman asked what the general cost would be per month if they have one Commission Meeting and one Council Meeting per month.
- Kress stated if it was verbatim, if tonight's meeting is one hour, probably \$300-\$400. A Council meeting that was 2-3 hours would probably be upwards of \$500.
- Cremons made a suggestion. He thinks the minutes are probably more detailed than the Commission needs the way they have been prepared to date. He noted they are superbly accurate but much of the content may not be absolutely necessary, especially as every meeting is recorded so they have the ability to go back and find what was said at a meeting or the verbiage on a motion. He wonders if they can have Staff do it with the direction to not necessarily quote every comment by every Commissioner but condense it down to a general sense of the discussion.
- Sayre has observed on other Boards he is part of, the best practice is to have the shortest minutes possible: what happened, something was brought before the Commission, Staff gave a report, they heard from the public, and then what was decided in the resolution itself. That way, the motion and resolution stands on its own and they are not tempted to go back and look at all the discussion to try to interpret what the resolution says and means. The discussion is just that – people trying to understand what they are being asked to decide – and that is not really appropriate verbiage or conversation for interpreting what was finally decided.
- Yoshimura-Rank thinks it is a good point that it is all recorded and if they need detail they can reference that recording.
- Azman thinks the general recommendation from the League of Minnesota Cities is more or less what Sayre was saying, the minutes are an abbreviated description of what happened. He asked Attorney Nason's thoughts.
- Attorney Nason replied the Council itself is required by statute to keep meeting minutes. The Planning Commission by ordinance is required to keep meeting minutes and a record of decisions, as well. Some cities do rely on the verbatim process, it does cost more, and it does lead reading multiple pages for typos or what exactly was said. Generally speaking in the past, more cities relied on the abbreviated minutes because they are designed to provide a record of what went on at the meeting. With the recording of meetings, the broadcast on television, and the ability to watch those later, she finds that the majority of her clients do not

use the verbatim method of keeping minutes – although some of them do. It is just a matter of what the Council or Commission wants to see for that record balanced against the cost.

- Councilmember Watson said this particular matter only becomes germane to the last 18-24 months. For the prior 50 years of North Oaks, the minutes are as Sayre described. Some have been in the City long enough to remember Nancy and her electric typewriter and she couldn't possibly take minutes any faster than abbreviated versions. This current method came about because of all the friction the last two years where people could not remember from one meeting to the next what they said or what they repeated. Consequently, this became the solution. The Council has asked Kress to look at staffing for the City Council, Planning Commission, and Natural Resources Commission; they have two part-time people who do not qualify for benefits and the City would like to keep it that way. During Watson's time of 18 years, they always offered a position as secretary to the Planning Commission and he can name two that did the job. He noted it was the length of the meeting plus transcribing minutes, and doing things the administrator wanted done and probably cost 8-10 hours per month and probably \$150-\$250. Frankly, Watson is interested in finding out if there are people in the community that want to be assistants to the Planning Commission. One of the assistants was a 50 year old and the other was a widowed retiree who was looking for something to do and lived in one of the senior apartments nearby, she loved getting out and she did a good job. He is interested in exploring all of those options so the appointed people can spend their time worrying about the action items before them. He said there is really no reason to spend the kind of money they have spent, particularly where they get into protracted meetings. He said he will end that really fast; they are not having any 5-, 6-, or 7-hour meetings while he is around. They will look at the option of doing abbreviated sessions with TimeSavers as that may be another option. He still thinks there may be some people interested in that limited appointment as Staff Assistant to the Planning Commission.
- Azman thinks it is a great idea to investigate. He does not think TimeSavers is a money saver, or a time saver as a practical matter because they are producing minutes that are too long. He thinks they should go back to the abbreviated minutes and having an assistant like Watson mentioned is fine. He defers to Kress and the Council on how that administratively happens, but it would be his preference that a Staff member take and prepare minutes.
- Kress noted they will present the different models to the Council on May 13, 2021.
- Watson reminded the Commission they have been through a transition where one of Kress's assistants left and the second part-time position was vacant until just recently. They will examine that piece and view Kress's plans at the next meeting. If anyone has a grandma or a good friend that would like to get out and socialize 1-2 times per month, perhaps they will ask for some help in that regard.

### **COMMISSIONER REPORTS**

- Azman asked Kress about the plan or schedule for discussion is to bring the Commission back together in person.
- Attorney Nason noted the legislative session is fast and furious and there are some changes related to the Open Meeting Law that have been put into legislative form. These would allow some increased participation remotely by Councilmembers and Planning Commission

members following the termination of the emergency declaration. She noted at the State level they are still under an emergency declaration and at the City level are still at a peacetime emergency. Some cities never moved to virtual, others moved to virtual and are now back in session. It is really a matter of the comfort level of the body and whether it wants to meet in person or remotely. To meet remotely, someone has said that it is not practical or prudent for everyone to meet in person in that meeting space. At the time the Administrator, Attorney, Mayor, or Chair of the Planning Commission determine that it would be practical and prudent to meet within the confines of the City Hall meeting space, that would be the time to move back into the in person meetings. Once the emergency declaration is lifted – unless there is a legislative change – there is limited ability to meet in a hybrid model as the Commission is doing right now.

- Azman noted a decision that came out about a school board that was meeting hybrid and a Commissioner determined that was a violation of the Open Meeting Law as they were not satisfying one of the elements of 13D.021. They cannot limit the public from attending the meeting and that got the school board in a bit of trouble.
- Watson added that was a school district on the iron range where they play by a different set of rules and Watson grew up out there in St. Louis County schools. They did not announce how they were conducting business and consequently, people that wanted to attend in person or otherwise were excluded. It was a complaint brought by the local newspaper editor.
- Azman said they had not satisfied one element because they were meeting in person and excluding the public. He asked if the Council has anything on the agenda to talk about this matter.
- Kress noted there is nothing currently from the Mayor and there has not been a lot of discussion at the Council level.
- Watson said some know he had a major surgery a few months ago. There is a fact that there may be some people who will still be limited for health reasons, or because of their choice. The question is, would they still meet in some type of a mixed, hybrid fashion with some in the Council chambers and others who are not in the short term. He thinks they will see some of that.
- Attorney Nason said it sounds like the school board was acting a bit rogue in this situation. The difference between North Oaks and that situation is that North Oaks is allowing members of the public; they are just limited based on room capacity. In the situation, the majority of the body was meeting in the space but the public was excluded in its entirety from the space. Provided that the City is allowing the public to attend, both in person and remotely, it appears that this opinion and the fact pattern is not identical to what is occurring within the City.
- Azman noted Attorney Nason's last day is tomorrow and thanked her for her dedicated service.
- Cremons has heard from several people on the Natural Resources Commission (NRC) and some on the Council and one issue with various projects in North Oaks is a lack of coordination and effective communication between the various groups. He asked what if the NRC, Council, and Commission, North Oaks Home Owners' Association (NOHOA), and North Oaks Company each picked a person to have an informal working group that might meet periodically to communicate. This might short-circuit some of the problems, avoid surprises, and provide the Company with guidance.



- Sayre noted North Oaks is different from many cities because of the different bodies, the Company, NOHOA, and the City. Any time they can improve communication it avoids all kinds of problems.
- Watson asked to give a moment to reestablish some relationships that have been severely damaged in the recent past. He thinks that is changing a bit. Some of the relationship with NOHOA is changing, and he submits that some recent communication initiated in working with Kress, the Attorney, the Engineer, in making sure that with a development of any kind, they have the materials to make appropriate decisions. He is embarrassed at the way North Oaks functioned over the past 2-4 years and noted that is not the way they do business in this community. He does not know his comfort in creating another venue to establish that, as candidly he would rather five members of the Council sit down and have a conversation with the Company, and then also with NOHOA.
- Cremons clarified he is not suggesting a new Commission with power to make decisions. Back in the past, people could sit down with one another over a cup of coffee and talk through problems which produced positive outcomes. His thought is 5-6 people in a room talking about what is going on. He thinks they have a communication problem and would like to start to address it in a practical way.
- Watson does not disagree. Having observed things over the last two years, there needs to be five Council members sitting face-to-face with NOHOA, and five Council members sitting face-to-face with the Company. In January, his first Council meeting in 11 years, he asked NOHOA and the Company to sit down and work through their issues relative to Nord. In the last 120 days they have met zero times.
- Cremons noted that makes his point; right now the bodies are not meshing or communicating with each other. It is a dysfunctional situation and some people might be able to move things forward. He also watched that meeting and was hopeful there would be progress between those bodies on Nord and there has been nothing.
- Watson said those are two bodies out of the five that were mentioned: Planning Commission, NRC, Council, NOHOA, and the Company. Those two bodies have not been able to get together and agree on anything in the last year and a half. There is one way to change that, which is called an election (coming up in December), and the Council does not have any authority to tell NOHOA to agree or meet with the Company. He does not think there is an issue with NRC and is hopeful there aren't issues between the Planning Commission and the Council. They are trying to make things clear and be supportive of each other. He does not reject what Cremons is suggesting and asked people to keep the faith as they will get it back on the right track.

**ADJOURN**

**MOTION by Yoshimura-Rank, seconded by Sayre, to adjourn the Planning Commission meeting at 8:14 p.m. Motion carried unanimously by roll call.**

*Kevin Kress*

Kevin Kress, City Administrator

*Mark Azman*

Mark Azman, Chair

Date approved 6/24/2021