

**North Oaks Planning Commission
City of North Oaks Community Meeting Room
February 27, 2020**

CALL TO ORDER

Chair Azman called the meeting of February 27, 2020, to order at 7:00 p.m.

ROLL CALL

Present: Chair Mark Azman, Commissioners David Cremons, Nick Sandell, Sara Shah, and Joyce Yoshimura-Rank. Commissioner Hara joined at 7:43 p.m.

Staff Present: City Administrator Kevin Kress, Mayor Gregg Nelson, Recording Secretary Debbie Breen, City Planner Bob Kirmis, and City Attorney Bridget Nason

Absent: Commissioner Stig Hauge

Others Present: Videographer Maureen Anderson

A quorum was declared.

APPROVAL OF AGENDA

MOTION by Commissioner Yoshimura-Rank, seconded by Shah, to amend the Agenda to add “Approval of the Agenda” to the meeting agenda.

Commissioner Shah asked for status of Comp Plan. Administrator Kress indicated that the City is waiting on Met Council feedback and hope to provide it to the Planning Commissioner in March for review.

Motion carried unanimously.

CITIZEN COMMENTS

Rachel Maher, 91 Rapp Farm Place, requested Commission not approve the 12 lots as proposed due to: 1) the application includes the 2 parcels that are not in the PDA; 2) Exhibit B.4 of PUD shows dedicated path of open space but it is not shown as part of the development area. 3) Lot size/location – requesting 12 lots but due to nature of parcel and wetland, concerned about squeezing in access to 2 extra flag lots. She also noted the proposed lots are up to 6 acres and believes PUD says they should be 2-3 acres and take in consideration hardwood trees in place. Trail runs through one of the properties and believes Exhibit C Easement map shows the easement going through existing homes along Deep Lake. With the application so different than what was in the PUD, feels the application should not be approved.

Leanne Saveride, 4 Red Maple Lane, referenced the application letter from Mr. Houge which notes the Company considers Nord Parcel a benefit to the community. She feels the lack of an agreed upon trail solution is still essential to the community benefit.

BUSINESS ACTION ITEMS

a. Approval of Minutes of January 30, 2010, and February 4, 2020

Commissioner Yoshimura-Rank asked that the date in the January 30th minutes, page 8 paragraph 2, be clarified to state January 11, 2018 was the date of the Sambatek map. Also corrected the Commissioner spelling of Commissioner Hauge name.

MOTION by Hara, seconded by Yoshimura-Rank, to approve the Minutes of January 30, 2020 as amended, and the February 4th minutes as presented.

Motion carried unanimously.

b. Consider Resolution Determining Completeness for Nord Parcel Development and Setting Public Hearing

- City Planner Kirmis stated that per Ordinance, the Planning Commission must determine if the submitted preliminary plan application documentation is complete before a Public hearing can be set. This determination of completeness is not a final review, it is a measure to ensure the applicant has submitted all of the required documents. Typically, City staff would make this sole determination, however in North Oaks the Planning Commission give make give this approval.
- In review of the submission requirements listed in the ordinance and East Oaks PDA, City staff has found that the applicant has submitted all required materials. City staff includes the City Administrator, City Engineer, City Attorney, and City Planner. Recommended conditions for future discussion during the Public Hearing include request of a map showing the edge of the wooded areas to include additional detail as to specific trees and what happens after subdivision. Also for Nord application, there are two parcels shown that are not in PDA that would become part of the review of the application and public hearing.
- Commissioner Hara inquired about the staff recommendation to include the 2 extra parcels. Planner Kirmis responded that the 2 parcels are remnants between other planned lots, and it is not uncommon to include as part of a cleanup. Hara believes that they may have been placed to assist in allowing the trail along that easement and believes the East Oaks PDA may have intentionally not included the two 2 parcels.
- Attorney Nason stated the two issues: Since the parcels are not included in the legal description, they could amend the PDA to include the 2 parcels and complete a zoning map amendment. Another option is to leave in the subdivision the parcels with 2 different zoning classifications. She could not find any zoning or ordinance regulations that prohibit have 2 different zonings, it just makes it bit more complicated as to what rules they must follow.
- Commissioner Cremons asked if it would be prudent to clear up the 2 parcels prior to consideration of the application and moving forward, and felt it was a good time in the process to clear this up now.
- Attorney Nason stated that we have a live application and a timeline to consider, and a PDA and Zoning Map amendment could take months to resolve. The application for subdivision includes two timelines: 1) the applicant must also be advised within 15 days of application submittal whether it is complete 2) from date of completed application, the Planning Commission has 120 days to make decision on it. Therefore a decision needs be made tonight, with the applicant receiving confirmation of decision of completeness by tomorrow. If no decision is made within 15 days, the applications are considered complete by default. The key is to decide if all the boxes have been checked on the submittal checklist. If deemed complete, February 24th is considered the date of completion as this is when the last required materials were received by City Staff.
- The items noted on the Checklist as “to be determined as part of plan review” are part of the next step of Preliminary Review / Public Hearing.
- Planner Kirmis indicated that if the parcels were left out, it could be hard to maintain the stranded parcels, and have no control on what happens to it in future. There are trail connections shown in the preliminary plans from the Applicant.
- Attorney Nason clarified the City Council has final decision during the application review process. The steps in an Application process include: 1) Planning Commission completeness check 2) Planning Commission Public Hearing, preliminary plan review and recommendation, and then 3) move to Council for preliminary plan review and approval 4)

final plan submitted to Planning Commission and Council for approval. Note: Once preliminary plan and plat is approved, as long as the final plan conforms and is consistent with the preliminary it must be approved.

- Commissioner Hara feels that the two pieces of property should be looked at now to determine the original intent of those parcels before we move forward. If they were intended to be trails he would like to know that first.
- Attorney Nason mentioned that each certificate of title for properties within North Oaks should show easements if there were any assigned to it. There are also some easements that may be held in North Oaks Company name and not transferred to NOHOA.
- There was discussion that if it were to be deemed incomplete, the motion would need to clearly articulate what area the developer needs to address based on the completeness ordinance checklist.
- Mr. Houge of North Oaks Company noted that this situation previously occurred in Ski Hill, in which there were lots that were partially included in PDA so this is not the first time to clean up remnants. The Company is also willing to incorporate these 2 lots into the development, but by definition of requirements needed, this does not make the Application submitted incomplete.
- He also noted that if they were to put a trail on V-284, it would be going right through wetlands. They are working with NOHOA to look at putting it through lots 1 & 2 instead of by the road as shown in the PDA. They would need the two parcels included to proceed with this plan. They feel there is precedent to not have to amend the PDA to incorporate these lots. They plan on talking to the Rapp Farm sub-homeowner association to show them the proposed trail connection.
- It was mentioned that if the two lots are not connected into Nord, there is concern they would not be available if they were needed to make trail connections. Commissioner Sandell feels including them in the application put us in the conversation as to what happens to the parcels. This could allow for future discussion about including them as a trail, rather than just selling to a builder with no consideration for Nord.
- Attorney Nason indicated that the prior Nord preliminary plan brought forth a year ago that was noted as complete did include the two parcels. Shah mentioned that the Planning Commission was not involved in the prior application completeness check, and the internal City Staff has also changed.
- Attorney Nason clarified that the EAW published in August 1998 was completed due to the size of the development and to identify if there were any potential impacts to be mitigated. The EAW is not part of the PDA so it is not a governing document.
- Chair Azman would like to see further detail in a tree map of what the area looks like before and after subdivision before Plan Review hearings.
- Administrator Kress stated that Chapter 151.056B-2 of the ordinance requires applicant to show the trees, parks, playground along with topography. However, it does not specify what detail on trees is needed. The Company would only have control over what happens with heritage trees on the access roads.
- Charley Lake was the first time there was a plan for replanting of trees identified, but this was through Mattamy Homes, not North Oaks Company.
- Mr. Houge stated they are in favor of the City Forester reviewing the access corridor so the Company can make best effort to keep heritage tree as reasonable. It is always a priority to retain natural topography and self-enforced trying to save trees as many as possible. Rapp Farm was tillable farmland and not many trees that could even be considered. Road will be

kept to a minimum to preserve trees, however they do not have control over the individual lots. Willing to go out and review the Road and trees with forester once the application is deemed complete.

- Attorney Nason mentioned it was an option to deem application complete, but specifically request the Company to provide heritage tree information before the Public Hearing. Staff also recommends we not leave remnant parcels. If remnant parcels are included, they would not be allowed to get the benefits of other parcels within PDA. Mr. Houge stated the zoning of the remnant parcels is “conservation lot” which is more restrictive than those under PDA, so it would not change how the space is designed.
- Supermajority is needed if request a formal zoning change, and could be several months requiring public hearing, and Council discussion.

MOTION by Hara, seconded by Cremons, to approve Resolution 2020-01 to deem the application incomplete with the condition that the 2 orphan parcels that are inconsistent with the Master plan be resolved, and heritage trees identified on the road.

- Commission Sandell feels that it is to the City’s advantage to include them so that we have leverage on what happens with them. He also feels like there has been traction on both sides regarding the trails and feels the conversation during preliminary plan review will address this issue. If not, there is the option to deny the application. Commissioner Shah feels it is complete as well, and that the Company has submitted everything they are required to.
- Mr. Hauge pointed out that residents are putting forth money to pay professional staff to do a thorough review and submit a recommendation. They have had several meetings with staff since the submittal of the preliminary plans to make sure they had submitted everything. There is precedent set of combining lots to bring in remnant parcels without a formal zoning change. The Company will take issue if application is denied based on this.
- Mayor Nelson asked Attorney what the ramifications are of the decision made. Attorney Nason responded that if there is a legal dispute, what is required in code and the checklist will come into play.
- Chair Azman concerned about leaving the parcels out there without any control for later and would also like to see tree review for the publicly controlled areas such as stormwater basin, roads, trails.
- Administrator Kress mentioned that the City could look at a possible tree preservation ordinance to address other scenario of tree preservation on the respective owner lots.
- There was concern over the language in the motion being legally clear, with Chair Azman and Attorney noting that might be prudent to reword.

Motion failed 0-6. (Cremons, Shah, Azman, Yoshimura-Rank, Sandell, Hara opposed)

MOTION by Hara, seconded by Cremons, to approve Resolution 2020-01 to deem the Application incomplete because the application has failed to prove that it is consistent with the PDA.

MOTION tied with 3-3 vote. (Cremons, Hara, Yoshimura-Rank in favor; Azman, Sandell, Shah opposed). Motion fails by a tie.

Attorney Nason indicated her concern that if no agreement is made, the application would be deemed complete by default. She suggested a brief recess.

**Motion by Shah, seconded by Yoshimura-Rank for a 5-minute recess at 8:50 p.m.
Motion carried unanimously.**

Meeting reopened at 9:00 p.m.

- Attorney Nason reconfirmed that if no decision made, application would be deemed complete without request for additional considerations.
- Chair Azman asked if they can present a motion to approve application complete pending forester information and request North Oaks Company work with the City to address the parcel and request amendment of PDA. Administrator Kress reconfirmed that the concerns are part of a compliance issue that would be discussed during plan review, not a completeness issue. Planning Commission could ask staff to review whether it is consistent with zoning and PDA and bring information to the Preliminary plan review meeting.

MOTION made by Sandell, seconded by Shah, to approve Resolution 2020-01 as shown on the dais, for the Nord Parcel application to be deemed it complete as of Feb. 24, 2020 with a recommendation that the Applicant work with the City Forester to put together a tree report showing any significant heritage trees and the impact of the development along the access corridor prior to the Public Hearing.

- Commissioner Cremons noted that he would be willing to change his vote knowing that it would move the process forward, and that it would not have affect the substantive rights of the Planning Commission during the next Plan Review phase. Chair Azman clarified with staff that this is a vote for completeness, not compliance which takes place in the next phase.
- Commissioner Hara noted he still believes it is not in compliance with the verbiage in the PDA checklist item.

MOTION passed with a 5-1 vote. (Hara opposed)

c. Consider Resolution Determining Completeness for Anderson Woods Development and Setting Public Hearing

- Planner Kirmis indicated that City staff has completed a thorough review based on the zoning and ordinance guidelines and considers the Anderson preliminary application complete. Staff recommends a similar review of heritage trees be considered and impact better defined. Commissioner Cremons agreed this application to have a similar tree verbiage.
- North Oaks Company Representative Houge stated he is comfortable that they have submitted everything that the staff has requested and are more than willing to bring back information on the heritage trees with next review.

MOTION by Yoshimura-Rank, seconded by Shah, to approve Resolution 2020-02 to approve the preliminary plan application for Anderson Woods site as deemed complete, as of Feb. 24, 2020, with the recommendation the Applicant work with the City Forester to put together a tree report showing heritage trees and the impact of the development along the access corridor prior to the Public Hearing.

Motion carried unanimously.

d. Consider Resolution Changing Meeting Dates and Times

MOTION by Yoshimura-Rank, seconded by Cremons, to approve the Resolution 2020-03 to set Public Hearings for April 14th at 6 p.m. for Nord parcel, and April 15th at 6 p.m. for Anderson Woods parcel.

Motion carried unanimously.

Next Planning Commission Meeting: March 26, 2020 at 7 p.m.

ADJOURN

MOTION by Yoshimura-Rank, seconded by Shah, to adjourn the Planning Commission meeting at 9:34 p.m.

Motion carried unanimously.

Kevin Kress

Kevin Kress, City Administrator

Mark Azman

Mark Azman, Chair

Date approved: 4/30/2020