

**North Oaks Planning Commission  
Meeting Minutes  
City of North Oaks Community Meeting Room  
April 30, 2020**

**CALL TO ORDER**

Chair Azman called the meeting of April 30, 2020, to order at 7:00 p.m.

In compliance with Governor Walz's Stay-at-Home Order and pursuant to Minnesota Statutes 13D.021, the meeting was conducted via Zoom.

**ROLL CALL**

Present: Chair Mark Azman, Commissioners David Cremons, Jim Hara, Stig Hauge, Nick Sandell, Sara Shah, and Joyce Yoshimura-Rank. City Council Liaison Rick Kingston.

Staff Present: Administrator Kevin Kress, City Engineer Larina DeWalt, Building Inspector Kevin White.

Others Present: Videographer Maureen Anderson.

A quorum was declared present.

**APPROVAL OF AGENDA**

- Chair Azman requested the agenda be revised so that Item 6 is changed to a discussion of a potential tree ordinance being created by the Natural Resource Commission (NRC) and the remaining items renumbered.
- Commissioner Shah stated she did not know if it was a potential item or not, but she has been wondering where the Commission is at with the Comp Plan; she asked if it was possible to get an update or if it should be deferred to another meeting.
- Administrator Kress said there is no update; City Staff has not heard anything from Met Council.
- Chair Azman suggested the agenda be revised so that Item 7 reflects the Planning Commissioners were given the update about the Comp Plan.
- Administrator Kress suggested listing the additions as Items 5c and 5d on the agenda.

**MOTION by Hauge, seconded by Sandell, to approve the agenda as revised, with Items 5c and 5d added to the agenda. Motion carried unanimously by roll call.**

**APPROVAL OF PREVIOUS MONTH'S MINUTES**

**a. Approval of February 27, 2020 Minutes**

**MOTION by Yoshimura-Rank, seconded by Cremons, to approve the minutes of February 27, 2020. Motion carried unanimously by roll call.**

**BUSINESS ACTION ITEMS****a. Public Hearing: 15 Ridge Road Grading CUP**

- Chair Azman reminded everyone the State is under an existing Stay-at-Home Order from Governor Walz and the meeting and public hearing is being conducted virtually. The Zoom address has been published, allowing the public to hear and speak. He called the public hearing to order at 7:10 p.m. on April 30, 2020, for the purpose identified in the notice of hearing: to consider the Conditional Use Permit (CUP) application at 15 Ridge Road. The hearing will allow the public an opportunity to speak and be heard. He asked Staff for a presentation.
- Administrator Kress stated Building Official White could do a brief presentation followed by City Engineer DeWalt.
- City Engineer DeWalt, due to technical difficulties experienced by Building Official White, presented the Planning Report included in the packet and recommendation for approval of the Conditional Use Permit (CUP) application to allow the completion of land reclamation activities on the property at 15 Ridge Road for the construction of his home, with exception to the 30-foot grading setback, subject to conditions as outlined in the packet.
- Commissioner Hauge said he did not understand how the filling material would be distributed on the property, specifically, the purpose for it. He asked for additional explanation.
- City Engineer DeWalt indicated the property owner could also speak at the appropriate time, but according to the grading cut and fill plan that was submitted, she believes there was a previously existing swimming pool area and some other areas that are being filled. The fill on the proposed property will be used to backfill the house, create a new driveway area in the front, and landscape areas around the home. Based on the site elevations, it has been determined, according to the design, this activity is necessary. The total fill required after sub cutting the existing grade -- cutting below what is necessary for construction of the home and driveway, which produces extra material -- is 1,210 yards. 800 yards are already on the site, and they need an additional 410 yards of material.
- Commissioner Hauge noted it sounds like a minor issue. The Resolution indicates they cannot exceed 1,210 cubic yards, and he asked why they would not be allowed to exceed that amount, adding that 1,300 cubic yards does not matter. He stated that it looks to him as though it should have been settled by Administration.
- City Engineer DeWalt stated in her personal experience and opinion she would agree with Commissioner Hauge, that it is more of a paperwork exercise than anything, but code requires approval by the Planning Commission.
- Commissioner Shah asked for verification that the neighbors have been notified about the potential CUP and asked if there was any feedback/comment from neighbors.

- Administrator Kress said the City sent letters/correspondence and did not get any phone calls or emails, to his knowledge.
- Building Inspector White stated the applicant wanted to haul in fill and level off his backyard. What the applicant wants to do in his backyard has no effect on any of the adjoining properties. It also has no effect on his home because it is to the west of the house.
- Chair Azman asked if Building Inspector White had any objections or concerns about the application.
- Building Inspector White stated he did not.
- Commissioner Cremons noted he does not have a problem with the application. In the past there have been issues with people raising the elevation of their houses as part of the construction, causing issues with drainage, etc. He said in this case the elevation of the house looks like it's about the same as the house that was there before and asked if that was correct.
- Building Inspector White said Commissioner Cremons was correct.
- Commissioner Hauge noted the house was already built.
- Commissioner Sandell asked if this was the same property that had the easement with the golf course.
- Building Inspector White indicated it was.
- Commissioner Hauge indicated it was and noted that he would like the driving range if he was a golfer.
- Jon Reedy, 15 Ridge Road, explained that when they tore the existing house down, they didn't fill in the hole that was there before. There was also a large swimming pool. When they submitted for a permit, they had the elevation shown, and it requires fill to be brought in. If they would have filled in the pool and the home, there would be less fill that needed to be brought in, but it would have been brought in with the tear-down permit.
- Commissioner Hauge said he understands there needs to be a discussion about the issue because of code requirements. He asked Mr. Reedy if 1,210 yards would be enough. He noted the Resolution says the Commission will give him permission to do exactly 1,210 cubic yards, and he suggested 10% over that for a total of 1,331 cubic yards. He asked Mr. Reedy how sure he was about the number, because the Commission does not want him back to discuss it again.
- Mr. Reedy stated he is not an excavator or surveyor and that is what the surveyor came up with. He is also not sure how that would be monitored.

- Commissioner Hauge said he does not see that 10% over the 1,210 cubic yards would be a problem. He would move at some stage to give Mr. Reedy a little extra, like 1,300 cubic yards, instead of the 1,210 cubic yards, if that was okay with Mr. Reedy.
- Mr. Reedy stated he thought that was reasonable.
- City Engineer DeWalt said what Commissioner Hauge is suggesting is reasonable, but the code does not require any approvals for land reclamation involving less than 100 cubic yards. If the applicant gets to 1,210 and needs less than 100 more, he would not need a CUP.
- Chair Azman asked Administrator Kress how it should be worded in the Resolution such as, “shall not exceed 1,210 cubic yards and up to an additional 10% as may be needed” subject to submitting something to the City so the City knows, and asked if something like that would be needed.
- Administrator Kress said he did not know if it needed to be that detailed. If it was him doing it, he would just change the verbiage to “estimated” instead of a very strict defined number. The Resolution is actually for the City Council’s consideration, so the Planning Commission can make those alterations with the motion.
- Chair Azman asked if there were any objections to Commissioner Hauge’s suggestion, adding that he thought it was a good idea.
- Commissioner Sandell said it sounded efficient.

**MOTION by Yoshimura-Rank, seconded by Hauge, to open the public hearing for the CUP. Motion carried unanimously by roll call.**

- Chair Azman opened the public hearing at 7:26 p.m. He reminded the attendees, if they would like to speak, to click the “raise your hand” button, and then he could unmute the audio and allow them to be heard.
- There were no public comments regarding this application.

**MOTION by Hara, seconded by Shah, to close the public hearing. Motion carried unanimously by roll call.**

Chair Azman closed the public hearing at 7:29 p.m.

**b. Discussion and consideration of Resolution recommending City Council approval of CUP for land reclamation activities at 15 Ridge Road**

- Chair Azman asked for a motion to take action on the CUP either through approval or denial.
- Administrator Kress noted the motion should be to recommend approval of the CUP to the City Council in the Draft Resolution.

- Chair Azman asked for a motion to recommend approval utilizing the proposed Resolution in the packets subject to a change in Paragraph 1, stating “approximately 1,210 yards,” to give the applicant a little bit of wiggle room.
- Administrator Kress clarified that it is a motion to recommend approval and recommendation of the approval of the Draft Resolution with the changes as stated by the Chair.
- Chair Azman asked if he was correct that Commissioner Hara had a motion to approve on those grounds.

**MOTION by Hara, seconded by Yoshimura-Rank, to recommend approval of Resolution Approving a Conditional Use Permit for Land Reclamation Activities on Real Property Located at 15 Ridge Road, North Oaks, Minnesota, subject to the fulfillment of conditions 1-4 and subject to a change in Paragraph 1 stating “approximately 1,210 yards.” Motion carried unanimously by roll call.**

**c. Discussion of potential tree ordinance being created by the Natural Resource Commission (NRC)**

- Councilmember Kingston noted this item came before the City Council about 5 years ago. At the time there were a couple episodes of residents clearcutting their properties, which was not well-received. There were other challenges the City was facing such as Dutch elm disease, Emerald ash borer, and also the buckthorn issue. That was the first attempt for a proposed ordinance to deal with trees in general. When it first came before the Council, it was not necessarily well-received by the community and essentially got tabled. He said Administrator Kress had a chance to see there had been some work done on the item and thought it was important to bring it back before the Council to see if the Council needed to re-engage on the topic. Currently there is no action that has been set on this particular draft ordinance; it is essentially the start of one to engage the community further. Council may or may not decide to engage in that right now, but it is on the agenda as an informational item to see where the Council wants to go with it. There is no action being taken on the draft ordinance that was circulated. It is in its infancy stage in terms of what direction the City might want to take in the future.
- Administrator Kress said the City sent it to the NRC for an initial review. They had a very light discussion regarding the tree ordinance; the City Forester was there as well. It was suggested that it move on to a subcommittee. The subcommittee has had one meeting with a few members of the Natural Environment Stewardship Team (NEST) from the North Oaks Home Owners Association (NOHOA). There has not been a second meeting yet. There have been no updates to the draft which was sent to the Planning Commission/City Council.
- Councilmember Kingston stated it was sent out as an informational item to the City Council, so the Council has not been doing anything to it from an activity standpoint. The next question is, where does the City want to go from here.

- Administrator Kress agreed with Councilmember Kingston. He stated the original ordinance is at least 5 years old and has not been worked on since he has been with the City.
- Commissioner Shah asked if it went to the City Council 5 years ago when it was initiated by the NRC.
- Councilmember Kingston said he believes it came up as an informational item and the draft had been circulated. At that time, it did not seem to get much traction with the community and there were a lot of concerns with it. It went into a dormant stage, which is kind of where it has been since.
- Commissioner Shah asked Councilmember Kingston or Administrator Kress their opinion on the Planning Commission's involvement with this, noting she used the word "this" because she is not sure if the ordinance will move forward or not.
- Councilmember Kingston stated, because the Planning Commission was involved at that time, he felt the Commission should be involved at this time. He said they should be part of the process, as they would need to act on some permits that come in that might have potential tree-related issues. In addition, he noted that people were concerned that, with the way the ordinance was drafted, it might have some significant impacts on the East Oaks development. He stated East Oaks is covered under a completely different PUD and is not part of any other ordinance that might be enacted by the City. It is a completely separate issue and it would not have any impact on any development plans currently in progress.
- Commissioner Yoshimura-Rank asked whether an entirely different plan would need to be created just for the East Oaks development.
- Administrator Kress said Councilmember Kingston is saying that North Oaks Company (NOC) would have to accept the ordinance as a change, no different than any other change to ordinances like zoning.
- Councilmember Kingston stated an ordinance would actually have to be passed and then NOC would have to make a decision as to whether or not they wanted to be part of that. They already have the terms of their agreement that have been set forth in the PUD, so it would really not come into play unless they chose to somehow engage with a new ordinance that the City might come up with.
- Commissioner Shah asked Administrator Kress what sort of timeframe he was anticipating: May, June, July.
- Administrator Kress said it is hard to say at this point. He agrees with Councilmember Kingston that it is in its infancy stages. It has only been looked at a handful of times. It

started off fairly slow, there would need to be a closer look at it with the City Forester, so it could be July or so. The City has not spent a lot of time on it recently.

- Councilmember Kingston stated the Council has not spent any time on the matter in recent history. In order for it to move forward, the ordinance has to be brought up before the City Council and get a sense for where people want to go with it, and then give some direction to NRC and others. He said it makes sense to have some type of tree ordinance. He suggested that Administrator Kress should give the Planning Commission a bit of his background as far as some ordinances he has been involved with at other cities and his experience in the area. He stated North Oaks has some unique situations with invasive species like buckthorn that need to be addressed, and a place to do it would be in a tree ordinance.
- Administrator Kress said he created an ordinance with the City of Clearwater, which would probably be much different than North Oaks'. Generally, they are more of a preservation plan than they are a strict tree ordinance. It involves planting, cutting, restrictions on width of trees, number of cuttings, and the types of replacements that are allowed. He noted Maplewood has a pretty good tree preservation plan; Shoreview does a pretty good job of doing tree inventories and updating their stock from time to time. The big difference is, North Oaks doesn't own any property; all the property is owned by NOHOA.
- Commissioner Shah asked if there was any opportunity from a public standpoint for people to get engaged if they are interested, adding that it sounds like there is a subcommittee with the NRC. She asked if there were any words of wisdom for those in the public hearing about the item.
- Councilmember Kingston said it will be on the agenda for the next Council meeting, a discussion about it and suggestions about ways to move forward. At that point the Council can talk about the proper steps the Council would like to see in terms of who should be engaged and how people can get involved if they would like to do so.
- Commissioner Cremons stated Councilmember Kingston mentioned there was some bad feedback in his past experience with an attempt to get an ordinance. He asked if the issue ever went before the Council for a vote.
- Councilmember Kingston said he did not remember it going up to any vote.
- Commissioner Cremons asked how the negative feedback was expressed and how large the group of people was. He clarified he was not asking for exact numbers but just a general feeling.
- Councilmember Kingston stated it was 5 years ago, he remembers getting feedback from people that saw the proposed ordinance and felt it was overreaching, and they had a number

of concerns in that regard. He said it seemed like there were people that spoke at the meeting when it was under discussion. However, it did not go any further at that particular point.

- Commissioner Cremons asked if NOC expressed any kind of positive, negative, or neutral views towards an ordinance such as this for the long-term.
- Councilmember Kingston said he did not even know about this until Administrator Kress sent the proposal around for discussion, so he does not know if NOC has been involved in it.
- Administrator Kress stated NOC has not been involved in the process for the ordinance.
- Commissioner Cremons said he would like to see at least some effort by the Council to advance this for discussion in the community, because a well-drawn pre-ordinance would be very consistent with what North Oaks is trying to do and also prevent some of the things that have happened in the past with clearcutting. He stated it would be a balancing act to come up with something that makes sense but would be worth the effort. He hopes the Council will take it seriously and try to advance it.
- Councilmember Kingston stated he could only speak for himself, but he felt it is something the Council needs to address. There are a lot of different issues in the health of North Oaks' forests, and he wants to make sure the right kind of expertise, such as Foresters, is giving the City guidance in terms of what is best for the community to maintain its pristine environment. He said it is within the City's wheelhouse and they need to look at that. He appreciated the comments and supports taking a close look at the ordinance to see what they can do, what areas the City should be commenting on, where the greatest need is, and making sure there is plenty of community input in terms of what direction to take.
- Commissioner Yoshimura-Rank said she thinks it is really important to emphasize saving larger trees and replanting because at Anderson Woods there are 100 trees being cut down, and that will continue to happen as development continues. She also thinks the City needs to move quickly.
- Councilmember Kingston noted he will see how it goes at the next Council meeting.

**d. Update on Comp Plan**

- Administrator Kress stated there is no Comp Plan update. It was discussed internally and they chose not to push the issue. There is no reason for the City to get extra attention from the Met Council at this time, and North Oaks will let it sit until the Met Council gets back to them.
- Commissioner Yoshimura-Rank asked when the Comp Plan was due.



- Chair Azman asked if she meant by year or month.
- Administrator Kress said he thought it was February. He clarified that the latest draft was due prior to that. Nobody made the deadline as far as he is aware; every city is traditionally behind the mark on that front.
- Chair Azman asked if there is any thought, if the City does not hear anything, that at some point the City may have to take some affirmative steps.
- Administrator Kress said he did not know that the City would hear anything until the State is out of the shelter-in-place, adding he thinks they are up to their eyeballs with other stuff going on and that is why the City has not heard anything.

### **COMMISSIONER REPORT(S)**

- Chair Azman said he did not have a report this month but it has been busy with the last couple of hearings. He is not on any other committees to report back on to the Commission.
- Commissioner Yoshimura-Rank had no updates. She asked what it was looking like for the Planning Commission's next public hearings.
- Administrator Kress stated the Governor's orders are until May 18. He does not think an in-person meeting will be allowed, because his understanding is there will still be 6-foot distancing in effect. He noted that would not be possible just with the 7 Planning Commission members and any consultants in the Council Chambers.
- Chair Azman asked, assuming the extension does not go beyond May 18 and the Planning Commission tries to do something in-person, if there was a way to place some Commissioners in the room, some would be virtual, and then allow people in a controlled fashion to cycle in, make a comment, and leave. He noted that would be to accommodate some concerns about the virtual hearings, particularly for the higher-level interest applications.
- Administrator Kress said it is a yes and no answer. If you have certain members in the Council Chambers, anyone not present that wants to participate by video has to be in a public place that can be accessed by anyone.
- Chair Azman asked, if the City is still operating under Minn. Stat. § 13D.021, whether the virtual component could be utilized for portions of the meeting or some members but not all members of the Commission. He noted it was more of a talking point.
- Administrator Kress said he would probably have to visit with City Attorney Nason. The latest order was just given so he has not visited with her on anything moving forward

- Chair Azman asked Administrator Kress to keep it in mind and take a look at it in light of the interest on the applications. If it cannot be done because it cannot be done, that is fine; but at least the City has considered and talked about it. He asked Administrator Kress to talk with City Attorney Nason, other Staff, the Council, and whoever needs to join in on the appropriate decision-making.
- Administrator Kress agreed to Chair Azman's request.
- Chair Azman stated he brought it up because he has gotten feedback/comments from residents about doing something like that, which he thinks the Planning Commission was trying to do when setting the last public hearing.
- Commissioner Hara had no comments. He encouraged the rest of the Commissioners to walk through the proposed trail so they understand what people are talking about at the next meeting.
- Commissioner Hauge asked if they could do that, noting it would be trespassing in technical terms.
- Commissioner Hara said he thought there were people out there volunteering to walk people. He stated NOHOA would take people on the tour.
- Commissioner Hauge stated the Commissioners have been informed by the Company that they couldn't walk the trails on that property without permission.
- Commissioner Hara said it would be hard to make a good judgment on something if someone has no idea what the trail looks like and how it impacts the residents, in his opinion.
- Commissioner Hauge asked Administrator Kress what the stance is on the issue.
- Administrator Kress said it would be a good idea to get permission from NOC for any property they own. If it is on the easements that are already in place, that is NOHOA property currently.
- Councilmember Kingston doubted they would give anybody any grief if people wanted to walk the trail and they would make arrangements to let people do that.
- Commissioner Cremons stated that Commissioner Yoshimura-Rank and himself walked it a few days prior with NOHOA people and it was fine.
- Commissioner Hara said he had nothing else.
- Commissioner Sandell stated he had nothing to add.

- Commissioner Shah noted everyone had already covered her questions so she was good.
- Commissioner Hauge said he had nothing to report.
- Commissioner Cremons said he had nothing to report.

**MISCELLANEOUS**

Next Meeting: May 28, 2020

**ADJOURN**

**MOTION by Yoshimura-Rank, seconded by Hara, to adjourn the Planning Commission meeting at 7:58 p.m. Motion carried unanimously by roll call**

*Kevin Kress*

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Kevin Kress, City Administrator

*Mark Azman*

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Mark Azman, Chair

Date approved: 5/28/2020