

# **CITY OF NORTH OAKS**

**City Council Workshop  
Wednesday, August 21, 2019  
7:00 P.M., Room 150  
100 Village Center Drive**

## **COUNCIL WORKSHOP AGENDA**

### **Call to Order**

1. Decennial Review of East Oaks PDA

### **Adjournment**

## **MEMO**

**Date:** July 19, 2019  
**To:** City Council  
**From:** City Administrator Mike Robertson  
**Re:** East Oaks PDA Review II

I have enclosed a staff summary of what was discussed at the previous review. I have enclosed Councilmember Ries's calculations regarding the remaining developable lots in East Oaks. The North Oaks Company was invited to submit a response to Councilmember Ries's figures. My understanding is that they will email that response to the Council later today.



## MEMORANDUM

TO: North Oaks City Council

FROM: Bob Kirmis, City Planner  
Mike Robertson, City Administrator

DATE: July 18, 2019

RE: North Oaks - East Oaks Planned Unit Development  
Decennial Review Summary

FILE NO: 321.02 - 19.01

## BACKGROUND

The purpose of this memorandum is to provide a summary of discussions which took place at the City Council's July 8, 2019 workshop meeting at which the decennial review of the East Oaks Planned Unit Development took place.

On February 11, 1999, the City of North Oaks entered into a Planned Development Agreement with the North Oaks Company LLC, which governs the development of the East Oaks Planned Unit Development project. The Planned Development Agreement states that on or within 30 days before or after the tenth and twentieth anniversaries of the effective date of the Agreement, a decennial review must be conducted.

## DISCUSSION TOPICS

**Development Agreement Directives.** According to the 1999 Planned Unit Development Agreement, the intent of the decennial review is to provide a forum within which the City and the Developer (North Oaks Company) meet and discuss the current status of the East Oaks project, as well as past and future functional aspects. Within the Agreement, specific discussion topics are highlighted. The following is a listing of such topics as well as a summary of related discussion which took place at the workshop meeting:

- 1. The functioning of the protected land, the active and passive private open spaces and primary and restricted trail easements.***





**Comments:** Related to this topic, a Councilmember offered comment regarding Exhibit B4 of the Planned Development Agreement which identifies trail locations. The Councilmember said that the North Oaks Company has the responsibility to create the trails illustrated on the Trail Map (Exhibit B4).

A representative of the North Oaks Company stated that trail-related issues would be taken up with the North Oaks Home Owners Association (NOHOA) and the North Oaks Company would be willing to deed easements for trails to NOHOA. The North Oaks Company representative also stated that trail easements would be conveyed at the time of final subdivision approval.

The City Council concluded that, going forward, trail-related requirements of the Planned Development should be satisfied.

**2. *The functioning of the project's "essential improvements."***

**Comments:** The City Administrator advised the City Council that some disagreement exists as to whether NOHOA or the City should be responsible for stormwater facilities. NOHOA feels that they are not responsible for the maintenance of such facilities and the City does not feel it has the authority to assume maintenance responsibilities as it holds no easements.

This subject was acknowledged by the City Council and it was indicated that an agreement on this issue should be reached with NOHOA.

**3. *The application of the Planned Development Agreement controls to the various development sites which comprise the project and the Master Development Plan.***

**Comments:** In consideration of the Nord preliminary subdivision application, staff noted that many area residents conveyed their belief that the Conceptual Street and Access Plan, and particularly the illustrated Sherwood Road access location, should be taken literally. Staff raised question regarding the intent of Conceptual Street and Access Plan in consideration of future subdivision applications and whether the plan should be considered final or subject to change.

A Councilmember expressed an opinion that internal or external access points, as illustrated on the Conceptual Street and Access Plan, should be upheld.



The City Council concluded that alteration from the Conceptual Street and Access Plan could potentially be allowed without need for a Planned Development Agreement amendment provided no negative impacts result. It was further suggested that, in consideration of future subdivision applications, access-related issues be considered on a case-by-case basis.

**4. *The extent to which the East Oaks project remains consistent with the plans and policies of the City and the Developer.***

Comments: Staff reminded workshop attendees that the East Oaks Planned Development Agreement supersedes the City's Zoning Ordinance, Subdivision Ordinance, and Comprehensive Plan. It was also noted that the Developer has the legal right to request changes (amendments) to the Agreement.

A representative of the North Oaks Company suggested that, early in the subdivision process prior to formal application, a workshop or focus group meeting be held to engage the community in discussion about potential housing choices which could be incorporated in future subdivision plans. According to the Company representative, development options could possibly include the following:

- A. All single-family residential uses in accordance with the Planned Development Agreement.
- B. The introduction of some multiple family residential uses with the same number of dwelling units as allowed by the Planned Development Agreement.
- C. Other uses (which would require the processing of an amendment to the Agreement).

**5. *The effects of applicable laws, regulations and directives adopted or promulgated by federal, state, local or other governmental agencies.***

Comments: Staff advised the City Council that it is not aware of any changes to federal, state and local laws which impact the provisions of the East Oaks Planned Development Agreement.

Legal Counsel for the North Oaks Company expressed their belief that the recent Ordinance amendment which mandates the submission of concert plans should not be applicable to the East Oaks project as approval action followed the execution of the East Oaks Planned Development Agreement and such mandatory concept plan submission requirement is not a part of the Agreement.



The North Oaks Company also expressed opposition to an amendment provision which exempts concept plans from the 60-day action deadline. Legal Counsel for the North Oaks Company plans to follow-up with a letter in this regard.

Related to “applicable laws,” a Councilmember suggested that a process be put in place whereby the Planning Commission can review development applications for completeness within the specific 15-day determination deadline. Another Councilmember suggested that the Planning Commission Chair be involved with the City Administrator and the City Planner in completeness reviews to ensure all required materials are provided.

A representative of the North Oaks Company suggested that, in review of received subdivision applications, the submission checklist provided in the Planned Development Agreement be followed.

**6. *Whether the preceding factors, or any others, provide a basis for consideration of modifications to the East Oaks project or amendments to the Planned Development Agreement.***

Comments: In consideration of this topic, Staff expressed their opinion that it is not necessary to formally process an amendment to the 1999 Planned Development Agreement, absent any major changes made during the decennial review.

A Councilmember raised the question of when the unit count for Waverly Gardens was conducted in relation to the seventh amendment to the Planned Development Agreement (adopted in 2010). In response, a North Oaks Company representative indicated that the seventh amendment was processed after Waverly Gardens was constructed.

A Councilmember questioned why acreage is being counted versus individual units for Waverly Gardens since accounting for resources is complicated by not counting individual units as individual units. Another Councilmember noted that since senior residents of Waverly Gardens tend to put less stress upon park and trail “resources”, it was deemed an understandable compromise to count the units differently. Another Councilmember pointed out that this issue affects how many units are left for the North Oaks Company to develop in the future.

A North Oaks Company representative stated his belief that the unit count issue was “put to rest” in 2010 with the seventh amendment and that 178 units remain for development as well as 5.73 acres of commercial land. The City Administrator said





that it has to be determined whether the 14 units reserved for Presbyterian Homes potential future development count as part of the 178 units.

A Councilmember concluded the topic discussion by stating that that the acreage figures for "Area E" of the Planned Unit Development Master Plan (applicable to Waverly Gardens) are not correct and that the North Oaks Company should provide information as to how such numbers were determined.

**Additional Topics.** As part of the decennial review discussion, the following additional items were discussed.

**Trails.** Staff noted that a primary issue in the consideration of the Nord and Wilkinson Villas (1A) preliminary subdivision applications was that of trails and that questions arose related to the legal obligations of the North Oaks Company to provide future trails within trail easements which presently do not exist. Staff also reiterated the City Attorney's opinion that trail dedication requirements for the East Oaks project have already been fulfilled.

A North Oaks Company representative stated that feedback from NOHOA, the City and community residents in early stages subdivision design development would be of benefit to all parties. The North Oaks Company representative also expressed an intent of the Company to meet the trail requirements of the Planned Unit Development Agreement.

**Alternative Uses.** Although an earlier plan for an event center was withdrawn by the North Oaks Company, Staff advised the City Council that the decennial review process provides an opportunity for Councilmembers to express opinions related to creative housing ideas and potentially desirable alternative uses. A representative of the North Oaks Company indicated that the Company is open to ideas for commercial and residential development.

**Environmental Assessment Worksheet (EAW).** In regard to the 1998 EAW, a Councilmember requested data regarding the amount of wetland fill which has been utilized to date. The Councilmember also suggested that fill data be provided with future subdivision applications.

**"Area K" Lot Count.** A Councilmember asked North Oaks Company representatives if any unit counts have changed in Area K (near Black Lake) as a result of lot splits or lot combinations. A North Oaks Company representative indicated that, in one case, lots were purchased and combined.





**Community Comments.** A Councilmember asked if residents would be able to comment on the decennial review. Council indicated that comments provided by community residents can be sent to the City Administrator via email or written letter.

cc: North Oaks Mayor and City Council  
Bridget Nason, City Attorney  
Mark Houge and Gary Eagles, North Oaks Company  
Mikeya Griffin, NOHOA Executive Director North Oaks Company



p 651-792-7750  
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www.cityofnorthoaks.com



100 Village Center Drive, Suite 230  
North Oaks, MN 55127



**Mike Robertson**

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**From:** Kara Ries  
**Sent:** Thursday, July 11, 2019 6:30 PM  
**To:** Mike Robertson  
**Subject:** 1999 PDA Counts  
**Attachments:** 1999 East Oaks PDA Residential Units and Acreage Accounting revised 071119.xlsx;  
Waverly Gardens Units.xlsx

**Hello Mike,**

**Attached are the counts I found based on Ramsey Co Records.**

**They track with Maps B1-1.1 through B1-1.3**

**Please let me know if you have questions.**

**Kara Ries  
City Council, The City of North Oaks**

**100 Village Center Drive, Suite 230  
North Oaks, MN 55127**

A	B	C	D	E	F	G
1						
2	<u>Map ID</u>	<u>1999 Area Name*</u>	<u>2010 Area Name</u>	<u>2010 Plan</u>	<u>Units</u> <u>2010</u>	<u>Units</u> <u>2019 **</u>
3	<b>RESIDENTIAL UNITS</b>					
4	A	Peterson Place	Wildflower Place	40	27	27
5	B	East Preserve	East Preserve	2	0	0
6	C	Nord	Nord	10	0	0
7	D	Rapp Farm	Rapp Farm	200	34	157
8	E	East Wilkinson	East Wilkinson			
9	E-1		Wilkinson Villas	45	19	47
10	E-2		The Mews	65	76	90
11	E-3		Waverly Gardens/ NOC			
12	F	Andersonville	Office Bldg	[150]	[235]	[235]
13	G	Gate Hill	Anderson Woods	10	0	4
14	H	Island Field	Gate Hill	68	0	0
15	I	East Mallard Pond	Island Field	35	0	0
16	J	North Ski Hill	Pines 1	54	54	54
17	K	North Black Lake	North Ski Hill	7	7	7
18	L	South Deer Hills	Red Forest Way	64	32	41
19	TOTAL		SE Pines; Pines 2	45	45	45
20	Units Compared to PDA Amend 7 Max			645	294	472
21	E-3	Excess Units in E-3 (Waverly Gardens)			351	173
22	Units Compared to PDA Amend 7 Max					85
23						88
24						
25						

\* 1999 East Oaks PDA, Feb 1999; Appendix 1; Table 1

\*\* as of July 1, 2019; after approval of 4 units in Anderson Woods/Wilkinson Villas

	A	B	C	D	E	F	G
					Source:	Actual	Actual
					Ramsey Tax	Acres	Acres
					2010 Plan	2010	2019
26							
27							
28	<u>Map ID</u>	<u>1999 Area Name*</u>	<u>1999 PDA*</u>	<u>2010 Area Name</u>			
29	<b>COMMERCIAL ACRES</b>						
30	E	East Wilkinson	21	East Wilkinson			
31	E - 1			Wilkinson Villas	0	0	0
32	E - 2			Mews			
33	Tract G (XXX10013)				2.48		
34	Tract I (XXX10015)				3.35		
35	Tract H (XXX10014)				1.69	7.52	
36	Tract Q (XXX20010) ***				13.4		20.92
37	E - 3			Waverly Gardens			
38	Tract B (XXX10008)				0.58		
39	Tract C & F (XXX10019)				7.6		
40	Tract E (XXX10011)				4.98		
41	Tract D (XXX10010)				3.13	16.29	16.29
42	G	Gate Hill	0	Gate Hill	0	0	0
43	H	Island Field	0	Island Field	0	0	0
44	TOTAL		21		37.21	23.81	37.21
45	Actual Acres Compared to PDA Amend 7 Max Units			Acres Exceeding Allowed per PDA		-2.81	-16.21
46	Conversion @ 5 units per Acre; Appendix 1, Table 1			Units for Acres Exceeding Allowed		-14.05	-81.05
47							
48	<u>Additional Item in Site E</u>						
49	Tract A (XXX10007)			Wilkinson Blvd	4.81		42.02
50	Actual Acres Compared to PDA Amend 7 Max Units			Acres Exceeding Allowed per PDA			-21.02
51				Units for Acres Exceeding Allowed per PDA			-105.1
52							
53							
54							
55							
56							

\*\*\* Identified as Tract K with Feb 2003 submission of "The Gardens of North Oaks", included in E-2 with Amend 7; shown in site plan as 4 "pinwheels" (Mews) or 32 units + 5 villas Sold 12/28/2007 to Presbyterian Homes of North Oaks; represented by NOC to be 14 residential units

	A	B	C	D	E	F	G	H
	Map ID	1999 Area Name*	1999 PDA*	2010 Area Name	2010 Plan	2010 Plan + 50% incr	Actual Units 2010	Actual Units 2019 **
1	<u>RESIDENTIAL UNITS</u>							
2								
3	E	East Wilkinson	110	East Wilkinson				
4	E - 1			Wilkinson Villas	45			
5	E - 2			The Mews	65			
6	Tract G (XXX10013)						24	24
7	Tract H (XXX10014)						0	0
8	Tract I (XXX10015)						52	52
9	Tract Q (XXX20010) #						14	14
10	E - 3			Waverly Gardens				
11	TOTAL		110		110	165	90	90
12	Units Compared to PDA Amend 7 Max						20	20
13								
14								
15								

\* 1999 East Oaks PDA, Feb 1999; Appendix 1; Table 1

\*\* as of July 1, 2019; after approval of 4 units in Anderson Woods/Wilkinson Villas

	A	B	C	D	E	F	G	H
16								
17					Ramsey Tax	Actual Acres	Actual Acres	
18	<u>Map ID</u>	<u>1999 Area Name*</u>	<u>1999 PDA*</u>	<u>2010 Area Name</u>	<u>2010 Plan</u>	<u>2010</u>	<u>2019</u>	
19	COMMERCIAL ACRES							
20	E	East Wilkinson	21	East Wilkinson				
21	E - 2			The Mews				
22	Tract G (XXX10013)			The Mews	2.48			
23	Tract H (XXX10014)			The Mews	1.69			
24	Tract I (XXX10015)			The Mews	3.35	7.52	7.52	
25	Tract Q (XXX20010) ***			See below				
26	TOTAL		21		7.52	7.52	7.52	
27								
28	Actual Acres Compared to PDA Amend 7 Max Units							
29	Conversion @ 5 units per Acre; Appendix 1, Table 1				Units for Acres Exceeding Allow	0	0	
30								
31	Tract Q (XXX20010) #			future multi-	13.4	20.92	20.92	
32								
33								
34								
35								
36								
37								

\*\*\* Identified as Tract K with Feb 2003 submission of "The Gardens of North Oaks", which provided for "Waverly Gardens", added "The Mews", the restaurant then identified as "Mari's Restaurant", and a small office bldg (in addition to NOC Office bldg).  
Sold 12/28/2007 to Presbyterian Homes of North Oaks; represented by NOC to be 14 residential units

	A	B	C	D	E	F	G	H
1								
2	<u>Map ID</u>	<u>1999 Area Name*</u>	<u>1999 PDA*</u>	<u>2010 Area Name</u>	<u>Amends 6&amp;7 ***</u>	<u>2010 Plan</u>	<u>Actual Units 2010</u>	<u>Actual Units 2019 **</u>
3	<b>RESIDENTIAL UNITS</b>							
4	E	East Wilkinson	110	East Wilkinson				
5	E - 1			Wilkinson Villas	45	45	19	47
6	E - 2			Mews	65	65	90	90
7	E - 3			Waverly Gardens/NOC Office Bldg	150	150		
8	Tract C & F (XXX10019)			Waverly Gardens			235	235
9	TOTAL		110		260	260	344	372
10	Units Compared to PDA Amend 7 Max						-84	-112
11					*** NO DENSITY INCREASE ALLOWED			
12								
13								
14								
15								

\* 1999 East Oaks PDA, Feb 1999; Appendix 1; Table 1

\*\* as of July 1, 2019; after approval of 4 units in Anderson Woods/Wilkinson Villas

A	B	C	D	E	F	G	H
16						Actual	Actual
17				Amends		Acres	Acres
18	1999 Area Name*	1999 PDA*	2010 Area Name	6&7 ***	2010 Plan	2010	2019
19	<u>COMMERCIAL ACRES</u>						
20	E	21	East Wilkinson				
21	E - 1		Wilkinson Villas	0	0	0	0
22	E - 2		Mews				
23	E - 3		Waverly Gardens/NOC Office Bldg				
24	Tract B (XXX10008)		NOC Office Bldg	0.58	0.58		
25	Tract C & F (XXX10019)		Waverly Gardens	7.6	7.6		
26	Tract E (XXX10011)		parking north	4.98	4.98		
27	Tract D (XXX10010)		pond & parking east	3.13	3.13	16.29	16.29
28							
29	G	0	Gate Hill	0	0	0	0
30	H	0	Island Field	0	0	0	0
31	TOTAL	21		16.29	16.29	16.29	16.29
32	Actual Acres Compared to PDA Amend 7 Max Units						
33	Conversion @ 5 units per Acre; Appendix 1, Table 1		Units for Acres Exceeding Allowed per PDA				



August 16, 2019

Mr. Mike Robertson  
City Administrator  
City of North Oaks  
100 Village Center Drive, Suite 230  
North Oaks, Minnesota 55127

Re: East Oaks PDA – Decennial Review

Dear Mike,

During the second Decennial Review meeting July 8, 2019 various questions were raised regarding housing counts and commercial acreage figures in the Seventh Amendment to the East Oaks Development Agreement (PDA). This letter is intended to address some of those questions.

Attached is Exhibit B-5.1 to the PDA, the Generalized Plan for Phasing Development. This Exhibit sets forth number of housing units and the commercial use acres developed as of the date of the Seventh Amendment. Several questions have been raised as to the accounting of housing units and commercial use acres developed, we attempt to explain as follows:

- **Site D – Rapp Farm:** The referenced Registered Land Surveys create 157 separate tracts. 156 tracts are used for housing units, one additional tract was created for the club house and pool,
- **Site K – North Black Lake (Red Forest Way):** The original Registered Land Surveys approved by the City create 42 tracts. There are 41 existing housing units. In one case, three tracts were combined to create two tracts prior to development,
- **Site E-2 – Waverly Gardens Mews:** each of the existing 76 independent living apartments is counted as one housing unit. Waverly Gardens retains the right to develop 14 additional housing units on the site (RLS 603, Tract Q) it owns west of Wilkinson Lake Boulevard, which is a total of 90 housing units,
- **Site E-3 – Waverly Gardens Main Building and Tria/Office:** In 2010 as a part of the Seventh Amendment, the City Council determined the most appropriate method to account for the density of land use was to recognize the development as a Commercial Development which occupies 15.27 of the 21 commercial use acres permitted under the Seventh Amendment. The 15.27 acres is the area depicted on Exhibit C-4 of the Seventh Amendment (which is Exhibit B.1-3 of the PDA). Exhibit C-4 does not include all of Tract D and Tract E of Registered Land Survey No. 586. The portions of Tract D and Tract E that underlie Centerville Road are not included on Exhibit C-4 as they are not subject to easements for public use and not available for commercial use. This is why the

gross acreage of the Registered Land Survey tracts are not the same as the Seventh Amendments calculation of commercial use acres.

Section 13 of the Seventh Amendment states "The City and Developer hereby agree that further supplements to Exhibit B-5.1 shall be appended to the Agreement from time to time as Development Occurs. I am also attaching an updated Exhibit B-5.1 which reflects development that have occurred since 2010. To comply with the requirements of Section 13, the Company proposes that this update be appended as a supplement to Exhibit B-5.1 of the Seventh Amendment.

There were also questions as to the chronology of events; the City conditioned its April 7, 2010 approval of Site Plan 07-02 Phase 2- The Mews and Site Plan 07-03 Phase 2 North Addition on the City's and the Company's execution of the Seventh Amendment. The issues of how the housing units were counted and commercial use acres used in connection with Waverly Gardens was thoroughly reviewed during the first Decennial Review and memorialized in Seventh Amendment. Attached for reference is a May 24, 2010 Memorandum from Melinda Coleman, City Administrator that described changes to the PDA discussed during the first Decennial Review.

In connection with the future development of Gate Hill and Island Field, the Company will convene a community gathering to seek input on its plans for those developments. Community members are currently asking for alternatives to single-family housing in North Oaks, so the Company's plans may include attached housing alternatives such as condominiums and twin homes.

After obtaining feedback from the community, the Company will submit Preliminary Plans for each separate development site for review and approval by the City (with input from NOHOA) when the Company is prepared to begin construction of lots at a specific site.

Over the remaining term of the PDA, the Company will continue to seek input from residents, NOHOA, and housing experts familiar with North Oaks to determine what type housing (e.g. single-family, villas, condominiums, etc.) the leaders in the community believe preserves the legacy and value of properties in North Oaks.

Please call if you have any questions or concerns. We look forward to working with City staff, Planning Commission, and City Council to complete the development of each of the sites encompassed in the Subject Property of the PDA.

Sincerely,  
North Oaks Company LLC



Mark Houge  
President

CC: Mr. Gregg Nelson, Honorable Mayor  
Mr. Mark Azman, Chair of the Planning Commission  
Bridgette Nason, City Attorney

**NORTH OAKS COMPANY  
EAST OAKS PUD**

SITE NAME	PDA Dwelling Units designated	Actual 1999-2006	Actual 2007-2009	Proposed 2010-2015	Proposed 2016-2025	Proposed 2026-2035	Proposed 2036-2048	Potential Density Shift	Permitted Density Increase
A WILDFLOWER (Peterson Place)	40	27	0	0	0	0	0	13	30% = 12
B EAST PRESERVE	2			2				0	30% = 1
C NORD	10			5		5		0	30% = 3
D RAPP FARM	200	34	0	25	32	32	33	44	50% = 100
E-1 EAST WILKINSON Residential	45	19	0	0	14	14	0	-2	50% = 22
E-2 EAST WILKINSON Senior Housing	65		90		18			-43	50% = 33
F ANDERSON WOODS (Andersonville)	10				3	3	4	0	30% = 3
G GATE HILL	68					30	38	0	30% = 20
H ISLAND FIELD	35				5	15	15	0	30% = 11
I THE PINES (East Mallard Pond)	54	54						0	0
J NORTH SKI HILL	7	7						0	30% = 2
K NORTH BLACK LAKE (Red Forest Way)	64	17	10	0	15	22		0	30% = 19
L SOUTHEAST PINES (South Deer Hills)	45	45						0	0
<b>Building Permits issued</b>	<b>645</b>	<b>203</b>	<b>100</b>	<b>25</b>	<b>94</b>	<b>121</b>	<b>90</b>	<b>12</b>	<b>PDA-allowed conversion to dwelling units</b>
<b>COMMERCIAL ACREAGE</b>	<b>21</b>	<b>141</b>	<b>102</b>						<b>5/acre = 28</b>

Allowed per PDA Actual dev.  
15.27

6/22/2010

EXHIBIT B5.1 - GENERALIZED PLAN FOR PHASING DEVELOPMENT  
 NORTH OAKS COMPANY  
 EAST OAKS PUD  
 Updated: 08.16.19

SITE NAME	PDA Dwelling Units designated	Actual 1999-2006	Actual 2007-2009	Actual 2010-2018	Total Units To Date	Proposed 2019-2029	Potential Density Shift	Permitted Density Increase	RLS #'s Filed to date
<b>RESIDENTIAL HOUSING</b>									
A WILDFLOWER (Peterson Place)	40	27	0	0	27	0	13	30% = 12	564
B EAST PRESERVE	2	0	0	0	0	2	0	30% = 1	
C NORD	10	0	0	0	0	10	0	30% = 3	
D RAPP FARM	200	34	0	122	156	0	44	50% = 100	589 611 612 614 617 626
E-1 EAST WILKINSON Villas of Wilkinson Lake	45	19	0	28	47	0	-2	50% = 22	589 603 615
E-2 EAST WILKINSON Waverly Gardens - Mews	65	0	90 (see note 1)	0	90	0	-25	50% = 33	586 603
F ANDERSON WOODS (Andersonville)	10	0	0	0	0	13	-3	30% = 3	
G GATE HILL	68	0	0	0	0	65	3	30% = 20	
H ISLAND FIELD	35	0	0	0	0	46	-11	30% = 11	
I THE PINES (East Mallard Pond)	54	54	0	0	54	0	0	0	562
J NORTH SKI HILL	7	7	0	0	7	0	0	30% = 2	569
K NORTH BLACK LAKE (Red Forest Way)	64	17	9	15	41	42	-19	30% = 19	566 604 618 629
L SOUTHEAST PINES (South Deer Hills)	45	45	0	0	45	0	0	0	571
Subtotal	645	203	99	165	467	178	0		
<b>COMMERCIAL</b>									
E-3 EAST WILKINSON (Waverly Gardens & Tria)	21	15.27	0	0	15.27	0	0		588
SITE TO BE DETERMINED						5.73	0		

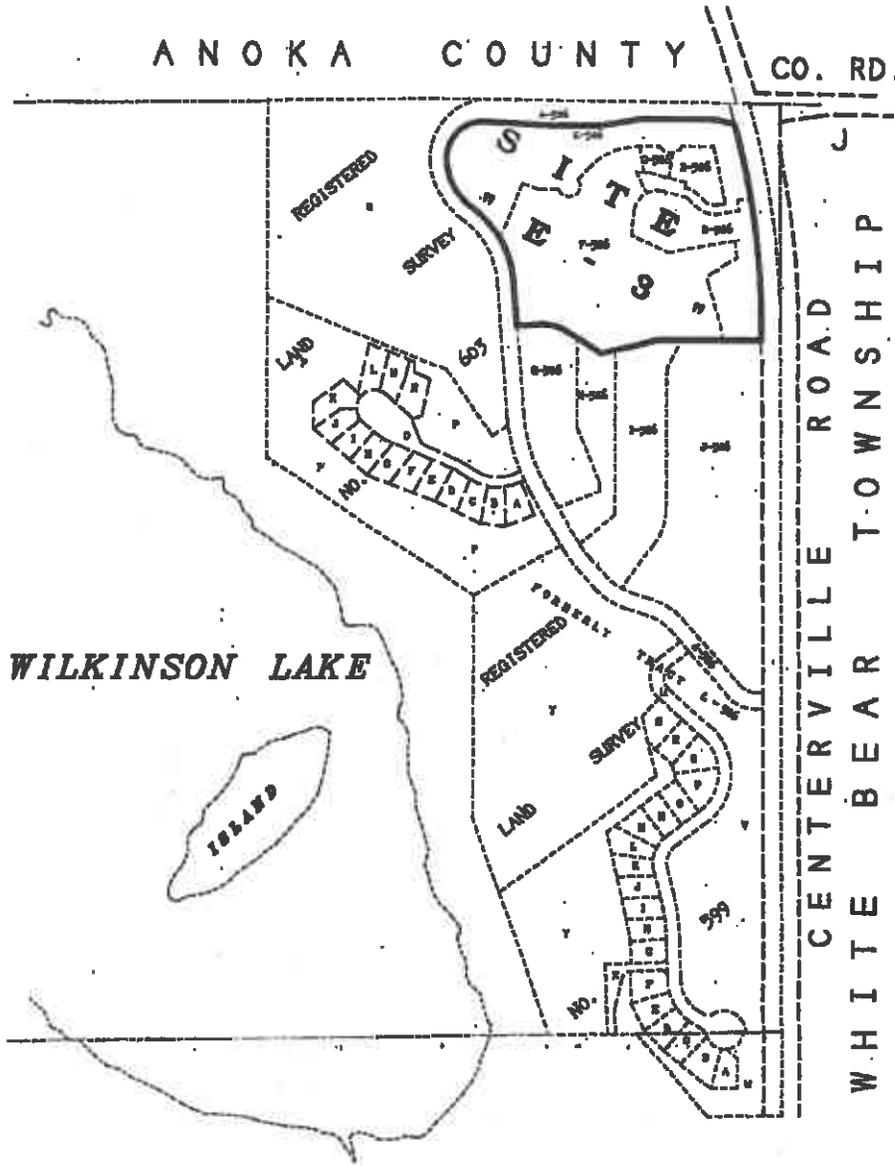
Note 1: Waverly Gardens owns RLS 603, Tract Q with rights to build 14 Housing Units.  
 Note 2: One Commercial Acre equals 5 Housing Units

# THE GARDENS OF NORTH OAKS EXHIBIT "B-1.3"

, 2010

ANOKA COUNTY CO. RD.

CONSERVATION  
AREA



Total Developed Commercial Acreage = 15.27 Acres

# Memorandum



**To:** Planning Commission  
**From:** Melinda Coleman, City Administrator  
**Date:** May 24, 2010  
**Re:** East Oaks PDA, 7<sup>th</sup> Amendment, Application # 10-04

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## Background:

The North Oaks Company is requesting approval of the proposed Seventh Amendment to Planned Unit Development Agreement and accompanying exhibits (A-D). An amendment to the Planned Unit Development Agreement was a condition to the City approval of Site Plan 07-02 Phase 2- The Mews and Site Plan 07-03 Phase 2-North Addition on April, 2007. The enclosed materials include revisions to the Planned Unit Development Agreement as required in connection with the Presbyterian Homes approval as well as other revisions as outlined herein. In addition to the above described requirement, the initial Development Document, specifically Section 6.3 requires a Decennial Review. The agreement requires the City Council and representatives of the Developer meet and confer with respect to the current status on many issues related to the East Oaks PUD. The item of most concern is that all aspects of the project remain consistent with the plans and policies of the City and by federal, state, and local or other governmental entities.

It would make sense to take an overall view such as required by the PUD Agreement in to account as we review the 7<sup>th</sup> Amendment.

## Areas of proposed changes:

1. Presbyterian Homes Campus Change. Please see attached letter from North Oaks Attorney Kere Valent, dated October 10, 2007 for description of changes.

2. Swimming Pool and Accessory Structure Changes.

Please see same letter for description of changes.

3. Administrative Clean-up. This primarily relates to updating references to the update and re-codified ordinances, reflecting current city builder inspector practices and incorporating previous amendments into the current document.

4. Clarify the manner in which building height is measured.



May 25, 2010

to recommend to the North Oaks City Council that Application #10 -04 the Seventh Amendment to Planned Unit Development Agreement for East Oaks Project be DENIED with the following findings:

1.

2.



ORDINANCE NO.: \_\_\_\_\_

**AN ORDINANCE AMENDING  
THE ZONING ORDINANCE**

**THE CITY COUNCIL OF THE CITY OF NORTH OAKS DOES ORDAIN:**

1. **AMENDING.** Notwithstanding any provision of this Ordinance to the contrary, the designated single set back line, as depicted on any lot within the Registered Land Survey approved by the City Council as a Final Plat and recorded with the Ramsey County Registrar of Titles, will control the set back of all permitted, accessory attached and detached accessory structures, including swimming pools, located or to be located upon that lot. To the extent that the set back established in the single set back line is different from the set back line for a structure as established by that zoning district, the single set back line shall control and be considered a lawful variance from the set back provisions of that district in the same manner as if a variance from the district set back regulations had been granted by the City Council pursuant to the provisions of §151.078 of the Zoning Ordinance.
2. **EFFECTIVE DATE.** The ordinance will be in full force and effective from and after its passage and publication according to law.

Adopted by the City Council of the City of North Oaks this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**CITY OF NORTH OAKS**

\_\_\_\_\_  
John Schaff, Its Mayor

**ATTEST:**

\_\_\_\_\_  
Melinda Coleman, Its City Administrator



**NORTH OAKS**  
C O M P A N Y L L C

October 10, 2007

The Honorable Mayor of the City of North Oaks and  
City Council of the City of North Oaks  
100 Village Center Drive, Suite 150  
North Oaks, MN 55127

RE: 7<sup>th</sup> Amendment to Planned Unit Development Agreement

Ladies and Gentlemen:

Enclosed for your review and approval is a draft of the proposed Seventh Amendment to Planned Unit Development Agreement and accompanying exhibits (A-D). An Amendment to the Planned Unit Development Agreement was a condition to the City approval of Site Plan 07-02-Phase 2-The Mews and Site Plan 07-03-Phase 2-North Addition on April 12, 2007, relating to development sites owned by Presbyterian Homes of North Oaks. The enclosed Amendment includes revisions to the Planned Unit Development Agreement as required in connection with the Presbyterian Homes approval as well as other revisions as outlined herein.

Summary of Modifications to the Planned Unit Development Agreement

The following is intended as a summary of the main points of the proposed Seventh Amendment. All parenthetical references indicate the provisions of the Amendment that include the discussed changes. The Amendment seeks to:

1. Amend the sections of the Planned Unit Development Agreement applicable to the Presbyterian Homes Building Sites. In order to address the new development of Presbyterian Homes, changes are proposed to what is referred to as Sites E-1 and E-2 in the Planned Unit Development Agreement. The changes include (i) changing the Area Requirements to reflect current and approved development in Site E-2 (Section 4.A.4(d) of Appendix 1, attached to the Amendment as Exhibits A and B); (ii) revising the definition of Sites E-1 and E-2 to reflect the separation of residential in E-1 and commercial in E-2 areas and to accurately reflect Presbyterian Homes' current and approved uses (Section 4.A.4 of Appendix 1 and Table 1 to Appendix 1, attached to the Amendment as Exhibits A and B); and (iii) updating the Land Use Maps to graphically depict the separation of E-1 and E-2 (Exhibits C-1, C-2 and C-3 attached to the Amendment). The revised definition of E-2 uses building size rather than dwelling units to define the allowable building which we feel is clearer when talking about a commercial zone that doesn't have traditional dwelling units as found in the other sites.

to define the allowable building which we feel is clearer when talking about a commercial zone that doesn't have traditional dwelling units as found in the other sites.

2. Update references to the code to reflect the codification of city ordinances that occurred in January, 2007. This includes adding a definition for City Ordinance (paragraph 2 of the Amendment) and revising the definitions of shoreland, subdivision and zoning ordinances (paragraph 3 of the Amendment). References to ordinances throughout the Planned Unit Development Agreement are also updated to reflect the changes.
3. Address concerns about whether and where pools and other accessory structures will be allowed in development areas covered by the Planned Unit Development Agreement. It is our understanding that questions and concerns have arisen with regard to issuing building permits for pools on sites within developments under the Planned Unit Development Agreement, particularly with regard to where a pool may be built on a given lot. The Planned Unit Development Agreement has defined parameters for the conditions under which principal buildings and accessory structures may be built but does not have such parameters for pools. Pools are currently only covered under the pool ordinance for the City. We feel it would aid development and City administration to have a set standard for determining where any accessory structure may be built on a lot, whether it is a pool or a deck, a gazebo or a play yard. To accomplish this, the amendment includes a new definition for the pool ordinance (paragraph 2 of the Amendment) and adds pool ordinance as one of the ordinances (along with the zoning and subdivision ordinances) which are subject to the Planned Unit Development Agreement (paragraphs 5 and 6 of the Amendment). The Amendment further contains a provision that explains that a setback line shown on a final plan for a development is the line that will determine the area within which the principal residence and all accessory structures, including pools may be built (Section 4.G. of Appendix 1). The goal of the amendments would be to bring clarity and predictability for homeowners and city administrators on where structures can be built on a given lot within a development. The provisions of the pool ordinance would continue to apply to any pool built within North Oaks except with regard to the area within which the pool may be built in an East Oaks Development Site.
4. Clarify the manner in which building height is measured. It is our understanding that the method for calculating building height as outlined in the current Planned Unit Development Agreement does not reflect the current practice of the City. The Amendment amends the sections that address the measurement of building height by reference to the Zoning Ordinance which is our understanding of the measurement that is used (Sections 4.A.2 (b), 4.A.3(b) and notes following Table 1 of Appendix 1).
5. Clarify where entrance monument signs are permitted. It is our understanding that monument signs have been approved and currently are placed within roadway easements in the City. We believe the intent is that monument signs do not extend into the paved portion of the road and the Amendment modifies the Planned Unit Development accordingly (Section 4.D of Appendix 1).

6. **Correct references and changes from prior Amendments.**

- a. **In the Fourth Amendment to the Planned Unit Development Agreement, the reference to the number of dwelling units and commercial acres that are allowed in the area pursuant to the Comprehensive Plan were changed. We feel this change was made in error in attempting to account for the Presbyterian Homes initial development. The amount of allowed development should still reflect what was in the original agreement because of the reference to the Comprehensive Plan which has not been changed. The Amendment revision changes the numbers back to the original agreement (Section 5 of Appendix 1 and notes following Table 1 of Appendix 1). The proposed supplement referenced below in item 7 would reflect the actual numbers based on actual and planned development and related changes. We feel this is a more appropriate place to provide the information.**
- b. **The Second Amendment to Planned Unit Development Agreement dated July 11, 2001 contained a change to the definition of Site L in Table 1, Appendix 1. The change is not reflected in the current Appendix and so the amendment adds this change.**

7. **Add an informational supplement to Generalized Plan for Phasing and Development attached to the Planned Unit Development Agreement as Exhibit B-5 that reflects actual development and plans for future development. The proposed amendment would attach a spreadsheet that shows the current development status and plans (Exhibit D attached to the Amendment) The Generalized Plan for Phasing and Development was a projection of how development might occur and indicates that the plan may vary based on demand and market conditions. The plan has in fact varied and we felt it would be useful for all to have a statement of the changes. The Amendment also provides that the City and North Oaks Company can further update this section in the future.**

**The proposed Amendment and attached exhibits have been reviewed by and discussed with Tom Newcome, Jim March and Kristina Smitten and their comments have been incorporated, however, they have not expressed an opinion on the substantive changes contained in the documents.**

**Please let me know if you have any questions with regard to the Amendment. We look forward to discussing it with you at the City Council.**

**Sincerely,**



**Kara B. Valent  
Vice President, Legal**

**KBV/ln**  
**Enclosures**

**cc: James V. March, City Administrator (hand delivered)**  
**Kristina Smitton, City Planner (via US Mail)**  
**Jeff Roca, City Engineer (via US Mail)**  
**Thomas W. Newport, III, City Attorney (via US Mail)**



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August 16, 2019

Thomas L. Bray  
(612) 977-8285  
tbray@briggs.com

**VIA E-MAIL BNASON@LEVANDER.COM  
AND U.S. MAIL**

City of North Oaks  
c/o Bridgett McCauley Nason  
City Attorney  
Levander Gillen & Miller, P.A.  
633 Concord Street South, Suite 400  
South Saint Paul, MN 55075

**Re: North Oaks Company - Decennial Review of Master Development Plan and  
Planned Unit Development Agreement for East Oaks Project - Ordinance  
No. 129 Amending Section 151.056(B) of the North Oaks City Code**

Dear Ms. McCauley Nason:

At the July 8, 2009 North Oaks City Council meeting held to fulfill the Decennial Review requirements of Section 6.3 of the Planned Unit Development Agreement for East Oaks Project dated February 11, 1999 (the "PUD Agreement") North Oaks Company (the "Company") informed the City Council that it is the Company's position that Ordinance No. 129 is not applicable to the Company's development of land under the PUD Agreement, and indicated to the Council that the Company would follow-up, in writing, setting forth the basis for its position. That is the purpose of this letter.

Ordinance No. 129 amended Section 151.056.(B)(2)(a)1 of the city code and added a new Section 151.056.(B)(2)(a)3.

The Company does not dispute the validity of Ordinance No. 129's amendment to Section 151.056.(B)(2)(a)1, but it is the Company's position that, under the terms of the PUD Agreement, the amendment does not apply to the Company's development of property pursuant to the PUD Agreement for the following reasons:

a. In Section 6.2(a) of the PUD Agreement, the City has agreed that it will not, without the consent of the Developer, change the City's "Official Controls," which, as defined in Section 19.13(c) of the PUD Agreement, include Section 151.056 of the City Code, in a manner that is inconsistent with the terms of the PUD Agreement. Section 19.13(c) expressly states that a Concept Plan is optional; and

b. Section 3.3 of the PUD Agreement expressly states:

Briggs and Morgan, Professional Association  
Affirmative Action, Equal Opportunity Employer



City of North Oaks  
August 16, 2019  
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The Developer agrees to comply with this Planned Development Agreement, including the PUD Controls [which, as defined in Section 19.13(nn)(ll), includes the PUD Ordinance] and consensual amendments thereto. Subject to such compliance by the Developer, the City agrees to allow Development of the Subject Property in accordance with the East Oaks Project Master Development Plan, and consensual amendments thereto.

The Company has not consented to Ordinance No. 129. Therefore, under Section 3.3 of the PUD Agreement, the Company is not obligated to comply with Ordinance No. 129.

With respect to the new Section 151.056.(B)(2)(a)3, it is the Company's position that the City is not only prohibited from enforcing this provision against the Company in its capacity as the "Developer" under the PUD Agreement for the reasons set forth above, but that the City may not, under state law, enforce this requirement against anyone. Minnesota Statute § 15.99, subd. 2(a) states "except as otherwise provided in this section, § 462.358, subd. 3b [which relates to an application for subdivision approval] or 473.175, or chapter 505, and notwithstanding any of the law to the contrary, an agency must approve or deny within 60 days of written request related to zoning, septic systems, watershed district review, soil and water conservation district review or expansion of metropolitan urban service area for a permit, license or other governmental approval of an action." And Minnesota Statute § 462.358, subd. 3b states provides "a subdivision application shall be preliminarily approved or disapproved within 120 days following delivery of an application completed in compliance with the municipal ordinance by the applicant to the municipality, unless an extension of the review period is agreed to by the applicant."

These two state laws provide mandatory time periods by which the City must act on completed applications. The City may not circumvent state law by creating a mandatory condition precedent to the submission of an application and allowing itself with an unlimited time to comment on the materials the Developer submits in satisfaction of the pre-application requirement.

Very truly yours,

A handwritten signature in black ink, appearing to read "T. Bray".

Thomas L. Bray

TLB

cc: North Oaks Company, Mark Houge (via email)  
City of North Oaks, Mike Robertson (via email)