

The Planning Commission meeting was called to order by Chair Bill Campbell at 7:01 p.m. at the Community Meeting Room, 100 Village Center Drive Suite 150, City of North Oaks. Chair Campbell acknowledged that Commissioner Dick Hara was absent. Also present were City Administrator Melinda Coleman and Videographer Kevin Scattum.

### **Approval of Agenda**

Commissioner Joyce Yoshimura-Rank moved to approve the agenda. The motion was seconded by Commissioner Nancy Reid and passed unanimously.

### **Approval of Minutes**

Commissioner Bob Wilson moved to approve the Minutes from the December 5, 2011 Planning Commission meeting. The motion was seconded by Commissioner Gregg Nelson and passed unanimously.

### **Public Hearing**

#### **Variance 11-14, 15 Island Road, Mark and Jenna Lobanoff**

City Administrator Melinda Coleman gave a short presentation about Variance 11-14 at 15 Island Road. Building Official Greg Schmit completed a staff report but was unable to attend the meeting. The Variance involves two sections of the Zoning Code. One is for approval of the height of 43.5 feet rather than the 35 feet in the code. The other is for an increase in the floor area ratio to 1.37 which is greater than the zoning code allows. Currently the Code states that where the combined square footage of all buildings exceed 4,000 square feet, then the combined total floor area ratio(FAR) of all buildings on such lots shall not exceed 0.12.

The staff has spent time with the builder Bob Moser to come up with a plan that minimizes the request for variances on this unique lot. This lot slopes severely from front to back as well as side to side. It is a pie shape lot and 18% of the land is taken up for setbacks for road frontage. The Staff feels that the two variances would allow reasonable use of this property.

The front of this home will face the lake and road. Ms. Coleman showed photos of the two adjacent lots. The one at 1 Overhill Drive did exceed the zoning codes but had a variance approved in the past. The other at 2 West Bay Lane was built in 1986 and it was unclear if a variance was approved, but it exceeds the height by nine feet and is 4,600 square feet.

The Staff believes that a two story plan is the best for this unusual lot. City Administrator Coleman reminded the Commissioners that the State law was changed followed by a change in the City Zoning Ordinance. The wording was changed so that when considering variances it would be based **on practical difficulties** rather than **undue hardship**. Ms. Coleman stated that this plan would fall under practical difficulties. The practical difficulties are based on the large slopes or changes in elevation, the shape of the lot, and the excessive road easements.

A discussion took place about the .12 floor area ratio and that in the past any covered areas would be part of the floor area. The plan presented has a covered terrace that if taken out of the equation, would more closely meet the floor area ratio limit.

Chair Campbell opened the floor to concerned citizens.

**Maureen Knoedler, 14 Island Road**

Ms. Knoedler expressed two concerns. Her first was the additional drainage that could come off the driveway of this home and flood the path and road below. She has experienced problems with water in her driveway and has taken a number of steps to alleviate the problem. She does not want to deal with additional water problems. She also believes the request should be denied because every lot has unusual circumstances but has to work within the ordinances. In the past, she was denied a height variance. She feels that any style of home would fit into the neighborhood as the area includes a variety of styles of homes.

Chair Campbell asked questions to clarify the drainage problem she has experienced. Ms. Knoedler explained that the water floods the path around the lake and would run down her driveway if she had not taken the actions to alleviate the problem. Ms. Coleman explained that when the last home at 10 Island Road was built water diversion was a critical component of the plan and would be in this case as well.

**James Kwan, 2 West Bay Lane**

Mr. Kwan stated he is a neighbor to this property and does not have any problem with the plan presented.

**Mark Lobanoff, Owner of the property at 15 Island Road**

Mr. Lobanoff stated that he understands the concerns about water runoff. He believes the driveway can be sloped in such a way to drain excess water into the deep ravine that runs right next to the would-be driveway at this time.

Commissioner Nelson asked for a description of the patio that is currently part of the floor area ration. Mr. Moser stated that the patio would have a roof cover and an outside fireplace. Later the owners may want to consider retractable screens but this is not part of the plan at this time.

Mr. Moser continued to explain that the height variance requested is only for one area of the house (the front left) and is due to the severe slopes found on this land both front to back and side to side. He felt that this plan would have a significant less negative impact on the land as far as bringing in fill and removing trees. He also was confident that the drainage issue could be addressed. He again stated that this lot is a more difficult lot than most he has worked with.

Ms. Coleman asked if the plans had been presented to the Architectural Supervisory Committee. Mr. Moser said it would be done once approved by the City. Ms. Coleman explained that the Planning Commission is not deliberating on the style of the home or if it fits in the neighborhood.

This is the responsibility of the Architectural Supervisory Committee. She only wanted to show the adjacent properties to show how the current plan would fit in with the homes directly around it.

Mr. Moser explained which section would exceed the height requirement and stated that fill would need to be brought in, but would meet the City's fill and grading parameters.

**Pamela Carberry, 12 Island Road**

Ms. Carberry stated that she also agreed with the concerns of Maureen Knoedler.

The Public Hearing was closed at 7:32 PM.

Commissioner Nelson wanted to state the importance of being cautious about the interpretation of practical difficulties. Under the former language, this variance would more than likely not pass. However, with the new language it fits for this lot. City Administrator Coleman explained that the new language does give the City more latitude, but it also requires more responsibility to make sure the plans are compatible with the neighborhood and follow the spirit and intent of the zoning requirements.

Ms. Coleman restated that she felt this property does have practical difficulties with the dramatic slopes and easements/setbacks for this property. She also stated that this is the last lot that will be developed in this area. Commissioner Wilson stated that it is his opinion that the plan is too much house for the size of the lot and that both the height and the floor area ratio were significant increases. Chair Campbell stated that if it is allowed to go up this much, problems could later arise when others ask for even larger homes. Commissioner Nelson stated that the floor area ratio is .12 in his mind. He also stated that even if the patio was not included it still exceeds this ratio. Chair Campbell stated that the patio should be part of the floor area ratio analysis.

Commissioner Ross stated in the past that a porch with a roof over it was included as part of the floor area ratio.

Chair Campbell stated that the Commission would probably recommend denial, and asked if the homeowners wanted to withdraw their variance and work on making changes that would fit the Zoning Code. The Commission felt that the height was not the problem, but the floor area ratio is an issue. The owners of the property decided to withdraw the current Variance request and will resubmit it at a later date.

The floor area ratio was clarified as .12.

## Staff Reports

### Status of the Home of the Good Shepherd

Ms. Coleman gave an update on the property located at the Sisters of the Good Shepherd. A purchase offer was made by the developer, Pentom. The offer was accepted and the North Oaks Company passed on their first right of refusal. They did not feel that they could do a similar plan which was part of their current agreement. The City has not yet received an application, so it is premature to discuss Pentom's plan. Pentom has expressed an interest in having a meeting sometime in February to include the City Council, Planning Commission, NOHOA and some members of the community.

Nothing needs to be done by the City at this time. Once the application comes in, a planning consultant will need to be hired and cost will have to be determined. Most of these costs will be passed on to the developer. The land is approximately 80 acres with an estimated 60 developable lots. They will have to put in city water and sewer and establish a separate entrance. It appears that the plan will be for single family homes and a Planned Unit Development would have to be approved by the City.

### Zoning Ordinance Change- Variance

Ms. Coleman gave the Commissioners a hard copy of the adopted Zoning Ordinance. The Variance Ordinance is now closely aligned with changes in State Statutes. She agreed with the approach by the Planning Commission to do further evaluation on the FAR variance with the proposed home at 15 Island Road.

### 2012 Budget

City Administrator Coleman presented a quick look at the 2012 Budget. The levy was set at \$1,213,459 which has an impact of \$687 per average household. The Public Safety portion is equal to \$448 per average household or 65% of the Budget. Ms. Coleman noted that all government mandated programs and services including Public Safety equals 72% of the Budget. That leaves 28% or \$239 per household for all other programs and services. Ms. Coleman explained that it takes a home valued of \$600,000 to pay the \$687 that supports the Budget. Of the 1770 households, 896 pay less than this amount and 874 pay more.

Ms. Coleman also explained that the City would not be getting the \$69,000 expected for the second property tax payment that is distributed in January. This is due to the number of challenges made by the property owners in regards to their market values. Homes in North Oaks have not declined in value as much as homes in other cities in the County. Ms. Coleman expressed her concern about the decline in property values and suggested that perhaps the City

Council and Planning Commission should go out and look at housing in the community. The City has a lot of older residents and shut-ins who may be having trouble keeping their property up. Perhaps the City needs to look at creating housing maintenance codes or stronger code enforcement ordinances. Currently, the City does not have ordinances that deal with unkempt yards, brush, weeds, etc.

Ms. Coleman suggests that a City tour take place in March and NOHOA board members be included. She believes that enforcement issues will need to be addressed so that it is clear whether the City or NOHOA will have enforcement responsibilities. She also mentioned that most cities have a Point of Sale Inspection which North Oaks does not have at this time. She would like to see a consistent plan and one in which new development and re-development is addressed.

Commissioner Ross mentioned that relators have mentioned that it is harder to sell a North Oaks property than it used to be. Chair Campbell also expressed that some people in the community want a manicured lot where others like it more natural. Commissioner Nelson wanted to be cautious as many are wary of big government, but perhaps any plans would consider the unique governance structure between the City and NOHOA.

Emerald Ash Borer is another issue that the City is concerned about, but will need homeowner's cooperation. The City does not own ash trees, the residents do. The City will need partnership with residents, NOHOA and the North Oaks Company to deal with this issue.

Commissioner Yoshimura-Rank asked about who has the responsibility for unoccupied homes. Ms. Coleman explained that the responsibility remains with the owner of the property. The City sometimes has to research to find the owner or the responsible person, especially when the home is owned by the bank due to foreclosure. NOHOA and the City work well together on this issue.

**Next Meeting**

Thursday, February 23, 2012 at 7 p.m. at the Community Meeting Room, 100 Village Center Drive

**Adjournment**

On motion made by Commissioner Ross and seconded by Commissioner Yoshimura-Rank and carried unanimously. The meeting was adjourned at 8:15 p.m.

Attest:

Respectfully submitted,

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Bill Campbell, Chair

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Linda Hanson  
Recording Secretary