NorthOaks Minnesota
Building on a tradition of innovation

CITY OF NORTH OAKS

Regular City Council Meeting
Thursday, December 12, 2019
7 PM, Community Meeting Room
100 Village Center Drive

MEETING AGENDA

1. **Call to Order**

2. **Roll Call**

3. **Pledge of Allegiance**

4. **Truth-in-Taxation Public Hearing**

a. Resolution 1364 Setting Final 2020 Tax Levy and Budget for Approval
1364 Approving Final 2020 Tax Levy.docx

Proposed 2020 Budget V3.xls

5. **Approval of Agenda**

6. **Citizen Comments** - *Individuals may address the City Council about any item not included on the regular agenda. Speakers are requested to come to the podium, state their name and address for the record, and limit their remarks to three minutes. Generally, the City Council will not take official action on items discussed at this time, but may typically refer the matter to staff for a future report or direct that the matter be scheduled on an upcoming agenda.*

7. **Consent Agenda** - *These are items considered to be routine and will be enacted by one motion. There will be no separate discussion, unless requested for separate consideration at which point the item will be removed from the Consent Agenda and placed as a separate item on the agenda.*

a. Minutes of the Regular Council meeting of November 14, 2019
11.14.19 City Council Meeting - original dbV2.docx

b. Minutes of the Special Council Budget workshop of December 2, 2019
12.2.19 Special CC Budget Workshop KKv2.docx

c. Approval of Municipal Meeting Schedule 2020
2020 MEETING SCHEDULE for approval.docx

REQUEST_FOR_COUNCIL_ACTION_-_12.2.19__Council_mtg. (1).doc

d. Approve Resolution 1365 - Liquor Licenses for North Oaks Golf Club; Panino's; North Oaks Hospitality/Tria Restaurant & Bar; Winestreet Spirits; Suishin Restaurant, Inc.; Taste of Scandinavia
1365. Liquor Licenses.doc

e. Licenses for Approval: Air Mechanical, Alex's Lawn and Turf, LLC; Birch Tree Care; Budget Tree Service; Cameron Tree Services, Inc.; Houle Contracting; KB Service Co.; Langer Tree LLC; Precision Landscape and Tree, Inc.; Rhinex Contractor Inc.; SavATree, LLC; Twin City Tree Authority; Woodland Restorations, LLC;

Approval of Claims: Check#: 013359-013390

8. Petitions, Requests & Communications

a. Deputy Mike Burrell Report

9. Unfinished Business

a. East Oaks PDA Review - For information Purposes Only: Discussion Tabled until January 2020
East Oaks City Atty Memo 11.04.19.pdf

East Oaks City Atty Housing Count Notes.pdf

MEMO-East Oaks 7th Amendment.docx

East Oaks PDA Appendix 1 Housing Counts.pdf

East Oaks PDA Exhibit B Housing Counts.pdf

7th Amendment Maps with color.pdf

Ramsey County Map with Colors 11-11-19 (002).png

10. New Business

a. 2020 Fee Schedule for Approval
2020 DRAFT Fee Schedule.docx

b. Discussion of Putting New Water Meters in Charley Lake Preserve and Red Pine Farms

c. Consider ISTS Variance – 16 East Pleasant Lake Road: Resolution 1368
16EastPleasantLakeRd_SupportingDocs.pdf

1368. Approving 16 E Pleasant Lake Rd Septic Variance.docx

d. Consider ISTS Variance – 15 Ridge Road: Resolution 1367
1367. Approving 15 Ridge Rd Septic Variance.docx

15RidgeRoad_SupportingDocs.pdf

15 Ridge Road - Easement Agreement with NOGC.pdf

e. Consider Conditional Use Permit – 26 Evergreen Road: Resolution 1366
1366.Approving 26 Evergreen Rd CUP.docx

CC Memo - 26 Evergreen Road Garage CUP.docx

26 Evergreen Road - Garage CUP.docx

26 Evergreen Road Exhibits A-F.pdf

f. Recommended Complaint Form and Policy updates
Complaint Policy.doc

Complaint Form.doc

11. Council Member Reports -

Councilmember Long
Councilmember Kingston
Councilmember Ries
Councilmember Ross
Mayor Nelson

12. City Attorney Reports

13. City Administrator Reports

Staff Report
REQUEST FOR COUNCIL ACTION 12-12-19 cc agenda.doc

NRC Meeting Minutes—11/21/19
11-21-19 NRC Minutes - Draft.pdf

14. Miscellaneous -

Next Natural Resource Commission Meeting is Thursday, December 19, 2019 @ 7:00 p.m.
Next Planning Commission Meeting is Thursday, January 30, 2020 @ 7:00 p.m.
Next Regularly Scheduled Council Meeting is Thursday, January 9, 2020 @ 7:00 p.m.

15. Adjournment

CITY OF NORTH OAKS
RAMSEY COUNTY, MINNESOTA
RESOLUTION NO. 1364

A RESOLUTION APPROVING FINAL 2019 TAX LEVY, COLLECTIBLE IN 2020 AND 2020 FINAL BUDGET

THE CITY COUNCIL OF THE CITY OF NORTH OAKS ORDAINS AS FOLLOWS:

BE IT RESOLVED by the City Council of the City of North Oaks, County of Ramsey, Minnesota, that the following sum of money is levied for the current year, collectible in 2020, upon the taxable property in the City of North Oaks, for the following purposes:

Total levy	$1,860,700

BE IT FURTHER RESOLVED, the North Oaks City Council does hereby adopt the 2020 Annual Budget as hereto attached in Appendix A of this Resolution.

The City Clerk is hereby instructed to transmit a certified copy of this resolution to the County Auditor of Ramsey County, Minnesota.

PASSED BY THE COUNCIL of the City of North Oaks this 12th day of December, 2019.

APPROVED:

_____
Gregg Nelson, Mayor

ATTEST:

I hereby certify that the foregoing Resolution is a true and correct copy of a Resolution presented to and adopted by the City Council of the City of North Oaks on December 12, 2019.

Attested:

By: _____
Kevin Kress
Its: City Administrator/ City Clerk

CITY OF NORTH OAKS PROPOSED 2020 BUDGET

Updated 12/12/19

PROPROSED 2020 EXPENDITURES

ActCode	DEPT Descr	OBJ Descr	2018 Final	2019 Budget	12/12/19	UnderLine	2020 Budget	
101-41100-103	LEGISLATIVE -	WAGES - PART TIME/TEMP	$10,999.59	$12,200.00	$8,490.00	Council Pay	$12,200	
101-41100-311	LEGISLATIVE -	CONFERENCES/SEMINARS	$870.00	$1,500.00	$320.19		$1,500	
101-41100-350	LEGISLATIVE -	PUBLISHING & ADVERTISING	$1,115.45	$3,500.00	$1,313.70		$3,500	
101-41100-433	LEGISLATIVE -	DUES AND SUBSCRIPTIONS	$15,376.53	$16,700.00	$17,230.13		$17,200	
101-41300-101	CITY	WAGES - FULL TIME	$122,289.81	$179,310.00	$108,128.31		$181,113	
101-41300-103	CITY	WAGES - PART TIME/TEMP	$92,357.82	$46,763.00	$111,193.22		$48,515	
101-41300-122	CITY	FICA CONTRIBUTIONS	$17,640.28	$17,662.00	$17,789.88		$17,567	
101-41300-127	CITY	DEFERRED COMP	$0.00	$0.00	$0.00		$0	
101-41300-131	CITY	HEALTH, DENTAL, LIFE, LTD INS	$48,190.63	$56,508.00	$47,966.72		$60,484	
101-41300-210	CITY	OPERATING SUPPLIES	$14,347.66	$15,000.00	$22,174.06		$27,000	
101-41300-309	CITY	COMPUTER/INTERNET/GIS	$26,581.82	$23,912.00	$23,277.82	IT & Software Fees	$18,348	
101-41300-310	CITY	TRAINING	$9,590.40	$9,800.00	$4,377.46	League/MCMA/MAMA	$9,800	
101-41300-321	CITY	TELEPHONE SERVICES	$2,248.36	$2,284.00	$3,846.00		$1,742	
101-41300-322	CITY	MAILBOXES	$0.00	$0.00	$17,238.00		$0	
101-41300-360	CITY	INSURANCE	$16,223.24	$18,500.00	$16,535.00		$20,000	*********
101-41300-381	CITY	ELECTRIC UTILITIES	$870.43	$1,000.00	$991.74		$1,000	
101-41300-410	CITY	RENTALS	$100,098.08	$110,500.00	$115,953.62	Office Rent	$130,000	
101-41300-435	CITY	MISCELLANEOUS EXPENSE			$198.20	Web Site Upgrade	$40,000	
101-41300-435	CITY	BANK SERVICE CHARGE	$20.00	$300.00	$0.00		$0	
101-41400-300	ELECTIONS	PROFESSIONAL SERVICES	$14,683.00	$15,000.00	$15,276.00	County Contract	$18,000	
101-41420-210	CABLE TV	OPERATING SUPPLIES	$12,711.32	$3,000.00	$58,141.34	New Equiment	$3,000	
101-41420-300	CABLE TV	PROFESSIONAL SERVICES	$23,358.92	$28,693.00	$20,688.73		$35,000	
101-41420-313	CABLE TV	CONTRACT SERVICES	$8,428.00	$3,000.00	$0.00	Maureen Andrews	$3,000	
101-41500-301	FINANCE	AUDIT SERVICES	$14,000.00	$14,000.00	$15,000.00	Abdo & Eick	$16,000	
101-41600-304	LEGAL	LEGAL FEES - GENERAL	$31,200.00	$38,000.00	$39,471.50	LeVander/Codification	$57,000	
101-41600-315	LEGAL	LEGAL FEES - PROSECUTION	$13,199.22	$13,500.00	$12,048.42	Kelly & Lemmons	$13,500	
101-41900-300	ENGINEERING	PROFESSIONAL SERVICES	$0.00	$1,500.00	$7,592.68	Wenck	$2,500	
101-41900-303	ENGINEERING	ENGINEERING SERVICES	$49,957.48	$40,000.00	$31,655.35	Sambatek	$18,000	
101-41910-300	PLANNING	PROFESSIONAL SERVICES	$3,990.36	$7,500.00	$9,411.55	Bob Kirmis	$12,000	
101-42100-313	POLICE	CONTRACT SERVICES	$758,097.87	$758,931.00	$708,506.64		$798,201	
101-42200-313	FIRE	CONTRACT SERVICES	$301,910.24	$325,475.00	$325,475.38	LJFD	$353,061	
101-42300-300	EMERGENCY	PROFESSIONAL SERVICES	$17,666.96	$2,000.00	$1,229.41		$1,000	
101-42300-313	EMERGENCY	CONTRACT SERVICES	$0.00	$0.00	$51.27			
101-42400-300	BUILDING	PROFESSIONAL SERVICES	$168.00	$1,000.00	$171.00	Other Inspections	$1,000	
101-42400-313	BUILDING	CONTRACT SERVICES	$258,632.75	$110,000.00	$243,393.59		$120,000	
101-42400-451	BUILDING	BUILDING PERMIT SURCHARGE	$12,847.24	$6,000.00	$9,660.22		$5,000	
101-43100-381	STREETS	ELECTRIC UTILITIES	$2,608.00	$2,500.00	$1,491.80		$2,500	
101-43100-408	STREETS	STREETS/SIDEWALK/CURB	$16,665.48	$22,000.00	$21,782.99	Mel's Service	$2,500	

101-43200-384	RECYCLING	RECYCLING	$229,855.92	$230,000	$250,026.78		$275,000
101-43200-384	RECYCLING	RECYCLING (Clean Up Day)		$15,000	$9,911.77	Clean Up/Recycle Day	$12,000
101-45100-470	RECREATION-	COMMUNITY FUNCTIONS	$500.00	$5,000.00	$0.00	Fireworks?	$500
101-46100-316	NATURAL	TREE PRESERVATION	$38,798.00	$46,000.00	$42,780.53	City Forester	$45,000
101-46100-317	NATURAL	DEER MANAGEMENT	$15,620.25	$55,000.00	$9,935.43	Depends on # of deer	$25,000
101-46100-318	NATURAL	NATURAL RESOURCES	$4,501.50	$6,500.00	$1,655.50	NRC	$6,500
101-46100-319	NATURAL	WEED MANAGEMENT	$20,000.00	$30,000.00	$20,000.00	Lake Weed Management	$0
101-49450-313	SEWER	CONTRACT SERVICES	$13,627.50	$12,500.00	$12,067.50	Septic Inspector	$13,000
101-49990-720	UNALLOCATED	TRANSFER OUT	$0.00	$0.00	$50,000.00		$0
306-47000-601	DEBT SERVICE	BOND PRINCIPAL	$45,000.00	$55,000.00	$55,000.00	Lake Gilfillan Bond	$55,000
306-47000-611	DEBT SERVICE	BOND INTEREST	$7,192.50	$3,593.00	$3,592.50	Lake Gilfillan Bond	$2,974
306-47000-620	DEBT SERVICE	PAYING AGENT FEES	$425.00	$425.00	$500.00	Lake Gilfillan Bond	$500
400-41910-300	PLANNING	PROFESSIONAL SERVICES	$0.00	$0.00	$13,887.28	Comprehensive Plan	$10,000
400-41910-303	PLANNING	ENGINEERING SERVICES	$10,851.99	$0.00	$10,179.04	Comprehensive Plan	$1,000
400-43100-408	STREETS	STREETS/SIDEWALK/CURB	$0.00	$0.00	$0.00		$0
400-46100-318	NATURAL	MISC. NATURAL RESOURCES	$0.00	$0.00	$0.00		$0
401-42200-500	FIRE	CAPITAL OUTLAY	$94,523.90	$41,672.00	$9,576.11		$38,366
406-43000-381	PUBLIC WORKS	ELECTRIC UTILITIES	$2,293.16	$1,000.00	$712.79	Lake Gifillan Maintenance	$1,000
601-41000-420	DEPRECIATION	DEPRECIATION	$15,363.00	$0.00			
601-49400-127	WATER	DEFERRED COMP	$0.00	$0.00		Water & Sewer	
601-49400-210	WATER	OPERATING SUPPLIES	$0.00	$0.00		In Separate Budget	
601-49400-255	WATER	WATER METERS	$2,014.29	$0.00	$14,552.50		
601-49400-330	WATER	SEWER & WATER MISC	$17,265.67	$0.00	$2,535.61		
601-49400-381	WATER	ELECTRIC UTILITIES	$702.38	$0.00	$440.09		
601-49400-382	WATER	WATER - SHOREVIEW	$142,723.20	$0.00	$108,552.03		
601-49400-383	WATER	WATER - WBT	$133,470.00	$0.00	$84,531.00		
602-41000-420	DEPRECIATION	DEPRECIATION	$66,210.00	$0.00	$0.00		
602-49450-313	SEWER	CONTRACT SERVICES	$0.00	$0.00	$0.00		
602-49450-381	SEWER	ELECTRIC UTILITIES	$3,300.67	$0.00	$2,633.60		
602-49450-385	SEWER	SEWER	$64,074.38	$0.00	$73,335.35		
602-49450-400	SEWER	REPAIRS AND MAINTENANCE	$51,208.20	$0.00	$88,260.70		
602-49450-430	SEWER	MISCELLANEOUS EXPENSE	$2,550.00	$0.00	$41,884.47		
602-49450-455	SEWER	SAC FEES	$72,007.50	$0.00	$56,632.85		

$3,073,026.17 $2,409,228.00 $2,537,071.00

PROPOSED 2020 REVENUES

Act Code	Department	SOURCEDescr	2018 Final	2019 Budget	12/12/2019	UnderLine	2020 Budget
101-31010	COUNCIL	GENERAL PROPERTY TAXES	$1,550,911.19	$1,692,700.00	$1,463,781.40		$1,860,000
101-31810	COUNCIL	CABLE T.V. FEES	$88,536.38	$95,000.00	$65,761.29		$65,000
101-32110	COUNCIL	ALCOHOLIC BEV LICENSE	$4,800.00	$6,150.00	$6,150.00		$6,150
101-32111	COUNCIL	TOBACCO LICENSE					
101-32112	COUNCIL	MESSAGE THERAPY LICENSE			$15.00		
101-32160	COUNCIL	CONTRACTOR LICENSES	$13,072.00	$8,500.00	$8,826.00		$8,000
101-32210	COUNCIL	BUILDING PERMIT	$368,159.63	$215,000.00	$351,277.39		$145,000
101-32230	COUNCIL	HEAT/PLUMB PERMIT	$48,563.24	$33,000.00	$40,278.09		$22,000
101-32240	COUNCIL	ANIMAL LICENSE	$1,980.00	$1,500.00	$1,605.00		$1,500
101-32260	COUNCIL	STATE SURCHARGE	$12,741.44	$10,500.00	$12,546.26		$7,000
101-32261	COUNCIL	ISTS PERMIT	$3,993.00	$4,000.00	$5,545.00		$4,000
101-32262	COUNCIL	RENTAL LICENSE FEE	$1,150.00	$1,000.00	$1,000.00		$1,000
101-32263	COUNCIL	SHORELAND/FORESTRY PERMIT	$400.00	$500.00	$800.00		$500
101-32264	COUNCIL	ISTS PUMPING RECORDS	$10,214.00	$7,000.00	$11,714.00		$5,000
101-33429	COUNCIL	PERA RATE INCREASE AID	$308.00	$308.00	$154.00		$308
101-33440	COUNCIL	SCORE GRANT	$12,079.00	$14,695.00	$14,695.00		$12,000
101-34103	COUNCIL	VARIANCE, PUD, PLAT FEES, CUP	$1,800.00	$2,400.00	$4,500.00		$2,400
101-34120	COUNCIL	CERTIFICATE OF OCCUPANCY FEE	$775.00	$500.00	$650.00		$500
101-34403	COUNCIL	RECYCLING FEES	$846.66	$0.00	$634.37		$0
101-35100	COUNCIL	FINES AND FORFEITS	$6,536.21	$2,500.00	$5,193.63		$2,500
101-35104	COUNCIL	LATE FEES/NSF FEES	$1,325.00	$350.00	$1,200.00		$500
101-36100	COUNCIL	SPECIAL ASSESSMENTS	$180,775.16	$225,000.00	$115,788.70	Recycling Assessment	$275,000
101-36101	COUNCIL	SPECIAL ASSESSMENTS - PMC	$2,067.36	$2,067.36	$1,722.80	Peace Methodist Church	$2,067
101-36200	COUNCIL	MISCELLANEOUS REVENUES	$886.28	$2,000.00	$19,624.46	Conduit Bond & Misc	$2,000
101-36210	COUNCIL	INTEREST EARNINGS	$18,301.18	$7,500.00	$32,752.51		$20,000
101-36220	COUNCIL	RENTS	$50,649.59	$58,000.00	$53,203.09	NOHOA Rent	$60,000
101-36222	COUNCIL	COMMUNITY FUNCTIONS	$1,400.00	$1,000.00	$1,820.00	Community Mtg Room	$1,000
101-36240	COUNCIL	REFUNDS AND REIMBURSEMENT	$15,720.69	$1,300.00	$7,069.87	LMC & Other Rebates	$5,000
306-36100	COUNCIL	SPECIAL ASSESSMENTS	$52,263.56	$47,691	$35,534.60	LGWA Bond Assessments	$28,500
306-36210	COUNCIL	INTEREST EARNINGS	$0.00	$0.00	$0.00		
400-33418	COUNCIL	MNDOT STATE AID STREETS	$23,483.00	$23,483	$0.00		$0
400-36210	COUNCIL	INTEREST EARNINGS	$266.25	$0.00	$0.00	Special Project Interest	
400-36240	COUNCIL	REFUNDS AND REIMBURSEMENT	$0.00	$0.00	$0.00		
400-39200	COUNCIL	TRANSFER IN	$0.00	$0.00	$0.00		
401-36210	COUNCIL	INTEREST EARNINGS	$1,622.17	$0.00	$529.84		
401-39200	COUNCIL	TRANSFER IN	$0.00	$0.00	$50,000.00		

402-36210	COUNCIL	INTEREST EARNINGS	$646.66	$0.00	$0.00		
406-36100	COUNCIL	SPECIAL ASSESSMENTS	$258.39	$0.00	$122.96		
406-36200	COUNCIL	MISCELLANEOUS REVENUES	$458.53	$1,000.00	$1,711.84	LGWA Maint Assessments	$1,500
406-36210	COUNCIL	INTEREST EARNINGS	$0.00	$0.00	$0.00		
601-36200	COUNCIL	MISCELLANEOUS REVENUES	$1,176.00	$0.00	$0.00		
601-36210	COUNCIL	INTEREST EARNINGS	$5,271.69	$0.00	$0.00		
601-37100	WATER	WATER USAGE	$126,241.58	$0.00	$85,723.94		
601-37150	WATER	WATER HOOK-UP - WBT	$115,674.00	$0.00	$84,531.00		
601-37151	WATER	WATER HOOK-UP - CLP	$7,580.00		$7,580.00		
601-37155	WATER	WATER METER	$1,300.00		$1,300.00		
601-37180	WATER	MAINTENANCE/ESCROW FEE	$28,013.04		$18,024.96		
601-37500	WATER	CAPITAL CONTRIBUTION	$0.00	$0.00	$0.00		
601-39200	WATER	TRANSFER IN	$0.00	$0.00	$0.00		
602-36200	WATER	MISCELLANEOUS REVENUES	$0.00	$0.00	$0.00		
602-36210	WATER	INTEREST EARNINGS	$2,309.17	$0.00	$0.00		
602-37170	WATER	WBT WATER SYSTEM MAINTENA	$31,319.36	$0.00	$0.00		
602-37180	WATER	MAINTENANCE/ESCROW FEE	$7,297.55		$7,521.13		
602-37200	SEWER	SEWER USAGE	$62,978.80	$0.00	$77,836.22		
602-37250	SEWER	SEWER HOOK-UP	$72,065.00	$0.00	$59,640.00		
602-37500	SEWER	CAPITAL CONTRIBUTION	$11,424.14	$0.00	$0.00		
			$2,949,639.90	$2,464,644.36			$2,538,425.36
						Proposed Budget Surplus	$1,354.36

Call to Order

Meeting called to order at 7 p.m.

Roll Call - Mayor Gregg Nelson, Councilmember Kingston, Councilmember Long, Councilmember Ries, Councilmember Ross, City Administrator Mike Robertson, City Planner Bob Kirmis, City Attorney Bridget Nason, incoming City Administrator Kevin Kress, Recording Secretary Debbie Breen

Approval of Agenda

Motion made by Councilmember Kingston, seconded by Councilmember Reis. Meeting agenda unanimously approved.

Citizen comments:

Joanne Hanson of-5 Sumac Lane wanted to know if the Council will be scheduling a workshop to discuss the City's 2020 Budget in more detail and review any significant changes to the proposed budget in terms of expense and anticipated revenue. Administrator Robertson stated on December 12th there is a truth in taxation meeting, and council could also discuss the budget at that time. Councilmember Ries inquired if they could go ahead and schedule a council budget meeting. Mayor Nelson had no objective to having a separate meeting to review budget, and suggested possibly an hour before the December council meeting.

Consent Agenda Approval:

Council member Kingston reviewed the consent item agenda items:

Minutes of the Regular Council Meeting of October 10, 2019 for approval
Minutes of the Natural Resources Commission Meeting of October 17, 2019 for approval
Minutes of the Special City Council Meeting of October 9, 2019 for approval
North Oaks North Oaks City Council November 14, 2019
Minutes of the Special City Council Meeting of October 15, 2019 for approval
Resolution 1362 Approving Final Subdivision of 42 Mallard Road Lot Split
Resolution 1363 Approving Transfer of $50,000 from General Fund Balance to the Fire Capital Expense Fund
Licenses for approval: Air America Heating & Cooling, Inc.; Culpepper Heating and Cooling LLC; Genz-Ryan Plumbing and Heating; Farr Plumbing and Heating LLC; Lewis Heating and Air; Midland HVAC; Swift Heating & Air Conditioning
Approval of Claims: Check #013322 - 013358

Councilmember Ross motioned to approve the Consent Agenda; Councilmember Kingston seconded.

Councilmember Reis wanted to make sure the Minutes reflect the Resolution regarding 33 Mallard Road is worded so that final inspection must include adherence to proper fire code. Administrator Robertson confirmed Inspector White will review this as part of the final inspection.

All Councilmembers voted in favor of Approval of the Consent agenda.

Deputy Burrell Report:

- Low level thefts have occurred over last 2 months near entrances. Mailboxes stolen and items stolen from unsecured vehicles. Mail theft in a few parts of city near North Oaks Road and Mallard and in one instance a witness saw suspect vehicle. None of the mail theft was from locking mailboxes, and nothing of value was stolen. There continues to be a low crime rate in North Oaks.
- Continues to be out of squad car after a crash on Highway 96 two months ago and anticipates getting it back next week. The accident also took out the bike rack, so hoping insurance will cover.
- The trespassing ordinance was approved several months and a few tickets have been written based on new ordinance. To date, he hasn't heard any legal challenges based on the ordinance.
- Councilmember Reis asked Officer Burrell for any recommendations to minimize package theft for residents. He mentioned concerned residents could work with UPS as a drop off location for added security. Enforcement is also easier when there are door cameras in place.

Unfinished business:

East Oaks PDA Review:

Review has been postponed to the December 12, 2019 Council meeting. Mayor Nelson thanked Attorney Nason for her in depth and thorough review of the 7th Amendment concerns.

Determine Interview Process for new Planning Commissioner openings:

Mayor Nelson recommended Planning Commissioner Azman and Councilmember Long as a subcommittee to review the applicants. This was brought to a vote at the prior meeting and the vote was 2 to 2, so no action was taken.

Councilmember Kingston made a motion for Planning Commissioner Chair Mark Azman, Councilmember Long, and Mayor Nelson to be the subcommittee to interview applicants and bring recommendation to council. Councilmember Long seconded. Councilmember Ries asked if this would become the policy going forward, having subcommittee review all applicants. Mayor Nelson mentioned he favors doing it this way, allowing a private interview process without the stress of being on camera. Councilmember Ross is also in favor of this process going forward, which would allow potential applicants to know what to expect.

Councilmembers Long, Councilmember Kingston, and Mayor Nelson voted in favor. Councilmembers Ries and Ross abstained.

Discussion of Comp Plan Revision Process:

Mayor Nelson reviewed the history of the Comp plan process. Density issue was in to satisfy Met Council requirement, then taken out based on feedback from residents when submitted for review. The Met Council rejected, so now the City must complete updates to address the concerns brought forth by Met Council.

Administrator Robertson stated that Council must decide whether the Planning Commission is going to review again or if Council wants to do this work. Option 1 is to reject the density request and go in front of Met council to plead our case, or 2) add some density in knowing that ordinances are in place to make this unlikely to implement. Mayor Nelson is in favor of staying under the radar since Met Council has the resources and funding to wage a battle. He would like to send back to Planning Commission for consideration, as the density issue feels like it falls into the significant issue category.

Commissioner Ross asked about the timeline summary included in the meeting packet, and feels she has items that should be added. Administrator Robertson indicated he put this together to based on Meeting minutes to try to highlight what has happened to help guide the new planning commissioners.

Commissioner Ries feels that some of the detail of density discussion may not be accurately captured in the Notes in regard to the land, density, and whether Met council has the power to force us to change. Administrator Robertson stated in May, June, August 2018 there was some discussion of zoning. In September of 2018 there was much discussion of density. Commissioner Ries believes the language regarding density was in January 2018, whereas Robertson stated he believes it to be after May 2018.

Mayor Nelson asked Councilmembers Ross and Ries to provide Administrator Robertson any additions / updates they feel are pertinent. Met Council is aware that we must follow PDA and that they can't force development on private land. Councilmember Ries would prefer that we let the market dictate the needs as opposed to Met Council. The age of the buildings in Village center are newer, so likely no redevelopment by owner. With the PDA in place for 10 more years, North Oaks should be secure on what is outlined. Once PDA expires, the Met council can have more pull in deciding what happens. Both NOC and City have interest in getting land developed within 10 years.

Councilmember Kingston asked if the other Met Council issues have been incorporated. Robertson indicated the other changes aside from density are minor. They aren't trying to dictate high density in East Oaks section because they know they can't. He feels there are other projects in the area such as TCAAP would be better suited for more density. Mayor Nelson stated that suburban communities are 5 units per acre…. therefore not necessarily same as affordable housing. Councilmember Long mentioned that we are not a normal city and don't fit into their template based on our private roads, septic, PDA, large lots, etc. Administrator Robertson suggested meeting with former Mayor of Falcon Heights, who is now on Met Council to gauge his sense on whether we might win an argument with them based on our unique circumstances. Mayor Nelson & Councilmember Kingston would like the Planning commission to review the possible options and get them involved, and suggested that Councilmembers Ross and Ries share their prior knowledge with Planning Commission. Councilmember Ries asked if former Mayor Tom Watson could come share his knowledge on the topic again. Mayor Nelson was not in favor of this. Councilmembers Ries and Ross would like to go directly to the Met council first and see if can save time. Mayor Nelson mentioned that the City has lost the Home of Good Shepherd since last Comp plan was completed, so our circumstances and arguments could be looked at differently.

Administrator Robertson stated that when the Comprehensive plan was previously reviewed there was a Republican council with different priorities. Today it is a Democrat based council with different priorities.

Councilmember Long motioned to send the Comprehensive Plan back to Planning commission for further review. Councilmember Kingston seconded. Councilmembers Long and Kingston, and Mayor Nelson voted in favor. Councilmembers Ries and Ross opposed. Motion passed. Administrator Robertson stated it would be put on the Agenda for the January Planning Commission meeting.

Joanne Hanson – 5 Sumac Lane

In October 2019, NOHOA sent letter asked to be included in any new discussions regarding changes to Comp Plan and developing the response. Mayor Nelson encouraged NOHOA to come speak in front of the Planning Commission and be part of that process. Administrator Robertson stated City staff is currently working with Planner Bob Kirmis to make the minor changes to Comp Plan, and NOHOA will be provided a redlined copy.

Review of Preliminary 2020 Budget

Administrator Robertson stated the budget has been increased to accommodate Permit works integration into new website initiatives. That leaves a $2,000 surplus.

Mayor Nelson asked if Legal fee line item is adequate to accommodate codification process, as it was last done in 2003, but wasn't done well. Administrator Robertson received input on anticipated legal fees from Attorney Corrine Land and this was used as basis for the budget item. The 2020 Fee schedule includes changes to Subdivision fee and now includes Massage license fee. Monday, December 2nd at 7 p.m. will be a Special Council meeting to review the Budget in more detail.

New Business

Approve / Revise Staff Responsibilities:

Resolution 1361 was presented naming Kevin Kress as City Administrator / City Clerk. Councilmember Ross would like to put discussion of City Responsibilities on the January Council agenda for review in hopes of a better balance among council members.

Councilmember Ross made a Motion to approve Resolution 1361 and the City Responsibilities effective Dec. 1st, Councilmember Kingston seconded. Motion passed unanimously.

Council member reports:

Councilmember Long:

- VLAMO has camera's on river otters for tracking wildlife as it relates to health of waters. They are also almost finished working with the Ski Otters looking at improving Goose Lake and the treatment used there. They continue to look at Water Gremlin issues found in our watershed.
- The Fire Board has received favorable input from the school regarding new firehouse. They are moving forward with new process for new firehouse.

Councilmember Kingston:

- The Tick Task force will be featured in new MN cities Magazine with Brooke Moore.
- Following the meeting with NOC, several residents asked if we can do more proactively on Buckthorn removal. He suggested the City take fresh look it into 2020.

Councilmember Ries:

- Reviewed Civic plus platform for website and excited about opportunity to move forward with this. Will finalize quote and get it for approval.
- North Oaks will begin to receive money from Comcast for fees it had paid in.
- Had first cesspool/septic committee meeting. The take away was that all are in agreement that this topic is a major consideration and trying to resolve without hindering older residents needs to be handled carefully. The next committee meeting is Dec. 17th at 6:30 p.m.

Councilmember Ross:

- Attended meeting regarding Green step city program and whether it might work in North Oaks.

Mayor Nelson:

- Thanked Administrator Robertson for his service to North Oaks and 30 years of service to municipal governments.

City Attorney Report:

- Planned Development Agreement analysis was provided this week to the city, taking longer to complete than expected.
- She recommends for Insurance Liability coverage to not waive statutory tort limits. Councilmember Long made a motion to not waive Statutory tort limits. Councilmember Ries seconded, with all voting in favor. Motion unanimously passed.

City Administrator Report:

- There are three properties for Oriental bittersweet removal ready to go, but weather needs to be over 40 degrees to be effective. The Grant paperwork is ready to go, but weather a problem. State has agreed to delay due date until Spring of 2020.
- Hoping there may be money from state to address Buckthorn removal.
- Suggest a committee work with staff to generate new Polco survey question and put them out periodically. Councilmembers Kingston and Ries will work with City staff to

generate questions. Motion made by Councilmember Long for Councilmembers Kingston and Ries to work to develop Polco questions with staff. Councilmember Ross seconded, with all voting in favor.

- Administrator Robertson thanked the City Council and community for the opportunity to work on behalf of the City of North Oaks, and he is encouraged by skillset of the incoming Administrator Kevin Kress.

The next meetings are: Natural Resources Committee on November 21, 2019, Planning Commission on December 3rd, 2019, and Special City Council budget meeting on December 2, 2019, with the next City Council meeting on December 12, 2019.

Motioned to adjourn made by Councilmember Long, seconded by Councilmember Ries. Motion unanimously passed. Meeting adjourned at 8:15 p.m.

DRAFT

Mayor Nelson called the meeting to order at 7:00 p.m. to review the City of North Oaks 2020 Budget. Present were Mayor Nelson, Councilmembers Rick Kingston, Marty Long, Kara Ries, and Katy Ross; City Administrator Kevin Kress; Recording Secretary Debbie Breen.

There was a discussion on sewer and water maintenance fees. City Administrator Kress inquired why there is no enterprise budget for sewer and water. He would have expected to see these accounts in place prior to January 1st. It is a small account, but would allow for potential rate increase to make sure that water/sewer billing breaks even.

Commissioner Ries indicated in the past the North Oaks Company had billed independent homeowners for every item that occurred to support maintenance of the systems. Administrator Kress mentioned there is an escrow fee and perhaps a maintenance fee that could be put in place to cover cost. Administrator Kress will speak to Justin at AEM, the City's Audit firm, to see whether is it better to put sewer/water maintenance in escrow or maintenance line items. It is thought that about $30 per household each quarter could cover it. He may also have AEM do a rate study to see what works best. To use an external provider to manage this piece could be about a $5,000 investment. Administrator Kress suggests to put it in budget as enterprise funds – or transfer funds from general funds, however budget has already been set for 2020. If there is a conflict using AEM since it is also the City auditing firm, there are other options.

Commissioner Long mentioned there was about $300,000 that came from the North Oaks Company upon transfer of the sewer/water support to the City. He would like to see movement on incorporating support for sewer and water at Deer Hills, and other sub-associations. He believes the sub-associations would like to have City assistance with this, and hopes this could be discussed in 1st Quarter of 2020. If a lift station goes down, Kress believes it could be upwards of $30,000 depending on the pump size, and that Shoreview and White Bear would need to be involved in discussions as well. Administrator Kress will begin discussions to get bids.

Administrator Kress asked for clarification on the Peace Methodist church assessment. Mayor Nelson indicated it was for a sidewalk along Hodgson Road in front of the church for the kids walking to Chippewa, as Shoreview was reluctant to put one in since there was already a sidewalk on the opposite side of the street.

The Lake Gilfillan assessment is for the aeration pump project initiated by a former Mayor which has helped stabilize water levels. The Capital improvement fund for fire station is sets aside funds for contribution for firetruck replacement when needed in a few years. Council indicated that there has not been a separate levy in place in the past. Administrator Kress mentioned that if levied separately, it helps for accounting purposes to clarify it is specifically for fire. If it is part of the general fund, then Council has discretion to move funds around. Kress clarified that a levy could be recorded specifically for this purpose with the county, not as a voter levy on ballot.

The line item for professional services with Wenck is for the Highway 96 superfund site. Administrator Kress indicated the City Tax rate at 11.6% is one of the lowest he's seen.

Mayor Nelson inquired about the operating supplies line item as it appears $5,000 over budget year to date. Kress has started working with Deputy Clerk Stephanie Marty on putting together year to date budget comparisons. Current licenses that may be in operating costs could include Cable T.V., Banyan, Granicus, and website, however software fees are expected to change as the City incorporates technology updates next year. Administrator Kress is currently going through contracts and durations.

Mayor Nelson asked if Legal fees required for the codification process are included in the budget. Administrator Kress indicated they are, and he would like to initiate this process right away in 2020.

Commissioner Kingston inquired about funding for lake and weed management, and whether NOHOA is confirmed to take it over. Joanne Hanson indicated NOHOA is planning to take over this process, and they spent $12,000 this year to address weeds. Commissioner Kingston noted that the City spent $20,000 on weed control this year, however Ms. Hanson didn't believe the City did anything in 2019. Administrator Kress will check in with NOHOA Executive Director Griffin and former Administrator Mike Robertson on this to make sure that there is enough funds budgeted for this. Commissioner Kingston also asked about the website piece and the $40,000 set aside. Commissioner Ries indicated that this is a mixture of website, Laserfiche, integrating of civic plus. The council had previously approved $1,200 for a mass mailing for polco promotion. Kress indicates that operating funds might be a good category fit for mailings.

Mayor Nelson inquired if Kelly & Lemons, the City prosecutors, could come in January to give a presentation on what they are seeing and addressing in our City. Administrator Kress will follow up to ask Kelly and Lemmons to provide a report for Council in January, as well as connect with Officer Burrell to get a full picture of what issues are referring up for prosecution. It was suggested that the new Ramsey County Commissioner Nicole Frethem may also be a good person to connect with to come visit our City Council. Administrator Kress will also investigate funding programs to help out the community with repairs, etc. but would likely be a 2021 initiative. Potential offerings could include deer trapping, invasive removal programs, low interest financing at 0% or 2% for removal of detrimental septic systems.

Commissioner Ross inquired about the CTV budget for recording of City meetings and whether we need to bump up the budget since we ran out of allocated CTV meeting hours this year. Commissioner Ries indicated that the contract covers 70 hours for meetings, 2 community events, and a quarterly state of the City update. The current revenue is $65,761 budgeted. Budgeted expense is $35,000 budgeted for next year, which is an increase of 7,000 for 2020.

Kress mentioned that Maureen has only billed us every few years, therefore some years appears underspent and others overspent. $3,000 is her typical budget for each year.

In the street category, Mel's services in 2019 reflect $22,000 spent for sewer drains and clean outs while only $2,500 is budgeted for 2020. Administrator Kress to inquire with Executive Director Griffin and Mike Robertson to see what made up the $22,000.

Kress would prefer not to make any significant changes prior to the Truth in Taxation meeting. In Building services, Commissioner Kingston noted that revenue was budgeted for $215,000 in 2019, with $145,000 planned for 2020. The actual 2019 revenue reflects $344,153 was received in building permits, with $234,878 building inspector fees. Administrator Kress will confirm what makes up the Building services numbers.

Commissioner Long mentioned that the North Oaks Company was a planning on laying out the East Oaks concept plan and what they would like to get done in 2020 at the next Planning Commissioner meeting taking place on December 3, 2019. Administrator Kress will meet with the City Planner prior to the meeting to identify what the company is looking at this point. It was confirmed that all engineering and planning fees are passed through to the developer / applicant via escrow.

There were no other questions regarding the budget.

Administrator Kress inquired about City of North Oaks office hours for the week of Christmas, and noted that NOHOA will be closed December 24-26. **Commissioner Long motioned to also close the City office December 24-26th, with Commissioner Ries as second. Motion unanimously passed.**

Council agreed that Administrator Kress has authority to make decisions on City Hall closures.

A motion to adjourn was made at 7:58 p.m. by Commissioner Long, seconded by Commissioner Ross, with all in favor.

DRAFT

2020 MEETING SCHEDULE

	CC	NRC	PC
JAN	9	16	30
FEB	13	20	27
MAR	12	19	26
APR	9	16	30
MAY	14	21	28
JUN	11	18	25
JULY	9	16	30
AUG	13	20	27
SEPT	10	17	24
OCT	8	15	29
NOV	12	19	Tbd
DEC	10	17	Tbd

CITY OF NORTH OAKS

REQUEST FOR COUNCIL ACTION

Requested Date of Council Consideration: 12/12/2019 **Flexibility:** ☐ YES X NO	**Originating Department:** Administration
Agenda Item: Consent Agenda item 7C	**Presenter: Kevin Kress** **Estimated Time:** X Consent Agenda ☐ 5 Min. ☐15 Min. ☐ 30 Min. ☐ 45 Min. ☐ 1 Hour

Council Action Requested:

☐ Information/Review X Motion to approve...☐ Motion to deny... ☐ Other ☐ Budget Change

(Please word the motion below as you would like it to appear in the minutes.)

Background: (Attach additional pages if needed)

Sets the 2020 Schedule for City Council, Planning Commission, and Natural Resources Commission. Can be changed at the discretion of the applicable Council or Commission.

Supporting Documents: X Attached ☐ None

Department Head Signature/Date:

Administrator Signature/Date:

ACTION TAKEN

☐ Approved ☐ Denied ☐ Tabled ☐ Accepted Report ☐Other

Date of Action: _____

Comments:

Administrator's Signature/Date:

CITY OF NORTH OAKS
COUNTY OF RAMSEY
STATE OF MINNESOTA

RESOLUTION NO. 1365

A RESOLUTION AUTHORIZING RENEWAL OF 2020 LIQUOR LICENSES

WHEREAS, the Deputy Clerk of the City of North Oaks, Minnesota, acting on behalf of the City Council as Local Liquor Licensing Authority, reviewed the below establishments for the renewal of the 2020 Liquor Licenses.

Licensee	Wine "On Sale"	Off Sale	On Sale	Sunday	Club "On Sale"	Tobacco
Aarthun Enterprises	X					
North Oaks Golf Club				X	X	X
North Oaks Hospitality/Tria		X	X	X		
Panino's North Oaks			X	X		
Suishin Restaurant, Inc.			X	X		
Winestreet Spirits		X				X
Walgreens						X

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORTH OAKS that the renewal of the 2020 liquor licenses will be issued upon compliance with all city/state requirements.

Adopted this 12th day of December, 2019

_____
Gregg Nelson, Mayor

ATTEST:

_____
Kevin Kress, City Administrator

LEVANDER, GILLEN & MILLER, P.A.
ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
JAY P. KARLOVICH
ANGELA M. LUTZ AMANN
KORINE L. LAND
DONALD L. HOEFT
BRIDGET McCAULEY NASON
PETER J. MIKHAIL
TONA T. DOVE
AARON S. PRICE
DAVID L. SIENKO
CASSANDRA C. WOLFGRAM
DEBRA M. NEWEL
CASSANDRA J. BAUTISTA
MATTHEW K. BROKL

MEMO

TO: **Mayor and City Council**
FROM: **Bridget Nason, City Attorney**
DATE: **November 4, 2019**
RE: **East Oaks PDA Analysis**

In 1999, the City of North Oaks entered into an extensive agreement with the North Oaks Company related to the development of over 1,600 acres of land owned by the North Oaks Company (East Oaks Development, East Oaks PDA Area, or Subject Property). The 1999 Planned Unit Development Agreement for the East Oaks Project (1999 PDA, 1999 East Oaks PDA, PDA or Agreement) was made by and between the City of North Oaks and the North Oaks Company, LLC (Developer) with an effective date of February 11, 1999.[1] The 1999 PDA contains a number of important provisions which guide the development of the various development sites identified as part of the East Oaks Development throughout the City which are to be developed in conformity and compliance with the terms of the PDA. This memo will provide an overview of the terms of the 1999 PDA, relevant amendments, and respond to several questions raised during the recent Decennial Review.

1. Key Provisions of the 1999 PDA

Text of the PDA. The 1999 PDA was executed over twenty years ago, and has been amended seven times over the past two decades, most recently in 2010. In reviewing the 1999 PDA, it is helpful to note that many of the terms used in the 1999 PDA are defined terms. Relevant definitions found in the 1999 PDA include the following[2]:

- **Concept Plan:** "Concept Plan" means an optional concept plan authorized by the Zoning Ordinance, approved by the Council, for a Development Site.
- **Conceptual Street and Access Plan:** "Conceptual Street and Access Plan" means **Exhibit B-2,** and any changes thereto requested by the Developer and approved by the Council.
- **Default:** "Default" means and includes, but is not limited to "[f]ailure by the Developer to develop the Subject Property according to the PUD Controls."

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OFFICE ALSO LOCATED IN SPOONER, WISCONSIN

- **Development Guidelines:** "Development Guidelines" means the Findings and Development Guidelines attached hereto as **Appendix 1** which address purpose, land use, Development regulations, performance standards, and findings for the East Oaks PUD project incorporated by reference and made a part of this Planned Development Agreement.
- **East Oaks Project Master Development Plan:** "East Oaks Project Master Development Plan" means all those plans, drawings, and surveys identified on the attached **Exhibit B**, and hereby incorporated by reference and made a part of and including this Planned Development Agreement.
- **East Oaks PUD Project:** "East Oaks PUD Project" means the Development of the Subject Property in accord with the PUD Controls.
- **Future Land Use Plan:** "Future Land Use Plan" means **Exhibit B-1**. Future Land Use Plan also includes any additions or changes thereto requested by the Developer and approved by the Council.
- **Official Controls:** "Official Controls" means ordinances and regulations which control physical development of the City or any part thereof, or any detail thereof and implement the general objectives of the City's Comprehensive Plan. Official Controls may include ordinances establishing zoning, subdivision controls, site plan regulations and official maps, however, for purposes of this Planned Unit Development Agreement, Official Controls does not include, sanitary codes, building codes and other present or future Ordinances regulating public safety and health generally.
- **Phase Plan.** "Phase Plan" means **Exhibit B-5.** Phase Plan also includes any additions or changes thereto requested by the Developer and approved by the Council.
- **Planned Development Agreement.** "Planned Development Agreement" means this Planned Unit Development Agreement between the City and Developer, and consented to and joined in by NOHOA, and all Exhibits and Appendix 1 attached to or referenced herein.
- **Preliminary Plan:** "Preliminary Plan" means that Preliminary Plan required by the Subdivision Ordinance.
- **Primary Trails:** "Primary Trails" means those trails depicted as such on the Trail Plan.
- **PUD Controls:** "PUD Controls" means and includes, jointly and severally, the following:
    - This Planned Development Agreement including without limitation the Development Guidelines.
    - PUD Ordinance
    - East Oaks Project Master Development Plan
    - Final Plan
    - Subdivision Ordinance
    - Zoning Ordinance
- **PUD Ordinance:** "PUD Ordinance" means Section 7.12 of the Zoning Ordinance of the City of North Oaks and the action of the Council authorizing a Planned Unit District for the Subject Property pursuant thereto which ordinance sets forth the performance standards

flexibility and other zoning devises relating to the Subject Property permitted pursuant to this Planned Development Agreement.

- **Restricted Trails:** "Restricted Trails" means those trails depicted as such on the Trail Plan.
- **Subject Property:** "Subject Property" means in the aggregate and jointly and severally all of the real estate legally described and depicted in the attached **Exhibit A.**
- **Trail Plan:** "Trail Plan" means **Exhibit B-4,** and any changes approved by the Developer and the Council.
- **Zoning Ordinance:** "Zoning Ordinances" means Ordinance 94 of the North Oaks Code of Ordinances.

The 1999 East Oaks PDA including a number of articles which set forth the parameters of the Agreement, a summary of which is found below.

- **Article 1: Findings and Covenants:**
    - The PDA approves the East Oaks Project Master Development Plan which is found to be consistent with the City's comprehensive plan.
    - The Developer proposed to "create an interconnected system of trails available to members of the NOHOA, all of whom own lots within the City."
    - The Council approved the East Oaks Project Master Development Plan for the Subject Property.
        - The **East Oaks Project Master Development Plan** is defined as "**all those plans, drawings, and surveys identified on the attached Exhibit B**."
    - The City prepared an Environmental Assessment Worksheet and adopted a negative declaration for the Project.
    - The Developer and City agree that the Subject Property will be developed and used as the East Oaks PUD Project in accordance with PUD Controls
        - **PUD Controls** are defined, as noted above, as "[t]his Planned Development Agreement including without limitation the Development Guidelines, PUD Ordinances, East Oaks Project Master Development Plan, Final Plan, Subdivision Ordinance, [and] Zoning Ordinance."
            - The "Development Guidelines" are defined as "the Findings and Development Guidelines attached hereto as Appendix 1 which address purpose, land use, Development regulations, performance standards, and findings for the East Oaks PUD Project."
    - The Subject Property is found to consist of "approximately 1,650 acres," and "each development site shall be developed in accord with PUD Controls."
    - Each development site will be submitted for "Concept Plan, Preliminary Plan, and Final Plan for each particular Development Site, portion of a Development Site, or combination of Development Sites."
    - **Nothing contained in this Planned Development Agreement is deemed Final Plan approval for any of the Development Sites at this time.**

- Notwithstanding that Preliminary and Final Plan Approval must be obtained for each Development Site, the Parties understand and agree that by this Planned Development Agreement, the City is granting a Planned Unit Development zoning designation pursuant to the PUD Ordinance for the Development Sites and … and is approving the East Oaks Project Master Development Plan
- **The Parties acknowledge and agree that the East Oaks Project Master Development Plan will have to be supplemented and refined for Development Site Development and Preliminary Plan and Final Plan approval will have to be obtained from the City before any Development can occur on a particular Development Site.**
- **The parties understand, agree, and intend that the Concept Plan, Preliminary Plan, and Final Plan for each Development Site shall be controlled by the East Oaks Project Master Development Plan pursuant to this Planned Development Agreement.**
- The Developer agrees to comply with the PUD Controls.

- **Article 2: PUD Zoning, Open Space Zoning, and Shoreland Variances**
  - The Development Sites are rezoned to Planned Unit Development District.
  - **No Development or use shall be made of the Subject Property or any portion thereof unless such Development or use is consistent with the PUD Controls and consensual amendments thereto.**
  - **Except as provided in Section 5.2 hereof or unless the Council by separate action approves otherwise, no Development or use shall occur on any Development Site, until the Preliminary Plan and Final Plan for that Development Site have been approved by the Council. Concept Plan, Preliminary Plan or Final Plan consistent with this Planned Development Agreement shall be approved by the Council**
  - **Density: The maximum density of each Development Site shall be in accord with the Future Land Use Plan attached hereto as Exhibit B-1 and the Development Guidelines. Development Site Development, overall density, density transfers and use conversion shall be determine SOLELY by reference to this Planned Development Agreement, including the East Oaks Project Master Plan, and Table 1 of the Development Guidelines.** (Emphasis added)
- **Article 3: East Oaks Project Master Development Plan and PUD Controls**
  - Development Conformity: Development of the Subject Property shall conform to this Planned Development Agreement, including the East Oaks Project Master Development Plan, and the Concept Plan, Preliminary Plan, and Final Plan for each Development Site, unless the City approves otherwise.
  - PUD Controls: Subject to such compliance by the Developer, the City agrees to allow Development of the Subject Property in accord with the East Oaks Project Master Development Plan, and consensual amendments thereto.

- The duration of the 1999 East Oaks PDA is thirty years from the Effective Date of the PDA (February 11, 1999).

- **Article 5: Relationship of East Oaks Project Master Development Plan to Concept Plans, Preliminary Plans, and Final Plan**
  - The procedure and substance … of approval for each Development Site shall be subject to compliance with this Planned Development Agreement, the Subdivision Ordinance, the Zoning Ordinance, and the Development Contract for the Development Site.
  - No Development shall occur on any Development Site until the City approves the Preliminary Plan and Final Plan for that Development Site.
  - The Final Plan shall conform **in material respects** to this Planned Development Agreement, the East Oaks Project Master Development Plan and Preliminary Plan for the Development Site, unless otherwise approved by the Council. It is the intent of the City and the Developer that all PUD Controls other than this Planned Development Agreement shall be consistent with this Planned Development Agreement. **If an inconsistency develops by agreement of the City and the Developer, then a consensual amendment to this Planned Development Agreement shall be executed.**
  - **To the extent an inconsistency or conflict exists among the PUD Controls after approval of the Final Plan by the Council and in the absence of a consensual amendment addressing the inconsistency, the following documents in descending order shall govern:**
    - **Final Plan**
    - **Preliminary Plan**
    - **Concept Plan**
    - **Planned Development Agreement**
    - **East Oaks Project Master Development Plan**
    - **PUD Ordinance**
    - **Subdivision Ordinance**
    - **Comprehensive Plan**
  - Change of Ordinances: If certain conditions are met, **then for thirty years from the Effective date of this Planned Development Agreement with respect to the Subject Property, except to the extent required by state, county, or federal law, regulation, or order, or by order or judgment of a court with jurisdiction over the matter, the City will not without the consent of the Developer for any particular Development Site … change the City's Comprehensive Plan or "Official Controls" for that Development Site or the entire East Oaks PUD Project in a manner which is inconsistent with the terms of this Planned Development Agreement with respect to [a number of conditions including] development density.**

- Notwithstanding the restrictions stated above, the Developer may request a modification to the PUD Controls for a specific Development Site within the East Oaks PUD Project and the City may grant the modification.

- **Article 7: Streets**
  - Location and Creation of Streets: The Conceptual Street and Access Plan shows the neighborhood streets and other roads within the Subject Property that will serve the East Oaks PUD Project.
  - Plans: Street layout, right-of-way and pavement widths shall conform to the Performance Standards within the Development Guidelines, unless otherwise requested by the Developer and approved by the Council.
- **Article 12: Park Dedication**
  - Park Dedication – Contribution Requirement: The parties agree that all park dedication requirements for the East Oaks PUD Project and its Development Sites … shall be and are satisfied by the Developer in the form of … rough grading of park and trail areas and construction of those trails depicted on the Trail Plan.
- **Article 13: Trails**
  - The Trail Plan depicts three types of Trails: Existing NOHOA Trails, Primary Trails, and Restricted Trails. Portions of the Primary Trails and Restricted Trails as shown on Exhibit C-1 will be open for use within sixty (60) days of execution of this Agreement. To the extent other portions of the Primary Trails or the Restricted Trails are shown on the Trail Plan, then such trails shall be constructed, conveyed and open for use at the times and as depicted on Exhibit C-1.
  - The Primary Trails and Restricted Trails depicted on the Trail Plan will be conveyed to NOHOA pursuant to the Primary Trail Easements and the Restricted Trail Easement, subject to the restrictions set forth in Section 13.5 hereof.
- **Article 19: Miscellaneous**
  - No Third Party Recourse or Rights: This Planned Development Agreement may be enforced solely by the Developer, the City and, to the extent applicable, NOHOA.
  - **Amendment and Waiver: With respect to the Development Sites, the City and the Developer for each Development Site hereto may by mutual written agreement amend this Planned Development Agreement IN ANY RESPECT for that Development Site. Either party may extend the time for the performance of any of the obligations of the other, waive any inaccuracies in representations by another contained in this Planned Development Agreement, which inaccuracies would otherwise constitute a breach of this Planned Development Agreement, waive compliance by another with any of the covenants contained in this Planned Development Agreement and performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the other party of any of its obligations under this Planned Development Agreement.** (Emphasis added.)

- Major amendments (defined as an amendment which changes the permitted land use within the Subject Property or increases the total number of permitted housing units within the East Oaks PUD Project by more than ten percent (10%)) require a 2/3 vote of the Council; minor amendments require a simple majority vote of all members of the Council.

- **Consent and Joinder by North Oaks Home Owner's Association**
  - NOHOA "hereby consents to and joins in this Planned Development Agreement for the following and only the following purposes:
    (1) [T]erminating the 1972 Recreation Proposal;
    (2) [I]f any part of the East Oaks PUD Project is or becomes subject to NOHOA controls, consenting to the use of any such portion of the East Oaks PUD Project for open houses or events for the purposes of displaying residential units or subdivisions and their amenities; and
    (3) [C]onsent to and accept the provisions of[:]
      a. Article 12 [Park Dedication]
      b. Article 13 [Trails] and
      c. Sections:
        i. 2.4 [Home Owners' Associations and Restrictive Covenants]
        ii. 7.9 [Maintenance of Streets] [Note: this is hand-written in the version of the document I have and I do not know when or how it was added and if that was added before or after the other parties executed the document]
        iii. 19.1 [No Third Party Recourse or Rights]
        iv. 19.4 [Binding Agreement]

2. Exhibit B Documents

Exhibit B to the 1999 East Oaks PDA is comprised of five separate exhibits as follows:

- **B-1: Future Land Use Plan: Exhibit B-1** identifies the various Development Sites (A-L) and notes the future land use designations for all Development Sites (single family detached, mixed use, limited mixed residential, etc.) **Exhibit B-1** specifically references "645 future households" in the development area.
- **B-2: Conceptual Street & Access Plan: Exhibit B-2** shows proposed street configurations and access plans for the various Development Sites, although each Development Site is not shown on the exhibit itself.
- **B-3: Park & Open Space Plan: Exhibit B-3** shows the development areas, development area boundaries, as well as agricultural land, conservancy land, allowable building area within agricultural land, and active and passive private open space.

- **B-4: Trail Map: Exhibit B-4** shows existing NOHOA trails, Primary Trails, Restricted Trails, Trail Easement, a potential Deer Hills connection, and trail head parking.
- **B-5: Generalized Plan for Phasing and Timing of Developments: Exhibit B-5** is labeled "Generalized Plan for Phasing and Timing of Developments." It identifies and names the twelve (12) Development Sites within the Development Area and contains a column titled "Site Total" and a "Total of all Sites" of 645.

3. **Exhibit C Documents**

Exhibit C contains an Open Space Creation/Conveyance Schedule and includes **Exhibit C-1, Trail Conveyance Schedule** as well as **Exhibit C-2, Temporary Trail.**

4. **Exhibit D Documents**

Exhibit D contains a "Form of Development Contract for Development Sites" document. **Exhibit D** includes within its defined terms section a refence to a Preliminary Plan and a Final Development Plan. There is no specific reference in the Form Development Contract for Development Sites to any concept plan submissions or approvals.

5. **Exhibit E Documents**

Exhibit E includes three Open Space easements as follows: **Exhibit E-1: Conservancy Land, Exhibit E-2: Agricultural Land, Exhibit E-3: Agricultural Land Allowable Building Area. Exhibit E-1** incudes **Exhibit E1A** which depicts the Conservancy Boundary and also shows "Forest Management Roads and Walking Trails."

6. **Exhibit F Documents:**

Exhibit F includes **Exhibit F-1, Primary Trail Easement,** as well as **Exhibit F-2, Restricted Trail Easement**, along with **Exhibit F1A, Primary & Misc. Trails** (which is comprised of three separate sheets that include depictions of trails titled "Existing NOHOA Trail," "Primary Trail," and "Trail Easement" (use to be determined by NOHOA).

7. **Exhibit G Documents:**

Exhibit G is comprised of two letters from the DNR (G-1 and G-2), which are letters of support dated November 2, 1998, and January 12, 1999 for the concept of the PUD project.

8. **Declaration of Restrictions** (No Exhibit Number) Located after Exhibit G are the following Declaration of Restrictions, labeled in the Table of Contents as follows:

    a. **Exhibit H-**Declaration of Restrictions-Conservancy Land
    b. **Exhibit I-**Declaration of Restrictions-Agricultural Land
    c. **Exhibit J-**Declaration of Restrictions-Agricultural Land Allowable Building Area
    d. **Exhibit K-**Declaration of Restrictions-Primary Trails

e. **Exhibit L-**Declaration of Restrictions-Restricted Trails

9. Appendix 1: Findings and Development Guidelines

While the body of the Master Development Plan and Planned Unit Development Agreement contains a number of crucial provisions related to the development of the Subject Property, perhaps none are more crucial than the terms of the Development Guidelines found in Appendix 1. As noted in Section 2.3 of the 1999 East Oaks PDA in a section titled "Density," the Agreement states that "[t]he maximum density of each Development Site shall be in accord with the Future Land Use Plan attached hereto as Exhibit B-1 and the Development Guidelines. Development Site Development, overall density, density transfers, and use conversion **shall be determined solely by reference to this Planned Development Agreement, including the East Oaks Project Master Development Plan, and Table 1 of the Development Guidelines."**

Appendix 1 provides further development guidance for each of the individual Development Sites. Table 1 of Appendix 1, titled "Development Sites" contains a table of each of the Development Sites, along with the zoning for the site, planned number of dwelling units, and information regarding use types, density, and height limits. This includes language related to density increases for each site, such as "density increase of 30% allowed." There is no definition of a "density increase" in the 1999 PDA or the zoning ordinance, but a "density increase" is generally understood as the ability to transfer "unused" density from one site to another, provided all other zoning requirements for development on the site (such as setbacks) are met.

With respect to density, density transfers, and use conversion, Exhibit B-1 and Appendix 1 (Development Guidelines) are the portions of the 1999 East Oaks PDA which are identified as guiding these crucial components of development of the Subject Property. Appendix 1 includes a statement of purpose as well as findings sections (Sections 1 and 2) before turning in Section 3 to the land use regulations that apply to the subject property, namely the identification of four separate types of uses:

a. Residential Uses:
    1. RSL-PUD, Residential Conservancy Homes Lots
    2. RSM-PUD, Residential Detached Open Space Home Lots
    3. RMM-PUD, RMH-PUD, and RCM-PUD, Residential Detached and Attached Open Space Home Lots, including various types of multi-family dwellings
b. Commercial Uses:
    1. Identified as per City Zoning Ordinance, Section 7.10 for residential commercial mixed district (RCM), … as further limited in Table 1 of Section 5 hereof
c. Active and Passive Open Space (to be used only for five specified uses)
d. Protected Land (to be used only as permitted in the Open Space Easements and Trail Easements and the Conservation Easements)

Section 4 of Appendix 1 next establishes performance standards for each type of permitted development before establishing the types of permitted development on the Subject Property.

Section 5 starts by noting that **"[t]he Comprehensive Plan currently provides for a maximum of 645 dwelling units and the commercial development of 21 acres within the Subject Property."** Section 5 goes on to identify five types of Development within the Development Sites on the Subject Property identified as follows:

A. Single Family Detached. These Development Sites will consist entirely of Residential Conservancy Lots and Residential Detached Open Space Home Lots. Zoning: RSL-PUD, RSM-PUD.
B. Limited Mixed Residential. These Development Sites will include Residential Detached Open Space Lots and/or Residential Attached Open Space Home Lots. Zoning: RMM-PUD and RMH-PUD.
C. Mixed Residential. These Development Sites will include Residential Detached Open Space Lots and/or Residential Attached Open Space Home Lots including various types of multi-family dwellings. Zoning: RMH-PUD.
D. Limited Mixed Use. These Development Sites will include Residential Detached Open Space Lots and/or Residential Attached Open Space Home Lots including various types of multi-family dwellings and/or Commercial/Service uses other than food, liquor, gas or video sales. Zoning: RCM-PUD.
E. Mixed Use: These Development Sites will include Residential Detached Opens Space Lots and/or Residential Attached Open Space Home Lots including various types of multi-family dwellings and/or Commercial/Service uses. Zoning: RCM-PUD

Table 1 indicates the type of development, numbers and types of dwelling units, and other Development Site Performance Standards.

Table 1 found in Appendix 1 includes the identified Development Sites A-M, and includes the zoning classification, planned number of **dwelling units**, and use types, density and height limitations, including allowable density increase and maximum Floor Area Ratios. Following Table 1 is the following language related to the number of dwellings permitted, the number of commercial acres permitted, and the conversion of permitted uses.

Number of Dwellings Permitted: The number of **dwelling units** planned for each Development Site is shown in Table 1. Where the number of **approved dwelling units** in an individual Development Site varies from the number of dwelling units that is specified in Table 1, **the aggregate number of proposed dwelling units in remaining undeveloped Development Sites shall be adjusted by the same number.** Concurrent with each application for Development which includes such variation in number of dwelling units, the Developer shall provide the City with its best estimate as to the future allocation of remaining units to specific underdeveloped Development Sites.

Number of Commercial Acres Permitted. The number of commercial use acres permitted within the Development Sites is 21. These acres may be located in any or all of the Development Sites with a Zoning Designation of RCM-PUD.

Conversion of Permitted Uses: The limits of 645 dwelling units and 21 commercial use acres may be varied as follows:

a. Should the Developer elect to forego Development of some or all of the 21 commercial acres, the number of permitted dwelling units within the Development Sites will be increased at the rate of **5 dwelling units for each full acre of commercial Development forgone.**
b. Should the Developer elect to forego Development of the full 645 dwelling units, the number of permitted acres for commercial Development within the Mixed Use Development Sites will be increased at the rate of one acre of commercial use for each 5 dwelling units foregone, except that if the increased use is office then 2.5 dwelling units shall be foregone for each additional acre of office use.

10. Ordinance 93: Subdivision Ordinance

Immediately following Appendix 1 is a copy of Ordinance 93, the title of which is the "Subdivision Ordinance." While dated for signature in 1998, the Ordinance appears to have been adopted on February 11, 1999, along with the approval of the PDA. Ordinance 93 repealed several previously-existing ordinances. The stated purpose of Ordinance 93 is to "implement the Comprehensive Plan as adopted by the City Council and to effect the purposes set forth in Minnesota Statutes, Section 462.351." Included in the salient definitional terms found in Ordinance 93 are the following:

- **Dwelling Unit:** One (1) or more rooms connected together, constituting a separate, independent housekeeping unit for owner occupancy, rental or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or Dwelling Units which may be in the same Structure, and containing independent cooking, sleeping and sanitation facilities.
- **Useable Area:** The area of a Lot, **excluding all required Setbacks, Easements**, and Wetlands, where the topographic and soil conditions and configuration are suitable for each of the following in some section of the area: construction of a Dwelling, future additions, Accessory Structure, well site, two Individual Sewage Treatment System areas (for an unsewered Lot), yard, driveways and required parking areas. During the Subdivision process only, when calculating the Usable Area of a proposed Lot, the Subdivider may include any trail Easement area of over 2,000 square feet per Lot and may be given partial credit for other Easements where there is area available for normal residential Use as defined for Usable Area.

Ordinance 93 establishes a two-stage process for obtaining approval of a Plat for a Major Subdivision, namely submission of a Preliminary Plan with a review and approval process by the Planning Commission and Council; following approval of the Preliminary Plan, the subdivider may file a Plat with the City, which the Council may submit to the Planning Commission for review, and which ultimately must be acted upon by the City Council. **Nowhere within Ordinance 93 is there a specific requirement for submission of a "Concept Plan," and**

likewise there is no requirement for review and/or approval of a Concept Plan prior to submission of a Preliminary Plan.

11. Ordinance 94: Zoning Ordinance.

Simultaneously with the adoption of Ordinance 93 on February 11, 1999, the City Council adopted Ordinance 94, the title of which is "Zoning Ordinance," the purpose and intent of the which was to "divide the City into Use Districts and establish regulations in regard to location, erection, construction, reconstruction, alteration, and Use of Structures and Land" and to, among several purposes, "protect such Use Districts[,] to promote orderly Development and redevelopment." Ordinance 94 repealed a number of existing ordinances, and includes the following relevant definitions:

- **Dwelling Unit:** One (1) or more rooms connected together, constituting a separate, independent, housekeeping unit for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or Dwelling Units which may be in the same Structure, and containing independent cooking, sleeping and sanitation facilities.
- **Floor Area Ration (FAR):** The ratio of Total Floor Area to Gross Lot Area, excluding two-thirds (2/3) of any DNR and/or VLAWMO designated Wetland areas except that the determination of the FAR for Lots lawfully existing on July 1, 1996 shall exclude two thirds (2/3) of only DNR designated Wetlands.
- **Gross Lot Area:** Total area of a Platted Lot excluding Road Easement(s).
- **Lot Area:** The area of a horizontal plan within the Lot Lines.
- **Plat:** A map, plan or layout of a city, town, section or Subdivision indicating the locations and boundaries, Streets, Roads and Easements of individual properties and includes Registered Land Surveys. The Plat shall be in the form [] capable of being filed with the Registrar of Titles of Ramsey County as a Registered Land Survey (RLS) showing the Subdivided parcel's boundaries and Lot or tract boundaries.
- **Usable Area:** The area of a Lot, **excluding all required Setbacks, Easements, and Wetlands** where the topographic and soil conditions and configuration are suitable for each of the following in some section of the area: construction of a Dwelling Unit, future additions, Accessory Structures … . During the Subdivision process only, when calculating the Usable Area of a proposed Lot, the Subdivider may include any trail Easement area of over 2,000 square feet per Lot and may be given partial credit for other Easements where there is area available for normal residential Use as defined for Usable Area.

Section 7.12 of Ordinance 94 establishes the PUD – Planned Unit Development District, including requirements for a PUD Master Development Plan and a Planned Development Agreement, the terms of which "shall be binding on the City and the Owner/applicant and their successors and assigns to the extent and for the duration provided in the Planned Development Agreement. Section

7.12.2.B establishes the process for application for final development plans for phases in a PUD, and states that "[a]pproval of the Final Development Plans for Phases shall be subject to procedures in the Subdivision Ordinance, and as agreed to in the PDA." Subpart 7.12.2.B.1 contains the following relevant language regarding concept plans: "In order to receive guidance on the design of a PUD phase prior to submission of an application for Final Development Plan approval for a Phase, an Applicant **may** submit a Concept Plan for review and comment by the Planning Commission and City Council. **Submission of a Concept Plan is optional for a phase."** Ordinance 94 further notes that "[c]omments by the Planning Commission and the City Council shall be for guidance only and, shall not be considered binding upon the Planning Commission, City Council, or Applicant regarding the approval of the Final Development Plans for a Phase." Subpart 7.12.2.B.2 further provides that "[f]or all Development within a PUD or Phase of a PUD, a Preliminary Plan must be submitted to the City for review by the Planning Commission and approval of the City Council. … The Applicant shall provide proof that the Preliminary Plan and Site Plan (if required) are consistent with the approved Master Development Plan and agreed upon PDA." Section 2(c) states "[i]n considering the Preliminary Plan and Site Plan the Council shall consider the following: Consistency with the approved Master Development Plan and agreed upon PDA; impacts on existing and anticipated traffic; parking; pedestrian and vehicular movements; ingress and egress; Building locations, height and size; architectural and engineering features; Landscaping; lighting; provisions for utilities; site grading and drainage; Green Space … and other related matters." Finally, the section notes that "[p]rocedures for Amendments to the PUD Master Development Plan or Final Development Plans for phases shall be set forth in the PDA." Area requirements including gross density, FAR, and Lot Coverage are established within each of the various PUD Districts. Note that while Ordinance 94 does not contain a requirement for submission of a Concept Plan as part the development process for PUD phases, Ordinance 129, adopted on May 9, 2019, does required the submission of a Concept Plan prior to application of a plan for final development of a phase in a PUD.

12. West Black Lake Development Agreement Amendment.

The final two documents contained within the 1999 PDA are an Amendment to the previously executed Development Agreement for West Black Lake along with an Amendment to Wilkinson Lake Control Structure Agreement and a Right of First Refusal. In the early 1990's, the City approved Phases I, II, and III of the West Black Lake Development, which was proposed as a five-phase development.[3] In conjunction with the execution of the PDA, those areas designated as Phases 4 and 5 were removed from the coverage of that agreement.[4]

13. 1998 EAW for the East Oaks Planned Unit Development.

In 1998, the City, as the Responsible Governmental Unit (RGU), completed an EAW for the East Oaks Development, as required by Minn. R. P. 4410.4300, subd. 19(D)(An EAW is required for "250 unattached units or 375 attached units in a city within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan. …") The EAW found that there was no need for an EIS, and a negative declaration was issued. Once a negative declaration is issued, a new EAW is required only if, "after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a substantial change has been made in the proposed project or has occurred in the project's circumstances, which change may affect the potential for significant adverse environmental effects that were not

addressed in the existing EAW." The City of North Oaks is the RGU for the East Oaks Development.

The EAW describes the project as "a multiple-phased development … to provide 645 residential units and approximately 109,770[5] square feet of commercial development distributed among 12 Development Sites that encompass 780 acres [and] [t]he entire project area encompasses about 1,666 acres." The EAW further states "[f]uture market conditions will dictate the types of homes constructed, but the number of residential units will not exceed 645. … **Concept Plans discussed in this EAW may be subject to revisions involving the types of residential units, the specific locations of buildings, and the distribution of commercial development among Development Sites E, G, and H."** The EAW includes a table identifying the various Development Sites, size (acreage), zoning, proposed residential units. The EAW identifies and lists the physical impacts on Water Resources, including wetland impacts anticipated for each Development Site. It is further noted that "[r]oadways will need to be constructed within each Development Site to provide access to the developments. The effects of these improvements are described throughout this EAW as integral parts of the Development Sites that they will serve. **There are no known infrastructure improvements proposed on lands immediately adjacent to the project area that would exceed environmental review thresholds.**" The EAW further notes that "**[s]ignificant adverse environmental effects are not expected to result from the cumulative effect of development within the City of North Oaks. The preservation and management of 886 acres of Protected Land proposed as part of the East Oaks Planned Unit Development is expected to maintain a relatively rich natural resource base in the project area."** Finally, Exhibit 3 of the EAW titled Environmental Assessment Worksheet: Open Space, Parks, and Trails shows potential trails, proposed trails, and existing trails, and notes that "Final Trail and rec. area locations to be determined at the time of development. This map represents general locations."

14. Amendments to the 1999 East Oaks PDA.

Since its adoption, the 1999 PDA has been amended seven times. A summary of those amendments is provided below.

a. First Amendment to the PDA:

- **i.** Effective date: June 14, 2001
- **ii.** Type of Amendment: Minor
- **iii.** Parties to Amendment: City and North Oaks Company
- **iv.** Substance of Amendment: Extended the time period for the Developer to deliver evidence of title to August 1, 2002.

b. **Second Amendment to the PDA:**

- **i.** Effective Date: July 11, 2001
- **ii.** Type of Amendment: Minor
- **iii.** Parties to Amendment: City and North Oaks Company
- **iv.** Substance of Amendment: Table 1 of Appendix 1 of the Agreement is amended by adding a new sentence to the end of the most right-hand column for Use Types, Density and Height Limitations for Site L as follows: "Floor

Area Ratio to be calculated in the aggregate, except, no single dwelling unit shall exceed 6,000 square feet in size."

c. **Third Amendment to the PDA:**
   - **i.** Effective Date: July 11, 2001
   - **ii.** Type of Amendment: Minor
   - **iii.** Parties to Amendment: City and North Oaks Company
   - **iv.** Substance of Amendment: Extended time period for the Developer to deliver evidence of title to February 1, 2003.

d. **Fourth Amendment to the PDA:**
   - **i.** Effective Date: March 25, 2003
   - **ii.** Type of Amendment: Major
   - **iii.** Parties to Amendment: City and North Oaks Company
   - **iv.** Substance of Amendment: Appendix 1 of the Agreement is "amended consistent with the blacklined version of Appendix I to the Agreement dated January 31, 2002, as amended by the Council of the City of North Oaks on February 14, 2002. A clean copy of Appendix 1 of the Agreement consistent with the blacklined changes shown in Exhibit "A" shall be substituted for the existing Appendix 1 to the Agreement."
     1. Specific Changes to Appendix 1 included the following:
        a. Section 3-Land Use Regulations: Added RCM-PUD, Senior Residential Attached Dwellings as an allowable residential use within the Development Sites of the Subject Property.
        b. Section 4(A)-Performance Standards: Added subpart 4, performance standards for RCM-PUD: Senior Residential Attached. Performance standards include minimum setbacks, and area restrictions including a site area requirement of 8 acres, FAR of .72, and building lot coverages of .28.
        c. Section 4(B): Retail, Services, and Offices: Amended to add language related to setbacks for certain buildings on Site E-1 from the northern boundary of Site E-2
        d. Table 1: Development Sites
           i. Divided Site E into two sites, E-1 and E-2.
           ii. Site E-2 is zoned RCM-PUD, with a planned number of Dwelling Units of 150, and uses, types, and density standards. It is noted that there is no density increase for site E-2.

iii. Number of Dwellings Permitted: Amended to add language related to density allowances in remaining undeveloped sites and it is noted that "[p]ermitted density increase percentages shall be applied before any permitted conversion or transfer of units."

iv. **Number of Commercial Acres Permitted:** The number of permitted commercial acres **decreased from 21 acres to 13 acres.**

v. **Conversion of Permitted Uses:** Language is updated to read as follows: "The limits of 645 dwelling **units plus 150 dwelling units of senior attached residential housing and 13 commercial use acres** may be varied as follows." The remaining language references 13 commercial acres instead of 21 and adds language exempting out the 150 senior attached residential housing units from the allowed residential-to commercial conversion formula.

e. **Fifth Amendment to the PDA:**

i. Effective Date: May 8, 2003.

ii. Type of Amendment: Major

iii. Parties to Amendment: City and North Oaks Company

iv. Substance of Amendment: Appendix 1 of the Agreement is "amended consistent with the blacklined version of Appendix I to the Agreement which was approved by the Council of the City of North Oaks on May 8, 2003, a true and correct copy of which is attached as Exhibit "A". A clean copy of Appendix 1 of the Agreement consistent with the blacklined changes shown in Exhibit "A" shall be substituted for the existing Appendix 1 to the Agreement."

1. Specific Changes to Appendix 1 included the following: Amendment to language regarding uses, types, density, and height limits for Site E-1, specifically to allow a restaurant and a wellness center/care center as a conditional use. Various setbacks were also revised.

f. **Sixth Amendment to the PDA:**

i. Effective Date: October 13, 2005.

ii. Type of Amendment: Major

iii. Parties to Amendment: City and North Oaks Company

iv. Substance of Amendment: Appendix 1 of the Agreement is "amended consistent with the blacklined version of Appendix I to the Agreement which was approved by the Council of the City of North Oaks on October 13, 2005, a true and correct copy of which is attached as Exhibit "A". A clean copy of Appendix 1 of the Agreement consistent with the blacklined changes shown in Exhibit "A" shall be substituted for the existing Appendix 1 to the Agreement."

1. Specific Changes to Appendix 1 are unknown, as no blacklined version is included with the amendment. It is unknown what if any changes were made to Appendix 1, which appears to match Appendix 1 with the approved changes from the Fifth Amendment.

g. **Seventh Amendment to the PDA:**

i. Effective Date: June 10, 2010

ii. Type of Amendment: Major

iii. Parties to Amendment: City and North Oaks Company

The Seventh Amendment made substantial revisions to the 1999 East Oaks PDA. Referencing 2007 approvals for the site plans for the Mews and Phase 2-North Addition as modifications to site plans previously approved in 2003, which approvals were made subject to the amendment of the PDA, and also referencing the 2009 Decennial Review, the City and the Developer approved the following revisions to the 1999 PDA which were deemed to constitute a Major Amendment:

1. Added definitions for "City Ordinances" and "Pool Ordinances."
2. Amended the definitions of "Shoreland Ordinance," "Subdivision Ordinance," and "Zoning Ordinance" to mean Ordinance 153, 152, and 151 respectively, **and "any and all amendments or revisions thereto or replacements thereof."**
3. Amended the definition of "Planned Development Agreement" to read "Planned Development Agreement means this Planned Unit Development Agreement between the City and Developer, consented to and joined by NOHOA, and all Exhibits and Appendix 1 attached to or referenced herein and any and all amendments to any of the foregoing."
4. Amended the definition of "PUD Controls" to includes the pool ordinance, comprehensive plan, and concept plan, and amended Section 5.4 related to inconsistencies among PUD Controls.
5. Adopted an amended version of Appendix 1 dated June 22, 2010, which included the following significant changes:
   A. Revised the permitted Commercial Uses to reference City Ordinance Section 151.054.
   B. Revised Section 4: Performance Standards to list "District Standards" which all development in the Subject Property is required to meet, as applicable according to the zoning designation for the area being developed.
   C. Revised setback requirements for driveways, parking, and swimming pools.

D. Revised how maximum building height is calculated.
E. Amended Section 4 to remove the reference to RCM-PUD Senior Residential Attached, and divided the RCM-PUD into two sections, one for Sites E-1 and E-2 and a second section for Site E-3.
    i. Under the section addressing Sites E-1 and E-2, added language that for Site and Building Plan review now references City Ordinance Section 151.054(L).
    ii. Adds letter (f) which reads "All permitted, conditional, and accessory uses pursuant to Section 151.054 of the City Ordinance."
F. Added a new section referencing Site E-3 which included the following:
    i. Added minimum setbacks and maximum building height restrictions, as well as minimum parking requirements
    ii. Revised language that read "Site Area 8 acres" to read "Site Area Restriction: 15.27 acres"
G. Added a new section regarding the designation of a single setback line in final plans.
H. Amended language under Section 5, types of development to change the reference to permitted dwelling units and commercial development acreage within the Subject Property, reducing the maximum number of dwelling units from 795 to 645 and increasing the total allowed commercial development from 13 acres to 21 acres.
I. Amended Table 1, Development Sites as follows:
    i. Reduced the planned number of dwelling units in Site E-1 from 110 to 45.
    ii. Added language regarding the calculation for Floor Area Ratio, noting it will be calculated in the aggregate and that no single dwelling shall exceed 6,000 square feet in size.
    iii. Added in a new category titled "Senior Housing Sites" which lists Site E-2 (which was formerly located under the residential sites section of the development sites table) and lists the Planned Number of dwelling units for that site as 65, with a density increase of 50% allowed. References "All permitted, conditional and accessory uses pursuant to City Code section 151.054" under the uses section and includes various setback-related references.
    iv. Added a new category titled "Commercial" which lists Site E-3. Under Acreage, states "n/a: buildings to consist of varying unit count. Senior residential unit count must be contained within stated allowable square footage." Under the uses, types, density, and height limits section, adds significant language including a refence to "senior residential comprising approximately 450,000 square feet in connected buildings, consisting of independent living, assisted living, and skilled nursing." Notes that there is

no density increase. Provides for a variety of different setbacks, and modifies the setback from the OHWL for Wilkinson Lake.

v. **Specifically notes that "total dwelling units and allowed density increase for sites E-1 and E-2 combined is 110 dwelling units with a 50% density increase. Units can be allocated between sites E-1 and E-2 in any manner so long as the total does not exceed the total allowed.**

vi. Amends the total number of commercial use acres from 13 to 21, commercial use areas are allowed in any of the development sites zoned RCM-PUD (which are Sites E-1, E-2, G, and H).

vii. Updates the references to the total dwelling units to reflect the 645 maximum dwelling unit number and 21 commercial acreage references.

J. Exhibit B-1: Consists of an updated Future Land Use Map with updated housing counts

K. Exhibit B-1.1: Identifies the property which comprises Site E-1.

L. Exhibit B-1.2: Identifies the property which comprises Site E-2.

M. Exhibit B-1.3: Identifies the property which comprises Site E-3 and state on the bottom of the exhibit "Total Developed Commercial Acreage = 15.27 Acres."

N. Exhibit B-5.1: Lists updated dwelling unit counts for each site

6. Amended **Exhibit B-1.1** to be added in the form of the document attached as Exhibit C-2 hereto, to show further detail of Site E-1 from that shown on Exhibit B-1.
7. Added a new **Exhibit B-1.2 t**o be added in the form of the document attached as Exhibit C-3 to further show the detail of Site E-2 from that shown on Exhibit B-1.
8. Added a new **Exhibit B-1.3** in the form of the document attached as Exhibit C-4 to further show the detail of Site E-3 from that shown on Exhibit B-1.
   A. **Note: On the bottom of this exhibit, which shows Site E-3, are the words "Total Developed Commercial Acreage = 15.27 Acres."**
9. Added a new **Exhibit B-5.1** in the form of the document attached as Exhibit, "to supplement Exhibit B-5 of the agreement **and to reflect the current status of and plan for Development."** The Parties further agree that **"further supplements to Exhibit B-5 shall be appended to the Agreement from time to time as Development occurs."**
   A. **Exhibit B-5.1** lists the PDA designated dwelling units, lists the actual units constructed from 1999-2006 and again from 2007-2009, shows proposed development units in five-year increments from 2010-2048, shows proposed density shifts, and lists permitted density increases. Lists 21 acres of allowed commercial acreage and states that 15.27 actual acres have been developed. Does not specifically list Site E-3 in the development table.

15. Analysis of Questions Raised at or in Conjunction with the Decennial Review

Per the 1999 PDA, a decennial review shall be conducted in order for the City and the Developer

to meet and discuss matters related to the PDA. In the summer of 2019, that decennial review was completed. During that process, several questions were raised regarding the status of the 1999 PDA and development of the Subject Property. Listed below are the identified questions and areas of concern raised during this decennial review process.

a. **Was there a mutual mistake of fact related to the calculation of developed commercial acreage for Site E-3 which resulted in the inclusion of references to 15.27 acres of commercial development on Site E-3?**

The PDA is a Contract between the City and the Developer, portions of which are consented to and joined by the NOHOA. A "contract" is "an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law."[6] "A contract is formed when two or more parties exchange bargained-for promises, manifest mutual assent to the exchange, and support their promises with consideration."[7] "There is a presumption of validity of contracts under Minnesota law and its courts are generally reluctant to invalidate contracts on the grounds of indefiniteness, especially when both parties have completed extensive performance."[8] "A valid contract "requires a meeting of the minds concerning its essential elements. The parties must agree with reasonable certainty about the same thing and on the same terms."[9]

The Minnesota Practice Series provides the following analysis regarding the formation of a contract:

> Minnesota courts utilize an objective standard to evaluate evidence of the manifestation of mutual assent. For example, where one party leads another to assume (reasonably) that he assents to the terms of an offer by words, conduct, or both, there is an objective manifestation of assent, despite the first party's subjective intent. A valid contract "requires a meeting of the minds concerning its essential elements." The parties must agree with reasonable certainty about the same thing and on the same terms. If an alleged contract is so uncertain as to any of its essential terms that it cannot be carried into effect without new and additional stipulations between the parties, it is not a valid agreement. Contracts must be certain in terms, and not so indefinite and illusory as to make it impossible to say just what is promised. At trial, the standard is not what a party meant subjectively, but what the words and actions exchanged would lead a reasonable person to assume. As explained by the Minnesota Supreme Court:
>
>> The requisite mutual assent for the formation of a contract … does not require a subjective mutual intent to agree on the same thing in the same sense, but may be based on objective manifestations whereby one party by his words or by his conduct, or by both, leads the other party reasonably to assume that he assents to and accepts the terms of the other's offer.
>
> When deciding disputes in contract formation, the surrounding facts and circumstances of the transaction in its entirety may be considered in addition to the words used.[10]

A valid contract requires consideration, which the Minnesota Practice Series discusses as follows:

> A contract must be supported by "consideration," which is something of value given in return for a performance or a bargained for promise of performance. Lacking consideration, a valid contract is not formed. Consideration requires the voluntary assumption of an obligation by one party on the condition of an act or forbearance by the other. Consideration may consist of either a benefit accruing to a party or a detriment suffered by another party, and need not pass directly from the promisee to the promisor to be valid. Functionally, consideration is what distinguishes a contract from a gift because only a promise supported by consideration constitutes a contract. Procedurally, where no consideration is evident in an agreement, the party charging its sufficiency bears the burden of proving the sufficiency of consideration.
>
> Consideration must be the result of a bargain," and generally, any performance that is bargained for is consideration. As the Minnesota Supreme Court explained in Baehr v. Penn-O-Tex Oil Corp.:
>
>> "[B]argain" does not mean an exchange of things of equivalent, or any, value. It means a negotiation resulting in the voluntary assumption of an obligation by one party upon condition of an act or forbearance by the other. Consideration thus insures that the promise enforced as a contract is not accidental, casual, or gratuitous, but has been uttered intentionally as the result of some deliberation, manifested by reciprocal bargaining or negotiation.[11]
>
> Minnesota law "follows the long-standing contract principle that a court will not examine the adequacy of consideration as long as something of value has passed between the parties." "The amount of consideration is irrelevant so long as some benefit or detriment is proved." Where a contract is supported by valuable consideration, such as a detriment incurred in exchange for a promise, a right of one party to terminate it at will does not render it invalid for lack of mutuality of consideration. The Minnesota Supreme Court has explained that "[t]he concept of mutuality has been widely discredited … and it is now generally recognized that the obligations of the parties need not be substantially equal for there to be a binding contract."[12]

During discussion at the August 21st continued Decennial Review meeting, questions were raised regarding a potential mutual mistake of fact in calculating the developed commercial acreage on Site E-3.

> A "mutual mistake" consists of a clear showing of a misunderstanding, reciprocal and common to both parties, with respect to at least some substantial part of the terms and subject matter of a contract." … A "material mistake of fact" is one that goes to the very nature of the transaction or purchase. In contrast, "[a] mistake

> relating merely to the attributes, quality, or value of the subject of a sale does not warrant a rescission. Neither does a mistake respecting something which was a matter of inducement to the making of the contract, where the means of information were open alike to both parties, and each was equally innocent, and there was no concealment of facts and no imposition." [13]
>
> "A party seeking reformation of a contract on the ground of mutual mistake bears a heavy burden." "Proof of the parties' actual intent is fundamental to a claim for reformation." Reformation of a contract contemplates altering or amending its terms "to reflect the true intent of the parties at the time of its inception." For reformation of a contract, the "contract is modified to reflect the parties' true intent"; whereas under rescission, "the entire contract is voidable." As to the elements required to establish a prima facie case of reformation, "[a] party seeking reformation must prove that: '(1) there was a valid agreement between the parties expressing their real intentions; (2) the written instrument failed to express the real intentions of the parties; and (3) this failure was due to a mutual mistake of the parties, or a unilateral mistake accompanied by fraud or inequitable conduct by the other party.'"
>
> A written instrument can be reformed by a court if the following elements are proved: (1) there was a valid agreement between the parties expressing their real intentions; (2) the written instrument failed to express the real intentions of the parties; and (3) this failure was due to a mutual mistake of the parties, or a unilateral mistake accompanied by fraud or inequitable conduct by the other party. These facts must be established by evidence which is clear and consistent, unequivocal and convincing. …. Furthermore, "[w]hen both parties acted in good faith and neither misled the other, but nevertheless each party was mistaken and thought he was making a different contract from what the other party supposed he was making, reformation is not an appropriate remedy." "Absent ambiguity, fraud or misrepresentation, a mistake of one of the parties alone as to the subject matter of the contract is not a ground for reformation." [14]

Following that discussion, the North Oaks Company submitted a letter to the City dated October 30, 2019, which advised the City that it did not view the commercial acreage calculation found in the 7th Amendment to constitute a mutual mistake of fact, and that rather it was a bargained-for term of the Agreement.[15] A unilateral mistake may also justify rescission of a contract in certain circumstances:

> The Eighth Circuit has summarized Minnesota's law regarding unilateral mistake by noting that, under Minnesota law, rescission of a contract for mistake is ordinarily founded on either mutual mistake or a "mistake by one [party] induced or contributed to by the other." Generally, a party cannot avoid a contract based on a unilateral mistake "unless there is ambiguity, fraud, or misrepresentation." Even when there is no ambiguity, fraud, or misrepresentation, relief from a unilateral mistake is available where enforcement is an "oppressive burden" and rescission would impose no substantial hardship on the other

party. However, a party may not escape contract liability based on unilateral mistake when "the party bears the risk of that mistake." "A party bears the risk of mistake if it is aware, at the time of contracting, that it has limited knowledge of facts to which the mistake relates, but treats that knowledge as sufficient." A court may also allocate risk to a party where reasonable.

If only one party makes a mistake, "the contract is still voidable, provided the mistaken party does not bear the risk of mistake and 'the effect of the mistake is such that enforcement of the contract would be unconscionable or the other party had reason to know of the mistake.'" "A party bears the risk of mistake when the risk is allocated to him by the agreement, by the court on the ground that it is reasonable to do so, or if 'he is aware, at the time the contract is made, that he has only limited knowledge with respect to the facts to which the mistake relates but treats his limited knowledge as sufficient.'" Courts "examine[] evidence of mistake with particular care and only reluctantly allows a party to avoid a contract on the ground of mistake."

Applying the principles contained in the *Restatement*, if, at the inception of the contract one party is mistaken as to a basic assumption on which she entered into the contract and the mistake has a materially adverse effect on the agreed exchange of performances, the contract is voidable by her so long as she can prove that:
1. She does not bear the risk of the mistake and the effect of the mistake is such that enforcement of the contract would be unconscionable; or

2. The other party had reason to know of the mistake or the other party's fault caused the mistake.

Reliance by one party may make enforcement of a contract proper, even though requiring compliance would otherwise be unconscionable. If the mistake is discovered and the other party notified before he has relied on the contract, the mistaken party may avoid the contract because the other party is only deprived of the expectation of the "benefit of the bargain." If, however, the other party has relied on the contract in some substantial way, avoidance may produce adverse reliance. In such a case, enforcement of the contract would not be unconscionable. Nevertheless, if the court can adequately protect the party by compensating him for his reliance under the rules of the *Restatement*(§ 158, "Relief Including Restitution"), the court need not order enforcement. According to the Minnesota Supreme Court:

> [I]f the contract as written, is the result of mistake so fundamental that the minds of the parties have never met, or if an unconscionable advantage has been gained by mistake or misapprehension of the party defendant, and the parties can be restored to their original status, a court administering equity will not enforce the contract.

If the other party had reason to know of the mistake, the mistaken party can avoid

the contract regardless of whether its enforcement would be unconscionable.[16]

Limited historical background information related to the preparation and approval of the 7th Amendment to the PDA has been received and reviewed. Documents reviewed as part of this review process include the following:

1. Memo to City from North Oaks Company, dated October 10, 2007
2. Memo from City Administrator to Planning Commission, dated May 24, 2010
3. Minutes of several council meetings in 2007 and 2010

Negotiations between the City and the Developer regarding the 7th Amendment to the PDA began in 2007 and culminated with the 2010 execution of the 7th Amendment to the PDA. Based on the limited City records available regarding the execution of the 7th Amendment, it appears that it was approved by the City and Developer following a significant period of discussion/negotiation.[17] Information regarding the content, scope, or deliberative process employed as part of those negotiations was not provided for review as part of the PDA review process. A review of the limited information provided does not offer any specific information regarding how the commercial acreage calculation of 15.27 acres was made or agreed upon by the City.

It appears that discussions occurred between representatives of the City and the Developer that resulted in the preparation of the 7th Amendment which included, among a number of substantial changes, a recognition by the City of 15.27 acres of existing commercial development on Site E-3. As noted above, Council minutes from November 8, 2007, state that "[t]he City attorney and the attorney for North Oaks Company are working on some items. Tom Dougherty, North Oaks Company president, explained the seven proposed amendment changes that are being formalized as a result of the April 12 Council meeting."[18] At the December 13, 2007 Council Meeting, the minutes reflect that a summary of the latest draft of the 7th Amendment to the PDA was provided to the Council, and that the "council has concerns over several of the items under consideration."[19] A motion was made and unanimously adopted to "table the discussion of the 7th Amendment to the PDA to a future meeting to be agreed upon."[20]

Over three years later, the Minutes of the June 10, 2010 council meeting reflect that then-City Administrator Melinda Coleman "presented the North Oaks Company application for approval of the proposed Seventh Amendment to the Planned Unit Development Agreement and Accompanying Exhibits (A-D) [which] include seven areas of proposed change."[21] The Council unanimously approved "application 10-04, the Seventh Amendment to Planned Unit Development for the East Oaks Project" with two listed conditions. Based on the very limited available information regarding that negotiation and revision process, there is no information in the record reviewed to date which would provide any concrete insight into how the developed commercial acreage for Site E-3 was calculated or what information the City had or did not have regarding the actual acreage of Site E-3 and the approved commercial acreage.

b. Possible Acreage Calculations for Site E-3, Waverly Gardens

Site E-3 is credited with containing 15.27 acres of commercial development per the 7th Amendment

to the PDA. This 15.27-acre figure is found in the 7th Amendment in at least two places, namely on Exhibit B.1-3 and in Appendix 1, on p. 6 of 11. Questions have been raised regarding this figure based on the fact that the GIS records for Ramsey County[22] show a total acreage for the four separate parcels (tracts) which comprise Site E-3 which are identified as follows with the following acreages:

i.	043022210010	Acres: 3.13
ii.	043022210019	Acres: 7.6
iii.	043022210008	Acres: 0.58
iv.	043022210011	Acres: 4.98

Total Acreage per Ramsey County GIS: 16.29 acres

It is unknown at this time how the Ramsey County acreage is calculated. It is assumed, for purpose of this discussion, as being calculated off the full acreage of the combination of the various RLS tracts that comprise Site E-3. Additionally, it is worthwhile to note that when looking at Exhibits B.1-1, B.1-2, and B.1-3, only exhibit B.1-3 shows the site itself (in this case Site E-3) not extending into Centerville Road (in other words, not showing the full extent of the property which comprises Site E-3 by apparently failing to show the area of the property which is encumbered by a right-of-way easement, while the other exhibits show Sites E-2 and E-1 extend into Centerville Road.) Additionally, Exhibit B.1-3 is the only exhibit that shows an acreage for the site.

As noted above, a portion of Site E-3 is encumbered with a road easement for the benefit of Ramsey County. Per RLS 586, that easement is 60 feet wide over a portion of Tracts A, E, and D. In its August 16, 2019 letter, the North Oaks Company asserts that "The 15.27 acres [of attributed commercial development for Site E-3] 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 portion of Tract D and Tract E that underlie Centerville Road are not included on Exhibit C-4 as they are not [sic] subject to easement for public use and are 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 area."[23]

No specific calculation is shown on the RLS of the easement area, but it is shown as a 60-foot-wide easement, the total length of which is shown on Tracts E and D (Tract A is a part of Site E-1) and appears to be somewhere between approximately 700 and 750 feet long (the length of the various segments shown on the RLS is unclear. Review of a more legible copy of the survey might assist with determining with specificity the length of the easement). Taking the length times the width of the easement area on tracts E and D (700 x 60 or 750 x 60) results in a total square footage for the easement area of 42,000 to 45,000 square feet, or 0.964 to 1.033 acres. If the Ramsey County GIS calculations are correct, and the actual acreage of Site E-3 is 16.29 acres, 16.29-0.964=15.326, and 16.29-1.033=15.257. It appears that the total commercial acreage attributed to Site E-3 may be the result of taking the total acreage of the real property that comprises Site E-3 and reducing that total acreage by the amount of property encumbered by the road easement. This result may have stemmed from the definitions found in Ordinance 93 and Ordinance 94 (now Chapters 151 and 152 of the City Code) which define the "usable area" of a lot as "the area of a lot, excluding all required setbacks, easements, and wetlands, where the topographic and soil

conditions and configuration are suitable for each of the following in some section of the area: construction of a dwelling unit, future additions, accessory structures, well site, 2 individual sewage treatment system areas (for an unsewered lot), yard, driveways, and required parking areas," and "gross lot area" of a site which is defined as the "[t]otal area of a platted lot excluding road easement(s)."[24] While no specific information was found to support a claim that the total acreage of the site as established in the 7th Amendment may have been reduced by the area on Site E-3 that was encumbered by the easement for Centerville Road, it is possible that that accounts for the discrepancy between the site acreage as listed in the Seventh Amendment and as shown on Ramsey County GIS records.

Additionally, a review of the approved site plan and preliminary plan sheets for The Gardens of North Oaks, dated April 25, 2002, reviewed 6-04-02, shows the following area calculation for Area E (which, as shown is comprised of Tracts C and B, identified as Sheet 3 of 7, reflects the following acreage for what will eventually become Site E-3:

a.	Tract B	Acres: 7.31
b.	Tract C	Acres: 8.0

Total Acres per Approved Site Plan: 15.31

Finally, it is worthwhile to note that any impact on future density transfers as a result of the development on Site E-3 is not specifically addressed in the 7th Amendment to the PDA.

c. Is the City bound by the 7th Amendment to the PDA?

Unless a condition exists that would make the 7th Amendment void or voidable, or terms of the PDA are further revised by mutual agreement of the parties, the City is bound by the terms of the 7th Amendment to the PDA, including the unit counts and attributed commercial acreage amount.

d. Can the terms of the PDA be revised by the parties?

The PDA can be amended at any time, in writing, by mutual agreement of the parties.

e. Must the PDA be amended?

Per Section 13 of the 7th Amendment to the PDA, it is contemplated that the PDA will be amended, specifically Exhibits B-5 and B-5.1to reflect current housing counts. The PDA was last amended in 2010, prior to the development of Rapp Farms. It is recommended that Exhibits B.1.5 of the PDA be amended to reflect the current dwelling unit counts in preparation for future development of the remaining development sites in the City.

f. Is NOHOA bound by the terms of the 7th Amendment to the PDA?

No. NOHOA is not a signatory to any of the seven amendments to the PDA. Therefore, NOHOA has not technically consented to any of the amendments to the PDA. That said, no specific analysis has been completed with respect to what practical impact the lack of NOHOA's consent to the various amendments to the PDA has on the future development of the remainder of the Subject

Property.

g. Can the City deny future development applications for the East Oaks property that are not in conformity with the PDA as amended?

Yes. The City retains the legal ability to deny applications that are not in conformity with the requirements of the PDA, including development density maximums.

h. Do the 235 dwelling units on the Waverly Gardens site (Site E-3) count against the 645 dwelling unit maximum for the East Oaks Development?

It appears that, per the 7th Amendment to the PDA, only the commercial acreage was attributed to the development on Site E-3, and none of the dwelling units were "counted" against the 645 dwelling unit maximum for the East Oaks Development. Based on the language in the 7th Amendment, Site E-3 was treated as Commercial Development, which does count toward the 21-acre commercial development allotment for the Subject Property. The individual dwelling units are not counted (right or wrong) towards the 645 dwelling unit maximum; rather the development is "counted" only against the 21 acres of commercial development allocated to the East Oaks Development. Thus the reported 235 previously-constructed dwelling units[25] on Site E-3 are not explicitly identified as being included in the dwelling unit counts for the Subject Property.

i. Is the City required to "count" future mixed use commercial development in the same way that it counted the commercial development in Site E-3?

No. The PDA contains no "formula" for counting and allocating mixed use commercial and residential development between commercial acreage and residential dwelling units. Future developments may be "counted" differently, including with respect to allowable density increases, counting of dwelling units, and calculation of commercial acreage development.

j. Could an updated EAW be required before additional development occurs in the East Oaks Project area?

Potentially. An EAW was completed in 1998 for the East Oaks Project. Minn. R. P. 4410.1000, subd. 1 defines an EAW as follows: "The EAW is a brief document prepared in worksheet format which is designed to rapidly assess the environmental effects which may be associated with a proposed project. The EAW serves primarily to: A. aid in the determination of whether an EIS is needed for a proposed project; and B. serve as a basis to begin the scoping process for an EIS." A new EAW is required "if, after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a **substantial change** has been made in the proposed project or has occurred in the project's circumstances, **which change may affect the potential for significant adverse environmental effects** that were not addressed in the existing EAW."[26] The terms "substantial change" and "significant adverse environmental affects" are not defined in Minn. R. P. 4410. However, Minn. R. P.4410.1700, subp. 7 establishes the following criteria for determining whether a project has the potential for significant environmental effects:

In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

A. type, extent, and reversibility of environmental effects;

B. cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;

C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and

D. the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

Should the City determine that a "substantial change" has been made in the proposed project or has occurred in the project's circumstances which may affect the potential for significant environmental effects that were not addressed by the 1998 EAW, then a new EAW is required for the Project.

k. What version of City Ordinances controls development of the East Oak PDA Area?

Section 6.2 of the PDA notes that if certain conditions are met, then "for thirty (30) years from the Effective Date of this Planned Development Agreement with respect to the Subject Property, except to the extent required by state, county, or federal law, regulation or order, or by order or judgment of a court with jurisdiction over the matter, the City will not without the consent of the Developer for any particular Development Site or the entire East Oaks PUD Project as shown on the East Oaks Project Master Development Plan in which the Developer has such an ownership interest change the City's Comprehensive Plan or "Official Controls" for that Development Site or the entire East Oaks PUD Project in a manner which is inconsistent with the terms of this Planned Development Agreement with respect to the following: permitted, conditional and accessory uses … development density [or several other listed conditions]." "Official Controls" are defined as "ordinances and regulations which control physical development of the City or any part thereof …" and specifically include "ordinances establishing zoning, subdivision controls [and] site plan regulations." However, in Section 3 of the 7th Amendment to the PUD, the definitions of Shoreland Ordinance," "Subdivision Ordinance," and "Zoning Ordinance" are amended to mean Ordinance 153, 152, and 151 respectively, and **"any and all amendments or revisions thereto or replacements thereof."** It appears that the Developer, by its execution of the Seventh Amendment to the PUD, may have consented to all future changes to City Code Chapters

151, 152, and 153, subjecting them to current Zoning Ordinance and Subdivision Ordinance requirements.

l. How many "dwelling units" have been constructed to date at the Rapp Farms Site?

157 separate lots have been developed on the Rapp Farms site, 156 with residential dwellings and 1 lot with a pool and clubhouse. Because the City and Developer have not updated Exhibit B.5, there has been no written agreement between the parties regarding the actual unit count for the Rapp Farms Site, or any other development that has occurred since the adoption of the 7th Amendment in 2010.

m. What outstanding issues need to be addressed in the near term?

i. Reference to 90 units built in Site E-2 in Amended and Restated Exhibit B-1.5 (7th amendment)

Exhibit B-1.5 shows 90 units have been developed on Site E-2. However, only 76 actual units have been constructed, and the Developer has indicated that Presbyterian Homes owns Tract Q, RLS 603, and has the "option" to build 14 additional dwelling units on that Tract. It is not clear at this time what specific approval for 14 additional dwelling units to be built on Tract Q has been granted. The "actually built" numbers in Exhibit B-1.5 should reflect actual dwelling units constructed. To the extent that the Developer has specifically assigned its right to construct a specific number of dwelling units to Presbyterian Homes to be built on a portion of Site E-2 (assuming solely for purposes of this paragraph that all other requirements of the PDA related to the Zoning Ordinance are met such that 14 dwelling units could be built on Tract Q, located on Site E-2, and that Presbyterian Homes intends to construct all 14 allocated dwelling units), Exhibit B-1.5 should be updated via an amendment executed by, at a minimum, the City, Presbyterian Homes, and the Developer, or in the alternative, an assignment of the Developer's right to construct 14 out of the remaining residential dwelling units for the East Oaks Development to Presbyterian Homes should be provided to the City.

ii. Update of housing counts

Exhibit B.1-5 has not been updated since the adoption of the 7th Amendment in 2010, despite the development of a number of dwelling units, primarily on the Rapp Farm site. The City and Developer should adopt an updated version of Exhibit B.1-5 in order to update that exhibit to reflect actual development to date, including addressing the calculation of the Rapp Farm development to date.

Conclusion

The 1999 East Oaks PDA, as subsequently amended, establishes a framework for the development of the East Oaks area. Moving forward, it is recommended that the City address the outstanding issues identified above. It is further recommended that the City and Developer update the PDA as necessary as future developments are approved in order to ensure that all parties and stakeholders in the development of the East Oaks Area are kept appraised of the status of the development and current dwelling unit counts.

[1] 1999 East Oaks PDA, p. 1.
[2] All definitions found in Article 19, Section 19.13
[3] Three Bold Ventures, Joan C. Brainerd and Richard E. Leonard, p. 158 (2007).
[4] Amendment to Development Agreement, City of North Oaks, Subdivision 92-2, West Black late, Executed by the North Oaks Company 1/28/99, included in East Oaks PDA materials.
[5] 109,770 square feet = 2.5199 acres (www.unitconverters.net)
[6] Minn. Practice Series, Business Law Deskbook, § 7.1(a) (2019).
[7] Minn. Practice Series, Business Law Deskbook, § 7.1(a) (2019).
[8] Minn. Practice Series, Business Law Deskbook, § 7.1(e) (2019).
[9] Minn. Practice Series, Business Law Deskbook, § 7.4(b) (2019).
[10] Minn. Practice Series, Business Law Deskbook, § 7.4(b) (2019).
[11] Minn. Practice Series, Business Law Deskbook, § 7.30 (2019)
[12] Minn. Practice Series, Business Law Deskbook, § 7.31 (2019)
[13] Minn. Practice Series, Business Law Deskbook, § 7.50 (2019)
[14] Minn. Practice Series, Business Law Deskbook, § 7.50 (2019)
[15] See October 30, 2019 Letter from Tom Bray re North Oaks Company – Decennial Review of Master Development Plan and Planned Unit Development for East Oaks Project
[16] Minn. Practice Series, Business Law Deskbook, § 7.52 (2019)
[17] See minutes from council meetings in 2007 and 2010.
[18] Minutes of the Regular Council Meeting of the City Of North Oaks from the November 8, 2007 council meeting.
[19]Minutes of the Regular Council Meeting of the City of North Oaks from the December 13, 2007 council meeting.
[20] Minutes of the Regular Council Meeting of the City of North Oaks from the December 13, 2007 council meeting.
[21] Minutes of the Regular Council Meeting of the City of North Oaks from the June 10, 2010 council meeting.
[22] (www.maps.co.ramsey.mn.us), last accessed 11/07/19.
[23] August 16, 2019 Letter from North Oaks Company to the City of North Oaks.
[24] City Code, Section 151.005 (2019).
[25] Housing Counts per Ramsey County Property Records, Parcel ID 043022210019, www.maps.co.ramsey.mn/us, last accessed 11/07/19.
[26] Minn. R. P. 4410.1000, subd. 5 (2019).

*= Based on draft updated Exhibit B-5.1 dated 8/16/19, prepared by the North Oaks Company.

**=This number shows the total number of dwelling units permitted in each site if the permitted density increase were applied. Under the PUD, the maximum dwelling unit count is 645, meaning all of the density increases shown could not occur on each site. Site-specific dwelling unit calculations provided for informational purposes only.

***= Rapp Farm consists of **157 lots**, one of which contains a clubhouse and pool and not a dwelling unit. Only Dwelling Units are counted toward the dwelling unit maximum. How the lot with the pool and clubhouse is counted is not explicitly spelled out in the PUD. The City will need to address this clubhouse/pool lot development when it updates Exhibit B-5.1., and must determine if the Pool and Clubhouse meets the definition of a Dwelling Unit. If the clubhouse and pool meet the definition of a Dwelling Unit, then it should be counted in the Rapp Farms count and the housing count should be updated to **157.**

****= Commercial Acreage number taken from references to the same throughout the 7th Amendment. See memo for additional detail regarding calculations related to developed commercial acreage.

*****=Per 7th Amendment, the total number of dwelling units for sites E-1 and E-2 is 110. Dwelling units can be located on either site.

******= August 16, 2019 correspondence from North Oaks Company states that Site E-2 is developed with 76 independent living apartments, each of which is counted as one housing unit, and notes that "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." Units which are not yet built should not be included in the "already built" unit count, but are included for this site only based on the representation that Presbyterian Homes has the right to construct 14 additional dwelling units on Site E-2.

******* = It is unclear if four units for Anderson Woods/Wilkinson Villas have been constructed. This table reflects the 8.16.19 correspondence from the North Oaks Company that no dwelling units have been constructed on Site F (Anderson Woods/Andersonville).

MEMO

Date: November 22, 2019
To: City Council
From: City Administrator Mike Robertson
Re: East Oaks PDA 7th Amendment

I wanted to provide some more detailed information related to the 7th Amendment to the East Oaks PDA. In terms of the attention paid to the 7th Amendment this is what the minutes show.

CITY COUNCIL

For seven months, from October of 2009 through April of 2010, the City Council minutes reflect that every month either Mayor John Schaaf, City Attorney Dave Magnuson, or City Administrator Melinda Coleman indicated that they had been meeting with the North Oaks Company regarding the 7th Amendment. Every once and a while they would mention what issues were being discussed. They even took time in January, 2010 to proclaim Joan Brainard Day. In the May, 2010 Council minutes Mayor Schaaf stated that the 7th Amendment had been sent to the Planning Commission to seek their opinion.

PLANNING COMMISSION

In the April, 2010 minutes, Planning Commission Chair Bill Campbell notes that he has been involved in the discussions with the North Oaks Company and that the 7th Amendment will be on the May Planning Commission agenda.

In the May 27, 2010 Planning Commission minutes, the Planning Commission reviewed the 7th Amendment. Planning Commissioner Dick Hara, seconded by Planning Commissioner Katy Ross, moved approval of the 7th Amendment and it was approved unanimously.

On the June 10, 2010 Council meeting the Council reviewed the 7th Amendment. Councilmember Marty Long, seconded by Councilmember Gregg Nelson, moved approval and it passed unanimously.

CONCLUSION

The publicly available records show that City officials negotiated for at least seven months with the North Oaks Company, keeping the rest of the City Council and the community aware that negotiations were occurring. Then they sought the opinion of the Planning Commission. The Planning Commission unanimously recommended approval of the 7th Amendment. The City Council then unanimously approved the 7th Amendment. Though we don't have any detail of how some of the numbers in the agreement were negotiated, its clear that a lot of effort from City officials went into the negotiations and that the Council sought an opinion from the Planning Commission before they made their decision.

1999 PDA-Appendix 1					7th Amendment-Appendix	
Site	**Name**	**Zoning**	**Planned Number of Development Units**	**Density Increase Allowed**	**Planned Number of Development Units**	**Density Increase Allowed**
Site A	Peterson Place	RMM-PUD	40	30%	40	30%
Site B	East Preserve	RSM-PUD	2	30%	2	30%
Site C	Nord	RSM-PUD	10	30%	10	30%
Site D	Rapp Farm	RMH-PUD	200	50%	200	50%
Site E	East Wilkinson**	RCM-PUD	110	50%	***110***	50%
Site F	Andersonville	RMH-PUD	10	30%	10	30%
	a) Anderson Woods					
Site G	Gate Hill	RCM-PUD	68	30%	68	30%
Site H	Island Field	RCM-PUD	35	30%	35	30%
Site I	East Mallard Pond	RSM-PUD	54	No	54	No
Site J	North Ski Hill	RSM-PUD	7	30%	7	30%
Site K	North Black Lake	RSL-PUD	64	30%	64	30%
Site L	South Deer Hills	RMH-PUD	45	No	45	No
Site M		LI-PUD	0	-	0	0
Added per 7th Amendment: Site E-2	**The Mews****	RCM-PUD			***110***	50%
Added Per 7th Amendment: Site E-3	**Waverly Gardens**	RCM-PUD				
Total Dwelling Units			645		645	

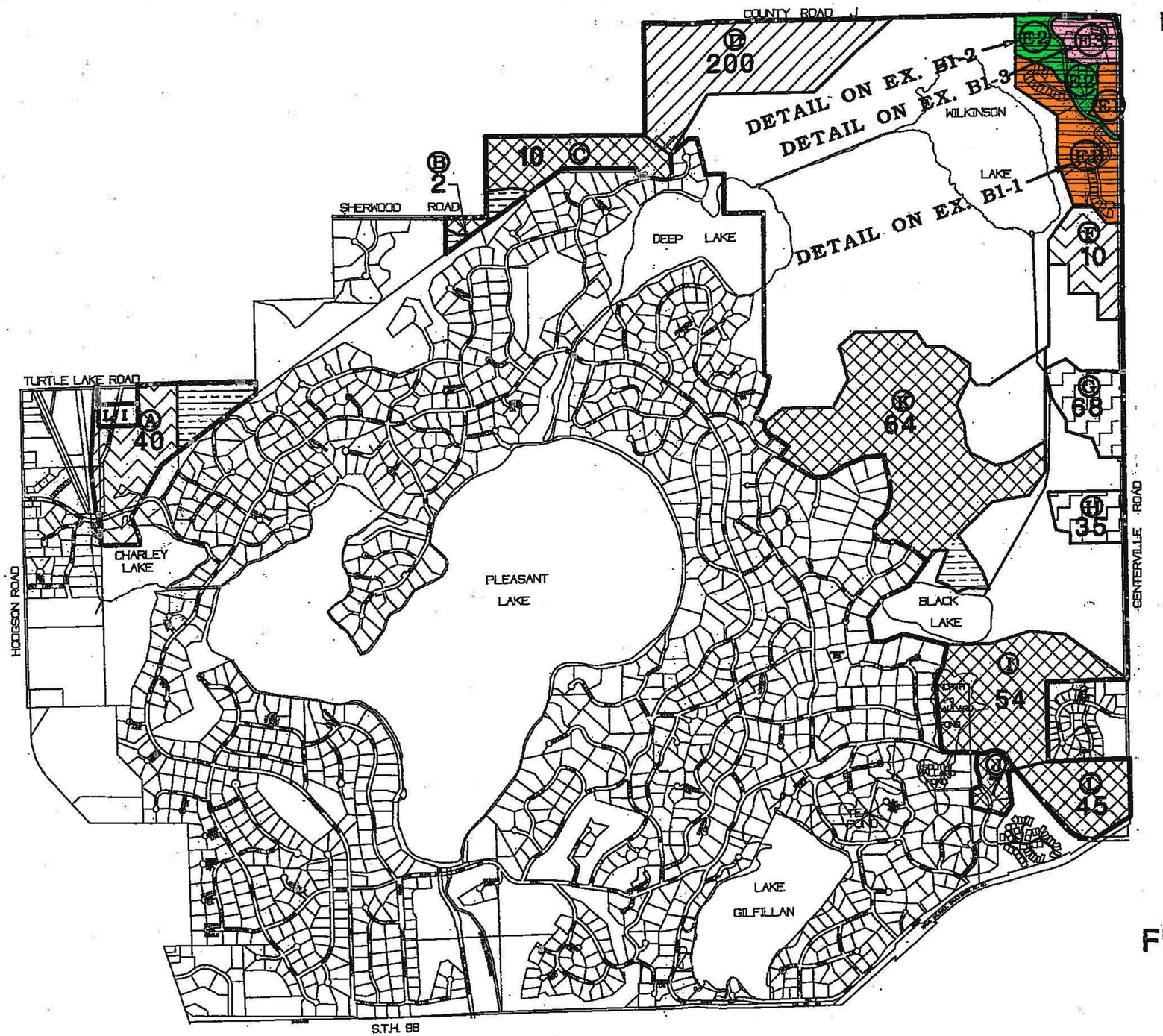
Note: Changed from Site E to Site E-1, in 7th Amendment

**Per Appendix 1 (7th Amendment) the 110 units shown under E-1 and E-2 is a TOTAL of 110 dwelling units between the two sites, noting that "[u]nits can be allocated between sites E-1 and E-2 in any manner so long as the total does not exceed the total allowed."

EAST OAKS PDA

Site	Name	1999 Zoning	1998 EAW Acreage	1999 Planned Number of Development Units	1998 EAW Proposed Units	1999 Density Increase Allowed	2010 Exhibit B-5.1 PDA Dwelling Units Designated	2010 Exhibit B-5.1 Actual Dwelling Units	2019 Actual Housing Counts (Dwelling Units Built)*	2019 Available Potential Density/ Density Shift, Not Including Density Bonuses	2019 Total Available Additional Dwelling Units Per Site if Available Density Increase Applied to Site**	2019 Commercial Acreage****	Dwelling Unit/Density Notes
Site A	Peterson Place (Wildflower)	RMM-PUD	82	40	40	30%	40	27	27	13	25		
Site B	East Preserve	RSM-PUD	6	2	2	30%	2	0	0	2	2.6		
Site C	Nord	RSM-PUD	51	10	10	30%	10	0	0	10	13		
Site D	Rapp Farm	RMH-PUD	110	200	200	50%	200	34	***156***	44	144		***
Site E	East Wilkinson	RCM-PUD	98	110	110	50%							
	Site E-1 (Villas of Wilkinson Lake)	RCM-PUD					45	19	***47***	-27	28		*****
	Site E-2 (The Mews)	RCM-PUD					65	***90***	***90***				******
Site F	Andersonville (Anderson Woods)	RMH-PUD	35	10	10	30%	10	0	0	10	13		*******
Site G	Gate Hill	RCM-PUD	32	68	68	30%	68	0	0	68	88.4		
Site H	Island Field	RCM-PUD	22	35	35	30%	35	0	0	35	45.5		
Site I	East Mallard Pond (The Pines)	RSM-PUD	97	54	54	No	54	54	54	0	0		
Site J	North Ski Hill	RSM-PUD	13	7	7	30%	7	7	7	0	2.1		
Site K	North Black Lake (Red Forest Way)	RSL-PUD	194	64	64	30%	64	27	41	23	42.2		
Site L	South Deer Hills (Southeast Pines)	RMH-PUD	40	45	45	No	45	45	45	0	0		
Site M	-	LI-PUD		0		-							
Site E-3	East Wilkinson (Waverly Gardens and Tria)	RCM-PUD										15.27	
TOTAL	**Totals**		780	645	645		645	303	467	178		15.27	

EAST OAKS PROJECT



Ⓐ AREA DESIGNATION

645 FUTURE HOUSEHOLDS

MIXED USE

PROTECTED LAND

PASSIVE PRIVATE OPEN SPACE

SINGLE-FAMILY DETACHED

LIMITED MIXED RESIDENTIAL

MIXED RESIDENTIAL

LIMITED MIXED USE

DEVELOPMENT BOUNDARY

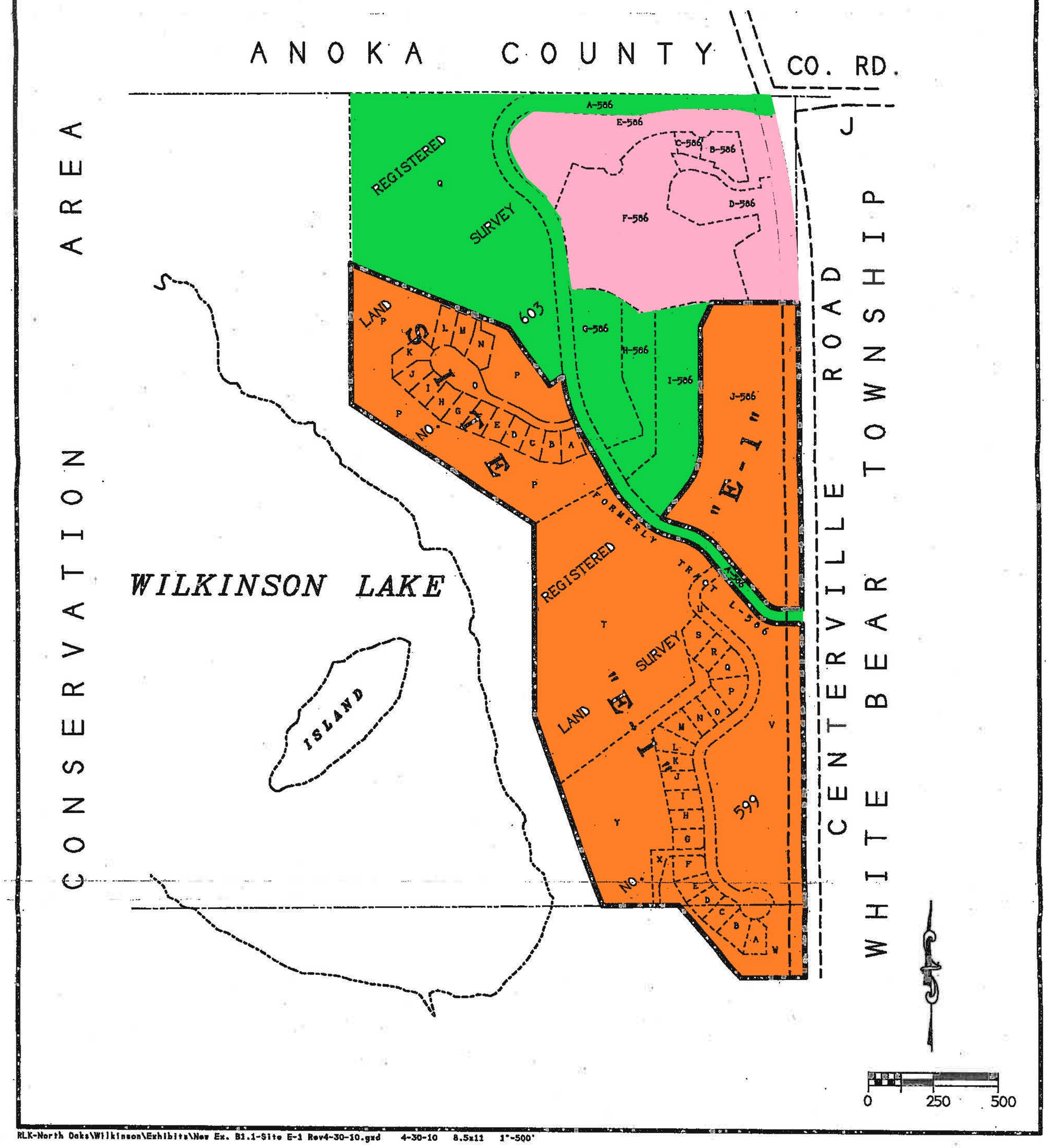
L I LIGHT INDUSTRIAL

EXHIBIT "B1"
FUTURE LAND USE
, 2010

RLK-North Oaks\Wilkinson\Exhibits\New Nmp4 Ex-B1 - Rev4-30-10.gxd 4-30-10 11x17 1"=1800'

THE GARDENS OF NORTH OAKS
EXHIBIT "B-1.1"

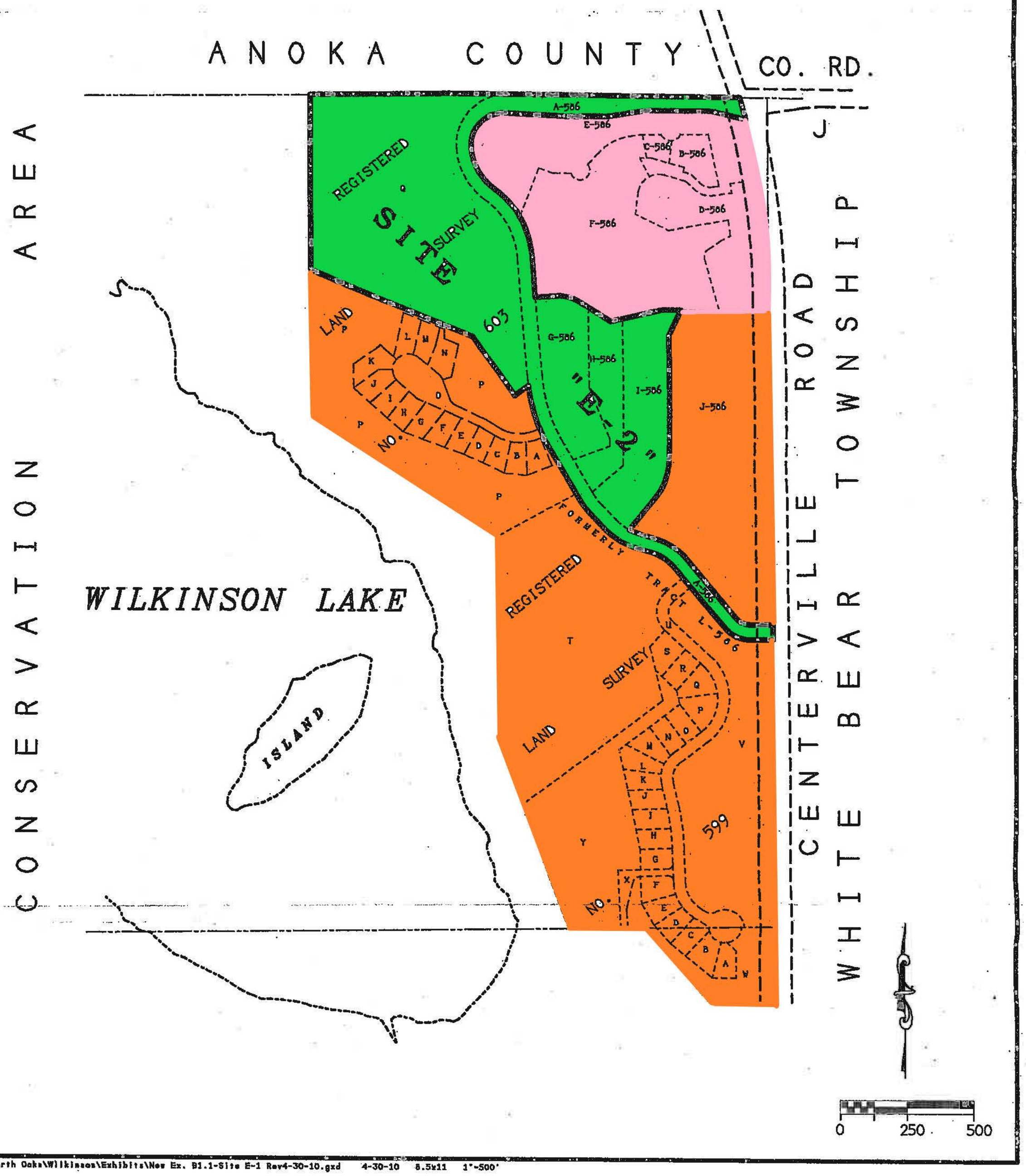
, 2010



RLK-North Oaks\Wilkinson\Exhibits\New Ex. B1.1-Site E-1 Rev4-30-10.gxd 4-30-10 8.5x11 1"=500'

THE GARDENS OF NORTH OAKS
EXHIBIT "B-1.2"

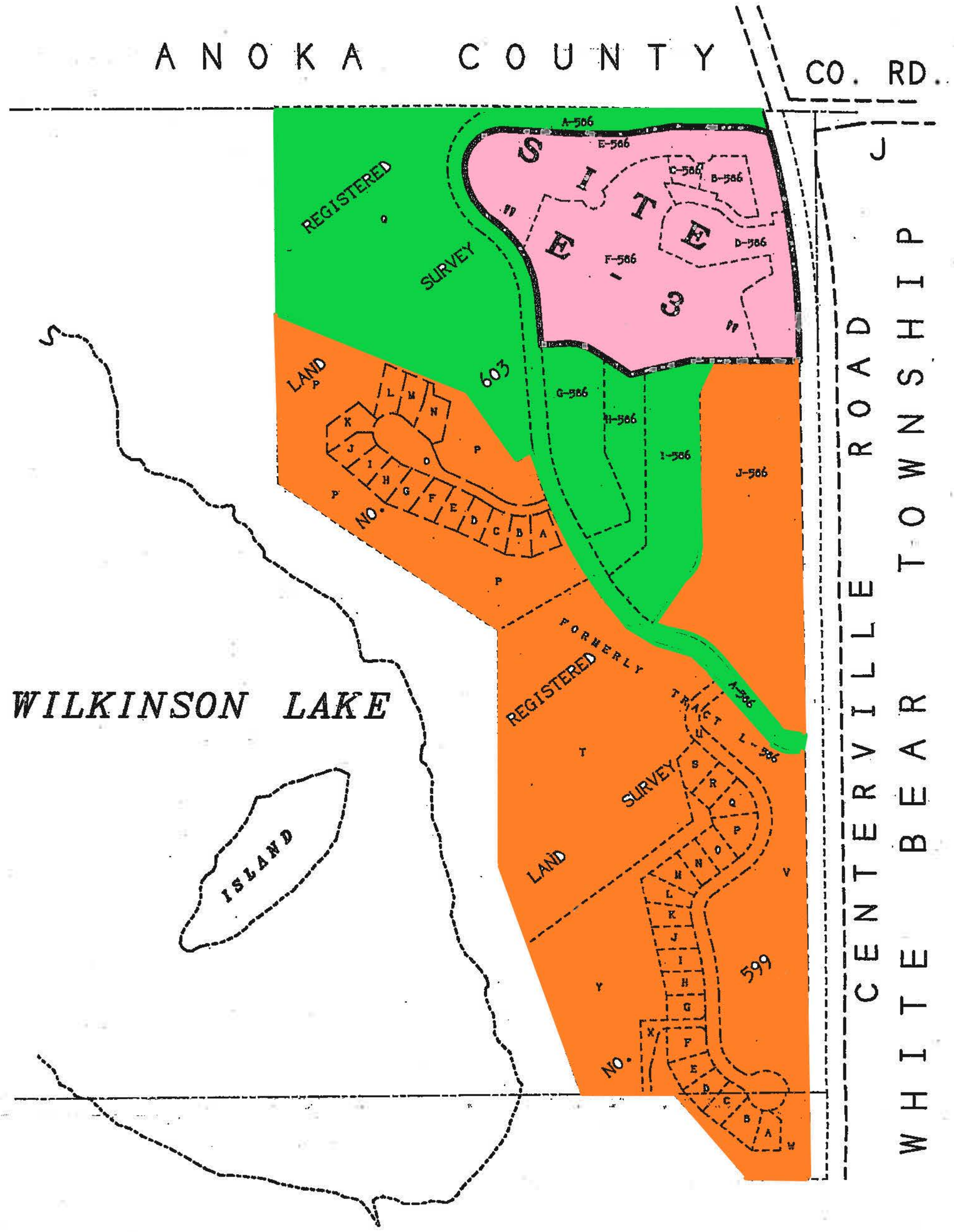
, 2010



RLK-North Oaks\Wilkinson\Exhibits\New Ex. B1.1-Site E-1 Rev4-30-10.gxd 4-30-10 8.5x11 1"=500'

THE GARDENS OF NORTH OAKS
EXHIBIT "B-1.3"

, 2010



Total Developed Commercial Acreage = 15.27 Acres

RLK-North Oaks\Wilkinson\Exhibits\New Ex. B1.3-Site E-2.gxd 4-30-10 8.5x11 1"=500'

RAMSEY COUNTY
MapRamsey
Search...
Home
Tools
Tool Labels
E-2
E-3
E-1
E-1
2018 Aer...

CITY OF
NorthOaks
Building on a tradition of innovation

2020 FEE SCHEDULE

1. Animal Licenses	$15 per animal
2. Arborist Licenses	$100 year
3. Building Permits	Per Permit Form – *based on project*
4. Building Permit-License Verification	$5
5. Conditional Use Permits	$450 application
6. Contractor License: General	$40 year
7. Contractor License: Mechanical	$40 year
8. Contractor License: Outside Sewer/Water	$100 year
9. Copies	$0.25 copy
10. Duplicate Meeting DVD's	$35
11. EAB Site Inspection	$75
12. Electrical Permits	Per Permit Form- *based on project*
13. False Alarms	First 3 free, 4th = $150, Each thereafter $175
14. Forestry Permit (Shoreland)	$100
15. Forestry-Residential Lot Evaluation	$75
16. Final Plat Review	$450 +$25 per new lot created
17. Grading Permits	$300
18. ISTS Pumping Report	$20
19. ISTS Install Applications	$450
20. ISTS Performance Systems (Type IV)	$795
21. Maps	$5 small/$20 large
22. Message Therapy License	$50 year
23. Mechanical Permits	Per Permit Form- *based on project*
24. Notary Fee	Free
25. Off-Sale Liquor Licenses	$100
26. On-Sale Liquor Licenses	$1250
27. On-Sale Club License	$650
28. On-Sale Wine License	$250
29. Plumbing Permits	Per Permit Form- *based on project*
30. Rental License	$100
31. Shoreland Permits	$350
32. Sign Permits	$50
33. Small Water Use Appropriations	Free
34. Sunday Liquor License	$200
35. Tobacco License	$200
36. Variance	$450

Bob Michels Construction, Inc.
5959 Centerville Road, Suite 250, North Oaks, MN 55127
p 651.653.1210 michelshomes.com

10/21/2019

City of North Oaks

Variance Request - Erickson, 16 E Pleasant Lake Road, North Oaks
Request 13'-6" Incursion into Front Yard Setback

To whom it may concern:

The existing septic system is non-compliant and unstable. The existing 62-year-old "slab on grade" house will be demolished. A new 3610 sq. ft. home will be built for Kim and Libbe Erickson on this site.

Due to the existing home and existing retaining walls, pool, patio, and garage location, the 2 – 5000 sq. ft. septic area location requirements cannot by met without going into the 30' setback. In order to be in compliance with the North Oaks new home septic system requirements, we request the first 13.5' of the 30' setback from the 30' road easement included in our septic area.

We will need to abandon the existing well and construct a new well when we build the new home. The new well shall be located 50' min. from the new septic areas.

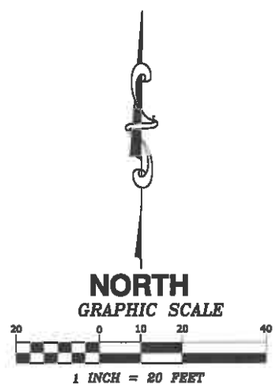
Sincerely,

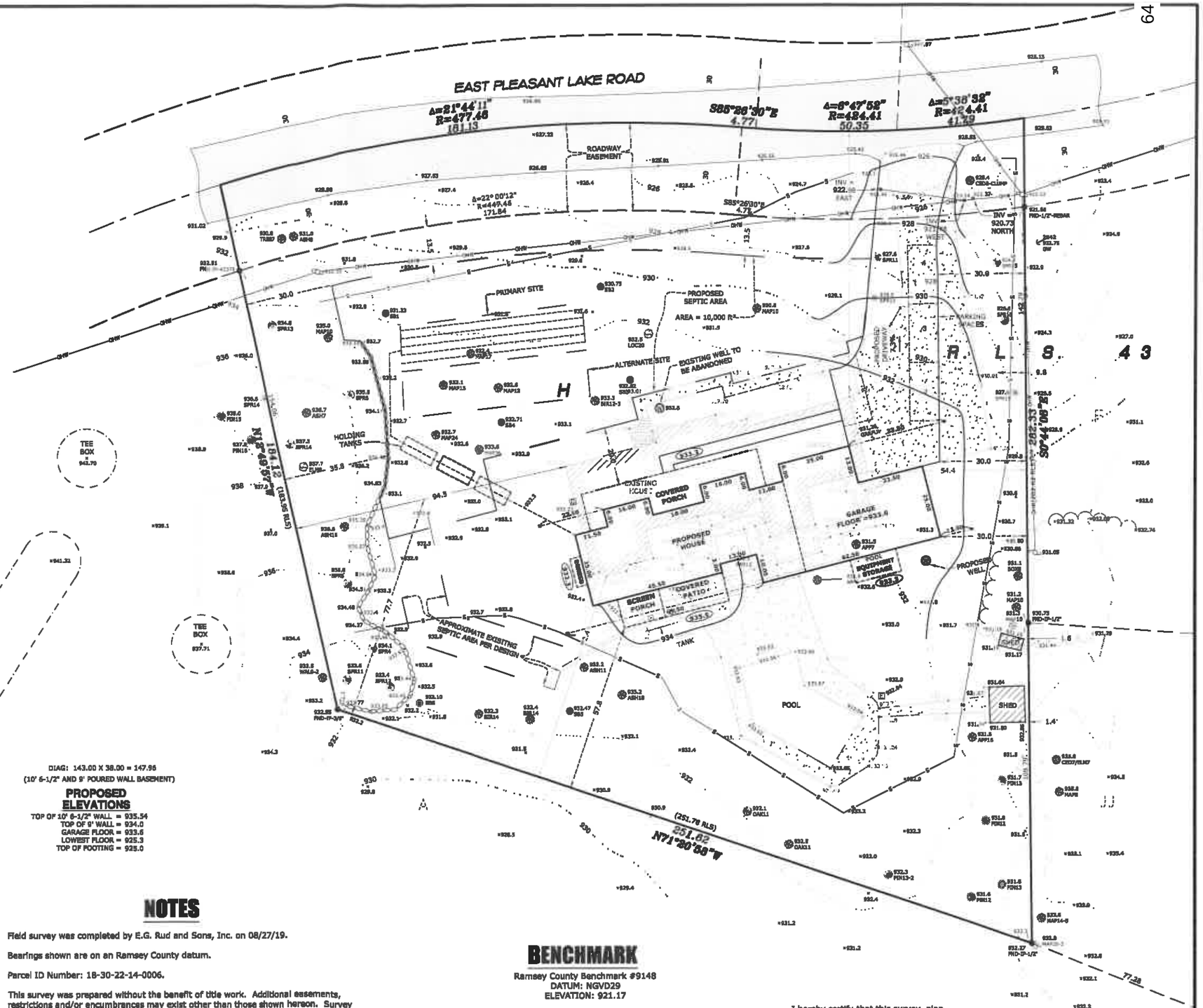
Bob Michels
President/Owner
Michels Homes

Four generations of contractors

CERTIFICATE OF SURVEY

~for~ MICHELS CONSTRUCTION
~of~ 16 EAST PLEASANT LAKE ROAD
NORTH OAKS, MN





LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES ELECTRICAL BOX
- DENOTES EXISTING SPOT ELEVATION
- DENOTES GAS METER
- DENOTES GUY WIRE
- DENOTES POWER POLE
- DENOTES SOIL BORING. (BY MARK TRADEWELL)
- DENOTES WELL
- DENOTES DRAINAGE ARROW
- DENOTES HUB
- DENOTES SILT FENCE
- DENOTES GOLF TEE BOX
- DENOTES RETAINING WALL
- DENOTES PROPOSED CONTOURS
- DENOTES EXISTING CONTOURS
- DENOTES TREE LINE
- DENOTES EXISTING STORM SEWER
- DENOTES BITUMINOUS SURFACE
- DENOTES CONCRETE SURFACE
- DENOTES PAVER SURFACE

TREE DETAIL

- DENOTES ELEVATION
- DENOTES TREE QUANTITY
- DENOTES TREE SIZE IN INCHES
- DENOTES TREE TYPE

DIAG: 143.00 X 38.00 = 147.96
(10' 6-1/2" AND 9' POURED WALL BASEMENT)

PROPOSED ELEVATIONS

TOP OF 10' 6-1/2" WALL = 935.54
TOP OF 9' WALL = 934.0
GARAGE FLOOR = 933.6
LOWEST FLOOR = 925.3
TOP OF FOOTING = 925.0

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 08/27/19.
- Bearings shown are on an Ramsey County datum.
- Parcel ID Number: 18-30-22-14-0006.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.

BENCHMARK

Ramsey County Benchmark #9148
DATUM: NGVD29
ELEVATION: 921.17

E. G. RUD & SONS, INC.
EST. 1977
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701
www.egrud.com

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

JASON E. RUD
Date: 10/22/2019 License No. 41578

DRAWN BY: BCD	JOB NO: 19681BT	DATE: 08/23/19	
CHECK BY: JER	FIELD CREW: DT/CT		
1	9/26/19	ADDED SOIL BORINGS	BCD
2	9/27/19	ADD PROPOSED HOUSE	CMB
3	10/07/19	ADD PROPOSED SEPTIC AREA	BCD
4	10/09/19	UPDATED HOUSE/SEPTIC AREA	BCD
5	10/11/19	UPDATED HOUSE/SEPTIC AREA	BCD
6	10/22/19	ADD GRADING INFO	BCD

Tract H, REGISTERED LAND SURVEY NO. 43, Ramsey County, Minnesota.

19681BT

CITY OF NORTH OAKS
RAMSEY COUNTY, MINNESOTA
RESOLUTION NO. 1368

RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING A VARIANCE TO THE NORTH PROPERTY LINE SETBACK FOR INSTALLATION OF A SUB-SURFACE SEWAGE TREATMENT SYSTEM (SSTS) FOR THE PROPERTY LOCATED AT 16 EAST PLEASANT LAKE ROAD

WHEREAS, North Oaks Zoning Ordinance Section 151.050(F) prohibits an individual sewage treatment system from being located within thirty (30) feet of the lot lines on any individual lot; and

WHEREAS, North Oaks Zoning Ordinance Section 51.02(5) requires that, at the time of redevelopment of a lot that will not be serviced by municipal sanitary sewer, two sites, each 5,000 square feet in size, shall be identified by the developer for the purposes of sewage treatment and dispersal; and

WHEREAS, an application for a variance has been submitted by Kim Erickson and Libbe Erickson, the owners of the real property described below, to allow the construction of a sub-surface sewage treatment system (SSTS) within the thirty (30) foot north property line setback on real property located at 16 East Pleasant Lake Road, North Oaks, Ramsey County, Minnesota (Property), legal described on the attached **EXHIBIT A**; and

WHEREAS, the Property is a previously established lot with a house that has since been removed, and the area available for the installation of a sub-surface sewage treatment system is limited due to property line setbacks, the location of the proposed structure, impervious areas, and disturbed soils; and

WHEREAS, City Staff have determined that the proposed location of the SSTS, as shown on the site plan provided to the City in conjunction with the variance application and dated September 29, 2019 by Mark Treadwell, is the most viable location for the SSTS based on the site constraints identified above; and

WHEREAS, the request has been reviewed against the relevant requirements of North Oaks Zoning Ordinance Sections 151.078 and Minnesota Statutes, Section 462.357, subd. 6, regarding the criteria for issuance of a variance, the requisite practical difficulties were found to support a grant of the requested variance, and the Council further makes the following findings of fact with respect to the variance application:

- The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

- The plight of the landowner is due to circumstances unique to the property not created by the landowner.
- The variance, if granted, will not alter the essential character of the locality.
- The variance is in harmony with the general purposes and intent of the zoning ordinance.
- The terms of the variance are consistent with the comprehensive plan.
- Granting the requested variance will not confer on the applicant any special privilege that is denied by Chapter 151 of the City Code to other lands, structures, or buildings in the same district.
- The Variance requested is the minimum variance which would alleviate the practical difficulties.
- The proposed variance will not impair an adequate supply of light and air to adjacent land, or substantially increase the congestion of the roads and streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- At no time after the land became nonconforming was the property under common ownership with contiguous land, the combination of which could have been used to reduce or avoid the nonconformity of the land.

WHEREAS, the variance application was considered by the North Oaks Planning Commission at its December 3, 2019 meeting, at which time a public hearing concerning the variance application was held, following which the Planning Commission voted unanimously to recommend approval of the Variance application subject to the two conditions listed in the Planner's Report dated November 4, 2019, which conditions are listed below as conditions of approval of the variance.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH OAKS, that the findings of fact related to the requested variance listed above are hereby adopted as the Council's findings of fact to support the grant of the requested variance, and a variance to allow the installation of a sub-surface sewage treatment system (SSTS) which will encroach 13.5 feet into the required 30-foot north property line setback on the Property is hereby approved, subject to the following conditions:

1. The sub-surface sewage treatment system (SSTS) shall be installed in the location shown on the site plan provided to the City dated September 29, 2019 by Mark Treadwell.

2. Completion of the SSTS installation shall occur by January 1, 2021.

BE IT FURTHER RESOLVED that the City Clerk, Deputy City Clerk, or City Attorney are hereby authorized to record a certified copy of this Resolution with the Ramsey County Registrar of Titles.

Adopted by the City Council of the City of North Oaks this 12th day of December 2019.

By: _____
Gregg Nelson
Its: Mayor

Attested:

By: _____
Kevin Kress
Its: City Administrator/City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Tract H, Registered Land Survey No. 43. Subject to an easement over the northerly 30 feet thereof for ingress and egress to and from said Tract H. See certificate #182986.

Records for Ramsey County, Minnesota.

PID: 183022140006
Torrens Property

CITY OF NORTH OAKS
RAMSEY COUNTY, MINNESOTA
RESOLUTION NO. 1367

RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING VARIANCES TO THE SOUTHWEST PROPERTY LINE SETBACK REQUIREMENT AND TO ALLOW THE OFF-SITE LOCATION OF AN ALTERNATIVE SITE FOR INSTALLATION OF A SUB-SURFACE SEWAGE TREATMENT SYSTEM (SSTS) FOR THE PROPERTY LOCATED AT 15 RIDGE ROAD

WHEREAS, North Oaks Zoning Ordinance Section 151.050(F) prohibits an individual sewage treatment system from being located within thirty (30) feet of the lot lines on any individual lot; and

WHEREAS, North Oaks Zoning Ordinance Section 51.02(5) requires that, at the time of redevelopment of a lot that will not be serviced by municipal sanitary sewer, two sites, each 5,000 square feet in size, shall be identified by the developer for the purposes of sewage treatment and dispersal; and

WHEREAS, an application for a variance has been submitted John Reedy, the owner of the real property located at 15 Ridge Road, Ramsey County, MN (Property) legally described on the attached **EXHIBIT A** for the following two variances:

1. To allow the construction of a sub-surface sewage treatment system (SSTS) to within the required thirty (30) foot southwest property line setback, with an encroachment twenty (20) feet into the required thirty (30) foot southwest property line setback.

2. To permit the location of the required, identified second 5,000 square foot area where a sub-surface sewage treatment system (SSTS) may be located to be located on adjacent property owned by the North Oaks Golf Club.

WHEREAS, the Property is a previously established lot with a house that has since been removed, and the area available for the installation of a sub-surface sewage treatment system is limited due to property line setbacks, the location of the proposed structure, impervious areas, and disturbed soils; and

WHEREAS, City Staff have determined that the proposed location of the SSTS, as shown on the site plan provided to the City in conjunction with the variance application and dated September 29, 2019 by Mark Treadwell, is the most viable location for the SSTS based on the site constraints identified above, and the proposed off-site location of the second 5,000 square foot area where a sub-surface sewage treatment

system (SSTS) could be located is acceptable as an alternative located for an SSTS to serve the Property; and

WHEREAS, the request has been reviewed against the relevant requirements of North Oaks Zoning Ordinance Sections 151.078 and Minnesota Statutes, Section 462.357, subd. 6, regarding the criteria for issuance of a variance, the requisite practical difficulties were found to support a grant of the requested variance, and the Council further makes the following findings of fact with respect to the variance application:

- The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
- The plight of the landowner is due to circumstances unique to the property not created by the landowner.
- The variance, if granted, will not alter the essential character of the locality.
- The variance is in harmony with the general purposes and intent of the zoning ordinance.
- The terms of the variance are consistent with the comprehensive plan.
- Granting the requested variance will not confer on the applicant any special privilege that is denied by Chapter 151 of the City Code to other lands, structures, or buildings in the same district.
- The Variance requested is the minimum variance which would alleviate the practical difficulties.
- The proposed variance will not impair an adequate supply of light and air to adjacent land, or substantially increase the congestion of the roads and streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- At no time after the land became nonconforming was the property under common ownership with contiguous land, the combination of which could have been used to reduce or avoid the nonconformity of the land.

WHEREAS, the variance application was considered by the North Oaks Planning Commission at its December 3, 2019 meeting, at which time a hearing concerning the variance application was held, following which the Planning Commission voted unanimously to recommend approval of the Variance application subject to the three conditions listed in the Planner's Report dated November 4, 2019, as modified to require the Property owner to obtain and have recorded an easement from the owner of the North Oaks Golf Club Property over the proposed secondary location for the sub-surface sewage treatment system, which conditions are listed below as conditions of approval of the variance.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH OAKS, that the findings of fact related to the requested variance listed above are hereby adopted as the Council's findings of fact to support the grant of the requested variances, and the following two variances are approved:

1. To allow the construction of a sub-surface sewage treatment system (SSTS) to within the required thirty (30) foot southwest property line setback, with an encroachment twenty (20) feet into the required thirty (30) foot southwest property line setback.

2. To permit the location of the required, identified second 5,000 square foot area where a sub-surface sewage treatment system (SSTS) may be located to be located on adjacent property owned by the North Oaks Golf Club.

subject to the following three conditions:

1. The sub-surface sewage treatment system (SSTS) shall be installed in the location shown on the site plan provided to the City dated September 19, 2019 by Tradewell Soil Testing.

2. An easement benefiting the Property shall be recorded against the adjacent North Oaks Golf Club Property which shall allow the use of a minimum of 5,000 square feet of the North Oaks Golf Club Property, as shown on the design dated September 19, 2092, by Tradewell Soil Testing, for the purposes of installation of a sub-surface sewage treatment system to be utilized for the purpose of collecting and treating sewage from the Property. Such easement shall provide that the easement area shall be protected from all future encroachment by any improvements, construction, or other activities that may result in compaction or disturbance of the soil on the easement area, other than the installation of a sewage treatment system.

3. Completion of the SSTS installation shall occur by December 31, 2020.

BE IT FURTHER RESOLVED that the City Clerk, Deputy City Clerk, or City Attorney are hereby authorized to record a certified copy of this Resolution with the Ramsey County Registrar of Titles.

Adopted by the City Council of the City of North Oaks this 12th day of December 2019.

By: _____
Gregg Nelson
Its: Mayor

Attested:

By: _____
Kevin Kress

Its: City Administrator/City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Tract J, Registered Land Survey No. 75, files of Register of Titles, Ramsey County, Minnesota.

PID: 183022420003
Torrens Property

TRADEWELL SOIL TESTING
18330 Dahlia Street NW
Cedar, MN 55011
(763) 286- 9095

Contractor/Owner: **Adam Price Custom Homes**

Address/Lot/Block: **15 Ridge Road**

City: **North Oaks** **County:** **Ramsey**

This On-Site Sewage Treatment System is designed for a Type 1, 4 bedroom home in accordance with the Minnesota Pollution Control Agency Chapter 7080 and local ordinance.

A seasonally high water table or saturated soil layer was located at 13" to 72", (mottled soil). The bottom of the rock bed must be located at least 3' above the seasonally high water table or saturated soil.

The soils at a depth of 24" have a percolation rate averaging 16- 30 MPI.

All neighboring wells are located greater than 50' away from the proposed treatment area.

Keep all heavy equipment off of the proposed treatment area before and after construction. The treatment area should be marked off before construction. This design is not valid and the system will need to be relocated if failure to protect the areas proposed for On-Site Sewage Treatment occurs.

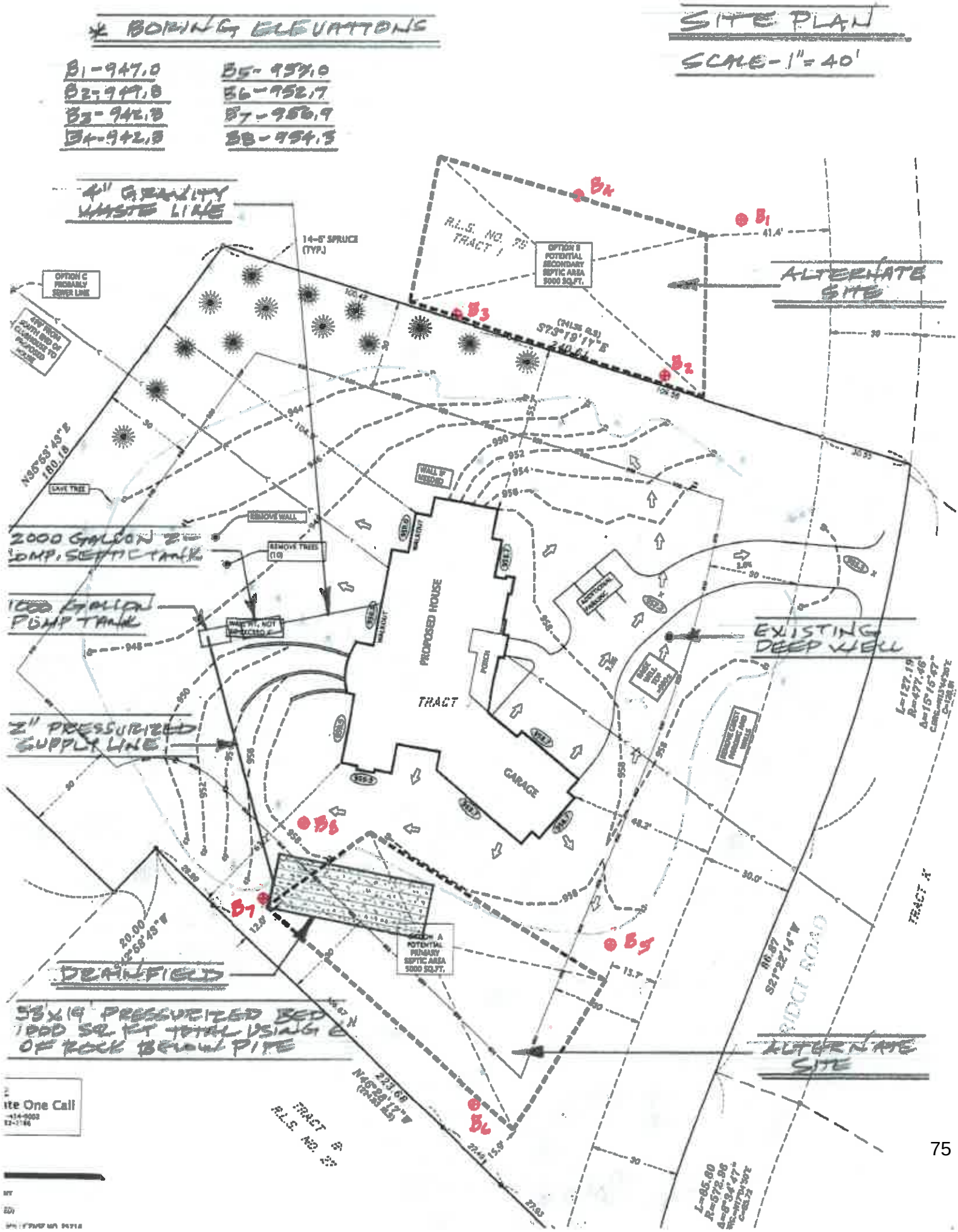
With proper installation and maintenance, this system should have no problem in treating septic effluent effectively.

Nothing other than gray water, (laundry, showers, etc.) human waste and toilet tissue should be disposed of into the septic tanks. Garbage disposals are not recommended. Smaller amounts of laundry soaps, dish soaps, cleaning agents, etc. are better for the system. Antibacterial soaps and chlorine agents may kill the bacteria needed to treat septic effluent properly. Additives are not recommended, they may cause harmful damage to your system. Recommend to pump and clean your tanks by a certified pumper every other year if you have 1 tank and every 2-3 years if you have a 2-tank system to insure proper maintenance.

Mark Tradewell September 19, 2019

Mark Tradewell Date
MPCA #307

****Septic design is subject to test pit soil verification by local unit of government at time of installation.**


* BORING ELEVATIONS
B1-947.0
B2-949.8
B3-942.8
B4-942.8
B5-957.0
B6-952.7
B7-956.9
B8-954.5
SITE PLAN
SCALE-1"=40'
4" GRAVITY WASTE LINE
14-5" SPRUCE (TYP.)
OPTION C PROBABLY SEWER LINE
OPTION B POTENTIAL SECONDARY SEPTIC AREA 5000 SQ.FT.
R.L.S. NO. 75 TRACT 1
ALTERNATE SITE
S73°19'11"E 240.64
N36°55'43"E 180.18
SAVE TREE
REMOVE WALL
REMOVE TREES (10)
2000 GALLON 2" COMP. SEPTIC TANK
1000 GALLON PUMP TANK
2" PRESSURIZED SUPPLY LINE
PROPOSED HOUSE
TRACT
GARAGE
PORCH
WALK OUT
ADDITIONAL PARKING
EXISTING DEEP WELL
OPTION A POTENTIAL PRIMARY SEPTIC AREA 5000 SQ.FT.
DRAINFIELD
58'x19' PRESSURIZED BED 1000 SQ FT TOTAL USING 6" OF ROCK BELOW PIPE
ALTERNATE SITE
TRACT K
TRACT G R.L.S. NO. 75
S21°22'14"W
N46°28'12"W 223.68
ite One Call

EASEMENT AGREEMENT

THIS AGREEMENT is made and entered into as of this 11 day of December, 2019, by and between NORTH OAKS GOLF CLUB, INC., a Minnesota corporation ("NOGC") and JON REEDY, a/k/a Jonathan Reedy, and JULIE REEDY, married to each other ("Reedy").

RECITALS

A. NOGC owns certain real property located in Ramsey County, Minnesota, legally described as Tract I, Registered Land Survey No. 75 ("NOGC Property").

B. Reedy owns certain real property adjoining the NOGC Property to the south, legally described as Tract J, Registered Land Survey No. 75 ("Reedy Property").

C. Reedy desires to construct a home on the Reedy Property, which construction required Reedy to obtain a variance from the City of NOGC for the location of secondary septic site on a portion of the NOGC Property.

D. NOGC has approved the use of a portion of the NOGC Property for a secondary or back up septic field.

E. Reedy has requested that NOGC grant Reedy a perpetual, exclusive easement for purposes of the location of said improvements.

NOW, THEREFORE, in consideration of the mutual covenants of the parties and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Grant of Septic Easement**. NOGC hereby grants to Reedy a perpetual, exclusive easement for the benefit of and appurtenant to the Reedy Property, within the Easement Premises (as hereinafter defined and described) for the drainfield and septic riser required to support the sewage treatment system serving the Reedy Property.

2. **Easement Premises**. As used in this Agreement, Easement Premises shall mean that part of the NOGC Property legally described on the attached Exhibit A and as depicted on the attached Exhibit B.

3. **No Additional Construction**. Reedy agrees that no additional construction shall be conducted on the NOGC Property.

4. **Maintenance**. Any maintenance required for the drainfield or septic riser shall be at Reedy's sole cost and expense; provided, however, that the manner and time of such work shall be coordinated with NOGC and be subject to the prior approval of NOGC, which approval shall not be withheld or delayed unreasonably.

5. **Notices**. All notices under this Agreement shall be effective if personally delivered (by courier service or otherwise) or if mailed, certified mail return receipt requested, to the address of the party to whom the notice is directed at the address maintained by the office of the County Treasurer for Ramsey County for real estate tax purposes.

6. **Indemnification**. Reedy shall defend, indemnify and save NOGC and the NOGC Property harmless against and from any and all claims, actions, damages, costs and expenses suffered or incurred or paid by or asserted against NOGC or the NOGC Property, including but not limited to attorney's fees, arising from or with respect to the Easement Premises or the use, non-use, condition or any other aspect thereof, attributable to the negligent action of Reedy, its agents, employees, contractors, who may be entering upon the NOGC Property at the direction or request of Reedy.

7. **Enforcement**. Any party may enforce this instrument by appropriate action and should said party prevail in such action, that party shall recover any reasonable costs or reasonable attorney's fees which may be incurred.

8. **Construction of Agreement**. The rule of strict construction shall not apply to the easements granted in this Agreement or to the covenants set forth herein. This Agreement shall be given a reasonable construction so that the intention of the parties to confer reasonably useable benefits and reasonably enforceable obligations are carried out.

9. **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one instrument.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed as of the day and year first above written, subject to all of the terms and conditions herein set forth.

NORTH OAKS GOLF CLUB, INC.

By_____

Its General Manager

77

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this 11th day of December, 2019 by Philip Anderson, the General Manager of North Oaks Golf Club, Inc., a Minnesota corporation, on behalf of the corporation.

JESSICA ILENE BAILEY
Notary Public
Minnesota
My Commission Expires
Jan 31, 2023

Jessica Ilene Bailey
Notary Public

Jon Reedy

Julie Reedy

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this 11 day of December, 2019 by Jon Reedy, a/k/a Jonathan Reedy and Julie Reedy, married to each other.

Haley Tlustos
Notary Public

HALEY MIRANDA TLUSTOS
Notary Public
Minnesota
My Commission Expires
Jan 31, 2021

This Instrument was Drafted by:
Fredrikson & Byron, P.A. (bao)
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402
68945003 v1

EXHIBIT A

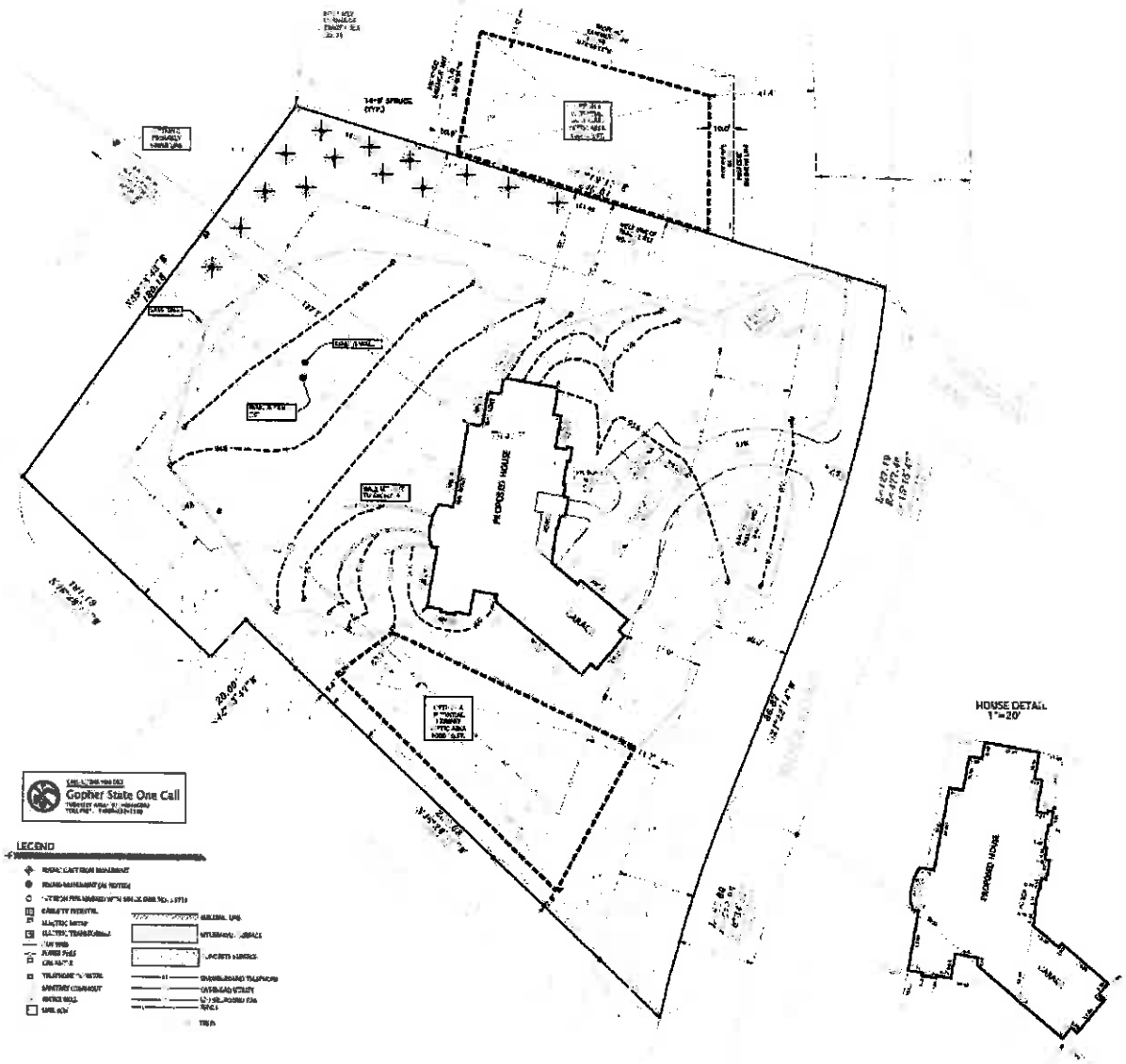
Easement Premises

Commencing at the most northerly corner of Tract J, said Registered Land Survey No. 75; thence on an assumed bearing of South 73 degrees 19 minutes 17 seconds East along the northeasterly line of said Tract J (a common line with a southwesterly line of said Tract I) a distance of 55.22 feet to the POINT OF BEGINNING of the easement to be described; thence continuing South 73 degrees 19 minutes 17 seconds East a distance of 123.40 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 64.50 feet; thence North 74 degrees 49 minutes 15 seconds West a distance of 111.08 feet; thence South 10 degrees 43 minutes 05 seconds West a distance of 59.20 feet to the POINT OF BEGINNING.

Containing 7,090 square feet or 0.16 acres, more or less.

EXHIBIT B

Easement Depiction



CITY OF NORTH OAKS
RAMSEY COUNTY, MINNESOTA
RESOLUTION NO. 1366

RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A GARAGE IN EXCESS OF 1500 SQUARE FEET

WHEREAS, an application for a Conditional Use Permit has been submitted by Pleasant Lake, LLC, the owner of the real property described below, to allow the construction of a garage in excess of 1500 square feet on real property located at 26 Evergreen Road, North Oaks, Ramsey County, Minnesota, legal described on the attached **EXHIBIT A**; and

WHEREAS, a Conditional Use Permit is required for accessory garage space in excess of 1,500 square feet; and

WHEREAS, the request has been reviewed against the relevant requirements of North Oaks Zoning Ordinance Sections 151.050 and 151.076, regarding the criteria for issuance of a Conditional Use Permit, and meets the minimum standards, is consistent with the Comprehensive Plan, is in conformance with the Zoning Ordinance, and does not have a negative impact on public health, safety, or welfare; and

WHEREAS, a public hearing concerning the Conditional Use Permit was held before the North Oaks Planning Commission in accordance with Minnesota Statutes, Section 462.357, subd. 3, on December 3, 2019, at which hearing the Planning Commission voted unanimously to recommend approval of the Conditional Use Permit application.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH OAKS, that a Conditional Use Permit to allow garage space in excess of 1,500 square feet, but not to exceed 2,636 square feet, is approved subject to the following conditions:

1. The total square footage of all garage space on the property shall not exceed 2,636 square feet.

2. The garages shall be used only for private residential non-commercial use.

3. The garages shall be constructed in the same architectural style as the principal building (per the submitted building application).

4. Exterior lighting upon the subject site shall be arranged so that it does not interfere with the reasonable use and enjoyment of surrounding land or constitute a hazard to vehicular traffic on all roads, streets, and public highways.

5. Exterior lighting shall be designed and directed so that there is no direct viewing angle of the illumination source from surrounding land.

6. The City Code Enforcement Officer, or other designee, shall be granted the right of access to the Property at all reasonable times to ensure compliance with the terms of this Conditional Use Permit.

7. All plans must be approved by the Building Official prior to construction.

BE IT FURTHER RESOLVED that the City Clerk, Deputy City Clerk, or City Attorney are hereby authorized and directed to record a certified copy of this Resolution with the Ramsey County Registrar of Titles.

Adopted by the City Council of the City of North Oaks this 12th day of December 2019.

By: _____
Gregg Nelson
Its: Mayor

Attested:

By: _____
Kevin Kress
Its: City Administrator/City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Tract A, Registered Land Survey No. 31, Ramsey County, Minnesota.

PID: 183022220002

Torrens Property

NORTHWEST ASSOCIATED CONSULTANTS, INC.

4150 Olson Memorial Highway, Ste. 320, Golden Valley, MN 55422

Telephone: 763.957.1100 Website: www.nacplanning.com

MEMORANDUM

TO: North Oaks Mayor and City Council

FROM: Bob Kirmis, City Planner

DATE: December 12, 2019

RE: 26 Evergreen Road - Conditional Use Permit
Garage in excess of 1,500 square feet (Pleasant Lake LLC)

FILE NO: 321.02 - 19.08

INTRODUCTION

At the December 3, 2019 meeting of the Planning Commission, a public hearing was held to consider a conditional use permit request of Pleasant Lake LLC to allow more than 1,500 square feet of garage space on property located at 26 Evergreen Road.

The subject 2.3-acre site is zoned RSL, Residential Single-Family Low Density and lies within the Shoreland Management Area of Pleasant Lake. Within RSL Districts, attached or detached garage space which exceeds 1,500 square feet is subject to conditional use permit processing.

The applicant wishes to construct two attached garages, the combined total of which totals 2,636 square feet. Specifically, a 1,506 square foot garage is proposed on the east side of the home while a garage measuring 1,130 square feet is size is proposed on the west side.

Please refer to the planning report dated December 3, 2019 for additional background information related to this application.

DISCUSSION

Initial Planning Commission Discussion. At the December 3, 2019 Planning Commission meeting, a number of questions were raised by the Commission as part of

their initial discussion of the conditional use permit application. Questions related to the following:

- Notification of the conditional use permit application to surrounding property owners
- The receipt of any neighborhood comments
- Adjacent properties which could be impacted by light spillage or glare emanating from the subject site
- The proposed floor area of the home
- Previous teardown activities

Applicant Comments. Following Staff's introduction of the application, Peter Eskuche, the project architect, spoke on behalf of the applicant and expressed his belief that the requested conditional use permit application is relatively straight forward. Mr. Eskuche offered to answer questions.

One Planning Commissioner raised question related to the proposed construction schedule. Mr. Eskuche indicated that construction of the home is planned to commence following the City's approval of the requested conditional use permit.

Public Comments. There were no public comments received during the public hearing.

Planning Commission Recommendation. The Planning Commission concluded that the conditional use permit evaluation criteria, as outlined in the planning report dated December 3, 2019, has been satisfied.

Based on the submitted application materials, background information, the recommendation of Staff and the evidence received at the meeting, the Planning Commission has recommended approval of the conditional use permit subject to the following conditions provided in the planning report dated December 3, 2019, which includes the City Engineer's comments dated November 22, 2019:

1. In accordance with square footage reference in the applicant's narrative, a combined total of 2,636 square feet of accessory garage space shall be allowed upon the subject property.

2. The garages shall be used only for private residential non-commercial use.

3. The garages shall be constructed in the same architectural style as the principal building (per the submitted building elevation).

4. Exterior lighting upon the subject site shall be arranged so that it does not interfere with the reasonable use and enjoyment of surrounding land or constitute a hazard to vehicular traffic on all roads, streets, and public highways.

5. Exterior lighting shall be designed and directed so that there is no direct viewing angle of the illumination source from surrounding land.

6. The grading, drainage and erosion control plan shall be subject to review and approval by the City Engineer.

7. A shoreland permit shall be submitted and approved by the City.

8. If the proposed quantity of earth movement exceeds 50 cubic yards, a grading and filling permit shall be submitted and approved by the City.

9. The City Forester shall confirm the healthy condition of trees which are to remain on the subject site.

10. Proposed retaining walls shall be shown with tie-in elevations to existing grade along with bottom of wall (BW)/top of wall (TW) elevations. Any proposed retaining wall with a height of 4 feet or taller shall be detailed on a plan stamped by a structural engineer.

11. No construction traffic shall be allowed over the existing/proposed on-site septic system and drain field locations.

12. A determination shall be made by the City that the existing septic drain field is operational meets system requirements of the Code. If it is determined (by the City) that the existing drain field is at the end of its life, an alternate drain field site, determined to be acceptable by the City, shall be identified on the subject site.

13. All proposed grades around the perimeter of the proposed home shall conform to the requirements of the Building Code. A minimal longitudinal slope of 2 percent shall be provided on all disturbed surfaces. The applicant shall provide verification to the City that proposed grades around the perimeter of the house meet the requirements of the Building Code.

14. Temporary and permanent erosion control measures (BMPs) and proposed land cover shall be detailed on final plans, particularly on slopes and in swales. Spot elevations and proposed slopes shall be added to illustrate positive drainage.

15. The proposed drainage swale along east property line shall be extended to the north in order to continue to divert storm water away from adjacent property to the east (if able to grade outside of setback area).

16. Spot elevations and detailed grading shall be provided on the proposed high spot located in the open/non-paved area at the proposed driveway turn around/the front entrance, near the domestic well location. Such spot elevations and detailed grading shall sufficiently illustrate proposed positive drainage conditions.

17. Final plans shall illustrate a driveway detail at the tie-in location to existing pavement to ensure that a positive drainage pattern and slope is maintained.

18. If the proposed cross slopes of the driveways (6.0 to 9.5 percent) exceed the intended future use of the driveways, a small retaining wall shall be provided adjacent to driveway perimeters on the east and west at garage entrances in order to flatten driveway cross slopes.

19. The proposed swimming pool shall be set back a minimum setback of 10 feet from sewage and septic systems.

20. Confirmation be provided that the location and design of the proposed swimming pool fence complies the provisions of Section 150.059 of the Ordinance.

21. The grading and drainage plan shall be modified to include an impervious area table (existing and proposed impervious surface area).

22. Comments of other City Staff.

ACTION REQUESTED

Staff recommends approval of the conditional use permit to allow more than 1,500 square feet of garage space (2,636 total square feet) on property located at 26 Evergreen Road subject to the conditions listed above.

MOTION ALTERNATIVES

Approval. A **motion to approve** the conditional use permit to allow more than 1,500 square feet of garage space (2,636 total square feet) on property located at 26 Evergreen Road subject to the conditions recommended by the Planning Commission and City Staff.

Denial. A **motion to deny** the conditional use permit to allow more than 1,500 square feet of garage space (2,636 total square feet) on property located at 26 Evergreen Road based on the following findings:

1.

2.

Table. A **motion to table** the conditional use permit request for further study as additional information is considered necessary before formal approval can be given (the 120-day review period expires on 3/3/20). Additional information includes the following:

1.

2.

Attachment

- Planning Report (including exhibits) dated December 3, 2019

cc: Pleasant Lake LLC
Kevin Kress, City Administrator
Larina DeWalt, City Engineer
Bridget Nason, City Attorney
Mikeya Griffin, NOHOA Executive Director
Stephanie McNamara, Vadnais Lake Area Water Management Organization
Jenifer Sorensen, Department of Natural Resources

NORTHWEST ASSOCIATED CONSULTANTS, INC.

4150 Olson Memorial Highway, Ste. 320, Golden Valley, MN 55422

Telephone: 763.957.1100 Website: www.nacplanning.com

PLANNING REPORT

TO: North Oaks Planning Commission

FROM: Bob Kirmis, City Planner

DATE: December 3, 2019

RE: 26 Evergreen Road - Conditional Use Permit
Garage in excess of 1,500 square feet (Pleasant Lake LLC)

FILE NO: 321.02 - 19.08

Date Application Determined Complete:	November 4, 2019
Planning Commission Meeting Date:	December 3, 2019
City Council Meeting Date:	December 12, 2019
60-day review Date:	January 3, 2020
120-day Review Date:	March 3, 2020

BACKGROUND

Pleasant Lake LLC has requested the approval of a conditional use permit to allow the construction of a home at 26 Evergreen Road which includes garage space which exceeds 1,500 square feet.

The subject 2.3-acre site is zoned RSL, Residential Single-Family Low Density and lies within the Shoreland Management Area of Pleasant Lake. Within RSL Districts, attached or detached garage space which exceeds 1,500 square feet is subject to conditional use permit processing.

The applicant wishes to construct two attached garages, the combined total of which totals 2,636 square feet. Specifically, a 1,506 square foot garage is proposed on the east side of the home while a garage measuring 1,130 square feet is size is proposed on the west side.

According to the applicant, two detached garages previously existed upon the subject site but were removed in order to accommodate the proposed home construction (which includes two attached garages).

Attached for reference:

Exhibit A: Site Location
Exhibit B: Applicant Narrative
Exhibit C: Grading, Drainage and Erosion Control Plan
Exhibit D: Site Plan
Exhibit E: Building Elevation
Exhibit F: Engineering Comments

ISSUES AND ANALYSIS

Property Description. As shown on the submitted survey, two individual parcels of land are illustrated both of which are presently vacant. Tract A (Parcel 2), upon which the home is proposed, measures 2.3 acres in size while Tract C (Parcel 1) measures 1.5 acres in size.

While Tract C has been included in the submitted survey, the applicant's surveyor has indicated that there are no plans to combine the two tracts. Thus, Tract C is illustrated for informational purposes only.

Evaluation Criteria. In consideration of conditional use permit applications to allow garage space greater than 1,500 square feet, Section 151.050(D)(9) of the Zoning Ordinance states that certain criteria must be considered. Such criteria, as well as a Staff response, is provided below:

a. The garage shall not exceed 3,000 square feet.

Staff Comment. The amount of proposed accessory garage space on the site totals 2,636 square feet which is within the maximum amount of accessory garage space allowed by the Ordinance. This condition has been satisfied.

b. The garage shall be constructed in the same architectural style as the principal building or structure.

Staff Comment. As shown on the submitted building elevation, the two garages are oriented such that garage doors will not be visible from Evergreen Road. The southern facades of the garages (visible from Evergreen Road) are designed in a manner which is integral to the overall design of the home. In this regard, the garages exhibit gable roofs and finish materials (stone) which mimic the design of the home's entry area.

c. The floor area ratio shall not exceed 0.12.

Staff Comment. The floor area ratio of the proposed home is 10.2 percent (9,635 square feet of floor area / 94,223 square feet of net lot area) and is within the maximum 12 percent threshold established by the Zoning Ordinance.

d. No use of the garage shall be permitted other than private residential non-commercial use.

Staff Comment. As a condition of conditional use permit approval, the proposed garages must only be used for private residential non-commercial use.

e. ***The factors set forth in 151.076(C) (Conditional Use Permits) shall be considered.***

Staff Comment. Section 151.076(C) of the Ordinance directs the Planning Commission to consider the following factors in consideration of all conditional use permit applications:

1. Relationship of the proposed conditional use to the Comprehensive Plan.

Finding. The subject site is guided and zoned to accommodate single family detached dwellings on large lots (a minimum of 1.45 acres). The Zoning Ordinance, which is intended to implement the City's Comprehensive Plan, lists accessory garages which exceed 1,500 square feet is size as a permitted use subject to conditional use permit processing.

2. The nature of the land and adjacent land or building where the use is to be located.

Finding. The subject site is located in the RSL, Residential Single-Family Low Density zoning district which is intended to accommodate large homes on large lots. The subject site is similar in size and character to other lots in the neighborhood, including those which border Pleasant Lake.

3. Whether the use will in any way depreciate the area in which it is proposed.

Finding. The proposed home will have 9,635 square feet of floor area and is not expected to depreciate the area in which it is proposed. The proposed home may, in fact, appreciate area home values.

4. ***The effect upon traffic into and from the premises and on adjoining roads or highways.***

Finding. Traffic generated by the new home is within the capabilities of Evergreen Road which serves the property.

5. ***Whether the use would disrupt the reasonable use and enjoyment of other property in the neighborhood.***

Finding. Provided certain conditions are imposed to minimize potential impacts, the proposed accessory garage space will not disrupt the reasonable use and enjoyment of other properties in the neighborhood.

6. ***Whether adequate utilities, roads, and other facilities exist or will be available in the near future.***

Finding. The proposed use would not place any burdens or additional public costs upon municipal or private infrastructure.

7. ***Whether the proposed conditional use conforms to all of the provisions of this chapter.***

Finding. Home plans will be required to comply with applicable provisions of the Zoning Ordinance as well as the State Building Code (as a condition of building permit issuance).

8. ***The effect upon natural drainage patterns onto and from the site.***

Finding. Grading, drainage and erosion control plans will be subject to review and approval by the City Engineer. As part of such plan review, a finding must be made that the proposed use will not have any negative effects on drainage.

9. ***Whether the proposed use will be detrimental to or endanger the public health, safety, comfort, convenience, or general welfare of the neighborhood or the city;***

Finding. The proposed use is not anticipated to endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or City.

10. ***Whether the proposed use would create additional requirements at public cost for public facilities and services and whether or not the use will be detrimental to the economic welfare of the neighborhood or city; and***

    Finding. The proposed use will not create additional public cost for public facilities and services nor be detrimental to the economic welfare of the neighborhood.

11. ***Whether the proposed use is environmentally sound and will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, land, or the general welfare because of excessive production of traffic, noise, smoke, fumes, wastes, toxins, glare, or odors.***

    Finding. The proposed use will not be detrimental to any persons, land, or the general welfare because of excessive production of traffic, noise, smoke, fumes, wastes, toxins, glare, or odors.

Lighting. Recognizing that the proposed garage doors and adjacent driveway areas face east and west, an assurance should be made that lighting in such areas does not negatively impact adjacent homes.

According to Section 151.031 of the Ordinance, exterior lighting in all residential zoning districts must be arranged so that it does not interfere with the reasonable use and enjoyment of surrounding land or constitute a hazard to vehicular traffic on all roads, streets, and public highways.

The Ordinance further states that exterior lighting must be designed and directed so that there is no direct viewing angle of the illumination source from surrounding land.

It is recommended that the preceding requirements be imposed as conditions of conditional use permit approval.

Setbacks. The proposed home, as well as garage driveway areas, lie outside the required 30-foot setback from all property lines.

Additionally, the home significantly exceeds the 75-foot setback requirement from the ordinary high-water level of Pleasant Lake (a setback of 185 feet is proposed).

Grading, Drainage and Utilities. As a condition of conditional use permit approval, it is recommended that grading, drainage and erosion control plan be subject to review and approval by the City Engineer.

STAFF RECOMMENDATION

Based on the preceding review, Staff recommends approval of the requested conditional use permit to allow the accessory garage space for a home located at 26 Evergreen Road to exceed 1,500 square feet subject to the following conditions:

1. In accordance with square footage reference in the applicant's narrative, a combined total of 2,636 square feet of accessory garage space shall be allowed upon the subject property.

2. The garages shall be used only for private residential non-commercial use.

3. The garages shall be constructed in the same architectural style as the principal building (per the submitted building elevation).

4. Exterior lighting upon the subject site shall be arranged so that it does not interfere with the reasonable use and enjoyment of surrounding land or constitute a hazard to vehicular traffic on all roads, streets, and public highways.

5. Exterior lighting shall be designed and directed so that there is no direct viewing angle of the illumination source from surrounding land.

6. The grading, drainage and erosion control plan shall be subject to review and approval by the City Engineer.

7. Comments of other City Staff.

PLANNING COMMISSION OPTIONS

In consideration of the conditional use permit application, the Planning Commission has the following options:

A) Recommend approval, with conditions, based on the applicant's submission, the contents of this report, public testimony and other evidence available to the Planning Commission.

- This option should be utilized if the Planning Commission finds the proposal adheres to all City Code requirements or will do so with conditions.

- Approval at this time means that, upon City Council approval, the applicant can construct the proposed accessory garages, as proposed, subject to the satisfaction of all imposed conditions.

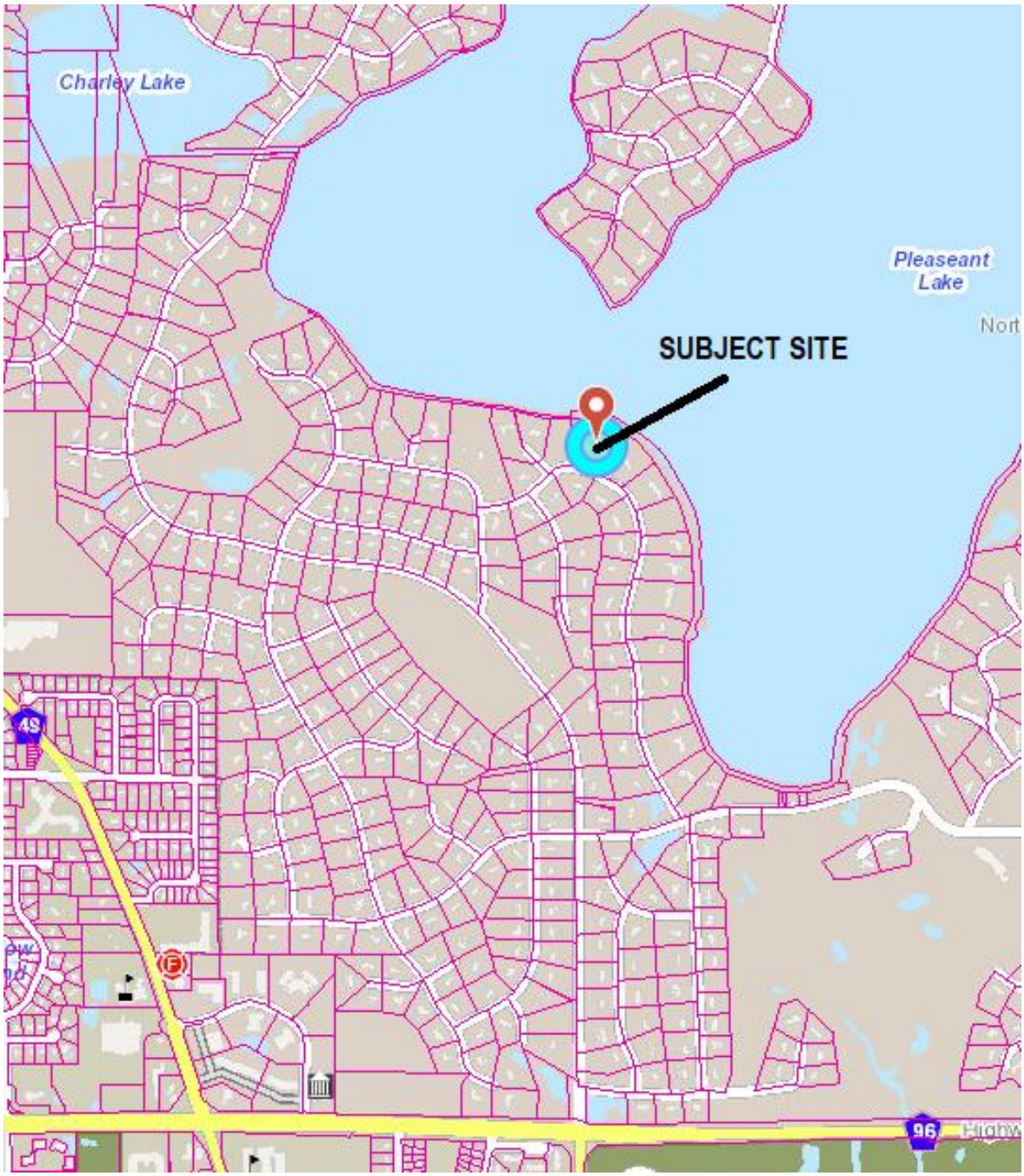
B) Recommend denial based on the applicant's submission, the contents of City Staff report, received public testimony and other evidence available to the Planning Commission.

- This option should only be utilized if the Planning Commission can specifically identify one or more provisions of City Code that are not being met by the conditional use permit proposal.

C) Table the request for further study.

- This option should be utilized if the Planning Commission feels the proposal is appropriate and should move forward, but that certain design aspects need to be amended and brought back before a recommendation for approval can be given.

cc: Pleasant Lake LLC
Kevin Kress, City Administrator
Larina DeWalt, City Engineer
Bridget Nason, City Attorney
Mikeya Griffin, NOHOA Executive Director
Stephanie McNamara, Vadnais Lake Area Water Management Organization
Jenifer Sorensen, Department of Natural Resources



MAP SOURCE: RAMSEY COUNTY

26 EVERGREEN ROAD

ESKUCHE
DESIGN GROUP

14 October 2019
City of North Oaks
Regarding 26 Evergreen Road
North Oaks, MN

The applicant proposes to build a single family home with attached garages which exceed 1,500 square feet in total area. The East garage measures 1,506 and the West garage measures 1,130 square feet totaling 2,636 square feet which is allowed under the conditional use permitting of the RSL Zoning District.

The reason the applicant purchased this property was because it already had two garages and although they were removed, proposes to build them attached to the principal structure.

All other aspects of the proposed residence meet the zoning restrictions for the RSL Zoning district.

Sincerely,

President, Eskuche Design Group, LLC

18318 Minnetonka Blvd Deephaven, MN 55391

EXHIBIT B

KEMPER & ASSOCIATES INC.
PROFESSIONAL LAND SURVEYORS

721 OLD HIGHWAY 8 N.W.
NEW BRIGHTON, MINNESOTA 55112
651-631-0351
FAX 651-631-8805
email: kemper@pro-ns.net
www.kempersurveys.com

26 EVERGREEN ROAD

TRACT A, RLS NO. 31 & TRACT C, RLS NO. 395

CITY OF NORTH OAKS, RAMSEY COUNTY, MINNESOTA

(PROPOSED SITE & GRADING AND EROSION CONTROL PLAN)

FRONT OF PROPOSED RESIDENCE
AT 26 EVERGREEN ROAD

ENTRANCE TO 26 EVERGREEN ROAD
CITY OF NORTH OAKS, RAMSEY COUNTY, MN

0 15 30
1 INCH EQUALS 30 FEET

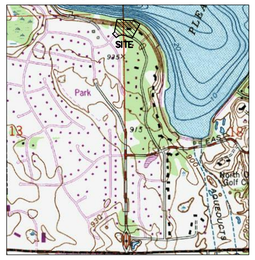
BASIS FOR BEARINGS:
RAMSEY COUNTY
COORDINATE SYSTEM
(NAD83, 1996)

BASIS FOR ELEVATION:
MINNESOTA DEPARTMENT
OF TRANSPORTATION
BENCHMARK "6224 H"
AT THE INTERSECTION
OF HIGHWAY 96 &
PLEASANT LAKE ROAD,
ELEV.=902.187 (NGVD29)

(VIA REAL TIME GPS
MEASUREMENTS UTILIZING
MINNESOTA DEPARTMENT
OF TRANSPORTATION
VRS NETWORK)

CONTOUR INTERVAL=1 FOOT

WEST ½ SEC. 18, T30N, R22W &
EAST ½ SEC. 13, T30N, R23W



VICINITY MAP
(NO SCALE)

LEGAL DESCRIPTIONS

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT NO. ORTE744984
DATED AUGUST 22, 2018

Parcel 1

Tract C, Registered Land Survey No. 395, Ramsey County, Minnesota.

Torrens Property
Being registered land as is evidenced by Certificate of Title No. 611620

Parcel 2

Tract A, Registered Land Survey No. 31, Ramsey County, Minnesota.

Torrens Property
Being registered land as is evidenced by Certificate of Title No. 611538.

AREA SUMMARY

TRACT A = 100,407 SQ. FT. OR 2.3050 ACRES

RIGHT OF WAY FOR EVERGREEN ROAD OVER THE SOUTHERLY 30 FEET = 6,184 SQ. FT. OR 0.1419 ACRES

NET PROPERTY = 94,223 SQ. FT. OR 2.1631 ACRES

TRACT C = 66,885 SQ. FT. OR 1.5355 ACRES

PORTIONS FOR EVERGREEN ROAD AND EVERGREEN COURT RIGHTS OF WAY = 8,624 SQ. FT. OR 0.1980 ACRES

NET PROPERTY = 58,261 SQ. FT. OR 1.3375 ACRES

NOTE: ALL ROADS IN NORTH OAKS ARE PRIVATE AND OWNERSHIP IS TO THE CENTER OF THE ROADS

NOTE CORRESPONDING TO SCHEDULE B

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT NO. ORTE744984
DATED AUGUST 22, 2018

8. SUBJECT TO EASEMENTS, RIGHTS AND INTEREST OF THE CITY OF SAINT PAUL AND BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL, DESCRIBED IN DEED AND AGREEMENT DATED JULY 12, 1951, RECORDED DECEMBER 31, 1952 IN BOOK 1411 OF DEEDS, PAGE 46, IN THE OFFICE OF THE REGISTER OF DEEDS. (AS TO PARCEL 1) AFFECTS SUBJECT PROPERTY. BLANKET IN NATURE.

9. SUBJECT TO THE RIGHTS OF THE CITY OF SAINT PAUL IN THE EAST QUARTER OF SECTION 13 EXCEPT THE SOUTH 10 ACRES THEREOF, ALL OF THE FOREGOING BEING IN TOWNSHIP 30, RANGE 23, AS SAID RIGHTS WERE ACQUIRED BY DEED DATED JULY 1, 1882, RECORDED AUGUST 5, 1882, IN BOOK 103 OF DEEDS, PAGE 429, IN THE OFFICE OF THE REGISTER OF DEEDS IN AND FOR RAMSEY COUNTY. (AS TO PARCEL 1) AFFECTS SUBJECT PROPERTY. BLANKET IN NATURE.

10. COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS SET FORTH IN THAT CERTAIN WARRANTY DEED DATED JUNE 14, 1979, FILED JUNE 15, 1979, AS DOCUMENT NO. 676419. (AS TO PARCEL 1)
ORDER DATED NOVEMBER 20, 1991, FILED NOVEMBER 27, 1991, AS DOCUMENT NO. 963000.
AFFECT SUBJECT PROPERTY. BLANKET IN NATURE.

11. EASEMENTS FOR ROADWAY, PATHWAY AND DRAINAGE AND VISTA PURPOSES TOGETHER WITH INCIDENTAL RIGHTS THEREOF, AS SET FORTH IN WARRANTY DEED DATED JUNE 1, 1989, FILED JUNE 12, 1989, AS DOCUMENT NO. 897164.
(AS TO PARCEL 1)
AFFECT SUBJECT PROPERTY AND ARE PLOTTED AND SHOWN HEREON.

12. SUBJECT TO AN EASEMENT OVER THE SOUTHERLY 30 FEET THEREOF FOR PURPOSES OF INGRESS AND EGRESS TO AND FROM SAID LANDS AS EVIDENCED BY RECITAL ON THE CERTIFICATE OF TITLE. (AS TO PARCEL 2)
AFFECTS SUBJECT PROPERTY AND IS PLOTTED AND SHOWN HEREON.

13. SUBJECT TO ALL TERMS, PROVISIONS, RESTRICTIONS, COVENANTS AND CONDITIONS CONTAINED IN THAT CERTAIN WARRANTY DEED FROM JOHN CHRISTHER COUNTRYMAN TO NORTH OAKS COMPANY, INC., DATED OCTOBER 23, 1950 AND RECORDED OCTOBER 31, 1950 IN BOOK 1350 OF DEEDS, PAGE 622, AS DOCUMENT NO. 1092064, AS AMENDED BY QUIT CLAIM DEED FROM SAID COUNTRYMAN AND WYNN B. CRONJE AND JEAN ANN CRONJE TO NORTH OAKS COMPANY, INC., DATED SEPTEMBER 26, 1951 AND RECORDED IN BOOK 326, PAGE 166 AS DOCUMENT NO. 297864 IN THE OFFICE OF THE REGISTRAR OF TITLES IN AND FOR SAID COUNTY, AND RECORDED IN BOOK 1376 OF DEEDS, PAGE 133 IN THE OFFICE OF THE REGISTER OF DEEDS IN AND FOR SAID COUNTY.
(AS TO PARCEL 2)
ORDER DATED OCTOBER 15, 1979, FILED OCTOBER 15, 1979, AS DOCUMENT NO. 682735.
EXAMINER'S DIRECTIVE AND CERTIFICATE OF ELECTION DATED SEPTEMBER 27, 1989, FILED OCTOBER 19, 1989, AS DOCUMENT N O. 906505.
CERTIFICATE OF ELECTION TO EXTEND RESTRICTIONS, COVENANTS AND CONDITIONS DATED MAY 31, 1989, FILED MAY 22, 1990, AS DOCUMENT NO. 923233.
NOTICE FILED AUGUST 27, 1990, AS DOCUMENT NO. 930289.
ORDER DATED JULY 1, 1992, FILED JULY 10, 1992, AS DOCUMENT NO. 981589.
AFFECT SUBJECT PROPERTY. BLANKET IN NATURE.

14. SUBJECT TO THE RIGHTS OF THE BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL AS SET FORTH IN THE FOLLOWING INSTRUMENTS: DEED DATED JUNE 1, 1882, RECORDED IN BOOK 102 OF DEEDS, PAGES 557-558 OF RAMSEY COUNTY RECORDS; DEED DATED JUNE 1, 1882, RECORDED IN BOOK 103 OF DEEDS, PAGE 429 OF RAMSEY COUNTY RECORDS; DEED FILED JANUARY 26, 1935, RECORDED IN BOOK 948 OF DEEDS, PAGE 208 OF RAMSEY COUNTY RECORDS; DEED AND AGREEMENT DATED JULY 12, 1951, RECORDED IN BOOK 1411 OF DEEDS, PAGE 46 OF RAMSEY COUNTY RECORDS.
(AS TO PARCEL 2)
AFFECT SUBJECT PROPERTY. BLANKET IN NATURE.

LEGEND

—925—	EXISTING CONTOUR LINE
×931.25	EXISTING SPOT ELEVATION
CB	CATCH BASIN
TR	TELEPHONE RISER
TV	CABLE TV RISER
CO	CLEAN OUT
MB	MAIL BOX
—G—	GAS MAIN/SERVICE
(M)	DENOTES DIMENSION MEASURED DURING THE COURSE OF THIS SURVEY
(R)	DENOTES RECORD DIMENSION AS PER REGISTERED LAND SURVEYS
●	DENOTES SET SURVEY MONUMENT MARKED "KEMPER 18407"
930	PROPOSED CONTOUR LINE
+919.0	PROPOSED SPOT ELEVATION
	DIRECTION OF PROPOSED DRAINAGE
	PROPOSED SILT FENCE
	TREE TO BE REMOVED

HARDCOVER SUMMARY

(LIMITED TO TRACT A, RLS NO. 31)

PROPOSED FOUNDATION FOOTPRINT = 5,907 SQ. FT.
(INCLUDES PROPOSED PORCH)

PROPOSED TERRACE = 1,406 SQ. FT.

PROPOSED WALK = 175 SQ. FT.

PROPOSED DRIVEWAY = 9,771 SQ. FT.

TOTAL PROPOSED IMPERVIOUS SURFACE COVERAGE = 17,259 SQ. FT. (17.2% OF TRACT A AREA)

ZONING REQUIREMENTS

ZONED RSL – RESIDENTIAL SINGLE-FAMILY LOW DENSITY
SUBJECT TO SHORELAND MANAGEMENT

MINIMUM LOT AREA – 1.25 ACRES (RSL)
43,560 SQ. FT. (SHORELAND)

MINIMUM LOT WIDTH – 150 FEET (SHORELAND)

FLOOR AREA RATIO – FOR LOTS WHERE THE COMBINED SQUARE FOOTAGE OF ALL BUILDINGS THEREON EXCEED 4,000 SQUARE FEET, THEN THE COMBINED TOTAL FLOOR AREA RATIO (FAR) OF ALL BUILDINGS ON SUCH LOTS SHALL NOT EXCEED 0.12

MAXIMUM HEIGHT – 35 FEET
BUILDINGS SHALL BE LIMITED TO A BASEMENT AND 2 FULL STORIES

SETBACKS – NO BUILDING OR STRUCTURE, INDIVIDUAL SEWAGE TREATMENT SYSTEM, OR WELL SHALL BE LOCATED WITHIN 30 FEET OF THE LOT LINES, THE NEAREST EDGE OF ANY ROAD OR STREET EASEMENTS, OR ANY WETLAND (RSL)
– 75 FEET FROM ORDINARY HIGH WATER LEVEL (SHORELAND)

(AS PER CITY OF NORTH OAKS ZONING CODE)

FLOOD ZONE

SUBJECT PROPERTY LIES WITHIN FLOOD ZONE "X" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 27123C-0030 G, DATED JUNE 4, 2010, RAMSEY COUNTY, MINNESOTA

CONSTRUCTION VOLUME SUMMARY

PROPOSED CUT VOLUME = 2,999 CUBIC YARDS
PROPOSED FILL VOLUME = 1,409 CUBIC YARDS

BALANCE = 1,590 CUBIC YARDS CUT

NOTE: PROPOSED HOUSE, SITE IMPROVEMENTS AND GRADING SHOWN HEREON AS PER PLANS BY ESKUCHE DESIGN GROUP DATED NOVEMBER 7, 2019

VIEW OF PLEASANT LAKE
FROM 26 EVERGREEN ROAD

PREPARED FOR:
RICK HENDEL
HENDEL HOMES
15250 WAYZATA BOULEVARD
WAYZATA, MINNESOTA 55391
952-404-7204
FAX 952-404-7205
rick@hendelhomes.com

STATE OF MINNESOTA
PROFESSIONAL LAND SURVEYOR
18407
MARK D. KEMPER

CERTIFICATION
I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Mark D. Kemper
MARK D. KEMPER, PLS 18407

DATED THIS 20TH DAY OF NOVEMBER, 2019

CERTIFICATE OF SURVEY

18140 (18140SPR1.DWG) D.B. TODD HOLEN

KEMPER & ASSOCIATES, INC. ©

EXHIBIT C

eskuche
DESIGN GROUP

952-544-3844
18318 Minnetonka Blvd
Deephaven, MN 55391

Copyright 2019

HENDEL
BUILDING • RENOVATIONS • HIGHLY DETAILED RESIDENCES

952-404-7204
15250 Wayzata Blvd #108
Wayzata, MN 55391

PLEASANT LAKE RESIDENCE

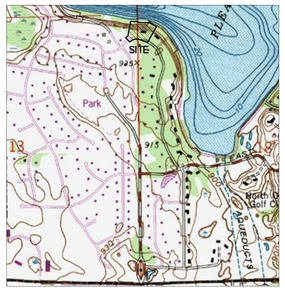
26 EVERGREEN ROAD
NORTH OAKS, MN

NOT FOR CONSTRUCTION

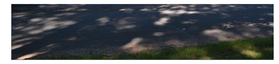
ESTIMATE SET:
20 SEPTEMBER 2019
REVISED
26 SEPTEMBER 2019

PROGRESS SET
7 NOVEMBER 2019

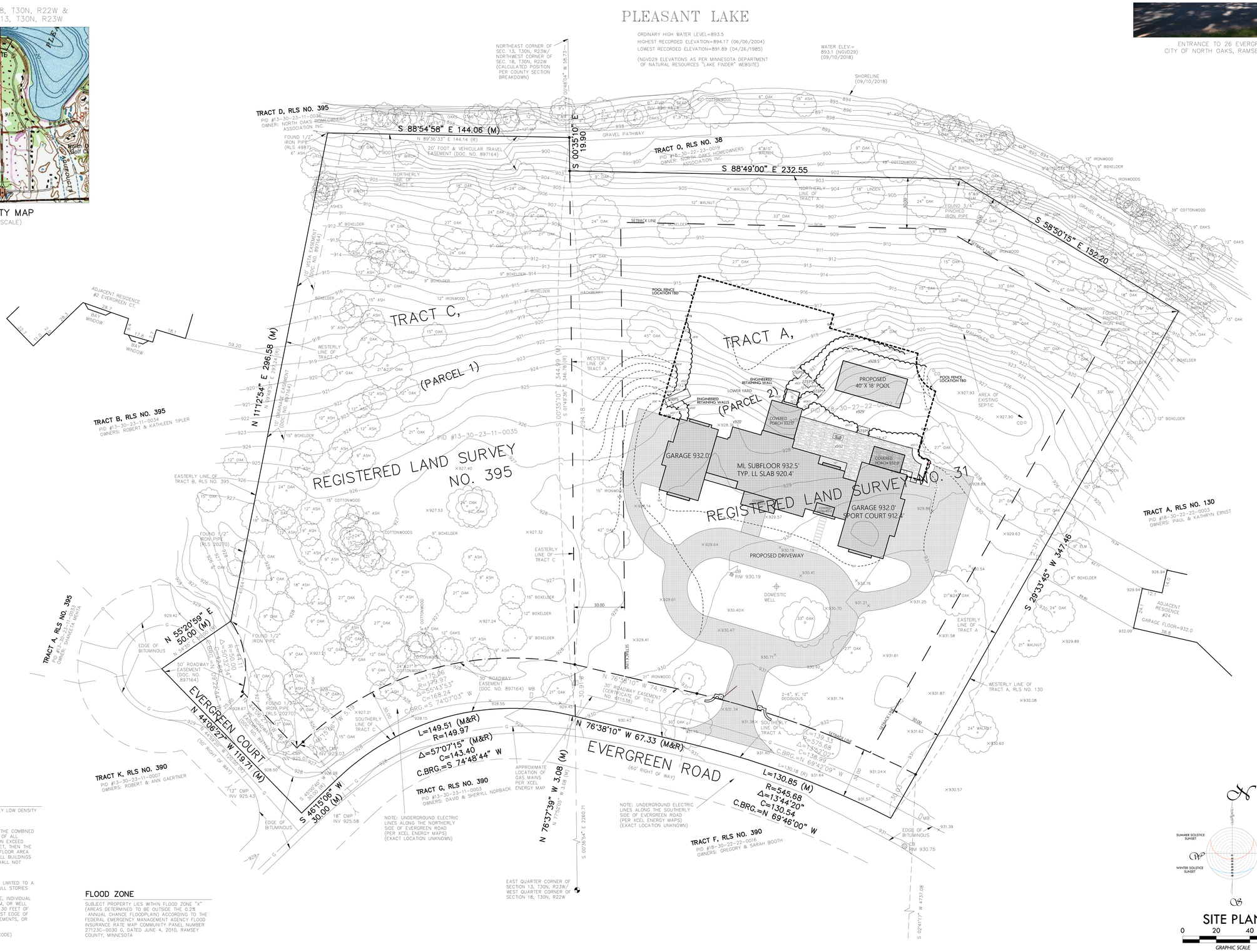
SHEET
L1



VICINITY MAP
(NO SCALE)



ENTRANCE TO 26 EVERGREEN ROAD
CITY OF NORTH OAKS, RAMSEY COUNTY, M



LEGEND

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×931.25	EXISTING SPOT ELEVATION
CB	CATCH BASIN
TR	TELEPHONE RISER
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(R)	DENOTES RECORD DIMENSION AS PER REGISTERED LAND SURVEYS
•	DENOTES SET SURVEY MONUMENT MARKED "KEMPER 18407"

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(AS PER CITY OF NORTH OAKS ZONING CODE)

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EXHIBIT D

EXTERIOR STONE

PANEL DETAIL

STUCCO

WINDOW & TRIM COLOR

ENTRY & GARAGE DOORS

SPIRE

LIMESTONE CHIMNEY CAP AND COPPER POT

ROOFING MATERIAL

HENDEL

PLEASANT LAKE EXTERIOR — 14 NOVEMBER 2019

eskuche DESIGN GROUP

Exhibit E

Memorandum

DATE:	Friday, November 22, 2019
TO:	North Oaks Planning Commission
CC:	Pleasant Lake LLC
	Kevin Kress, City Administrator
	Bridget Nason, City Attorney
	Mikeya Griffin, NOHOA Executive Director
	Stephanie McNamara, Vadnais Lake Area Water Management Organization
	Jenifer Sorensen, Department of Natural Resources
FROM:	Larina Vosika DeWalt, PE, PMP, City Engineer
SUBJECT:	North Oaks – 26 Evergreen Road CUP Application – Engineering Review

---

Please see below for Engineering Review comments based on the certificate of survey information provided on 11/20/19 and subsequent plan update, dated 11/20/19, provided on 11/21/19. Final plans with applicable comments should be conditional to CUP approval. Thank you for the opportunity to review and please don't hesitate to reach out with any questions.

- Per the certificate of survey, the proposed home is to be located approximately 188 feet from Pleasant Lake, within the City's defined Shoreland Management Area. A shoreland permit should also be submitted.
    - In addition, Ordinance section 153.052 (C) governs grading and filling within shoreland area and (3b) states: A grading and filling permit will be required for the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones. Excavation quantities shall be shown on final plans and a grading and filling permit will be required if the quantity of earth movement exceeds 50 CY.

- It appears that a complete tree survey has been performed and it is assumed that a review/confirmation of the health and condition of all trees to remain has been done. If not, it is recommended that the City Forester complete a review of proposed tree removals and existing trees to remain to confirm healthy condition of all remaining trees.

- Proposed retaining walls should be shown with tie-in elevations to existing grade along with bottom of wall (BW)/top of wall (TW) elevations. Any proposed retaining wall with a height of 4 ft or taller will need to be detailed on a plan stamped by a structural engineer.

Exhibit 101

- The proposed basement floor elevation is proposed to be more than 3-ft above the DNR ordinary high-water level elevation of 893.5 for Pleasant Lake, as well as the estimated 100-year high water level of 894.6 as provided by VLAWMO. The proposed elevations meet the minimum separations as indicated in the City's Surface Water Management Plan.

- No construction traffic shall be allowed over the existing/proposed on-site septic system and drain field locations. Proposed protective fencing is shown around the area of existing septic which complies with this requirement.
    - Is the existing septic drain field operational and does the system meet code?
    - Identify alternate location for proposed septic drain field, in case the existing system is determined to be at end of life. All comments contained within apply to alternate septic drain field locations.

- All proposed grades around the perimeter of the proposed home shall conform to the requirements of the building code. A minimal longitudinal slope of 2% shall be provided on all disturbed surfaces. Please verify the proposed grades around the perimeter of the house meet the requirements of the building code.

- Proposed yard area slopes appear to range from 1.8 – 100:1 (H:V); Temporary and permanent erosion control measures(BMPs)/proposed land cover should be detailed on final plans, particularly on slopes and in swales. Spot elevations and proposed slopes should be added to illustrate positive drainage.

- Proposed swale on east side of proposed driveway is currently shown at approximately 1.0%. The recommended minimum slope for drainage swales is 1.5-2.0%. Recommend extending proposed drainage swale along east property to the north in order to continue to divert storm water away from adjacent property to the east, if able to grade outside of setback area.

- There is a proposed high spot in the open/non-paved area at the proposed driveway turn around/the front entrance, near the domestic well location. Provide spot elevations and detailed grading in this location to sufficiently illustrate proposed positive drainage conditions.

- Based on the existing spot elevations, the existing slope at the edge of pavement across the proposed drive location off Evergreen Road is approximately 0.47%, with a 1.5% cross slope. These slopes are near the recommended minimums. Final plans should illustrate driveway detail at tie-in to existing pavement to ensure drainage pattern and positive slope is maintained.

12800 Whitewater Drive, Suite 300, Minnetonka, MN 55343 | 763.476.6010
2401 46th Avenue Southeast, Suite 202, Mandan, ND 58554 | 701.204.6845
sambatek.com

- Proposed driveway cross-slopes are reaching maximum recommended slopes. East drive adjacent to garage appears to slope to the east at 6.0%, and west drive appears to slope to west at approximately 6.9-9.5%. If these slopes exceed the intended future use of driveway, it is recommended to add small retaining wall adjacent to driveway perimeters on the east and west at garage entrances in order to flatten driveway cross slopes.

- The proposed pool appears to be located approximately 21 ft from the principal structure, which conforms to setbacks in Ordinance section 150.050 (F). However, it should be confirmed that the location of the pool conforms to the requirements set forth in ordinance section 150.050 which apply to setbacks from sewage and septic systems.

- Ordinance section 150.059 governs requirements for pool safety fences. It should be confirmed that the location and design of the proposed pool fence conforms to the applicable requirements.

- Add impervious area table. Existing/pre-existing impervious area should be compared to proposed impervious to aid in preliminary determination of stormwater management impacts.

12800 Whitewater Drive, Suite 300, Minnetonka, MN 55343 | 763.476.6010
2401 46th Avenue Southeast, Suite 202, Mandan, ND 58554 | 701.204.6845
sambatek.com

CITY OF
NorthOaks
Building on a tradition of innovation

City of North Oaks
Complaint Policy

POLICY:

When a citizen has a complaint about anything related to activities and responsibilities of the City, they shall file a signed complaint in writing. This form will be provided by the City and may be requested at City Hall or found on the City's Website. The form can be dropped off, sent by US Mail, or by e-mail. The complainants name is not considered public data and will not be publicly noted.

PROCEDURE:

1. The City Administrator will forward a completed form to the proper department or to the City Council for determination of what, if any, action shall be taken.

2. Telephone complaints will not be accepted.

3. Anonymous complaints will not be considered valid and action will not be taken.

4. Once action has been taken, the Council may decline to address the same complaint more than once during a three month period of time.

5. Upon the completion of any said action, the complainant will be notified of action taken.

CITY OF NORTH OAKS
CONCERN/COMPLAINT FORM

Address of problem: _____
_____

NATURE OF COMPLAINT

Describe in detail the problem / violation that has occurred: _____
_____
_____
_____
_____
_____

*Use other side or attach a separate sheet for additional information, please be detailed.

COMPLAINTANT INFORMATION:
Name: _____ Phone: _____
Address: _____

THIS SECTION FOR CITY USE ONLY

Investigated By: _____Ordinance #_____
Actions / Procedures Followed: _____
_____
_____
_____
_____
_____
_____
_____

CITY OF NORTH OAKS

REQUEST FOR COUNCIL ACTION

Requested Date of Council Consideration: 12-12-19 **Flexibility:** ☐ YES ■ NO	**Originating Department:** ADMINISTRATION
Agenda Item: ADMINISTRATOR STAFF REPORTS	**Presenter: KEVIN KRESS**
	Estimated Time: ☐Consent Agenda ■ 5 Min. ☐15 Min. ☐ 30 Min. ☐ 45 Min. ☐ 1 Hour

Council Action Requested:

■ Information/Review ☐ Motion to approve...☐ Motion to deny... ☐ Other ☐ Budget Change
(Please word the motion below as you would like it to appear in the minutes.)

Background:

<u>City Hall</u>
City staff is interested in implementing some new policies and Ordinances early in 2020 for consideration by the City Council. Some of these items include:

- **Board/Commission member appointment policy/application**
- **Ethics/Code of Conduct Ordinance City Council, Boards & Commissions**
- **Investment Policy**
- **Internal Accounting Controls Policy**
- **Rules of Procedure City Council and Commissions**

City staff has incorporated the use of ASANA a workforce management software to aid us in task completion and project management. I recommended the use of this tool and so far, it appears to be a welcomed addition by staff.

<u>Commission Minutes</u>
In reviewing past City practices I noticed a few items that will need to be revised moving forward. The Council may have noticed I removed the Planning/Zoning and the Natural Resource Commission minutes from the consent agenda. The Council has no authority to approve or modify either of these minutes therefore making them unfit for the consent agenda. My assumption was/is that the Council merely wanted to be knowledgeable on what was happening with both commissions. The minutes can be included in the Council packet but should be included in reports as there is no action that can be taken.

<u>Fee Schedule</u>
In the past this item was approved by simple motion or resolution. Moving forward adopting the Fee Schedule will be done by Ordinance as required (in most cases) by State Statute. The Fee Schedule in general is lacking a lot of necessary/required information. City staff will be working on improvements to the schedule for January.

<u>P/Z Commission</u>

- **Established a task force committee to review the 2040 Comp Plan in more detail in relation to the Met Council requests.**

- **Meeting set to discuss process/application for Variance, CUP, Building etc. In general, the City Planner should coordinate the application series with the aid of other consultants and staff where applicable.**
- **Following the meeting to discuss process/application a meeting will take place with NOC to discuss their proposed developments.**
- **In January year end reports will be presented from various consultants to the City Council.**
- **City staff is in the process of scheduling interview's for the open P/Z commission seat.**

Supporting Documents: ☐ Attached ☐ None

Department Head Signature/Date:

Administrator Signature/Date:

ACTION TAKEN

☐ Approved ☐ Denied ☐ Tabled ☐ Accepted Report ☐Other

Date of Action: _____

Comments:

Administrator's Signature/Date:

\\COUNCIL\REQUEST FOR COUNCIL ACTION FORM.DOC

Natural Resources Commission
November 21, 2019
7:00 p.m.

1. **Call to Order**

Chair Bob Larson called the meeting to order at 7:00 p.m.

2. Roll Call

Present were Chair Bob Larson, Commissioners Dan McDermott, Andrew Hawkins, David White, Damien LePoutre, and Mayor Gregg Nelson
Staff: Recording Secretary Debbie Breen.
Absent: Commissioner Kate Winsor, NOHOA Representative Diane Gorder, City Administrator Mike Robertson.

3. Approval of Agenda

David White suggested adding to the agenda the discussion of whether the Natural Resource Commission is subject to open meeting law regulations & if so, what are the guidelines for this. Mayor Nelson confirmed that that the NRC is subject to open meeting law, and suggested they reach out to the League of MN as a free resource for any questions or clarification needed.

4. Approval of October 17, 2019 Meeting minutes

Commissioner LePoutre clarified his statement from the prior minutes. He suggested that the NRC begin the process to manage the deer budget, and investigate additional options than just annual removal. Possibly incorporate in some years a deer study or aerial count. Mayor Nelson recommended that the NRC come up with proposal and general plan to bring to Council. David White mentioned he didn't think there had been a count in several years.

Commissioner Hawkins motioned to approve the Minutes as amended, with Commissioner McDermott as second. Motion unanimously approved.

5. Coyote management plan

City staff Gretchen Needham is currently working on the draft version of the plan. It will be sent to Commissioners in advance of the next NRC meeting for review.

6. **Oriental Bittersweet Removal**

Per City Administrator Robertson's staff notes, work on removal had to be postponed due to cold temperatures. The State grant has been extended to next summer 2020 for completion. Paperwork will be submitted by City Administrator Kevin Kress at that time.

7. Update on Septic Ordinance Committee

Commissioner Hawkins attended the kick off Septic committee meeting along with 8 other people. They solidified the mission of the Committee, and talked about what the different types of systems were and how they worked. Also discussed concerns about cesspools and other systems that may be non-compliant and brainstormed about ways to address them. All participants agreed that: Septic systems are a major cost and a major consideration to homeowner, and the need to be respectful and give them time to remedy. In addition to drafting an Ordinance, they would also like to look at options if there are ways to be funded. There next follow up meeting is Tuesday, December 17 at 6:30 p.m.

Mayor Nelson inquired as to who was on the Committee. Commissioner Hawkins mentioned that Councilmember Kara Ries, Gretchen Needham, Jack Anderson, Marc Owens-Kurtz, Franny Skanser-Lewis, Joe Jesmer and Gilroy Hartley were in attendance at the first meeting. It is open to all residents.

Commissioner McDermott asked if enforcement will be included in the discussion, and Commissioner Hawkins indicated yes. The over goal is to protect the quality of the groundwater and wells in our communities.

Commissioner White asked what other communities have had to address this issue. Commissioner Hawkins indicated that individuals within committee will do research to inquire with other similar communities how they are managing this topic. Commissioner McDermott inquired whether well testing is a requirement in North Oaks. It was mentioned that there is no North Oaks requirement for well testing, however there is a well and septic requirement for distance of separation.

8. Review of Stormwater Management Plan

The VLAWMO comments to the North Oaks 2019 Water Plan was included in the meeting packet and reviewed by the Commissioners. Commissioner LePoutre was sensitive to the areas around Black Lake and the information regarding this area. Chair Larson indicated that VLAMO is very in tune with water needs of the surrounding communities. Commissioners Hawkins indicated that the VLAWMO comments were very thorough and didn't see further follow up required at this time.

9. Tick Task Force

There has been no meeting since October, and the next meeting not yet scheduled. Commissioner White will follow up for the next date. If the NRC is to take lead in Deer Management, they would need to work with the Tick Task force to work together to ensure they are in agreement with the plan. Commissioner White mentioned that a deer survey may be pertinent at this time. The DNR is interested in managing wildlife, Tick Force has different priorities. He indicated 9 deer per square mile is overall goal as manageable in

past. Mayor Nelson indicated that $55,000 was budgeted for 2019, with $7,500 spent last year on Deer management. The 2020 budget is $25,000. Mayor Nelson indicated that it's been a while since a survey has been done. He also mentioned that the City may have concerns if survey shows less deer than accurate, because that may cause us to lose the ability to receive a DNR permit. Mayor Nelson indicated Administrator Kress may have thoughts on deer management. The Metro Archer group is currently used by Ramsey County for bow hunting on their public lands. It was thought that our original Countryman deeds may prohibit hunting on North Oaks land.

10. Kate Winsor's report:

- She has submitted an article to North Oaks news with reminder on proper height for backyard bird feers to prevent deer from feeding on the seed.
- Northeast Metro Climate Action is hosting an event at the Shoreview Library on Monday, December 9th at 7:00 p.m. called "Birds and Climate Change".
- VLAMO is interested in showing a film in North Oaks called "Hometown Habitat: Stories of Bringing Nature Home". It's a 90 minute environmental documentary.
  Commissioner Hawkins made a motion to have VLAWMO bring the film to show in North Oaks. Mayor Nelson seconded and all were in favor.

11. Metropolitan Mosquito Control District Report

A report was submitted by the Metropolitan Mosquito Control District (MMCD). Highlights include for North Oaks: 528 larval sites inspected, larval treatment of 1,395.66 acres, and 1018 catch basin treatments, with the parks regularly treated. Commissioner Hawkins indicated he believes North Oaks does Helicopter drop of pellets of spores of bacteria that flow in marsh. Larvae eat them which kill mosquitos. They do not spray. The pellets are less harmful to other species.

12. City Update

Administrator Robertson's staff memo reported on the topics covered in the meeting and thanked Commissioners for their volunteer service to the community over the years. The new City Administrator Kevin Kress will begin December 2, 2019.

13. NO NOHOA / NEST update.

14. No Other New Business

15. Next Meeting will be December 19, 2019.

A motion to adjourn at 8:05 p.m. made by Mayor Nelson, Commissioner McDermott seconded, with all in favor.

DRAFT