

The Planning Commission Meeting was called to order by Chair Campbell at 7:01 p.m. at the Community Meeting Room, 100 Village Center Drive Suite 150, City of North Oaks. Also present were Commissioners Dick Hara, Katy Ross, Bob Wilson, and City Council Liaison Gregg Nelson. Commissioners Nancy Reid and Joyce Yoshimura-Rank were absent. City Administrator Mike Robertson, Administrative Assistant Linda Hanson and Videographer Maureen Anderson were also present.

### **Approval of Agenda**

**With an addition of one item, Commissioner Hara moved to approve the agenda. The motion was seconded by Commissioner Ross and passed unanimously.**

### **Approval of Minutes**

**Commissioner Wilson moved to approve the minutes from the October 30, 2014 Planning Commission meeting. The motion was seconded by Council Liaison Nelson and passed unanimously.**

### **New Business**

#### **1. Mayor John Schaaf**

Mayor Schaaf is retiring and he came to thank the Commissioners and Chair Campbell for the work they have done. He especially wanted to recognize Chair Campbell who has done an outstanding job while he was Mayor. He stated that Chair Campbell is gifted, patient, fair minded and committed to the residents in North Oaks. He also stated that the Commissioners are attentive, good listeners and have shown good stewardship of the community. He said that the Commission has overseen all recent growth in North Oaks including Rapp Farms, Charley Lake Preserve and Red Pine Farms which will add 700 new homes to North Oaks. Mayor Schaaf wished them well and wanted to also wish Commissioner Bob Wilson well on his retirement.

Chair Campbell thanked Mayor Schaaf for his service.

#### **2. Public Hearing-Proposed Conditional Use Permit #14-16, 12 Creekside Lane, Bob Moser Allow removal of trees in an arboreal easement for grading purposes**

Bob Moser, owner of the lot at 12 Creekside Lane, requested a Conditional Use Permit (CUP) to allow removal of some trees in the easement for stormwater grading purposes. An arboreal easement was set up in 2003 to screen properties to the east. He plans to take out the minimum number of trees while avoiding the larger trees.

Administrator Robertson noted that the proposed use for this property conforms to all provisions of the City Zoning Ordinance and to the requirements of the Development Agreement dated July 3, 2003. This CUP will provide a drainage path while preserving larger trees in the easement. The wording in the arboreal easement specifically allows for stormwater drainage. Since 2003 the vegetation in this easement has grown significantly so removing a few of the trees should not affect the screening. Based on the Findings of Fact, Staff agreed that the applicant has met the required conditions for a CUP and recommended approval.

Chair Campbell opened the Public Hearing at 7:10 pm.

**Karen Portis, 7 Peterson Place**

Ms. Portis asked why this CUP was not considered before construction of the new home began. Administrator Robertson explained that the arboreal easement allowed for drainage and that if the CUP is denied the builder would have other drainage options. The City has no ability to prevent the construction of a home on a lot that meets all City requirements.

**Scott Durbahn, 9 Peterson Place**

Mr. Durbahn stated that when he moved in, he was told he could not remove any trees in the easement including dead trees. The City Forester has gone through a lot of trouble to preserve the trees, but dead trees are not removed as well. His main concern was the negative impact removal of trees could have on the value of his property. He stated that homeowners in North Oaks pay a premium for wooded lots. He does not want to see removal of live trees as they provide shade and beauty.

Hearing no further comments, Chair Campbell closed the Public Hearing at 7:16 pm.

Chair Campbell stated that this is no clear cutting of trees, just selected removal some trees for drainage. The City Forester suggested that less desirable trees such as cedars be removed while preserving the more mature trees. The purpose of the arboreal easement was to preserve vegetation and trees and prevent encroachment of back yards into the easement. The trees that will be removed are marked and he encouraged everyone to take a look at them. City Administrator stated that he would discuss the removal of dead trees from the easements with the City Forester.

City Liaison Nelson stated that the trees proposed to be removed are a misshapen oak, a second oak closest to the new home and several of small cedars. He believes this is a reasonable request. Chair Campbell agreed that it appears Mr. Moser is trying to leave as much as possible and the removals should not affect screening. The buyer would be asked to replace the larger trees removed with maples.

**Commissioner Ross made the motion to recommend to the North Oaks City Council that CUP Amendment #14-16 to allow Bob Moser Homes to remove some trees and prune others in an arboreal easement in order to construct a single family home on the lot at 12 Creekside Lane be approved based on the Staff Review and Findings of Fact with the following conditions:**

- 1. The project construction shall match the plans reviewed and approved by the City Forester and City Building Official.**
- 2. At least two or more replacement trees shall be planted on the lot. The total number of trees planted and their locations shall be determined in consultation with the City Forester.**
- 3. All required City permits must be obtained.**
- 4. Construction equipment can only be operated between the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday. No construction equipment is allowed on Sundays and Holidays.**

**The motion was seconded by Commissioner Wilson and passed unanimously.**

- 3. Variance 14-18, 2 West Bay Lane, Toni Rahn & Brian Solsrud - Placement of a play structure within the 30 foot side yard setback**

Toni Rahn and Brian Solsrud at 2 West Bay Lane are requesting a Variance to put a play structure 20 feet into the 30 foot setback on the west side of their property. Administrator Robertson stated that this request comes after the fact as the play structure is already in place. The applicants went to the Architectural Supervisory Committee in July and their request for the play structure in the setback was denied. In September they did get approval for a landscape plan which did not include the play structure. In addition, one of the neighboring properties was not in support of this structure within the setback. City code does not allow for a structure inside setbacks. Staff does not feel this meets the requirement of practical difficulties for a variance. The applicants state that this is the only level spot and area where the structure can be viewed from the kitchen window. Building Official Greg Schmit believes other locations are available on this lot without encroaching in the setback. Administrator Robertson stated that if this variance was approved, it would allow for special privileges and because it does not meet the requirement for practical difficulties, Staff recommends denial.

Commissioner Wilson asked why the play structure was built by the applicants when the ASC turned down their request. Commissioner Hara said there seems to be another issue with the deck and well that appear to be located partially in the setback. Robertson noted that both of these existed prior to the current owner moving in.

**Mark Lobanoff, 15 Island Road.**

Mr. Lobanoff explained that he lives south of this property. He said that he opposes the requested variance. He is not opposed to the play structure, but does not want it placed in the setback. He noted that they did not have approval and a stop order was issued during the construction by the City Building Official. Grading was also done removing a berm and vegetation leading to more run off towards his property. He would like to see the play structure moved and the berm restored.

Chair Campbell reviewed the property in person and thought there were other areas where the play structure could be located. He stated that the 30 foot setback is important to maintain, both for separation from adjoining properties and to provide a secondary site for a septic system if the original fails and there is no other option.

Administrator Robertson was asked about enforcement. He said that if the City Council agreed with the Planning Commission that the play structure would need to be removed, he would send a letter giving the owners a certain period of time to remove it or place it elsewhere on the property. If they did not comply, a lawsuit would be the next step.

Chair Campbell suggested that the City Building Official look at the lot to see what needs to be done to re-establish the berm that was removed.

**City Liaison Nelson made the motion that the North Oaks City Council DENY Variance #14-18 based on the Staff Review and Findings of Fact with the following additional finding:**

**1. That the applicant does not meet the practical difficulties definition of City Ordinances which states that the plight of the land owner is due to circumstances unique to the property which were not created by the land owner, in that there appear to be other areas of the property where the structure could be sited and meet City Ordinances.**

**The motion was seconded by Commissioner Ross and passed unanimously.**

#### **4. Proposed Tree Protection Ordinance**

Chair of the Natural Resource Commission, Bob Larson stated that due to new information, the NRC would like to postpone presenting this ordinance to the Commission at this time.

**5. Commissioner Wilson's Final Comments**

Commissioner Wilson is retiring from the Planning Commission at the end of this year. He stated that when he began on the Commission he did not know much about the work of the Commission. He found that he enjoyed and appreciated the work and hoped that he contributed. He stated that the Commission dealt with some controversial issues, but things seemed to work out well. He praised the other Commissioners and the leadership of Chair Campbell.

Chair Campbell stated that the City of North Oaks should be happy with Commissioner Wilson's work. Bob knows the City well and has a great regard for individual rights.

**Next Meeting**

The regular December Planning Commission would fall on Christmas so the next Planning Commission Meeting is Thursday, January 29, 2015 at 7 p.m. at the Community Meeting Room, 100 Village Center Drive.

**Adjournment**

**On motion made by City Council Liaison Nelson, seconded by Commissioner Ross and carried unanimously, the meeting was adjourned at 7:52 p.m.**

Attest:

Respectfully submitted,

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Chair Bill Campbell

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Linda Hanson  
Recording Secretary