



CITY OF

**NorthOaks**

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*Minnesota*

## **CITY OF NORTH OAKS**

### **Regular City Council Meeting**

**Thursday, July 09, 2020**

**7 PM, Via Teleconference or Other Electronic Means Only**

The meeting can be viewed live via the web broadcast on the City website. Those wishing to provide comment during the Citizen Comments portion - click the link below to join the meeting: <https://us02web.zoom.us/j/84208842760> Or Telephone: US: +1 312 626 6799, Meeting ID: 842 0884 2760. Due to the existing COVID-19 Health Pandemic, no more than five (5) members of the public may be in Council Chambers (Community Room, 100 Village Center Drive, MN) during the meeting. Once room capacity is met, anyone wishing to attend the meeting above the five (5) members of the public who may be present in the room during the meeting will be required to monitor the meeting remotely as noted above. Please note that one (1) of the public spots will be reserved for individuals wanting to make a presentation during the citizen comment portion of the meeting.

## **MEETING AGENDA**

### **1Call to Order**

### **2Roll Call**

### **3Pledge of Allegiance**

### **4Approval of Agenda**

**5Citizen Comments** - *Individuals may address the City Council about any item not included on the agenda. Speakers are requested to come to the podium, state name and address for the clerk's record, and limit their remarks to three minutes. During the pandemic, when meetings are held virtually, speakers will be able to call in to the meetings to make remarks, or request that submitted comments are read by a member of Council or the City Staff. Generally, the Council will not take official action on items discussed during the citizen comment period, but Council members may refer the matter to City Staff for a future report or direct that the matter be scheduled on an upcoming agenda.*

**6Consent Agenda** - *These are items that are considered routine and can be acted upon with one vote.*

6aLicenses to Approve:

ELK Mechanical HVAC Inc.; Fireplace Gallery; The Davey Tree Expert Company; The Fireplace Guys; Midwest Maintenance & Mechanical;

Checks for Approval: 013603 - 013633

6bMinutes from the June 11, 2020 City Council Meeting  
[North Oaks City Council Minutes 6.11.20.pdf](#)

**7Petitions, Requests & Communications** - *Deputy Mike Burrell Report*

**8Unfinished Business**

8aCity Response to Death of George Floyd  
[NO Council Public statement George Floyd.docx](#)

**9New Business**

9aDiscussion and Consideration of Request from North Oaks Company for Preliminary Grading and/or Infrastructure Improvements in Nord and Anderson Woods Subdivisions  
[Anderson Woods grading permit request.pdf](#)

[Nord grading and utility permit request.pdf](#)

9bDiscussion on LJFD Fire Station Project Agreement between Arden Hills, Shoreview, and North Oaks  
[20200626 Draft Cities Agreement for New Station - WS Update.doc](#)

9cDiscussion on Process for Filling Council Vacancy

9dDiscussion on City-Wide Event

9eDiscussion on North Oaks News Newspaper

**10Council Member Reports**

**11City Administrator Reports**

Forestry Report for June 2020  
[June in Review Forestry Update.pdf](#)

**12City Attorney Reports**

**13Miscellaneous**

13a13Minutes of the Special Planning Commission Meeting, June 9, 2020—7 Eagle Ridge CUP  
[6.9.20 PC Minutes Special Meeting 7 Eagle Ridge CUP.docx](#)

13bMinutes from the Special Planning Commission Meeting, June 9, 2020—Nord Parcel  
[6.9.2020 PC Minutes Special Meeting Nord.docx](#)

13cMinutes from the Natural Resources Commission Meeting, June 18, 2020  
[6.18.20 NRC Meeting Minutes Draft.docx](#)

**14Adjournment** - *The next meeting of the City Council is*

**North Oaks City Council  
Meeting Minutes  
North Oaks City Council Chambers  
June 11, 2020**

**CALL TO ORDER**

Mayor Nelson called the meeting of June 11, 2020, to order at 7:05 p.m.

**ROLL CALL**

City Councilmembers participated **by telephone or other electronic means** pursuant to Minn. Stat. § 13D.021. Residents can view the meeting on our cable access channel and through the website portal just like other public meetings. Due to the existing COVID-19 Health Pandemic, no more than five (5) members of the public may be in Council Chambers (Community Room, 100 Village Center Drive, MN) during the meeting. Once room capacity is met, anyone wishing to attend the meeting above the five (5) members of the public who may be present in the room during the meeting will be required to monitor the meeting remotely as noted above. Please note that one (1) of the public spots will be reserved for individuals wanting to make a presentation during the citizen comment portion of the meeting.

Present: Mayor Gregg Nelson. Councilmembers Rick Kingston, Marty Long, Kara Ries, and Katy Ross.

Staff Present: Administrator Kevin Kress, Attorney Bridget Nason, City Planner Bob Kirmis, City Engineer Larina DeWalt, and Administrative Assistant Gretchen Needham.

Others Present: Videographer Maureen Anderson, Officer Mike Burrell, VLAWMO Water Resources Manager Brian Corcoran, Rumna Chowdhury

A quorum was declared present.

**PLEDGE OF ALLEGIANCE**

Mayor Nelson read the Pledge of Allegiance.

**APPROVAL OF AGENDA**

Mayor Nelson noted there is a considerable agenda and suggested moving item D to item A under New Business to address that item as early as possible. Administrator Kress asked if he wanted to move both items C and D. Mayor Nelson said yes, they can move them both to items A and B. Administrator Kress stated as a reminder, under the Consent Agenda, items G and H were added and those are in the final packet.

**MOTION by Kingston, seconded by Ries to approve the agenda as amended. Motion carried unanimously by roll call.**

**CITIZEN COMMENTS**

There were no citizen comments.

**CONSENT AGENDA**

Councilmember Kingston read the consent agenda. He stated these are items that are considered routine and can be acted upon with one vote.

**a. Licenses and Checks for Approval**

- Licenses for approval: Kidd Plumbing, Inc.; Patton Heating; McQuillan Brothers
- Checks for approval: #13569 - 13601.

**b. May 14, 2020 Meeting Minutes**

**c. 2020 Resolution 1383 to Move Election Polling Place for Precinct #2 from Waverly Gardens**

**d. City Council Special Meeting Minutes of May 19, 2020**

**e. Resolution 1384 Approving 16 Sunset Lane Septic Variance**

**f. Mounds View School District - Class of 2020 Senior Day Proclamation**

**g. Approve Resolution 1385 CUP for 7 Eagle Ridge**

**h. Approve Resolution 1386 of the COVID-19 preparedness plan**

**MOTION by Long, seconded by Kingston to approve the Consent Agenda. Motion carried unanimously by roll call.**

**PETITIONS, REQUESTS & COMMUNICATIONS**

**a. Deputy Mike Burrell Report**

Deputy Burrell said this month has probably been the most hectic month of his law enforcement career. A week and a half ago he was ordered back along with all deputies and for two weeks they all worked 12-15 hours straight. The first five days he was stationed in St. Paul protecting the capitol. There was word that groups would storm the capitol and burn it to the ground. He and several other deputies, state patrol and national guard focused there for about five days. He did want to come back to North Oaks, although there was full staffing. He knows that many residents were concerned about the staffing levels as there were some threats against the city by groups that wanted to loot the suburbs. It was a situation the sheriff was fully aware of and they were on top of it. He did confirm there were patrols in North Oaks. Not only did he see them, but there was increased coverage and calls during the time. Thankfully North Oaks was spared for the most part. Due to the chaos, it did bring out some opportunists. The Village Center businesses that were hit included the Taste of Scandinavia, the dry cleaners and the ice cream store. Two people were identified, one is in Ramsey County jail, the other is not in custody as far as Deputy Burrell knows. Both people who burglarized have extensive criminal records; one had 23 felonies and the other had 20 felonies. They are no stranger to the criminal justice system.

Deputy Burrell said the other thing to talk about in North Oaks is that after the incident, there may be some changes coming down the pipe in the way they are policing. He stated there will most likely be future talks between Ramsey County and the city of North Oaks regarding the expectations of councilmembers and citizens on what the police are providing to the contract cities. Deputy Burrell said that personally, he has always been doing what has been demanded or

expected of him in North Oaks. That is something he's always reached out for the council's feedback on their expectations and what the goals of the city are and try to mesh that with the expectations of the residents. He stated he is open for future discussions regarding the future of policing in North Oaks.

Mayor Nelson said he is sure Deputy Burrell shares their concerns and on the agenda for the night is a discussion of the tragic death of George Floyd and what their community should do to respond. He said that the sad and pathetic act by a group of officers reflects badly on law enforcement generally and makes their difficult job even more difficult. Mayor Nelson said he is sorry about that. No one intervened to do their duty to protect and to serve just as Deputy Burrell noted is what he considered his duty. Mayor Nelson said he can't tell how disappointed he was watching that. He said they deserve better and hope that justice prevails and they would talk about the matter later. He also said they appreciate the Sherriff's department, they do a great job and the Council will engage with the department to talk about this more.

Councilmember Long said he spoke with Deputy Burrell and the burglaries were local offenders, one distracts and the other goes for the cash box. He said one was in custody and asked if the department was working on the other offender. Deputy Burrell said he wouldn't call them local, they were local as in St. Paul, and he believes they both had St. Paul residences. He said Councilmember Long was correct, one would distract while the other would go in and take the loot. This was a very extensive crime spree that encompassed numerous cities and numerous counties, but North Oaks and Shoreview were hit especially hard. He also said that of all the cities they hit, including other cities and counties, it was the Ramsey County Sherriff's department that stopped it. It did take some citizen and business assistance as well, and one day last week there was a lot of time spent by one of their investigators as well as a team of apprehension deputies that were able to put a stop to it and put the case together. Councilmember Long clarified his point that even though they had to give up some of the officers, the city is still covered by Ramsey County. Deputy Burrell replied yes and that during the entire time, there were three times the deputies or more working on a particular shift than what is standard. It was all hands on deck, North Oaks was covered and there were plenty of people there for calls. Typically they'd have some calls where one or two deputies would show up to a call, but during the peak time, there may have been four or five deputies responding. He said there were many calls on suspicious vehicles. The city of St. Paul put out an alert that some of the agitators were driving with no license plates or out of state plates. The number of calls for those situations skyrocketed. He was told that in North Oaks the calls about tripled. Thankfully, due to several things, North Oaks came out fairly unscathed.

Mayor Nelson asked if the city also had unmarked patrols during that period. Deputy Burrell responded yes, there are a lot of unmarked squad cars in the sheriff's office. Some are commanders or investigators so when they were called out, they would drive their unmarked vehicles. He stated that several of the calls for suspicious vehicles were in fact unmarked squad cars.

Administrator Kress then addressed Bernard Bosley who was still listed as an attendee, letting him know the council did pass the Conditional Use Permit (CUP) for land reclamation activities at 7 Eagle Ridge Road (Consent Agenda item 6g) and said he was more than welcome to sit in as the meeting continues but said if that's what he was waiting for, they'd already taken action.

### **NEW BUSINESS**

Mayor Nelson noted they had changed the agenda order a bit and would be starting with the consideration of the application for preliminary plan/plat/subdivision Anderson Woods.

#### **a. Consideration of application for preliminary plan/plat/subdivision Anderson Woods**

Mayor Nelson asked Mr. Kress to introduce the matter. Mayor Nelson stated he appreciates the extensive memorandum they've received relative to today's meeting. He also wants to commend staff for their presentations all through the process, including and especially at the most recent City Planning Commission meeting. He noted the PowerPoint presentation and their ability to respond to the concerns the citizens raised during the creation of the record of the development consideration. He said he appreciates it and they really rose to the occasion and showed exactly how professional they are.

Administrator Kress noted they had spoken internally and he would pass it off to Attorney Nason to start the discussion. Attorney Nason deferred to City Planner Kirmis to give a brief overview. City Planner Kirmis stated that at meetings held on April 15, 2020 and May 20, 2020, the Planning Commission considered the preliminary plan or subdivision application of the North Oaks Company (NOC) for a nine-lot single family residential subdivision of the Anderson Woods parcel located South of the recently improved Wilkinson Villas site along Centerville Road. This property occupies site F as identified in East Oaks PDA including a centrally located wetland. The site overlays approximately thirty-six acres of land including the four lots which comprise the Wilkinson Villas 1A project within site F. A total of thirteen lots are proposed upon the site. The East Oaks PDA stipulates that a total of ten single family residential dwelling units are allowed upon the site with the potential of 30% density increase. In this regard, the thirteen lots proposed upon Site F are consistent with the dwelling unit requirements of the PDA. All lots are proposed to be served by municipal sewer and water. Background information related to this application is provided in the City Staff Planning Report dated April 15, 2020 and a Planning Report Addendum dated May 28, 2020. City Planner Kirmis reminded the Council that the City action deadline for the application is looming and the date is June 23, 2020. He stated the memo provided in the packet identifies a number of issues and questions which were raised by the Planning Commission as part of the public hearing and also by the Planning Commission. He stated he would not review those but the Council could review those. He said the staff has attempted to respond to the best of their ability to those questions and he hopes they have provided information which satisfies the Council. He stated the Planning Commission has recommended approval of the preliminary subdivision application consistent with the recommendation of city staff. He would like to note that the conditions identified in the staff memo include some hi-lighted items, which are recommended for consideration by the Council as additional statements or clarifications related to the conditions which were recommended by the Planning Commission. He then asked if Attorney Nason or City Engineer DeWalt had anything to add.

City Engineer DeWalt stated, as seen in the packet, they did extensive reviews of numerous items that were brought to their attention from both concerned residents, Planning Commission members and members of the public, and she thinks they've done a thorough analysis of all items presented. With that analysis, the Planning Commission has recommended approval of the development with the addition of some conditions, which she believes totals fifty-three conditions. At this point, instead of going through any other detail, she would like to offer it to the applicant to see if he wants to make any additional statements regarding the application. She then suggested opening up for any questions.

Mark Houge, NOC, thanked the Mayor and members of the Council, the Planning Commission and staff for their thorough review in working with them to come up with the best plan for development of the area specified. As referenced in the report, they adjusted the road configuration to minimize the environmental impact it would have on the site. They have proposed to leave the lots alongside Centerville Road as is, so house placement minimizes the removal of trees and creates a buffer along Centerville Road to maintain the trees that are there. Mr. Houge said they have worked very closely with the Vadnais Lakes Area Water Management Organization (VLAWMO) in the placement of the crossing that comes from the East so it is at the high point where the water flows in both directions when divided by that crossing. He stated that the VLAWMO are very comfortable with that proposal and ask that a culvert be placed under the trail crossing to the South. Mr. Houge stated they have those recommendations incorporated into the drawing. Mr. Houge asked if there are any questions.

Mayor Nelson asked for a motion to approve or deny the proposed development if there were no questions or comments.

**MOTION by Long to approve the Anderson Woods development.**

Attorney Nason stated the Council has the proposed resolutions in their packet. One is a Resolution of Approval with conditions listed in the Staff Report. The second is a Proposed Resolution of Denial. She wants to clarify that the motion as she understood it was to approve Resolution 1387.

Mayor Nelson asked Councilmember Long if that is his motion. Councilmember Long replied yes, his motion is Resolution 1387 for approval.

**MOTION by Long, seconded by Kingston, to approve Resolution 1387 approving the Anderson Woods development with conditions listed in the Staff Report. Motion carried by roll call as Councilmembers Long, Kingston and Mayor Nelson voting for; and Councilmembers Ross and Ries voting against.**

Councilmember Ross stated she voted against because she didn't get the packet until 5:00 p.m. and has been unable to go through the packet. Councilmember Ries stated she voted against because she didn't receive the entire packet until 5:00 and would like to table the discussion so she can properly go through the packet.

Attorney Nason pointed out they did not cover the timing of the decision of the application. She said the 120-day deadline expires in 12 days on June 23, 2020. If there is a consideration or concern that the Council needs additional time to consider the materials, a motion could be made to continue the item to a special meeting on a different date. She advised the Council on the parameters of when a decision needs to be made and a reminder that there is the opportunity to continue an item to a later date if the Council didn't feel ready to make a decision on an item tonight.

Mayor Nelson thanked Attorney Nason. He said they've taken a vote and it's approved so they will move on.

**b. Consideration of application for preliminary plan/plat/subdivision Nord**

City Planner Kirmis said at a series of recent meetings the Planning Commission formally considered the preliminary plan application of North Oaks Company for a twelve-lot single family subdivision proposed upon the Nord parcel located Northwest of the lake. The subdivision overlay is approximately fifty-five acres of land, approximately four acres of which lie outside the boundaries of the East Oaks development area. The application was specifically considered at meetings on April 14, May 28 and June 9, 2020. The property overlay site C as identified in the East Oaks plan development agreement and includes two adjacent parcels which are not subject to the conditions of that agreement. The PDA stipulates that a total of ten single family lots are allowed on the property with a potential density bonus of 30%. The proposed twelve lots are consistent with the requirements imposed by the PDA. All lots within the subdivision are proposed to be served with individual septic systems and wells. Background information related to this item is specifically provided in the Staff Planning Report dated April 14, 2020, a Planning Report Addendum dated May 28, 2020, and a second Addendum dated June 9, 2020. As mentioned as part of the Anderson Woods application, an application action deadline of June 23, 2020 applies here as well. The City Council Memorandum attempts to identify various issues and questions raised by citizens at the public hearing as well as questions and comments provided by the Planning Commission. Consistent with the staff recommendation, the Planning Commission has recommended approval of the subdivision subject to various conditions. As in the case of the Anderson Woods application, the listed subdivisions include highlighted text which relates to proposed clarifications by City staff. The staff recommendation is the incorporation of all of the conditions including those highlighted in the memorandum.

Mr. Houge thanked the Mayor, the City Council, Planning Commission and staff for all of their efforts in reviewing the application. He said he knows this was a complicated project to sort out all the details. As a reminder, they changed the layout entirely to now access most of the lots from Sherwood Road versus North Deep Lake Road, which has two lots accessed from there. They worked through the issues with the trail and the North Oaks Home Owners' Association (NOHOA) board voted in favor of the design included in the packet.

**MOTION by Kingston, seconded by Long, to approve Resolution 1388 approving the preliminary plan/plat/subdivision Nord with conditions listed in the Staff Report.**

Mayor Nelson asked if there was any discussion. Councilmember Ries stated she thinks Administrator Kress sent around an email she had written to him. She went out to the site and saw a lot of standing water, and also after the last Planning Commission meeting on June 9, 2020, there were statements made about the designation of the wetland. She began to inquire into this and contacted the University of Minnesota and they were kind enough not only to take her call but to inspect the site. She contacted an expert in the area who specializes in this, whose name is Joe Magnar. Mr. Magnar visited the site with Councilmember Ries yesterday and her concern was that there was a lot of surface water and also about the water table because there has been virtually no discussion about this at the Planning Commission level. She inquired about this with Mr. Magnar and also inquired into the Delineation Report. She stated there was a Delineation Report done but it was five years ago and is about to expire in a couple of weeks. Councilmember Ries also discovered that in the past 2-3 years, there has been a substantial amount of rainfall that has occurred, particularly in their area, and it has really affected the ground table levels and is substantially affecting building sites, sewage treatment centers and all of these things. She inquired further and noticed there is no topographical map to study that was provided to the Planning Commission to study. She explained that the Delineation Report studies the vegetation, soil, the hydrology, it looks at everything and determines the buildability of the site, how much land there is, where the water table is. Because the North Oaks Company Delineation Report is due to expire in a few weeks, she thinks they need to study this and get the topographical map and they need to do their full due diligence. The Delineation Report is also used to get the wetland designation. She said they do not really have a wetland designation at this point, so in order to be fully compliant with the Wetland Act, they would need to do the study and get their designation. She was provided information from a Department of Natural Resources (DNR) hydrologist who told her there's not really a process but the delineation study would be very helpful in determining what the area is, because at this point they don't know. Councilmember Ries also received information she thought was very informative. She said walking through the area with an expert is so eye-opening because they've been talking about the area as a 2D level, but when you're developing sites you really need to look at 3D and look at the ground water, the surface water, the building, how the flow all around it is affected. She said this looks almost to be the title basin for North Deep Lake and all of the surrounding area. She stated if the trends continue with the heavy rainfall and the water table is rising at such a high rate like it has been over the last few years, they need to get updated information. This would be critical to determine how much fill is going to be needed for a foundation because they haven't been provided any of that information from the North Oaks Company. It would also help them to look at areas because there's a north pond that is visibly unnaturally high. Councilmember Ries said she provided Administrator Kress and the Council with pictures of oak trees where the base of the tree is underwater. She stated a water management plan would need to be developed for this area to know if culverts are needed to drain ponds, and to alleviate some of the area. She said it might also be helpful to drop some transducers down into the soil to see where they're at with the water because they just don't have the current information. She stated at this point, it's very difficult to look at the area, particularly the two new lots that have been added in the quite low wet area and know if they can even be built upon or not. Councilmember Ries would like to propose doing the study to figure out a water management plan and to get an accurate and current delineation because the old one is under old rainfall measures and is about to expire. She said it would be very advantageous going forward.

Mayor Nelson asked if there were any other comments. Councilmember Ross said she agrees with Councilmember Ries and she is concerned that people will be buying homes that potentially could wind up with a lot of water in their basements if the Council doesn't understand the situation and look at the water levels. She said she wants people to come to North Oaks and feel like they have a great place to live but she doesn't want to see them having problems and find that people are upset about because they wind up with water and they're not happy with the way their home has been built.

Mayor Nelson asked Administrator Kress if these concerns were brought to the attention of staff prior to today. Administrator Kress replied the concerns were brought this morning. Mayor Nelson then asked if they were brought to the attention of the Planning Commission during their multi-month deliberations. Administrator Kress said not to his knowledge.

Councilmember Ries said all of these comments were a direct result of new information brought up during the Planning Commission meeting on June 9, 2020. The meeting ended at 10:00 p.m. She stated that the fact the University of Minnesota was able to assist them and look at the land is amazing and she appreciates their due diligence in this.

Councilmember Long stated that he sits on the water board for the University of Minnesota research and development, and he is one of fifteen members. He said he is also vice-chair and they have a GIS on all of this information, they have water plans and yes, it has been a wet season so there is going to be more water and a higher table. He stated he doesn't know who the person was that came out and trespassed on the property without being invited and this is the first he's heard of this. He said it's a little too late and homeowners will have to decide if these are lots that are too wet but this is not a stop-type program.

Councilmember Ries replied that part of the problem is they're not bringing in the PhD's and the hydrologists to analyze the area. Councilmember Long said he doesn't know who the guy is. Councilmember Ries stated she is trying to talk. She said at this point they need to bring the PhD's and the specialists; they need to get people that are qualified to look at the area because it's their responsibility as a City, as City Council members to look out for the health, safety and general welfare. If they're allowing houses to be built that are going to have sump pumps running 24/7, foundations that will be underwater, and constant mold issues, they can look at this now and determine if it's a good idea. She said they need to get the data and they haven't provided the Planning Commission with the data. They did not see the information on the report that was filed before. They didn't get a topographical map. She said you can't study the area unless you're talking to these experts who know how to look at this in a 3D way and collect the data. Councilmember Ries said what they're doing is inappropriate and negligent.

City Engineer DeWalt asked to speak. Mayor Nelson granted permission. City Engineer DeWalt wanted to clarify that the preliminary application does meet the submittal requirements which includes full topographical map Existing Conditions Survey with water elevations. She said the professional engineers who were hired to prepare these plans, which were preliminarily reviewed by herself, a professional engineer, contains all the required information which they have on their checklist for preliminary plan approval. The wetland delineation was done by a certified wetland delineator. The applicant has procured geotechnical exploration, which is

required to do the design, to understand the ground water levels on the site. VLAWMO has done a preliminary review of the wetlands, understanding that there are no proposed wetland impacts. City Engineer DeWalt said she feels they do have a large number of experienced professionals in their respective fields who have done a thorough analysis and presented all of the analysis and information continuously over many months to the Planning Commission. She said with all due respect, she doesn't feel that there was any information that was withheld or misrepresented regarding information presented at the Planning Commission regarding wetlands and public waters wetlands. She stated there was mention of speaking with the DNR and also the application did provide the Minnesota Routine Assessment Method (MnRAM) Report and that gives them the information they need to understand what type of wetlands those are. This is how the DNR originally created their public wetlands list, which these wetlands are not a part of. City Engineer DeWalt said she respectfully disagreed with statements being made that this information has not been presented or analyzed by professionals in the respective fields. She would like the applicant to also speak to the work that's been done to present the information.

Mayor Nelson asked City Engineer DeWalt if the investigation and testing she described, the topographical maps and the experts that evaluated this property was all done before it was submitted. City Engineer DeWalt replied that was correct. Mayor Nelson stated that this issue was addressed a year and a half ago plus, and has been in front of the Planning Commission and the City Council that entire time. City Engineer DeWalt replied she believes it's been exhaustively studied over the past two years in many different ways and she agreed there are important improvements in process and studies that could be made citywide regarding surface water management and dealing with climate change and water tables. She stated she doesn't necessarily believe that it is relevant to this particular application tonight. She said she thinks that work is important and can be done outside of this application and she believes that what is necessary to approve this application has been done.

Councilmember Ries said she thought City Engineer DeWalt misunderstood what she said. She said there was a Delineation Report done, but it was done five years ago and there is substantial information, particularly in their area that shows the rainfall is much higher than it used to be. She said there needs to be a current analysis of the ground table and the wetlands that are around there because of this extraordinary situation over the last three years. She clarified that she didn't say it was not done and she's not trying to say that they haven't done a good job. She is saying they have a Delineation Report that is about to expire and it's based on conditions that have changed substantially over the past few years. This is being talked about at the State House level and this is data collected by the University of Minnesota. She said they have done an engineering study, but under the current trends and the current rainfall, they need to understand what the current wetland situation is. Councilmember Ries said she is proposing doing a new study. The old one is based on rainfall levels that have not been consistent for the past three years, they are considerably higher, and it's also about to expire. She said it would be very prudent of the City to get a new delineation study done because of the change in the rainfall levels and the groundwater tables have changed so substantially. She said it would also be very prudent to do it because of the obvious recent signs of the ground table levels. She said what she mentioned was not to say that the staff has not done a thorough job at the engineering level, but they need to get the study done from certified professionals in this area to study the vegetation, the soil, they need to get the hydrologists involved. She said with the current status of what's

happening in the area with ground table water, they could then get a current designation of their wetland. With that information, although she knows it was done five years ago, but what is being determined is that five years ago is way too long, even though the delineation study still has just a few weeks left on it and it's expired, the trends show that's not good enough. She said the information would be based on old trends and would not be representative of the current water table levels. She said it would be prudent at this time to get the delineation study done to understand it and to understand how much fill they're talking about and building challenges on the site. Councilmember Ries said she doesn't see how they could approve the plans without properly studying this information. The delineation study that was done five years ago had the water table data and showed these things, but this information was not brought to the Planning Commission and she said she thinks it's very important that they do study this.

Mayor Nelson asked if Councilmember Kingston or Councilmember Ross had any comments.

Councilmember Kingston asked Councilmember Ries if she is saying that their staff and consultants are not qualified to make the decisions on the recommendations here.

Councilmember Ries replied what she is saying is that their staff is qualified at the level they're employed and they've done a good job at that level, but when you're talking about doing these types of studies, they are done by hydrologists and specialists in the wetland area. She said you really need to hire the wetland specialists because of the topographical 3D issue. She stated an engineer can talk about roads and surface water, etcetera but they also need to understand what's happening underground in the entire area. She said you hire the hydrologist and the specialist because they have an understanding of the current data of how much rainfall is happening, where the water is flowing, what the re-absorption rates are and they would also understand if you put a building there, how it would impact surface water and sub-surface water.

City Engineer DeWalt asked to add something quickly. She wanted to clarify that she doesn't know if she misunderstood Councilmember Ries and she apologized if she did, but she heard her say that a topographical map was not completed. City Engineer DeWalt clarified that a topographical map is the Existing Conditions Survey which is then provided, and is what the design is then based on. Secondly, she wanted to clarify that a final plan submittal requirement is to submit a full hydrological storm water management plan for the site. So the applicant will need to hire their engineer who is experienced and professionally trained in hydrology reports and they need to submit that to the City. She said it needs to follow the policies of the City's storm water management. She wanted to clarify that some of the work Councilmember Ries was talking about is part of the conditions of approval that need to be done before final plan approval.

Mayor Nelson asked if there was any further discussion. Councilmember Kingston said Councilmember Ries kept saying that the University of Minnesota came out. He stated he is on the faculty at the University of Minnesota and that's not what happened. He said Councilmember Ries talked to someone at the University and they came out and gave their personal opinion, which is fine. He said he knows the Board of Regents didn't weigh in on this and issue a proclamation to take that particular stand. Councilmember Kingston asked if the individual who came out was a paid consultant. Councilmember Ries replied that it was pro

bono. Councilmember Kingston asked if the person was related to the Magnar that signed Franny's petition that happens to live in North Oaks.

Councilmember Ries said she didn't have any idea. She wanted to clarify that the report that was given is not a full report, and that it wasn't a report given, but a letter. She said the letter simply said that the scientific trends that have been happening the past few years have determined that there is such a substantial change in the ground, particularly in their area. She said it confirmed to her, because there are a lot of visual determinants in this area of water that is substantially higher than a natural level, and is far higher than the water table would normally be, the letter was not a report offering an opinion, it just went to the fact that generally in the last few years, the trends show there would need to be more information gathered for this particular site. She said they stood on the road and just looking from there down into the swamp area you can see how low setting it is and is substantially lower than the surrounding area. She said the topographical maps didn't go into the exact levels within the wetlands and other areas you'd need to analyze. She said the reason it would be good to get a current delineation study done is so they can actually ask the DNR what their wetland status is. Councilmember Ries said to her knowledge, they have not done that and they would need to do that because these things change based on water levels, rain levels, etcetera. She said the designation can actually change, vegetation can change and soil can change. So it would be a really good idea to understand what the designation is to make sure they're complying with everything. She said she understood that an engineer is part of the condition that they're going to be doing a study, but five years ago what happened was when they had someone walk around and check the area, they found a lot of things were missing. There was an additional wetland that was added, etcetera. She stated that even if it's a condition, they need to double check it. She said there is missing information and they should ask the DNR with the current study, with current conditions, and what their wetland status is. She said she hasn't seen or heard that that has been done yet.

Attorney Nason wanted to point out a procedural piece. She said there is a motion and a second on the table. There can be a motion made at this time to require, for example, an updated wetland delineation be provided prior to final plat approval, or any other modification to the motion which is to move the resolution with the conditions articulated. She wanted to clarify that debate can continue, but she wanted to make sure the Council understood there is an opportunity for a motion to amend the motion that's already been made.

Administrator Kress asked how long a new delineation lasts and if it something that needs to be done each year. He also asked if they going to run into this with every application.

Mr. Corcoran replied that per state statute, delineations are good for five years, so from the decision that delineation or boundary and type for this particular spot and every other spot that has a boundary and type is five years from the date of the decision. That decision was on September 9, 2015; therefore, this delineation expires on September 9, 2020. Administrator Kress asked how long delineation takes. Mr. Corcoran answered if you're doing one wetland, obviously it will go quicker than the eight or nine that are on the fifty-four acre parcel. He said it all depends on the consultant hired to do it; there's a process to it. The consultant can probably do it in a day or two, then there's the review process with the DNR, the Conservation District and VLAWMO. He said it would probably be a month, depending on work load and when it's asked to be done.

Mayor Nelson said he thinks they understand Councilmember Ries's concern. He said if there are no other comments, he suggests they have a roll call vote.

**Motion carried by roll call as Councilmembers Kingston, Long and Mayor Nelson voted to approve; Councilmembers Ries and Ross voted against.**

**c. Joint Powers Agreement with White Bear Township**

Administrator Kress stated he probably could have put this in the Consent Agenda as the Council has seen a number of these come through in the past years. He asked if anyone wanted any discussion or background or if they were comfortable accepting those addendums. Mayor Nelson stated he had no concerns.

**MOTION by Long, seconded by Kingston to approve the Joint Powers Agreement with White Bear Township. Motion carried unanimously by roll call.**

**d. City Response to Death of George Floyd**

Administrator Kress stated they had invited Ms. Rumna Chowdhury to provide a statement. Ms. Chowdhury said she and her husband have lived in the community for eight years and like many in the community, she was upset by the delay by the City and NOHOA in making any statement or acknowledgement regarding the death of George Floyd and the unrest in their community. There was a request for community input so she wrote a letter and knowing that many in their community may either not have the time or capacity to write their own letter, Ms. Chowdhury decided to share that letter publicly and told residents if anyone wanted to sign on if they agreed with what she'd written, to please let her know. She sent the letter to Mayor Nelson and the four Councilmembers by email yesterday and seventy-two people signed on to the letter within a day-and-a-half of Ms. Chowdhury posting it on Facebook. She stated that she knows not everyone looks at Facebook and she did not reach out to anyone individually, but to her, this strong response within such a short time indicates that most likely, others would also share this as their community values of standing against racism and standing against police brutality. She said the delay by the Council or the Mayor to make any statement, she will assume was just a misstep and not malice on anyone's part and that the Council and Mayor are ready to move forward to meet the community's needs in this respect. Ms. Chowdhury said she really appreciates Mayor Nelson's earlier comments during the meeting. The first request in the letter was for a formal statement or resolution condemning the actions of the Minneapolis officer who violently murdered George Floyd. Ms. Chowdhury also made the same request of NOHOA in a separate but similar letter and they did make a statement via social media that afternoon. Looking into the roles of NOHOA versus the City, Ms. Chowdhury stated she is learning a lot right now as she hadn't looked very closely into that before. She wanted to make sure she made her request of the right group, so regarding the City, she said her understanding is the City of North Oaks is responsible for contracting their police presence with the Ramsey County Sheriff's office. She stated she thinks it makes sense for the City to look into the Ramsey County Sheriff's office to be sure that their policies and procedures are up-to-date, that their handling of officer misconduct is in line with their community values of standing against police brutality. She said this is not

based on any specific instance or incident that she's heard of regarding the Ramsey County Sheriff's office, and certainly not an indication that Deputy Burrell, who is frequently in North Oaks, has done anything wrong. She feels that they need to make a knowing decision in their law enforcement contract, and as Deputy Burrell referred to earlier, there needs to be a mutual understanding of expectations both within North Oaks and to ensure that they are associating themselves with an agency that behaves consistently with the values not just within North Oaks but within any other communities. Ms. Chowdhury respectfully requested that the Council make that assessment and make a report to the citizens of North Oaks on an annual basis so the citizens know who is policing their streets and they know that their values are consistent with their own.

Mayor Nelson thanked Ms. Chowdhury and said he appreciates her participation in the meeting and that he is glad to hear from her. He stated the Council is interested in community input and noted the City Council meets once per month and in general operates by consensus or by vote. He said they are certainly considering, and this is the first opportunity to have met legally and review this very sad and pathetic event and talk about what they might want to do, because they are not allowed to meet in groups without notice at this time. He noted that he looked on a few different websites to see what recommendations are being made by those individuals with more expertise than their little city and he would say there is a consensus of a few things. One, to conduct a review with their law enforcement partners on how law enforcement is practiced in the City. Mayor Nelson said he thinks it's important to engage the members of the community and residents to get their input and their experiences to ensure that the Council knows what's going on and are fully apprised if there are problems or if there are good things to learn. He stated he thinks it's important to eventually provide a report when this is accomplished, if the Council members agree to provide a report and continue to monitor their Sheriff and reform any policies that need to be reformed. Mayor Nelson then asked if there were any other comments.

Councilmember Ross stated she and Deputy Burrell have talked on more than one occasion since all of this has happened. She said it was a really crazy time during the riots and everything that was going on as a result of George Floyd's death. She said Deputy Burrell has been very good about explaining things and answering questions. She said she thinks it's a good idea to have some sort of a report and she is happy to work with Deputy Burrell and Bob Fletcher. She said she worked with the watch commander a lot during that time and didn't see anything untoward, and they were all really big on working to protect North Oaks and the community. At times, there were four unmarked cars coming through on one particular afternoon and everyone was very respectful and she is very pleased with that. Councilmember Ross stated she thinks it's important for the Council to do something on a regular, annual basis and she is happy to work with Deputy Burrell and Bob Fletcher to do that, if that's what the Council decides to do.

Mayor Nelson said he thinks it's important to separate the riot and violence that occurred from the protests and civil unrest that also occurred. He said what the Council is trying to address is to make sure they have good policing and good law enforcement that is community-sensitive and community-appropriate and he thinks that's great and appreciates that Councilmember Ross was in touch with the Sheriff's department. While he didn't speak with Councilmember Ross at that time, the City did issue an emergency declaration and a number of other actions through his authority as Mayor on a very temporary basis to protect the city. He stated that is a very different issue than making sure they're doing the right thing for their residents and for everyone

to make sure they have good, high-quality policing and law enforcement and he thinks that's where they need to go. He agreed with Councilmember Ross that they should conduct a review. Mayor Nelson asked if there were any other comments.

Councilmember Kingston thanked Ms. Chowdhury for sending the letter over and getting her fellow residents to sign on to it. He stated that one of the things that has troubled him over the years is that we see these different types of tragedies come about and then there is a statement from politicians and they talk about how bad it is and then nothing happens. He thinks they need to go beyond this. He said it's obviously important what Councilmember Ross mentioned, working with the Sheriff's department, but he thinks they also need to have a plan for how they communicate inclusivity in their community and how they are welcoming of people of all colors. He said that is something they'd really need to put a strategy in place and he thinks they need to work with NOHOA in terms of how they'd like to approach it. He said since the City is set up with the homeowners association and the City government, there's no reason why they shouldn't be coming together and working together to address this on an ongoing basis. He said they need to have a plan, as they can't hope that this happens...hope is not a strategy. Not only do they have to talk about what they're doing with the Sheriff's department and make sure they have the resources to ensure they're hiring right and they're doing the right kind of training of their staff to make sure that these things don't happen. They also need to keep in mind that NOHOA is most likely going to be hiring some security support. They're finding out that the City probably has some limits in terms of what they can do with various types of enforcement on private property, and on NOHOA property. He said they should have a harmonized approach with what NOHOA is doing with their security people as he doesn't want to have two different processes. He thinks they should come together and bring residents like Ms. Chowdhury and others who are interested in this discussion to make sure they come up with a cogent plan. He said they didn't get to this point as a society in twelve days and they're not going to get out of it in twelve days. This is going to take a concentrated effort, all of us need to be part of the solution, and we all need to come together.

Ms. Chowdhury thanked Councilmember Kingston and said she did direct different action toward NOHOA in the letter with her very basic understanding of the rules of NOHOA versus the City. She said she would absolutely love to see some sort of coordination with them on what they can do to make it very clear that they value diversity and inclusion in the community and to make it more appealing for communities of color to want to move there. She stated that the issues of racial disparity and housing is a very complex issue but there are some basic things that they can do and starting out with a statement is one of them. Ms. Chowdhury said she likes the ideas of making forward progress and she knows that NOHOA asked for community involvement and she is planning to join whatever task force they will have. She would appreciate the opportunity to do the same with the city leadership, as well, if there is something separate going on.

Councilmember Kingston asked to follow up and said they've gotten other responses from people asking different things they want to have done and the City also needs to let people know there are certain restrictions they have in what they can and cannot do as a City. They need to be able to communicate that with people, as he doesn't want people to think they don't want to do something in any circumstances; in some cases, they don't have the authority to do it. He stated

that where they do have the authority, where they can come together as a community, they absolutely need to do this and it needs to be an ongoing process. It's not something they're going to deal with just for the short run, but they must look at this long term.

Councilmember Ries said she agrees with that statement and to piggyback on that, she is glad they will be talking with the Ramsey County police department and other cities to look at their policies and procedures and start affecting change, instead of just having conversations. She said at some point they can plan to revisit this issue again so it doesn't become a conversation that gets lost, but that they put something on the calendar and schedule the discussions with other cities that are part of the contract working with Ramsey County and Bob Fletcher. She suggested they share the work they're doing with the police department and NOHOA with the community and make it more of an ongoing discussion instead of just talking about it tonight for the sake of an agenda item and then ending it, but that they do continue the conversation.

Mayor Nelson asked for a sense of the Council to perhaps delegate to Mr. Kingston and Mr. Kress or himself to put together a statement that could be published. Since they are meeting, he thought it was something they could accomplish tonight or also consider setting up a committee and Mr. Kress and the mayor could work on that. Councilmember Long said he thinks there should be a draft worked up that needs to come back to the Council. Mayor Nelson said there are some people who want them to issue a statement soon and that is the problem for the Council. Councilmember Long stated he wanted to do it right and not be rushed into it so he'd like some thought between the Council.

Mayor Nelson asked Administrator Kress if he had any suggestions on how to do this within a month. Administrator Kress said if the entire Council wanted to see it again, they'd need to call a special meeting to review the draft. Otherwise they could assign it to two members of the Council and as long as there isn't a quorum they'd be alright. Mayor Nelson stated he thought the same. Councilmember Long said he'd go along with that.

Councilmember Kingston said he'd be happy to participate. Mayor Nelson said if another person wants to participate, he'd appoint someone to work with Mr. Kingston.

Councilmember Ross asked if they were saying they'd have a couple people put together the statement and then it would go out, or would the entire Council get to see it before it went out. Administrator Kress said they could potentially see it but would not be allowed to change anything. They'd have to come back as a Council as a whole to make any changes. He said they'd be assigning two members of the council and himself to create the statement.

Councilmember Long said he thinks they all need to weigh in on it if they're signing as a Council. Councilmember Kingston asked to suggest an option: perhaps he and Councilmember Ries could start the process and bring it to the next Council meeting, and then if Mayor Nelson wanted to say something he could, noting he had already said something at the beginning of the meeting. Councilmember Kingston said they're trying to find a path forward with a statement that indicates they're committed to doing that, what they're going to do and how they're going to do it. Then, whether they set up a task force or a commission, he thinks what they need to do is

have the full Council weigh in on whatever they come up with. He doesn't like the idea of just a few coming up with the idea and not having it run by the entire Council.

Mayor Nelson said they'd get something put together for the next Council meeting. He asked Administrator Kress to work with Councilmember Kingston and Councilmember Ries on that. Councilmember Ries thanked Ms. Chowdhury for coming to the meeting. Ms. Chowdhury replied and thanked the Council for hearing her.

### **COUNCIL MEMBER REPORTS**

**Councilmember Ries** is setting up a donation drive in response to the George Floyd tragedy and all of the great need in downtown Minneapolis. She was inspired to do this because last week a good friend in Minneapolis reached out to the Facebook community and said there's a huge need for donations at the Blaisdell YMCA. Councilmember Ries posted that she donated there and many neighbors reached out and said they'd like to set something up to help the community of Minneapolis. They've designated homes for people who want to donate things and will be collecting donations through this weekend. She said if anyone wants to donate they can reach out to her for contributions.

**Councilmember Long** stated that VLAWMO had an interesting meeting last month. For the first time over the twelve years he's been there, a grant was denied from the Minnesota Board of Water & Soil Resources (BWSR) because they felt it was too restrictive and exposed them to too many unknown costs. He said it's something they've been working on for a while, they have a new administrator and it took a lot of effort on behalf of their sister cities to come to this decision. He doesn't think it will hurt them in the future with grant money, it just shows that they're not interested unless it's going to do the right thing and have the right beneficial effect. He was proud to be part of that decision with VLAWMO.

**Councilmember Ross** said mailboxes are being delivered middle of next week for those residents who have ordered them and she will be calling next week. She stated that people should remember there's a recycling and clean-up day on June 27, 2020 that will be in the soccer fields off Highway 96 and there is a lot of information out about that. She thinks it's a good event and hopes to bust their record from last year. She also added something that Deputy Burrell was going to bring up earlier but must have forgot. Jeff Hunt, a North Oaks resident, contacted Deputy Burrell about putting together a group of people who are interested in training and creating a kind of watch guard in North Oaks. Information was sent to Administrator Kress and she had a conversation with Mr. Hunt yesterday. He's been thinking about the situation they were in a few weeks ago and would like to put together this group who would be a first watch for lots of different things going on. A lot of it is written up and she told Mr. Hunt they might discuss it tonight to see what the Council thinks and whether or not they need something like this. Deputy Burrell said some of the things are already being done by the Ramsey County Sheriff's office or the Fire Department. For example, Mr. Hunt wants to have fire extinguishers in cars in case of a fire so they can get there before the Fire Department; however, there is a Fire Department in North Oaks, and there is access to the Lake Johanna Fire Department, also. She said they already have some of those things on the scene. She asked what the Council thinks about this and stated the group is just starting to think about it and want to participate. She thinks given what's happened in the last few weeks, she is not sure what the odds are of it

happening again in the near future, and if they have a group training in first aid and other things, she's not sure if they are really needed. She said she wanted to bring it to the Council and they could either put it on another agenda to talk at more length, or they could give her some upfront ideas or thoughts on whether this is something they should look into. She stated it might make sense to do more of a neighborhood watch group, of which there are already a few in North Oaks, and that could be used through the Ramsey County Sherriff's office as there's already a format for that.

Mayor Nelson said perhaps Mr. Hunt would like to present at the next City Council meeting as a way to engage about the matter. Councilmember Ross said she'd see if they could get him on the agenda for the next month. Councilmember Ries responded that maybe they should look at the entire emergency response plan. She said one specific item from when they were going through all the stuff in downtown Minneapolis and St. Paul, there is a response plan but perhaps they should review it to see if it's adequate. She is working on the website and there is a new alert notification as part of the new website they're developing. It was used for the first time and maybe they should talk about a process on when and what they send out as notifications, and give guidelines. She said another thing that came to mind is when things happen, when do you start Operation A, or when do you call the neighborhood watch group and have them come out? She said maybe this could be part of a bigger conversation about a response plan during emergencies.

**Councilmember Kingston** said since the last meeting he's been trying to keep up to speed on what's going on with the City and be in a position to cover for the Mayor when he's had some planned time outside of the City. He has also reached out to NOHOA on a couple occasions to get a sense of what they're doing so they could coordinate. Most recently, regarding the situation with George Floyd, he reached out to find out what NOHOA was planning and to find potential opportunities for collaboration. Lastly, he said he doesn't want to beat a dead horse on the Planning Commission and serving as the liaison, as he's said in all the public meetings he was very pleased with the professionalism that Chairman Azman had shown in leading the group and all the hard work that all the Commissioners dedicated to the process and he's very proud of what he saw.

**Mayor Nelson** echoed that statement and said he found the process very well done and staff did their job beautifully and clearly showed their professionalism and expertise and the Planning Commission did an excellent job in reviewing these developments. He also said this is a very sad time for us all, we're dealing with two situations and he doesn't know in the past when the mayor of North Oaks has had to issue a declaration of emergency and they've issued two in the last few months. Both situations are overlapping and terrible in every respect. He said he hopes they can remember to stay together, keep thinking of each other as a community, continue working together on both issues, and they will get through them. He thanked the group for their considerations and said he's glad they were able to discuss both the recent tragedy as well as deal with the COVID pandemic, and they would keep working on it.

## **CITY ADMINISTRATOR REPORTS**

### **a. City Administrator Staff Report**

Administrator Kress said he wants to thank the staff and the consultants for all the support over the last couple months. It has been really challenging and he appreciates all the extra effort and hours put into applications and general City work. He talked to NOHOA and they were interested in the City creating a parking ordinance which would require the City to issue municipal citations. He stated that right off the bat, he’s not too crazy about that stance. His preference would be for NOHOA to either tow the vehicles or issue their own citation. As the Council knows, they don’t have any authority to issue a state parking ticket for anything in NOHOA property. He asked if there was any feedback or interest in the Council drafting some kind of ordinance. Mayor Nelson said he thinks it would be very difficult to draft an ordinance to ticket people for parking on private land, but they might ask their municipal attorney who would know more about that. Attorney Nason said there isn’t really any statutory authority for the City to issue citations for parking on private property. She said the private property owner could certainly manage their property in whatever manner they see fit. For example, if it’s a parking lot area, they could have someone who sits there and boots cars if the person is not permitted to park there. However, a criminal citation is a petty misdemeanor. A parking violation has to be for a violation of City ordinance and City ordinances must be related to the public parking areas, not private property.

Administrator Kress then reminded the Council that Metro IT in Roseville is moving forward with the Joint Powers Agreement. He said the City is stuck in the middle as they’re not big enough to have their own IT department, so there is really no choice but to go with Metro IT. He said he’s very satisfied with all the work they’ve had with them, so there are no concerns on his end. Mayor Nelson said he thinks they’re widely known as a pretty good IT department.

**CITY ATTORNEY REPORTS**

Attorney Nason said there is no City Attorney Report at this time. Mayor Nelson thanked Attorney Nason very much for helping with the PowerPoint presentation for the Planning Commission. He said he thought that made things very clear and was terrific.

**MISCELLANEOUS**

Administrator Kress said the items under Miscellaneous are just Minutes and odds and ends for the Council to have.

**ADJOURNMENT**

**MOTION by Long, seconded by Kingston, to adjourn the Council meeting at 8:33 p.m. Motion carried unanimously by roll call.**

\_\_\_\_\_  
Kevin Kress, City Administrator

\_\_\_\_\_  
Gregg Nelson, Mayor

Date approved \_\_\_\_\_

During the June 11, 2020, North Oaks City Council meeting, Mayor Gregg Nelson commented on the tragic death of George Floyd and the need for our community to respond. In making his remarks, he spoke to Deputy Burrell and the community saying that the sad and pathetic act by the group of officers involved reflects badly on law enforcement generally and makes their difficult job even more difficult. He noted that in Mr. Floyd's situation, the officers did not intervene to do their duty to protect and to serve, which Deputy Burrell said is his duty as a law enforcement officer. Mayor Nelson said he can't tell how disappointed he was watching that. He said the community deserves better and hopes that justice prevails.

The entire Council shares his sentiments, and with him denounces the additional tragedies that followed the senseless death of Mr. Floyd, including the activities of the lawless mobs that took advantage of his death by looting, rioting and destroying public and private property and businesses.

As a Council we strongly support peaceful protest which is a basic right of all Americans, but we were dismayed by the rioters who did a disservice to the memory of Mr. Floyd and to those peaceful protesters who were caught in the middle of the carnage.

It is important to go on record condemning the actions of the police officers involved in Mr. Floyd's death, as well as the activities of rioters who put Twin Cities residents at risk in the following weeks. It's also important that we seek to understand the landscape of racism that has plagued effective and compassionate policing in our nation as well as how it has crept into our daily interactions, so that we can determine what we can do as a City and a community to help change attitudes. As such, this should be the start of those discussions, which should include the voices of our residents and the North Oaks Home Owners' Association (NOHOA) as our sister governing body. The Council is committed to charting a path forward and resolves to include input from any interested stakeholders as we do so.



July 1, 2020

Mr. Kevin Kress  
City Administrator  
City of North Oaks  
100 Village Center Drive, Suite 230  
North Oaks, MN 55127

Re: Grading permit  
Anderson Woods – Site F

Dear Kevin,

Please consider this a request for City Council to approve North Oaks' City Staff to issue a permit for grading and drainage facilities at the Anderson Woods – Site F (Anderson Woods).

Based on the resolution passed by the City Council approving the Preliminary Plans for the subdivision of Anderson Woods, North Oaks Company LLC ("Developer") would like to begin grading and drainage improvements immediately. Article 5 of the East Oaks Planned Unit Development Agreement (PDA) allows the Developer to complete grading, drainage, utilities, and street improvements prior to Final Plan approval if a separate action for the same is approved by the City Council.

Historically, minor adjustment to the location of the lot lines are required in an effort to preserve trees and accommodate field conditions, as approved by the City's Engineer. In addition, a registered land survey (RLS) cannot be filed until the corner irons are placed for each parcel, which happens after grading and drainage improvements are complete.

Specifically, we request the City Council review and approve this request at its meeting July 9, 2020. Please call if you have any questions or need any additional information.

Sincerely,  
North Oaks Company LLC.

**Gary Eagles**  
Vice President

CC: Larina DeWalt, City Engineer  
Mark Houge, North Oaks Company LLC  
Bob Kirmis, City Planner  
Bridget Nason, City Attorney



July 1, 2020

Mr. Kevin Kress  
City Administrator  
City of North Oaks  
100 Village Center Drive, Suite 230  
North Oaks, MN 55127

Re: Grading, utilities, and street construction permit  
Nord – Site C

Dear Kevin,

Please consider this a request for City Council to approve North Oaks' City Staff to issue a permit for grading, installation of drainage facilities, and street construction ("Infrastructure") at the Nord – Site C (Nord).

Based on the resolution passed by the City Council approving the Preliminary Plans for the subdivision of Nord, North Oaks Company LLC ("Developer") would like to begin construction of the Infrastructure improvements immediately. Article 5 of the East Oaks Planned Unit Development Agreement (PDA) allows the Developer to complete Infrastructure improvements prior to Final Plan approval if a separate action for the same is approved by the City Council.

Historically, minor adjustment to the location of lot lines are required in an effort to preserve trees and accommodate field conditions, as approved by the City's Engineer. In addition, a registered land survey (RLS) cannot be filed until the corner irons are placed for each parcel, which happens after grading is complete.

Specifically, we request the City Council review and approve this request at its meeting July 9, 2020. Please call if you have any questions or need any additional information.

Sincerely,  
North Oaks Company LLC.

**Gary Eagles**  
Vice President

CC: Larina DeWalt, City Engineer  
Mark Houge, North Oaks Company LLC  
Bob Kirmis, City Planner  
Bridget Nason, City Attorney

**AGREEMENT BETWEEN  
CITY OF SHOREVIEW, MINNESOTA,  
CITY OF ARDEN HILLS, MINNESOTA,  
AND  
CITY OF NORTH OAKS, MINNESOTA  
FOR  
THE LAKE JOHANNA FIRE DEPARTMENT FIRE STATION PROJECT**

THIS AGREEMENT is made and entered into the \_\_\_ day of \_\_\_\_\_, 2020 by and between THE CITY OF SHOREVIEW, a municipal corporation and political subdivision of the State of Minnesota, THE CITY OF ARDEN HILLS, a municipal corporation and political subdivision of the State of Minnesota, and THE CITY OF NORTH OAKS, a municipal corporation and political subdivision of the State of Minnesota (the three cities maybe referred to as the “parties”).

**RECITALS**

**WHEREAS**, each City is responsible for providing fire protection and prevention services for the people and institutions within its boundaries; and

**WHEREAS**, each City contracts with Lake Johanna Fire Department to provide each City’s fire protection and preventions services; and

**WHEREAS**, the costs of said fire protection and prevention services are allocated pursuant to contracted service agreements between the Cities and Lake Johanna Fire Department; and

**WHEREAS**, Lake Johanna Fire Department conducted a needs analysis that reviewed the adequacy of Fire Station number 4 and identified future department facility needs; and

**WHEREAS**, the needs analysis concluded that the existing Fire Station number 4 located at 3615 Victoria Street in the City of Shoreview was undersized and had many deficiencies; and

**WHEREAS**, the needs analysis concluded that it would not be feasible to expand the station due to the limited lot size and subpar access to Victoria Street north of the railroad tracks which may impact response times; and

**WHEREAS**, Lake Johanna Fire Department reviewed potential property locations in southern Shoreview and Arden Hills; and

**WHEREAS**, Lake Johanna Fire Department identified vacant property owned by Bethel University on Pine Tree Drive in the City of Arden Hills (“the Property”)as a potential site for a new fire station; and

**WHEREAS**, the Property is large enough to accommodate headquarters for Lake Johanna Fire Department and has improved access ideally situated to cover southern Arden Hills and Shoreview as well as the entire service area for Lake Johanna Fire Department; and

**WHEREAS**, Lake Johanna Fire Department’s Board of Directors authorized the Fire Chief to negotiate and execute a letter of intent to purchase the property from Bethel University; and

**WHEREAS**, in early April 2020, Lake Johanna Fire Department and Bethel University executed a letter of intent to purchase the Property for a purchase price of \$1.35 million; and

**WHEREAS**, the letter of intent also requires Lake Johanna Fire Department to contribute one third of the cost, up to a maximum of \$325,000, to relocate an access road on the property;

**WHEREAS**, the purpose of this agreement is to define each City's responsibilities for the Lake Johanna Fire Department's purchase of the Property and the construction of improvements on the Property ("the Project"); and

**WHEREAS**, the new fire station would be owned and operated by the Lake Johanna Fire Department to serve the three contract cities of Arden Hills, North Oaks, and Shoreview.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual undertakings herein expressed, the City of Shoreview, the City of Arden Hills, and the City of North Oaks agree as follows:

#### **1 Term of Agreement**

**1.1 Effective date:** This Agreement and any amendments thereto shall be in full force and effect upon the filing of a certified copy of the resolution approving this Agreement by each City. Said resolutions shall be filed with the Shoreview City Attorney who shall notify each City in writing of its effective date.

**1.2 Expiration date:** This Agreement expires upon the Bond, issued pursuant to paragraph 2.3, being repaid in full.

#### **2 Agreement between the Parties**

**2.1 Cost.** The cost of the land purchase, access road relocation, and property improvements will be funded by a \$300,000 contribution from the lake Johanna Fire Department and by contributions from each City allocated proportionally through the current cost share agreement for fire department operations and capital costs.

**2.2 Cost share formula.** The cost share formula will be used to allocate each City's contribution for the land acquisition, which is currently defined as 25% population, 25% households, 40% fire calls, and 10% assessed value.

**2.3 Bond issuance.** At the time financing is needed for the construction of a new station, the financing will be provided by one of the two following methods:

Should all three cities mutually agree, one of the cities will provide financing for the cost to construct a station, including any costs associated with the financing, and each city will annually reimburse that City for their portion of the debt service payment

based on the cost formula. Should a station be constructed in the allotted timeline for reimbursement of the land acquisition costs, the City will include the land acquisition costs in the financing and each City will be repaid via the financing proceeds for their portion of the land acquisition. If the Station is not constructed in the time frame that is necessary to include the property acquisition costs as part of the financing, each city will be responsible for their proportionate share of the property acquisition costs in accordance with the cost share formula in effect at the time.

or

Each City will be responsible for providing their financial contribution, bond proceeds or otherwise, when needed for the construction of a new station.

**2.4 Bond repayment.** The bond issue will be repaid through annual appropriations by each City consistent with the cost share formula at the time of the bond issuance. Should one city bond for the entire project, the annual payment for debt service from the other cities will not be recalculated based on an updated formula in subsequent years.

**2.5 Station Construction.** Station construction will begin upon the unanimous consent of the parties.

**2.6 Development Approvals.** The City of Arden Hills will review the proposed project as part of its normal development process.

**2.7** *Should the Lake Johanna Fire Department no longer serve the City of Arden Hills or no longer use, occupy, or otherwise cease to operate in the fire station, the City of Arden Hills will have the option to reimburse the other two cities, Shoreview and North Oaks, for their respective contributions to the purchase of the land, construction of the fire station, and any applicable capital improvements to the station plus inflation as measured by the Consumer Price Index (CPI) and take ownership of the land and associated buildings.*

### **3 Assignment, Amendments, Waiver, and Contract Complete**

**3.1 Assignment.** No party may assign nor transfer any rights or obligations under this Agreement.

**3.2 Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been signed and approved by the same parties who signed and approved the original agreement, their successors in office, or other individual duly authorized.

**3.3 Waiver.** If any party fails to enforce any provision of this Agreement, that failure does not waive the provision or the right to enforce it in the future.

**3.4 Contract Complete.** This Agreement contains all negotiations and agreements between the Cities. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

**4 Liability**

Each City will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Municipal Tort Claims Act, Minn. Stat. Ch. 466, governs the Cities' liability.

**5 Venue**

Venue for all legal proceedings involving this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**6 Signatures**

This Agreement may be executed in several counterparts, and all so executed shall constitute one Agreement, binding on each City notwithstanding that each City may not be a signatory to the original of the same counterpart.

IN WITNESS WHEREOF, the Cities have hereunto set their hands the day and year first above written.

CITY OF SHOREVIEW

By: \_\_\_\_\_  
Mayor

SEAL

DATED: \_\_\_\_\_, 2020

ATTEST:

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City Clerk

CITY OF ARDEN HILLS

By: \_\_\_\_\_  
Mayor

SEAL

DATED: \_\_\_\_\_, 2020

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF NORTH OAKS

By: \_\_\_\_\_  
Mayor

SEAL

DATED: \_\_\_\_\_, 2020

ATTEST:

\_\_\_\_\_  
City Clerk

# June Month in Review

*June 2020*



Rehder Forestry Consulting

- With help from office staff sent out EAB action letters to 185 properties in southern North Oaks. Letter was to inform homeowners of the imminent EAB impacts and how they should plan now for safety and budget purposes. (letter attached)
- Working with NRC members to draft a tree preservation policy and create a Woodland Subcommittee (WSC). Have reached out to professionals in the field for opinions.
- Started Dutch elm disease inspections
- Started Oak Wilt inspections
- Continue to work on Oriental Bittersweet grant. We have several interested residents and are working with the County and Contractor to coordinate fall treatments.
- Hope to use a County employee to help survey for extent of Oriental bittersweet in North Oaks.
- Completed 16 homeowner calls but used proper social distancing and a mask as a precaution if homeowners were present.
- Attended NRC and WSC meetings
- Provided input on Operation Clearview

**North Oaks Planning Commission  
Special Meeting Minutes  
City of North Oaks Community Meeting Room  
June 9, 2020**

**CALL TO ORDER**

Chair Azman called the special meeting of June 9, 2020, to order at 7:15 p.m.

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

**ROLL CALL**

Present: Chair Mark Azman, Commissioners David Cremons, Jim Hara, Stig Hauge, Nick Sandell, Sara Shah, and Joyce Yoshimura-Rank. City Council Liaison Rick Kingston.  
Staff Present: Administrator Kevin Kress, City Planner Bob Kirmis, City Attorney Bridget Nason, and Engineer Larina DeWalt.  
Others Present: Videographer Maureen Anderson.  
A quorum was declared present.

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

**MOTION by Yoshimura-Rank, seconded by Shah, to approve the agenda as submitted.  
Motion carried unanimously by roll call.**

**CITIZEN COMMENTS**

Chair Azman opened the meeting up for Citizen Comments, noting there was a new policy in place recently passed by the City Council where individuals may speak on any topic except items on the agenda. After seeing no hands up on Zoom, he closed the Citizen Comments portion.

**BUSINESS ACTION ITEMS**

**a. Public Hearing to discuss CUP #20-05 for fill in excess of 100 cubic yards: 7 Eagle Ridge Road**

- Engineer DeWalt presented the information regarding Conditional Use Permit (CUP) #20-05 for fill in excess of 100 cubic yards at 7 Eagle Ridge Road. Staff recommends approval for work to begin as soon as possible.
- Yoshimura-Rank said she visited the site and it is pretty impressive. She knows a lot of fill is being brought in and the information said only three plantings. She thinks three plantings is pretty miniscule for the huge incline. First, there is quite a run-off; second, it is all going into the wetland with no talk about cleaning up the wetland. She asked if that could be added to the work being done.

- Engineer DeWalt stated the potential conditions are up to the Planning Commission to decide. She understands the concerns and agrees that it is important to ensure that vegetation is established to try to avoid any future erosion. The plantings referred to do not include the specified seed mix that would be implemented throughout the topsoil.
- Chair Azman asked if there was vegetation included in the plan and, if so, to what extent.
- Engineer DeWalt said the plans indicate the proposed seed mix and shrubs that are specified. She does not recall what the plantings were specifically.
- Chair Azman indicated it looked like some shrubs, dogwood, and burning bush will be placed in the gully area. He asked if there was going to be any removal and remediation of the wetlands at the bottom.
- Administrator Kress suggested the public hearing should be opened to see if anyone is present, close it, and then have the discussion. He noted the Applicant is present as an attendee.
- Chair Azman asked for any further comments from Engineer DeWalt.
- Commissioner Shah said she had questions but it sounded like the public hearing should be held first.
- Chair Azman said he commonly will have Staff give a report. He opened the public hearing at 7:27 p.m.
- Bernard Bosley, the applicant, stated 88% of the erosion happened almost overnight. No one is sure how it started, but there was a large rainstorm and it opened up overnight and he has been working since then to get it fixed. There are plantings planned such as native plants and seeds. Pinnacle Engineering has been working with the Department of Natural Resources (DNR) and they have approved the plan. He does not believe they are pulling the silt back out of the wetland because the DNR feels that would cause more damage. He has a no-loss order from the DNR, and the DNR is okay with the plan as-is.
- Chair Azman asked if Mr. Bosley was looking for approval of the CUP.
- Mr. Bosley said he is looking for approval, the problem will continue to get worse, and that if it rains hard again, who knows what might happen. There is a power pole about six feet away. He would like to fix it as soon as possible. He clarified that it is the Vadnais Lake Area Watershed Organization (VLAWMO) that is copied on the plan, specifically Brian Corcoran.
- Gary Schulte, 5 Eagle Ridge Road, said he is the most affected neighbor to the erosion event; he is immediately to the south and it is only a few feet from the property line. In the process of getting things fixed, there have been considerable delays. He has seen the area get larger having gone through this past summer, as well as other times. He strongly advocates that this be worked on because he is concerned about his property getting eroded and property values.

He has lived in North Oaks since he was a child, about 60 years, and it makes him full of anguish to see the valley full of sand. If it would destroy the valley to have the sand removed, maybe that is the way it has to be. He would like to see it removed. He stated the man who did the tree shedding told him that VLAWMO/DNR would like to see the sand removed. As far as vegetation, if plants are in the path of where drainage is going to go down the hill, it creates more turbulence and erosion. A lot of times they advocate having various grasses rather than woody plants, at least in the beginning.

- Chair Azman noted there were no further hands up and asked for a motion to close the public hearing.

**MOTION by Yoshimura-Rank, seconded by Cremons, to close the public hearing. Motion carried unanimously by roll call.**

- Chair Azman referenced questions from the adjacent landowner and members of the Commission about dealing with the wetland at the bottom and appropriate vegetation. He asked Staff for comments/opinions.
- Administrator Kress asked for Attorney Nason's input as far as conditions being placed relating to vegetation.
- Attorney Nason said it is a unique circumstance to have a fill permit be granted via the CUP process. It is the process in place in the City Code. With respect to a CUP, any relevant conditions can be placed. For a typical use permit, they are conditions meant to address any of the concerns raised by the particular use. If the Planning Commission has some parameters regarding the vegetation, those conditions can be put in. It is an unusual circumstance to see any of those requirements in the fill context.
- Chair Azman said it is an Engineering question/VLAWMO issue and asked if VLAWMO needed to be involved from a wetland standpoint.
- Administrator Kress indicated Mr. Corcoran was available for questions.
- Commissioner Shah stated Mr. Corcoran was copied on the Pinnacle Engineering summary and it looks like VLAWMO is working closely with the solution.
- Mr. Bosley said they are trying to match the native vegetation and what will grow well in the area. He was told the native vegetation is more rugged, more likely to stay, and it will look better if they match what is already there.
- Chair Azman asked Mr. Corcoran if he is familiar with the gully situation on Eagle Ridge.
- Brian Corcoran, VLAWMO Water Resources Manager, said that he is familiar with it.
- Chair Azman noted one of the concerns expressed by the Commission is what to do with the washout at the bottom of the gully and whether there needs to be some remediation of the

wetlands as part of the process or if something is recommended. He asked what VLAWMO/Mr. Corcoran's thoughts were on that topic.

- Mr. Corcoran said he is not sure how many cubic yards are in the wetland, but they issued a no-loss order for removal of 100 cubic yards, or whatever can be safely removed, while avoiding underlying wetland vegetation, soils, or causing additional harm to the area.
- Chair Azman asked if that meant the removal of the washout that flowed down from the gully.
- Mr. Corcoran noted it was as much as they safely can remove.
- Chair Azman asked if there was any further remediation recommended after the removal or if the wetland will self-heal.
- Mr. Corcoran said it will self-heal.
- Chair Azman asked Engineer DeWalt if part of the application includes removal of the material at the bottom as part of the CUP.
- Mr. Bosley stated he believes that is in the plan.
- Engineer DeWalt said the application is specifically for the fill, but the plan provided with the application indicates removal of up to about 100 cubic yards.
- Chair Azman indicated the vegetation selected is native, which looks to be appropriate, and a portion of the project has to do with removal of the washout fill that goes down to and into the wetland with a self-healing concept. From a background standpoint, he noted he was asked to call a special meeting to deal with the situation and there were extenuating circumstances so that he felt justified moving forward with a special meeting. He said there was litigation resulting from the issue that was resolved. The property owner has been moving forward diligently. There is significant concern, including from a neighboring property owner, that further rain events may cause further damage and the time to move is now, along with further damage including potentially the roadbed, power lines, etc. He stated that is why he was concerned about getting the application in front of the Commission as soon as possible so that the property owner can move forward assuming there is an approval. He asked if other Commission members had questions of anyone.
- Commissioner Shah said she understands the sense of urgency with the application. She sees the CUP and the solution but did not see a definitive reason for the cause and is wondering why the erosion happened in the first place, because she does not want to be back in five years trying to mitigate the same problem. She asked if anyone had an idea of what caused the situation.
- Mr. Bosley said it was explained to him that the ground in the area isn't particularly rugged, and part of the plan is to compact it and make it more rugged against erosion. There are

several speculations as to the cause, but no one knows for sure because the source is gone. There is a thought that a tree fell over with its roots coming up and pulled up dirt that may have started it. An engineer said a small erosion starts and then keeps on getting bigger with more water. He was never told a definitive reason.

- Commissioner Shah noted it looks like the soil is coming from a neighboring site. She asked if it has been confirmed that it is good soil.
- Mr. Bosley stated some is coming from a neighbor and some is being brought in. The engineers are testing the soil, it has to meet a certain criteria, and only a specific type of soil can go in.
- Commissioner Cremons referenced Engineer DeWalt's comments about not wanting to go through this again and that perhaps the solution proposed isn't as complete as it could be. He asked what more the Commission would do to make sure this is going to work, if anything.
- Engineer DeWalt said her concern is not necessarily that the plan is not complete. She thinks the plan is complete in what it is trying to repair. There is no guarantee that long-term viability, per Commissioner Shah's comment, is going to prevent future erosion. There could be discussion of periodic monitoring of the situation until vegetation is established to ensure that it is working and is not continuing to erode. She believes the property is for sale and she has concerns regarding future property owners' liability if, in the future, it doesn't work and needs to be repaired again.
- Commissioner Yoshimura-Rank asked if the repair would be disclosed to interested people who might purchase the property.
- Mr. Bosley stated it would be.
- Chair Azman asked Attorney Nason if that could be made a condition.
- Attorney Nason said it is a unique situation in that this is not a site plan application or something along those lines where the Commission would be having conversations regarding the potential fix and potential future erosion issues. The CUP is to allow the importation of a certain amount of fill that exceeds the threshold for the CUP. However, a CUP is supposed to be recorded against the property. Typically, on the resolution the Council would consider as far as approving the CUP, it authorizes the recording of the CUP against the property, which would provide some notice to anyone who is a subsequent purchaser. If they were to pull it and read what it says, they would be aware that there was some type of fill activity that occurred on the property. It would not get into any significant detail other than what the fill amount was, etc., but would provide notice to any subsequent purchasers.
- Commissioner Cremons asked Attorney Nason if there was a way to reference the possibility of follow-up during the project to make sure it is proceeding in accordance with the plan, even if it is soft language. He would like somebody to pay attention so if there is a hard rain halfway through the project, the City will be able to react to it and not have it turn into a

fiasco.

- Attorney Nason stated one of the recommendations of the Planning Commission could be that the appropriate City Staff would be requested to follow up to ensure the filling is completed pursuant to the fill permit requirements.
- Commissioner Shah asked if Commissioner Cremons was looking for a control plan beyond the fill and watching the plants, etc., to ensure that everything is stable.
- Commissioner Cremons said legally there are limits to what the Planning Commission is able to do on this application; but it is a major issue, especially for the neighbor. He would like for somebody to have it on their list that they will go by the area while the project is being done to make sure it is proceeding in accordance with the Commission's expectations. If there needs to be a sentence in the approval that there will be appropriate follow-up by the City Staff, he is fine with that.
- Mr. Bosley indicated he thought it would be fine for the City to check. He stated Pinnacle Engineering will be checking periodically and will approve the work when it is done, so if it is not done completely and efficiently, they will not approve it. He will also be checking it.
- Chair Azman asked how the Planning Commission could impose that condition within reason.
- Attorney Nason noted if the recommendation by the Planning Commission is for approval, it could be approval of the CUP as submitted with a request that the Council direct Staff to follow up to ensure the fill is established pursuant to the plan submitted with the CUP. She commented that the irony is when you fail to comply with a condition of the CUP, the typical remedy is revocation of the CUP. If that were included as a condition, that would put it on the City's radar. Council could direct Staff to ensure the fill is established on the site in accordance with the grading plans submitted to the City, and if there is any failure to comply or establish the fill in accordance with the plans, the City has remedies under the revocation of the CUP piece, as well as the general misdemeanor penalty under the City Code for violation of any code requirements or City permits.
- Chair Azman asked Attorney Nason if the Planning Commission could make a condition that the landowner has to notify the City when they are about to start work.
- Attorney Nason indicated that could be done.
- Chair Azman noted that way the City will have more of an opportunity to follow up.

**MOTION by Shah to approve CUP #20-05 for fill in excess of 100 cubic yards at 7 Eagle Ridge Road with conditions as follows: one, the Applicant notifies the City when they start the project; two, the project is monitored by the City to ensure the CUP is meeting expected outcomes; three, the project will proceed as the application indicates.**

- Chair Azman asked Administrator Kress if that was clear enough for the purpose of drafting a recommendation to the Council.
- Administrator Kress stated he thought Staff could build a resolution from that.
- Attorney Nason said she had no concerns with regard to the motion/conditions.

**Seconded by Yoshimura-Rank.**

- Chair Azman noted Mr. Schulte’s hand was up but the public hearing portion was closed and it would be a little unconventional to allow him to speak. He stated that he is trying to stick with appropriate procedure.

**Motion carried unanimously by roll call.**

- Chair Azman reiterated that the passed motion is for recommendation of the CUP to the City Council, who will be considering it at its meeting on June 11.
- Administrator Kress confirmed that is the intention at this point.
- Chair Azman suggested to Mr. Bosley he make himself available for the Thursday, June 11 City Council meeting.

**ADJOURN**

**MOTION by Yoshimura-Rank, seconded by Cremons, to adjourn the Special Planning Commission meeting at 7:55 p.m. Motion carried unanimously by roll call.**

\_\_\_\_\_  
Kevin Kress, City Administrator

\_\_\_\_\_  
Mark Azman, Chair

Date approved\_\_\_\_\_

**North Oaks Planning Commission  
Special Meeting Minutes  
City of North Oaks Community Meeting Room  
June 9, 2020**

**CALL TO ORDER**

Chair Azman called the meeting of June 9, 2020, to order at 7:56 p.m.

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

**ROLL CALL**

Present: Chair Mark Azman, Commissioners David Cremons, Jim Hara, Stig Hauge, Nick Sandell, Sara Shah, and Joyce Yoshimura-Rank. City Council Liaison Rick Kingston.  
Staff Present: Administrator Kevin Kress, City Planner Bob Kirmis, City Attorney Bridget Nason, and Engineer Larina DeWalt.  
Others Present: Videographer Maureen Anderson.  
A quorum was declared present.

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

**MOTION by Hauge, seconded by Yoshimura-Rank, to approve the agenda as submitted. Motion carried unanimously by roll call.**

**CITIZEN COMMENTS**

Chair Azman opened the meeting for Citizen Comments, noting that there was a new policy in place recently passed by the City Council where individuals may speak on any topic except items on the agenda. After seeing no one present in the Council room and no hands up on Zoom, he closed Citizen Comments.

**BUSINESS ACTION ITEMS**

**a. Consideration of Nord Preliminary Plan/Plat/Subdivision Application - Continuation from the May 28, 2020 Meeting**

- Chair Azman reminded everyone the public hearing on the Nord application is concluded; there is no more opportunity for public comment. It is now the Commission's opportunity to ask any final questions and deliberate. He said he may ask for a point of clarification from Attorney Nason regarding *Robert's Rules of Order* to make sure the Commission is proceeding correctly. He asked if there needed to be a motion to reconvene the Nord application hearing or if the approval of the agenda took care of that portion.
- Attorney Nason said the approval of the agenda took care of that item.

- Chair Azman stated an appropriate way to begin would be to have Staff discuss their Second Supplemental Report which was submitted with the packet.
- Administrator Kress noted there was a PowerPoint and he would share his screen; and Attorney Nason, Planner Kirmis, and Engineer DeWalt could present Planning Report Addendum Number 2.
- Attorney Nason and Engineer DeWalt began presenting the Planning Report Addendum Number 2 included in the packet.
- Commissioner Hara asked if the subdivision proposed preliminary plat is just the road that comes in off of Sherwood, not the entire site.
- Attorney Nason stated that Commissioner Hara was correct and she would have Brian Corcoran speak to what is the context of the proposed wetland impacts in the subdivision and what the restrictions are on any wetland impacts that may occur by subsequent development of the building sites.
- Attorney Nason continued with the PowerPoint presentation.
- Commissioner Hara stated his understanding with the road is that the soil cannot be disturbed nor intensify use. One of the comments made was that the road has been used forever, and there was a comment from an adjacent neighbor that said they had never seen a vehicle on the road in the 26 years they have lived there. He asked if it would be expected that if the Company is going to build two houses that are going to share this driveway, that road would be improved which would require that there would be dirt moved to flatten the trail out; and the current pervious surface would become an impervious surface. He noted one of the Fire Department requirements is that it be at least 20 feet wide and suitable to carry the weight of firefighting equipment such as firefighting trucks. When Staff says it can be maintained, he thinks it has to be maintained without disturbing the vegetation on it or moving soil, and he is wondering how that could be accomplished in its present state.
- Attorney Nason said the legally established nonconforming use can be maintained, replaced, repaired, or improved. Under the State statute and City Code, improvement of a legally established nonconforming use is allowed. With respect to issues such as the location between wetlands, which is where it is located, and what would be allowed per VLAWMO, she noted Mr. Corcoran could speak to that. Legally speaking, a legally established nonconforming use can be improved; however, you cannot expand or intensify that use.
- Commissioner Hara noted that, at the last meeting, Engineer DeWalt said it could not become an impervious surface, it had to remain pervious, which means it has to stay in a condition of basically dirt and vegetation and what it is currently. He asked how that would be improved. He also referenced North Oaks Ordinance 153.070, which says you cannot displace dirt or vegetation to improve the road. He asked how the road would be improved without displacing vegetation or changing the soil condition.

- Attorney Nason said she would defer to Engineer DeWalt for the first part and would look up the ordinance.
- Engineer DeWalt said she wanted Mr. Corcoran to address the issue of what would be able to be done to the road as far as improvements. She thinks there are grandfathered rights within the policy for the resurfacing of an existing road, but she is not familiar with exactly what would be allowed under the current plan. She noted there is historical evidence of that road being surfaced with gravel. She does not have a soil report or borings along the road to confirm that.
- Commissioner Hara asked what a resurface would look like if there is no surface on it now.
- Engineer DeWalt said she did not have the answer because it has not been proposed at this time. She asked Mr. Corcoran if he had anything to add.
- Administrator Kress stated he is a little concerned by some of Commissioner Hara's comments, that they are falling in line with one of the emails received early in the morning. He said, for transparency purposes, Commissioner Hara should state his relation to the person who sent that email.
- Commissioner Hara said he would be happy to do that. He stated, in full transparency, the Commission should discuss some of the City Councilmembers' relationships with the developer. He noted the person who sent the email was his daughter. He stated the Commissioners' role is not to find exceptions or loopholes to be able to approve this plan; the bigger thing is to maintain the integrity of North Oaks. He referenced the gentleman who has lived in North Oaks for 60 years and said he lives here for the purpose of enjoying the natural setting North Oaks has. He said he feels that setting is being compromised by trying to push another lot or two into the development, which does not seem to be conducive to the additional lots. The public comments the Planning Commission heard from quite a few people have all been opposed, including a petition with 100-some people. The purpose of his comments is representing North Oaks, not himself or his daughter.
- Chair Azman suggested continuing with the PowerPoint presentation, noting there will be opportunities for further discussion regarding Commissioner Hara's concerns and the application.
- Commissioner Hara stated he thought it was the right time to ask the question since it was being talked about.
- Administrator Kress asked if Chair Azman wished to continue with the PowerPoint or have Brian Corcoran speak to a couple of the points.
- Chair Azman asked what would be logistically easier: having Mr. Corcoran jump in and talk about some of the wetland, or getting through the PowerPoint to try and address some of the questions.

- Engineer DeWalt noted the PowerPoint was almost done so it made sense to power through.
- Attorney Nason and Engineer DeWalt continued with the PowerPoint presentation.
- Commissioner Hara said he is still confused about the potential 400-500-foot driveway to serve Lot 1 and its proximity to the wetlands as to how that road, in its current state, serves the properties without being graded or surfaced in some way to accommodate snow-plowing, fire truck access. He asked what a person who would spend this kind of money on a lot would expect for a road.
- Engineer DeWalt suggested the Applicant speak at some point regarding the plan. Although she knows it has been stated previously, she wanted to reiterate the City does not have any performance standards related to driveways except in the commercial district. Driveways in the commercial district are required to be paved; driveways within residential districts are not.
- Chair Azman asked Commissioner Hara to ask his question again.
- Commissioner Hara said he understands that the developer is not proposing to build a driveway or shared driveway, and he understands that it would be an expensive proposition to do so. He has walked the road and it concerns him that the Planning Commission is pushing the application through as, one, not impacting the wetlands; and, two, that the road is a suitable road to access the homes for not just the people living there, but any kind of vehicles that would have to access the road such as an Amazon truck. He said the road is not a plowable road, at least plowable to a point that it would be easily navigable unless someone had a pretty heavy-duty four-wheel drive. If the road is going to be improved, he understands it cannot be made to be an impervious surface, it has to be maintained and the improvement cannot involve moving dirt or the vegetation that exists currently. He asked Mr. Corcoran what level of improvement can be made to the road and still be within the regulations that control it.
- Brian Corcoran, VLAWMO Water Resources Manager, stated that, as far as the road goes, VLAWMO administers the Wetland Conservation Act (WCA). The buffer rules and everything else involved in the water management policy, due to the Joint Powers Agreement (JPA) status of VLAWMO and the six cities and townships, adopt through the local water plans the water management policies, which is where the buffers are located. He said VLAWMO relies on its cities and JPA people to administer the policies. As far as the road goes, per WCA it is considered grandfathered in or permitted fill. Resurfacing is allowed; buffers do not apply, etc. It is considered a road and anybody can do anything to the existing size it is, although he does not know who determines the width of the road or where it goes. He does not know if it is through aerial photos or historical maps. It is considered a road and, per WCA, it is allowed to reconstruct the road to its historical size. It could be resurfaced or left as-is. If it is made any bigger than it historically is, a variance process would have to be involved and approved.

- Commissioner Hara noted, under Ordinance 153.070, alterations, expansion, intensification of use which increase an impervious surface, and land-disturbing activities, including the removal of vegetative covering, and grading, disqualify the exemption and subject the driveway to all setbacks, buffers, and other requirements. He asked if the Commission is back to where they have setback issues.
- Attorney Nason asked Commissioner Hara for the section he was referencing because she was not seeing the same language.
- Commissioner Hara said it was Minnesota Rule 8420.0544D and that North Oaks was adopting that Minnesota requirement.
- Attorney Nason stated she was looking at 8420.0544D which says replacement for public transportation projects, and it deals with wetlands impacted by public transportation projects. She asked if she was in the right spot.
- Commissioner Hara said he may not have it correct. He stated the North Oaks ordinance that he referenced adopts a Minnesota rule, and within the ordinance it references 8420.0544D. He asked if there was a VLAWMO water policy that discusses land-disturbing activities as any change in the land surface. He said to him it would be a change in the land surface if the road gets graded and made into a usable driveway for a resident.
- Attorney Nason noted Mr. Corcoran may want to speak to that as the Local Government Unit (LGU) and she would look for the reference.
- Mr. Corcoran stated VLAWMO policy, adopted by JPA, says the applied buffer width for a linear reconstruction project shall be limited to the extent of buildable right-of-way. A buffer is not required for resurfacing of an existing road, sidewalk, or trail that does not increase the area of impervious surface.
- Administrator Kress noted Mark Houge may have a question and he could be moved as a participant.
- Commissioner Cremons stated, with no disrespect to Commissioner Hara, it seemed to him the issues have been examined by Staff in great detail with impressive analysis. He said the Commission could spend all night going through rules and code sections and comparing City Code to State regulations. The Planning Commission as a group is not prepared to spend a huge amount more time on the shared driveway, in his opinion. He stated he thinks the Commission has beaten it to death and needs to move on.
- Mark Houge, North Oaks Company (NOC), said he wanted to clarify a few things. He noted people may or may not be aware that for years there were numerous dump trucks going back and forth on that road to the burn site and it is interesting going through the spring/early summer season that the road does not look like much once the vegetation takes over. He wanted to make sure members of the Planning Commission understand it has been used continuously, including many dump trucks that have gone back and forth to the burn site,

which is effectively where the new Rapp Place cul-de-sac is for Rapp Farm Place. They have plowed the driveway; the field superintendent has a plow on his truck and has plowed it occasionally. He realizes it does not look like much right now, but it is a very usable road and has been used continuously. He said he would be very interested to know who it is that is living in close proximity that says they have never seen a vehicle on it, because within the last two weeks there have been a dozen vehicles on it.

- Chair Azman asked Mr. Houge to clarify if he was talking about the piece from North Deep Lake Road that extends northerly.
- Mr. Houge indicated Chair Azman was correct, that it would be accessed directly from North Deep Lake Road where the green gate is and is the same section of road the Company is proposing to re-use as a driveway. He pointed out, relative to intensity of use, at one point they were considering putting a street along the path coming from North Deep Lake Road going west. Through many conversations with City Staff and community members, they reversed that. The intensity of the road is probably equal to or less than what it has been in the past. It will be limited to two residents as opposed to a service road for things like the burn site.
- Commissioner Shah asked Mr. Houge to speak to what the Company plans to do for improvements to the current farm road that would be the proposed shared driveway.
- Mr. Houge stated if the Company is successful in subdividing the parcels, they are marketing the road to a buyer. Generally, someone interested in those types of lots, between 6-9 acres overall, are going to want a very natural environment. The Company will encourage them to use a gravel surface similar to what is there today, subject to North Oaks Home Owners' Association (NOHOA) and Architectural Supervisory Committee (ASC) approval. If they prefer to have some hard surface, they would be encouraged to consider pervious bituminous or pervious paving systems for water management. It is not an obligation, but that would be how the Company would approach it.
- Commissioner Shah asked if there are other driveways of this nature that are not paved in North Oaks.
- Mr. Houge said the short answer is yes. In pretty close proximity to this driveway, there is a long gravel driveway into a residence. There is a site with two lots which is known as Tory's Island; that one is improved. He stated there is a wide variety. Everyone tends to approach it differently in terms of if you are a homeowner and what your preference is. There is a combination of gravel as well as bituminous, and he said he would look to the ASC for some guidance on their preference.
- Commissioner Yoshimura-Rank noted that relatively recently the Commission had decided not to have any more gravel driveways and the existing gravel driveways had been grandfathered in.

- Chair Azman stated Engineer DeWalt commented that there is no ordinance currently in place that mandates paved driveways within the residential areas of North Oaks. He asked for confirmation from Staff.
- Administrator Kress indicated Chair Azman was correct.
- Chair Azman said he recalled there was some past discussion about expanding that requirement to residential areas but he did not think it passed.
- Administrator Kress stated that chances are high that the Company would not have to comply with the ordinance, anyway.
- Chair Azman noted that the PDA predates the change.
- Administrator Kress said Chair Azman was correct.
- Chair Azman asked if the PowerPoint had been finished and if there were questions that should be addressed to Mr. Corcoran regarding wetlands. He noted Mr. Corcoran had addressed some of the nonconforming use issues; he asked if that was the extent of what Mr. Corcoran would be asked to comment on, absent questions from the Commission.
- Engineer DeWalt suggested Mr. Corcoran speak to the concern that once the development is approved, that landowners/homeowners could go in and impact the wetlands on their own.
- Mr. Corcoran said this project was brought to VLAWMO as a 54-acre parcel. The boundary and type/delineation was reviewed and a decision was made in 2015. Per the application, the Applicant is stating there will be no wetland impacts for the subdivision. Because this 54-acre parcel was identified, the wetland boundary/types were done on the parcel, and there are no wetland impacts that can be done moving forward, even after it is subdivided.
- Chair Azman asked Engineer DeWalt if Mr. Corcoran answered the questions.
- Engineer DeWalt noted she wanted it clarified for the Commissioners. She said City Staff had stated in the Memo that was the case and there was concern that was not true, so she wanted Mr. Corcoran to reiterate it.
- Chair Azman asked Mr. Corcoran and Engineer DeWalt what that meant. He noted the Commissioners have the preliminary plan that doesn't appear, at least from VLAWMO's Memo, to impact the wetlands; but when it is an actual homeowner, the homeowner has to site their home and they have to have a septic under the current plan. He asked what that meant from the real-world standpoint, that there can be no further wetland impacts or impacts subject to any of the exceptions that were pointed out in the Staff report.
- Engineer DeWalt referenced Attorney Nason's identification of what a wetland impact means and said there are no future impacts that will be allowed on-site. The development application proposed has accounted for the required buildable area for a home and has

accounted for two required septic site locations within the suitable soil areas, and so the application has fully accounted for the proposed wetland impacts.

- Chair Azman asked Mr. Corcoran if he agreed with what Engineer DeWalt stated.
- Mr. Corcoran indicated that he did agree.
- Commissioner Cremons asked, if someone comes in with a development plan for their actual home that involves filling in some wetland or putting a driveway up against the wetland, if that would be rejected until they corrected that situation. He clarified by asking about the control method applied to keep the individual homeowner from doing anything to impact the wetlands.
- Engineer DeWalt said if the homeowner impacts the wetlands, they are required to obtain a permit and approval. They would not be able to obtain that approval outside of the exemption standards under the WCA, including what is called a “de minimis” which is a very small, incidental wetland impact, probably smaller than most people’s kitchens. She noted there are strict standards involved in the control of that.
- Mr. Corcoran agreed with Engineer DeWalt and said the de minimis exemption is still available; but in that area, he does not foresee any possible scenario where any homeowner could come in and utilize the de minimis exemption in WCA.
- Commissioner Sandell noted that these are the controls for any building in any city, it does not have to be unique to this development. He said he suspects there are controls for any lot in any city to govern that issue.
- Engineer DeWalt said Commissioner Sandell was correct.
- Commissioner Sandell noted he thought he was piggy-backing off of Commissioner Cremons’ earlier comments, that the Commission received expert consultation on engineering, planning, governance, and legal which all seems to support that this fits. He does not think there is a lot more to exhaust other than it is an allowed use.
- Commissioner Yoshimura-Rank noted number 19 in the conditions of approval talks about emergency overflow locations and elevations for all site surface water features, including wetlands, shall be shown on the grading plan based on actual field topographic survey information and stormwater management plan design. She asked, if there ends up at some point being drainage problems or overflow of water, is someone responsible for that or is it the homeowner’s responsibility.
- Engineer DeWalt asked if Commissioner Yoshimura-Rank was saying, for example, if a stormwater pipe overflowed or plugged and a basement flooded. She asked for clarification of the question.

- Commissioner Yoshimura-Rank said it is kind of known that the climate is going to get wetter, and she is wondering, if there is any standing water or unanticipated drainage problems that occur down the road, if it is strictly the responsibility of homeowners to take care of those issues or if there is a City response.
- Engineer DeWalt noted it is not her area of expertise but she would say typically, yes, it would be the homeowner's responsibility in the future. The systems are designed using industry standards to account for all of the requirements, but there are experience issues that don't get accounted for. She asked if Attorney Nason may have something to add from a City liability standpoint.
- Attorney Nason stated it would depend a little on what the specific issue or concern is. She said she knows there are concerns with the stormwater pond maintenance and she is not sure if that is where the conversation is going or if it is other types of pipes. With respect to the stormwater maintenance pond, required conditions include a grant of easement and a maintenance obligation agreement. She noted it is still unresolved as to whether or not NOHOA would eventually take over that obligation. There would be safeguards in place to ensure that is adequately managed. If no one is managing it and doing what they need to do, the City would have the opportunity to come in and do so and seek to collect costs that the City would incur when engaging in the stormwater maintenance activities.
- Chair Azman asked City Staff if one of the conditions is dealing with the stormwater management and that it is going to be part of a future agreement with the developer.
- Administrator Kress said Chair Azman was correct.
- Mr. Houge said he wanted to address Commissioner Yoshimura-Rank's question and said he would dissect it in two ways. Where the new road is being placed coming from Sherwood on the west side of the site, there is a stormwater pond which manages any additional stormwater coming off of the road's impervious surface. There is a very extensive stormwater study that is being done at the request of the City. During the construction process, he trusts that work will be inspected, and the City Engineer as well as NOHOA's engineer may look in on that. There will be great measures taken to ensure there are not any surprises in terms of what would happen with future stormwater events. In addition, when somebody applies for a building permit, the City would require a survey. The survey would have topographical information and information regarding adjoining wetlands and stormwater issues that typically the building official will weigh in on with the resident as they plan their facility.
- Engineer DeWalt stated one of the reasons for the particular condition Commissioner Yoshimura-Rank is referring to is to make sure there are pathways for water that is not planned for. During intense storms or potential flood situations, there will be a place for the water to go rather than towards the homes.
- Chair Azman brought up the NOHOA letters and trail and indicated there are mixed messages from NOHOA and what their position is. He asked Mr. Houge if there has been any indication from NOHOA that they have withdrawn their agreement on the proposed new

trail location within Nord.

- Mr. Houge said he sits on the NOHOA Board with a position that is appointed by the Company, and although he did not participate in the second meeting which discussed crafting the letter, he was able to talk to some fellow Board members to clarify what the intent of the second letter was. He noted the concern was that the letter sent on April 7 implied that NOHOA was approving the design of the development. It was intended to clarify that NOHOA's role is not to approve the design of the development but, per the PDA, to weigh in on the location of the trail and the suitability of the roads going forward for maintenance. The second letter was intended to clarify that NOHOA is not approving this subdivision, that that is the job of the Planning Commission and City Council.
- Administrator Kress stated that he asked Kathy Emmons if basically everything said in the April 7 letter is still in place; specifically, there was a vote of 6-2-2: six for, two against, and two abstained. One abstention was for conflict of interest, Mr. Mark Houge; and the other, due to a planned departure from the Board. Ms. Emmons' response was the understanding described requires one clarification, that they voted in favor of sending the review and comment on the preliminary plan to the Planning Commission and Council as reflected in the April 7 letter; and, yes, nothing has changed in this regard since NOHOA issued the April 7 letter. He noted that from that they are saying they are in favor of the current trail design.
- Chair Azman said the application has been talked about quite a bit and there is not yet a motion on the table, although he was not sure the Commission was ready for that. He asked if there were other questions, concerns, comments, or items Commissioners wanted to flesh out on any aspects of the Nord parcel.
- Commissioner Yoshimura-Rank said Commissioner Hauge and she had been talking about the language having easements for water and sewer also put into the plan.
- Administrator Kress stated that they were included.
- Commissioner Hara commented that this development is navigated more from parcels. The shared driveway, the nonconforming road, wetland setbacks, lack of open space, and the general development criteria is inconsistent with most of North Oaks. There is also the issue of the trail. The Commission has really not taken into consideration that there is a lot of public opposition to the application amongst more than just the few people that spoke but also the people that signed the petition. He predicts in a couple of years the Planning Commission will be convening to deal with hardship residents that have difficulties locating septic systems outside of wetlands and also paving a road that is now pervious to being an impervious one. He thinks the Planning Commission is kicking some issues down the road and he is disappointed that the development wasn't put together with more thought about what the neighbors and community in general was looking to see.
- Commissioner Hauge said he has been part of the Commission for about 16 months, along with Commissioners Shah and Yoshimura-Rank. When the first proposal came to the Planning Commission, they were against a couple of major things: one was the road that

originally proposed to come in from the south, from Deep Lake Road. They suggested it to go according to the PUD from Sherwood Road. They also disliked the proposal about the trail. The Company, together with NOHOA, has found a solution to the trail. He walked the trail a couple of times, and he finds the trail to be a decent, good solution for the community. He said it is important to remember the Planning Commission has not been doing this for a short time; they have been doing it for a fairly long time. The Planning Commission is coming to the point where it has been discussed at length, solutions have been found to the original questions, and the Commission has also discussed at great lengths the wetlands. The Commission has a clear message from VLAWMO about the wetlands. He stated the issues have been resolved. The Company has changed their proposal to what is in front of the Commission. The farm road discussions have also been dealt with. The Commission is at the point where it is time to make a decision. He noted he was a little frustrated at the last meeting because the Commission was hearing things that were kind of undermining facts, or what the Commission thought was facts. He complimented the administration for putting together an excellent report, Addendum 2, that summarizes the questions from the community and the answers given to the questions.

- Commissioner Shah said she wanted to piggy-back on Commissioner Hauge's comments. Some Commissioners have been involved for about 16 months on Nord, and their role was to listen to the residents, who came in droves. There were three major issues. The original proposal had a wetland impact, and this proposal does not. The trail was a massive concern, and there was movement and collaboration with NOHOA. They were able to work with the Company because the trail is in their purview. The road was also deemed unacceptable. She noted all three of the big points were addressed by the Applicant, and she is seeing a completely different response.
- Commissioner Cremons asked if a NOHOA variance is still required on the shared driveway under any circumstance.
- Attorney Nason stated her purview is the City Code and regulations. She knows there is discussion regarding the ASC committee and their standards on shared driveways, so that will be a battle that the developer has to fight in the realm of NOHOA. She did not know what the City said about that or if it was identified as something they need to work through. Ultimately, in terms of the City Council, what needs to be applied is what is in the City Code. The City does not have any specific standards for driveways or things such as that. As to what might happen in trying to obtain approval from NOHOA, that is outside of the purview of what can be done at the Planning Commission. She said if a developer is unable to gain the permissions from NOHOA they need to gain, that might impact the ultimate site design.
- Commissioner Cremons said he is a newbie; he started in January. He stated City Staff works extremely hard and do listen to the people in North Oaks. As a newcomer to the process, it has been very impressive how patient and what good listeners they have been. He does not know what more Staff could have done to examine every miniscule point and made sure they knew what the Planning Commission was up against and what the impact was going to be. He has also been impressed with the Company's willingness to be flexible to help solve some

of these problems.

- Commissioner Yoshimura-Rank said she agreed with Commissioners Hauge, Shah, and Cremons that people have worked hard and there has been a lot of cooperation with the Planning Commission, NOHOA, and the Company. She also thinks the Commission is very appreciative of all of the comments received from the community and the support, the different points of view, and that everyone has one common goal, which is to keep North Oaks as special as it is and to preserve what it has. She noted it has been a very good process.
- Chair Azman said he had a couple of questions for Attorney Nason, noting the Commission was on the cusp of a motion. He said it might be a good idea to take a review of what the legal standard is that the Commission needs to apply when reviewing the application: what are the obligations; what are the duties. He asked Attorney Nason to bring the facts and circumstances back around to what the standard is that the Planning Commission applies when a recommendation is developed one way or the other for the Council.
- Attorney Nason stated the Planning Commission sits in sort of a quasi-judicial capacity: there is a specific application before them; they are not engaged in a legislative function; their job is to review the application to apply all of the standards that would apply to the application itself which include the standards found in the PDA, the standards found in the City Code, and any applicable State statutes or rules. She said she thought those were highlighted on one of the checklists; there was an initial checklist and a compliance checklist provided. She stated the Commission is to apply the standards and criteria that exist to subdivisions; and if the criteria are met, it would be anticipated that there would be a recommendation of approval. If the criteria are not met, it would be anticipated there would be a motion for denial with specific reasons and articulation of what criteria are not met. Ultimately, the Council will make the final determination with respect to the preliminary plan approval. The decision, if it were to be reviewed in a court of law, would be reviewed under an arbitrary and capricious standard. In other words, did the Council have any reasonable or rational basis for its decision one way or the other. She stated she could provide further clarity if requested.
- Chair Azman commented that he thought it was fine, and he wanted it summarized as the Planning Commission looks at the issues in anticipation of a motion. He noted he asked Mr. Houge at the last meeting /one of the last meetings if they agreed with the counts the Council had passed as a resolution, because as the applications start coming before the Planning Commission, they have to be able to understand what the housing counts are and apply them so the Commission knows how many are left. He asked if it would be appropriate to include a condition that the Applicant recognizes that there are 174 units left and this would account for "X" amount of units that are left. He noted that was not done with Anderson, but wondered if that is something that could be done now so there is a recognition of that somewhere or whether the number is separately tabulated.
- Administrator Kress noted it was an amendment or a change to the PDA.
- Attorney Nason said she thinks it is vitally important that one of the evaluative criteria with respect to the subdivision applications is whether or not it exceeds the density per the PDA.

In this case there are ten dwelling units allowed with density bonus up to 13, so it complies with that criteria. With respect to the issue of what is the ultimate housing count/dwelling unit count that remains as far as what can be spread across the developable undeveloped properties, that is sort of a separate piece. She stated that issue was addressed by Council when they adopted a resolution establishing what the existing housing counts were. She said that while it could not be a condition, the Planning Commission could encourage the Council to meet with the developer to sit down and address the housing count issue to consider an amendment to the PDA that establishes the current updated housing count. She stated if the Planning Commission has a desire to address that, the best way would be to encourage the Council and developer to take that step and address the issue head on, outside of the context of the subdivision application.

- Chair Azman said that was not exactly what he was hoping for but it was understandable. He thought one of the conditions would be, are there sufficient units left to allow this application to proceed in the event there was a vote of approval. He noted there needs to be a way to keep track of that and it would seem logical to have it be part of this process. He indicated it was 9:15 p.m. and there has been a lot of talk about the application. He said there was a possibility to approach things with a straw vote, engage the temperature of the water of where the Commission is going. He stated procedurally those make him nervous but it could be talked about. Alternatively, if someone wanted to make a motion, they could do so now.
- Commissioner Hauge asked Chair Azman why he wanted to do a straw vote. He said they were kind of at the end of the rope and they just had to plunge in.

**MOTION by Hauge that the Planning Commission approve the proposed Nord Preliminary Plan/Preliminary Plat/Subdivision Application subject to the fulfillment of amendment conditions 1-50.**

- Chair Azman noted it is a big application, and without forcing someone's hand, he wanted to put some options on the table. He stated the motion seems to encompass all the conditions recommended by the consultants and addresses a lot of the issues talked about. He asked Staff if there were any items missing as conditions, because he did not want to get into a situation where there will be three motions to undo one motion. He asked for comments from Staff.
- Administrator Kress said he did not have anything from his end.
- Attorney Nason stated she didn't have anything to add.

**Seconded by Cremons.**

- Commissioner Shah noted some Commissioners have been deliberating the Nord application almost 15 months and she recognizes it's a very important vote. There have been comments and characterizations of individuals as "pro-Company" and "anti-Company" and thinks the labels are divisive and unhelpful to their community. She said everyone at the Zoom meeting are residents and all are pro North Oaks, and cannot lose sight of that important fact.

Commissioners may disagree on how to proceed in a given situation, but everyone is coming to their viewpoints with the best interests of North Oaks. Everyone lives in North Oaks and wants to see it for generations to come. As Commissioners vote, it's essential that everyone respects one another regardless if they agree or not.

**Roll call vote: Ayes 6 (Yoshimura-Rank, Shah, Sandell, Hauge, Cremons, Azman), Nays 0, Abstained 1 (Hara). Motion carried.**

- Chair Azman thanked everyone for going through the process, noting it was a lot of work, particularly for the consultants. He also thanked the VLAWMO staff. He said it is important to recognize there are significant opinions in the community that were received and reviewed, and they were happy to have them and consider them as part of the process.

**MISCELLANEOUS**

- Administrator Kress stated the next Planning Commission meeting is set for June 25, depending on what is on the agenda for actionable items. Currently, it is likely there will not be a June 25 meeting.
- Chair Azman asked, if there is a meeting, if the meeting would be held via Zoom.
- Administrator Kress said currently the meeting would be held via Zoom, depending on what the State puts out.

**ADJOURN**

**MOTION by Yoshimura-Rank, seconded by Sandell, to adjourn the Planning Commission meeting at 9:24 p.m. Motion carried unanimously by roll call.**

\_\_\_\_\_  
Kevin Kress, City Administrator

\_\_\_\_\_  
Mark Azman, Chair

Date approved\_\_\_\_\_

**North Oaks Natural Resources Commission**  
**NRC Meeting Minutes**  
**Virtual Meeting via Teleconference or Electronic Means Only**  
**June 18, 2020 at 7 p.m.**

**1. CALL TO ORDER**

Chair Hawkins called the meeting of June 18, 2020, to order at 7:05 p.m.

**2. ROLL CALL**

NRC members participated **by telephone or other electronic means** pursuant to Minn. Stat. § 13D.021.

Present: Present: Chair Andrew Hawkins, Vice Chair Kate Winsor, Commissioners Bob Larson, Damien LePoutre, and David White; City Council Liaison Council Member Katy Ross; NOHOA Liaison Patricia Orud

Staff Present: Recording Secretary Debbie Breen and City Administrator Kevin Kress

A quorum was declared present.

**3. APPROVAL OF AGENDA**

**MOTION by White, seconded by Larson, to approve the agenda as submitted.**

**MOTION carried unanimously by roll call.**

**4. CITIZEN COMMENTS**

**There were no public Comments.**

**5. APPROVAL OF PREVIOUS MONTH'S MINUTES**

Review of April 16, 2020 Natural Resources Commission Minutes

**MOTION by Winsor, seconded by White, to approve the minutes as submitted.**

**MOTION carried unanimously by roll call.**

**6. NEW BUSINESS**

**6a. Woodland Subcommittee Update**

- LePoutre starting working on the Woodland Tree subcommittee to discuss tree ordinance and how it could be defined. They have starting working a Charter to define what to do to reach goals. Overall plan is to provide a Woodland Management plan to North Oaks using the following steps: 1) Define Vision in 20-30 years for North Oaks Woodlands, 2) understand where we are today using EAW, etc. 3) then start working on the Management plan. Goal is to propose and help City design an Ordinance to help meet these goals. Many considerations due to different ownerships including; NOHOA, North Oaks Company, as well as different environments within the City that might drive different goals. Members of this group include: Damien LePoutre from NRC, Mark Rehder as City Forester, Patricia Orud from NOHOA, Joanne Hanson from NOHOA Nest working on the Natural resource plan, and Joyce Yoshimura-Rank from Planning Commission. They will work with State Science experts and collect all current documents from NOHOA and City. They plan to work with DNR and State resources, then determine if a budget is needed for this project.

- This is a subcommittee of Natural Resources Committee as a working group, to help bring something back to the City.
- Winsor mentioned that a retired Department of Agriculture professor has helped NEST. Orud will find the name of that resident to pass along to LePoutre.
- NOHOA Liaison Orud mentioned that NEST can't officially be on the subcommittee, but is part of a cooperative and happy to be working together on this initiative.
- Any minutes from this subcommittee are requested to be forwarded to Administrator Kress, to be distributed to the NRC.
- Next meeting of the Woodlands Tree group is next Tuesday, June 23, 2020.

#### **6b. Tick Task Force April 2020 Meeting Minutes**

- Commissioner White mentioned that the Task force last met in April, with the next meeting is July 21, 2020.
- Committee is concerned that the responses seem to be low this year, and wonder if the change in platform to Polco is a contributing factor. Steady decline from 133 last year, to 55 this year.
- There was discussion about whether this is the natural result of the great work and initiatives of the TTF, or if it would be prudent to reopen the survey and put it out after the summer months when ticks are active and people are outside (instead of the winter/spring survey).
- White to check in with Brooke to see if she would like to present summary results to Council.

### **7. COMMISSIONER / STAFF REPORTS**

#### **7a. Tick Task Force Report: David White**

- No additional report.

#### **7b. Community Outreach: Winsor Report**

- A few email blasts have gone out from City and NOHOA regarding celebrating earth day, and another on Pollinators. June issue of NO news will have Celebrate Pollinators June 22-28<sup>th</sup>, and July regarding international year of plant health.
- Commissioners asked to send any pertinent information to City for Eblast and Facebook page.

#### **7c. NOHOA/ NEST Report: Patricia Orud**

- The entrance to the Mary Hill Park has been cleaned up and replanted with native plants.
- Pollinator work continues. Forest Rehder is also busy working with NOHOA regarding what trees to save.
- Weed removal is going on in the lake, swimmers itch is being treated, and carp removal is planned for later in the summer.

#### **7d. City Report: Katy Ross**

- Council member Ross City mentioned that council has approved the Nord and Anderson Wood preliminary plans.
- Next set of locking Mailboxes have been arrived and are being distributed.

- Recycling has been hard because of the volume of people being home. People are being reminded to flatten boxes. This week there were 7 trips needed instead of 5 trips to Eureka.
- Forester Rehder spoke on Operation Clearview program, and efforts to review all main thoroughfares to ensure they are cleared 5 feet in from the street and 15 feet up.
- City Staff will put Clearview reminder in Eblast and Facebook page.
- Recycling Day is coming on June 27<sup>th</sup> at Southpoint park from 8 a.m.– 12 p.m. and will include a scrap metal truck.
- Forester Rehder mentioned that the Oriental Bittersweet approvals are coming in. Brush Pick up went very well with 35 residents participating in the service. EAB letters are starting to go to those 185 properties with a high ash population primarily in the Southcenter part of the community where the environment is wetter and lower in elevation.

**8. NEXT MEETING:** Thursday, July 16, 2020 at 7 p.m. through Virtual Means

**ADJOURN:**

**MOTION by Larson, seconded by White, to adjourn the meeting at 7:55 p.m.**

**MOTION carried unanimously by roll call.**

\_\_\_\_\_

Kevin Kress, City Administrator

\_\_\_\_\_

Chair, Andrew Hawkins

Date approved: \_\_\_\_\_