

AGENDA
North Oaks Planning Commission Meeting
Community Meeting Room – 100 Village Center Drive, Suite 150
North Oaks, MN 55127
Thursday, July 25, 2019 at 7 PM

Call to Order

Swearing in of new Chair Mark Azman

Swearing in of new Planning Commissioners Jim Hara and Nick Sandell

Roll Call

Approval of Agenda

Approval of the May 30, 2019 Regular Meeting Minutes

Public Hearing - Request for Conditional Use Permit – 33 Mallard Road –
Combined Garage Space Over 1,500 Square Feet – Fady Daw

Planning Commission Training – Open Meeting Law, Social Media
Communication and Public Hearings – City Attorney Kory Land

Next Planning Commission meeting is Thursday, August 29, 2019

MEMO

Date: July 19, 2019
To: Planning Commission
From: City Administrator Mike Robertson
Re: Changes to the Planning Commission

You may be aware that the City Council has made changes to the Planning Commission. Kara Ries and Katy Ross have been removed from the Planning Commission. Jim Hara and Nick Sandell have been appointed in their place. A new Council liaison has not been appointed yet but from here on the Council liaison will be non-voting.

I have asked Mayor Nelson or Councilmember Kingston to attend the Planning Commission meeting to answer any questions the Planning Commission has about these changes.

In addition, our new City Attorney Kory Land of LeVander, Gillen and Miller will be at the meeting. She will provide training to the Planning Commission on the Open Meeting Law, Use of Social Media and Public Hearings. Kory is regularly hired by the League of Minnesota Cities to conduct training seminars for Planning Commissions in Minnesota. Her regular training session runs 3-4 hours so I've asked her to just do about a hour or so of that next week. I plan to have her return for additional training in the future.

**Planning Commission Meeting
May 30, 2019
7:00 PM**

Call to Order:

Chair Ross called the meeting to order at 7:00 pm.

Roll Call:

Present: Chair Katy Ross, Commissioners Mark Azman, Stig Hauge, Nancy Reid, Kara Ries, Sara Shah, and Joyce Yoshimura-Rank.

Staff: City Administrator Mike Robertson, Recording Secretary Gretchen Needham, City Planner Bob Kirmis, and Sanitary Inspector Brian Humpal

Approval of Agenda:

Commissioner Reid moved to approve the amended agenda. Commissioner Yoshimura-Rank seconded. Motion approved unanimously.

Approval of Minutes:

Commissioner Ries asked that the comments she had made at the April 25 Planning Commission meeting be added back into the official minutes. Commissioner Hauge moved to approve the amended April 25, 2019 meeting minutes. Commissioner Shah seconded. Motion approved unanimously.

Commissioner Ries moved to approve the April 10, 2019 workshop minutes. Commissioner Azman seconded. Motion approved unanimously.

Consider Variance 19-03 – ISTS, 30 Feet Into the Required 30-foot Setback at 1 Wishbone Lane
Sanitary Inspector Humpal said this lot has not been built upon yet and the area available for installation of an ISTS is limited due to adjacent roads, property setbacks, impervious areas, the well, slopes, and wetlands. A previous application for a variance was granted in 2013. Since the time frame to do the work has lapsed, the applicant needed to reapply for the variance. Humpal said staff recommends granting the variance as there is no other area for the septic to be constructed. City Planner Kirmis recommended that findings be included in the report. **Commissioner Hauge moved to approve Variance 19-03 with the conditions that the work be completed by January 1, 2020, and that the system be located per the design dated April 23, 2019 by Ashley Krause. Commissioner Azman seconded. Motion approved unanimously. Chair Ross abstained from voting.**

Consideration of Variance 19-04- ISTS 98 West Pleasant Lake Road

The applicant requested this item be tabled.

Commissioner Shah moved to table the application. Commissioner Yoshimura-Rank seconded. Motion approved unanimously.

Sanitary Inspector Humpal gave an overview of types of septic systems.

- Type I is a drain field/trench system, which is considered a standard system. This system is the most common found in North Oaks, and maintenance is performed every two years.
- Type II is designed for a flood plain.
- Type III is a mound or drain field/trench system that may have a very wet soil profile.
- Type IV uses a recirculating filter to remove waste; this is ideal for closer situation to a well or water source. The service interval for this system will be 6 months to a year.
- A multiflow system requires an air pump and other technologies to treat the waste; the maintenance on this system will be determined by the installer.

For all types of systems, Inspector Humpal does not suggest adding additives.

Discussion of Cesspools

Commissioner Ries asked Septic Inspector Humpal about cesspools. He said these are older systems which are open bottom ISTS tanks. There is no treatment of the waste and as they are typically deep systems that may touch the water table they are potentially a pollution risk. They can no longer be constructed under state law. An existing cesspool is allowed until it is deemed an eminent health risk or the system fails a compliance test.

2040 Comprehensive Plan Update

Commissioner Reid attended a Washington County district meeting and learned that resiliency is a topic often addressed in cities' comprehensive plans because of increased stormwater the difficulty of current infrastructure to accommodate increased precipitation amounts.

Commissioner Reid provided information which staff used to put together a section for the 2040 Comp Plan to address this concern. Planner Kirmis added a section to the Comp Plan about solar resources to meet the Met Council requirements which the City Engineer added a section from the City's stormwater plan.

The Commission asked that the City Engineer update the sewage tables based on the revised housing counts. Commissioner Ries asked staff to check if the Met Council had sewage REC's for individual properties.

Franny Skamser Lewis, 3 Red Maple Lane, gave a definition of climate resiliency: "absorb stresses and maintain function in the face of external stresses imposed upon it by climate change and adapt, reorganize, and evolve into more desirable configurations that improve the sustainability of the system, leaving it better prepared for future climate change impacts." JoAnn Hanson, Treasurer of NOHOA Board of Directors, 5 Sumac Lane, explained why specific details about the trail off Nord were removed from page 83 of the Comp Plan. Rich Dujmovic, 15 Black Lake Road had a concern about the housing count numbers.

The Comp Plan edits were reviewed and an updated version will be ready for City Council's June meeting. Count numbers in many tables need to be vetted further.

Commissioner Yoshimura-Rank moved to approve the 2040 Comp Plan for City Council's review with a notation that count numbers in many tables still need to be vetted.

Commissioner Ries seconded. The motion passed with Commissioners Hauge, Reid, Ries, Shah and Yoshimura-Rank voting yea. Chair Ross and Commissioner Azman abstained from voting.

City Update:

- North Oaks Recycling and Shredding Event is Saturday, June 22.
- A tour of Eureka Recycling is being scheduled for June 19 at 2 p.m.
- NOHOA's Summer Fest is Sunday, June 2.
- Another round of locking mailboxes will be ordered in August of this year.
- North Oaks was awarded the City of Excellence Award for the work of the Tick Task Force.
- Commissioner Ries is going to send a draft of a process of review checklist to Administrator Robertson for use in future developments.

Next Planning Commission Meeting: Thursday, June 27, 2019

Adjournment:

Commissioner Reid made a motion to adjourn. Commissioner Azman seconded. The motion was approved unanimously. The meeting ended at 9:58 pm.

MEMO

Date: July 19, 2019
To: Planning Commission
From: City Administrator Mike Robertson
City Planner Bob Kirmis
Re: Conditional Use Permit (CUP) 19-05 – 33 Mallard Road
Construction of Garage Space over 1,500 Square Feet

Description of Request

Mr. Fady Daw of 33 Mallard Road is requesting a Conditional Use Permit (CUP) to turn part of his lower level into a garage. The main level garage is 1,182 square feet. The lower level room is 644 square feet. That means that the combined square footage of the garage space would be 1,826. Anything over 1,500 square feet requires a CUP.

I have attached Mr. Daw's written justification for his CUP application. As he notes, the original building plans submitted to the City showed the garage space on the lower level. When informed that he would need a CUP for the garage space he re-submitted the building plans with the lower level garage space changed to an exercise room because he did not want to wait to start construction of his house.

In addition, there have been issues with Mr. Daw's compliance with NOHOA requirements. I've asked NOHOA to submit a description of their issues.

A conditionally permitted use is considered to be a permitted use by law. The difference between a CUP and a regular permitted use is that the Planning Commission and City Council must review the facts to be certain that all special conditions are met before allowing construction to proceed. Should the City wish to deny a proposed CUP, the onus is on the City to show that conditions are not being met rather than the applicant.

Conditional Use Permit Criteria

The following eleven criteria are required to be met by all CUP's.

1. Relationship of the proposed conditional use to the Comprehensive Plan.
2. The nature of the land and the adjacent land or building where the use is to be located.
3. Whether the use will in any way depreciate the area in which it is proposed.
4. The effect upon traffic to and from the land and on adjoining roads, streets and highways.
5. Whether the use would disrupt the reasonable use and enjoyment of other land in the neighborhood.
6. Whether adequate utilities, roads, streets and other facilities exist or will be available in the near future.

7. Whether the proposed conditional use conforms to all of the provisions of this chapter.
8. The effect on natural drainage patterns onto and from the site.
9. Whether the proposed use will be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.
10. Whether the proposed use would create additional requirements for public cost for public facilities and services and whether or not the use will be detrimental to the economic welfare of the neighborhood or city.
11. Whether the proposed use is environmentally sound and does not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, land or the general welfare because of excessive production of traffic, noise, smoke, fumes, wastes, toxins, glare or odors.

Findings

- 1) This lot is 1.53 acres and is currently occupied by a new single family home and is guided by the Comprehensive Plan for single family use. It is surrounded by single family uses except directly to the east where the Summit Townhomes are located.
- 2) The house is 6,865 square feet.
- 3) The plans are in compliance with the Zoning Ordinance as they do not exceed the Floor Area Ratio (FAR) requirements 0.12. The FAR ratio is 0.103.
- 4) The plans are in compliance with the Comprehensive Plan.
- 5) The proposed use is residential in nature and is not anticipated to depreciate the area.
- 6) The proposed extra garage space would not disrupt the reasonable use and enjoyment of other land in the neighborhood.
- 7) The proposed extra garage space would not place any burdens or additional public costs upon municipal or private infrastructure or services.
- 8) The proposed extra garage space would not have any negative effects on traffic or drainage.
- 9) The proposed use is not anticipated to endanger the public health, safety, comfort, convenience or general welfare due to excessive production of traffic, noise, smoke, fumes, wastes, toxins, glare or odors.

Recommendation

Approve the CUP based on the findings of fact in the report and with the following conditions.

- 1) Plans must be approved by the Building Official prior to the beginning of construction.
- 2) Any outstanding fees shall be paid prior to the approval of the plans.

VARIANCE 14-06

June 19, 2014

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Motions

A motion to approve staff's recommendations and/or options would read as follows.

I move to approve the proposed CUP based on the Findings of Fact with the conditions listed in the staff recommendation.

A motion to deny the applicants request would read as follows.

I move to deny the proposed CUP based on the following reasons;

- 1)
- 2)

If more information or review is required, a motion to table would be in order.

Move to table the request for the following reasons;

- 1)
- 2)

cc: Fady Daw
City Attorney Bridget Nason

Mike Robertson

From: Info@goldenvalleycorp.com <fady@goldenvalleycorp.com>
Sent: Tuesday, June 18, 2019 6:15 PM
To: Mike Robertson
Cc: Paul Lesieur; Bob Kirmis (bkirmis@nacplanning.com)
Subject: Re: Your Variance Application

Caution: This email originated outside our organization; please use caution.

Hello Mike,

Thanks for the follow up. I can submit a new form if this is going to cause an issue with your office. Please let me know.

Below is the answers to your questions:

1. The square footage of the existing main level garage. (1182sqf)
2. The square footage of the exercise room that would be converted into a garage. (644sqf which will be used as an Exercise room/garage)
3. The total square footage of the house. (6865sqf)
4. The total square feet or acreage of hard surface covering the property. (Outside pavers total hard surface total is 8647sqf)
5. Written justification for why this application should be approved. In particularly please provide justification for why your original building plans showed this area as a garage. When you were informed that having this much garage space would require an additional permit, this space was changed to an exercise room. Now you wish to change the space back to a garage. Please provide an explanation for all these changes.

We decided to build the addition on the house to give it a symmetric complete look with an underground garage space and a living upper space. The lower space was designed and drawn originally as a garage to park the summer vehicle and the boat in it instead of paying for storage every year. In the process of submitting the drawing to your office and before you informed me that an additional permit will be needed to build an additional garage space, my wife gave me the idea that an exercise/play room for our son will be the best fit for that large space where our son can have a full indoor play space and a work out area for us. I contacted the architect and changed the space to exercise room, replaced the garage door by a bi-fold accordion glass door and submit it to your office and that's when I was informed by you that I need an additional license for a garage space which was the previous drawing and I had stated to you that we transformed the garage to an exercise room which better fit our needs. The change in drawing/plans had no connection with applying for additional permit which could easily been done, it was simply changing it to fit our needs better.

We pulled permits and started construction, building the addition lower space as an exercise room with 3 large 48" x 92" windows and a large 8 panels bi-fold glass door. During the second inspection, Mr. Kevin White suggested that since we are designing a patio walkway outside the exercise room that it will be a good thought to have this space being a dual use, garage/exercise room. We can use the room as an exercise room/indoor playground for our son and replace the original glass bi-fold door by a fancy insulated garage door to give us both options of use.

I contacted our architect to adjust the drawing again replacing the lower part framing of the bi-fold door to accommodate a garage door, cancelled the order of the bi-fold door and ordered a garage door. The space now could be used as Exercise/Garage space

The space walls and floor is fully finished, lighted and heated. We have a total of 4 vehicles, 2 motorcycles and a recreational boat, which is a lot to keep out in the driveway. We would prefer to keep all of them inside. The lower garage space will fit my summer vehicle, 2 motorcycles and the boat and the upper space will fit our other 3 vehicles.

I hope this will give you a good understanding how the plan process changed to a better fit space and the need to have an additional garage space for future use.

Thanks much, please feel free to contact me if you have any questions.

Fady Daw

Golden Valley Co.

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On Tue, Jun 18, 2019 at 4:00 PM Mike Robertson <MRobertson@cityofnorthoaks.com> wrote:

Fady,

I need the following information for your application to be complete. First of all, the application you need is actually for a Conditional Use Permit (CUP) to have more than 1,500 square feet of garage space, not a Variance.

Please provide the following information.

1. The square footage of the existing garage.
2. The square footage of the exercise room that would be converted into a garage.
3. The total square footage of the house.
4. The total acreage of the lot.
5. The total square feet or acreage of hard surface covering the property.
6. Written justification for why this application should be approved. In particular please provide justification for why your original building plans showed this area as a garage. When you were informed that having this much garage space would require an additional permit, this space was changed to an exercise room. Now you wish to change the space back to a garage. Please provide an explanation for all these changes.

Because a Conditional Use Permit requires a public hearing, there is not enough time to meet the public notice requirements. Therefore the Planning Commission cannot hear this application at its next meeting on June 27, 2019. If you can get the information to me in the next two weeks that will be enough time to provide notice for the following meeting on July 25, 2019.

Please contact me if you have any questions.