

PLANNING AND ZONING COMMISSION MEETING – APRIL 10, 2018

The Regular Bi-Monthly Meeting of the Andover Planning and Zoning Commission was called to order by Chairperson Kyle Nemeth on April 10, 2018, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Commissioners present: Timothy Cleven, Dean Daninger, Scott Hudson, Bert Koehler IV, Nick Loehlein, and Jeff Sims

Commissioners absent: None

Also present: Community Development Director, Joe Janish
Others

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

March 27, 2018 Workshop and Regular Meeting

Commissioner Loehlein requested the following change be made to the Workshop minutes:

- Page 3, line 8, comment was made by Commissioner Loehlein, not Commissioner Hudson.

Chairperson Nemeth requested the following changes be made to the regular minutes:

- Page 2, line 41 – add a comma after “2018.”
- Page 3, line 9 – remove the comma after “replied,” and add a comma after “yes.”
- Page 3, line 11 - Capitalize the “C” in “Code.”
- Page 3, line 16 – add a comma after “yes.”
- Page 4, line 30 – remove the comma after “replied,” and add a comma after “no.”
- Page 5, line 8 – add a comma after “yes.”
- Page 5, line 33 – insert the word “it” after “appreciates.”

- Page 5, line 36 – add a comma after “yes.”
- Page 6, line 14 – insert “the” after the word “from.”

There were no changes from staff.

Motion by Daninger, seconded by Koehler, to approve the March 27, 2018, Regular Meeting minutes as amended. Motion carried on a 6-ayes, 1-present (Cleven), 0-nays, 0-absent vote.

***PUBLIC HEARING: Rezoning R1 Rural Residential to R4 Urban Residential –
Catcher’s Creek East – Mark of Excellence***

Mr. Janish presented information regarding a proposed request to rezone the parcels located east of Hickory Meadows Subdivision and along the City of Ham Lake/Andover border from R-1 Single Family Rural to R-4 Single Family Urban as requested by Mark of Excellence.

The property is located within the Metropolitan Urban Service Area (MUSA) and also within the current stage of sewer expansion. Times and conditions have changed with the extension of municipal sewer and water into this area of the City. The Comp Plan has the properties guided as Transitional Residential; which contains properties within the MUSA currently zoned rural but guided for urban development. It has been requested by the property owner to rezone the properties so the land can be developed into urban residential lots for the proposed development known as Catcher’s Creek East.

There were no questions of staff.

Motion by Koehler, seconded by Cleven, to open the public hearing at 7:07 p.m. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

There was no one else in the audience to comment on the rezoning.

Motion by Loehlein, seconded by Cleven and Sims to close the public hearing at 7:08 p.m. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Commissioner Sims inquired about the land outside of the “red area.” Mr. Janish stated that the land is not owned by the developer and there is not a request to rezone that area. Commissioner Sims asked if it was consistent with other similar situations. Mr. Janish replied that it was consistent as it is part of the transitional area. Commissioner Sims stated that he feels this is inconsistent with 3 different zonings in a 1 or 2 mile stretch with the area around the development being zoned R-4. He asked why the City would not zone the whole area the same.

Mr. Janish explained that the area is in a location where they have traditionally rezoned after a development has been proposed. The 3 parcels in question are not requesting

rezoning to R-4 at this time. Mr. Janish confirmed that the applicant would have to meet requirements of an R-1 district in order to have a 2nd home on the property.

Motion by Koehler, seconded by Loehlein to rezone Catchers Creek East from R1 Rural Residential to R4 Urban Residential. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

This matter will be heard at the April 17, 2018, Council meeting at 7:00 pm.

PUBLIC HEARING: Preliminary Plat – Catcher’s Creek East – Mark of Excellence

The proposed plat contains 39 urban residential lots as proposed by Mark of Excellence. The property is located in the MUSA and is currently zoned R-1, Single Family Rural Residential. However, the comprehensive land use plan has it guided as transitional residential, which contains properties within the MUSA currently zoned rural, but guided for urban development. A rezoning of the properties to R-4 Single Family Urban accomplishes this request.

Public street access to Catcher’s Creek East would be provided from Andover Boulevard. A temporary fire lane would be constructed on the west side of the proposed development as required by the Fire Department. This temporary access would be removed in the future when the property to the west develops, creating additional access to the proposed development (144th Lane and 144th Avenue). The majority of the streets will conform to the City’s standards (33 feet wide within 60 feet of right-of-way), with the exception of the proposed “eyebrow” cul-de-sac.

Staff is requesting the developer remove the “eyebrow” from the proposed plat (Condition 14). With the removal of the cul-de-sac, the developer would have one less lot. However, the City of Andover has not allowed for an “eyebrow” cul-de-sac to become constructed since incorporation as a City. “Eyebrow” cul-de-sacs require that a “cul-de-sac truck” come out and remove the snow from the area. An “Eyebrow” also requires additional street maintenance time and funds over the lifetime of the improvement.

Staff is requesting the developer to provide a 93’ diameter permanent cul-de-sac design on the eastern edge of the development at 144th Avenue. The reason for a permanent design vs. a temporary design is that the future extension is up to a different city. The City of Andover has no authority as to if or when the future extension would occur.

Staff is suggesting the Planning and Zoning Commission and City Council consider condition 15 of the resolution which requires the eastern 144th Lane “temporary” cul-de-sac to be designed to permanent cul-de-sac standards due to the number of variables that exist with the future extension.

The Anoka County Highway Department is in the process of reviewing the applicant's submittal. The applicant has currently submitted plans which include the construction of a right-hand turn lane.

Water and sewer for this development will be obtained from the south and staff has requested from the developer the status of obtaining a right of entry or temporary easement from the property owner along Butternut Street, south of the plat, for construction of the sanitary sewer and water main.

Condition 8 of approval restricts utility work until the developer has developed a resolution on the process in which the sewer and water extension will be installed.

The applicant will need to satisfactorily address all comments by the Coon Creek Watershed District prior to the submittal of the final plat.

The applicant is proposing to impact 7,995 square feet of wetland. The mitigation will be done through wetland bank credits. Portions of the 100-year flood fringe and the 500-year floodplain areas will need to be removed from the floodplain due to the proposed construction of homes within the area.

The property has burial grounds on it that has been inventoried by the State Archeologist. The applicant is working with that office to determine the requirements, if any, for additional protection of the burial site. Condition 16 requires that the protection of the burial grounds shall be acceptable to the Minnesota Indian Affairs Council and State Archaeologist.

The developer and/or owner are responsible to obtain all necessary permits.

The City's Comp Plan shows regional trails along Coon Creek and along Andover Boulevard. Construction of a trail along the Creek may be challenging due to the location of wetland and floodplain. The trail along Coon Creek would be a regional trail paid for out of the City's trail fund and/or potential MNDNR grant funds.

A more detailed landscaping plan must be submitted that shows tree spacing, removal and species of trees to be planted in the development. Also, the landscaping plan shall show the type of landscape screening to be provided on the multiple frontage lots along Andover Boulevard as required by City Code. The existing trees around the two homes within the proposed development will be removed.

The Park and Recreation Commission reviewed the preliminary plat at their December 7, 2017 meeting. A recommendation of a cash contribution in lieu of land was made.

Each of the 39 lots met the minimum lot width, depth and area requirements of the R-4 Zoning District.

The City received supplemental information, a letter from Arlene Elin that was distributed to the Planning and Zoning Commission. Mr. Janish noted that Mike O'Donnell also submitted photos but he was present at the meeting and could address his concerns. Ms. Elin also included the names of other residents in her correspondence. Mr. Janish offered to share those names upon request.

Commissioner Koehler asked if the “eyebrow” cul-de-sac was removed, would a lot be sacrificed. Mr. Janish confirmed that would likely be the case. Likely 4 lots would have to become 3 lots. Commissioner Koehler went on and asked about the need to pull sewer and water from the south end and if there would be potential disruption. He asked if it was recommended to address what their need would be in the language of the resolution. Mr. Janish referred to item #8 of the resolution. The property owner(s) and the developer would have a conversation, in conjunction with City staff. He also asked about access for the homeowner in the resolution. Mr. Janish explained that this development is unique, and the important factors would be having temporary access to homes and access for emergency vehicles. The developer has committed to the homeowner that he would provide vehicle access to and from the property during the development of the property. There were questions about the landscaping plan and the lack of current details. Mr. Janish indicated that staff would be looking for something similar to other landscaping in the area. Commissioner Koehler asked if there was discussion about retaining the road as it is currently. Mr. Janish stated that there had been several conversations, however, it would cause the loss of 4 lots. There has been conversation about University Avenue coming through. The property owner in Ham Lake was not interested in having University extend through his property. Both Developer and City of Ham Lake's City Engineer spoke to the Ham Lake resident in regard to the possibility of extending University. Commissioner Koehler asked where the nearest neighboring park would be located. Mr. Janish responded that Prairie Knoll Park is the closest to this proposed development.

Commissioner Daninger asked about the length of the cul-de-sac. Mr. Janish responded that the cul-de-sacs would not exceed 500 feet because they are considered temporary. Commissioner Daninger believed that all cul-de-sacs are temporary. He also asked if there was a previous sketch plan for this development. Mr. Janish confirmed there was not.

Commissioner Hudson asked for confirmation regarding Butternut, and if a vacation of easement will be needed to retain road access to a homeowner that is not part of this development, and if there would be two homes removed. He also asked about a fire road/second access point on the western side of the property. Mr. Janish pointed out the area that can be used [for road access]. He noted that the developer has about 2 years to get everything done. The road would be removed when the additional developed area would allow for an additional access for safety reasons. Commissioner Hudson asked about the size of a permanent cul-de-sac. Mr. Janish responded that he thought that it was 93 feet. Commissioner Hudson was concerned about how that might change some of the new lots when/if a large cul-de-sac was installed at a later date. Mr. Janish replied

that the cul-de-sac is designed to permanent standards within a temporary easement. Eventually, the “bulb” would be removed if there was a street connection, and the easement would be vacated.

Commissioner Loehlein stated that because the cul-de-sacs are temporary in nature, the 500-foot rule does not apply, however, the access is under 500 feet. Mr. Janish countered that comment by saying that was not exactly right because of how the measuring is done. Temporary cul-de-sacs are not measured because it is a “moot point” either way.

Commissioner Sims asserted that a decision was being made on something “permanent” when it is really “temporary.” Mr. Janish stated that it was up to the individual when they are ready for a development. Measurements are not being taken on the temporary cul-de-sacs. Mr. Janish described the vacation of easement/right-of-way process.

Commissioner Hudson asked about the “eyebrow,” and if it was approved as written, the eyebrow would be removed from the resolution. He questioned if it could cause an adjustment to the existing homes that would then come back to the Commission as a variance request. Mr. Janish confirmed that it would be up to the developer and described a loss of a lot.

Commissioner Loehlein asked if the Commission would get to have another look at this plat. Mr. Janish stated that they would not.

Chairperson Nemeth asked about the street access 144th Lane and 144th Boulevard, as noted in the packet. Mr. Janish explained that was an error and it should be “Avenue” and “Lane.” He also confirmed that many of the trees will not be saved. Chairperson Nemeth also asked about the possibility of setting a timeframe. The preliminary plat is valid for 2 years and a permit can be requested of the City for grading. Setting a timeline would not be typical.

Motion by Daninger, seconded by Cleven, to open the public hearing at 7:58 p.m.
Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Mr. Janish mentioned the letter again that he had received and Mr. O’Donnell who was in the audience.

Mike O’Donnell, of the Shadowbrook Townhome Association, asked for clarification on the map as to where the Indian Mounds were located. Mr. Janish referred to the Mound area and pointed it out.

Mr. O’Donnell commented that there are about 10-12 homes that have overlooked this project for 5 years. He reviewed a timeline and showed photographs that were projected. The photos included ones illustrating flooding and removal of trees. He noted that for 2 years hardly any grading was done and in December 2016, the applicant got an extension. In May of 2017, within 3 weeks, the dirt was cleaned out and the job was done. In April

2016, there should have been a silt fence, but it was lying down. He also noted that the fence was 5 feet higher than the grading. He expressed that the 9-month project “was an eye sore for 5 years.” Mr. O’Donnell’s hope was that the Planning and Zoning Commission could oversee these developments more closely.

Chet Hapka, of 67 – 142nd Avenue NW, in the Shadowbrook Cove area, expressed that he did not understand why there are 4 houses “at the top on the right-hand side” and wanted to know how far from the Creek that would come. Mr. Janish clarified the question by responding that no additional homes would be constructed due to the burial mound. Mr. Janish also confirmed that the water and sewer connections would go under the creek. Mr. Hapka asked if there would be any additional excavating. Mr. Janish confirmed that the developer did not own that property. Mr. Hapka expressed that he does not want the natural area disturbed. Mr. Janish stated that there had been no discussions, that he was aware of, regarding utilities that would be moved.

Jerry Beam, of Las Vegas, Nevada, came representing his mother, Shirley Beam, of 121 Andover Blvd. He had concerns regarding the implementation of this property development. He wondered at what point would there be a by-pass road/lane and at what point would that get determined and would it be based on the amount of travel through the area. He noted that the road has not been maintained, and that it was the same as in the early 1970s. He felt that at some point, this would mean that there would be a bypass lane in the driveway. Mr. Beam noted the intersection at University and Andover Boulevard and how everyone keeps talking about it being laid out in a temporary way. He wondered why it would be laid out in a temporary fashion, and “why wouldn’t the 4 lanes come out of there.” He did not feel like it “made a whole lot of sense.” He also had concerns that 10 trees did not constitute a border. He was interested in a timeline for the whole development and wanted to know about dust control and monitoring due to the sandy soil. Mr. Beam requested some kind of related protection [from blowing sand] for the neighbors.

Dave Pipp, of 50 - 139th Ave NW, of the Shadowbrook Cove, expressed concerns about drainage issues and the “major ditch” in the area. He wondered if it was going to be upgraded to handle the additional drainage.

Daniel Gunderson, of 40 Andover Blvd NE in Ham Lake, lives just to the east of this development. He wondered if there was any speculation regarding the kind of trees being planted, specifically if there would be trees planted between the development and his property.

Mark Smith, of Lino Lakes, Minnesota, is the developer of this project. He wanted to clarify that there is another park in Hickory Meadows. In the short term the property to the south would be guaranteed to have a way to go to and from the property. Sewer and water will come from the south side of the creek and they will work with her to get a man hole in. As to the “eyebrow,” buyers love them and buy those lots. It gives more street

room and does create a little more curve. They are popular in other cities. He believes that all cul-de-sacs should be designed as temporary.

Chairperson Nemeth asked about getting University to Bunker, but due to wetlands it would be almost impossible. As to thoughts about extending University to 144th Avenue, the homeowner in Ham Lake is not interested. Mr. Smith has talked to the property owner. There would be trees planted. He noted a difference in elevation between his property and the homeowner, Mr. Beam. He would project a tree would be planted about every 10 feet or 7-8 trees per lot.

As for dust control, Chairperson Nemeth stated that he had heard a lot about this regarding the Shadowbrook development. He asked what the developer was going to do differently and stated that being a good developer is being a good neighbor. Mr. Smith stated that it would be seeded right away. He commented that the complaints have been overshadowed by the compliments. He noted that Butternut is a dirt road and people still use that as a main road, but it is not prepared like one. He was surprised about receiving complaints still. Chairperson Nemeth expressed concerns that Coon Creek has gotten higher and higher. Mr. Smith confirmed that the CCWD has approved the plan. The rise of the Creek is not due to current development projects.

Commissioner Hudson asked where the dirt pile was stored and where the silt fencing was located. Mr. Smith replied that the fencing is partly due to the Indian Mound. He also asked about the amount of sand/dirt needing to be hauled for the development. Mr. Smith stated that they would try to keep it on site. Mr. Smith clarified that his plan was not to move the fill off site.

Commissioner Daninger asked further about the homeowner having access to get to the street. Mr. Smith stated that Butternut would stay in place until the last possible minute and until an alternate road is prepared. He also asked if there was a sketch plan submitted. He said that staff indicated that it was not necessary. Commissioner Daninger stated that he would be asking staff the same question.

Commissioner Loehlein asked about trees on the lot line. Mr. Smith noted trees would be planted.

Chairperson Nemeth asked about the silt fence. Mr. Smith stated that it would remain until staff allowed for its removal. He estimated that grading would take about 2 months and pipe work would take about 1 additional month plus additional time for the street construction (about 3 weeks). He would plan to start and then complete the work and be done. Some tradesmen are in high demand [so work can be delayed].

The project may begin in mid-summer. “It is getting tight right now to meet that schedule,” commented Mr. Smith.

Commissioner Koehler asked again about the fence. Mr. Smith confirmed that the fence needs to stay until the grading is done, and vegetation established, which should be the fall.

Mr. O'Donnell asked about the grading and the silt fence. He believed that the fence has been up for 5 years now and that the orange fences seem to be able to stay up "forever." He felt that there should be no reason for the fence to be up at this time as there is not something currently in force.

Mr. Gunderson came back to the podium. He expressed concern for the elevation and clear-cutting of trees. He wondered about the lot line changing and roof-top views.

Mr. Hapka, also returned to the podium. He wondered why the pine trees were removed "in the first place."

Mr. Smith addressed the mining project. He responded by stating that City criteria had been met. He confirmed that they were not aware of the existence of some of the Indian Mounds, originally.

Mr. Janish revealed additional details regarding the letter that was submitted by Arlene Elin.

Chairperson Nemeth reminded those in attendance that the County roads are outside of the Commission's jurisdiction.

No one else wished to speak to the Commission.

Motion by Sims, seconded by Loehlein to close the public hearing at 9:04 p.m. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Mr. Janish confirmed that City staff had indicated to Mr. Smith that the sketch plan was not needed, as City Code does not require a sketch plan for R-4 developments.

Commissioner Cleven asked about drawings of trees and shrubbery. He asked if there would be possible feature trees. Mr. Janish referred to the packet materials. Trees to be removed were noted.

Chairperson Nemeth reviewed the silt fencing concerns. Mr. Janish recalled a conversation from Engineering that it would be better if the fencing would stay up in the short-term to protect the area environmentally. The fencing will need to be re-inspected as it deteriorates over time. It was felt it provides some level of safety at this point in time.

Commissioner Koehler asked for clarification regarding an "eyebrow" cul-de-sac and the problems for the City related to snow plowing and additional expense due to a larger

amount of street surface. Mr. Janish described the equipment that was utilized. Commissioner Koehler asked about penalties for lack of compliance [related to the pile of displaced soil]. He acknowledged the inherent difficulty in living in an area under development.

There was additional discussion regarding the pros and cons of the “eyebrow” cul-de-sac. The draft resolution has the “eyebrow” removed. The Commission acknowledged that the applicant could bring the matter to the City Council.

Commissioners Loehlein and Cleven spoke to the benefits of a cul-de-sac. They did not have any concerns with the “eyebrow,” snowplowing or otherwise.

Commissioner Koehler stated that he would expect that they would be seeing Mr. Smith again with a variance request [if the “eyebrow” is removed].”

Commissioner Sims noted that the Commission would not get to see the whole plat again, however, a variance could come to the Planning Commission again.

Commissioner Daninger stated that he wants to see the plat.

Chairperson Nemeth noted that the Commission is not the last body to get to see this {referring to the City Council}.

Commissioner Loehlein noted that they are really being asked to approve something that they may never see. Commissioner Sims agreed. If the “eyebrow” has to come out, they would essentially need to redo the plat and submit it again.

There was additional discussion regarding the silt fence. A timeframe was discussed, but consensus was that a timeframe was not practical (due to weather, etc.). When the work is done, Mr. Smith must remove the fence. There was reference to the mining project, which is different than developing residential property. Commissioner Cleven noted that City Code already has the language to deal with these issues.

There was additional discussion about setting a timeline. Mr. Smith was encouraged, again, to be a good neighbor.

Commissioner Hudson stated that he believes the neighbors’ concern is more around the time when roadwork is being done and ditching, after that the issues are by in large gone. A single phase of development is being proposed.

Additional discussion was held around enforcement. Mr. Janish explained what can happen and how financial securities come into play.

Chairperson Nemeth asked about tree planting and recommended additional trees in conjunction with Mr. Gunderson’s request.

Commissioner Hudson referred to page 3 of the packet. Commissioner Koehler stated that a landscaping plan must be submitted. He does not want to “call out the trees in every single property.” Commissioner Cleven encouraged work between the two parties (referring to the developer and Mr. Gunderson). It was noted that Mr. Gunderson does not want more trees on his property.

Chairperson Nemeth directed adding something regarding vehicle access to the home at Butternut. There was a question about to what standards the [temporary] road should be maintained. There was further discussion about possible language, including “access that meets or exceeds current access.”

Commissioners Daninger and Cleven expressed concern regarding the accessibility of fire vehicles to the proposed development.

Chairperson Nemeth wondered if the City Code addressed requirements for streets specific to fire and ambulance services.

Commissioner Loehlein inquired about the letter regarding grading. Mr. Janish responded that City staff felt comfortable that the water flow would not affect the neighbors. He illustrated the direction of the drainage, historically.

Mr. Janish noted that the temporary cul-de-sac had not been addressed. There was a proposed size for the cul-de-sac, 93 ft diameter for a permanent one (50 ft for the temporary one).

Chairperson Nemeth noted that the resolution says that the cul-de-sac on the eastern end is permanent (93 ft), if the resolution is passed as written. Mr. Janish also noted that the resolution approves the removal of the “eyebrow.”

Commissioner Koehler asked about increasing the radius by 6.5-feet or a 13-foot diameter. This change would impact adjacent lots; perhaps making them unbuildable.

Commissioner Koehler noted that if approved, as written, the Commissioners would not know what the plat would look like, and if it will meet City Code.

Chairperson Nemeth asked why the “stub” was there if University Avenue is not going through.

Commissioner Hudson asked how all cul-de-sacs could be temporary in nature and this one be permanent.

Mr. Janish responded that the cul-de-sac would remain temporary but would be designed to permanent standards. The eastern cul-de-sac would allow for street access to properties within the City of Ham Lake.

Commissioner Daninger commented, “then the plat is incorrect that the Commission was looking at, but they could make a recommendation.”

Commissioner Koehler moved to deny because there was not sufficient information to know what the plat would look like.

Motion by Koehler, seconded by Cleven to deny approval of the preliminary plat of “Catcher’s Creek East.” Motion carried on a 7-ayes, 0-nays, 0-absent vote.

This matter may be heard at the April 17, 2018, Council meeting at 7:00 pm.

Commissioner Koehler addressed Mr. Smith stating that he was not against the plat going forward, but that there was not enough information in front of him.

Commissioner Daninger asked about getting the sewer connection and landscape plan, more definite.

Chairperson Nemeth stated that he just did not like the eyebrow.

Chairperson Nemeth thanked the public for staying for such a long meeting.

OTHER BUSINESS

On April 3, 2018, the sketch plan was reviewed for the PUD for the Estates at Cedar Ridge. The City Council provided direction to the developer. They were concerned about lot size and the potential conflict with the kennel business and the residential area due to proximity. The preliminary plat for Winslow Cove was approved by the City Council as was the White Pine Wilderness 4th Addition. Action was taken on the vacation and drainage of a utility easement for the White Pine Wilderness 4th Addition, which was also approved, contingent on the final plat being approved and recorded.

Staff confirmed that the Commission will not meet again until May.

Commissioner Sims asked if the Comp Plan has next steps on schedule. Mr. Janish replied, “not at this time.”

ADJOURNMENT

Motion by Koehler, seconded by Daninger, to adjourn the meeting at 10:09 p.m. Motion carried on a 7-ayes, 0-nays, 0-absent vote.

Respectfully Submitted,

Marlene White, Recording Secretary
TimeSaver Off Site Secretarial, Inc.