

PLANNING AND ZONING COMMISSION MEETING – SEPTEMBER 11, 2018

The Regular Bi-Monthly Meeting of the Andover Planning and Zoning Commission was called to order by Chairperson Kyle Nemeth on September 11, 2018, 7:00 p.m., at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Commissioners present: Dean Daninger, Scott Hudson, Bert Koehler IV, Nick Loehlein, and Mary VanderLaan

Commissioners absent: Jeff Sims

Also present: City Administrator Jim Dickinson
Community Development Director Joe Janish
City Planner Stephanie Hanson
Others

PLEDGE OF ALLEGIANCE.

Chairperson Nemeth requested a moment of silence in recognition of 9/11.

APPROVAL OF MINUTES.

August 15, 2018 Regular Meeting

Chairperson Nemeth requested the following corrections:

Page 4, Line 17: ‘...their intentions.’

Motion by VanderLaan, seconded by Hudson, to approve the minutes as revised. Motion carried on a 4-ayes, 0-nays, 2-present (Daninger and Koehler), 1-absent (Sims) vote.

August 28, 2018 Work Session Meeting

Motion by Koehler, seconded by Daninger, to approve the minutes as presented. Motion carried on a 5-ayes, 0-nays, 1-present (Nemeth), 1-absent (Sims) vote.

PUBLIC HEARING: Conditional Use Permit Amendment (CUPA) – Addition of Private Utility Structures – 15825 7th Avenue NW – Northern Natural Gas Co.

City Planner Hanson used a map to point out the location of the subject site. The purpose of this item is to hold a public hearing and take input on an amendment to the existing Conditional Use Permit (CUP) to allow for additional utility structures to meet the safety guidelines of the United States Department of Transportation (US/DOT). She reviewed that in 2009, a CUP was granted for the installation of above ground equipment that was a requirement to comply with Federal regulations. She explained Northern Natural Gas Company is regulated by the Federal Energy Regulatory Commission (FERC) and required to follow safety guidelines of the US/DOT and as part of a Federal mandate, required to conduct on-going in-line inspections. Two of its pipelines need to be modified. One 8-inch diameter receiver and one 6-inch diameter launcher will need to be installed along with concrete support footings. The size of the structures will be 4 feet high and 25 feet long. City Planner Hanson displayed several colored pictures of the existing structure, noting the proposed structures will be similar in appearance.

City Planner Hanson reviewed the proposed CUPA request with the Commission, noting the process requires review of the site plan. The Andover Review Committee completed its review and provided comments to the applicant along with the Engineering Department, both of which have been provided for the Commission's review. One recommendation is to pave the driveway extension area so it is no longer gravel.

Chairperson Nemeth asked whether Commissioners had questions of staff.

Commissioner Koehler asked for clarification that this application is to meet Federal requirements. City Planner Hanson answered in the affirmative.

Chairperson Nemeth noted the pad to the east is currently paved and the requirement would be to add paved surface. City Planner Hanson stated that is correct and would include the additional drive area to the new structures.

Mr. Harvey Bouvette, representing Northern Natural Gas Company, was present.

Motion by Koehler, seconded by VanderLaan, to open the public hearing at 7:07 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

There was no public input.

Motion by Daninger, seconded by Koehler, to close the public hearing at 7:08 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Commissioner Daninger asked whether there had been complaints relating to the existing vegetation or security issues in need of upgrading. City Planner Hanson answered staff has received no complaints on the vegetation and is not aware of any security issues related to the fencing.

Motion by Koehler, seconded by Daninger, to recommend to the City Council approval of the request from Northern Natural Gas Company for a Conditional Use Permit Amendment to allow the addition of private utility structures at 15825 7th Avenue NW, subject to conditions as detailed in the draft resolution. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

City Planner Hanson stated that this item would be before the Council at the October 2, 2018 City Council meeting.

PUBLIC HEARING: Variance – Reduce Front Yard Setback on a County Road – 181st Avenue NW – TC Homes.

City Planner Hanson displayed a map to point out and describe the subject site. The purpose of this item is to hold a public hearing and take input on the building and road setback variance requests of TC Homes, Inc. for their property just east of the railroad tracks on 181st Avenue NW to build a new single-family home that encroaches the building setback and reduces it from 110 feet to 80 feet.

City Planner Hanson displayed an aerial photograph of the property and pointed out the proposed location of the home on the eastern side, location of existing structures, as well as the railroad tracks. She noted a lot of vegetation will need to be removed to accommodate the new single-family home.

City Planner Hanson referenced Ordinance 12-5-4: Building Setbacks and Future Street Improvements, and the four review criteria cited in City Code 12-14-7 to consider a variance as follows:

1. The property owner proposed to use the property in a reasonable manner not permitted by an official control.

City Planner Hanson noted the property is zoned R-1, Single-Family Rural, and has 3.05 acres that are heavily wooded and secluded. The location of the proposed principal structure would be well covered from adjoining properties due to the trees on the property. In addition, the property has a wetland that would be impacted if trying to meet the 110-foot setback. She pointed the proposed location is also the highest elevation on the lot, reducing the need for fill and it would keep the proposed home farther from the railroad tracks but the property has 3.05 acres so there are potential other locations for the principal structure.

2. The plight of the property owner is due to circumstances unique to the property not created by the landowner.

City Planner Hanson noted the variance is being requested to build the principal structure in a location on the property that has the least impact on the environment and to avoid removal of mature trees. The proposed location is the farthest location from the railroad

tracks. She noted there is limited space between the County Road and wetlands and the elevation of the property needs to keep a two-foot buffer from the highest anticipated water level.

3. The variance, if granted, will not alter the essential character of the locality and will not alter the rural residential character.

City Planner Hanson stated the variance will allow access to the principal structure from 181st Avenue/County Road 58 and it will have minimal impact on the natural landscape. She noted tree coverage adds to the essential character of a rural area and the applicant would like to maintain that. In addition, if the principal structure is placed on the other side of the property, it would be within closer proximity of the railroad tracks, which would detract from a rural feel. She noted the neighboring property to the east is 70 feet from the centerline of County Road 58 and that house was built in 1972.

4. Economic considerations alone do not constitute practical difficulties.

City Planner Hanson explained if a variance is not granted, they would have the added cost of removing mature trees and driveway materials to the principal structure from the existing driveway. It was noted the applicant is not seeking the proposed variance because of economic reason, more so for feasibility, convenience, and minimizing tree removal. City Planner Hanson pointed out that the proposed home would be located closer to the railroad tracks and the wetland locations limit the buildable area.

City Planner Hanson indicated the Andover Review Committee discussed this variance proposal but there were no comments shared at the time. The Anoka County Highway Department is currently reviewing the proposal and indicated they would have comments based on access to the property from County Road 58.

City Planner Hanson explained this item will be heard by the City Council at its September 18, 2018 meeting. If the variance is granted, the applicant will be required to obtain a building permit for the principal structure and any other appropriate permits necessary. She noted staff has drafted resolutions with potential findings of fact the Commission may consider when recommending approval or denial of this variance request.

Chairperson Nemeth asked whether Commissioners had questions of staff.

Commissioner Loehlein asked about the setback from the County Road centerline and whether the variance is to reduce the setback from the centerline from 110 feet to 80 feet so conceivably, the house could be 20 feet from the edge of the County roadway if ever expanded. City Planner Hanson stated that is correct.

Commissioner VanderLaan asked staff to verify whether the existing building is located on a contiguous lot and not the proposed site. City Planner Hanson stated that is correct.

Commissioner VanderLaan commented on the number of vehicles pictured on the site, which is distorting. She asked whether there is sufficient setback from the common lot line for the proposed house and existing building on the next lot. City Planner Hanson answered in the affirmative.

Chairperson Nemeth asked whether the house previously displayed currently has a 70-foot setback. City Planner Hanson stated that is correct.

Chairperson Nemeth referenced the aerial view of the subject site, noting it is being displayed with north to the bottom of the subject site. He asked about the location of the two wetlands. City Planner Hanson pointed out the location of the wetlands on the northern side.

Motion by VanderLaan, seconded by Loehlein, to open the public hearing at 7:22 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

There was no public input.

Motion by Loehlein, seconded by VanderLaan, to close the public hearing at 7:23 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Commissioner Koehler stated he is not necessarily opposed to the variance but disagrees strongly that there are circumstances beyond the owner's control since the house can be located on the other side of the property. He stated since there is another building location, it is not beyond the owner's control. Commissioner Koehler questioned whether this request actually meets the guidelines for variance consideration.

Chairperson Nemeth noted the City was incorporated in 1974 and the house was constructed in 1972. He asked if the 70-foot setback went to Grow Township at that time. City Planner Hanson stated she is not sure. Chairperson Nemeth asked if the 110-foot setback requirement has changed. City Planner Hanson stated she is not aware of any change.

Commissioner Koehler asked if the house is built on the other side of the property, would any other condition force a variance. He also asked if the elevation on the other side of the property can meet the required two-foot buffer for the low floor elevation. City Planner Hanson suggested that question be asked of the builder.

Commissioner VanderLaan noted staff has indicated the proposed location has the highest elevation, which should be considered as the City's elevations are slightly lower than other cities in the area. She felt asking them to locate by the railroad tracks would bring other difficulties as opposed to living closer to the County Road.

Mr. Brian Tutt, TC Homes, Inc., stated there would be both sound and safety issues if the house is located on the other side of the property. In addition, with regard to the required two-foot buffer from the highest anticipated water level, it would require so much fill to create that elevation that they would have to cut down 110 trees instead of 20 trees.

Chairperson Nemeth requested a motion to re-open the public hearing.

Motion by Loehlein, seconded by VanderLaan, to re-open the public hearing at 7:28 p.m. Motion carried on a 5-ayes, 1-nay (Daninger), 1-absent (Sims) vote.

Commissioner Koehler stated he does not have a question of the applicant.

Mr. Paul Syrdal, 18086 Palm Street, stated he wants all to know the stakes for the proposed home location as it would be ten feet from his property line, which he understands is within the allowances of the City. He stated his property does not have a screen of natural plants in that location as there is an opening between the two properties so he will clearly see this house from his back yard.

Mr. Tutt stated he would be willing to move the home farther to the right but there is not a lot of depth. In addition, they are willing to plant additional trees and screening in the location mentioned by Mr. Syrdal.

Commissioner Daninger stated since the public hearing has been re-opened, he has a question of the applicant. He asked what species of trees will be removed by the railroad tracks if the house is relocated. Mr. Tutt stated he does not know the species.

Commissioner Daninger asked about the species of trees Mr. Tutt would plant if he receives the variance and moves the house location several feet to provide more setback from Mr. Syrdal's property. He also asked if it would be an economic hardship to relocate the house to the other side of the property, remove the additional trees, and bring in fill needed to meet the two-foot low floor elevation requirement. Mr. Tutt stated economic hardship is not the reason for the variance request.

Motion by Loehlein, seconded by VanderLaan, to close the public hearing at 7:31 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Commissioner Koehler stated his question to staff was answered outside of the public hearing when the applicant indicated the house could be moved with additional tree clearing and fill. To him, that means this application does not meet the requirements for a variance consideration.

Motion by Koehler, seconded by Daninger, to recommend to the City Council denial of the Variance request of TC Homes, Inc. for their property just east of the railroad tracks on 181st Avenue NW to build a single-family home that encroaches the building setback and reduces it from 110 feet to 80 feet, based on the finding that the variance

requirements are not met, specifically that the plight of the property owner is not due to circumstances unique to the property since the house can be located somewhere else on the property that meets City Code with additional fill and tree removal.

Motion failed on a 3-ayes (Daninger, Hudson, Koehler), 3-nays (Loehlein, Nemeth, VanderLaan), 1-absent (Sims) vote.

City Planner Hanson stated this item would be before the Council at the September 18, 2018 City Council meeting and will be presented with a tied vote of the Planning Commission.

PUBLIC HEARING: Sketch Plan – 9 Urban Residential Lots – 1049 Andover Blvd. NW – Mark of Excellence, Inc.

City Planner Hanson used a map to point out and describe the location of the subject property. The purpose of this item is to hold a public hearing and take input on a sketch plan submitted by Mark Smith of Mark of Excellence, Inc. consisting of nine urban lots located at 1049 Andover Boulevard NW.

City Planner Hanson reviewed the proposed sketch plan along with comments from the Andover Review Committee that were provided to the Planning Commission and applicant. With regard to conformance with local and regional plans and ordinances, she noted the property is located within the 2020 Metropolitan Urban Service Area (MUSA) boundary and the current stage of sewer expansion. The property is zoned Single Family Rural Residential (R-1) so a rezoning to Single Family Urban Residential (R-4) is necessary to allow the project to move forward.

City Planner Hanson used a sketch plan map to point out the location of the access proposed from Andover Boulevard NW, which is governed by the Anoka County Highway Department, so the developer will be required to comply with its requirements. Each lot will be served by municipal sewer and water by extending services from the south. The gross density requirements in the Residential Urban Area is 1.75 to 3.6 homes per acre so the proposed sketch plan at a gross density of 1.87 homes per acre meets that requirement as set forth in Andover's Comprehensive Plan and City Code.

City Planner Hanson used an aerial map to point out the location of wetlands within the sketch plan area, stating the wetlands will be required to be delineated and that report submitted as part of the preliminary plat process. In addition, once the overall layout of the sketch plan has been agreed upon and direction provided, the developer will prepare a grading plan, hydrology calculations, and soils report for review by the City, an engineering consultant, and the Coon Creek Watershed District.

City Planner Hanson noted the Park and Recreation Commission reviewed the request and recommends cash in lieu of land as the current Master Park Plan does not show the

potential of parkland in this area. She stated there is already a trail on the south side of this development.

City Planner Hanson displayed a ghost plat of what the area could look like in the future, if developed, noting the developer and/or owner is responsible to obtain all necessary permits from governing agencies. She explained that based on feedback, the developer will modify the layout and make application for preliminary plat and final plat. The Commission is asked to review the proposed sketch plan, hold a public hearing, and informally advise the applicant on adjustments to conform to local ordinances and review criteria.

Chairperson Nemeth asked whether Commissioners had questions of staff.

Commissioner VanderLaan referenced staff's memo and complemented staff for ferreting out a lot of problems with this sketch plan prior to presentation. She asked about the discrepancy on the location of a property line. Community Development Director Janish explained the discrepancy in the eastern property line was noted by staff so the developer's surveyor can verify the location. That will need to occur before the preliminary plat is submitted.

Commissioner Loehlein stated he appreciates the inclusion of the overall potential ghost plat so it is known what it could look like in the future.

Commissioner Koehler referenced the discrepancy in the property line and asked if there was a loss of 50 feet, would the lots still meet City Code. Community Development Director Janish answered the lots would not so other modifications would need to be considered by the developer.

Commissioner Daninger stated he is not worried about the cul-de-sac but there should be no need or issues that result in the request for a variance on this property. He stated he wants the developer to make sure that the 50 feet is addressed prior to submittal of the preliminary plat so a variance is not requested.

Commissioner Hudson asked about the western property line. City Planner Hanson used a map to point out its location.

Chairperson Nemeth asked whether that is the railroad's property. City Planner Hanson stated the railroad's property is to the east.

Motion by Daninger, seconded by Koehler, to open the public hearing at 7:45 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Mr. Joe Krekelberg, 6282 West Shadow Lake Drive, Circle Pines, a member of family that owns the property, asked about the City's plans for sewer and water to allow for

continued development to the north and east as the family looks for development opportunities for their land.

Chairperson Nemeth noted the City is currently reviewing the Comprehensive Plan and asked staff to respond.

City Planner Hanson stated the overall sewer plan has been studied and there are a certain number of sewer hook-up allocations within this portion of the City to allow for these properties to be subdivided.

Chairperson Nemeth asked if the Commissioners had questions of the applicant.

Commissioner VanderLaan recounted how the City of Andover's name was selected when it had originally been Round Lake Township and then Grow Township. She noted at one time, there were historic buildings near that railroad track and asked whether any building foundations remained in that location. City Planner Hanson stated there was an old general store and printing store in that location but the site has been cleaned up.

Commissioner Hudson asked if the applicant has a presentation.

Mr. Mark Smith, 2120 Otter Lake Drive, St. Paul, indicated he did not.

Motion by Hudson, seconded by Koehler, to close the public hearing at 7:50 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Chairperson Nemeth invited the Commissioners to provide their sketch plan comments to the applicant.

Commissioner Koehler restated the purpose for his question on the property line discrepancy went directly to Commissioner Daninger's point that the applicant needs to clean up all problems at this time, meet City Code, and get it right the first time. He noted other issues were raised in staff's memorandum and advised Mr. Smith to make sure they are addressed before submitting the preliminary plat. Commissioner Koehler stated he looks forward to this project as Mr. Smith has done a great job so far.

Chairperson Nemeth concurred and stated the proposed layout looks good, and especially when looking at the ghost plat. He agreed with comments made that Mr. Smith should make sure staff's comments are taken to heart and resolved, including the property line discrepancy. He agreed the Planning Commission should not have to consider variances for this property.

City Planner Hanson stated this item would be before the Council at the October 2, 2018 City Council meeting.

PUBLIC HEARING: Rezoning – Ag Agriculture to R1 Single Family Rural – 7th Avenue NW / 165th Lane – JD Andover Holdings LLC.

Community Development Director Janish noted the purpose of this item is to hold a public hearing and take input on the request to rezone the parcels that make up the Petersen Farm area from Ag Agriculture to R-1 Single-Family Rural to be consistent with the Comprehensive Plan Amendment.

Community Development Director Janish reviewed that on May 8, 2018, the Planning Commission provided a positive recommendation for a Comprehensive Plan Amendment for this area and on June 5, 2018, the City Council approved a Comprehensive Plan Amendment to change the future land use designation from Agricultural Preserve to Rural Residential.

Community Development Director Janish displayed the zoning map and described the zoning of the subject and surrounding properties being R-1 and R-2. He explained the Code does not allow rezoning to R-2.

Community Development Director Janish explained another 20-acre parcel is also asked to be reviewed as it is no longer consistent with the City's Comprehensive Plan due to the recent Comprehensive Plan Amendment changing the future land use. The Commission is asked to consider the rezoning of Parcel 07-32-24-43-0002 (southeast corner of the Petersen property) to be consistent with the Comprehensive Plan.

Community Development Director Janish explained that with a rezoning, the City shall find one of the two State Statute findings: the original zoning was in error; or, the character of the area or times and conditions have changed to such an extent to warrant the rezoning. He noted this property is not within the MUSA and staff finds that times and conditions have changed as the property owner's family is shifting away from farming and seeking rezoning to develop the eastern portion of the property into a Planned Unit Development (PUD) known as The Preserve at Petersen Farms. The requested rezoning will keep the zoning consistent with the Comprehensive Plan Amendment.

Community Development Director Janish noted staff cited two reasons it finds that times and conditions have changed. He reviewed the meeting minutes and documentation that had been provided for the Planning Commission's review.

Chairperson Nemeth asked whether Commissioners had questions of staff. Hearing none, he entertained a motion to open the public hearing.

Motion by Daninger, seconded by Hudson, to open the public hearing at 7:57 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Chairperson Nemeth noted a Comprehensive Plan Amendment was made in 2018 so this rezoning request would result in matching the zoning to the land use.

There was no public input.

Motion by Hudson, seconded by VanderLaan, to close the public hearing at 7:58 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Motion by Daninger, seconded by Hudson, to recommend to the City Council approval of the request by JD Andover Holdings, LLC to rezone the parcels that make up the Petersen Farm and Parcel 07-32-24-43-0002 from Ag Agriculture to R-1 Single Family Rural to be consistent with the Comprehensive Plan Amendment and based on the finding that the character of the area, times, and conditions have changed to such an extent to warrant rezoning, as detailed in the draft resolution. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

City Planner Hanson stated that this item would be before the Council at the September 18, 2018 City Council meeting.

PUBLIC HEARING: Planned Unit Development Amendment – The Preserve at Petersen Farms – JD Andover Holdings LLC.

Community Development Director Janish used a zoning map to point out the location of the subject site. The purpose of this item is to hold a public hearing and take input on the request of Landform, on behalf of JD Andover Holdings, for a Conditional Use Permit (CUP) and Planned Unit Development Amendment (PUDA) for 24 Rural Residential lots and two outlots at Petersen Farms, 7th Avenue and 165th Avenue NW.

Community Development Director Janish presented the proposed CUP/PUDA, noting the Planning Commission had reviewed and the City Council approved a CUP/PUD on June 19, 2018, to allow flexibility in street construction standards and lot standards. The original PUD also required an amendment to include the preliminary plat as part of the PUD. The changes to the original PUD that are under consideration tonight are: a smaller front yard setback of 30 feet versus the standard 40 feet; shifting the intersection of the north/south and east/west roadway to allow for better site visibility as a traffic calming method; and, an easement to protect slopes that exceed 18 percent for over 50 feet of run with that easement being in the Home Owners Association (HOA) favor.

Community Development Director Janish reviewed the City Code 13-3-9 findings required to consider a PUD as follows:

1. The proposed development is not in conflict with the goals of the Comprehensive Plan City.

It was noted the property was re-guided to Rural Residential on June 5, 2018, and the development is consistent with the goals of the City's Comprehensive Plan.

2. The proposed development is designed in such a manner as to form a desirable and unified environment within its own boundaries.

It was noted the proposed development is designed in such a manner as to form a desirable and unified environment within its own boundaries. The developer is proposing to create custom home sites to allow for flexibility for the buyer, the architectural finishes and building standards will be of a high quality, creating a more attractive neighborhood in Andover. Each lot will be custom graded to allow for construction of the individual homes in a manner that meets the needs of the homeowner and allows them to design a site that works with the natural features of the lot. This approach will allow flexibility in the placement of single-family homes on each lot while preserving the natural environment. In addition, the low-impact qualities of this development will lead to a desirable and unified environment that emphasizes preservation of natural features.

3. The proposed development demonstrates how each modified or waived requirement contributes to achieving the purpose of a PUD.

It was noted the proposal is requesting flexibility from the front yard setback in the R-1 District. The requested flexibility contributes to achieving the purpose of a PUD, specifically the front yard setback change contributes to achieving a higher quality PUD development because it allows greater flexibility for placement of the home and allows each site to utilize the natural features and grades. This will contribute to a more attractive neighborhood and allow preservation of the natural features.

4. The PUD is of composition and arrangement that its construction, marketing, and operation are feasible as a complete unit without dependence upon any subsequent unit.

It was noted the PUD amendment includes preliminary plat plans for Phase 1, which will operate as an independent phase. Each phase of the development would contribute to the overall development but would be independent of the previous future phases.

Community Development Director Janish stated the lot sizes are still consistent with the minimums approved by the City Council but the applicant is requesting a 30-foot front yard setback versus the standard 40-foot setback. He reviewed the requested change to the location of the roadway, shifting it to the south which will eliminate the creation of a straightaway and provide for traffic calming. As noted in February when this was looked at, the cul-de-sac to service Outlot A exceeds 500 feet, at 2,150 feet, and in discussion with the Fire Department it was determined the proposed street construction would allow for a longer cul-de-sac as part of a PUD. It was approved as part of the Council's previous approval and in the future the cul-de-sac will extend to serve the property to the

north. He noted each lot will be custom graded and a tree preservation plan will be required for each individual lot at time of building permit.

Community Development Director Janish stated the developer is proposing an easement on the north side of the property to address slopes greater than 18 percent. He read the seven protective restrictions addressed in the draft resolution should this be approved and explained that there should be language noting if conflicts occur, the drainage and utility easement language would apply.

Community Development Director Janish reviewed the architectural requirements provided by the applicant that would be administered through the HOA.

Community Development Director Janish noted tonight's discussion is related to the modifications, not the items included in the original PUD approval. If approved, the developer will be required to submit an amended preliminary plat that includes all modifications.

Community Development Director Janish explained if the Planning Commission supports a positive recommendation to the Council, it must keep in mind the four findings previously presented. If the Planning Commission supports a denial recommendation, findings of fact will need to be provided to the City Council as well as direction to staff. In addition, a denial would only be related to the items presented tonight.

Chairperson Nemeth asked whether Commissioners had questions of staff.

Commissioner Hudson referenced Page 2 of the staff memorandum and the map showing preservation of natural resources. He asked whether the bullet points apply to areas of the map identified with blue hatching map. Community Development Director Janish stated that is correct.

Commissioner Hudson read the bullet points and asked for clarification. Community Development Director Janish stated the first bullet says there can be no disturbance within the area (preservation easement), other than routine maintenance, pruning, and removal of dead/diseased trees without approval of the Architectural Control Committee (ACC), which would be similar to a Code violation as you need approval prior to starting the process.

To add clarification, Commissioner Hudson suggested adding words at the start of bullet points 2-7 indicating: 'With approval of the ACC.'

Chairperson Nemeth asked if the ACC and HOA are one in the same or different, noting where both are referenced, which causes confusion. Community Development Director Janish suggested the applicant be asked for a clarification on that point.

Commissioner Daninger asked if the process tonight is to amend the PUD to create this easement, which will keep more trees in the back yard and create separation. He noted the Council already approved the original PUD so if this is denied, the developer could go to their approved original PUD. Community Development Director Janish stated that is correct.

Commissioner Daninger stated the next agenda item tonight is the preliminary plat, which may be considered based on this approval (or denial). Community Development Director Janish stated that is correct.

Chairperson Nemeth noted this is not in the MUSA so the amendment for a 30-foot setback also provides more flexibility with the location of wells and septic systems, as each lot is custom graded.

Commissioner VanderLaan agreed it would create less impact as far as allowing for drainage since every square foot of house and driveway prohibits absorption of rainwater, which is a significant point with 24 lots.

Chairperson Nemeth noted the original PUD included a preliminary plat. Community Development Director Janish clarified the original PUD included a sketch plan, which did not have the level of detail being considered tonight. The preliminary plat gives the City the ability to review under greater detail but if the amendments are not approved tonight, the developer can revert back to the original PUD and submit a preliminary plat based on that approval.

Chairperson Nemeth noted consideration tonight is on the 30-foot front yard setback, shifting of the street, and creation of an easement to protect the slopes.

Motion by Daninger, seconded by Koehler, to open the public hearing at 8:17 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Mr. Bud Holst, 4276 165th Avenue NW, stated his property is at the southern end of this property. He asked if the PUD approved on May 11 and June 19, 2018, by the City Council included a plat. Community Development Director Janish stated it included a sketch plan and that layout was approved.

Mr. Holst stated that plan included 27 lots. Community Development Director Janish stated there have been several sketches but the plan had 24 lots on May 11, 2018, and was part of the previous submittal. Mr. Holst remembered it having 27 lots.

Mr. Holst noted the rezoning has been changed to R-1 Rural, which requires 2.5 acres, cul-de-sacs limited to 500 feet in length, and 300 feet frontage on a road unless 75 feet is approved on a cul-de-sac. Community Development Director Janish stated that standard is required by the Code.

Mr. Holst noted this drawing shows nothing close to 300 feet of frontage on a road and the cul-de-sac is well over 500 feet so this is not talking about R-1. He is concerned with allowing building on something less than 2.5 acres, which is required by Code, because he believes property values will decline with this proposal. Mr. Holst stated in May, there were a lot of people in attendance who wanted it to stay at 2.5 acres. He stated he lives at the south end and several years ago, there was a proposal to develop a 65.8-acre farm that had even worse conditions with more wetlands. Yet, it was developed at 2.5 acres and met Code. He asked if this is zoned R-1, what happens with the minimum 2.5-acre lot size and maximum 500-foot cul-de-sac length. Chairperson Nemeth stated that is why the PUD was proposed.

Mr. Holst asked if the City Council approved the PUD with those lot sizes and long cul-de-sac. Chairperson Nemeth answered that is correct.

Commissioner Koehler suggested the purpose of a PUD be explained because it is not to skirt the City's requirements. He noted the City is negotiating this project and it can require R-1 Code standards but then the developer will not offer the other things in return. Commissioner Koehler explained with a PUD, some trades are made so the intent is not to meet R-1 standards. In exchange for some concessions, the City receives benefits for the City and neighborhood.

Mr. Chase Hennessey, 3945 169th Lane NW, used the map to point out the location of his property. He described the area where the Rum River floods in the spring, including his property. Mr. Hennessey stated he is concerned with the HOA and oak wilt as this area is covered with red oaks. He asked about the area of floodplain in Valley View Park Estates. Chairperson Nemeth suggested those questions be asked of the applicant.

Mr. Hennessey stated he also questions the location of septic in relation to the easement. Community Development Director Janish stated the applicant can be asked about the drainage plan and HOA during the preliminary plat consideration. The proposed location for septic drain fields meet current setbacks. Mr. Hennessey noted the location of non-homeowner association properties that may also be impacted.

Mr. John Edewaard, 3983 168th Avenue NW, stated there should be a lot of concern about the trees because all of the trees from the corner north along the property lines will be cut. He stated that metric has to fit into the tree preservation plan. Mr. Edewaard stated he remembers the original PUD was basically approved in concept based on a sketch plan and he did not see this preliminary plan approved as a PUD. He suggested the developer make a presentation, which will answer some of resident's questions so they know what is going on. Mr. Edewaard used a map to point out the location where trees will be removed.

Ms. Mary Pfeiffer, 17037 Aztec Street, used a map to point out the location of her house and stated on Monday, a gentleman was doing surveillance in their cul-de-sac and looked

at the trees that would be cut down. She stated she did not know if the gentleman was confused or the trees along her cul-de-sac will also be cut down.

Mr. Brian Pfeiffer, 17037 Aztec Street, stated the gentleman told him that in their cul-de-sac, they would cut down all the trees.

Ms. Pfeiffer asked how the preservation easement line is impacting the area of her cul-de-sac.

Darren Lazan, Landform Professional Services, LLC, 105 South Fifth Avenue, Suite 513, Minneapolis, stated they have a successful history for this type of development with The Preserve at Oak View and have been working on this one for a year under the same guiding principles. He stated he has no idea who the gentleman mentioned by Ms. Pfeiffer was, but they will not remove any trees at that cul-de-sac. He stated he ordered stakes for tree removal, that will be reviewed prior to any trees being touched, and it is nowhere near that cul-de-sac as their removal limits are tight to the building pad location. Mr. Lazan explained removal limits are the line where they initially clear. They survey, walk the ground, look at the trees, and determine if property lines can be adjusted to save significant trees. Then a new line is drawn. He explained that trees to be removed are flagged in one color and trees to be saved are flagged in another color.

Mr. Lazan stated with the stormwater question, there are many governing laws to address things like groundwater, recharge, erosion control, and quality treatment. They are required to emulate existing drainage patterns, treat water for quality, and discharge to the east, which will be exactly as it is today. He noted the City and Watershed District regulate those issues.

Mr. Lazan explained if oak wilt is found, they trench around it so it is contained and if found on this site they will use the same process to remediate it.

Mr. Lazan stated on the amendments requested, there are two viable equally correct paths to entertain a project like this: R-1 prescriptive zoning which is your property right by rule; or, PUD, which is used predominately in metro areas as a form-based code. He explained a PUD looks at this parcel and determines what best fits, mass grading and clear cutting or custom grading. He stated there are tradeoffs though and while there is a long cul-de-sac, other things were given in exchange. Mr. Lazan stated there are four or five lots under 2.5 acres but they are adjacent to large open spaces, that is the give and take. He displayed the approved PUD plan for 24 lots and reviewed the gross square footage overall and gross square footage by lot. He stated they are required to have one-acre buildable, 100-foot minimum widths, and gross density at or under the allowable R-1 standard.

Mr. Lazan stated they are asking for an amendment to attach the actual plat amending the PUD, provide a steep slope preservation easement (even though not a requirement as this

property is not within a shoreland overlay district), and including a HOA and ACC, which is a subcommittee of the HOA and will evaluate all of these components.

Mr. Lazan stated the originally approved PUD had the roadway coming straight through but then staff discussed the traffic calming effect by using an offset to slow traffic through the existing neighborhood. That is one of the amendments under consideration tonight.

Mr. Lazan stated they are asking for a 30-foot setback to create more flexibility and to save more trees, which will result in shorter driveways and reduced impervious surface on the lot. That is one of the amendments under consideration tonight.

Commissioner Koehler asked for detail on the function provided by the HOA outside the ACC. Mr. Lazan stated it is desire of staff to have an HOA associated whenever there is a PUD since there are unique situations. The HOA would be responsible for upkeep of the landscaping and maintenance of stormwater components. The Preserve at Oak View was prescriptive without an ACC. He stated they see something similar here plus the ACC.

Commissioner Koehler stated he assumes the HOA will require payment of fees and asked how it addresses and resolves when fees are not paid so upkeep is financially untenable. Mr. Lazan explained the HOA can record unpaid fees with the land through the assessment process.

Commissioner Daninger asked if the amendments are recommended for approval as well as the preliminary plat, will anything else be requested. He noted a lot of residents are here and they have a lot of questions as this process is confusing to residents. He stated if more changes will be coming in the future, he will not be as considerate.

Mr. Lazan stated they don't have time for additional changes as they are expecting groundbreaking September 25, 2018. He noted that in looking at the proposed amendments, only one is from the developer and that is the reduced setback. The other amendments (slope preservation easement, HOA, and roadway layout and redesign) were driven by staff's concerns and comments.

Mr. Jason Osberg, Metrowide Development, 15356 Yukon Street NW, noted The Preserve at Oak View was stopped during grading to come forward with an Interim Use Permit and that may be something that could happen with this project. Commissioner Koehler thanked Mr. Osberg for the clarification, noting that would not be a change to the PUD but a separate permit.

Commissioner Koehler asked about the change to request the 30-foot setback. Mr. Lazan explained they got into the survey and hydrology and felt the need to ask for the 30-foot setback to gain flexibility. If not approved, then they would proceed with the approved 40-foot setbacks.

Commissioner Koehler stated it is not the issue of 30-foot or 40-foot setbacks but what it would look like when some homes are set forward and others farther back. Mr. Lazan stated many of The Preserve at Oak View homes are located closer to the street because homeowners wanted to preserve their back yard but the third house in is located 100 feet back with a beautiful wooded front yard. Commissioner Koehler stated he sees it as a benefit and that it would drive property values but he wanted to picture how it would look.

Commissioner VanderLaan speculated this is one of the most studied and documented properties in the City. She stated she shares concern about what is a PUD, noting in the past it was different. Now, the City has a concise definition of a PUD, which she read. She stated she had submitted her PUD questions to the State, and his comment was that City officials review PUDs and determine each City Code deviant and what can be allowed. In this case, there was previous discussion when one property owner said to come out and look at the property, so she did.

Commissioner VanderLaan commented on the poor condition of the roadway, noting the key point of the amendment is to recognize a change to the intersection. She stated the residents recognized the existing cul-de-sac is not in good condition, is eroded, and it may not have been properly constructed. She stated a resident indicated she saw a fire truck attempt to turn around in that area and said ‘it was not pretty.’ Commissioner VanderLaan stated it should be noted this will be an improvement so she supports that amendment. She thinks the City has moved to the position of PUD to protect the existing characteristics of property like this.

Chairperson Nemeth asked about the HOA versus ACC, noting first bullet point addresses disturbance in the area without approval of the ACC. He questioned whether the ACC is more professional in design of the homes so it should be the HOA to determine which trees should or shouldn’t be removed.

Chairperson Nemeth addressed the comment about the Rum River flooding and how it impacts resident’s property. He asked if that has been taken into account. Mr. Lazan stated they have taken that into account. He described the high locations and how water will drain, be retained and treated, and discharged. He stated a fair amount of time was taken to assess the flood condition along the Rum River.

Mr. Chase Hennessey, 3945 169th Lane NW, stated with the run off, proposed ridge line, and septic in the rear, that area floods four to five feet in the spring. He asked about the discharge so the flooding does not impact his property.

Mr. John Edewaard, 3983 168th Avenue NW, asked what cul-de-sac was mentioned about fire trucks having difficulty turning around. Commissioner VanderLaan indicated 168th Avenue, not the new cul-de-sac.

With regard to fire truck access, Community Development Director Janish drew attention to pages 30 and 31 of the meeting packet (Pages 7 and 8 of the City Council meeting minutes of June 19, 2018) and the statement by Fire Chief Streich that they brought several fire trucks to 168th Avenue to test it and there was no issue to access that road.

Motion by Loehlein, seconded by VanderLaan, to close the public hearing at 9:06 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Commissioner Koehler referenced the draft resolution, condition 8, bullet point 4: Paths shall be of natural permeable material, and stairs, if required, shall be set on permanent frost footings meeting similar standards as deck structures. Commissioner Koehler asked how that language compares to City Code. Community Development Director Janish stated the developer provided that language so it locks in that requirement.

Commissioner Koehler asked if this meets or exceeds City Code and what the paths are made of now. Community Development Director Janish explained it depends on the location and purpose of the path.

Chairperson Nemeth concurred, noting some are bitumus but that material is not allowed in other areas.

Commissioner Koehler agreed that a ‘natural permeable material’ preserves the natural state of this area in Andover and keeps it more rustic looking instead of requiring pavement. He noted these are concessions given by the builder when they don’t have to agree to do so.

Chairperson Nemeth stated he thought it could also be materials such as Class V or grass.

Commissioner Loehlein referenced the PUD amendment for a front yard setback from not less than 40 feet to not less than 30 feet and asked what is the front yard setback in R-1. Community Development Director Janish answered 40 feet.

Commissioner Koehler stated the City has asked the developer to make additional concessions, as outlined, and in exchange the developer has asked for one concession to adjust the front yard setback to 30 feet. He stated personally, he thinks that is a fair concession for the City to make, especially knowing the house placement will be decided by the homeowner and ten feet is not a huge issue to the City. Commissioner Koehler stated he leans towards approving the amendments being requested tonight.

Motion by Daninger, seconded by VanderLaan, to recommend to the City Council approval of the request of Landform, on behalf of JD Andover Holdings, for a Conditional Use Permit (CUP) and Planned Unit Development Amendment (PUDA) for 24 Rural Residential lots and two outlots at Petersen Farms, 7th Avenue and 165th Avenue NW, based on the rationale that it meets the four findings to consider a PUD as identified

in City Code 13-3-9 and detailed in the draft resolution, and subject to the conditions detailed in the draft resolution.

Further discussion:

A ***friendly amendment*** was offered Commissioner Koehler to add words at the beginning of condition 8, bullet points 2-7, indicating: ‘With ACC approval.’. Commissioner Daninger accepted the friendly amendment.

Amended motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

City Planner Hanson stated that this item would be before the Council at the September 18, 2018 City Council meeting.

RECESS AND RECONVENE

Chairperson Nemeth recessed the meeting at 9:12 p.m. The meeting was reconvened at 9:24 p.m.

PUBLIC HEARING: Preliminary Plat – The Preserve at Petersen Farms – JD Andover Holdings LLC.

Community Development Director Janish used a map to point out the location of the preliminary plat. It was noted the purpose of this item is to hold a public hearing and take input on The Preserve at Petersen Farms preliminary plat consisting of 24 Rural Residential lots and two outlots.

Community Development Director Janish stated the lots meet the size requirements of the PUD. The applicant has indicated the approximate location of the septic systems but they could be adjusted with custom grading.

Community Development Director Janish reviewed the proposed preliminary plat for The Preserve at Petersen Farms including street access from 168th Avenue NW, which is currently a temporary cul-de-sac. He noted that while Anoka County Highway Department will not require a south-bound right turn lane and a north-bound bypass lane be built at County Road 58 and 168th Avenue NW. Director of Public Works/City Engineer Berkowitz supports those improvements and recommends it as a contingency to address current and future safety concerns.

Community Development Director Janish noted the location of the cul-de-sac that could be continued in the future to serve Outlot A and the street location that ends with a stub and will be signed alerting that it could be extended in the future.

Community Development Director Janish stated City water and sewer are not expected to serve this area as the property is a significant distance from the MUSA so each property

will be serviced by private septic systems and wells. He stated the applicant has made application for a Lower Rum River Water Management Organization (LRRWMO) permit and is responsible to meet their requirements and contingencies and obtain all necessary permits from governing agencies.

Community Development Director Janish noted the developer has provided a tree preservation plan for each lot, as required with a PUD, and included also an easement to provide tree preservation by limiting the number of trees that will be removed. Each lot will also meet the set standard for landscaping requirements.

Community Development Director Janish stated the Parks and Recreation Commission has recommended a trail easement, which is included as a condition. It also requested the developer consider a trail easement under the power lines from the temporary cul-de-sac to Martin Meadows Preserve so area residents have access to enjoy the preserve and park.

Community Development Director Janish noted the stormwater requirements had already been discussed with the PUD and offered to answer questions of the Commission.

Chairperson Nemeth asked whether Commissioners had questions of staff.

Commissioner Hudson asked whether the trail easement is within Outlots A and B. Community Development Director Janish stated it would be part of Outlot A.

Motion by Daninger, seconded by Koehler, to open the public hearing at 9:32 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Mr. John Edewaard, 3983 168th Avenue NW, asked if the right turn/left turn lane proposal is not necessary as residents will have to pay for it eventually. He thought PUD criterion are to be in and of itself within its own boundaries, which is one of the four requirements to consider a PUD, yet minimum guidelines are being considered. Mr. Edewaard stated he has seen hundreds of developments around the metro area and the interesting thing is that this creates a dense urban residential area in an existing rural residential area. He stated he provided a picture of what this rural residential area looks like, which is in contrast to what is proposed. Also, the PUD says the character of a new neighborhood should fit into the character of the old neighborhood but existing residents have at least 200-foot road frontage so their neighborhood is sparsely populated.

Mr. Edewaard referenced the e-mail received today from the Anoka County Highway Department (ACHD) saying they technically have no jurisdiction over the plat. He stated he noticed the cul-de-sac was given as a concession and questioned what the City received in return.

Mr. Edewaard stated his concern with impact to the wetland and gross density on lot sizes, thinking it was misdirected as there is not a lot of buildable land here so there

would be narrow lots. He stated another concern is that the developer can dissolve the HOA before selling the lots.

Mr. Edewaard stated the City is trying to prevent removal of trees yet the developer is proposing to put in a street that will require the removal of a lot of trees. He is also concerned about the utilities down Dakota Street and asked on which side they will be located. He believed the developer should be required to plant more trees to enhance the neighborhood instead of taking away from it. He stated he can't entertain what they are thinking about going down 168th Avenue NW and asked City Administrator Dickinson to display the photograph he sent to him.

Mr. Edewaard stated most homes in this area are large and located on larger lots, which is because residents want more wide-open spaces. He does not want to live on a corner lot and does not understand why the City cannot read the PUD ordinance as it is intended. He noted the property owner has 400 acres of land and this is a complicated piece to develop as it has wetlands and a river. He felt this is where the City needs to maintain a level of control as he believes the developer is taking, not giving.

Mr. Edewaard displayed a conveyance of land from Andover landowners giving Valley Drive NW to the County. He stated Mr. Heliker had to donate some of his land to do that, for which he thanked them.

Mr. Jim Neilson, an Andover resident along the Rum River and real estate attorney representing Jim and Pamela Zushin, stated he was before the Planning Commission on May 22, 2018, for the preliminary plat that they recommended not be approved. Then on June 19, 2018, the City Council approved it and did not permit people to talk. He stated he talked about that with the Andover City Attorney who said he would look into it but has not yet gotten back to him. Mr. Neilson stated the Planning Commission gives good input but the City Council makes the decision.

Mr. Neilson noted Commissioner Koehler made a comment about a PUD but to him, developers have said a PUD is what they want because then they don't need to abide by anything in the ordinances. He stated it is a give and take process and he would ask where was the developer giving. He thinks the City gave.

Mr. Neilson stated the problem now is that it will go through and provide a huge problem for his clients, Jim and Pamela Zushin of 3533 168th Avenue NW. He noted the problem with 168th Avenue NW is that there are only seven lots between County Road 58 and the Petersen property. The problem will be that road will get destroyed, which is obvious to him when there are 27 lots being developed (24 lots with 3 on the Rum River) and many, many trucks will use and destroy 168th Avenue NW. Mr. Neilson stated the developer may say the adjacent property owners should pay to repair the road but those property owners don't need the additional traffic. He stated the City can require the developer to put away money to restore 168th Avenue NW. If not, there will be a fight in the future between these seven owners and City on why they should have a special assessment to

bring the road back to where it should be. Mr. Neilson stated with 27 lots, approximately four times the current road use would occur when compared to seven lots. In addition, there are 24 lots to the west of this first addition where those people could also use 168th Avenue NW. If that occurs, then it would be 51 lots creating seven times the current road use. Mr. Neilson stated the property owners on 168th Avenue NW should not have to pay for repairs. He asked the City to include a provision as part of the PUD and plat approval that the developer will be required to pay for putting 168th Avenue NW back in its original condition.

Mr. Jim Zushin, 3943 168th Avenue NW, thanked Mr. Neilson for attending tonight to lay out what the residents have to say. He stated he is confused by the Planning Commission, noting he sat through the first three agenda items during which Commissioners Koehler, Daninger, and Hudson were strict on the Code but they are now ‘bending over backwards’ for the benefit of the developer. Mr. Zushin stated this property owner will develop everything west of their house but residents should not have to pay for the roads so they can make millions of dollars. He stated if the applicant wants to do this at no cost to him, the construction traffic should come off Jivaro Street. He stated it is absurd to use 168th Avenue NW because it hurts current residents, not future homeowners.

Mr. Zushin stated Planning Commissioners are to represent the residents, not big money. He stated the residents live there now, pay the taxes, and the Planning Commission should represent them. He stated at the June meeting, there was not a word out of the residents and he would ask where are their representatives. Mr. Zushin stated he will remember that in November.

Ms. Rebecca Brack, 3974 168th Avenue NW, stated she is a new resident and trying to figure out where her property is on the maps. She stated she also has noticed what seems to be concern for existing property owners in prior agenda items and is concerned why there does not seem to be as much concern with this agenda item about the impact to current residents. She had no idea of this project when she purchased this property.

Ms. Brack stated she is a veteran, her husband is active duty and will retire in two months, so they want to settle down and have roots for their three children. She stated this property seemed perfect for them, it is a way back from the road, and the value is the number of trees and privacy. She stated she and her husband have experienced a lot of stress from multiple deployments and the value of their home and property was one of privacy, the quietness, and feeling of it being a park-like setting but this will change greatly. Ms. Brack stated she was told the cul-de-sac is actually on her property but she has not yet learned whether the prior owners were properly compensated if that is the case. In addition, there is talk about extending the cul-de-sac, which will be a great impact.

Ms. Brack asked about the 30- and 40-foot setbacks, which road it would be from, and if future homeowners would be granted the option for a larger back yard, noting it will

impact existing homeowners who will be losing their privacy. She stated the proceedings tonight feel like they are not showing a lot of empathy to existing residents or the impact to the neighborhood becoming much different. She asked the Planning Commission to look at what they can do to help people who are only losing and possibly being assessed for their roads that will become highly trafficked.

Ms. Marsha Dziedzic, 3928 168th Avenue NW, stated she has the same concern about the cul-de-sac and all the trees that will be cut down. She asked why trees have to be removed along the road, on the east side of the property, noting the purpose of a PUD is to save trees.

Mr. Jeff Luedtke, 16923 Jivaro Street NW, clarified that at the May 22, 2018, Planning Commission meeting when the vote was taken to not grant the CUP for this PUD, the vote was 4-2 to not approve. He thanked the Planning Commission for their hard work and diligence and preparing themselves to make a decision like that. He encouraged the Planning Commission to use that same knowledge when discussing whether to recommend approval of the preliminary plat. He stated the developer will probably say they will not use 168th Avenue NW and he doesn't want them using his street either. Mr. Luedtke asked about weight restrictions on a limited maintenance road and use of construction trucks and trailers. He stated the condition of the road is not currently the best and he wants to make sure his vehicles are not damaged if the road becomes rutted. He asked if Andover will maintain that road at a higher level if development is going to start.

Mr. Darren Lazan, Landform Professional Services, LLC, 105 South Fifth Avenue, Suite 513, Minneapolis, representing JD Andover Holdings LLC, presented a brief overview of the 24-lot subdivision, noting it is consistent with the sketch plan approved by the City Council. He explained Outlot A will have future development at some point. Mr. Lazan stated there has been characterization that this is urban density but in 1.5 acres, you could fit six urban lots so this is far from urban density. He pointed out areas surrounding the subject site, with the exception of 168th Avenue NW, that were developed in a similar density to this proposal. Mr. Lazan stated he appreciates Ms. Brack's service as well as that of her husband and sympathies they are coming late to this process.

Mr. Lazan stated they moved the location of the street to address resident's feedback during sketch plan and the original PUD consideration. He agreed that to a certain extent, someone will be in a less desirable position depending on where the road goes and the proposed location was based on that feedback. He explained that common planning practice dictates connecting to 168th Avenue NW as well as connections to other roadways surrounding this PUD. That is required and not a choice of the applicant.

Mr. Lazan presented the grading plan contemplated for this project, noting potential pad and two septic system locations are also indicated for proof of concept that the property is developable. Mr. Lazan reviewed the gross density and hydrology design for the storm

water that has been reviewed by staff with three rounds of comments. He noted staff had found the proposed system meets stormwater requirements.

Mr. Lazan stated they provided the ACHD the entire 400-acre property plan and the ACHD provided comments on improvements to five or six intersections. When they provided Phase 1, the ACHD indicated it has no jurisdiction but had some areas they wanted to discuss now or in future phases. Mr. Lazan stated they will continue discussions about improvements that may be needed on 168th Avenue NW and are willing to pay their share according to the City's policy. He stated he had not heard these residents were going to be part of that cost sharing as he thought the City would cover the delta as it was an area improvement.

Using a map on display, Mr. Lazan referenced the existing cul-de-sac, sketched in the intended extension, and explained how the encroaching 'bubble' will be removed to make a 'T' connection. The 'bubble' area will be restored and turned over to the property owners. He stated they will also provide temporary cul-de-sacs where shown in the plat.

Mr. Lazan stated utilities (i.e., cable) will be aligned by the utility companies, not the developer.

Mr. Lazan stated he has tremendous respect for Mr. Neilson but connecting 168th Avenue NW is not an option for the developer. He noted Mr. Neilson mentioned the number of present and lots in future phases but they look at 168th Avenue NW as a temporary connection because in the future, there will be connections to 165th and 7th Avenues that will become the primary connections. He stated there may be an interim condition of increased traffic on 168th Avenue NW but once the other connections are made, that will be reduced. Mr. Lazan stated they are working with the property owner to the south to gain construction access and avoid use of and damage to 168th Avenue NW.

Mr. Lazan stated as a whole, this project is a low-impact design. They are not scraping the land and removing every tree and with shifting the road to the east as a by-product driven by resident comments, different trees will be removed. He clarified the developer will only remove trees from their own property and the right-of-way and will attempt to minimize tree impact as trees are an asset to the project. He offered to answer questions.

Commissioner VanderLaan addressed resident's comments and stated to minimize the tragedy of this progress, she would note the comment by Mr. Lazan saying they cannot, as a developer, remove trees from someone else's property. She stated she has heard several resident comments tonight asking how many trees will be removed and that they do not know from which line, which is the property line. She noted the developer will be improving the cul-de-sac, which was intended to be temporary. She stated it should offer comfort to residents to know that the developer cannot come onto private property to remove trees. Mr. Lazan indicated that is correct and clarified that trees to be removed

on their property are within the right-of-way as well as the temporary cul-de-sac right-of-way when it is extended.

Chairperson Nemeth asked whether the Rum River flooding has been addressed. Mr. Lazan stated stormwater design is a challenging matter but all follow the same set of standards. Those standards are analyzed so they assure existing conditions are replicated. Then they treat the water for quality (infiltration/treatment), retained the water, and discharged it at the predevelopment rate. Mr. Lazan explained all those things combined are common stormwater design standards. He noted the City reviews their stormwater plans, make comments, request changes, and then the LRRWMO looks at the plans and makes additional comments. He stated the LRRWMO had four comments that have all been addressed. Mr. Lazan stated the stormwater treatment plan has been approved. He noted there could be unusual rainfalls and unprecedented flooding but everything required of them has been included in the stormwater treatment plan.

Chairperson Nemeth asked Mr. Lazan if they intend to utilize Jivaro Street for their construction traffic. Mr. Lazan stated that is correct and they picked Jivaro Street since it is nearing its end of life and a minimum maintenance road. If it becomes rutted, the equipment will be on site to blade it down and it is a short construction window so they will be in and out quickly.

Commissioner Koehler asked if 168th Avenue NW will be used for lighter equipment. Mr. Lazan stated it is a public street and they cannot dictate its use but the developer will route contractors through Jivaro Street.

Mr. Jason Osberg, Metrowide Development, 15356 Yukon Street NW, stated the initial tree removal on the cul-de-sac at the end of 168th Avenue NW may result in equipment on 168th Avenue NW to access the trees but large grading and earth moving equipment will access Jivaro Street. He stated if there are issues, they will have equipment on site to correct any situation that could occur.

Mr. Osberg apologized to Ms. Brack for putting his business card on her house by mistake as he intended to place it on Mr. Edewaard's door to answer his questions.

Mr. Osberg stated he has walked this site many times with buyers and builders and all are concerned about the trees. He stated they are willing to walk the site with neighbors once it is surveyed and work with City staff to preserve individual trees. He also offered to hold weekly meetings with residents during the project.

Mr. Neilson stated one possible way to protect trees is to simply set back the road 20 feet from the east line of the developer's property. He stated the public roads in Andover and most cities are 60 or 66 feet in width. In this development, it is at 50 feet in width. Mr. Neilson suggested platting the 20 feet to the east of the road as an outlot so the big trees can remain. He stated he assumes that moving Dakota Street to the west 20 feet still gives the developer plenty of room for the homes.

Mr. Lazan stated they have already added ten feet in space, Outlots B and C, to give room to protect the trees and once accepted by the City, they will deed that land back to the property owners. He explained that by policy, the City does not allow outlots unless large tracks for future development so these are temporary outlots to preserve trees and then it will be given to the adjacent property owners.

Motion by VanderLaan, seconded by Loehlein, to close the public hearing at 10:24 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Commissioner Koehler asked if there are plans for assessments on 168th Avenue NW. Community Development Director Janish stated at this time, a road improvement on 168th Avenue NW is not in the City's five- or ten-year plan. It is City policy that when reconstruction occurs, an assessment occurs.

City Administrator Dickinson stated 168th Avenue NW is not in the plan for reconstructed and since there are no curb or gutter, it would be a fairly minimal reconstruction when it does occur. He explained the City's Assessment Policy is to assess 25 percent of the total project cost back to benefiting properties and the City covers 75 percent of the project cost. On the County roads, the City would look first to Municipal State Aid (MSA) dollars but abutting property would not be assessed in that case.

Commissioner Koehler stated it is not in the five- or ten-year plan for reconstruction and whether or not this development goes through, that would not change. City Administrator Dickinson explained that each year, staff evaluates roads for reconstruction and at this time, 168th Avenue NW does not qualify for reconstruction.

Commissioner Loehlein stated 168th Avenue NW has 10-15 years of life and when it is reconstructed, the seven properties would be assessed. He asked if the City can require the developer to pay a proportionate share should this development prematurely age 168th Avenue NW. Or, can the City mandate the developer not to use 168th Avenue NW. City Administrator Dickinson stated that has not historically been done. He noted all roads are built to the same standard and this is a low use roadway. He stated he does not know when it was constructed or on the next list, but the average life of a road is 25-30 years. City Administrator Dickinson stated the City does not have a degradation policy to require the developer to pay for a road impacted through development. But the City has a generous policy to pay 75 percent of the reconstruction costs. He noted temporary cul-de-sacs are designed to be extended as development occurs and there are many in Andover.

Commissioner Koehler asked if this cul-de-sac was signed saying it was temporary. Community Development Director Janish answered in the affirmative, noting that signage has been in place since shortly after it was constructed.

Commissioner VanderLaan stated as the progression of this development goes along, and should the seven residents determine the road condition is unsatisfactory, is there a vehicle they can use to petition the City for a 429 assessment hearing and then proceed to reconstruct the road and distribute costs back to the property owner. She asked if that is a feasible situation should they find their road is deteriorating, to communicate with the City and petition. City Administrator Dickinson stated under 429, there are a resident petition process and City-initiated process. For the most part, road projects in Andover are City-initiated. It is a City policy, not State mandate, to cover 75 percent of the project cost and assess the remaining 25 percent. He stated if there is a petition for improvement, the Council could consider whether it is deteriorated to the point it should be reconstructed. If approved, there will be a public hearing, feasibility analysis to determine the estimated cost, bid letting, and public hearing on the assessment. He noted the City has to be able to prove benefit at the level of the assessment.

Chairperson Nemeth asked about using MSA to fund the turn lanes. City Administrator Dickinson stated if an MSA road, the City has the ability to allocate MSA funds if the project meets their criteria.

Chairperson Nemeth asked about Jivaro Street and City guidelines for maintenance should the developer's equipment create ruts in the road. Community Development Director Janish stated he does not know what criteria triggers maintenance but the applicant has talked with the City Engineers so they are aware of it. He stated the developer's agreement could require maintenance of that roadway during the project.

City Administrator Dickinson stated the issue of how Jivaro Street has to be maintained will be part of the pre-construction meeting. If beyond minimum maintenance criteria, the developer would be looked at to cover it.

Commissioner Loehlein referenced the previous comments received from Mr. Hennessey and Mr. Clements and asked whether they have been considered. Community Development Director Janish stated those comments were received recently and during the recess, Mr. Lazan spoke with Messrs. Hennessey and Clements and addressed their concerns.

Commissioner Koehler asked about the trail easement and gap in terms of where the trail will run and how that issue may be resolved. Community Development Director Janish stated staff will meet with individuals to discuss the potential location of the trail. Those conversations have not yet occurred.

Commissioner Loehlein stated the Planning Commission is considering this preliminary plat and whether it conforms to the PUD, but the PUD has already been approved. He stated it is a moot point but he takes exception to the assertion that if not a PUD, then with R-1 zoning the property would be clear cut and divided into tracts because this property would not lend itself to that due to the unbuildable area. Commissioner Loehlein stated under R-1 zoning, you would not get 24 lots as you can with a PUD. He

stated the Council discussed taking out a lot or two so it was less dense, which he would have liked to see, but this plat is for 24 lots.

Commissioner Loehlein reviewed the density calculations and stated while he is not satisfied with where it ended up, that is what was approved. He complemented the developer on the changes made with respect to properties at the end of 168th Avenue NW by bringing Dakota Street a bit to the west, noting it resulted in a positive change for those property owners who are used to living on a cul-de-sac.

Chairperson Nemeth stated his biggest fear is 168th Avenue NW becoming a thoroughfare but he realizes that when fully developed, there will be additional points of entry and exit. He stated he hopes the City holds to its assessment policy should 168th Avenue NW deteriorate because of this development. He suggested the City make note of the road's current condition so it can be determined if that becomes an issue. Chairperson Nemeth stated the PUD looks good, noting there has been give and take as the developer could have bulldozed the site and received 23-24 lots without coming in for this approval. Instead, the developer is giving bluffs and preserving trees and sellable features, which he did not have to do.

Motion by VanderLaan, seconded by Daninger, to recommend to the City Council approval of the Preliminary Plat of The Preserve at Petersen Farms consisting of 24 rural residential lots and two Outlots, subject to the conditions as detailed in the draft resolution. Motion carried on a 4-ayes, 2-nays (Koehler and Loehlein), 1-absent vote.

City Planner Hanson stated that this item would be before the Council at the September 18, 2018 City Council meeting.

OTHER BUSINESS.

Community Development Director Janish reported on City Council action related to planning cases.

ADJOURNMENT.

Motion by Loehlein, seconded by Daninger, to adjourn the meeting at 10:59 p.m. Motion carried on a 6-ayes, 0-nays, 1-absent (Sims) vote.

Respectfully Submitted,

Carla Wirth, Recording Secretary
TimeSaver Off Site Secretarial, Inc.