

TOWN of MAY
WASHINGTON COUNTY, MINNESOTA
OFFICIAL PLANNING COMMISSION MINUTES
March 31, 2022

The Planning Commission for the Town of May held its regular monthly meeting on Thursday, March 31, 2022, via video/telephone conference. Members in attendance were Chair John Arnason, Vice Chair Don Rolf, Members, Walt Peterson, Chad Nelson, Alternate Mitchell Otterson, and Alternate Ted Nesse. Member Lester Rydeen was absent. Also present were Town Clerk/Treasurer Linda Tibbetts, Town Planner Nate Sparks, Town Attorney David Snyder, and Town Engineer Mark Erichson. Planning Commission Chair Arnason called the meeting to order at 7:01 p.m.

Minutes from February 24, 2022, Planning Commission Meeting

Arnason moved, seconded by Rolf, to approve the February 24, 2022, minutes as presented. By Roll Call Vote: Arnason: YES; Rolf: YES; Peterson: YES; Nelson: YES; Alternate Otterson: YES; Alternate Nesse: Yes. Motion passed.

Arcola Tree Farm Concept Plan Application

Nate Sparks again reported to the Planning Commission on the application for an open space subdivision concept plan. Please see Sparks' report attached to these minutes. Sparks reported the applicant's update plan submitted to the township on March 17, 2022, outlines a decrease in the number of lots from 33 to 32 to meet the maximum yield calculation requirements; added a road connection to the north property line; and made an emergency access point to the east through an existing road easement. Town staff reviewed the easement document but did not have adequate time to completely research and make a formal recommendation. On the surface, the applicant is attempting to show that they are trying to produce a secondary emergency access to help justify the variance request. Sparks noted the applicant removed the multiple frontage lots. The open space calculation is still above 40% but is slightly reduced from 112 to 106 acres. The open space to the northeast was reduced in width and the area on the south was extended. The applicant moved the ingress/egress to the west to help create a contiguous block of open space in that southeast corner.

The applicant provided a narrative which outlines they are trying to shield the property from view from the road and neighboring properties. The applicant is trying to preserve as many trees and as much open space as possible.

The concept plan still requires variances. The Town Code does not allow for a temporary cul-de-sac to exceed half mile allowance. Both sides of the loop road would exceed that standard by large

margin. The Town Code also states that when there is a temporary cul-de-sac, you are not allowed more than 20 lots which would make the application unacceptable. The density allowance is well exceeded. Therefore, the applicant is seeking relief from the Town Code via a variance.

The Town Code requires a contiguous block of open space to be considered an Open Space Subdivision. Although the applicant has provided a drawing of open space on the perimeter of the property, the Town Code was written to allow for a contiguous block of open space. Therefore, this does not meet the Town Code. Sparks noted when this rule was enacted by the township, it came from a workshop with Washington County on clustering the houses in one area and provide open space on a block in the other area. Other open space subdivisions in the township have meet this clear explanation of an open space concept.

The Comprehensive Plan states an open space subdivision may be permitted in cases where the requirements are “consistently met” pursuant to the Town Code. Sparks stated the township should be weary of an application for an open space subdivision that would require variances which would be inconsistent with the Comp Plan.

Washington County submitted their comments regarding the latest application and updates. Some of their comments talked about connectivity between neighborhoods which is required by county ordinance. The open space requirements by Washington County code are higher since a portion of the property is within the Shoreline District which the county governs. Instead of 40% open space, the county holds 50% open space. The steep slopes do not count towards the calculations and the township does not have enough information to see if this application would meet the county’s rules. Further, the county looks for the open space to be oriented around a focal point. This plan not only would need township approval, but county approval.

Sparks reiterated to the Planning Commission the purpose of a concept plan is to review the general lot layout, circulation, and uses of a proposed subdivision. The review is to be based on the following:

1. The consistency of the Concept Plan with the goals, objectives, and policies of May Township’s Comprehensive Plan.
2. The consistency of the Concept Plan with the purpose of May Township’s subdivision ordinance.
3. The compliance of the Concept Plan with the development standards of May Township subdivision ordinance and regulations.
4. The preservation and management of open space, if any, defined by the Concept Plan.

5. The consistency of any rezoning with the Comprehensive Plan.

Sparks said if the Planning Commission feels this application is acceptable and recommends approval to the Town Board, staff recommends the following conditions:

1. All comments from the Town Engineer shall be addressed.
2. All comments from the Town Attorney shall be addressed.
3. All comments from Washington County shall be addressed.
4. All comments from MnDOT shall be addressed.
5. All comments from the Watershed District shall be addressed.
6. A wetland delineation shall be supplied prior to the preliminary plat application.
7. Soil borings for the septic and house sites shall be supplied.
8. The applicant shall provide for a second access point to the development.
9. The applicant shall provide for road connections to the neighboring properties to the north and west. Future road connections do not count towards the open space.
10. The open space area should be redesigned to meet Town Code Requirements.
11. Park dedication shall be paid.
12. All other comments from the Planning Commission and Town Board shall be addressed.

Alison Harwood, Director of Natural Resources with WSB, reviewed the application with respect to the environmental elements as well as with respect to Washington County's code and May Township's code. The parcels are heavily wooded, with steep slopes and a portion of the property is within the county's Shoreline District. The Carnelian-Marine-St. Croix Watershed District governs Willow Brook, which is in the northeast corner of the property, which this project would impact as well. Harwood noted that parts of the application layout are not meet by the county's code nor the town's code. She highlighted the steep slopes on the property and how more information is needed to determine if that portion can be calculated towards the percentage of open space. There is a need for an open space management plan, which she has not seen submitted. She reiterated Sparks' findings.

Erichson noted that engineering comments are consistent with Sparks' comments, as well as comments received from Washington County. Erichson did want to highlight site access. Comments in the past by the applicant state access of Highway 95 could not be done safely. Erichson does not agree with that statement as there is more than enough area to selection from to find an access point. There would not be impediments to adding turn lanes. Discussions with MnDot are ongoing. Further, Erichson appreciates the applicant offering an emergency access point off St. Croix Trail via the existing roadway easement, however, the township would need to maintain. Also, the town needs to research the terms of the road easement to see if this is a viable option, i.e., dedication to the township for use. Regarding stormwater management, the applicant provided a general plan which shows rough grades to streets to show how the streets would be graded. These will need to meet the Watershed District's requirements regarding rate control, volume control and runoff rates.

Arnason offered the applicant to make brief comments. Richard Dana thanked the township for their consideration of the application. The concept plan grew out of the Dana's commitment of preserving the property. They had an opportunity to sell the property to a variety of buyers; however, Dana wanted this development to keep the property intact. Over the past few months, the developer has been refining the updating the concept plan and at each stage, Dana said they have remained determined that it is a responsible and respectable concept plan. Regarding Sparks' reiteration to the Planning Commission of the review criteria for a concept plan, Dana believes the proposal complies with each and, according to Dana, is a matter of "interpretation." There are many details that will be flushed out as this process continues and there are several issues which Dana believes can be resolved through further discussion and clarification. He is fully committed to arriving at the consensus on all issues mentioned by the township.

Dana said there are four items that need to be resolved before it makes sense to continue. They need the variances. If the subdivision is going to be accessed by a single road, the Square Lake Trail access is the only option – the amount of excavation needed is less than expected and would be a simpler process. They have considered four other options, and this is the most viable. Dana said there is no other option than to come off from Square Lake Trail. Regarding the road easement off St. Croix Trail, they have offered that as an emergency access. He said that is as close as they will get to offering something that would relieve the second access issue. Further, Dana said if they do not get the variance for a single road access, he does not see how he can continue with the concept plan.

Regarding the shoreline management district, Dana disagrees with the findings as it only effects two of the parcel which is approximately forty-five acres of the 263-acre development. He does not believe Washington County has authority over the entire development. Regarding the lot yield calculation, Dana said they are still working on this computation, which he believes might come

to a legal opinion. Dana said regarding the neighbors who felt their privacy would be invade if a trail would be close to their property line, the walking trails were placed to demonstrate what an amazing site and how much freedom there would be to follow deer paths with a woodchip trail, but because they were just drawing trails, there wasn't much thought given to where they would show up. Finally, Dana mentioned there are over "100,000 trees" on the 263-acre property. He thinks it is ideal for a secluded, private housing development.

Dana concluded if the Planning Commission can get over the four hurdles, he thinks they are well on their way to move forward with the development and continuing to work with the township to resolve all issues.

Otterson asked Sparks and Erichson what the size of the lots that are currently listed as containing open space would be if the proposed open space was taken out of the equation? Dana answered that the open space is not on any of the lots. The developer was showing that the tree line comes so far up the bluff, and they wanted to guard through preservation and the protected area would not just be shown in the open space. Arnason noted the shaded part that shows up on the drawing within the boundaries of the lots and thus outside of the designated open space, is this wooded area or steep slope area? Dana replied it is heavily wooded area, not steep slope. Dana described it as "icy on a cupcake" wherein going slowly over the edge and dropping down the steep slope. Sparks said there are deductions from what the net area of a lot are and what Mr. Otterson was asking is that some of those areas that are of steeper slopes could not count as the lot area and ensuring that those lots meet that minimum size of the net buildable area. Sparks tried to measure, and some of the lots appear to be close to losing significant net buildable area. Sparks said this is something that would need to be vetted at if this was to go to the preliminary plat stage.

Rolf said one of the conditions of continuing the Public Hearing from the February 24, 2022 meeting was to allow the developer to complete the submittable package/content needed pursuant to the Town Code to the township wherein town staff would have adequate time to review and make recommendations. He wanted to know if that occurred. Sparks said he had several discussions with the developer since the February 24, 2022 meeting. The developer submitted a concept drainage plan and a slightly revised concept plan overall and provided a narrative describing their intent of the open space. Sparks said had this application just been submitted to staff, within the 15-day review period, staff would have asked for more detail on what the intent and use of the open space area would be. That is an element that is missing. There should be a conceptual plan submitted for the open space to allow staff and the Planning Commission to know intent.

Peterson asked if an open space development gets a 25% bonus but with the two issues of a single access point and more than 20 homes on this cul-de-sac in addition to the length of the road being

excessive, does it justify giving the open space development the 25% bonus? Snyder responded that since the application is asking for variance approval, it is inherently discretionary for the Planning Commission and the Town Board. Therefore, the question as to whether it should be approved at all or whether the bonus should be granted considering the other needs presented by the variances is one that only the Planning Commission and Town Board could reach the correct conclusion.

Otterson asked Sparks, based on the variance for the number of lots, if the development had 20 lots as opposed to the proposed 32, there would not be an issue? Sparks replied that if the developer had the same layout and configuration with 20 lots, the road is an issue and the number of lots on the road are issues, not necessarily one.

Otterson asked Erichson, from an engineering standpoint, if the property had 20 lots, would that be allowable with two access points? Erichson responded that the original plan showed two access points (St. Croix Trail and Square Lake Trail) but that changed with the follow up plans. Access off St. Croix Trail would be less invasive due to the grading needed for access off Square Lake Trail. Nevertheless, the developer has show plans that both accesses could be constructed in a grade that would be consistent with what Town Code maximum grading would allow.

Arnason asked if the applicant would have an access road like what is currently proposed in the latest design and in addition, if they were to have an access road coming off St. Croix Trail, would there still not be a concern about cul-de-sac exceeding the length? Erichson responded that earlier on, town staff had commented on what would work well, two accesses that would loop around and not connect at the front. If there are two sperate loops, it would not be subjected to the half mile length limit. Sparks wanted this to be clear – there could be variables that could happen in the future regarding the access point to the north property as we do not know what the future holds. This needs to be taken into consideration as well. Arnason asked for clarification – if the access road off St. Croix Trail is joining up with the loop road, if it connected with the access road coming off Square Lake Trail before it got to the loop, then the distance from that point of connection around the loop would be considered a cul-de-sac. Sparks agreed.

Nelson asked for clarification on the number of lots that have access to the open space and whether it is compliant on the current proposal. Harwood replied that pursuant to the Town Code, at least 70% of the lots needs to abut the open space on at least one side. 100% of the lots need to have access via easement. At this point, town staff do not have enough information to determine as there are discrepancies on what should be considered contiguous open space.

Nelson asked who would maintain the development's road – Sparks responded that it would be private and not maintained by the township. How do we ensure that the existing easement road

proposed for emergency access is something the town can maintain in its current condition or what would be needed to get that to a standard for the township to maintain? Sparks responded that regarding that road (easement driveway) currently used to access the property, the town would need to determine what needs to happen to bring that road up to town standards to guarantee it to be able to be used by emergency vehicles at times. That may require additional surfacing, maintenance requirement, and snow removal. Unfortunately, the details have not been completed. The township would need to have their own easement over that driveway easement to make it a true emergency access.

Arnason opened comments to the public at 8:19 p.m. He noted the township has received numerous comments from the public, copies of which are attached to these minutes.

Eric Morin lives at 13910 St. Croix Trail North. Regarding the open space issue, he is supportive of how it creates the ring with the buffer. He appreciates more space between the houses. The private road that has been discussed with the driveway easement, Morin is one of the owners of said driveway and he is responsible for the maintenance. He has concern with burden and liability of allowing the development to use this driveway easement. He is not interested in having the private road improved. Additional burden on homeowners of the easement should not take place to satisfy the development's lack of two entrances elsewhere.

Eric Erenz lives at 16735 Square Lake Trail North. He was unable to attend the meeting and asked that his comments be read into the record. "What about the rules - May Township has rules that govern development. Rules, that over time, many others have had to live by. There is also an exception process as it is reasonable to encounter situations where an exception to a rule is reasonable. At best count, the proposal for 'The Clearings at Arcola Tree Farm' development requires at a minimum the following four (4) exceptions: 1. Exception to # of access roads — two (2) access points are required based on the size/scope of the development - per Code; 2. Exception to length of roadway - the temporary cul-de-sac road is significantly greater than permissible length - per Code; 3. Exception to standards & requirements for 'Open Space Design' - per Town Planner/Engineer review - per Code; and 4. Exception to # of total units (per density standards re: non-compliance per above) — per Code. My primary concern is that to my knowledge, the PC has never mentioned trepidation with the list of exceptions, and by remaining silent and not setting expectation, now I am inflicted with anxiety around what could be considered here. Will all the exceptions be granted? Are there more? And if/when they surface will they too be considered without reservation? Are the rules governing development no longer enforced in May? Who is representing my concerns and holding those who wish to develop in May accountable? I would expect the PC to make a statement along the lines of 'your proposal, as it stands, with the exceptions clearly identified, cannot be approved. We suggest you work to develop a proposal which has significantly less exception and the PC will give that proposal serious consideration.'

This or something like it has been said, somewhere, but I have not heard it, and the momentum of the discussion around this development does not exhibit something like or at least heard.”

Dodie Sauber lives at 16750 Square Lake Trail North. She believes there has been a misunderstanding or misperception that an entrance point to this development cannot be off St. Croix Trail. Where does it say that this is not possible? Erichson did an excellent job explaining that an entrance point could be off St. Croix Trail. Sauber believes two access roads elevates a sizable portion of the developer’s variance requests. Further, she loves the land and all the ecological offers but believes the current concept plan is not the right one for this property.

Tom Niedzwiecki lives at 14317 St. Croix Trail North. He fully supports the concept plan and urge approval of the concept because he thinks there is going to be a lot of changes when this moves forward.

Raymond Judge lives at 13900 St. Croix Trail North. He lives on the private road where the developer wants to make it an emergency access point to the development. Judge has lived in the area 48 years and the people on the private road maintain the roadway. He is concern about the water quality and water level in the area. He is concerned about wells going dry from inundation of well drilling. He is also concerned about the water level in Square Lake and if that might be tapped into and reduce the water. He also mentioned the piliated woodpeckers in the area and his fear of their habitat being disturbed.

Ann Warner lives at 24 Moonlight Bay. From a May Township perspective, does this high-density concept plan fit with goals and plans? With the number of variance requests, if these are granted, what will stop the rest of the high-density concept plans from being allowed variances to work outside the Town Code/Comp Plan? She believes this plan not appropriate for May Township. Further, she understands it is a beautiful piece of land and the developers are trying to do the right thing, but she also hears a lot of obstacles and indifference from neighbors and residents regarding the validity.

Leslie and Tim Forman live at 13930 St. Croix Trail North. They live off the private road that the developer would like to turn into an emergency access to the development. They are not interested in traffic on their private road/driveway.

Phil Wendt lives at 13490 St. Croix Trail. When St. Croix Trail was rebuilt, the state noted a wetland on his property. He has concerns regarding this. Further, he has concerns with increase strain on the US Postal Service. He is concerned about the number of trees that will be eliminated from this development.

Cheryl Bennett lives at 16624 Square Lake Trail. Her concern is with the multiple variances. By allowing these variances, what precedence will be allowed going forward? The Town Code/Comp Plan are there for a reason. If they should not be granted any bonuses if they are asking for multiple variances. Where do we stand financially with this developer? Tibbetts replied that the developer submitted escrow and that has been used up – she will be sending the developer a bill as of March 31, 2022 for the amount due and owing.

Arnason closed the Public Hearing in his authority as chair without objection at 8:40 p.m.

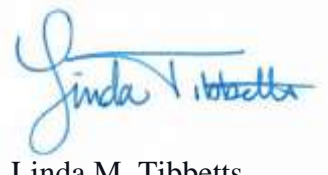
Otterson moved, seconded by Rolf, to recommend denial of the concept plan based on the following findings:

1. The Concept Plan is not consistent with the goals, objectives, and policies of the Town's Comprehensive Plan.
2. The Concept Plan is not consistent with the purpose, goals, objectives, policies, and development standards of the Town's Zoning and Subdivision Ordinances for an Open Space major subdivision.
3. The Concept Plan presented an open space area that was not constituted in a substantial contiguous block, was being degraded by heavy excavation, and the Applicants did not supply sufficient information related to the purpose, use, and maintenance of the open space area.
4. The proposed Concept Plan does not have adequate access for the number of lots proposed, as the plan presented a temporary cul-de-sac that unreasonably exceeded the standards for length and units established by the Town Code.
5. The Concept Plan included a density bonus while not clearly meeting the criteria for an open space subdivision, as required by the Town Code and Comprehensive Plan.
6. The Concept Plan was inconsistent with Washington County standards for an Open Space Development in Chapter 2, Section 4 of the Washington County Development Code.

By Roll Call Vote: Arnason: YES; Rolf: YES; Peterson: YES; Nelson: YES; Alternate Otterson: YES; Alternate Nesse: Yes. Motion passed.

Chair Arnason adjourned the meeting without objection at 8:53 p.m. in his authority as chair of the Planning Commission.

Respectfully submitted,

A handwritten signature in blue ink that reads "Linda M. Tibbetts". The signature is written in a cursive style with a large initial "L" and a horizontal line extending across the top of the name.

Linda M. Tibbetts
Clerk/Treasurer