

Business Item

Community Development Committee



Committee Meeting Date: March 4, 2024

Business Item: 2024-71

Public Hearing on the City of North Oaks Red Forest Way South Comprehensive Plan Amendment
Proposed Plan Modification, Review File 21796-3

District(s), Member(s): District 10, Peter Lindstrom

Policy/Legal Reference: Metropolitan Land Planning Act (Minn. Stat. § 473.175); PIC 2-2d Public Involvement Related to Comprehensive Plan Updates & Amendments

Staff Prepared/Presented: Eric Wojchik, Planning Analyst, Local Planning Assistance (651-602-1330)
Angela R. Torres, Senior Manager, Local Planning Assistance (651-602-1566)
Kyle Colvin, Manager, Wastewater Planning and Community Programs (651-602-1151)
LisaBeth Barajas, Executive Director, Community Development Division (651-602-1895)

Division/Department: Community Development / Regional Planning

Proposed Action

None.

This is a public hearing to hear from the City of North Oaks and other interested parties on the City's proposed comprehensive plan amendment as the Council considers whether to require the City to modify its comprehensive plan or a part thereof.

Issue

Should the Metropolitan Council find that the City's Red Forest Way South Comprehensive Plan Amendment is more likely than not to contain a substantial departure from the regional wastewater system plan?

Statutory Authority

As permitted by Minn. Stat. § 473.175, subd. 1, the Council may require a local unit of government to modify its comprehensive plan or part thereof that does not conform to a metropolitan system plan if the Council concludes that the local plan or plan amendment is more likely than not to have either a substantial impact on or to represent a substantial departure from the Council's adopted policy plans and capital budgets for a metropolitan system. In this case, the system at issue is the regional wastewater system.

Background

The City submitted the Red Forest Way South comprehensive plan amendment on June 8, 2023, and the Council found the submission incomplete for review on June 30, 2023, and September 15, 2023. The Council received supplemental information on October 19, 2023. Council staff

determined the amendment complete for review in a letter dated November 8, 2023, which also extended the review period an additional 60 days as permitted by statute to March 7, 2024. The Committee meeting schedule was shared with the City in a letter dated January 2, 2024.

The amendment proposes to expand the Metropolitan Urban Service Area (MUSA) to include properties in the Red Forest Way South development (23 parcels, with 24 sewer connections, across 72.2 net acres). The purpose of the amendment is to connect these parcels to regional sanitary sewer. The amendment would require a change from the Rural Residential Community Designation to the Emerging Suburban Edge Community Designation. Figure 1 identifies existing regional systems in the City. This is the City's second amendment to its 2040 Comprehensive Plan (2040 Plan).

Prior to finding the proposed amendment complete for review, in letters dated June 30, 2023, and September 15, 2023, Council staff advised the City of concerns of both potential conformance issues and policy inconsistencies (see attachments 1 and 2, respectively). In the Council's correspondence on November 8, 2023, and January 2, 2024, the Council advised that the proposed amendment was inconsistent with regional policy and did not conform to the regional plans for the wastewater system (see attachments 3 and 4, respectively). Additionally, Council staff met with City representatives throughout the review process in 2023, specifically April 21, July 10, September 29, and October 30, 2023, to discuss the proposed amendment, clarify questions, and relay concerns regarding the development proposal associated with the amendment.

Knowing these concerns, the City desired to proceed with the amendment. For these and the reasons documented below, Council staff recommends that the Council:

1. Find that the City's Red Forest Way South Comprehensive Plan Amendment is more likely than not to represent a substantial departure from the metropolitan wastewater system plan contained in the *2040 Water Resources Policy Plan* adopted in 2015.
2. Require the City to modify the comprehensive plan amendment.

Plan Modification Process

The process for requiring and enforcing a comprehensive plan modification includes:

1. Holding a public hearing
2. The Council's adoption of findings
3. The Council's adoption of a resolution.

The schedule for considering the City's comprehensive plan amendment is as follows:

1. March 4, 2024: Hold public hearing at Community Development Committee at 4:00 p.m.
2. March 13, 2024: Close public hearing record at 5:00 p.m.
3. March 18, 2024: Community Development Committee reviews hearing record with action forwarding recommendations to the Metropolitan Council
4. March 27, 2024: Final action by the governing body of the Metropolitan Council on the City's proposed comprehensive plan amendment

The public hearing will provide an opportunity for the City and other interested parties to present comments. The questions for the Council's consideration on this matter are:

1. Does review of the amendment follow the process described in the Metropolitan Land Planning Act?
2. Does the amendment represent a substantial departure from the regional wastewater system plan?

Documentation of Substantial Departure from the 2040 Wastewater System Plan

There are a couple of broad issues that the City must address in relationship to the plan modification:

1. Community Designation requirements



2. Minimum density requirements for sewer-serviced development

Community Designation Requirements

Thrive MSP 2040 (Thrive) identifies the City as an Emerging Suburban Edge Community and as a Rural Residential Community (Figure 2). The area of the City proposed for development is designated as Rural Residential which does not allow for the provision of regional sewer services due to the development patterns or topographical constraints that “do not support the economical extension of wastewater services” (Thrive, p. 108). In order to extend sewer service to this area as proposed in the amendment, the Council would need to agree to change this area from Rural Residential to an Emerging Suburban Edge community designation.

Emerging Suburban Edge communities are required to plan for new development and redevelopment at minimum residential densities of between 3 and 5 units per acre. The proposed development is inconsistent with the required minimum density for the Emerging Suburban Edge community designation which precludes the community designation change.

Minimum Density Requirements

The amendment proposes to connect the Red Forest Way South development to regional sewer service for 23 parcels, with 24 sewer connections, across 72.2 net acres. The proposed net density for this development is 0.33 units per acre (u/a). The proposed amendment reduces the City’s community-wide planned density from 3.0 units per acre to 2.3 units per acre, constituting a land use policy inconsistency as defined in *Thrive MSP 2040*. Additionally, the request would require an expansion of the Metropolitan Urban Service Area (MUSA) in order to receive regional services (Figure 3). The system plan for regional wastewater services does not include or foresee an extension of regional sewer service to this area within the planning horizon or beyond.

The development proposed in the amendment to connect to the regional system represents a planned underutilization of the regional wastewater system constituting a substantial departure from the Council’s adopted *2040 Water Resources Policy Plan (WRPP)* (p. 60). As further defined in the WRPP, the Council uses the density expectations defined in Thrive as the “basis for regional infrastructure planning purposes.” The density proposed in the amendment is significantly lower than the density expectations defined in Thrive. This low density along with the lack of planned regional sewer service to this area and the inconsistency of the proposal with the Emerging Suburban Edge Community designation makes this amendment more likely than not to represent a substantial departure from the metropolitan wastewater system plan.

Wastewater Service Analysis

The amendment is inconsistent with regional land use policy and constitutes a conformance issue reflecting a substantial departure from the regional wastewater system plan due to the planned underutilization of the system. In supplemental information, received August 24, 2023, the City clarifies the request for Metropolitan Urban Service Area (MUSA) extension to 23 parcels (with 24 sewer connections) on 89.55 gross acres that are proposed to be added to sanitary service as shown on Maps 16 and 17. The net total acreage of these lots is 72.2 acres, yielding a residential density of 0.33 units per acre. The density of this amendment reduces the City’s communitywide density from 3.0 units per acre to 2.3 units per acre, representing a substantial departure from the WRPP.

The City can modify its Plan to propose the new neighborhood in Red Forest Way without sewer service from the metropolitan disposal system. Without sewer service, this amendment would not require a change in community designation and would be technically acceptable and consistent with regional land use policy. This is the approach authorized by the Council, and adopted by the City, in the North Oaks 2040 Comprehensive Plan.

Thrive MSP 2040 and Land Use Analysis

Thrive MSP 2040 identifies the City as an Emerging Suburban Edge Community and as a Rural Residential Community (Figure 2). The amendment proposes to expand the Metropolitan Urban Service Area (MUSA) to include properties in the Red Forest Way South development (23 parcels, with 24 sewer connections, across 72.2 net acres, resulting in parcels approximately 3 acres in

size). The purpose of the amendment is to connect these parcels to regional sanitary sewer. The amendment would require a change from the Rural Residential Community Designation to the Emerging Suburban Edge Community Designation.

The City is unique in the region that, with few exceptions, nearly all of the land within the City is governed by the North Oaks Home Owners' Association (NOHOA). Perpetual covenants are part of all deeds and declarations since 1950, except for 14 properties, 12 of which are on the City's western border. Some neighborhoods include sub-associations that have more restrictive provisions, but they remain subordinate to the NOHOA. All roads in the City are private; and local utilities are the responsibility of the HOAs. Since 1999, the primary governing planning and regulatory document for the City is the East Oaks Planned Unit Development (PUD), which is memorialized in the Plan.

Table 1 below identifies the guiding land uses and development status for the sewered portion of the East Oaks Planned Unit Development (PUD). The PUD provides limited flexibility to reallocate units among the neighborhoods and convert commercial space in the Mixed Use districts to residential uses. The addition of 23 large previously unsewered lots, a total of 24 sewer connections (totaling 72.2 acres) yields a residential density of 0.33 units per acre. This extremely low density is 90% below the required minimum. The authorization of this amendment would reduce the communitywide net density from 3.0 units per acre to 2.3 units per acre. Emerging Suburban Edge communities are expected to plan for forecasted population and household growth at average densities of at least 3 - 5 units per acre for new development and redevelopment. The proposed amendment is inconsistent with the land use policies for the Emerging Suburban Edge Community Designation.

Table 1. Planned Residential Density (Emerging Suburban Edge), City of North Oaks

Category: Neighborhood	Status	Net Acres	Planned Units
Mixed Residential: Rapp Farm (#4)	Developed/platted	92.0	156
Mixed Use: East Wilkinson (#5)	Developed/platted	31.4	283
Mixed Residential: Anderson Woods (#6)	Developable	19.9	13
Mixed Use: Gate Hill (#7)	Under Development	29.1	73
Mixed Use: Island Field (#8)	Developable	10.1	74
Nord (addition x 2 lots)	Under Development	17.4	2
Red Forest Way South	Under Development	72.2	24
TOTALS		272.1	625
Overall Density			2.3

Housing Analysis

Minn. Stat. § 473.859, Subd. 4(3) states that local comprehensive plans must include a housing element that “will provide sufficient existing and new housing to meet the local unit's share of the metropolitan area need for low- and moderate-income housing.” At the time of comprehensive plan authorization, the City's 2040 Plan was found to be inconsistent with the Council's *Housing Policy Plan* and the Plan remains inconsistent with the *Housing Policy Plan* (Business Item 2021-341 JT, Review File No. 21976-1). The City's share of the region's affordable housing need for 2021-2030 is 68 units. This amendment does not create any further inconsistencies with housing policy. The Plan does not guide any areas for forecasted growth with land use with a minimum density above 1 unit per acre. There are no changes in this amendment to create residential land uses with high enough density to support the development of affordable housing at scale; therefore, the amendment does not inhibit North Oaks from implementing their housing element, but neither does it make any progress in ameliorating the policy inconsistency since it does not guide sufficient land to address their share of the region's affordable housing need for 2021-2030.

Approaches to Addressing Policy Inconsistencies

Council staff have suggested several options for the City to resolve the conformance and

consistency issues. These options include the following:

- As authorized in the City's 2040 Comprehensive Plan, develop Red Forest Way South at proposed densities on individual subsurface sewage treatment systems (SSTS) within the current Rural Residential Community Designation.
- Identify areas within the sewered portions of the City to increase planned residential densities to offset the decrease in density in the Red Forest Way South area to retain the overall minimum 3.0 units per acre required density for new development and redevelopment areas.
- Revise the amendment to propose densities for Red Forest Way South that are consistent with sewered densities within the Emerging Suburban Edge Community Designation at a minimum of 3 - 5 units per acre.

The attached Table 2 describes in more detail the specific sections of the proposed amendment that would need to be modified in order for the 2040 Plan to conform to the regional system plan.

The Council recognizes the City's desire for flexibility, and staff have indicated a willingness to work with the City on this challenge. However, it is a statutory requirement for all communities to conform to metropolitan system plans, and the City has been advised that any changes to planned densities in the City's 2040 Plan must be reviewed and authorized by the Council for system conformance prior to local implementation, as required by sections 473.175, 473.858, and 473.864 of the Metropolitan Land Planning Act.

As permitted by Minnesota Statutes section 473.175, subdivision 1, the Council may require a local governmental unit to modify any comprehensive plan or part thereof that is inconsistent with the metropolitan system plan if the Council concludes that the local plan is more likely than not to have either a substantial impact on, or to contain a substantial departure from, the Council's adopted metropolitan system plans. As explained above, the proposed amendment constitutes a departure from regional wastewater system plans and is inconsistent with regional land use policy.

Rationale

The proposed amendment does not conform to the *2040 Water Resources Policy Plan (WRPP)* for sewered development and is inconsistent with regional land use policies for the Emerging Suburban Edge Community Designation. The amendment is also inconsistent with regional housing policy. The amendment conforms to regional system plans for regional parks and transportation. The amendment is compatible with the plans of other local communities and school districts.

To address conformance issues, the Council is enabled by statute to proceed with steps to require the city to modify its comprehensive plan and amendments thereto (Minn. Stat. 473.175, subd. 3).

Thrive Lens Analysis

The proposed amendment is reviewed against the land use policies in *Thrive MSP 2040*. To achieve the outcomes identified in Thrive, the metropolitan development guide defines the Land Use Policy for the region and includes strategies for local governments and the Council to implement. These policies and strategies are interrelated and, taken together, serve to achieve the outcomes identified in Thrive. As described in the body of this report, the proposed amendment does not conform to and is not consistent with the adopted plans and policies of the Council.

Funding

None.

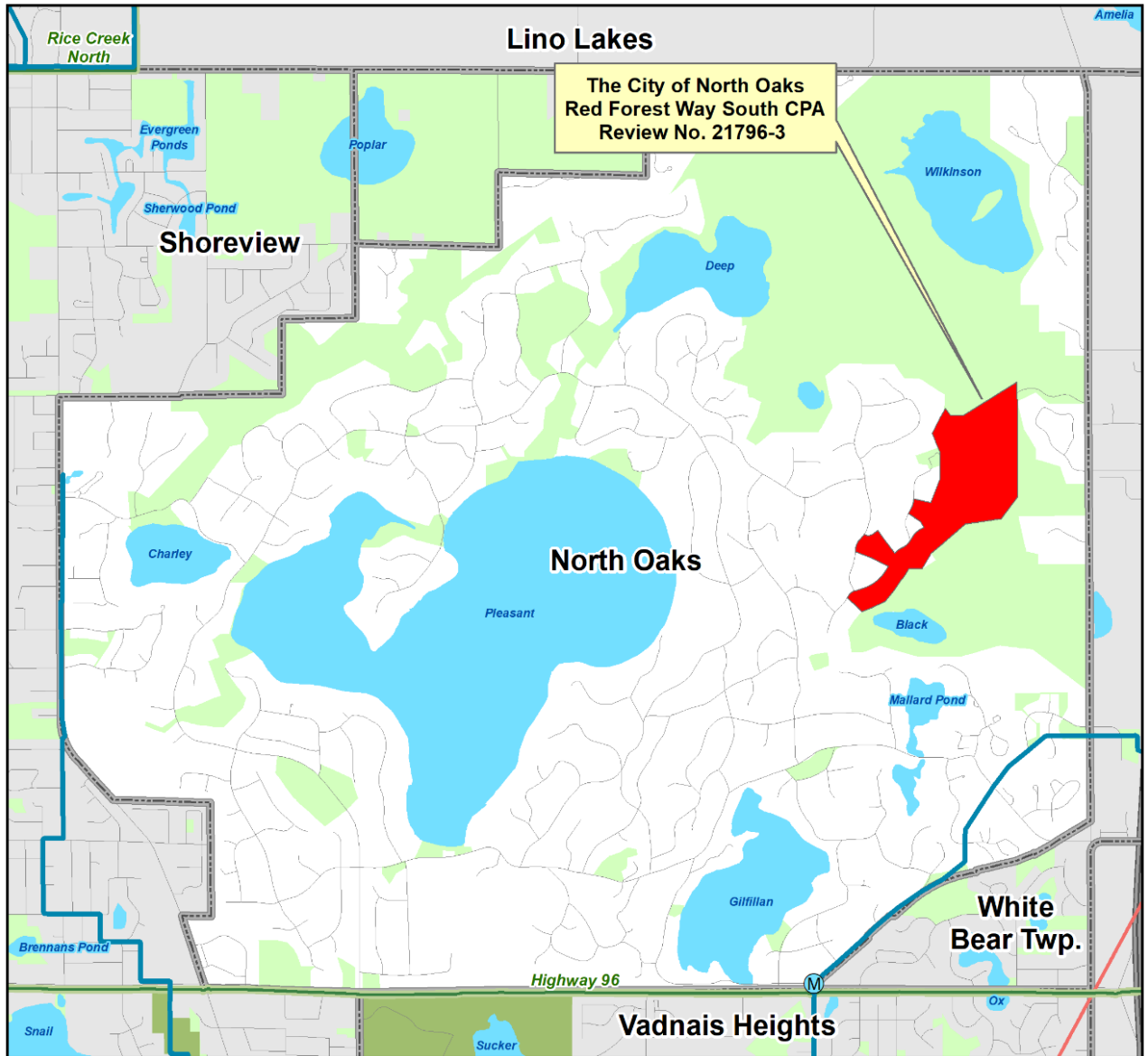
Figure and Attachments

- Figure 1: Location Map Showing Regional Systems
Figure 2: Location Map Showing Community Designations

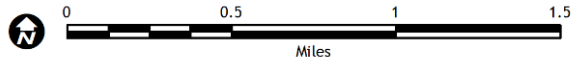
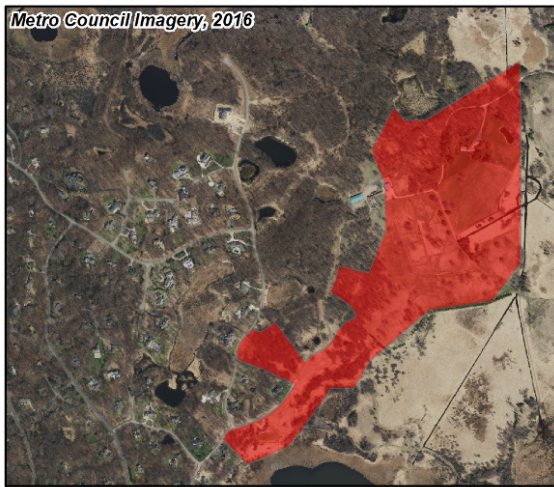
Figure 3:	Location Map showing Metropolitan Urban Service Area (MUSA)
Attachment 1:	Incomplete for Review letter, dated June 30, 2023
Attachment 2:	Incomplete for Review letter, dated September 15, 2023
Attachment 3:	Complete for Review letter, dated November 8, 2023
Attachment 4:	Committee Meeting Dates and Conformance/Consistency Issues, dated January 2, 2024
Table 2:	Text Changes required to bring the 2040 North Oaks Comprehensive Plan into conformance with the 2040 Water Resources Policy Plan and consistency with regional land use policy



Figure 1. Location Map Showing Regional Systems



Metropolitan Council



Regional Systems

Regional Transitways

- Existing
- Planned Current Revenue Scenario
- Planned Current Revenue Scenario - CTIB Phase 1 Projects
- Potential Increased Revenue Scenario

Wastewater

- Meters
- MCES Interceptors
- Lift Stations
- MCES Treatment Plants

Regional Highway System

- Interstates
- US Highways
- State Highways
- County Roads
- Road Centerlines

Regional Parks

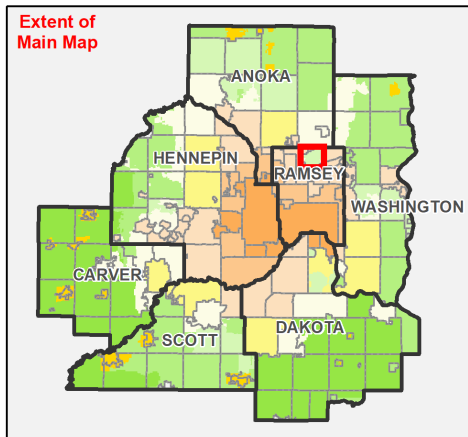
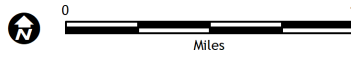
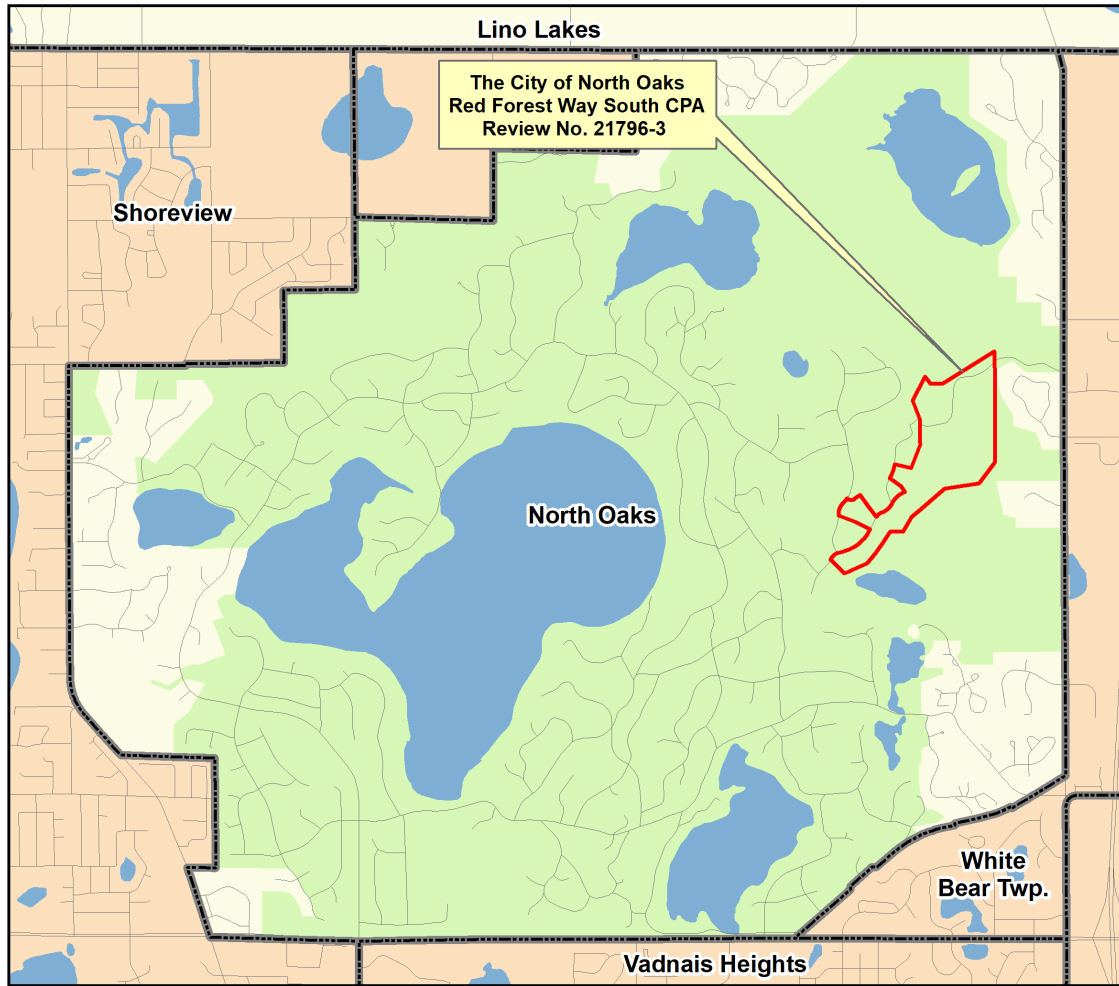
- Existing (Open to Public)
- In Master Plan (Not Open to Public)
- Planned Units
- Other Parks, Preserves, Refuges and Natural Areas

Regional Trails

- Existing (Open to Public)
- Existing (Not Open to Public)
- Planned Regional Trails
- Regional Trail Search Corridors

Figure 2. Location Map Showing Community Designations

This amendment includes a proposed change to the Community Designation from Rural Residential to Emerging Suburban Edge.



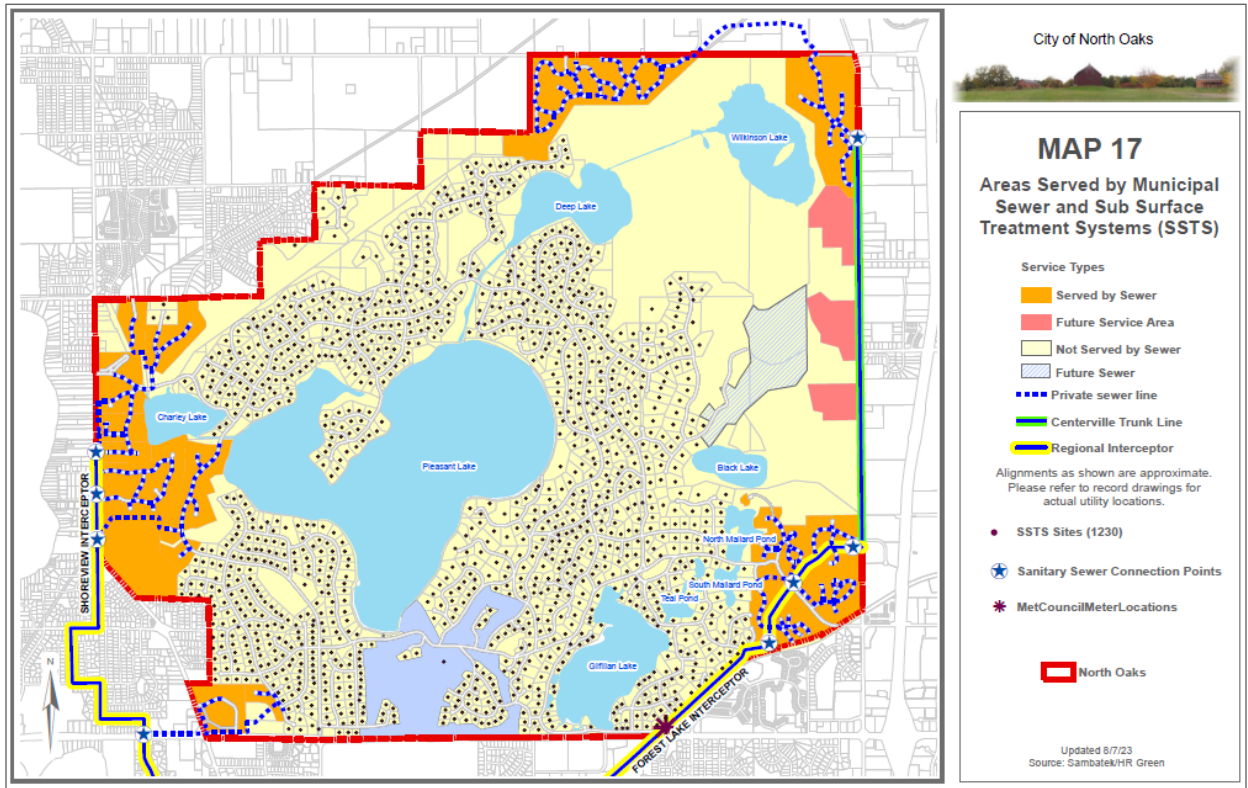
ThriveMSP 2040 Community Designations

- Agricultural
- Rural Residential
- Diversified Rural
- Rural Center
- Emerging Suburban Edge
- Suburban Edge
- Suburban
- Urban
- Urban Center



Figure 3. Location Map Showing Metropolitan Urban Service Area (MUSA)

The amendment area (shaded gray) is proposed to be included in the 2030 MUSA.



Attachment 1. Incomplete for Review letter, dated June 30, 2023



June 30, 2023

Kendra Lindahl, City Planner
City of North Oaks
100 Village Center Drive, Suite 230
North Oaks, MN 55127

RE: City of North Oaks – Red Forest Way South Comprehensive Plan Amendment – Incomplete for Review
Metropolitan Council Review File No. 21796-3
Metropolitan Council District No. 10

Dear Kendra Lindahl:

The Metropolitan Council received the City's Red Forest Way South comprehensive plan amendment for review on June 8, 2023. Council staff finds that parts of the plan amendment submittal are incomplete and further review has been suspended pending receipt of the following:

Wastewater (*Roger Janzig, roger.janzig@metc.state.mn.us*)

Comprehensive plan amendments require accurate project site acreages, spatial reference, and residential units to assess impacts on the regional wastewater system. However, please note that the amendment may constitute a potential conformance issue reflecting a substantial departure from the regional wastewater system plan due to the planned underutilization of the system.

Land Use (*Eric Wojchik, 651-602-1330*)

The map revisions within the amendment appear to detail inconsistent acreages and number of units subject to a Metropolitan Urban Service Area (MUSA) boundary and Community Designation change (see Forecast comments).

Advisory Comments

Prior to the submittal of this amendment, the 2040 Plan's average minimum communitywide density stands at 3.0 units per acre, consistent with regional land use policy. Due to the proposed density (at 0.23 units per acre (u/a)), this amendment will significantly reduce the City's average communitywide density resulting in an inconsistency with regional land use policy. If the 2040 Plan does not adequately reflect planning for minimum densities required for sewer service, this may constitute a potential conformance issue.

Forecasts (*Todd Graham, 651-602-1322*)

The map revisions within the amendment detail inconsistent acreages and number of units subject to a MUSA boundary and Community Designation change. Four maps found in submittal materials provide four different spatial areas to be added, and the maps dated "6/1/2023" are not internally consistent with one another:

- Map 16, "Updated 6/1/23", indicates "Future [Sewer] Service Area" that includes Land Survey #561 tract F (approx. 45 acres, 2 residential lots planned), Land Survey #640 tracts A thru R (approx. 105 acres, 33 residential lots), and two unidentified parcels on the north side of Black

Lake (approx. 10 acres, 2 lots). Summary: 37 residential units on 160 acres; density of 0.23 u/a.

- Map 17, "Updated 6/1/23", indicates a conflicting "Future [Sewer] Service Area" that includes Land Survey #561 tract F (approx. 45 acres, 2 residential lots planned), a subset of Land Survey #640 tracts D,F,G,H,I,R (approx. 60 acres, 22 residential lots), and two unidentified parcels on the north side of Black Lake (approx. 10 acres, 2 lots). Summary: 26 residential units on 115 acres; density of 0.23 u/a. This map is inconsistent with the previous map.
- Alternative Map 16 (as well as Map 17), from "5-10-21", indicates "Future [Sewer] Service Area" that includes Land Survey #561 tract F (approx. 45 acres, 2 residential lots planned), Land Survey #640 tracts A thru R (approx. 105 acres, 33 residential lots). Summary: 35 residential units on 150 acres; density of 0.23 u/a.
- Figure 7 in planning report dated May 31, 2023, indicates a "revised sewer request" that includes Land Survey #561 tract F (approx. 45 acres, 2 residential lots planned), and a subset of Land Survey #640 tracts D,F,G,H,I,R (approx. 60 acres, 22 residential lots). Summary: 24 residential units on 105 acres; density of 0.23 u/a.

The descriptive text of the City's resolution action, May 31, 2023, is most consistent with the Figure 7 map. Assuming this is the MUSA extension the City requests, none of the information on Maps 16 and 17 are sufficiently accurate to be authorized by the Metropolitan Council.

Advisory Comments:

The City wants MUSA extended to a new neighborhood with 24 to 35 additional homes. If the amendment was consistent with regional policy, this would add 24-35 households to the sewer-serviced forecast. The City needs to clearly request the intended number, for completeness of forecast content.

Development yielding at least 3 units per acre is needed to conform to regional policy. The density proposed in the plan amendment appears to be 0.23 units per acre – below the required minimum.

Water Supply (*John Clark, 651-602-1452*)

The amendment is inconsistent with Water Resources Policy Plan (WRPP) policies regarding water supply. North Oaks is primarily served by private wells and therefore is not required to complete a local water supply plan (LWSP); however, as North Oaks receives water supply from White Bear Township, the LWSP for White Bear Township should be attached to the community's comprehensive plan update and referenced in amendments that will be served by the Township's public supply system. This would ensure that North Oaks' water demand can be met. The amendment does not provide information that indicates the Township will have the water available to meet the additional demand or if their LWSP will require updating with the MN DNR for this development. This information is necessary prior to further Council review.

Advisory Comments

The proposed changes and additional development propose to use water supplied by White Bear Township. The following is stated under the Joint Powers Agreement:

"The installation and operations of the requested sewer and water system would require the City to amend the existing Joint Powers Agreement (JPA) with White Bear Township. North Oaks Company has started this conversation with White Bear Township and plans to have a meeting with the Township once there are more detailed engineering plans available. Initial conversations with White Bear Township indicate White Bear Township is willing and able to extend municipal water and sanitary sewer services to Red Forest Way South."

Comments provided by White Bear Township state:

1. *Water supply – The proposed watermain through RLS 561, 637, and 640.*
 - *The 8” watermain connection to Island Field appears to be connecting to the sanitary sewer line.*
 - *The 6” watermain connection to Gate Hill is recommended to be 8” watermain.*
 - *The City of North Oaks should consider installing a larger water feed from Centerville Road, either a 12” or 16” pipe for future expansion. Exhibit 4 shows some more area being served between Anderson Woods and Gate Hill that is not identified on Exhibit 6.*
 - *No documentation was provided showing water pressures or supply capacity for residential usage or fire protection.*
2. *The Town’s water supply has pending litigation regarding White Bear Lake levels that may impact this proposed expansion.*
3. *The Town has sent the City of North Oaks notification of termination of the existing water agreement.*
4. *Agreements defining usage, capacity and maintenance will be necessary.*
5. *Due to the items listed above, it appears that the proposed project has significant item to address before moving forward.*
6. *This is only a preliminary review of items that need to be addressed before any formal recommendations or actions can be made.”*

The community should refer to White Bear Township’s LWSP when planning for water supply that will be provided by the Township. The City states that current agreements with White Bear Township will need to be modified to supply water to the development. White Bear Township states that notification has been provided that the current joint powers agreement will be terminated. At present, the source for water needed to supply the development is uncertain. The amendment does not provide information that indicates the Township will have the water available to meet the additional demand or if their LWSP will require updating with the MN DNR.

Restrictions placed on the White Bear Township water supply system by the MN DNR regarding sustainable water management around White Bear Lake may limit the amount of water available for this development. Strategies to use water efficiently in residential homes and outdoors through water efficient landscape design should be considered in development planning.

Council staff would welcome a meeting with the consultant planner and City staff to further discuss this letter and how best to accommodate requirements for completeness and other potential policy inconsistencies or system conformance issues. If you would like to schedule a meeting, feel free to reach out to Eric Wojchik, Principal Reviewer, at 651-602-1330 or via email at Eric.Wojchik@metc.state.mn.us.

Sincerely,



Angela R. Torres, AICP, Senior Manager
Local Planning Assistance

CC: Peter Lindstrom, Metropolitan Council District No. 10
Eric Wojchik, Sector Representative/Principal Reviewer
Reviews Coordinator

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Attachment 2. Incomplete for Review letter, dated September 15, 2023



September 15, 2023

Kendra Lindahl, City Planner
City of North Oaks
100 Village Center Drive, Suite 230
North Oaks, MN 55127

RE: City of North Oaks – Red Forest Way South Comprehensive Plan Amendment – Incomplete for Review

Metropolitan Council Review File No. 21796-3
Metropolitan Council District No. 3

Dear Kendra Lindahl:

The Metropolitan Council received the City's Red Forest Way South comprehensive plan amendment for review on June 8, 2023, found incomplete on June 30, 2023, and received supplemental information on August 24, 2023. Council staff finds that parts of the plan amendment submittal remain incomplete and further review has been suspended pending receipt of the following:

Water Supply (*John Clark, 651-602-1452*)

The amendment is inconsistent with *2040 Water Resources Policy Plan (WRPP)* policies regarding water supply. North Oaks is primarily served by private wells and therefore is not required to complete a local water supply plan (LWSP); however, as North Oaks receives water supply from White Bear Township, the LWSP for White Bear Township should be attached to the community's comprehensive plan update and referenced in amendments that will be served by the Township's public supply system.

The amendment requests authorization in lieu of a joint powers agreement for water service with White Bear Township. The amendment does not provide any information from White Bear Township indicating that the Township is willing and able to provide water service to the additional properties, nor does the amendment provide the White Bear Township Local Water Supply Plan indicating that the additional demand can be met by the Township's water supply system.

These two pieces of information, that clearly indicate that service will be made available to these parcels and that the demand for water supply services can be met by the supplying system, are critical and required components for the water supply policy consistency of the amendment. These pieces of information help to ensure the water demands of development can be addressed without causing undue harm or stress to water supply resources and service providers.

In lieu of a joint powers agreement being in place, a letter from White Bear Township indicating that they can and will provide water supply services to the affected parcels may suffice.

Advisory Comments

The below items are provided to the City as they consider how they will proceed with the proposed amendment. These items are not incomplete items, but items that the City should be aware of as it pertains to consistency and conformance with regional plans.

Land Use (Eric Wojchik, 651-602-1330)
Wastewater (Roger Janzig, roger.janzig@metc.state.mn.us)

The amendment is inconsistent with regional land use policy and may constitute a potential conformance issue reflecting a substantial departure from the regional wastewater system plan due to the planned underutilization of the system. In supplemental information, received August 24, 2023, the City clarifies the request for Metropolitan Urban Service Area (MUSA) extension to 23 parcels (with 24 sewer connections) on 89.55 acres that are proposed to be added to sanitary service as shown on Maps 16 and 17. The [net] total acreage of these lots is 72.25 acres, yielding a residential density of 0.32 units per acre. The development needs to yield a residential density of at least 3 units per acre to be consistent with regional land use policy. The density of this amendment is proposed at 0.32 units per acre, which reduces the City's communitywide density from 3.0 units per acre to 2.2 units per acre, representing a land use policy inconsistency.

Additionally, this area of the City is designated in *Thrive MSP 2040* as Rural Residential which does not allow for the provision of regional sewer services. In order to extend sewer service to this area as proposed in the amendment, the Council would need to agree to change this area from Rural Residential to a Suburban Edge community designation. Suburban Edge communities are required to plan for new development and redevelopment at minimum residential densities of between 3 and 5 units per acre. The proposed development is inconsistent with the required minimum density for the Suburban Edge community designation.

The City can modify its Plan to propose the new neighborhood in Red Forest Way without sewer service from the metropolitan disposal system. Without sewer service, this amendment would not require a change in community designation and would be technically acceptable and consistent with regional land use policy.

Forecasts (Todd Graham, 651-602-1322)

The City offers that the plan amendment does not affect forecasts. Council staff find that the amendment would entail additional sewer-served households and population served by the metropolitan disposal system. If the amendment was determined to conform with regional system plans and was consistent with regional policy, a sewer-served forecast revision would be required.

Housing (Olivia Boerschinger, 651-602-1327)

Council staff encourage the City to guide land at higher minimum densities to be found consistent with the Council's Housing Policy Plan. Communities inconsistent with Council housing policy will be unable to enroll in Livable Communities Act programs.

After the supplemental information is received and evaluated, if staff finds the plan complete the Council's review process will be restarted.

If you have any questions about the information requested in this letter or about the review process, contact the technical reviewers directly, or Eric Wojchik, Principal Reviewer, at 651-602-1330 or via email at eric.wojchik@metc.state.mn.us.

Sincerely,



Angela R. Torres, AICP, Senior Manager
Local Planning Assistance

CC: Peter Lindstrom, Metropolitan Council District No. 10
Eric Wojchik, Sector Representative/Principal Reviewer
Reviews Coordinator

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Attachment 3. Complete for Review letter, dated November 8, 2023



November 8, 2023

Kendra Lindahl, City Planner
City of North Oaks
100 Village Center Drive, Suite 230
North Oaks, MN 55127

RE: City of North Oaks – Red Forest Way South Comprehensive Plan Amendment – Complete for Review
Metropolitan Council Review File No. 21796-3
Metropolitan Council District No. 10

Dear Kendra Lindahl:

The Metropolitan Council received the City's Red Forest Way South comprehensive plan amendment on June 8, 2023 and found the submission incomplete for review on June 30, 2023 and September 15, 2023. Most recently, the Council received supplemental information on October 19, 2023. The amendment proposes to expand the Metropolitan Urban Service Area (MUSA) to include properties in the Red Forest Way South development (23 parcels, with 24 sewer connections, across 72.25 net acres). The purpose of the amendment is to connect these parcels to regional sanitary sewer. The amendment would require a change from the Rural Residential Community Designation to the Emerging Suburban Edge Community Designation. Council staff finds the proposed amendment complete for review.

As we have discussed in our most recent meeting on October 30, 2023 and detailed in our email correspondence dated November 1, 2023, the amendment as proposed constitutes a conformance issue reflecting a substantial departure from the regional wastewater system plan. The amendment also creates a consistency issue with regional land use policy. If the City would like to take a different approach, options for delaying the schedule are available. Council staff are amenable to discuss potential alternatives to address the issues that we have raised. Council staff continue to be committed to working with the City to explore alternatives that are in conformance with regional system plans and consistent with regional policies.

Under Metropolitan Council comprehensive plan amendment review procedures, outlined in the *Local Planning Handbook*, the Council has 60 days to complete its formal review of the amendment. The 60-day period ends on January 7, 2024. To allow for work on resolving the potential conformance and consistency issues, the Council is extending the review period for an additional 60-day period as permitted by statute. This extends the review period to March 7, 2024.

Staff will notify you when dates for the review schedule are finalized and forward a copy of the staff report for review when it is mailed to the Council's Community Development Committee. If

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you have any questions regarding the review, please contact Eric Wojchik, Principal Reviewer, at 651-602-1330 or via email at Eric.Wojchik@metc.state.mn.us.

Sincerely,

A handwritten signature in blue ink that reads "Angela R. Torres". The signature is written in a cursive, flowing style.

Angela R. Torres, AICP, Senior Manager
Local Planning Assistance

CC: Peter Lindstrom, Metropolitan Council District No. 10
Kyle Colvin, Metropolitan Council Environmental Services
Eric Wojchik, Sector Representative/Principal Reviewer
Reviews Coordinator

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Attachment 4. Committee Meeting Dates and Conformance/Consistency Issues with dates, dated January 2, 2024



January 2, 2024

Kendra Lindahl, Consulting City Planner
City of North Oaks
100 Village Center Drive, Suite 230
North Oaks, MN 55127

**RE: City of North Oaks – Red Forest Way South Comprehensive Plan Amendment –
Committee Meeting Dates & Conformance/Consistency Issues
Metropolitan Council Review File No. 21796-3
Metropolitan Council District No. 10**

Dear Kendra Lindahl:

The Metropolitan Council received the City's Red Forest Way South comprehensive plan amendment on June 8, 2023, and found the submission incomplete for review on June 30, 2023 and September 15, 2023. The Council received supplemental information on October 19, 2023. Council staff determined the amendment complete for review in a letter dated November 8, 2023, which also extended the review period an additional 60 days as permitted by statute to March 7, 2024.

The amendment proposes to expand the Metropolitan Urban Service Area (MUSA) to include properties in the Red Forest Way South development (23 parcels, with 24 sewer connections, across 72.25 net acres). The purpose of the amendment is to connect these parcels to regional sanitary sewer services. The amendment would require a change from the Rural Residential Community Designation to the Emerging Suburban Edge Community Designation.

As we have discussed throughout the review process and in our most recent meeting on October 30, 2023, detailed in our email correspondence dated November 1, 2023, and in our complete for review letter dated November 8, 2023, the amendment as proposed constitutes a conformance issue reflecting a substantial departure from the regional wastewater system plan. Regional system plans do not include extension of regional sewer service to this area. Further, the proposed net density for this development is 0.32 units per acre (u/a). The amendment would reduce the overall city-wide density for land with regional wastewater services from 3.0 u/a to 2.2 u/a.

The current Community Designation for Red Forest Way South is Rural Residential which precludes the provision of regional sewer service. The City has proposed a Community Designation change to the Emerging Suburban Edge Community Designation. However, the Council's regional development guide, *Thrive MSP 2040* requires an overall minimum net residential density of 3.0 units per acre within the Emerging Suburban Edge Community Designation for all planned new development and redevelopment areas. The amendment, as proposed, would constitute a departure from regional wastewater system plans and is inconsistent with regional land use policy.

This reduced density constitutes a conformance issue reflecting a substantial departure from the regional wastewater system plan, as outlined in the Council's *2040 Water Resources Policy Plan*. The Council's *2040 Water Resources Policy Plan* (amended 2018) p. 60 states:

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Local comprehensive plans and plan amendments that have substantial impacts on — or contain substantial departures from — the metropolitan wastewater system plan affect how the Council constructs, operates, and maintains the regional wastewater system and can result in system inefficiencies if the nonconforming plans are allowed to be implemented.

Council staff have suggested several options for the City to resolve the conformance and consistency issues. These options include the following:

- As authorized in the City's 2040 Comprehensive Plan, develop Red Forest Way South at proposed densities on individual subsurface sewage treatment systems (SSTS) within the current Rural Residential Community Designation.
- Identify areas within the sewered portions of the City to increase planned residential densities to offset the decrease in density in the Red Forest Way South area to retain the overall minimum 3.0 units per acre required density for new development and redevelopment areas.
- Revise the amendment to propose densities for Red Forest Way South that are consistent with sewered densities within the Emerging Suburban Edge Community Designation at a minimum of 3-5 units per acre.

The Council recognizes the City's desire for flexibility, and we are willing to work with the City on this challenge. However, it is a statutory requirement for all communities to conform to metropolitan system plans, and the City is advised that any changes to planned densities in the City's 2040 Plan must be reviewed and authorized by the Council for system conformance prior to local implementation, as required by sections 473.175, 473.858, and 473.864 of the Metropolitan Land Planning Act.

As permitted by Minnesota Statutes section 473.175, subdivision 1, the Council may require a local governmental unit to modify any comprehensive plan or part thereof that is inconsistent with the metropolitan system plan if the Council concludes that the local plan is more likely than not to have either a substantial impact on, or to contain a substantial departure from, the Council's adopted metropolitan system plans. As explained above, the proposed amendment constitutes a departure from regional wastewater system plans and is inconsistent with regional land use policy. As such, Council staff will proceed with the Plan Modification procedure and seek Council approval to schedule a public hearing on the proposed amendment.

Council staff intends to propose the following schedule for a plan modification and review of the amendment:

1. Tuesday, January 16, 2024 - Community Development Committee – Presentation on the proposed Plan Modification and request to schedule a public hearing on the Plan Modification
2. Monday, February 5, 2024 – Community Development Committee – Hold public hearing
3. Tuesday, February 20, 2024 – Community Development Committee - Considers information and takes action
4. Wednesday, February 28, 2024 – Metropolitan Council – final action

The City may choose to withdraw or modify the amendment request at any time before Tuesday, February 20, 2024. We are committed to continue working together to resolve these challenges and continue to offer to meet with the City to further discuss the amendment and resolve these comprehensive land use planning issues to the satisfaction of the City and the Council. The City and Council can mutually agree to a different schedule if the proposed dates are not agreeable to the City.

Staff will notify you if any changes to the review schedule are necessary. Staff will forward a copy of the staff report for review when it is provided to the Council's Community Development Committee.

If you have any questions about this review or would like to meet again to discuss further, please call Eric Wojchik, Principal Reviewer, by phone at 651-602-1330 or by email at eric.wojchik@metc.state.mn.us.

Sincerely,



Angela R. Torres, AICP, Senior Manager
Local Planning Assistance

CC: Kevin Kress, City Administrator
Peter Lindstrom, Metropolitan Council District 10
Robert Lilligren, Chair of the Community Development Committee
LisaBeth Barajas, Executive Director of Community Development
Kyle Colvin, Metropolitan Council Environmental Services
Eric Wojchik, Sector Representative/Principal Reviewer
Reviews Coordinator

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Table 2. Text Changes required to bring the 2040 North Oaks Comprehensive Plan into conformance with the 2040 Water Resources Policy Plan and consistent with regional land use policy

Reference No.	Text or Map to be Modified	Chapter / Section	Page Reference
	Text and maps to be modified are indicated in <i>Italics</i> . All references are to the Red Forest Way South Comprehensive Plan Amendment to the City of North Oaks 2040 Comprehensive Plan received by the Metropolitan Council on June 8, 2023, as revised through supplemental information received on August 24, 2023, and October 19, 2023, respectively.		
1.	<p>Remove: <i>Red Forest Way South Phase 2 and part of Red Forest Way South Phase 1 (23 parcels consisting of 72.2 net acres) from the ‘Emerging Suburban Edge’ Community Designation in Map 1 – Metropolitan Council Community Designation.</i></p> <p><i>The area referenced above, including the entire Red Forest Area, must be detailed as ‘Rural Residential’ Community Designation in Map 1 – Metropolitan Council Community Designation.</i></p>	Chapter 4: Implementation	95 of 212
2.	<p>Remove: <i>Red Forest Way South Phase 2 and part of Red Forest Way South Phase 1 (23 parcels consisting of 72.2 net acres) from ‘Sewer Only’ in Map 16 – 2017 North Oaks Neighborhoods with Common Utilities.</i></p> <p><i>The area referenced above, including the entire Red Forest Area (neighborhood 20), must be detailed as ‘Not served by common utilities’ in Map 16 – 2017 North Oaks Neighborhoods with Common Utilities.</i></p>	Chapter 4: Implementation	110 of 212
3.	<p>Remove: <i>Red Forest Way South Phase 2 and part of Red Forest Way South Phase 1 (23 parcels consisting of 72.2 net acres) from ‘Future Sewer’ in Map 17 – Areas Served by Municipal Sewer and Subsurface Treatment Systems (SSTS) 2017 North Oaks Neighborhoods with Common Utilities.</i></p> <p><i>The area referenced above, including the entire Red Forest Area, must be detailed as ‘Not Served by Sewer’ in Map 17 – Areas Served by Municipal Sewer and Subsurface Treatment Systems (SSTS).</i></p>	Chapter 4: Implementation	110 of 212
4.	<p>Remove: <i>For future developments in the East Oaks PUD area, the subdivider may utilize centralized sanitary sewer depending on sewer accessibility and sewer line capacities.</i></p> <p>OR</p>	Chapter 3: Community Facilities	67 of 212



Reference No.	Text or Map to be Modified	Chapter / Section	Page Reference
	<p>Leave text in document and add qualifying sentence to the statement: <i>“Any connections to the regional wastewater system must conform to wastewater policies within the Metropolitan Council’s Water Resources Policy Plan and remain consistent with regional land use policy within Thrive MSP 2040.”</i></p>		

