



Red Forest Way South Comprehensive Plan Amendment Proposed Plan Modification

City of North Oaks – District 10



March 18, 2024

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metro council.org

Comprehensive Plan Review



Minn. Stat. 473.175, subd. 1

Council reviews and comments on the local comprehensive plans to determine:

- Conformance with metropolitan system plans
- Consistency with adopted plans of the Council
- Compatibility with the plans of adjacent and affected jurisdictions

Plan Modification

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.

Plan Modification Process and Schedule

The (amended) proposed schedule for consideration of the amendment:

Dates	Actions
February 22, 2024	Post public hearing notice
March 4, 2024	Hold public hearing at the Community Development Committee at 4:00pm
March 13, 2024	Close public hearing record at 5:00pm
March 18, 2024	Community Development Committee reviews hearing record with action forwarding recommendations to the Metropolitan Council
March 27, 2024	Final action by the governing body of the Metropolitan Council on the City's proposed comprehensive plan amendment

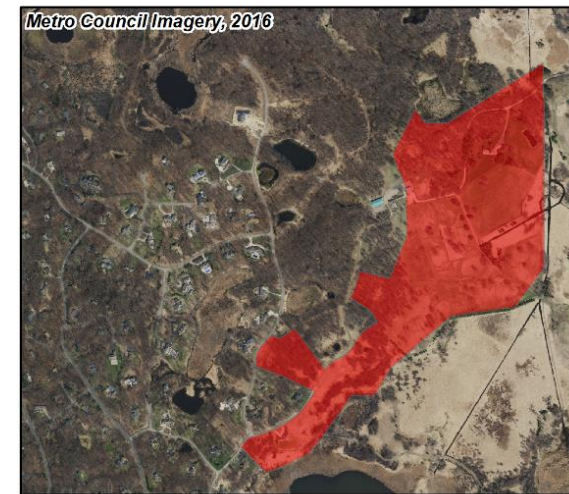
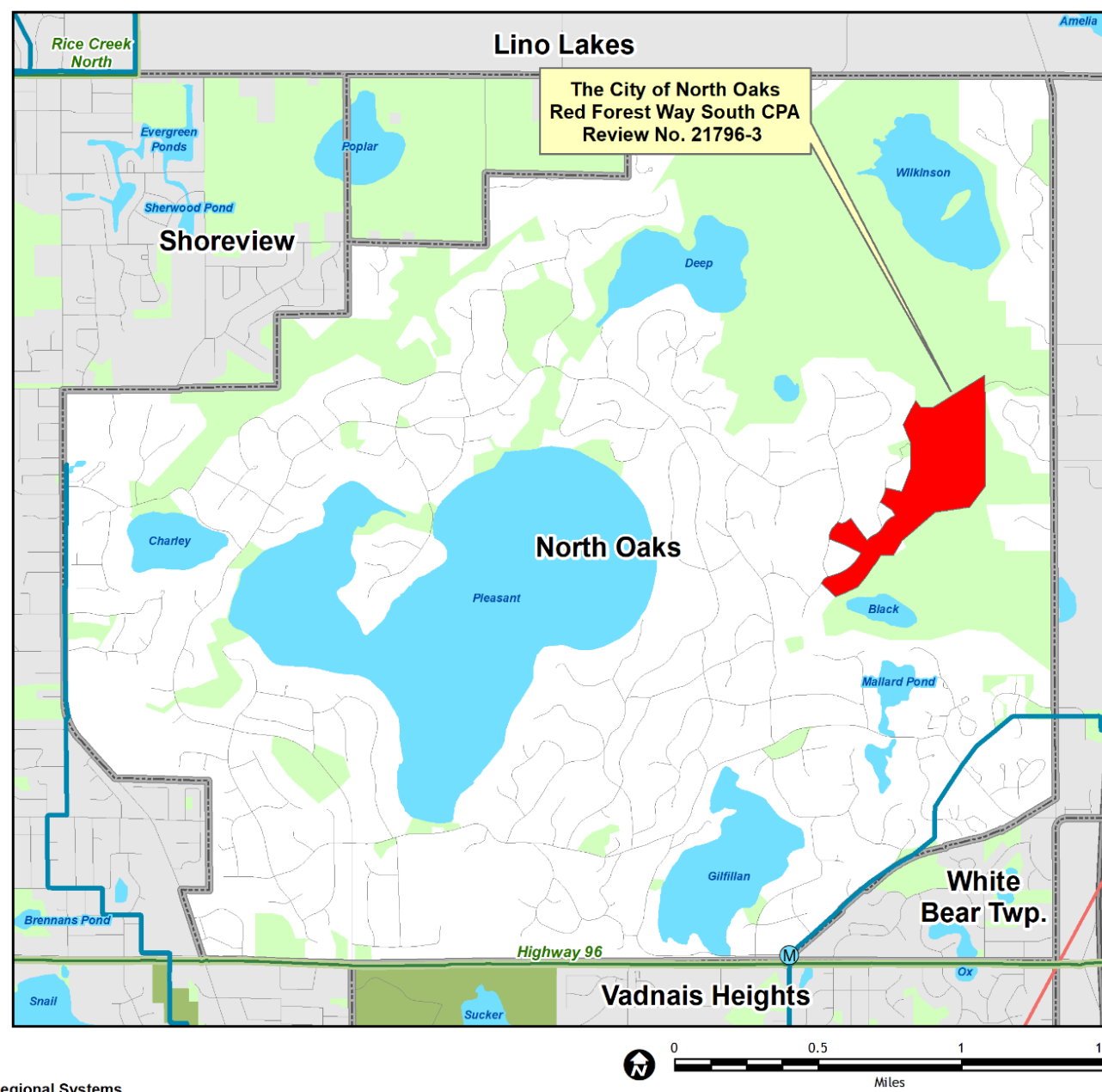
Public Hearing

Brief overview of the issues and opportunity for comment:

Does review of the amendment follow the process described in the Metropolitan Land Planning Act?

Does the amendment represent a substantial departure from the regional wastewater system plan?

Regional Systems



Regional Systems

Regional Transitways

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

Wastewater

- M Meters
- MCES Interceptors
- L Lift Stations
- WTP 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

Background

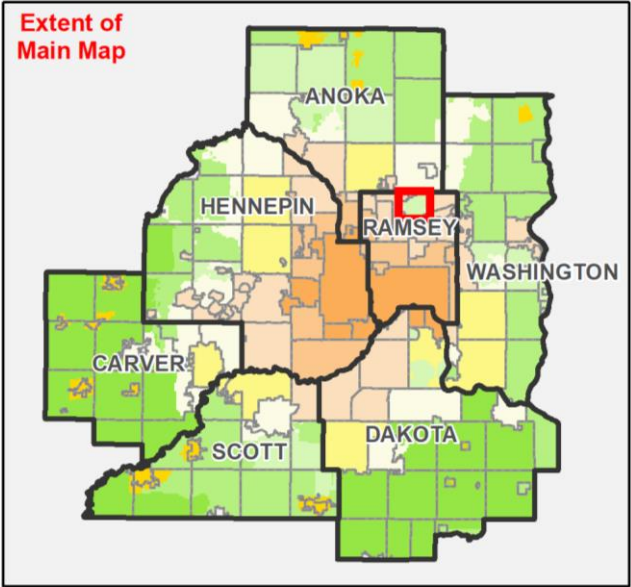
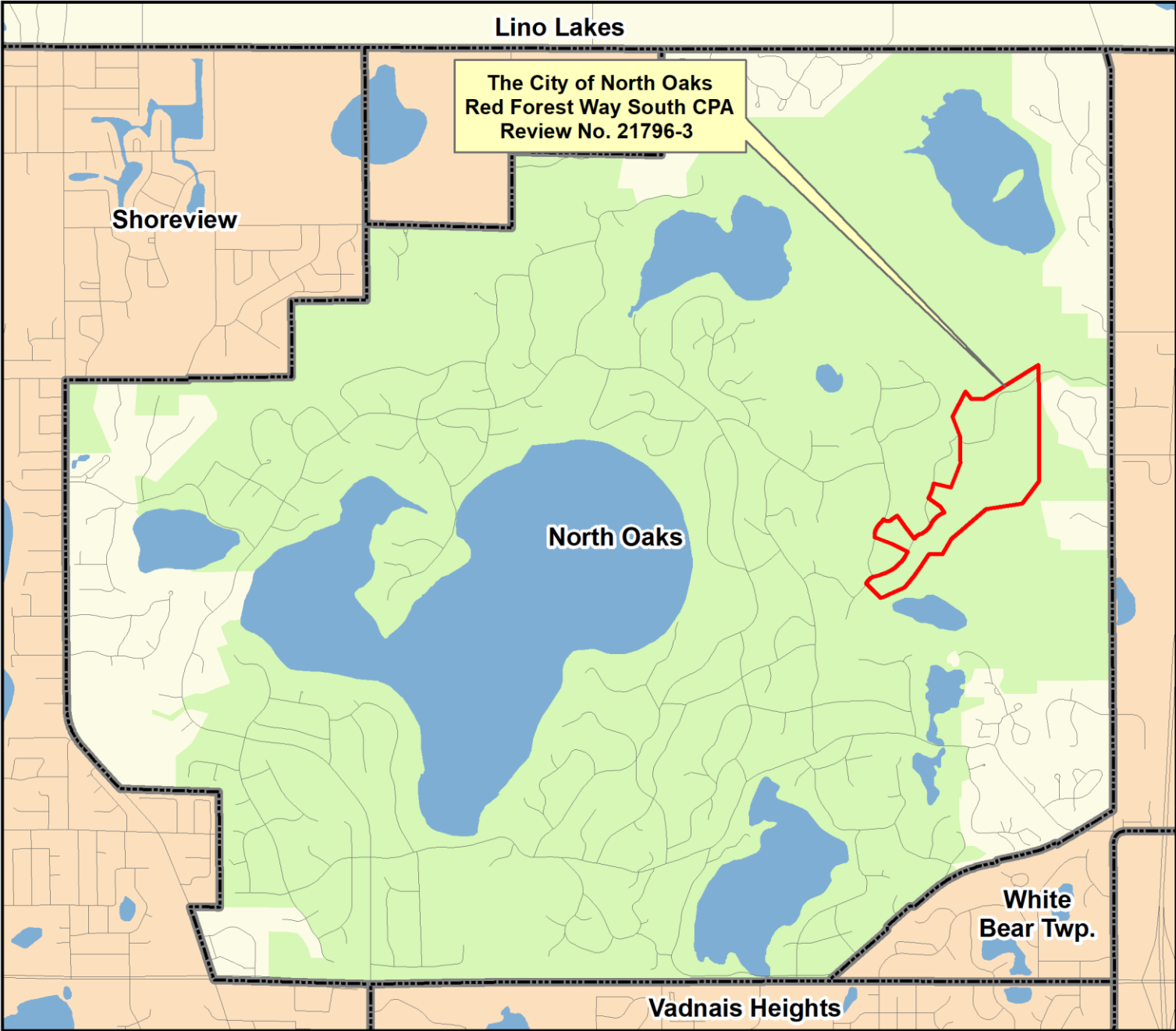
- Nearly all of the land within the City, with few exceptions, is governed by the North Oaks Home Owners' Association (NOHOA).
- Perpetual covenants are part of all deeds and declarations since 1950, except for only a few properties.
- Some neighborhoods include sub-associations that have more restrictive 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).

Amendment Details

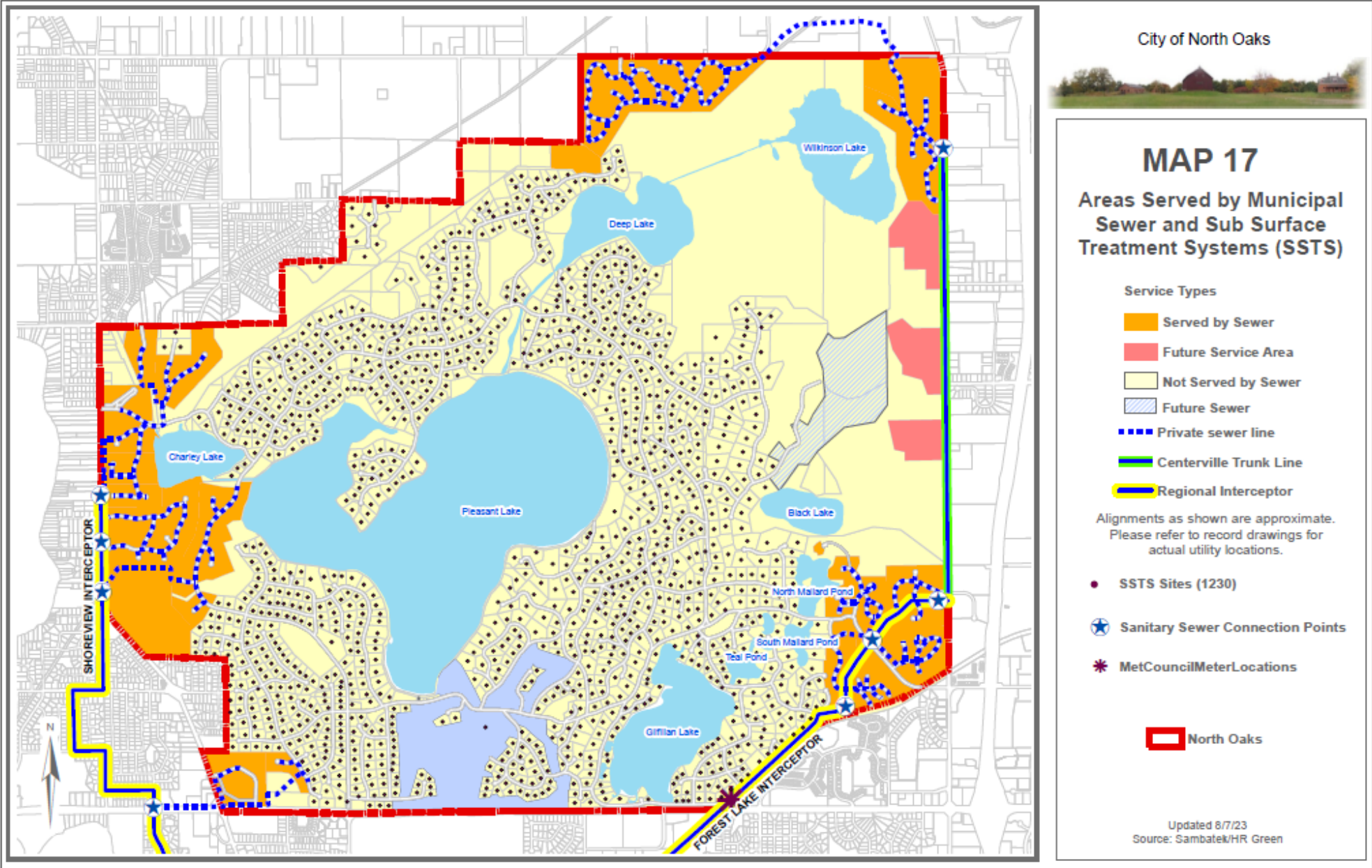
The amendment:

- proposes to expand the MUSA to include properties in the Red Forest Way South development (23 parcels, with 24 sewer connections, across 72.2 net acres).
- states the purpose is to connect these parcels to regional sanitary sewer.
- would require a change from the Rural Residential Community Designation to the Emerging Suburban Edge Community Designation.
- reduces the City's community-wide planned density from 3.0 units per acre to 2.3 units per acre.
- proposed net density for this development is 0.33 units per acre.

Community Designation



Location Map Showing MUSA



Community Designation & Density

Minimum Requirements

- The Rural Residential designation does not allow for the provision of regional sewer services.
- To extend sewer service, there must be a community designation change from Rural Residential to Emerging Suburban Edge.
- Emerging Suburban Edge communities are required to plan at minimum densities of between 3 and 5 units per acre.
- The inconsistency with the Emerging Suburban Edge minimum density requirements precludes the community designation change.

Analysis

- The proposal **does not conform** to regional system plan for wastewater and represents a substantial departure from the Council's adopted *2040 Water Resources Policy Plan*.
 - Water Resources Policy Plan defines a substantial departure as when communities plan for sewer development densities that are lower than Council density standards that are the basis for regional infrastructure planning purposes.
 - 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 reduction in the City's community-wide planned density from 3.0 u/a to 2.3 u/a is inconsistent with regional land use policy, including the required minimum density for the Emerging Suburban Edge community designation.

Housing Policy Plan Inconsistency



- Minn. Stat. §473.859, Subd. 4 (3) requires comp plans to “provide sufficient existing and new housing to meet the local unit's share of the metropolitan area need for low- and moderate-income housing.”
- The City’s Plan is currently inconsistent with the Council’s *Housing Policy Plan*; it does not guide sufficient land to address their share of the region’s affordable housing need for 2021-2030.
- The amendment does not resolve or make progress on the housing policy inconsistency.

Approaches

Options to resolve the conformance and consistency issues:

- Develop as authorized at proposed densities on individual subsurface sewage treatment systems (SSTS) within the current Rural Residential Community Designation.
- Identify areas within the sewerred portions of the City to increase planned densities to retain the overall minimum 3.0 units per acre required density for new development and redevelopment areas.
- Revise the amendment to propose densities consistent with sewerred densities within the Emerging Suburban Edge Community Designation at a minimum of 3 - 5 units per acre.

Public Hearing Findings



Precedent

Met Council Response:

- The Council must apply its policies, plans, and guidelines consistently.
- If the 3.0 units/acre minimum density threshold is no longer the minimum that is held for communities in Emerging Suburban Edge community designation, it creates an undefined new policy for determining conformance for the wastewater system that opens the door for communities across the metro to propose new and lower densities.
- The Council's authorization of the City's 2040 Plan, and the city's subsequent adoption of that plan, replaces and supersedes all past plans.
- If the City is bound by deeds and covenants, it could delay development of this area until the expiration of the PDA in 2029 to accommodate growth at sewerred densities, consistent with regional policy and in conformance with system plans. The City's website shows that the PDA has been amended nine times since 1999.

Environmental Protection

Met Council Response:

- To achieve a density of 3 dwelling units per acre in this location, the City could develop on 8 acres of land. Using 64 fewer acres to support the proposed 24 units would also achieve the City's stated objective of environmental protection by using less land.
- The Council allows for opportunities to connect to urban services to protect the environment when SSTS systems are certified as failing. These measures are pursued through the Metropolitan Urban Service Area (MUSA) Implementation Guidelines.
- Environmental impact increases when SSTS get older and when maintenance is deferred. To maximize long-term environmental protection in this location, the City and the Company could delay development or use other legal mechanisms (amend the PDA) to increase density in this location to support the provision of urban services, consistent with regional policy and the *2040 Water Resources Policy Plan (WRPP)*.
- Page 35 of the City's 2040 Comprehensive Plan states that: "All NOHOA lands used by non-members must be accompanied by a member." The Council only allows *publicly owned* park or conservation land to be netted out of density calculations. The natural resources areas within North Oaks are not publicly owned, nor are they publicly accessible, so these acres are not permitted to be netted out of density calculations.

St. Paul Water System Protection

Met Council Response:

- The installation of 24 new SSTs in this location, in line with State standards and requirements, does not represent an environmental risk to the SPRWS water supply. There are provisions within Council guidelines that allow for the connection to the regional wastewater system in the case of verification of failed SSTs; the amendment under consideration does not meet those guidelines.
- The Council sets conformance standards for connection to the regional system, and the City is welcome to work with the Council on achieving those standards, be that through increased density in this location or increased density in other portions of the City to offset lower density in this location. The City has not expressed an interest in either of these options. The City has only expressed the desire to use *some* of the Council's policies and goals without having to follow any accompanying policies that would require a different development pattern from the City.

Definition of “Substantial Departure”

Met Council Response:

- 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 *City of Lake Elmo v. Metropolitan Council*, 685 N.W.2d 1 (Minn. 2004), the Minnesota Supreme Court concluded that: the Metropolitan Land Planning Act “expressly empower[s] the Council to revise local comprehensive plans that are in conflict with the Council’s overarching plan”; the Council may require “minimum density levels” to ensure conformance with metropolitan system plans; and “[c]ities must conform their comprehensive system plans to the Council’s system plans” when the Council finds that a city’s comprehensive plan may have a substantial impact on the Council’s system plans.
- Page 67 of the City’s 2040 Comprehensive Plan states: “For future developments in the East Oaks PUD area, the subdivider may utilize centralized sanitary sewer depending on sewer accessibility and sewer line capacities.” This statement does not verify that the City can connect to the regional system in this location. The statement clearly references sewer accessibility and sewer line capacities.
- The City’s 2040 Comprehensive Plan shows this area as being without sewer service through the planning horizon.

The Metropolitan Council has the legal authority to approve the City's requested amendment

Met Council Response:

- 24 sewer connections (23 parcels) on 72.2 acres of land constitutes a substantial departure from the wastewater system plan. As shown in Table 1, this represents a density for the development of 0.33 units per acre, or an average lot size of 3 acres per residential unit.
- The development pattern in Red Forest Way South is consistent with a Rural Residential development pattern, which is a development pattern that precludes the provision of urban services by virtue of the need for extensive infrastructure to connect disparate properties.
- As stated in Thrive, “Rural Residential development does not advance the Council mission of ensuring orderly and economical development and in some cases increases the potential for damage to the environment.”
- Given the large acreage and low number of housing units, the City would either need to plan for an additional 192 housing units to achieve a density of 3 dwelling units per acre in this location or reduce the acreage used by the proposed 24 units so that they only covered eight acres. Using 64 fewer acres to support the proposed 24 units would also achieve the City's stated objective of environmental protection by using less land.

Today's Proposed Action

That the Metropolitan Council:

1. Adopt Resolution 2024-5 finding that the proposed amendment does not conform to the metropolitan system plan for wastewater and requiring the City of North Oaks to modify its comprehensive plan amendment.
2. Transmit to the City of North Oaks Table 3 Required Changes to the 2040 North Oaks Comprehensive Plan.
3. Notify the City that it may not put its Red Forest Way South Comprehensive Plan Amendment into effect unless and until the plan or the amendment is modified as described in the Resolution and this business item, and the Council formally reviews the document.



Questions?

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