Agenda
Minnetonka City Council
Regular Meeting, Monday, September 25, 2017
6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Wagner-Ellingson-Allendorf-Acomb-Wiersum-Bergstedt-Schneider
4. Approval of Agenda
5. Approval of Minutes: August 14, 2017 regular council meeting
6. Special Matters: None
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
   A. Resolution supporting an application for a grant from Hennepin County’s
      Transit Oriented Development (TOD) Program
11. Consent Agenda - Items Requiring Five Votes: None
12. Introduction of Ordinances: None
13. Public Hearings:
   A. On-sale wine and on-sale 3.2% malt beverage liquor licenses for Kais Inc.
      (DBA Kai’s Sushi), at 17420 Minnetonka Blvd.

      Recommendation: Open the public hearing and continue to October 23, 2017
      (4 votes)
B. Temporary on-sale liquor license for Unmapped Brewing, LLC, 14625 Excelsior Blvd.

Recommendation: Hold the public hearing and grant the license (5 votes)

14. Other Business:

A. Items concerning Shady Oak Crossings located at 4312 Shady Oak Road:

1) Comprehensive guide plan amendment;
2) Rezoning;
3) Subdivision; and
4) Site and building plan review

Recommendation: Adopt the ordinance and resolutions approving the request (4 votes)

B. Items concerning Shady Oak Crossings located at 4312 Shady Oak Road:

1) Contract for Private Development
2) Introduction of Ordinance Authorizing Sale of Property

Recommendation: Recommend the city council adopt the resolution approving the Contract for Private Development and Introduce the Ordinance (4 votes)

C. Items related to the 2018 preliminary tax levy

1) Resolution setting a preliminary 2017 tax levy and preliminary 2017 HRA levy, collectible in 2018, and preliminary 2018 budget, and consenting to a special benefit tax levy of the Minnetonka Economic Development Authority
2) Resolution setting a preliminary 2017 tax levy, collectible in 2018, for the Bassett Creek Watershed Management Tax District

Recommendation: Adopt the resolutions (4 votes)

15. Appointments and Reappointments: None

16. Adjournment
Minutes
Minnetonka City Council
Monday, August 14, 2017

1. **Call to Order**

   Mayor Terry Schneider called the meeting to order at 6:30 p.m.

2. **Pledge of Allegiance**

   All joined in the Pledge of Allegiance.

3. **Roll Call**

   Council Members Patty Acomb, Brad Wiersum, Tim Bergstedt, Tony Wagner, Bob Ellingson, Dick Allendorf, and Terry Schneider were present.

4. **Approval of Agenda**

   Acomb moved, Wagner seconded a motion to accept the agenda with an addendum to item 12A, and moving item 13A before item 12A. All voted “yes.” Motion carried.

5. **Approval of Minutes: July 10, 2017 regular council meeting**

   Allendorf moved, Bergstedt seconded a motion to approve the minutes of the July 10, 2017 regular council meeting, as presented. All voted “yes.” Motion carried.

6. **Special Matters: None**

7. **Reports from City Manager & Council Members**

   City Manager Geralyn Barone reported on upcoming council meetings and city events.

8. **Citizens Wishing to Discuss Matters not on the Agenda**

9. **Bids and Purchases:**

   A. **Bids for Pickleball Court**

      Barone gave the staff report.

      Wiersum moved, Acomb seconded a motion to reject all bids based on the bid results. All voted “yes.” Motion carried.
10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolutions pertaining to levying the 2017 Special Assessments

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-073 declaring costs for Project No. 4894 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing. All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-074 declaring costs for Project No. 4894 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing. All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-075 declaring costs for Project No. 4894 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing. All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-076 declaring costs for Project No. 4894 (10-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing. All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-077 declaring costs for diseased tree removal - Project No. 4902 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing. All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-078 declaring costs for diseased tree removal - Project No. 4902 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing. All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-079 declaring costs for diseased tree removal - Project No. 4902 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing. All voted “yes.” Motion carried.
B. Resolution approving a conditional use permit for a restaurant with outdoor seating area at Ridgedale Corner Shoppes, 1801/1805 Plymouth Road

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-080 approving a conditional use permit for a restaurant with outdoor seating area at Ridgedale Corner Shoppes, 1801/1805 Plymouth Road. All voted “yes.” Motion carried.

C. Resolution approving a conditional use permit and final site and building plans for a storage building at Hopkins High School at 10901 Hillside Lane West

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-081 approving a conditional use permit for a storage building at 10901 Hillside Lane West. All voted “yes.” Motion carried.

D. Resolution approving a conditional use permit to allow accessory structures with an aggregate gross floor area of 1,455 square feet at 13330 North Street

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-082 approving the conditional use permit at 13330 North Street. All voted “yes.” Motion carried.

E. Resolution approving the final plat of WILLISTON WOODS 2nd ADDITION at 5435 and 5439 Williston Road

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-083 approving the final plat for WILLISTON WOODS WEST 2nd Addition at 5431 Williston Road. All voted “yes.” Motion carried.

F. Order for tobacco license violation for Spielmann’s Amoco at 2711 Hopkins Crossroad

Allendorf moved, Wagner seconded a motion to approve issuing the Findings of Fact, Conclusion, and Order for Spielmann’s Amoco. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes:

A. Preliminary and final plats, with lot area and front yard setback variance, and waiving the McMansion Policy, for GRENIER ROAD ADDITION at 5717 Eden Prairie Road
Bergstedt moved, Wiersum seconded a motion to adopt resolution 2017-084 approving preliminary and final plats, with lot area and front yard setback variances, and waiving the McMansion Policy, for GRENIER ROAD ADDITION at 5717 Eden Prairie Road. All voted “yes.” Motion carried.

12. Introduction of Ordinances:

A. Items concerning Shady Oak Road Redevelopment:

1) Comprehensive guide plan amendment;
2) Rezoning;
3) Subdivision; and
4) Site and Building Plan review

City Planner Loren Gordon gave the staff report.

Jeri Massengill, 4272 Oak Drive Lane, said that everyone she knows in the area was opposed to the project. The access to the project would solely be from her residential street. She had a hard time believing the project wouldn’t impact her neighborhood and that the backups on Shady Oak Road won’t cause drivers to snake over onto Oak Drive Lane. This was about quality of life issues. She said none of the neighbors were against affordable housing but they would like low density affordable housing, light commercial, or open space. High density housing would not fit into the neighborhood and she wondered where the children who live in the development would play. She said there was an opportunity to come up with a planned out affordable housing plan for the entire city that would make sense and didn’t destroy neighborhoods. The neighborhood already had changed with the road project and would continue to change, but the neighbors wanted input and they don’t want this development.

Ann Aaanstad said she also lives on Oak Drive Lane. She spoke with Gordon about the project and he instructed her to look at the Ridges and Cliffs of Minnetonka as other examples of apartment buildings that use residential roads for access. She said those projects do not use residential roads but are separated from the neighborhood by a large natural berm and trees. She didn’t want to want to start a precedent in the city where one driveway serves 49 units. She asked the council to wait until something smaller came along.

Elizabeth Miller, 4408 Crawford Road, said the rezoning would be very dangerous. The traffic would be unsafe. Shady Oak Road was not designed for this type of building. She said the council should really consider how hard the neighbors are working to have their voices heard. If
the building goes up it will negate every reason why the neighbors wanted to live in the area. It might be different if the safety issues could be addressed or the building was a LEED certified building, and was forward looking. It’s not healthy to live next to a very busy road and this would make things worse. She said it didn’t seem fair to do this to people who were socially disadvantaged and didn’t have other choices. This sends the wrong message for the city. She questioned if the developer was the best choice or if it wouldn’t be better to find a minority builder or someone starting a new business, someone who had a different type of mind frame and was forward thinking.

Allendorf said the changes made to the building were significant. He thought the developer did a good job listening to the council. He cited the changes to the height of the building, the flat roof, and the “L” shape as examples. He was particularly happy that on the north side there was a step up from two stories to three thereby softening the view of the building as one comes from the north off Shady Oak Road. The same thing happens on the east and west sides of the building.

Acomb requested that staff look for other examples in the city where high density apartment buildings were located next to R1 neighborhoods. She said there was a comment about this project not being aligned with the city of Hopkins vision for the area. Community Development Director Julie Wischnack said most of time planning was not done in isolation and this was no exception. Before the road project was designed in 2005-2006 there was a joint look at all redevelopment along the corridor. She didn’t agree that the development wasn’t in alignment with the city of Hopkins plans since there had been a joint look at the area. She agreed it likely wasn’t the highest priority for Hopkins given it was on the edge of their downtown.

Wiersum said the developer clearly listened to the council in terms of the change in the architecture and downscaling the mass of the building. He wasn’t about to say this was a small building but the reduction of units, the scale of the building, and the architecture all were changed much at the behest of the council.

Acomb asked that the pictures of the building from the different angles include the existing buffer to help better understand the view of the building.

Bergstedt asked staff for the date of the planning commission hearing. Gordon said the planning commission meeting was August 24. The plan would come back to the council on September 25.
Schneider noted all comments received were included in the official record.

Wiersum moved, Acomb seconded a motion to introduce the ordinance and refer it to the planning commission. All voted “yes.” Motion carried.

13. Public Hearings:

A. Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14350 County Road 62

The item was moved before item 12A.

Barone gave the staff report.

Schneider opened the public hearing at 6:41 p.m.

Chris Rosenlund from the Minnetonka Rotary Club provided details about the event.

Schneider closed the public hearing at 6:43 p.m.

Acomb moved, Wiersum seconded a motion to hold the public hearing and grant the temporary liquor license in connection with a fundraising event, including outdoor events, for The Rotary Club of Minnetonka Foundation. All voted “yes.” Motion carried.

14. Other Business:

A. Resolution for the Plymouth Road trail project

City Engineer Will Manchester gave the staff report.

Wagner noted the staff report presented information about the ideal bridge crossing over the railroad. He asked for more information about that as a design consideration especially since it was aligned with bicycle traffic on Plymouth Road. Manchester said ultimately the goal would be to construct a bridge over the railroad. This would cost over $1 million. Staff has discussed this with Hennepin County. The minimum design standards could be met to retrofit over Plymouth Road. This essentially would mean putting a barrier on the bridge or some sort of delineator acceptable to the county. There would be eight to ten feet with a visible separation.

Wagner noted there was quite a bit of stormwater improvements on Cedar Lake Road similar to what was going on with Minnetonka Boulevard where
rural road was being replaced with concrete curb and gutter. He asked if this was the plan for Plymouth Road as well. Manchester said it would be similar with infiltration being put in place.

Allendorf asked what would be done to minimize the traffic flow disruption. Manchester said that had been looked at. He didn’t believe it would be as disruptive as what was going on with Minnetonka Boulevard. He said it was likely jersey barriers or barrels would be used. A lot of the work would be off of the roadway. Two lanes would be maintained at all times. The shoulder would be closed.

Acomb asked who would maintain the four-foot grass barrier. Manchester said the county typically maintains them but they don’t do so on a frequent cycle. Acomb noted the staff report indicated that crosswalks not at an intersection are not ideal. She asked if the crosswalk at McGinty might be removed. Manchester said intent was to try to work with the county to keep it there but look for ways to make it safer.

Wagner noted the powerlines were being buried. He asked if they would be buried in a way so they wouldn’t be impacted when the road is eventually reconstructed. Manchester said that was being looked at.

**Wagner moved, Acomb seconded a motion to adopt resolution 2017-085 receiving the feasibility report, ordering the improvements, authorizing preparation of plans and specifications, authorizing easement acquisition, and authorizing the mayor and city manager to execute an agreement with Xcel Energy in the amount of $203,712.90 for the Plymouth Road trail project No. 19206. All voted “yes.” Motion carried.**

### B. Resolution adopting the proposed Pond and Lake Management Policy

Manchester gave the staff report.

Wagner asked staff to discuss some of the other things being done such as street sweeping. Manchester said the city was doing a pilot program looking at the street sweeping around two lakes to see what improvements could be made. This would be done over a three year period.

Bergstedt noted there was a huge difference between water quality and aesthetics of lakes. Other than Lake Minnetonka there wasn’t any public access to the other lakes making it a challenge. Many of the smaller neighborhood lakes were shallow, and over the years were following the
natural progression. He thought the policy would begin to address some of the issues.

Wagner said the council over the years had set a baseline for what could be done. The policy reinforces that if a neighborhood cares, the city would put extra effort in.

Schneider said he was very pleased with the thought process that went into crafting something that was understandable, had common sense, and had reasoned thought behind it. It set expectations on both sides so there was clarity and the public could understand what was being done.

Wagner moved, Bergstedt seconded a motion to adopt resolution 2017-086 adopting the new city council policy 12.11 regarding Pond and Lake Management. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Acomb moved, Wiersum seconded a motion to adjourn the meeting at 7:32 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Brief Description
Resolution supporting an application for a grant from Hennepin County’s Transit Oriented Development (TOD) Program

Recommendation
Adopt the resolution supporting the application

Background
The Hennepin County Housing and Redevelopment Authority (HCHRA) is making approximately $2 million available to support public and private multi-jurisdictional transit-oriented development (TOD) projects located along Hennepin County transit corridors where transit service is frequent and high capacity. TOD Program funds are intended to supplement existing private and public resources in support of transit-oriented development. Eligible uses of funds must demonstrate a public purpose, and may include installation of public infrastructure improvements, including pedestrian and bicycle facilities that improve pedestrian, bicyclist, and transit rider safety and ease of use.

On September 5, the city of Hopkins approved a resolution authorizing an application for a TOD grant from Hennepin County’s Transit Oriented Development Program for the Shady Oak Station Area. The city of Hopkins is seeking $100,000 from the program funds for the purpose of constructing a proposed stormwater pipe under the Southwest LRT tracks. The construction of the pipe would allow for a future relocation of a pond within the Shady Oak Station Area to an alternate site that would not inhibit future redevelopment opportunities.

The cities of Minnetonka and Hopkins recently approved a joint Master Development Strategy for the Shady Oak Station Area that calls for significant transit oriented development around the future Shady Oak Station. While the cities collaborated with the Southwest Project Office (SPO) throughout that planning process, the SPO plans include a large stormwater facility, referred to as the “base project” that would hinder future development opportunities around the station area. (The proposed stormwater “pond relocation area” straddles the city boundaries.) In order to relocate the pond to a more desirable location the local jurisdictions would be required to fund the difference in cost between the planned location and the preferred location of the pond. This cost to relocate the pond is estimated to be approximately $1.5 million. Both cities determined that this was not feasible, but may be in the future when redevelopment occurs. The pipe would allow for the stormwater pond to be relocated in the future. The total cost to construct the pipe is estimated to be approximately $125,000.
On February 27, 2017 the council approved a similar resolution supporting Hopkin’s application to the same program to assist with funding to construct and relocate the pond. Hopkins did not receive funding through the Hennepin County TOD program for that project. However, the new application to fund the relocation of the pipe allows time to consider other funding sources for the relocation of the pond while reducing costs of installing the pipe after the tracks are constructed.

The attached resolution supports the city of Hopkins’ new application for grant funds through the Hennepin County TOD program. Hopkins is the formal applicant for the grant and would be considered the grant administrator. However, if funds are awarded, it will be mutually beneficial to both communities because the grant will benefit the Shady Oak Station Area and the infrastructure improvements identified in the joint Master Development Strategy.

Recommendation

Staff recommends the council adopt a resolution supporting the city of Hopkins’ application for grant funds through the Hennepin County TOD program.

Submitted through:
   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director

Originated by:
   Alisha Gray, EDFP, Economic Development and Housing Manager

Supplemental Information

February 27, 2017 City Council Meeting

Shady Oak Station Area Development Strategy
Resolution No. 2017-

Resolution supporting the city of Hopkins’ application for a grant from Hennepin County’s Transit Oriented Development Program for the Shady Oak Station Area

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 The city of Minnetonka has been working in cooperation with the city of Hopkins on a Shady Oak Station Master Development Strategy.

1.02 The Minnetonka City Council adopted the Shady Oak Station Area Development Strategy on April 8, 2016.

1.03 The Shady Oak Station Area Development Strategy calls for a number of infrastructure improvements to facilitate transit oriented development around the station area.

1.04 The city wishes to work cooperatively with the city of Hopkins to submit an application requesting grant funds from the Hennepin County Transit Oriented Development Program.

1.05 The grant funds will be used for certain infrastructure improvements within the Shady Oak Station Area.

1.06 The city supports the implementation of the Shady Oak Station Area Development Strategy.
Section 2. Council Action.

2.01 After appropriate examination and due consideration, the Minnetonka City Council hereby supports the submission of a Transit Oriented Development Program grant application to the Hennepin County Housing and Redevelopment Authority for the proposed Shady Oak Station Area by the City of Hopkins.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 25, 2017.

________________________
Terry Schneider, Mayor

Attest:

________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 25, 2017.

________________________
David E. Maeda, City Clerk
City Council Agenda Item #13A  
Meeting of September 13, 2017

**Brief Description**  
On-sale wine and on-sale 3.2% malt beverage liquor licenses for Kais Inc. (DBA Kai’s Sushi), at 17420 Minnetonka Blvd.

**Recommendation**  
Open the public hearing and continue to October 23, 2017

**Background**

The city has received an application from Kais Inc. for On-Sale Wine and On-Sale 3.2% Malt Beverage liquor licenses for a new restaurant at 17420 Minnetonka Boulevard.

Kai’s Sushi is proposing to operate a full-service sushi restaurant with a focus on Japanese cuisine with a touch of Asian influence.

**Business Ownership**

Kai’s Sushi is owned 100% by Mr. Kai Tho. Currently, Kai owns Kai’s Sushi & Grill in Chanhassen. Kai has more than 15 years of experience in the restaurant industry.

**Business Operations**

The restaurant is approximately 1,900 square feet and is located in the shopping center on 101/Minnetonka Blvd, next to Great Harvest Bread and Nash Frames. The site will seat 40 guests in the space and offers carry-out service and online ordering. The restaurant will be open for lunch and dinner with the following hours:

- Monday – Thursday: 11:00 a.m. – 3:00 p.m.
  4:30 p.m. – 9:30 p.m.

- Friday and Saturday: 11 a.m. – 10 p.m.

- Sunday: 4 p.m. – 9:30 p.m.

Projected food to liquor ratio will be 93% food and 7% alcohol.

Mr. Tho will also serve as the general manager. He resides in Chanhassen and meets the metro-area residency requirements of the city’s liquor ordinance.

Staff will go through alcohol server training and conduct ongoing training every three months.
Applicant Information

Application information and license fees have been submitted. The police department’s investigative report on this application is pending and will be forwarded to the council prior to the continued public hearing.

Recommendation

Staff recommends that the city council open the public hearing and continue the hearing to October 23, 2017.

Submitted through:
   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director

Originated by:
   Kathy Leervig, Community Development Coordinator
Location Map

Kai's Sushi
17420 Minnetonka Blvd

This map is for illustrative purposes only.
Kai’s Sushi

BUSINESS PLAN

SUMMARY

Kai’s Sushi Restaurant is a 40-seat dining restaurant, and we focus on our Japanese cuisine with a touch of Asian influence, also featuring RAMEN Japanese noodles. We will be located on the busy intersection of Highway 101/Minnetonka Blvd, 19157 Minnetonka Blvd, next to Nash Frames and Great Harvest Bread. It will be the perfect place to stop in for a bite to eat, for a drink or for a small business meeting, a place for a quiet conversation, or for a special occasion. Kai’s Rest is a trendy, fun place to have great food in a social environment, combining an intriguing atmosphere with excellent, interesting food, emphasizing healthy dishes recognizing the trend within the restaurant industry for the demand for healthy cuisine.

Business Objectives
The mission is not only to have great tasting food, but have efficient and friendly service because customer satisfaction is our objective and the restaurant will be the choice of families and a rewarding for employees to work. Employee welfare will be equally important to our success. Everyone will be treated fairly and with the utmost respect. We want our employees to feel a part of the success of Kai’s Sushi Restaurant. Happy employees make happy customers. Our strategy is simple, we intend to succeed by giving people a combination of excellent and interesting food in an environment that appeals to a wide and varied group of successful people. We will focus on maintaining quality and establishing a strong identity in our community. Our focus in marketing will be to increase customer awareness in the surrounding communities. We will direct all our tactics and programs toward the goal of explaining who we are and what we do. We will keep our standards high and execute the concept so that word-of-mouth will be our main marketing force.

Management
Kai’s Sushi Restaurant is solely owned and managed by Mr Kai Tho who also owned Kai’s Sushi & Grill restaurant in Chanhassen, Minnesota. He has spent more than 15 years in the restaurant industry. We will hire the best people available, training, motivating and encourage them, and thereby retaining the friendliest most efficient staff possible. Our management team is comprised of individuals whose backgrounds consist of 15 years’ experience in food, restaurant management.

EMPLOYEE TRAINING

Employee welfare, participation and training are equally important to our success. We will have a team of about 6 people and will also some part timers. (Sushi chefs, Kitchen chef, kitchen helper, Servers & owner will act as Manager too. Management will schedule training every 3 months to prepare for staff developments

Employee handbook as attached
A Server Awareness Training Handbook
FOOD SERVICE

Fresh, home-made and simple is the message. The current popularity of fresh and healthy eating is exciting for customers. We will have a large menu for customers to select from. The management and servers will handle every detail to make customer’s special evening even more special! All this and our great atmosphere will make customers want to come back again and again!

Lunch Specials - Bento Box lunch, Kitchen Entrees, Hibachi, Sushi Entrees
   Pick Two Rolls or Three Rolls
   All lunch specials including a choice of soup or salad and lunch run between $5-$12.

Dinner Menu – Dinner Menu  -  RAMEN noodles (Japanese  noodles, Tempura, Japanese Kare,
   Teriyaki (choice of Chicken, Salmon ,Shrimp, Steak),  Fried Rice, Noodles (Udon/Soba)
   Hibachi Sushi Dinners, Sashimi, Nigiri .
   Prices are between $10 - $20

Along with the above items, healthy green salads, soups, appetizers are all on the menu.
Beverages  :  Sodas, Japanese Soda, Sparkling Water, Milk, Juices, Iced Tea,
   Green Tea

The Drinks menu will include an interesting variety of Sake, Wine & Beer (Japanese & Domestic)

A children’s menu for ages 12 & under is available too and also desserts to complement each meal.
Also features Daily Specials, Happy Hour menu
Lunch & Dinner menu items are available for carry out too and can be order online from our website.

We anticipate our total sales to be approximately 93% restaurant food sales and 7% alcohol sales.

Hours of Operation

Monday to Thursday  :  11.00 am to 3.00 pm
   4.30 pm to 9.30 pm

Friday & Saturday    :  11.00 am to 10.00 pm

Sunday              :  12 noon to 9.30 pm
Brief Description
Temporary on-sale liquor license for Unmapped Brewing, LLC, 14625 Excelsior Blvd.

Recommendation
Hold the public hearing and grant the license

Background
The city has received an application for a temporary on-sale liquor license from Unmapped Brewing, LLC for an outdoor event at 14625 Excelsior Blvd.

The Event
Unmapped Brewing is requesting approval for an outdoor event on Saturday, October 21, 2017. The event, The Flannel Roots Music & Beer Festival, will be held from 12 – 11 pm at Unmapped Brewing. Beer will be sold outside of the licensed premise in the parking lot which will require a temporary liquor license.

The event will feature live music, food trucks, and outdoor games and activities. Outdoor activities will be done at 10:00 pm. The outdoor area will be surrounded by a temporary safety fence.

Parking and Security
Unmapped Brewing has secured parking at Bethlehem Lutheran Church, Prestige Academy, First Minnetonka City Bank, and the former Dairy Queen site. They have inquired with one other site, but are pending final approval. With site parking and the agreements, there is approximately 353 spaces available. Parking was not an issue for the grand opening event in August.

There will be two points of entry for all customers/attendees. Each entrance will have employees/volunteers in charge of checking identifications and issuing a wristband to those patrons age 21 and older. Staff at the event will only serve to those wearing a wristband.

Outdoor Activity Including Intoxicating Liquor
Minnesota State Statute 340A.404 subd 10(c) states that a brewery is eligible for a temporary liquor license for social events upon city approval:

(c) The governing body of a municipality may issue to a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year a temporary license for the on-sale
of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer. The terms and conditions specified for temporary licenses under paragraph (a) shall apply to a license issued under this paragraph, except that the requirements of section 340A.409, subdivisions 1 to 3a, shall apply to the license.

340A.409, subdivisions 1 to 3a:

**Insurance required.** (a) No retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by section 340A.801. The issuing authority must submit to the commissioner the applicant’s proof of financial responsibility. This subdivision does not prohibit a local unit of government from requiring higher insurance or bond coverages, or a larger deposit of cash or securities. The minimum requirement for proof of financial responsibility may be given by filing:

1. a certificate that there is in effect for the license period an insurance policy issued by an insurer required to be licensed under section 60A.07, subdivision 4, or by an insurer recognized as an eligible surplus lines carrier pursuant to section 60A.206 or pool providing at least $50,000 of coverage because of bodily injury to any one person in any one occurrence, $100,000 because of bodily injury to two or more persons in any one occurrence, $10,000 because of injury to or destruction of property of others in any one occurrence, $50,000 for loss of means of support of any one person in any one occurrence, $100,000 for loss of means of support of two or more persons in any one occurrence, $50,000 for other pecuniary loss of any one person in any one occurrence, and $100,000 for other pecuniary loss of two or more persons in any one occurrence;

2. a bond of a surety company with minimum coverages as provided in clause (1); or

3. a certificate of the commissioner of management and budget that the licensee has deposited with the commissioner of management and budget $100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of $100,000.

Unmapped Brewing has completed the license application and provided proof of insurance. Neighbors within 400 feet of the brewery were notified by Unmapped Brewing of the event. See attached comment from one neighbor. The police department has also been notified of the event.

There were no issues reported from the event in August.
Recommendation

Staff recommends the council hold the public hearing and grant the temporary liquor license in connection with the grand opening event.

Submitted through:
- Geralyn Barone, City Manager
- Julie Wischnack, AICP, Community Development Director

Originated by:
- Kathy Leervig, Community Development Coordinator
Location Map

Project: Unmapped Brewing Co
Address: 14625 Excelsior Blvd

Unmapped Brewing Company, LLC
14625 Excelsior Blvd
KEY:
- Blue: Food Trucks
- Green: Stage/Music
- Yellow: Outdoor Bar (cash only)
- Purple: Merchandise (cash only)
- Orange: Outdoor Games

Entrance/ID Check
Unmapped Brewing
Flannel Roots Festival

Saturday, October 21st

12:00 – 11:00 PM (outdoor area will close at 10:00 PM)

1) Live Music (1:00 – 10:00 PM)
   a. Lena Elizabeth
   b. Miss Myra and the Moonshiners
   c. St. George’s Folly or Erik Koskinen
   d. John Mark Nelson
   e. The Pines

2) Food Trucks (all day)
   a. Market BBQ
   b. DelSur Empanadas
   c. Fused Food Truck

3) Outdoor Games
   a. Bags
   b. Giant Jenga
   c. Giant ConnectFour

4) Outdoor Bar – similar to our Grand Opening, we will set up a cash bar outside and sell a handful of our beers outdoors
Unmapped Brewing Co. Grand Opening - Parking Plan

* Glen Lake Station *
* Existing Lot: 138 spaces *
* Event Space: -50 spaces *
* Available in Remaining Lot: 88 spaces *
* Bethlehem Lutheran Church: 100 spaces *
* First Minnetonka City Bank*: 65 spaces *
* Glen Lake Optimists Field*: 100 spaces *

**Total # Parking Spaces** 353

* pending approval, but both have been contacted and are verifying

*Marketing*
Unmapped’s promotional materials will encourage biking and walking
Promotional materials will also indicate LIMITED parking

*Employee & Volunteer Parking*
Roughly 50 employees and volunteers commuting to Unmapped
i. Carpooling will be encouraged
ii. Employees/Volunteers will be instructed to park off-site

ii. Permission has been given by owners of the former Dairy Queen bldg. and Prestige Academy to use their lot for parking (roughly 50 spaces)
*These lots will not be open to the general public and will be marked as such with signage

*Other Ideas*
Temporary parking signs along Excelsior Blvd (up to Williston Rd. intersection)
September 6, 2017

Dear Neighbor,

This letter is to inform you of a request that we, Unmapped Brewing Co., have made application to the City of Minnetonka for an event at the address of 14625 Excelsior Blvd, Minnetonka, MN, 55345. You are receiving this letter as the city requires us to notify everyone within 400 feet of the address above when we request an outdoor activity includes the serving or sale of liquor as described below:

Name of event: Flannel Roots – Music & Beer Festival

Date(s) of event: October 21, 2017

Time of event: 12:00 PM – 11:00 PM (10:00 PM for outdoor activities)

Type of liquor served: Beer

Outdoor activities planned: We will be serving beer in an outdoor tent, in addition to hosting live music, a couple food trucks, and outdoor games.

This letter serves as your notice that the city will review this application/request at a regular City Council Meeting. The tentative date for the public hearing before the city council is September 25, 2017. The meeting begins at 6:30 p.m. in the Council Chambers of the Minnetonka Community Center at 14600 Minnetonka Boulevard.

If you have any comments, you may contact Kathy Leervig, Community Development Coordinator, City of Minnetonka, at (952) 939-8274 or by e-mail to: kleervig@emnnetonka.com.

Most Sincerely,

Megan Park
Co-Founder
In regards to the Sept 6th 2017 letter sent to surrounding business for Unmapped to host a fall party,
We have no objection, and in fact, welcome this new vibrant company to the Glen Lake area!

Jerry Greene
CEO
Highland Management Group, Inc.
5290 Villa Way
Edina, MN 55436
http://highlandapartments.com/
City Council Agenda Item #14A  
Meeting of September 25, 2017

Brief Description
Items concerning Shady Oak Crossings located at 4312 Shady Oak Road:

1) Comprehensive guide plan amendment;
2) Rezoning,
3) Subdivision, and
4) Site and building plan review

Recommendation
Adopt the ordinance and resolutions approving the request

Proposal

Ron Clark Construction is proposing a three-story, 49-unit apartment building on the property located at 4312 Shady Oak Road. The proposed apartment building would have underground parking, resident community room, exercise room, on-site manager's office and an outdoor play area. The building would have a mix of 1, 2 and 3 bedroom apartments with rents expected to be between $800 and $1200 per month.

The proposal requires: (1) Comprehensive Plan amendment, (2) Rezoning, (3) Subdivision and (4) Site and Building Plan review. Specifically, the proposal requires approval of:

1) **Comprehensive Guide Plan Amendment.** The 2030 Comprehensive Guide Plan designates the site for commercial land uses. The proposal requires an amendment to high-density residential.

2) **Rezoning.** The property is zoned B-2 and R-1. The applicant is requesting a rezoning to Planned Unit Development.

3) **Subdivision.** The applicant is proposing to subdivide a portion of the adjacent and also city-owned residential property and allowance for stormwater management to occur on that property with an easement.

4) **Final Site and Building Plans.** By city code, site and building plan review is required for construction of any new building of the proposed size.
Planning Commission Hearing

The planning commission reviewed the request at two meetings - August 24, 2017 and September 7, 2017. At the August 24, 2017 meeting, the planning commission reviewed the project, held a public hearing and tabled the item as recommended by staff. The recommendation to table stemmed from the staff concern regarding depth of fill over the city’s sanitary sewer main located on the western portion of the property. Staff requested the applicant revise the site plan to address those concerns. Public input was received during the public hearing. Meeting minutes are attached.

The applicant provided a revised site plan for review at the September 7, 2017 planning commission meeting. Staff recommended approval of the proposal noting the site plan addressed the sanitary sewer concerns previously noted. The commission again received public input. Meeting minutes are attached.

Planning Commission Recommendation

On a 4-2 vote, the commission recommended that the city council approve the request.

Since the Planning Commission Meeting

The applicant provided an updated landscaping plan as requested by staff to remove overstory tree plantings located within the sanitary sewer easement area. The revised plan is attached.

Staff Recommendation

Recommend the city council adopt the following associated with Shady Oak Crossings located at 4312 Shady Oak Road:

1) Resolution approving a comprehensive guide plan amendment from commercial to high density residential;

2) Ordinance rezoning the property from B-2 to PUD; and

3) Resolution approving final site and building plans and preliminary and final plat.

Through: Geralyn Barone, City Manager
           Julie Wischnack, AICP, Community Development Director

Originator: Loren Gordon, AICP, City Planner
MINNETONKA PLANNING COMMISSION
September 7, 2017

Brief Description
Items concerning Shady Oak Road Redevelopment:
1) Comprehensive guide plan amendment;
2) Rezoning,
3) Subdivision, and
4) Site and building plan review

Recommendation
Recommend the city council adopt the ordinance and resolutions approving the proposal.

Previous Planning Commission Meeting
The planning commission reviewed the project and held a public hearing at the August 24, 2017. At that meeting the planning commission tabled the item as recommended by staff. The recommendation to table stemmed from the staff concern regarding depth of fill over the city’s sanitary sewer main located on the western portion of the property.

Since the Planning Commission Meeting
The applicant has provided revised plans to address that concern. The plans reduce the amount of fill over the sanitary sewer line, modify the parking lot design and access driveway on Oak Drive Lane and slightly alter the landscaping plan. The building design and location on the property remain unchanged. (See revised plans dated 7/24/17).

During the planning commission discussion, the commission requested additional information on the following:

- community benefits of the proposal, in addition to affordable housing,
- how should the commission consider safety issues related to traffic, pedestrians and bicyclists, and
- elaboration on sustainability of the project.
In response, staff offers the following:

Community Benefits

In addition to providing affordable housing to residents, the project has the following community benefits:

- Additional residents and housing units that contribute to the city’s 2040 (and 2030) housing goals,
- Removal of a blighted property,
- Clean-up of a contaminated property,
- Increase in greenspace and landscaping,
- Treatment of surface water run-off,
- Buffering of the adjacent wetland,
- Additional sidewalks for pedestrian mobility.

Safety issues related to traffic, pedestrians and bicyclists:

- Some important considerations include:
  - Appropriately designed roadway and sidewalk systems,
  - Separation of vehicles and pedestrians,
  - Adequate sight visibility, and
  - Lighting at intersections and sidewalks.

Sustainability

Site and building improvements that contribute to the project’s sustainability include:

- Construction of a new residential building under the recently adopted state energy code that will reduce overall building energy demands,
- Overall intelligent building system features – i.e. lighting and water efficiencies.
- The proximity of residential housing adjacent to commercial services,
• The availability of Metro Transit bus service on Shady Oak Road adjacent to the site,

• Accessibility to future light rail transit station,

• Removal of a blighted property,

• Clean-up of a contaminated property,

• Increase in greenspace and landscaping,

• Treatment of surface water run-off,

• Overall reduction in site impervious surface,

• Buffering of the adjacent wetland,

• Additional sidewalks for pedestrian mobility,

• Inclusion of playground, and

• Inclusion of bike storage facilities.

Additional public comments have been submitted since the August 24, 2017 planning commission meeting. (See attachments).

Background (previous report)

The city of Minnetonka purchased the property at 4312 Shady Oak Rd. in March 2015. In November 2016, after several neighborhood meetings and a developer interview process, the city council selected Ron Clark Construction to begin negotiations and propose a development concept.

A concept drawing and site plan were presented in February and April of 2017. In June 2017, following community and city feedback, Ron Clark Construction announced it would make modifications to the concept plan. The revised concept plan was submitted as a formal application on July 24, 2017 and presented at an open house on August 2, 2017.

Formal development plans were submitted to the city on July 24, 2017. The city council introduced the ordinance rezoning the property on August 14, 2017. At the meeting, council members commented on the following:

• **Building design** – the changes to incorporate a flat roof, 2-story features and the L-shape were positive changes.
• **Similar projects** - requested information about similar high-density residential projects that were adjacent to single-family neighborhoods. What are the views from the southwest in terms of existing trees?

Three neighbors also provided public comments regarding the following – traffic, desire for low density affordable housing, concerns about high density residential adjacency to single family homes, health concerns, and the building design is not forward looking.

**Proposal**

Ron Clark Construction is proposing a three-story, 49-unit apartment building on the property located at 4312 Shady Oak Road. The proposed apartment building would have underground parking, resident community room, exercise room, on-site manager’s office and an outdoor play area. The building would have a mix of 1, 2 and 3 bedroom apartments with rents expected to be between $800 and $1200 per month.

The proposal requires: (1) Comprehensive Plan amendment, (2) Rezoning, (3) Subdivision and (4) Site and Building Plan review. Specifically, the proposal requires approval of:

1) **Comprehensive Guide Plan Amendment.** The 2030 Comprehensive Guide Plan designates the site for commercial land uses. The proposal requires an amendment to high-density residential.

2) **Rezoning.** The property is zoned B-2 and R-1. The applicant is requesting a rezoning to Planned Unit Development.

3) **Subdivision.** The applicant is proposing to subdivide a portion of the adjacent and also city-owned residential property and allowance for stormwater management to occur on that property with an easement.

4) **Final Site and Building Plans.** By city code, site and building plan review is required for construction of any new building of the proposed size.

**Proposal Summary**

The following is intended to summarize the applicant’s proposal. Additional information associated with the proposal can be found in the “Supporting Information” section of this report.

• **Existing Site Conditions**

The subject property is located along Shady Oak Road just south of Oak Drive Lane. The property is 1.63 acres in size and is occupied by a 25,680 square foot retail building. The site general slopes from east to west with a grade change at
the lower level building walkout. Existing hardsurface covers approximately 89 percent of the property.

- **Existing Zoning and Guide Plan Designation**

The property is currently zoned B-2, commercial. It is designated as commercial in the comprehensive guide plan.

- **Proposed Use**

As proposed, the 3-story apartment building would include 49 units with 1, 2 and 3 bedroom configurations. The building program schedule identifies 12 one-bedroom units, 23 two-bedroom units and 14 three-bedroom units. The building would have a footprint of 23,461 square feet and total gross building area of roughly 87,996 square feet, including underground garage space. The lowest garage level would include areas for building mechanical/electrical systems, trash, stairway and elevator accesses.

The three-story building is a flat roof design approximately 35 to 37 feet in height with shorter two-story areas at the north and south ends of the building which are 26 feet in height. The building would be faced with brick and composite materials. Two entry points are located along Shady Oak Road, a third on the south elevation and a forth on the west elevation from the surface parking lot.

The building would be served by 89 parking stalls which include 66 under-building garage spaces and 23 surface parking stalls on the west side of the building. The main vehicular access to the site and building parking areas would be off Oak Drive Lane. (See attached).

<table>
<thead>
<tr>
<th>Shady Oak Crossings</th>
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<tbody>
<tr>
<td><strong>Footprint</strong></td>
</tr>
<tr>
<td><strong>Total Habitable Space</strong>*</td>
</tr>
<tr>
<td><strong>Floor Area Ratio</strong></td>
</tr>
<tr>
<td><strong>Hardcover</strong></td>
</tr>
<tr>
<td><strong>Number of Units</strong></td>
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<tr>
<td><strong>Stories</strong></td>
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<tr>
<td><strong>Density</strong></td>
</tr>
</tbody>
</table>

- **Surface Water Management**

The existing site has no surface water management system. As proposed, a storm water treatment basin would be constructed on the adjacent city-owned property
to accommodate the development. The storm water basin would be located in the rear yard of the existing home and north of the existing trees along the wetland edge. The storm water pond is sited to minimize impacts to the existing trees. The storm water pond would be required to meet surface water treatment minimums.

Primary Questions and Analysis

A land use proposal is comprised of many details. In evaluating a proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines both the primary questions associated with the proposed Shady Oak Crossings project and staff’s findings.

- **Are the changes to the comprehensive guide plan and zoning appropriate?**

  Yes. The comprehensive guide plan change from commercial to high density residential and rezoning from commercial to planned unit development are appropriate. The subject property is currently zoned B-2, commercial. Changing the zoning to PUD, planned unit development, would be considered a downzoning of the property. Downzoning of property generally means that the anticipated use and adjacent property impacts would be lesser than under the existing zoning. In this case, staff’s opinion is that the proposed 49-unit apartment building would have fewer negative impacts than the existing commercial building and tenants that may locate and operate within it would have on the surrounding neighborhood and commercial corridor. Those reduced impacts include the following:

  - Surface water management and treatment,
  - Garbage and refuse management,
  - Increase in green space,
  - Building and parking lot lighting spill and glare,
  - Clean up of a contaminated property,
  - Potential for a number of commercial businesses generating noise, odor and other potential nuisance conditions.

There is market demand for increased density and affordable housing. Since 2005, the city has studied a number of redevelopment options for the Shady Oak Road corridor and specifically for this property. Those options have ranged from commercial to a number of mid- and high-density residential alternatives. Again in 2016, the city conducted a specific engagement process for the property with the full intention of exploring redevelopment alternatives. Similar to the 2005 study, the alternatives generated by the neighborhood participants were mid- and high-density residential housing. In 2016, the city received four high density residential
concepts through its Request for Information solicitation to the development community. Three of the four concepts were apartment concepts ranging between 69 and 72 units. The forth concept was the three story 56 unit Ron Clark apartment proposal. The city ultimately entered into negotiations with Ron Clark.

Locating higher density housing along more highly traveled roadway corridors and in close proximity to commercial services is good land use practice. The subject site is located along Shady Oak Road which is an arterial street. The location affords residents the ability of easy and convenient roadway and bus route access. Its location also provides the ability to walk or bike to commercial businesses and services along Shady Oak Road and downtown Hopkins. There are a number of high density residential housing units immediately adjacent to single family residential neighborhoods. This project would be as well. However, it’s location on the Shady Oak Road provides screening, buffering and less impactful use characteristics to the residential neighborhood that otherwise would not be possible if the property remained as a commercial use.

Planned unit development zoning is a commonly used zoning tool by the city to achieve specific objectives with a development project to further city goals. As defined in city code, “…PUD zoning may be considered by the city when it would result in one of the following public benefits:

a) Greater preservation of existing natural resources, in number or quality, than would otherwise be provided under non-PUD development;

b) Provision of affordable housing;

c) Provision of a housing type or target housing price that is desirable to the city;

d) A mix of land use types;

e) Development that is compatible with existing, surrounding development type and intensity that is no longer allowed in other existing zoning districts; or

f) Greater energy conservation through building and site design than would otherwise be achieved under non-PUD development;

g) Other public benefits as recognized by the city.”

The code further states that, “…a PUD may be approved when the following general standards are met:

a) The PUD results in at least one of the public benefits as outlined in section 2 of this ordinance;
b) The PUD is consistent with and advances the community-wide goals of the comprehensive plan; and

c) The PUD is appropriately integrated into existing and proposed surrounding development. This does not mean the PUD reflects the specific standards of the surrounding area such as lot size, density, setbacks, or design. While integration may be achieved through such standards, it may also be achieved through continuation of existing land use types, architectural transitions, landscape buffering, or other means.”

• **Is the proposed site and building design reasonable?**

Yes. The applicant has proposed a three-story building, with underground parking that is an architecturally attractive and fits in the context of the Shady Oak Road commercial corridor. The building would be faced with brick and composite materials. The building would have a flat roof with two-story features at the north and south ends to soften the edges at Main Street and Oak Drive Lane intersections with Shady Oak Road. Apartment units would have glass sliding doors with a deck attached to the unit. The applicant has also proposed a landscaping plan that would over story trees along the street frontages to soften the building appearance. These features have improved the building aesthetics, impact and site functionality since the initial concept plan submittal. (See attached).

The proposed project would extend the sidewalk along Oak Drive Lane from Shady Oak Road to the driveway. The applicant has proposed internal walkways to connect the sidewalk to building access points. A tot lot play area is proposed for residents on the west side of the building.

**Summary Comments**

Staff supports the proposal. The revised site plan reduces the fill over the sanitary sewer line to better address grading and parking lot design issues noted during the August 24, 2017 review. As noted, the building design and location on the site remains unchanged with these revisions.

**Staff Recommendation**

Recommend the city council adopt the following:

1) Resolution approving a comprehensive guide plan amendment;

2) Ordinance rezoning the property from B-2 to PUD; and

3) Resolution approving final site and building plans and preliminary and final plat.

Originator: Loren Gordon, AICP, City Planner
Supporting Information

Surrounding
Northerly: storm water ponding property; guided low density residential

Land Uses
Easterly: Single family residential in the city of Hopkins
Westerly: Single family residential; guided low density residential
Southerly: commercial retail in the city of Hopkins

Planning
Guide Plan designation: Commercial
Existing Zoning: B-2, commercial

Development Standards
The proposed development standards are included as the regulatory standards under the planned unit development ordinance.

<table>
<thead>
<tr>
<th>Proposed</th>
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<tbody>
<tr>
<td><strong>Building Setbacks</strong></td>
</tr>
<tr>
<td>North property line</td>
</tr>
<tr>
<td>South property line</td>
</tr>
<tr>
<td>East property line</td>
</tr>
<tr>
<td>West property line</td>
</tr>
<tr>
<td><strong>Other Setbacks</strong></td>
</tr>
<tr>
<td>Floodplain</td>
</tr>
<tr>
<td>Wetland</td>
</tr>
<tr>
<td><strong>Floor Area Ratio</strong></td>
</tr>
<tr>
<td><strong>Impervious Surface</strong></td>
</tr>
<tr>
<td><strong>Density</strong></td>
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<tr>
<td><strong>Height</strong></td>
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</tbody>
</table>

Previous Reviews
The city has been actively involved in promoting redevelopment of the site. The following is a summary of meetings and open houses for the Ron Clark project.

City Council, Economic Development Advisory Commission and Planning Commission Meetings
August 24, 2017 – Planning Commission Meeting
- Review of the formal application
- Public hearing

August 14, 2017 - Joint EDAC/City Council Meeting
- Review of project financials
- Introduction of the rezoning ordinance

April 24, 2017 - City Council Meeting
- Concept plan review

February 27, 2017 - City Council Meeting
- Concept plan review

February 16, 2017 - Planning Commission Meeting
- Concept plan review

November 14, 2016 - City Council Special Meeting
- Shady Oak Road Redevelopment Developer Interviews

Open House and Neighborhood Meetings

August 2, 2017 – 7:30-9 a.m., 11 a.m.-1 p.m., 5-7 p.m.
- Updated concept plan. Feedback collected via Minnetonka Matters. Additional feedback was collected via Minnetonka Matters. Please note, City of Minnetonka staff documented feedback from the April 6 meeting on the discussion forum using the "Minnetonka Matters" admin account.

February 15, 2017
- Presentation of concept plan

Shady Oak Road Redevelopment Study

April 7, 2016
- The third meeting discussed feedback we have received and more development option information.

February 11, 2016
- The second meeting discussed, in more detail, the possible redevelopment of the property.

January 13, 2016
- Discuss the future of the property including a general outline of a process that will take place over several months and potential changes to the property.
City Actions

The proposal includes the following applications: (1) Comprehensive Plan amendment, (2) Rezoning, (3) Subdivision and (4) Site and Building Plan review. Specifically, the proposal requires approval of:

- **Comprehensive Guide Plan Amendment.** The 2030 Comprehensive Guide Plan designates the site for commercial land uses. The proposal requires an amendment to high-density residential.

- **Rezoning.** The property is zoned B-2 and R-1. The applicant is requesting a rezoning to Planned Unit Development.

- **Subdivision.** The applicant is proposing to subdivide a portion of the adjacent and also city-owned residential property and allowance for stormwater management to occur on that property with an easement.

- **Final Site and Building Plans.** By city code, site and building plan review is required for construction of any new building of the proposed size.

Preliminary and Final Plat

The preliminary and final plat reorients the existing property line between the two city owned parcels. The property line readjustment provides room for the apartment parking lot and additional frontage for the single family home. (See attached). Staff has reviewed the request and determined that the proposal meets city ordinance.

Stormwater

As proposed, drainage from the site would be managed in an open pond to the west of the building. As a condition of approval, a final stormwater management plan and specifications must be submitted prior to issuance of a grading permit. The plans must meet the standards of the city’s Water Resources Management Plan, incorporating rate control, volume control, and water quality treatment.

Stormwater reuse was researched, but was determined that it was not a feasible option due to financial limitations.

Solar Energy

Solar energy opportunities are not proposed but are always an option for the property.

Utilities

Public water, sanitary, and storm sewer facilities are available to the site from Oak Drive Lane. A 50-foot sanitary sewer easement extends along the west property line. The easement
provides clearance for a 54-inch sanitary sewer pipe that services a large portion of the city.

**Sidewalks**

A sidewalk exists on Shady Oak Road which was newly constructed along with the roadway improvements. An additional sidewalk is proposed along the north side of the site.

**Traffic and Parking Study**

The city commissioned a traffic study to:

1. Understand existing traffic and parking conditions of the site;

2. Evaluate potential impacts of the proposed redevelopment; and

3. Address improvement options for any issues, if necessary.

In evaluating each of these items, the city’s traffic engineering consultants drew on general engineering principles, as well as specific observations of the existing site. (See attached). The study generally concluded the project would have no negative impacts to the surrounding roadway system. A few of the study’s key findings include:

- The level of service for traffic on Oak Drive Lane approaching Shady Oak Road at the development site is LOS “A” in the a.m. peak hour and LOS “B” in the p.m. peak hour with a maximum queue of two vehicles under existing conditions.

- The proposed site will generate 30 trip ends in the a.m. peak hour and 47 trip ends in the p.m. peak hour with almost all of the traffic using the Oak Drive Lane and Shady Oak Road intersection. Very little if any traffic would use Oak Drive Lane to go west.

- With the development of the site, the level of service for traffic on Oak Drive Lane approaching Shady Oak Road at the development site is LOS “B” in the a.m. peak hour and LOS “C” in the p.m. peak hour. The average increase in delay is 3 seconds/vehicle and the maximum queue length is two vehicles.

Since the completion of the traffic study, questions have been raised about the desire to include left and right turn lanes on Oak Drive Lane at Shady Oak Road. The city explored this potential
design change with Hennepin County as the expanded lanes would require changes to the newly constructed lane divider medians on Shady Oak Road. The County responded that it would not approve the design. Further, traffic conditions do not warrant the change.

**Parking**

The city code requires 2 parking spaces per unit for multi-family developments with one of those spaces located in an enclosed structure. As proposed, the Shady Oak Crossings project would provide 89 of the required 98 parking spaces or a ratio of 1.82 parking spaces per unit and 0.89 spaces per bedroom. Although 9 spaces short of the traditional code standard it is more than the number of parking spaces per unit for other recently approved apartment projects.

<table>
<thead>
<tr>
<th>Shady Oak Crossings</th>
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<tbody>
<tr>
<td>Number of Spaces Required</td>
</tr>
<tr>
<td>Underground</td>
</tr>
<tr>
<td>Surface</td>
</tr>
<tr>
<td>TOTAL</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Traditional Code Standard</th>
<th>Stalls per Bedroom</th>
<th>Stalls per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>ITE</td>
<td>n/a</td>
<td>1.10-1.37</td>
</tr>
<tr>
<td>Shady Oak Crossings Proposed</td>
<td>0.89</td>
<td>1.82</td>
</tr>
<tr>
<td>Tonka on the Creek</td>
<td>1.15</td>
<td>1.49</td>
</tr>
<tr>
<td>Carlson Island</td>
<td>1.03</td>
<td>1.55</td>
</tr>
<tr>
<td>The Ridge</td>
<td>.93</td>
<td>2</td>
</tr>
<tr>
<td>Highland Bank</td>
<td>1.2</td>
<td>1.78</td>
</tr>
</tbody>
</table>

**Transit**

The site at 4312 Shady Oak Road is served by bus routes 12 and 670. The nearest bus stop is located directly across the street from the site at Main Street and 20th Avenue North in Hopkins. Bus route 12 connects Minnetonka riders to Hopkins, St. Louis Park, and Minneapolis with a current service schedule between 5:00 – 9:00 a.m. and 4:30 – 8:00 p.m. during the weekdays. Express route 670 provides riders weekday express access to
downtown in the morning and evenings. In addition, the proposed Southwest LRT Shady Oak Road station is approximately a half mile from the proposed project. When completed in 2021, riders will have service to downtown Minneapolis and St. Paul.

**Building Design**

The proposed building would have a three-story appearance but have two-story features to soften the north and south building ends. (See attached). The proposed building would have a code-defined height of 36 feet as shown.

Building materials would include brick and composite materials. As a condition of approval, a final materials and color palate board must be submitted for staff review and approval.

**Natural Resources**

**Trees**

There are 38 significant trees on the site, one high priority tree and 2 that are structurally unsound. As proposed, the project would remove 1 high priority tree and 15 significant trees. The subject proposal would not meet the tree protection ordinance. The grading surrounding tree 4822 would need to be adjusted to save the tree.

There are a couple opportunities to increase the tree preservation by reconfiguring the storm water basin to save high priority tree 4822 and tree 4828.

If tree 4822 cannot be saved through grading changes mitigation will be required for it and two significant trees (4804 and 4805) for a total mitigation of 48-inches or 24, two-inch trees. The landscape plan indicates that they will plant 40 deciduous trees so this will satisfy the mitigation requirement.

**Landscape Plan**

Generally, the landscape plan meets ordinance requirements and staff approves it with the following comments:

- Trees cannot be planted within the utility or sanitary easement line. These could be relocated to the adjoining city property.

- A final landscape plan be provided for review and approval by staff.

- Provide a final project and landscape value.
- Plantings surrounding the pond be of a native seed mix.

- Thirteen maples are specified consider substituting 5 with a different genus for added diversity.

**Wetland Items**

- A 16.5-foot buffer with conservation easement around the wetland is required.

**Erosion Control**

- Meet city standard erosion control requirements including compliance escrow and the installation and maintenance of erosion control devices during construction.

**Affordable Housing**

The project proposes all 49 units would be affordable to persons earning 60 percent of the area median income. Rents would also be required to meet certain affordability requirements.

The city’s current comprehensive plan contains policy language addressing affordable housing. The following is excerpt from the plan addressing the city’s position.

*Minnetonka has actively worked to provide opportunities for new affordable housing in the city. For example, a policy of the EDA is that 10 to 20 percent of new multi-family units should be available as affordable housing. Additionally, one of the criteria that the city Chapter V. Housing 2030 Comprehensive Guide Plan V-20 utilizes for considering land use plan changes is the inclusion of affordable housing in a project.*

*The city is working to achieve the 2010 Livable Communities Act goals and the 2011-2020 goal for new affordable housing as set by the Metropolitan Council. The city has met the 2010 Livable Communities Act goal for new affordable owner-occupied housing; however, it is behind the 2010 Livable Communities Act goal for the construction of new affordable rental housing. In spring 2008, the city will be 111 units short of achieving the 2010 Livable Communities Act affordable rental housing goal.*

*The 2020 goal is for the addition of 383 new affordable units between 2011 and 2020. Since the city is fully developed, these units will likely be added to the city’s affordable housing supply through infill or redevelopment opportunities. Additionally, in*
order to make the units affordable, it is probable that the units will be multi-family (either owner-occupied or rental) due to the high land values in the city.

**Actions**

a. Continue working with developers to include affordable housing in their developments, where appropriate.

b. Continue to work with developers in the development process to ensure the long-term affordability of units.

c. Work with Homes Within Reach and other affordable housing agencies and developers to add more affordable housing units in the city. Collaborate and support applications for grants or other funding sources for affordable housing. Provide information to these agencies on homes or areas of the city where affordable units could be located.

d. Locate new affordable and senior housing near access to the transit system, as appropriate.

e. Encourage multi-family rental developments where affordable housing is currently being provided to extend their affordability contract, if it is expiring, in order to continue providing affordable rents.

f. Make sure affordable housing is distributed throughout the entire community to prevent concentration in one particular area of the city.

h. Support the implementation criteria for residential development, especially as it relates to affordable and mid-priced housing opportunities established in Chapter IV – 2030 Land Use.

As the city works to update the comprehensive plan, affordable housing issues are becoming more difficult to address. Recent housing data prepared by the city’s housing consultant suggests that in the past 5 years the city had 800 rental and 1000 owner occupied units drop out of the defined affordability range. A number of variables such as housing reinvestments, changing resident income levels and programs contribute to that loss. This
further emphasizes that housing affordability continues to be a difficult issue for the city to address.

**Motion Options**

The planning commission has four options as noted below.

1. Concur with the staff recommendation. In this case, a motion should be made recommending the city council approve the comprehensive plan amendment, rezoning, preliminary and final plats, and site and building plan.

2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the comprehensive plan amendment, rezoning, preliminary and final plats, and site and building plan.

3. Concur with some of staff’s recommendations and disagree with the others. In this case, a motion should be made recommending approval of the some and denial of the others. This motion must include a statement as to why denial is recommended.

4. Table the requests. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

**Neighborhood Comments**

At the time of publication of this report, the city had received a number comments regarding the formal application that are included in the attachments. Notices were sent to 365 property owners in Minnetonka and Hopkins prior to the August 24, 2017 meeting and again prior to the September 7, 2017 meeting. In the last distributed email regarding this project, 756 emails were distributed, 34% of the 756 opened the email, 12% then linked to the information contained in the email.

**Deadline for Action**

Waived
LOCATION MAP

Project: Shady Oak Redevelopment
Address: 4312 Shady Oak Rd.

This map is for illustrative purposes only.
Monday, July 24, 2017

Loren Gordon
City of Minnetonka
14600 Minnetonka Blvd
Minnetonka, MN 55345

RE: Shady Oak Crossing Project Narrative

Ron Clark Construction is proposing a three-story, 49-unit apartment building on the property located at 4312 Shady Oak Road.

The proposed apartment building would have underground parking, resident community room, exercise room, onsite manager's office and an outdoor play area.

It is proposed to have a mix of 1, 2 and 3 bedroom apartments and they currently expect the unit rents to be between $800 and $1200 per month. (See attachments).

Zoning for the property is currently B-2, limited business district. The city’s comprehensive plan guides the property for commercial use.

Rezoning and Comprehensive Plan: The proposed residential use requires a rezoning and guide plan change.

The proposed housing component would qualify the project for public benefit under the planned unit development zoning district.

A complementary high density residential comprehensive plan re-guidance would align with the zoning density of 31 units/acre. (49 units/1.58 acre).
**Building Design:** The proposed 3 story building with a flat roof and two story components at each end represents significant first step in the redevelopment of the Shady Oak Road corridor between Highway 7 and Excelsior Boulevard.

This existing commercial building is dilapidated and unlikely to be a candidate for remodeling.

Other residential redevelopment in the area includes The Oaks of Mainstreet townhome development (late 1990s) at the corner of Shady Oak Road and Mainstreet.

The proposed apartment building incorporates a flat roof design and an articulated façade, underground parking and common building entry accesses.

**Changes from Original design:**

The proposed 3 story Apartment building has been redesigned in response to input from the neighbors, Planning Commission and Council.

The initial design presented at the ‘Request for Interest’ interview before the City Council was a 56-unit building with a gable roof. To address the collective concern for the overall size of the building we have reduced the number of units from 56 to 49 by removing two units from each end of the building and one unit from the outside corner. We also changed the gable roof to a flat roof.

These changes have reduced the building height to two stories as viewed from Shady Oak Road from the north, Main Street from the south and from the existing neighbors to the west.

Perimeter grades have been raised and retaining walls have been added to reduce the amount of exposed foundation from the base of the building. The building height as measured from average grade is now 35’-37’ compared to the original proposed building height of 52’.

The Community Open House on January 11, 2006 sponsored by the Cities of Hopkins and Minnetonka presented a Shady Oak Road Redevelopment Study that showed all residential options for this site to be three stories.
**Site Design:** Similar to the existing building, this proposal would site the apartment building toward Shady Oak Road while providing greenspace to separate the building from the sidewalk.

Surface parking and a tot lot are provided on the west side of the building.

Underground parking is accessed from Oak Drive Lane.

Site and building design considers the relationships of public and private spaces.

A strong relationship of the sidewalk, front yard space and the building’s first floor is essential for great spaces.

**Changes to Site Design:**

The original proposed site plans had the entrance to the parking garage coming directly from Oak Drive Lane without an opportunity for the stacking of cars entering onto Shady Oak Road.

The building now has shifted south to allow the garage entrance to come from the surface parking lot to the west to now have only one entrance from Oak Drive Lane. This change allows for the stacking of cars entering Shady Oak Road.

As the building exterior has changed to a flat roof for a more ‘Urban’ design the building placement is now toward and connected to the sidewalk along Shady Oak Road while providing greenspace to separate the building from the sidewalk.

Significant landscaping and retaining walls will be placed at the north end of the building to screen the parking garage entrance. All efforts will be made to protect the existing trees as well as adding additional trees, landscaping and fencing to screen the existing neighbors from the surface parking.
Stormwater Management:
The current property is covered with 1.22 acres of impervious surface and primarily drains to the wetland. The new development stormwater management system for the site will convey all site runoff to a new basin installed on the adjacent property to the West. The impervious area for the new development provides a 32% reduction from the existing site condition. The development will meet all management standards required by the City of Minnetonka, the Nine Mile Creek Watershed District and the MPCA NPDES Permit.

Traffic: The city consultant has prepared a traffic study of the area and it clearly shows that the new use will have less traffic than other currently allowed uses and the effect on the surrounding intersections is minimal.
We had discussions with the city and county about adding a right turn lane on Oak Drive Lane and the county said it was not needed and as such would not be allowed.

Financing: The project will be financed through the Minnesota Housing Finance Agency (MHFA) 9% tax credit program. The tax credit financing program is a public/private partnership whereby the tax credit investor receives federal tax credits for a 10 year period which we are able to convert into Equity for the project, this allows for a small mortgage but in return the rents must be kept at a level set by MHFA for 30 years, with a Tenant’s income restricted to 60% of the Median Income for the County., which currently for a family of 4 is $54,240/year.
In addition MHFA does annual inspections of the property and require us to set aside about $250,000 in reserves at closing and to set aside another $22,050/year for major repairs and replacements. This assures that the building will be maintained at a high quality and continue to be an asset to the city for years to come.
If the project is approved by the city, we will be applying for tax credits in 2018 and if selected would plan to start construction on early 2019.
**Professional Management:** Steven Scott Management will be our management company, they are a highly respected local company.

We will have an onsite resident caretaker as well as a building manager who is at the building a minimum of 30 hours per week, along with a Senior Manager who oversees the building management.

As part of the maintenance and management of the building we are in each unit, normally monthly or bi-monthly to maintain equipment and to do a quick inspection to confirm no lease violations or undo wear and tear is happening.

Each resident in the household must pass extensive credit, criminal & housing history checks

The leases are also very clear as to our right to evict or non-renew a tenant for either a major lease violation or continued smaller issues. They also sign a Drug-free/Crime-free lease addendum.

Smoking is not allowed anywhere in the building.
SUBMITTED PLANS
CERTIFICATE OF SURVEY
MINNETONKA, MN

PROPERTY DESCRIPTION
Certificate of Title 1400988
Lot 18 Block 2, Oakridge Addition

Certificate of Title 1400987
Par 1: At that portion of the tract or parcel of land described at paragraph A below, which lies northwesterly of a line drawn parallel to and 200 feet Southwesterly of the North line therein and the same extended, etc.

Paragraph A: That portion of the West half of the Southeast Quarter of Section 33, Township 117, Range 28, described as follows: Starting at the Southeast corner of the Southeast Quarter of the Southeast Quarter of said Section, thence North along the East line of said Section 1900 feet; thence East one mile and thence North along the East line of said Section 2280 feet; thence West along said South line of said Section 1900 feet; thence South along the East line of said Section 2280 feet to the corner.

Property marked with pins. The surveyor guarantees that all utilities were marked or that the markings/maps are accurate.

SURVEYOR'S CERTIFICATION
I hereby certify that this survey was prepared by me and under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota.

Dale D. Johnson
Surveyor
Lt 43000

LEGEND

1. ELEVATION MARKER
2. ELECTRIC TRANSFORMER
3. STORM SEWER
4. DEEDED SEWER LINES
5. NAIL/SCREW MARKER
6. UNDERGROUND COMMUNICATION LINES
7. UNDERGROUND TRANSFORMER
8. UNDERGROUND ELECTRIC LINES
9. WATER VALVES
10. WATER METER
11. WATER MAINS
12. WATER LINES
13. WATER PIPES
14. WATER STATIONS
15. UNDERGROUND SEWER INLET
16. REVERSE HYDRAULIC FLOW
17. ELECTRIC MAINS
18. ELECTRIC LINES
19. CONCRETE SURFACE
20. SANITARY SEWER MAINS
21. SANITARY SEWER LINES
22. SANITARY SEWER LINTERS
23. SANITARY SEWER SEAT
24. CAUTION

PROPERTY Boundaries:

SURVEYOR Certification:

Dale D. Johnson
Surveyor
Lieutenant 43000
WARNING:
The contractor shall be responsible for calling for locations of all existing utilities that shall be marked with all utility companies in maintaining their service and/or relocation of same.
The contractor shall contact Gopher State One Call at 800-452-3655 at least 24 hours in advance for the location of all underground lines, cables, conduits, pipe, manholes, valves or other buried services. The above and/or buried services shall be considered as not lost to the owner.
Call Gopher State One Call
Gopher State One Call
Toll Free 800-452-3655

COVER SHEET

GOVERNING SPECIFICATIONS:
3. All Applicable Federal, State and Local Laws and Ordinance will be Conform With in the Construction of This Project.
4. City of Minnetonka Standard Specifications & Details

INDEX:

SHADY OAK CROSSING
R.O. CLARK CONSTRUCTION
MINNETONKA, MN

SHADY OAK CROSSING
MINNETONKA, MN
WARNING:
The Contractor shall be responsible for calling for locations of all existing utilities that shall cooperate with all utility companies in maintaining such service and/or placing protectors if they so choose.

The Contractor shall contact Gopher State One Call at 866-456-0002 at least 48 hours in advance for the location of any underground services.

The above must be done before construction begins by no later than the tender.

CALL BEFORE YOU DIG
Gopher State One Call
Toll Free: 866-456-0002

OAK DRIVE LANE
LOT 19

SHADY OAK ROAD
LOT 20

SHADY OAK CROSSING
RON CLARK CONSTRUCTION
MINNETONKA, MN

CAMPION ENGINEERING SERVICES, INC.
Civil Engineering     Land Planning

Prepared by:

PRELIMINARY TREE INVENTORY PLAN

Sheet No. 8 of 11 Sheets

SHADY OAK CROSSING
RON CLARK CONSTRUCTION
MINNETONKA, MN

Preliminary Tree Inventory Plan

The Site Review done by Jim Xue, MS. P.E. during Preliminary Planning

17-011
5/17/2016
17-011
5/24/2017

N

SCALE 1"=100'
RESOLUTIONS AND ORDINANCE APPROVING THE REQUEST
Resolution No. 2017-

A Resolution approving a comprehensive guide plan amendment from commercial to high density residential for the property located at 4312 Shady Oak Road

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. BACKGROUND.

1.01 Ron Clark Construction and Design is requesting a comprehensive guide plan amendment from commercial to high density residential to construct a 49-unit apartment building.

1.02 The property is located at 4312 Shady Oak Road.

1.03 On August 24, 2017 and September 7, 2017, the Planning Commission held a hearing on the application. The applicant was provided the opportunity to present information to the Planning Commission. The Planning Commission considered all of the comments and the staff report, which are incorporated by reference into this resolution.

Section 2. GENERAL STANDARDS.

2.01 The comprehensive guide plan sets forth the standards used to review a request for an amendment:

1) The change would be consistent with the policies, strategies, or other elements of the 2030 Comprehensive Guide Plan and the city’s Strategic Framework, including those for certain long term planning areas noted in this chapter.

2) The change would not create an adverse impact on public facilities and services that could not be mitigated with proposed improvements. Public facilities and services include roads, sewers, water supply, drainage, schools and parks.
3) Development resulting from the change would not create an undue impact to surrounding properties.
   a) Such development would be consistent with the physical character of the surrounding neighborhood or would upgrade and improve its viability.
   b) Physical character includes land use type, building height and size, relationship to the street, roof lines, and landscaping.
   c) Viability includes stabilization or enhancement of property values or removing blighting influences.

4) The change would allow a more viable transition to the planned uses on adjacent properties than the current land use.

5) The change would not have an adverse impact on the natural environment, including trees, slopes and wetlands, or the impact could be mitigated by improvements on the site or in the same vicinity.

6) There has been a change in city policies or neighborhood characteristics since the city adopted the original plan that would justify a change.

7) The change would correct an error made in the original plan.

8) There is a community or regional need identified in the comprehensive plan for the proposed use or service.

9) The change would help the city meet its housing goals.

10) The change would not adversely impact any landmarks or other historically significant structures or properties unless mitigated through relocation, commemoration, or dedication.

11) In the event a land use change includes numerous properties, such as a neighborhood area, the following factors should be considered:
   a) Determination of changed conditions on the properties or within the area surrounding the properties.
   b) The condition of the buildings on the property.
   c) If residential, the need to preserve the housing stock to meet city housing goals, or if non-residential, the ability of the proposed new land use(s) to meet city housing goals.
Section 3. FINDINGS.

3.01 The city council finds that the proposed guide plan change is justified for the following reasons:

1. The change would be consistent with the policies, strategies, or other elements of the 2030 Comprehensive Guide Plan and the city’s Strategic Framework, including those for certain long term planning areas noted in this chapter.
   - The requested change is consistent with the long term planning goals for the Shady Oak Road corridor identified in the 2005 and 2016 studies.

2. The change would not create an adverse impact on public facilities and services that could not be mitigated with proposed improvements. Public facilities and services include roads, sewers, water supply, drainage, schools and parks.
   - The proposed guide plan change would not adversely impact public services and facilities. The adjacent roadway improvements to Shady Oak Road can accommodate the development without impacting traffic flow or function. The stormwater management system would benefit from water quality improvement. The project would contribute cash to the city’s park dedication fund for park related improvements. Taxes generated from the project would benefit schools.

3. Development resulting from the change would not create an undue impact to surrounding properties.
   a. Such development would be consistent with the physical character of surrounding neighborhood or would upgrade and improve its viability.
      - The request to reguide the property from commercial to high density residential would be considered a down zoning of the property. Residential uses are generally more compatible with one another than residential uses that are adjacent commercial. The high density residential use would provide a better transition and buffer to the single family residential neighborhood from the Shady Oak Road commercial businesses and roadway.
b. Physical character includes land use type, building height and size, relationship to the street, roof lines, and landscaping.

- The design of the apartment building minimizes mass and height and is in character with the flat roof style of buildings along Shady Oak Road.

c. Viability includes stabilization or enhancement of property values or removing blighting influences.

- The existing building is a blighting influence on the commercial corridor and surrounding residential area. The removal of the building and site contamination will allow the site to be improved with an apartment building that has market demand which will provide stability to surrounding properties.

4. There is a community or regional need identified in the comprehensive plan for the proposed use or service.

- Over the past 5 years approximately 1800 affordable housing units have been lost in Minnetonka. Regionally the same housing phenomenon is occurring with the loss of affordable housing units.

5. The change would not have an adverse impact on the natural environment, including trees, slopes and wetlands, or the impact could be mitigated by improvements on the site or in the same vicinity.

- The proposed use of the property would include stormwater management which would improve water quality. Additional landscaping would be provided which is an improvement over existing site conditions. The existing site contamination would be removed.

Section 4. APPROVAL

4.01 The guide plan amendment from Commercial to High Density Residential for 4312 Shady Oak Road is approved conditioned on review and approval by the Metropolitan Council.
Adopted by the Minnetonka City Council on September 25, 2017.

_______________________________________
Terry Schneider, Mayor

ATTEST:

_________________________________
David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 25, 2017.

___________________________________
David E. Maeda, City Clerk

SEAL
Ordinance No. 2017-

An ordinance rezoning the property located at 4312 Shady Oak Road

The City of Minnetonka Ordains:

Section 1.

1.01 This ordinance hereby rezones the properties at 4312 Shady Oak Road, and legally described on Exhibit A, from B-2 Commercial to PUD/Planned Unit Development.

1.02 City Code Section 300.22 Subd. 1 allows for planned unit development zoning “…to provide flexibility from certain zoning and subdivision regulations in order to realize public benefits that may not otherwise be achieved through non-PUD development.”

1.03 City Code Section 300.22 Subd. 2 states that, “…PUD zoning may be considered by the city when it would result in one of the following public benefits:

a) Greater preservation of existing natural resources, in number or quality, than would otherwise be provided under non-PUD development;

b) Provision of affordable housing;

c) Provision of a housing type or target housing price that is desirable to the city;

d) A mix of land use types;
e) Development that is compatible with existing, surrounding
development type and intensity that is no longer allowed in other
existing zoning districts; or

f) Greater energy conservation through building and site design than
would otherwise be achieved under non-PUD development;

g) Other public benefits as recognized by the city.

Section 2.

2.01 This action is based on the following findings:

a. The rezoning to PUD would provide the following public benefits:

   (1) A greater protection of natural resources.

       a. The project would remove existing site contamination.

       b. The project would incorporate stormwater management to
          treat surface water run-off.

       c. The project would increase green space and landscaping
          on site.

   (2) It would result in the provision of affordable housing and a
       housing type and price that is desirable to the city.

   (3) As a transition property, the proposed development is
       compatible with the surrounding development type south
       along the Shady Oak Road corridor which is represented by a
       mix of commercial and multi-family residential uses.

b. The rezoning is consistent with the comprehensive guide plan, the
   Shady Oak Road Study, and intent of the zoning ordinance.

c. The rezoning is consistent with the public health, safety, and welfare.

Section 3.

3.01 Approval is subject to the following conditions:
a. The property must be developed and maintained in substantial conformance with the following plans:

- Preliminary Plat, dated August 24, 2017
- Site Plan, dated August 24, 2017
- Grading Plan, dated August 24, 2017
- Utility Plan, dated August 24, 2017
- Landscape Plan, revised date September 14, 2017
- SWPPP- Proposed Conditions, dated August 24, 2017
- SWPPP- Details, dated August 24, 2017
- Architectural Plans, dated July 24, 2017

The plans outlined above constitute the master development plan for the subject properties.

2. Development must further comply with all conditions outlined in City Council Resolution No. 2017-, approving the final site and building plans, adopted by the Minnetonka City Council on September 25, 2017.

Section 4. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on September 25, 2017.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk
Action on this Ordinance:

Date of introduction: August 14, 2017
Date of adoption: September 25, 2017
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

Certified Copy:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on September 25, 2017.

David E. Maeda, City Clerk
EXHIBIT A

Lot 19 Block 2, Ginkela Oakridge Addition

AND

Certificate of Title 1400997

Par 1:
All that portion of the tract or parcel of land described at paragraph "A" below, which lies Northward of a line drawn parallel to and 200 feet Southward of the North line thereof and the same extended, to wit:

Paragraph "A". That portion of the West Half of the Southeast Quarter of Section 23, Township 117, Range 22, described as follows: Starting at the Northeast corner of the Southeast Quarter of the Southeast Quarter of said Section; thence South along the East line of the West Half of the Southeast Quarter of said Section, a distance of 300 feet; thence Westerly at right angles to said East line for a distance of 284 feet; thence Northerly along a line parallel to said East line a distance of 600 feet; thence Easterly along a line at right angles to said East line 308 feet to the center line of McGinly Road; thence Southeasterly along the center line of McGinly Road to the East line of the West Half of the Southeast Quarter of said Section 23; thence Southerly along said East line 33.5 feet to the point of beginning.

Par 2:
Lot 20, Block 2, Ginkela Oakridge Addition
Resolution No. 2017-
Resolution approving preliminary and final plats and final site and building plans, with variances, for Shady Oak Crossings at 4312 Shady Oak Road

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 Ron Clark Construction and Design has requested approval of preliminary and final plats and final site and building plans for a rental apartment building.

1.02 The properties are located at 4312 Shady Oak Road and 4292 Oak Drive Lane. They are legally described on EXHIBIT A of this resolution.

1.03 On August 24, 2017 and September 7, 2017, the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the preliminary and final plat and final site and building plans, with variances.

Section 2. Preliminary and Final Plat Standards and Findings.

2.01 City Code §400.030 outlines design standards for residential subdivisions. These requirements are incorporated by reference into this resolution.

2.02 The proposed preliminary and final plats meet the design requirements as outlined in City Code §400.030.

Section 3. Site Plan Standards and Findings.

3.01 City Code §300.27, Subd. 5, outlines several items that must be considered in the evaluation of site and building plans. Those items are incorporated by
3.02 The proposal would meet site and building plan standards outlined in the City Code §300.27, Subd.5.

1. The proposal would result in a high-density residential development consistent with the site’s rezoning and comprehensive guide plan. Further, the proposal has been reviewed by city planning, public works, engineering, and natural resources staff and found to be generally consistent with the city’s development guides, including the water resources management plan.

2. The proposed building and parking lot would be appropriately located with reference to both existing constructed and natural features. As proposed a three-story building, with underground parking, is architecturally attractive and fits in the context of the Shady Oak Road commercial corridor. The building would be faced with brick and composite materials.

3. The proposal would visually and physically alter the site and corridor by removing the current one-story commercial building for a 3-story residential building. However, redevelopment of the subject property would clean up a blighted and contaminated property, improve surface water management and treatment, increase green space and landscaping and reduce the potential for other nuisance issues such as lighting, noise and odor that may be generated by a commercial property.

Section 4. City Council Action.

4.01 The above-described preliminary and final plats and site and building plans, with variances, are hereby approved subject to the following conditions:

1. Subject to staff approval, Shady Oak Crossings must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

   - Preliminary Plat, dated August 24, 2017
   - Site Plan, dated August 24, 2017
   - Grading Plan, dated August 24, 2017
   - Utility Plan, dated August 24, 2017
   - Landscape Plan, dated September 14, 2017
   - SWPPP- Proposed Conditions, dated August 24, 2017
   - SWPPP- Details, dated August 24, 2017
   - Architectural Plans, dated July 24, 2017
2. Prior to the release of the final plat for recording purposes:
   a) Submit the following:
      1) Final plat drawing with easement legend and easement dedication clause.
      2) Two sets of mylars for city signatures.
      3) An electronic CAD file of the plat in microstation or DXF.
      4) Title evidence that is current within thirty days before release of the final plat for the city attorney's review and approval.
   b) This resolution must be recorded with Hennepin County.

3. Prior to issuance of a building permit:
   a) Submit the following for staff review and approval:
      1) An electronic PDF copy of all required plans and specifications.
      2) One full size set of construction drawings and project specifications.
      3) Items associated with site work:
         a. Final site, grading, stormwater management, utility, landscape, tree mitigation, and natural resource protection plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.
            1. Final site plan:
               • Confirm sidewalk connection on north side of the building to Shady Oak Road meets ADA.
               • Submit retaining wall plans from structural engineer.
2. Final stormwater management plan must meet the requirements of the city’s Water Resources Management Plan, Appendix A. Design. The plan must include a narrative, impervious surface information, soil boring data, and modeling demonstrating rate control and water quality treatment.

3. Final utility plan must include:

- Water Service.
  
  o Address the tie card issue that shows water is stubbed to the site differently than shown on the plans. Relocation of the hydrant will require rework of the existing stub.
  
  o Recommend relocating water service into the building. Currently shown crossing under a catch basin and a retaining wall. Service as shown will require significant fittings and be difficult for the property owner to maintain in the future due to the extra depth for cover as well as the feed being located in close proximity to the retaining wall and within the garage access.

- Sanitary Sewer.
  
  o Keep trees out of easement. Smaller shrubs permissible.
  
  o Show sanitary sewer service to 4292 Oak Drive Lane to avoid potential conflict with storm sewer installation. Tie card attached.
• Developer to provide maintenance agreement that states property owner is responsible for replacing parking lot section if the city or county needs to perform maintenance on the underlying utilities.

• Stormwater.

  o Stormwater maintenance agreement will be required.

  o Relocate access road to tie into the radius of the 4 stall parking area so the road is straight. Public works vehicles cannot make the turn as shown.

  o Add note to access road: 12’ wide infiltration basin access (compacted to 95% density constructed with structural material, finished with 4” topsoil and seeded)

  o Label EOF on grading plan.

  o Relocate CBMH 3 to mid-point or northwest corner of 4 stall parking area so that the structure is not atop the county storm sewer line. Confirm clearance over 27” storm pipe. Adjust D&U easement as needed to accommodate.

  o Note that unused sewer services will be removed back to the main and the wye will be cut out and sleeved.

  o Stormwater plan has been submitted detailing conformance with the volume and water quality provisions of the city's stormwater
rules. The project will meet the rate control requirements through reduction of impervious surface (approx. 30%), however, must still submit documentation that rates for the 2-, 10-, and 100-year do not exceed the existing condition at all points where stormwater leaves the site.

- A Nine Mile Creek permit will be required for this project.

- Streets.
  - Confirm with Hennepin County if ROW permits will be required.

4. Final landscaping and tree mitigation plans must:

- Overstory and evergreen trees cannot be planted within the utility or sanitary easement line.

- Final landscape plan to be reviewed and approved by staff.

- Provide the final project and landscape value.

- Stormwater pond be planted with a native seed mix.

- Thirteen maples are specified, substitute 5 of the maples with a different genus. Code is satisfied but a little more diversity is desirable.

- The proposed grading will still result in the loss of tree 4822. Adjust the grading and the outlet pipe.

- The grading associated with the pond construction can be no closer than 15'
to the tree; the plan shows 14-feet which equates to about 35% impact to the critical root zone. The grading associated with the storm pipe outlet cannot be located within the critical root zone of the tree (CRZ is a 46' radius).

5. Wetlands.

- Provide a 16.5-foot buffer with conservation easement.
- Meet the watershed district rules.

b. A sequencing plan for review and approval of the city engineer. The plan must notate the series of construction events that will occur involving driveway construction and sanitary sewer and water main connections and disconnections. The number of events in which disturbances to the street and utilities occur must be minimized. For example, multiple crews may be required to disconnect water services simultaneously.

c. The following documents for the review and approval of the city attorney:

1. Development agreement.

2. Stormwater maintenance agreements over all stormwater facilities. This agreement must state that the city will not maintain private structures within public easements.

3. A private fire hydrant maintenance agreement.

d. Proof of subdivision registration and transfer of NPDES permit.
e. Evidence of closure/capping of any existing wells, septic systems, and removal of any existing fuel oil tanks.

f. A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.

g. Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct parking lot and utility improvements, comply with grading permit, tree mitigation requirements, landscaping requirements, and to restore the site. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash escrow until:

1. A final as-built survey has been submitted;

2. An electronic CAD file or certified as-built drawings for public infrastructure in microstation or DXF and PDF format have been submitted;

3. Vegetated ground cover has been established; and

4. Required landscaping or vegetation has survived one full growing season.

h. Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:

1. The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and
2. If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion or grading problems.
   
i. Any required administration and engineering fees.
   
j. Park dedication fees in the amount of $245,000. City staff is authorized to reduce this amount commensurate with the cost of qualified public improvements.
   
4) Items associated with building work:
   
a. A final material and color palate board for staff review and approval.
   
b. All required hook-up fees.
   
b) Obtain and submit a permit from the Minnesota Department of Health.
   
c) Obtain and submit a sanitary sewer extension permit from the Minnesota Pollution Control Agency.
   
d) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
   
e) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff as determined by city staff.
   
4. The applicant may choose to submit a separate grading permit application to facilitate site work prior to issuance of a building permit. In such case, prior to issuance of a grading permit, the items outlined in preceding condition 3(a)(3) – “Items associated with site work” – must be submitted for staff review and approval and required erosion control must be installed for inspection.
   
5. Retaining walls over four feet in height must be engineered.
6. During construction the street must be kept free of debris and sediment.

7. The property owner is responsible for replacing any required landscaping that dies.

8. The applicant must work with the city for identification of acceptable street light fixtures.

9. Provide a snow removal plan for staff review and approval.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 25, 2017.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on September 25, 2017.
EXHIBIT A

Lot 19 Block 2, Gliese Oakridge Addition

AND

Certificate of Title 1400997

Par 1:
All that portion of the tract or parcel of land described at paragraph "A" below, which lies Northerly of a line drawn parallel to and 200 feet Southerly of the North line thereof and the same extended, to-wit:

Paragraph "A". That portion of the West Half of the Southeast Quarter of Section 23, Township 117, Range 22, described as follows: Starting at the Northeast corner of the Southwest Quarter of the Southeast Quarter of said Section; thence South along the East line of the West Half of the Southeast Quarter of said Section, a distance of 300 feet; thence Westerly at right angles to said East line for a distance of 284 feet; thence Northerly along a line parallel to said East line a distance of 600 feet; thence Easterly along a line at right angles to said East line 308 feet to the center line of McCurdy Road; thence Southeasterly along the center line of McCurdy Road to the East line of the West Half of the Southeast Quarter of said Section 23; thence Southerly along said East line 33.5 feet to the point of beginning.

Par 2:
Lot 20 Block 2, Gliese Oakridge Addition
CORRESPONDENCE FROM A PLANNING COMMISSION MEMBER
Loren:

As I mentioned a few weeks ago, I will be out of town on September 7th, and will not make the meeting. I had hoped that we would be able to vote on the Shady Oak proposal last night, but understand the mechanics as to why we were unable to proceed.

Given the energy and interest surrounding this proposal, I would be remiss to not make available my thoughts to the public, staff, and fellow commissioners. These would be my comments if I were able to attend the meeting. If you are able, please share the following.

Thank you,

Sean

First, I would like to thank city staff on the work they put into this project, and in particular, the community outreach. I believe the September 7th meeting will be the 12th time the public has been invited to participate in the discussions surrounding the redevelopment of this site.

To the those residents who have participated in the many meetings/discussions, your involvement is appreciated. Thanks to those who have taken the time to write to commission members and city staff. We read all of the correspondence.

While I cannot speak for other members, I must say that I personally have found offensive some of the comments we have received. They are neither constructive nor persuasive, and have little bearing on the facts and circumstances that we are charged with evaluating. I am all for free speech, but rants are more likely to hurt one’s arguments, in my view. I am also not a fan of individuals assuming they speak for the other 52,000 + residents of Minnetonka.

In the preamble to our meetings, the Chair reads a statement that tries to put in context the role of the Planning Commission in the overall decision making process. The longer I have served, the more I have come to appreciate one of the ideas in this statement. We are often challenged to weigh the greater good of the community against individual or groups of property owners. This project could not illustrate the point any better, in my view.

As I have weighed the various pros and cons to the proposal (and there are too many to list), a few stick out to me:

Pros

- I like the proposed design. The reduction in mass is a positive for me.
- I believe the site is appropriate for the proposed use. I have been consistent in asking for this and other developments; what if we had no zoning change....what could someone build without community input? Its simplistic, but the neighborhood could end up with a use generating higher traffic, no remediation, and less visually attractive.
- The feedback from the development community is telling to me. The highest and best use is probably for high density residential, not retail, industrial or other specialty uses.
Cons

- The site is tight, and it would be better if there could be a greater buffer to the northwest/west neighborhood.
- Traffic: As someone who commutes daily to St Paul, I can attest to the traffic issues of the metro. But I do not proclaim to be an expert, and feel it my obligation to defer to the professional engineering community (parking study).
- Pedestrian safety. I don’t know how to evaluate this, and would defer again to the experts
- Neighborhood opposition

Other:

Affordable Housing, which I refer to as workforce housing. This is not an issue unique to Minnetonka. The whole country is faced with it, particularly in upper income communities. Affluent people want to live in this community. Land in expensive, we have no green fields left for development. We are left with only redevelopment options. Demolition costs, construction costs (which did not decline in the recession), and a shortage of skilled trades all add up to expensive housing.

A quick Google search suggests starting salaries for Minnetonka teachers and police officers to be less than $50,000. A family of four with this income cannot afford to live in the city.

As a community, we are aspirational in our desire to add affordable housing, but the needs/demands outstrip our ability to even catch up to prior year’s goal setting. Given the lack of land, we are left to find small opportunities in attempting to address this issue.

I come back to the issue of balancing sometimes competing interests. In this instance, I weigh in on the side of the greater community.

I am in favor of the Proposal and would vote to recommend to the City Council for their approval.

Respectfully,

Sean OConnell
Minnetonka Planning Commission Member
TRAFFIC STUDY
Memorandum

To: Loren Gordon, City Planner
   City of Minnetonka

From: Anthony Heppelmann, PE

Date: April 5, 2017

Re: Shady Oak Redevelopment
    WSB Project No. 1502-70

Introduction

This traffic impact study addresses a proposed redevelopment of the property at 4312 Shady Oak Road with a 54 Unit apartment building. The project location is shown on Figure 1. The development would replace the existing retail building on this site. The proposed site layout is shown on Figure 2. The proposed development would have access to Oak Drive Lane via two proposed access points, one to a 32 space surface parking lot and one to proposed underground parking. The primary issue for this project is the potential queues and delays on Oak Drive Lane at Shady Oak Road and the potential impact on safety and the proposed access to the site.

Existing Conditions

Shady Oak Road was recently reconstructed as a four lane divided roadway. The reconstructed Shady Oak Road has a median at the north entrance of Oak Drive Lane onto Shady Oak Road so this access only allows right-turns in and right-turns out. The southerly access of Oak Drive Lane to Shady Oak Road is full access. WSB set a video traffic counter at the southerly Oak Drive Lane access to Shady Oak Road in March, 2017. The am and pm peak hour turning movement volumes recorded at this intersection are shown on Figure 3. The peak hour traffic volumes on Oak Drive Lane are relatively low in both the am and pm peak hours.

Hennepin County conducted peak hour counts on Shady Oak Road near this intersection in 2004 and in 2012. The peak hour volumes in 2012 were lower than in 2004. In 2004, there were 940 vehicles per hour (vph) in the am peak hour and 1260 vph in the pm peak hour. In 2012, there were 815 vph in the am peak hour and 1063 vph in the pm peak hour. The 2017 peak hour volumes based on the most recent counts taken by WSB are 1253 vph in the am peak hour and 1712 vph in the pm peak hour. The reason current traffic counts are much higher than in 2004 and 2012 is because TH 169 was closed north of Bren Road when these counts were taken and Shady Oak Road is being used as an alternative route. Peak hour volumes on Shady Oak Road can be expected to decrease once TH 169 is reopened to traffic. The traffic operations analysis is based on the higher peak hour counts from 2017.
Figure 1
Project Location

Project Site
4312 Shady Oak Road
Figure 2
Proposed Site Plan

Figure 3
Existing (2017) Traffic Volumes

2017 AM (PM) Volume
The southerly access of Oak Drive Lane is 24 feet wide and has one inbound and one outbound lane at Shady Oak Road. WSB conducted a traffic operations analysis for the Oak Drive Lane and Shady Oak Road intersection for the am and pm peak hours based on the traffic counts shown in Figure 3. The analysis was conducted using SimTraffic software which is a microsimulation model that models each vehicle through the intersection. The results of that analysis are shown in Table 1.

Table 1
Delay and Level of Service at Oak Drive Lane and Shady Oak Road—Existing Conditions

**AM Peak Hour**

<table>
<thead>
<tr>
<th>Interaction</th>
<th>Location</th>
<th>Appr</th>
<th>Total Delay by Movement</th>
<th>LOS by Approach (Sec/Veh)</th>
<th>LOS by Intersection (Sec/Veh)</th>
<th>Appr</th>
<th>Average &amp; Maximum Traffic Queueing (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>L T R</td>
<td>L T R</td>
<td>Delay</td>
<td>LOS</td>
<td>Delay</td>
<td>LOS</td>
</tr>
<tr>
<td>4: CSAH 61/Shady Oak Road &amp; Oak Drive Lane</td>
<td>NB</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>A</td>
<td>A</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>WB</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>A</td>
<td>A</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>SB</td>
<td>0</td>
<td>4</td>
<td>4</td>
<td>A</td>
<td>A</td>
<td>4</td>
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<tr>
<td></td>
<td>EB</td>
<td>15</td>
<td>0</td>
<td>5</td>
<td>C</td>
<td>A</td>
<td>9</td>
</tr>
</tbody>
</table>

**PM Peak Hour**

<table>
<thead>
<tr>
<th>Interaction</th>
<th>Location</th>
<th>Appr</th>
<th>Total Delay by Movement</th>
<th>LOS by Approach (Sec/Veh)</th>
<th>LOS by Intersection (Sec/Veh)</th>
<th>Appr</th>
<th>Average &amp; Maximum Traffic Queueing (feet)</th>
</tr>
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<td>Delay</td>
<td>LOS</td>
<td>Delay</td>
<td>LOS</td>
</tr>
<tr>
<td>4: CSAH 61/Shady Oak Road &amp; Oak Drive Lane</td>
<td>NB</td>
<td>4</td>
<td>2</td>
<td>0</td>
<td>A</td>
<td>A</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>WB</td>
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<td>0</td>
<td>A</td>
<td>A</td>
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<td>SB</td>
<td>0</td>
<td>4</td>
<td>3</td>
<td>A</td>
<td>A</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>EB</td>
<td>15</td>
<td>0</td>
<td>8</td>
<td>C</td>
<td>A</td>
<td>13</td>
</tr>
</tbody>
</table>

Intersection operations are evaluated in terms of average seconds of delay per vehicle for the intersection, and for each approach and turning movement. The average number of seconds of delay is broken into six ranges assigned letter grades A through F defining each level of service (LOS) as shown in Figure 4. The ranges for unsignalized intersections are narrower than the ranges for signalized intersections. This is because many factors including the intangible factors of driver discomfort and frustration are considered. A one-minute delay at a red light is perceived as being more tolerable than one minute waiting for a gap in traffic at a stop sign, especially when there are vehicles queued behind. It is generally recognized that LOS D is the lowest acceptable LOS for urban intersections. Intersection capacity is also defined in terms of queue lengths of stopped vehicles. A 100-foot queue is approximately equal to four cars.

The analysis shows the eastbound approach operates at LOS “A” in the am peak hour and LOS “B” in the pm peak hour with an average delay of 9 seconds/vehicle in the am peak hour and 13 seconds/vehicle in the pm peak hour. The analysis indicates there is potential for there to be up to two vehicles waiting at this intersection during the peak hours. Review of the video logs for the intersection revealed that there was never more than one vehicle waiting on the eastbound approach of Oak Drive Lane during either the am or pm peak hours when the counts were taken.
Traffic Forecasts

The estimated trip generation for the site is shown in Table 2 below. The estimated trips are based on trip generation rates from the Institute of Transportation Engineers Trip Generation Manual 9th Edition. The site is expected to generate 30 trips in the am peak hour and 47 trips in the pm peak hour.

Table 2
Site Trip Generation

<table>
<thead>
<tr>
<th>Description/ITE Code</th>
<th>Units</th>
<th>Expected Units (independent variable)</th>
<th>Calculated Daily Trips</th>
<th>AM Peak Trips - Total</th>
<th>AM In</th>
<th>AM Out</th>
<th>PM Peak Trips - Total</th>
<th>PM In</th>
<th>PM Out</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartment 220 (adjacent street)</td>
<td>Dwelling Unit</td>
<td>54</td>
<td>451</td>
<td>30</td>
<td>6</td>
<td>24</td>
<td>47</td>
<td>31</td>
<td>16</td>
</tr>
</tbody>
</table>
In order to develop the traffic forecasts with the proposed development the above site generated trips were added to existing counts.

In this study, WSB did not reduce the forecasts by the trips generated by the current use. The table below shows the trip generation for two other potential scenarios for this site. The estimated trips are based on trip generation rates from the Institute of Transportation Engineers Trip Generation Manual 9th Edition. The first row in the table below shows the potential trip generation of the current use if the building were fully occupied. The existing building has almost 26,000 square feet and would generate more than 1000 trips per day and 95 pm peak hour trips if the building were fully occupied. The second row in the table below shows the potential trip generation if the site were redeveloped as a pharmacy similar to an approved plan on the southeast corner of Shady Oak Road and Excelsior Boulevard. This would be an approved use under the current zoning. In this scenario the site would generate over 1200 daily trips and 129 pm peak hour trips. This is more than twice the number of trips generated by the proposed 54 unit apartment building.

Table 3
Alternative Trip Generation for the Site

<table>
<thead>
<tr>
<th>Description/ITE Code</th>
<th>Units (independent variable)</th>
<th>Calculated Daily Trips</th>
<th>AM Peak Trips - Total</th>
<th>AM In</th>
<th>AM Out</th>
<th>PM Peak Trips - Total</th>
<th>PM In</th>
<th>PM Out</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternate Scenario—Existing Retail</td>
<td>1000 KSF</td>
<td>25.7</td>
<td>1,097</td>
<td>25</td>
<td>15</td>
<td>9</td>
<td>95</td>
<td>46</td>
</tr>
<tr>
<td>Alternate Scenario--Pharmacy</td>
<td>1000 KSF</td>
<td>13.0</td>
<td>1,260</td>
<td>45</td>
<td>23</td>
<td>22</td>
<td>129</td>
<td>64</td>
</tr>
</tbody>
</table>

Site Trip Distribution

Almost all of the trips are expected to use Oak Drive Lane to access Shady Oak Road. Unless there are major delays at Shady Oak Road there is no reason that a vehicle would find it convenient to use Oak Drive Lane into the neighborhood. At Shady Oak Road about half will turn right and half will turn left which is the pattern of the existing traffic at this intersection. Figure 5 shows the trips that would be added to the Oak Drive Lane and Shady Oak Road intersection as a result of the proposed development.

Figure 6 shows the forecast traffic volumes with the proposed project.
Figure 5
Site Trips at Oak Drive Lane and Shady Oak Road

Figure 6
Forecast Volumes at Oak Drive Lane and Shady Oak Road with Development
Future Traffic Operations

WSB conducted traffic operations analysis of the forecast traffic volumes with the development to determine how delays, level of service and vehicle queues may change with the proposed project. Table 4 shows the results for one year after opening of the development. The analysis shows that the eastbound approach operates at LOS “A” in the am peak hour and LOS “C” in the pm peak hour with an average delay of 12 seconds/vehicle in the am peak hour and 16 seconds/vehicle in the pm peak hour. The increase in delay over the existing conditions is 3 seconds per vehicle on this approach. The analysis indicates that the potential queue length is still about two vehicles. However most of the time there would not be more than one vehicle waiting at the intersection.

Table 4
Delay and Level of Service at Oak Drive Lane and Shady Oak Road With Development

AM Peak Hour

| Location | L | T | R | L | T | R | Delay | LOS | Appr | L | T | R | L | T | R | Delay | LOS |
|----------|---|---|---|---|---|---|-------|-----|------|---|---|---|---|---|---|-------|-----|-------|---|---|---|---|---|---|-------|-----|-------|
| NB       | 7 | 1 | 0 | A | A | A | 1     | A   | S     | A | A | A | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     |
| WB       | 0 | 0 | 0 | A | A | A | 0     | A   | S     | A | A | A | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     |
| SB       | 0 | 4 | 5 | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     |
| EB       | 15| 0 | 7 | C | A | A | 12    | B   | S     | A | A | A | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     |

PM Peak Hour

| Location | L | T | R | L | T | R | Delay | LOS | Appr | L | T | R | L | T | R | Delay | LOS |
|----------|---|---|---|---|---|---|-------|-----|------|---|---|---|---|---|---|-------|-----|-------|---|---|---|---|---|---|-------|-----|-------|
| NB       | 6 | 2 | 0 | A | A | A | 2     | A   | S     | A | A | A | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     |
| WB       | 0 | 0 | 0 | A | A | A | 0     | A   | S     | A | A | A | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     |
| SB       | 0 | 4 | 4 | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     |
| EB       | 24| 0 | 7 | C | A | A | 16    | C   | S     | A | A | A | A | A | A | 4     | A   | S     | A | A | A | A | A | A | 4     | A   | S     |
Conclusions and Recommendations

The following conclusions and recommendations were reached from the analysis that was conducted for this traffic study of the proposed 54 unit apartment at 4312 Shady Oak Road.

- The level of service for traffic on Oak Drive Lane approaching Shady Oak Road at the development site is LOS “A” in the am peak hour and LOS “B” in the pm peak hour with a maximum queue of two vehicles under existing conditions.

- The proposed site will generate 30 trip ends in the am peak hour and 47 trip ends in the pm peak hour with almost all of the traffic using the Oak Drive Lane and Shady Oak Road intersection. Very little if any traffic would use Oak Drive Lane to go west.

- With the development of the site, the level of service for traffic on Oak Drive Lane approaching Shady Oak Road at the development site is LOS “B” in the am peak hour and LOS “C” in the pm peak hour. The average increase in delay is 3 seconds/vehicle and the maximum queue length is still two vehicles.

- Based on the above WSB recommends that the access from the proposed development site be located at least 100 feet to the west of the intersection to allow traffic to exit the site without conflicts with traffic queued at the intersection. One access from the site to Oak Drive Lane is preferable to minimize vehicle conflicts.

- Separate right and left turn lanes on Oak Drive Lane at Shady Oak Road could slightly reduce delays but is not required to provide an acceptable level of service at this intersection.
PREVIOUS REVIEW MEETINGS
Calvert thought that it would be important that the project appear homogenous and not have the affordable housing building appear different than the other building.

Sewell thought that the project looks great. He favored managing the height. As the starting point for development in the area, it looks great and has a lot of great features.

This concept plan is tentatively scheduled to be reviewed by the city council at its meeting on March 6, 2017.

B. Concept plan review for the Shady Oak Redevelopment located at 4312 Shady Oak Road.

Chair Kirk introduced the proposal and called for the staff report.

Gordon and Wischnack reported. They recommended that the planning commissioners provide comments and feedback on the identified key issues and others the planning commission deems appropriate. The discussion is intended to assist the applicant with future direction that may lead to the preparation of more detailed development plans.

Wischnack explained that “low income” housing refers to a resident with an annual income of less than 30 percent of the area median income. Median income is $85,000 for this area. “Affordable housing” covers a range of up to 80 percent of the area median income. The proposed rent would be between $800 and $1,200 a unit which would be considered 60 percent of area median income. Wischnack refers to it as “workforce housing” and the worker typically earns between $40,000 and $50,000 a year. Tax credits would be used to offset the affordability of the project. The proposal would not be “Section 8 housing,” but Section 8 vouchers may be used to subsidize the rent.

Knight noted that the site has a fair amount of pollution. He asked if the adjacent site on the south side would be part of the proposal. Wischnack answered in the negative.

Chair Kirk asked who pays to have the site cleaned up. Wischnack explained that there are grants available. The city would apply for a grant to fund the cleanup. The city likes to have the redevelopment grading coincide with the cleanup.
Tim Whitten, of Whitten Associates, and Mike Roebuck and Mike Waldo, of Ron Clark Construction and Design, the development team, introduced themselves. Mr. Whitten stated that he is excited to work on the site since it is located in Minnetonka. He pointed out a large stormwater management easement located on the site. The site has a grade challenge and access restricted to Oak Drive Lane. The most efficient way to access the proposed three-story building with 54 units and structured parking would be straight in from the end. The site today is mostly impervious surface. There would be 59 enclosed parking stalls and 32 surface parking stalls. The grade dictated the site’s design. The proposal would reduce the site’s amount of impervious surface. A lot of green would be added. Even though the amount of stormwater runoff would be decreased, a rain garden would still be added to clean the stormwater. The concept plan shows the mass and scale of the building. The architectural features would provide a transition from existing residential to a commercial area. The focus would be to keep the main roof at a low pitch and stay within scale. Landscaping details would be worked out. Ron Clark is known for exceeding landscaping requirements. He was available for questions.

Calvert confirmed with Mr. Whitten that brick in brown tones and cement-board detailing would be the idea for the exterior.

Mr. Waldo explained that 54 units would allow for a full-time caretaker on site and on-site manager. He would like more than 54 units, but that would be a little tight.

Chair Kirk invited anyone present to comment.

Andy Braun, 4408 Crawford Road, asked for the purchase price of the site, the selling price of the site, the cost of the development, and how much profit would be expected from the rent of the units. He thought residents of the three-story building would be able to see his residence. He was concerned for his property's value, public safety, and his wellbeing. “The record” shows that the comments were “less than three stories.” He asked if “Section 8” could apply.

Elizabeth Miller, 4408 Crawford Road, stated that she spoke on behalf of four of her neighbors. Her landscape would be degraded by the scope of the project. They received the information a couple weeks ago. The homeowners are invested for the future. A park or green space was off the table for discussion. The neighbors would take the loss on their property values, happiness, and safety.

Ann Aanestad, 4255 Oak Drive Lane, stated that she was concerned with the height of the proposed building. The surrounding houses are ramblers, one-story,
and modest-style houses. The underground parking would make the building four stories. It would not fit the housing in the area. The nearest park is over a mile away. There is not enough green space to accommodate 54 units. The proposal would cause gridlock in the area. The apartment building would not be appropriate in the area. It would not fit.

Chris Aanestad, 4255 Oak Drive Lane, stated that the building looks like it is four stories with the roof. It does not fit with the character of the neighborhood at all. He preferred owner-occupied. He did not know why townhomes would not be considered. He asked for the size of the lot and how many townhomes would be feasible. He thought 10 townhomes would allow the city to recoup its money. Traffic is a huge issue. This is the only access out of the neighborhood.

Kyle Holm, 4234 Oak Drive Lane, was worried about the stress 54 units would put on the school systems. The size of the building would be doubled. He asked if lowering the number of units could decrease rent because an on-site manager would not be funded. The rent would still be high. He is investing in his house. He agreed that something needs to happen on the site, but he is worried about his resale value.

David Cousins, 4531 Greenwood Drive, stated that he did not see a complete line of justification. He asked what more needs to be done with the process and how urgent is the redevelopment. He asked for the tax consequences for the city and county.

Mr. Braun asked if the $800 to $1,200 range included subsidies. He was concerned with headlights hitting a house near the site. He questioned why all options were not on the board to begin with.

Ellen Cousins, 4531 Greenwood Drive, requested that action be tabled for a couple years until the lite rail has been operating to see what would be the best use of the property. She saw no reason to develop the property. The proposal would ruin the neighborhood.

Mr. Braun said that the site is very visible on a main corridor. Something commercial that would be a public resource would be more appropriate than residential. Residential housing should be located further from the corridor.

Ms. Miller confirmed that commissioners had something that she previously submitted.
Nathan Toldts, 4231 Oak Drive Lane, stated that he was concerned with the size of the building, number of units, and traffic. He would prefer something smaller that would provide more of a transition to the single-family residences.

Receiving public comments was concluded.

Chair Kirk noted that this concept plan is tentatively scheduled to be reviewed by the city council at its meeting on February 27, 2017.

Chair Kirk explained that the planning commission looks at the land use issues of each proposal, not the financial aspects. Wischnack stated that the purchase price for both properties was $1.9 million. The sale price is unknown and will not be public information until it is included in the agenda report and reviewed by the city council for approval of the sale at a city council meeting. Of the $1.9 million paid for the Shady Oak project, $900,000 was returned to the city. When the city council purchased the property, the purpose was to solve a road improvement issue. The city council has purchased other properties for parks, but not this site.

Mr. Waldo explained that apartment buildings financed with tax credits or any other source is required to allow a Section 8 voucher to be used based on the rent being charged. He estimated 5 to 12 percent of the units would have a renter utilizing a voucher. He noted voucher users are some of the best tenants because the participants do not want to risk losing the voucher.

Gordon noted that the site is located in the Hopkins School District. The school district would be better able to estimate the number of school-age children in the area. Bus routes are planned during the enrollment process. He estimated that a school bus would travel past the site.

Gordon explained that redevelopment has always improved surrounding property values in Minnetonka. A residential apartment building pays the highest rate of property taxes. There is a commercial use underperforming next door. An underperforming commercial use next door could decrease surrounding property values.

Chair Kirk reviewed comments from the public including concern with the size of the building and traffic issues related to Oak Drive Lane and Shady Oak Road.

Calvert clarified that the site is currently zoned for a commercial use. Gordon confirmed that the site is guided by the comprehensive guide plan for commercial and its zoning district is B-2, which would allow offices, gas stations, and fast-
food restaurants with a drive-through window. The proposed zoning change would be a less intensive district than a commercial district.

Calvert asked how a 54-unit apartment building would fit with the city’s housing goals. Gordon reviewed the housing gaps analysis that projected 1,250 units would be located within a half mile of the Shady Oak SWLRT station.

Wischnack reviewed options considered for the site. The city’s goal of purchasing the site was not to make money. It was necessary for the Shady Oak Road improvement project. The city hopes to break even when it is sold.

Powers confirmed with Wischnack that a commercial use could apply to be located on the site, but never did. Wischnack explained that staff met with developers representing each type of use and all of them determined that the location would not be good for retail or commercial. A pharmacy may be the only viable commercial use.

Calvert confirmed with Wischnack that the adjacent house would not be included in the proposal.

Knight thought that the proposal probably is too big, has too many units, and would add to the traffic problems.

Calvert was concerned with the mass. She was excited that the building would be moved away from the road and create green space. Having an on-site manager is important, but she thought that the building would be too big.

Powers did not think the proposal would fit into the neighborhood. Headlights into the house and traffic on Oak Drive Lane are serious issues. He did not like the concept plan.

Calvert clarified that the proposal would provide “affordable housing.” She has no aversion to renters who utilize vouchers.

O’Connell stated that he knows of developments that provide Section 42 housing and the buildings are well maintained and attractive. He stated that multi-family housing should be located on a busy, arterial road. The issue with access to travel north is real and the proposal would increase that problem. The use of the site is better as multi-family residential than its current zoning. The site is an eyesore. It would benefit the neighborhood to fix it.
Sewell felt that apartments would be an appropriate use, but the scale of the building may not fit and could adversely impact the neighborhood.

Chair Kirk noted that the utility easement limits what can be done on the site. The proposed building would be too tall and long. There would be no transition from the proposed building to single-family residences. The entrance would need to be on the west side to provide better traffic flow. There should be no more than one driveway off of Oak Drive Lane.

Chair Kirk thanked the neighbors for their attendance.

9. Adjournment

Sewell moved, second by Calvert, to adjourn the meeting at 9:33 p.m. Motion carried unanimously.

By: ____________________________

Lois T. Mason
Planning Secretary
Bergstedt moved, Wiersum seconded a motion to grant the license. All voted “yes.” Motion carried.

14. Other Business:

A. Concept plan review for the Shady Oak Redevelopment located at 4312 Shady Oak Road

Wischnack gave the staff report.

Mike Waldo, Ron Clark Construction, said the company really likes the site and has enjoyed working with the city. During the concept plan review process the developer was trying to understand what the neighborhood, planning commission and council was looking for. He felt that the apartment use was a great transitional zoning.

Tim Whitten, Whitten Associates, said currently pretty much the entire site was covered by impervious surface. There was an opportunity to add a lot of green space. The current building was a walkout on the west side. The proposal would put a parking structure in place of the walkout. He said there was an easement on the west side that defined the site. The building can’t go past that. A number of different options were looked at as they prepared to respond to the request for information. Everything they looked at came back to the same location on the property with one structured building. The solution they are looking at works hard to fit into the available space. The hope is to push the building close to Shady Oak Road to create an urban feel.

Whitten noted there were around 50 people who attended the neighborhood meeting and he was appreciative of the respectful discussion. In looking at the site there was a significant grade difference from the south to the north. The only realistic access was on Oak Drive Lane. This would work well since the site tipped that way. In the middle of the surface parking was the main entrance to the building. A lot of grade needs to be raised to provide the handicap accessibility. This provides the opportunity to cover the structured part of the building. The center of the building on the main floor would be the common area amenities. The idea was to promote direct access for residents to get to the Shady Oak Road sidewalk so they can take advantage of mass transit. There would be ample space for bikes in the building.

Ann Aanestad, 4255 Oak Drive Lane, said the roadway off Shady Oak Road was actually preferred but because property to the south of the proposed building was privately owned, it could not be purchased. Due to the reconstruction of Shady Oak Road there already was a lot of traffic.
coming from the upper neighborhoods into her neighborhood. She said the proposed building would cause massive traffic concerns and was too big. The building was surrounded by wetlands that already were disturbed by the road reconstruction. She said the wetlands should be preserved. She asked that the city consider making it into a preserve area to preserve water quality and the wetlands.

David Cousins, 4531 Greenwood Drive, said the consensus at the neighborhood meeting was there wasn’t a lot of support for the project. The building as rendered looks nothing like the other buildings in the area. He said planning commissioners made comments about the site continually being looked at as some type of transitional site, but the height of the building was too much. There were several comments about too much mass. There were also concerns about the traffic situation. He suggested re-thinking what should be done with the site.

Elizabeth Miller, 4408 Crawford Road, said said she shared the same concerns as the other two testifiers including traffic issues. The area needed more community development as it was cut off from any nearby amenities such as parks. She felt that option was taken off the table from the very beginning. She said one of the planning commissioners agreed that the project would hurt neighborhood property values. Sustainable agriculture was something the city was lacking. Nationwide there are school to garden programs that are very positive to the community.

Kyle Holm, 4234 Oak Drive Lane, asked what the developer was thinking the roof peak height would be. His house’s roof peak height was 19 feet and he thought this was comparable to the rest of the neighborhood. He said the foundation size of the proposed building would double from the current building. He shared the concerns about traffic. The neighborhood was starting to turn over with a lot of young families so he liked the idea of gardening for the property.

Wagner noted the other property was not being included at this point and asked for more information about that. There had been a lot of discussion during the council study session about whether to include the other property as part of this project and the council seemed to be split on the issue. Wischnack said that on the original submission there were townhomes placed on the location. Because of the neighboring single family homes staff felt it seemed odd to place a twin home on the property. It could still be added to the plan.

Wiersum said the fact the city owned both the parcels it begged the question if there could be more creativity with the transition. He asked what options existed, given the easement, to bridge the two properties in a
way that made sense. Whitten said it would be a terrific opportunity to use both properties as one if not for the easement between the two. The variety of different site solutions would have been extraordinary. Wiersum asked what the dollar value was for the smaller lot. Wischnack said the average house value in the neighborhood was $205,000. Wiersum said while the ideas for a park were nice, $1.9 million for a one acre park seemed too spendy but maybe using the separated property creatively to create an amenity might take the sting out of the some of the options being considered.

Allendorf said his recollection of the council's discussion during the study session was the same as Wagner's. He thought the majority of the council was leaning on looking at a proposal that would use both properties not together, because of the easement, but the townhouse idea on the west property provided a good transition into the neighborhood. He asked if it was anticipated a traffic study would be done if the project moved forward. Wischnack said a traffic study along with all the environmental work and storm water analysis would be done if the project proceeded. She noted there had been discussion about gaining access off the Mainstreet and those discussions would continue.

Ellingson said during the neighborhood meeting it was pointed out it was possible to turn left or right on Oak Drive Lane but it was difficult to turn left especially during rush hour. He questioned how the traffic would be directed to Mainstreet.

Acomb said housing made sense for the site. She had concerns about the size of the building compared to the single-family homes and businesses in the area. The multi-level housing in Hopkins along Mainstreet doesn't have such a large look. She drove the neighborhood earlier in the day and said it was a charming neighborhood. She thought it would be a great place to live given the proximity to the light rail station. There were parts of the plan she appreciates like the green space and the bicycle accommodations. She had concerns about circulation on the site and the two access points. She recalled the discussions about including the other property and at the time it was more appealing to her than it currently was. There's no buffer between the building and the neighborhood. She liked the idea of having some open space.

Wagner said this location was studied by the council for a number of years. The council had always considered the area as part of the light rail walkshed. The discussion was about ensuring this site was attractive and blended in with what the future of the corridor will be. It will not fit in with the current strip mall or the empty lots. The council would love to have open space everywhere but that wasn't why this particular parcel was
purchased by the city. He thought the site outlived its life as a commercial site and housing was appropriate. He was not as concerned with the 54 units because the other options looked had even more units. He liked the look that made it feel more “townhome-ish” versus the current look with one entrance that looked too “apartment building-ish.” He would like to have it feel more residential in the look.

Bergstedt said there were a lot of constraints on the site. When the city purchased the property, it was not done with the intention to have a park and he thought residential was appropriate. It looked like a very urban apartment building with its proximity to the road. If there was a way to soften the look and make it look more “townhome-ish” that would be good. His biggest concern was with the traffic. If people can’t easily and safely get on to Shady Oak Road then the number of units and how well the building was designed didn’t matter. He noted the site was a contaminated site and asked how that would be addressed with whatever was developed on the site and how that would be funded. Wischnack said the site cleanup was part of the negotiation. With other contaminated sites the city applied for available funding from the county, state and Metropolitan Council. Typically, the cleanup was done as part of the development process. The cleanup can’t be done without removing the building and contaminated soil. Currently staff was writing the response action plan. This had to be done regardless of how the site was developed.

Wiersum said a number of things had been looked at for the property. The proposal for 54 units was the smallest that was looked at other than the townhomes, which simply were not feasible. If done right, 54 units would work if the traffic works. He looked at the stacking on Oak Drive Lane as being an issue. He said looking at the multi-unit buildings the council approved during the last five years, many of them very attractive buildings, he has never driven by one and thought, ‘that’s smaller than I expected it would be. For him that was a challenge. With the peaked roof, even though from a zoning standpoint it was a three-story building, he could understand the concerns that it looked like a four-story building. He challenged the architect to make the building look smaller. He said the site could be developed as commercial, but residential was less intrusive. Whatever ultimately was approved would be a dramatic improvement over what exists today. He wouldn’t want to live next to what currently is on the site. The traffic study would tell a lot and would likely reveal some issues. He would like the building to have less scale and mass so it looked smaller.

Schneider said the use of housing and the potential to do workforce housing on the site was a great advantage for the city. It was very difficult to do and there was a certain critical mass needed to attract the attention
of the funders to make it happen. He thought 54 units was about the right number and would not push for a two-story building or a significantly different footprint. His guess was the traffic study would show the streets can handle traffic, and there would be a wait and a challenge with the people parked in the garage exiting during rush hour. He strongly suggested losing the efficiency of having the driveway go in direct but rather going in to the west. He would be willing to grant a parking variance because it would serve the neighborhood and make the development better. Having the driveway that close to the intersection was problematic. He also suggested widening the city street so there was a right turn in and left turn out. He said the current design while very attractive but lost some of the charm and "wow" factor that was initially shown. For him there were a couple of options. One was going forward with what was currently shown with a little less pitched roof to reduce the appearance. Another option would be adding a front porch and a patio to the first level units facing Excelsior Boulevard. This would be a huge benefit to the character and look.

Wischnack said the next steps would be to have more neighborhood meetings and another concept plan review.

15. Appointments and Reappointments:

A. Appointment of advisors for the 2017 Local Board of Appeal and Equalization

Schneider moved, Bergstedt seconded a motion to approve the appointment of Mr. Powers, Ms. Frost, Mr. Kriedberg and Ms. Miller as advisors for the 2017 Minnetonka Local Board of Appeal and Equalization. All voted "yes." Motion carried.

16. Adjournment

Bergstedt moved, Wiersum seconded a motion to adjourn the meeting at 8:29 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
Schneider said he liked the natural look of the wood but in today’s environment it deteriorates rapidly. It looks good for a year or two. He suggested looking at something that was more stable that looks good long term.

Wiersum said the boardwalk between Crosby Cove and Grays Bay dam was particularly well done and was extremely durable given the amount of traffic. He suggested using that same material for this boardwalk. He asked if there was a place in the city that used the same lighting as was being proposed for this project. D. Ellingson said this would be the first LED lighting used in Minnetonka.

Bergstedt said he preferred the synthetic material for the boardwalk. He questioned the durability of wood and had even bigger questions about how slippery wood can become when it’s wet.

Wagner moved, Bergstedt seconded a motion to adopt resolution 2017-040 approving the conditional use permit, with wetland setback variances, for trails and boardwalks within required wetland buffers; and resolution 2017-041 approving the conditional use permit for installation lighting on an existing athletic field until 9:45 p.m. All voted “yes.” Motion carried.

C. Continued concept plan review for the Shady Oak Redevelopment located at 4312 Shady Oak Road

Gordon, and City Engineer Will Manchester gave the staff report.

Tony Heppelmann, WSB & Associates, said he was directly involved with the Shady Oak Road reconstruction project. As soon as the city contacted his company to do the study, they went and put out video cameras to count the traffic. Simulation models are used to model the traffic. The modeled data is used to compare with the visual data. What the data showed was the 54-unit apartment building would increase the delay for drivers on Oak Drive Lane turning on to Shady Oak Road by three seconds. The traffic study also looked at what the traffic would be if the current building were fully occupied. He said in the p.m. peak hour it would generate almost three times the traffic amount compared with the apartment building. Other types of redevelopment like a Walgreens were also looked at and it was determined something like that would generate almost twice the amount of traffic compared with the apartment building. He said the apartment building would probably be the lowest traffic generator of anything that could be put on the site.

Heppelmann said currently the Oak Drive Lane is about 28 feet wide, only wide enough for a single vehicle approach so vehicles making a left turn
have the potential to block vehicles making a right turn. The study showed that at most there would be a couple vehicle queue. The information was provided at the open house and there was a question about when the counts were taken and if spring breaks might have impacted the count. He said WSB went out a second time and the counts on Oak Drive Lane were pretty much identical. The numbers on Shady Oak Road were up for unknown reasons. He noted the counts on Shady Oak Road were up about 70 percent from 2012 likely due to the diversion off Highway 169.

Wagner asked what could be expected in terms of stacking on Oak Drive Lane. Heppelmann said the model indicated the longest expected queue was two vehicles but there was enough room for four vehicles.

Schneider noted Heppelmann had said there was a potential for a vehicle making a left turn to block the ability of another vehicle to make a right turn. He asked if the recommendation was to put in a right turn lane. Heppelmann said currently the road isn’t wide enough to add a right turn lane so in order to accomplish this, the curb would have to be moved. Given that most of the time there weren’t vehicles on Oak Drive Lane at the intersection, he didn’t think the cost of moving the curb was justified. The study showed the average overall delay was about 16 seconds.

Wischnack continued the staff report. She said there were three questions staff was presenting to the council to help guide the council discussion.

1) Is the council comfortable with the proposed multi-family apartment building with the monthly rents falling in the range of $800-$1,200?
2) Is the council comfortable with this density (30-32 units per acre)?
3) Comments about the design of the building.

Tim Whitten, Whitten Associates, presented the revised concept plan.

Mike Waldo, Ron Clark Construction and Design, showed examples of the company’s buildings in other communities. He went over some of the changes to the plan meant to address concerns that had been raised at the neighborhood meetings.

Wagner noted a lot had changed through the process. The current plan was for affordable and tax credit housing. He asked if anything had change in terms of the viability of the project given the potential changes at the federal level. Waldo said there had been changes since they started working on the RFI at the beginning of the process. The election and the expectation of tax reform had reduced the value of the credits. The difference is probably round 10 or 11 cents less than a year ago. He said he thinks the credits will go back up two or three cents.
Wiersum asked if the amount of habitable square footage had changed from earlier concepts. He also asked if there had been a change to the mix of one, two, and three bedroom units. Waldo said 98 percent of the mixture was the same. He said the overall square footage was substantially the same.

Fartun Ahmed, 14528 Moonlight Hill Road, said she is a business owner in the city and her parents run a daycare near this site. She supports the project and asked the council to support it as well. Affordable housing is very important for the city and discussions about affordable housing need to happen. She said young people like herself think very differently than the older generation that lives in the city. A lot of her generation is not looking to settle down and buy homes right away. A lot of her peers have school loans that they are trying to pay off so affordable housing was important to them. She said she read a lot of the rhetoric that was on the Minnetonka Matters portion of the city website. Comments like “this is going to be another Blake Road” were very inappropriate. She grew up in Westside Village on Blake Road and she doesn’t use drugs or trash neighborhoods and the same could be said with a lot of people in that neighborhood. She said the racial inequality that exists in Minnetonka is something that needs to be discussed. Comments like “those people” refer to members of her community. It was important to have affordable housing for the law-abiding citizens who are very innovative and who want to contribute to the community. She said a lot of the parents who use her childcare center have had to move out of the city because they can’t find affordable housing. A lot of the young people who grew up in the city are looking for diversity, innovation and community building.

Paul Burgett, a Hopkins resident, said he was opposed the project. He agreed with Ahmed that affordable housing was a good thing. He thought it should have been part of the discussion for the 75-unit development off Highway 169 where it wouldn’t impact the neighborhood as much. He was opposed to the size of the building, which would be two-thirds the size of the Titanic. The huge building would be dropped into a neighborhood that wasn’t made for it. He supported affordable housing in the city but thought jamming this building into this neighborhood would hurt affordable housing going forward. He suggested townhomes would be a better fit for the site or that the city wait five to ten years to see what happens to the market.

Elizabeth Miller submitted a petition signed by people opposed to the plan. She asked the architect at the open house what the tangible size difference in height was between this plan and the previous plan. She said the architect had no idea. If the city was investing taxpayer money to the developer, she thought the developer should at least know the height of
the building. If the developer could not live without 54 units and the neighbors couldn’t live with 54 units there was a disconnect and maybe this wasn’t the right developer. She said she appreciated Acomb’s inquiry during the Minnetonka Hills Apartments’ discussion about if affordable housing had been considered for that development because that’s where Miller thought affordable housing should go. She noted a map was emailed to staff showing where affordable housing was located in the city. She noted there was a very high amount within a one-mile radius of this neighborhood and little in the rest of the city. There were affordable homes in the neighborhood through the Homes Within Reach program. She would like to see more of that type of housing. She said the traffic engineer didn’t take into consideration the increased traffic that would occur with the park and ride if the LRT is built. She lives on Bradford Road and turning onto Shady Oak Road is very dangerous. She asked for a traffic study in that area too. She noted there was no easy access to Junction Park. The trees shown in the drawing were 50 feet high and in reality it would take years for the trees to grow that high.

Jen Westmoreland Bouchard, 4640 Caribou Drive, said she seconded everything Ahmed said. She had noticed a dangerous and very harmful thread of rhetoric in the comments on the online petition and the Minnetonka Matters site as well. She asked those opposed to the plan that had valid concerns to talk with their neighbors who are conflating crime with affordable housing and disparaging members of the community who live on Blake Road. She said she was impressed with the clear communication coming from the city but she was noticing there were voices being left out of the conversation. Westmoreland Bouchard said another resident, Angelique Ellis, asked her to share her comments with the council. Ellis looked for months to find affordable housing in the city. She needed a space that would accommodate her as someone in a wheelchair. Ellis indicated there was a lack of affordable housing for people with disabilities.

Chris Aanestad, 4255 Oak Drive Lane, asked what the buildable area was for the property. He said staff indicated it was 30-32 units per acre. According to his calculations using 54 units, the buildable area was 1.2 acres. This equates to 45 units per acre. He noted 15 business owners had been knocked off the property. He questioned if the city wanted tax credits for developers or jobs and taxes collected from business owners.

Farhia Mohamed said she was a resident in Ward 3. She was supportive of the project. It was deeply disturbing that some of the neighbors leapt to unwarranted conclusions such as thinking an individual was unfit and undesirable due to their financial bracket. Everyone wanted to live in a safe and secure neighborhood. If the sole concern about the project had
to do with the landscape then the discussion should focus on what could be done to create conscientiousness behind the design. However if the opposition perpetuated racial segregation within the city, a city that was mostly white, then the city has failed. Race matters. She quoted a Somali proverb that translated meant a person doesn't enter a home simply because the door was open but rather a person enters a home because there was a welcoming face at the door. She said this was the community people want in Minnetonka.

Joyce Fiedler said she was a huge proponent of affordable housing. With her disappointment in the presidential election, her goal for the year was to find common ground in all she did. This plan was a good example. The people raising concerns about the building size, the number of people in it, and the traffic, had reasonable concerns. The people concerned about affordable housing also had reasonable concerns. She said the racial component should not be ignored. Everyone should recognize and listen to each other’s concerns.

Jim Reinitz, 4252 Oak Drive Lane, said he was a member of the Ford site task force in St. Paul. He had not heard any discussion about the pollution on the Shady Oak Road site. He supported affordable housing in areas where people could walk or bike to their jobs. This would reduce pollution and help the ozone layer. He said affordable housing should be put all around the city not just in certain sections.

Steve Philbrook, 4222 Oak Drive Lane, said most of the neighbors did not have an issue with affordable housing. He didn’t know anyone in the neighborhood who was a racist. His mother participated in the walk for peace march on Washington. He grew up as a hippie and was very liberal. His problem was the big monstrosity being shoved down the neighbors’ throats. One can put pearls on a pig and it still will be a pig. He said the traffic in the area already was horrible and dangerous. Research had to be done to determine if the site was polluted. Further research was needed to study the traffic.

Ellen Cousins, 4531 Greenwood Drive, said she wanted the council to remember the times when they were surprised by how big other buildings were once they were built. Buildings on drawings look a lot smaller than when they actually are built. She also wanted the council to keep in mind this would not just impact people on Oak Drive Lane but also people on Bradford Lane, Crawford Road and the whole neighborhood behind. She said the traffic engineer reported traffic was 75 percent higher than it was in 2012. She wondered what the projection had been in 2012. She asked the council to take a step back and determine if the project should be built now or if it was better to wait to build the right project.
Abbey Holm, 4234 Oak Drive Lane, said she thought affordable housing was terrific. She had lived in affordable housing. She thought this specific site was not conducive to the size of the building being discussed. She noted she had a discussion with Wiersum and she appreciated his comments about compromise being about meeting in the middle. If the developer could not lower the number of units from 54 then there was no ability to make a compromise.

Tim Gustafson, 12340 James Road, said the renderings looked beautiful from the Hopkins side but not the Minnetonka side. He said it appeared the decision had already been made that the only solution was a multi-unit building. The options for other types of community projects like a public garden or expanding the park were not being considered. The taxpayers of the city had already paid for the property. Why not consider what the people would like to see on the property?

Wagner said the council had been discussing the Shady Oak Road corridor for over a decade and the corridor's proximity to the potential light rail station. The council had been told that residential development generates less traffic than commercial development. With the desire to have a more walkable community, this area was probably at the edge of where housing could occur. He said he always thought this corridor could blend commercial services and housing. He thought multi-family housing for this property was appropriate. The site was close to transit, both current and future. He's always been an avid believer that affordable housing should be near transit.

Wiersum agreed multi-family housing was appropriate for this site. In discussing the village centers the council had often discussed the notion of combining affordable housing with transit.

Acomb agreed multi-family housing was appropriate for the site for the reasons Wagner and Wiersum had mentioned. The city wanted a diversity of housing stock and affordable housing was something the city wanted to make sure was provided for. She thought affordable housing needs to be looked at throughout the city.

Ellingson noted there was a townhouse development just kitty korner from this site on Main Street so there already was housing close to the location. The road reconstruction took away parking in front of the buildings so it made it more difficult for commercial businesses. He thought housing was appropriate for the site. He thought one of the best things about the plan was it was 100 percent affordable housing.
Bergstedt said the city desperately needed affordable housing throughout the city so anytime it can be added, it was a good thing. This location being close to downtown Hopkins, good transit and possibly the LRT, made it very appropriate for some type of multi-family affordable housing.

Wagner said everyone would like R1 housing or a park on the site but for him that would be a massive underutilization of the property. There weren’t locations in the city that have characteristics of this property, being near transit. The city was falling behind on its affordable housing targets and affordable housing was appropriate for this site.

Schneider noted there was a comment that the property should be used for Home Within Reach homes. He was part of the steering group that created that program and serves on its board. While doable, it takes a lot of extra effort and resources. Nothing of any substance can be done quickly. There have been 40-50 homes built through the program in the city, but it has taken 12-15 years to do so. This plan would provide over 50 units immediately. He thought the walkability to transit and tying it in with LRT was critical but the proximity to downtown Hopkins was just as important. He said the concept and scope of the project was very appropriate. It was important to keep in mind the challenging tax credit financing and its connection with the feasibility of the project happening. There was a difficult process the developer has to go through so the profit earned was well deserved. People who thought the number of units could be cut in half didn’t understand the dynamics of affordable housing and how difficult it was, particularly in the tax credit market.

Wiersum thanked Ron Clark and his team for their work. He said he gets offended when people talk about developer greed because everyone wants to get paid. People have a right to make a living. Developers play a valuable role in the community. He noted he was paraphrased but paraphrased badly. He didn’t say compromise was having people get to the middle. What he said was the best compromises occur when nobody was happy. That’s where he saw the challenge with the plan. If somebody wins somebody was going to lose. The developer was saying to get a quality building, 54 units were needed. This would allow for fulltime management. This made sense. He said he was the one that said looking at other developments, none looked smaller than he expected. He was concerned about that for this site. It was a small site. It was ideally located for housing and well located for affordable housing. Getting this right was important because he didn’t want to build the wrong project in the wrong place where people got mad enough that general support for affordable housing diminished. He was hoping for a compromise that would make everybody unhappy and that the end result was a multi-unit building with
significant number affordable units that was scaled appropriately for this site. He thought the concept plan was a little on the high side.

Bergstedt commended everyone who attended the meeting and for people being respectful with those that didn’t share the same point of view. He said he found himself feeling strongly both ways. The city needs affordable housing and this was a fabulous location for affordable housing. The part that makes it difficult was what the neighbors were saying. When he looked at the size of the parcel, the mass of the building and the lack of green space, a lot of things that were done with other developments could not be done here. This would be a huge building on a very small parcel. He thought townhouses would be a nice transition into the single family neighborhood on each side. The problem was to do affordable housing required more mass to make it work economically. If the council decided it wanted less units, he believed the developer would not submit an application. They had put in a lot of effort to try and make the building look smaller.

Acomb said one comment that resonated with her was the need to look for common ground. She supported the importance of using affordability in this location. She also was concerned with the size of the building and the impact on the neighbors. Her desire was to do something that made the building smaller. She preferred a two story building even if this meant it couldn’t be 100 percent affordable units. This might be a compromise that needed to be made even if it meant the development couldn’t be with this developer. She thought that would be unfortunate and didn’t want to see that happen.

Ellingson said most of the other commercial buildings along Shady Oak Road were one story. The townhouses were two stories. To have a three-story building would be out of scale with the other buildings. He said his other concern was there already were traffic issues and access to Shady Oak Road. He didn’t want to create another access issue for those living in the building. The original proposal was a building that was over 300 feet long, equal to a football field. This seemed like a big footprint. He wondered why the roof couldn’t be flat. This would be one way to make it look smaller.

Wagner said this was a classic dilemma for the council. There were neighborhood concerns about size and density. There were council and community goals for affordable housing. There were constraints with the site no matter what went there because of the easement. He was thinking about this site and the Shady Oak LRT station in the context of a 100-year transformation. What is seen today won’t be what will be seen tomorrow. The question for the council was if this building was the start of the
inevitable transition in this corridor. Would the transition start in 2020 when this building might go up or would it start in 2030, or 2040 when the light rail station goes in. Eventually the area would become more dense. He would like to have 54 units on a bigger site but that wasn’t the hand the city was dealt here. He saw the corridor intensifying in use and that it would become more walkable. He said the size of other recent developments do not bother him as much as some of the other council members. He thought the new building on Plymouth Road looks nice and was a great addition to the Ridgedale area. He thought Cherrywood Pointe and Applewood Pointe would be good additions to the city. The city could wait to see if something else gets proposed, but the math probably would not change. He didn’t disagree with anything the neighbors said but in reality, it wasn’t going to become a garden.

Schneider said before Council Member Allendorf left the country, he shared his thoughts about this plan with him. Allendorf was very supportive of affordable housing and felt this was the right site but he felt the building was too big. He would be willing to add additional incentives from the city contribution, whether it be reduced price or a combination of things to allow the number of units to be reduced while still making it feasible to reduce the size. This still would not mean a story could be eliminated from the building but it could be made smaller.

Schneider said he was reluctant for the city to put more money into the project but with the shared pain that was discussed maybe that was something that should be on the table. The city did not want to get so prescriptive that the development just did not work because nobody would benefit from that. The question was trying to find the right balance in getting the building to be as palatable as possible without jeopardizing the feasibility. This was the direction he would give the developer. He suggested fleshing out the design perhaps taking into account Allendorf’s suggestion to see if something more palatable could be considered. He thought there was a solution in that mix. The reason he didn’t think going from a three story to a two story building was feasible was because it would eliminate the underground parking. The challenge was making the three stories compact and designed enough to become more attractive. He thought being more creative with the edges of the building while potentially losing a few units might work. While the neighbors might not like to look at the building it would be an asset to the neighborhood with all the noise, traffic, light and activity on Shady Oak Road. The challenge would be finding the right mix and this would require the developer working with staff, and perhaps an open-minded neighborhood representative who could contribute a perspective that would contribute to the process.
ADDITIONAL RESEARCH AND FOLLOW-UP:

1) City map of high density housing areas adjacent to single family neighborhoods.

2) High density housing that shares a street for access with the residential neighborhood.
Parcels City Boundary
Parcels 1 INCH = 30 FEET

GUIDED HIGH-DENSITY with AREA LOW-DENSITY

Parcels
City Boundary
Parcels
1 INCH = 30 FEET

high-density
low density
Ridgedale Area

- Ridge Point and The Cliffs
View along Chatham Field Road showing high density residential housing. Single family housing is adjacent to and located at the north end of the street. These housing developments share the same street for access.
Glen Lake
• The Atrium, Beacon Hill, Zvago, Glen Lake Shores
View along Atrium Way showing high density residential adjacent to low density residential. These housing developments share the same street for access.
View along Stewart Lane showing high density residential adjacent to low density residential. These housing developments share the same street for access.
Near Minnetonka High School
• Sunrise, Stratford Woods
View along Old Excelsior Blvd. showing high density residential adjacent to low density residential. These housing developments share the same street for access.
Minnetonka Blvd. East
View along West 34th Street showing high density residential housing adjacent to single family housing. These housing developments share the same street for access.
PUBLI COMMENTS RECEIVED
July 28 - September 14, 2017
Hi Julie, I see Ron Clark continues to try to finesse their way into approval.

Unfortunately I expect the council will approve the concept in regards to size/scope/fit as Ron Clark has played the chess game well.

I want to remind you that Ron Clark (and if approved by the council, then the council too) are blatantly ignoring the overwhelming position of the community. This alone should be grounds enough to deny the project. If approved, the council will have gone rogue, and operating with total and complete disregard for the constituents of which it represents. and this sort of practice would be considered entirely unacceptable.

Square peg, round hole, its that simple

I think a few of our focuses could be:

   a. Apply to rezone to PUD High Density
      i. This application has been submitted

2. Current Comp Plan guides the property for commercial use.
   a. Apply to Ammend the comp plan.
      i. This application has been submitted.
3. Page 2 of the Project narrative states “represents significant first step in the redevelopment of the Shady Oak Road corridor between Highway 7 and Excelsior Boulevard.”
   a. The first significant step was rebuilding the road, which has had ‘mixed’ results of positive and negative improvements. These details could be further defined.
   b. I think our neighborhood as a whole (both Hopkins and Minnetonka) doesn’t want to see ‘high impact’ development. As we prefer to keep the corridor ‘low impact/low scale’
      1. I know the city of Hopkins plans to keep it ‘low impact,’ they’re very happy where it’s at and their Comp Plan actively and purposefully guides for this, as they instead guide to focus new developments near downtown and the light rail station.
   c. The only commercial property within Minnetonka along the corridor is the very SW most portion (the Freedom station and Dominos) everything else is low density residential.
      i. For these reasons, I don’t see what more ‘redevelopment’ they could be referring to…?
         1. Their comp plan clearly does not guide for new development, hence the amendment…
4. They said they “needed” 56 units (from the previous concept) to make it “viable.” Now that its 49 units how can it still be viable?
   a. Perhaps a more modest design? perhaps its all part of their chess game strategy?

   New 2017 Qualifying Incomes: at or below $37,980 (family of 1) at or below $43,440 (family of 2) at or below $48,840 (family of 3) at or below $54,240 (family of 4) at or below $58,620 (family of 5) at or below $62,940 (family of 6) Projected rents — Including utilities:
   1 bedroom = $848/month 2 bedroom = $1,017/month 3 bedroom = $1,175/month

5. “These changes have reduced the building height to two stories as viewed from Shady Oak Road from the north, Main Street from the south and from the existing neighbors to the west.”
   a. I don’t understand this, if its 3 stories, its 3 stories. Especially in the face of the Hopkins residence across the street, and the neighborhood to the west.

6. Mandates for publicly funded projects to meet LEED or other certifications for sustainability.
   a. Green materials, Solar/Geothermal, green roof, storm water abatement, green waste management.

7. I’d argue that ‘single band allocation is institutionalized segregation’ and is therefore unconstitutional and un-American.
   a. There should be mandates or incentives for ‘mixed affordability allocations/bands along with market rate’ tenants. I expect this is a more inclusive, integrated and transparent strategy for effective housing development.

8. All of the arguments made for the ‘merit/value’ of its location in the area, all reference resources provided by Hopkins, and no resources provided by Minnetonka. Where’s the burden/commitment from Minnetonka to provide resources/amenities/infrastructure for this development?

9. This only creates 49 units of the 144 units needed in the 51-80% AMI allocation. I’d argue the focus should be where the demand is greatest, in the lower AMI allocations. Why doesn’t this concept include those other allocations?

Page 172

https://metrocouncil.org/Housing/Planning/2040-Housing-Policy-Plan.aspx
<table>
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<tr>
<th>Sewered Community</th>
<th>Overall Allocation</th>
<th>Shares of existing affordable housing in each band¹</th>
<th>Shares of allocation in each band²</th>
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¹ Shares of existing affordable housing in each band: 31% to 50% of AMI (Avg = 27.4%), 51% to 80% of AMI (Avg = 62.8%)
² Shares of allocation in each band: At or below 30% of AMI (Region = 49.9%), 31% to 50% of AMI (Region = 24.9%), 51% to 80% of AMI (Region = 25.2%)

Allocated: At or below 30% of AMI (A X E)

Minnetonka allocation: 508
This is much better, and not what the project represents.

Even with the existing supply of affordable housing, more than 282,000 low- and moderate-income households in the region are paying more than 30% of their household income on housing costs, and nearly 144,000 of those are paying more than half their income on housing.

With kind regard.

Andy Braun
Thank you for your email Andy. I will share your thoughts with the commissions and council reviewing the proposal over the next few months.

Julie

Thanks Julie, much appreciated.

The intentions of affordable housing are neutral and non segregative. The disparate impact however of this particular implementation will be negative in that it isolates and then illuminates the tenants socioeconomic status. Ron Clark is literally proposing to segregate a group of people based solely on socioeconomic status. I personally can't support that, and I don't think the council should either. I'm sure everyone is in favor of supporting everyone, especially those in need. But I don't think anybody wants to draw attention to themselves (or others) because they are in need. This is why a development that is entirely comprised of affordable housing is poor execution. I'd argue that it should be a mix of all AMI ranges as well as market rate. This will ensure that its integrated and transparent. Its what fair to the tenants, neighborhood and community as a whole.

I'm hearing comments like "oh yeah, who ever would have thought the city would want to put up Projects" and "of course they put up the Projects right on top of Hopkins" and "those poor people are going to stick out like a sore thumb, good thing they're on the very outskirts of Minnetonka, and not on the Wayzata side." implying it fits better on the Hopkins side.

I HATE hearing this rhetoric, its a terrible thing to have to face. But unfortunately I don't know if I can disagree with them, I mean this is their inner truth...Its not wrong...

I really think an 'integrated model' would alleviate/do away with this rhetoric, as opposed to the 'segregated' model presented by Ron Clark.

I'd also like express that if this was a private sale that I could understand a lesser regard for the input/virtue/position of the community, however because this is city owned property, that there should be especially careful attention payed to the input/virtue/position of the community. We know you guys and Ron Clark are hearing us and we appreciate that, but we're seeing only small incremental down-scaling of the
And we get that the city wants to make its money back, and that Ron Clark is a business. But there's just still too much of a disconnect between the proposal and community. There's simply not enough common ground nor enough of a compromise.

I mean, it's our land, why can't we do what we want with it?

I'd say let's split the difference. Two stories, bottom is light commercial, top is residential. We split the costs of the development right down the middle, the city's share is to be paid back interest free. Includes a modest public pavilion.

thanks for your attention.

Andy Braun

August 1, 2017

From: andy braun
Sent: Tuesday, August 01, 2017 3:48 PM
To: Julie Wischnack <jwischnack@eminnetonka.com>
Subject: Re: RE: 4312 Shady Oak Road - Development

Hi Julie, if we're being forced to move ahead with this concept, I think we need to pay Ron Clark for their design, and put it out to bid. We need to see multiple bids especially since the property, improvements and development subsidy is heavily supported by public tax dollars. Special consideration and favor should go towards minority owned and non-profit developers.

thanks.

Andy Braun

On Tuesday, August 1, 2017, 4:00:02 PM CDT, Julie Wischnack <jwischnack@eminnetonka.com> wrote:

I will share your thoughts with the city council.

Julie

From: andy braun
Sent: Tuesday, August 01, 2017 4:13 PM
To: Julie Wischnack <jwischnack@eminnetonka.com>
Subject: Re: RE: RE: 4312 Shady Oak Road - Development

That's great and much appreciated.
Did you ever hear why Ron Clark is not designing/promoting it as a mix of Market Rate nor above 60 AMI? Is the design or amenities simply not appropriate/up to par for market rate or above 60 AMI tenants?

Do you, the council and the developer agree that a mix of Market Rate and all AMI ranges would promote transparent integration, as opposed apparent segregation? Shouldn't we all be promoting this especially because of the public subsidy?

thanks again.

Andy Braun

August 2, 2017

From: Elizabeth A
Sent: Wednesday, August 2, 2017 9:45 AM
To: Julie Wischnack <jwischnack@eminnetonka.com>; Loren Gordon <lgordon@eminnetonka.com>; Alisha Gray <agray@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>
Subject: traffic safety issue on bradford

Good Morning,

I hate to be having to complain to you guys-I know you're working hard to meet all kinds of demands and I'm sure it can be really hard. Ahead of these continued meetings with Ron Clark (which your residents overwhelmingly are against progressing with and hiring them), we still haven't seen any solutions to the traffic issue.

Getting out on to Shady Oak Road from Bradford (or Excelsior from the other exit) is dangerous. It forces our neighborhood to be extremely aggressive when trying to get out of the neighborhood. The street was not designed well enough to add 50 apartments to with out exacerbating an already frustratingly dangerous driving situation.

So that's our everyday. What about emergencies? How are they supposed to be able to get in and out when you and Ron Clark have double or tripled the traffic?

Exiting/entering on to Excelsior is even worse. It's down right terrifying when there's ice on the road.

I am really tired of going to these meetings, we don't want high density and we don't want 3 levels. I will keep calling in, emailing in and showing up to represent mine and my neighbor's concerns as long as I own my home.

Thank you,
Elizabeth Miller
As an aside, how is it fair to give most of the other high density residential sites in Minnetonka acres and acres of swamp and open land surrounding them but when building 'affordable/low housing' (whatever the kids call it these days) you literally build it on an acre with no buffer for the private residences surrounding it and no buffer to the busy street and the next city?

August 3, 2017

From: andy braun
Sent: Thursday, August 03, 2017 5:04 PM
To: Brian Kirk <bkirk@eminnetonka.com>; John Powers <jpowers@eminnetonka.com>; Deborah Calvert <dcalvert@eminnetonka.com>; David Knight <dknight@eminnetonka.com>; Sean O'Connell <soconnell@eminnetonka.com>; Rebecca Schack <rschack@eminnetonka.com>; Joshua Sewall <jsewall@eminnetonka.com>; Julie Wischnack <jwischnack@eminnetonka.com>
Subject: 4312 Shady Oak Road - Redevelopment - RC Application.

Hi Brian, it was nice speaking with you last night at the open house.

I'm curious if anyone has assembled a pros/cons, cost/benefit, benefits/detriments analysis that we can use to more tangibly weigh the value of this application.

If not, I have, please see below. Id encourage you to refine and/or elaborate as you see fit.

Benefits/Detriments.

City:

Benefit:
1) Gets to fulfil 49 units of the 144 units needed in the 51-80% AMI category as defined by the Met Council
2) Slight uptick in tax revenue.
3) Gets out of landlord business.
4) Cleans up brownfield contamination.
5) Gets to recoup a 750k of its 900k investment from purchase of the land.
6) Majority of amenities are provided by city of Hopkins, alleviating Minnetonka’s responsibility for providing these amenities.
7) Keep the affordable housing tenants on the very outmost edge of the city’s border, and away from the core of Minnetonka’s more affluent neighborhoods.

Detriment:
1) Promotes amending the Comp Plan and Zoning regulations.
2) Promotes the needs of developer over the affordable tenants, local community and neighborhood.
3) Promotes segregation and isolation.
4) Promotes housing development in favor of, and while simultaneously driving out small business development.
5) Public tax dollars used to subsidize and pad the profit margins of private developers, in favor of alternatively supporting minority owned or non-profit developers.
6) Does not promote sustainability nor green building practices such as LEED certification, renewable energy, sustainable materials, comprehensive waste management, composting and zero landfill impact programs.
7) Provides only 49 affordable units of the overall 1,064 allocation set by the Met Council.

Developer:

Benefit:
1) Gets to develop ‘shortcut’ housing that does not comply with Minnetonkas common apartment conventions such as ample buffering, green space, road, park and emergency vehicle access.
2) Make their profit, while being unable or unwilling to develop truly affordable housing, relying on the taxpayer to provide a subsidy to make up the difference.
3) Gets to claim and promote their business as providing virtuous, positive, well integrated affordable housing development.
4) Does not have to compensate for the neighborhoods loss of property value.
5) Does not have to compensate for the neighborhoods loss of privacy.
6) Does not have to compensate for the neighborhoods increased road congestion and safety risk.

Detriment:
1) Identified as putting profits before affordability and integration.
2) Identified as not applying Minnetonkas’ common apartment conventions such as ample buffering, green space, road, park and emergency vehicle access.
3) Identified to not support sustainable nor green building practices.
4) Identified as providing false or misleading narratives about each subsequent concept proposals ‘minimal viability’.
5) At significant risk of hindsight concluding the project to be unsuccessful or otherwise missed opportunities to maximize potential.

Affordable Tenants (at 60 AMI or less):

Benefit:
1) Gain access to housing.

Detriment:
1) Provides only 49 units of the 1,064 allocation set by the Met Council
2) Minimal amenities, not consistent with what a market rate type design practices nor Minnetonkas’ common convention.
3) Systemic segregation and isolation based on socioeconomic status.
4) Knowing that their housing is causing a negative impact, and is unaccepted by the neighborhood and local community.
5) Pedestrians forced into immediate proximity to high traffic and unsafe areas.

Neighborhood and local community
Benefit:
1) Potential local economic uptick.

Detriment:
1) Invasive, aggressive, imposing presence that does not fit with the neighborhood.
2) High density not appropriate for the neighborhood.
3) Undermines the overall well-being of the neighborhood.
4) Loss in property value in the surrounding neighborhood.
5) Infringement on privacy, security and increased vulnerability.
6) Does not comply with the comp plan defined by Minnetonka nor Hopkins for this section of Shady Oak Road.
7) Does not comply with zoning regulations.
8) Promotes increased development of the corridor which it was not designed to accommodate, is not appropriate for nor welcomed into the neighborhood.
9) Promotes segregation and isolation based on socioeconomic status.
10) Does not support sustainable nor green building practices.
11) Promotes limited access to outdoor spaces and amenities.
12) Promotes unsafe outdoor environments, roadways and common spaces.
13) Promotes using roads designed for low traffic residential neighborhoods to be used for high density housing.
14) Promotes the disregard for community engagement and interest
15) Puts the need of the developer and city before the needs of the neighborhood and affordable tenants.
16) Does not promote local business development especially minority owned and non-profit.

Thanks.

Andy Braun

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August 10, 2017

From: Elizabeth A
Sent: Thursday, August 10, 2017 4:38 PM
To: Terry Schneider <tschneider@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>; Brad Wiersum <bwiersum@eminnetonka.com>; Tony Wagner <twagner@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; Dick Allendorf <dallendorf@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>; Julie Wischnack <jwischnack@eminnetonka.com>
Subject: Fwd: Shady Oak Road Redevelopment Project Update

City Council Members,
The high density apartment building is too close to the busy road and too close to residents' back yards. Other high density in Minnetonka is surrounded by nice city owned land that is the way all apartments should be built here. Please remember that your constituents have been asking that we be heard all along and the fact is this is still a high density, multi-story. Ron Clark is not the builder we want. Ron Clark said they couldn't make it any smaller and then they did 3 times. Tell them to go back to the drawing board please because this 1 acre lot cannot reasonably support that many more humans. Thank you for hearing us, your neighbors as we weigh in to find a future that is fair.

Respectfully,
Elizabeth Miller

August 13, 2017

From: Elizabeth A
Sent: Monday, August 14, 2017 2:42 PM
To: Bob Ellingson <bellingson@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; Terry Schneider <tschneider@eminnetonka.com>; Tony Wagner <twagner@eminnetonka.com>; Dick Allendorf <dallendorf@eminnetonka.com>; Brad Wiersum <bwiersum@eminnetonka.com>; Julie Wischnack <jwischnack@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>
Subject: Quick reminder -

All,
Ahead of the meeting tonight, I wanted to engage you on the fact that your constituents are still strongly opposed to using our city's money and resources for the project proposed by Ron Clark on the stance that it will not serve to build community, there are significant safety hazards in regard to traffic, there is not enough buffers for a high density building on this site, 4312 Shady Oak. No one from our community has budged, we do not want high density, multi-story to be installed with our own city funds. We do not like that Ron Clark lied or was deceiving when they told us multiple renditions ago that they couldn't make it any smaller, contradicting themselves months or weeks later with a scaled back image. We do not want our tax payer dollars going towards this company and believe that the city should have been looking for alternatives long ago. To further the argument that this project is out of touch with the neighborhood, it thoroughly disagrees with Hopkins' plans for this corridor (between 7 and Excelsior).

This building should look toward the future and unfortunately, it is emblematic of the criticism that surrounds the city of Minnetonka in regards to the poor job we have done to take care of affordable housing needs. This is not a good place for affordable housing- the bus service is not great or good (much unlike all of the buildings going up near Ridgedale), access to jobs and recreation are limited, and there is scientific evidence that being that close to a busy road will eventually cause the inhabitants lung and throat damage.

Thank you so much for hearing your constituents and neighbors alike- we want to be heard and we want to work together to come up with solutions to the various problems surrounding this very important location, and the very important issue of affordable housing.

Regards,
Elizabeth Miller

From: Jeri Massengill
Sent: Monday, August 14, 2017 3:56 PM
To: Alisha Gray <agray@eminnetonka.com>; Julie Wischnack <jwischnack@eminnetonka.com>; Loren Gordon <lgordon@eminnetonka.com>; Terry Schneider <tschneider@eminnetonka.com>; Dick Allendorf <dallendorf@eminnetonka.com>; Tony Wagner <twagner@eminnetonka.com>; Brad Wiersum <bwiersum@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>
Subject: Shady Oak Road and Oak Drive Lane

Hello City Council and Staff - I wanted to pass this along as a visual example of my concerns about the safety of Shady Oak Road where it intersects with Oak Drive Lane. I’m very thankful it was not a child that got hit this time.
As you know, Oak Drive Lane is proposed as the only access to Ron Clark's proposed multi-family apartment building at this intersection. This proposed apartment is within just a few feet of a busy road where people routinely speed 10 to 20 miles over the 30 mph limit. Adding a nearly 50 unit apt building at this location, that can only be accessed via my residential street, will only increase the risks of accidents in this area and has the potential to substantially increase traffic past my house when people cut through the neighbor to avoid backups on Shady Oak Road. And since the proposed building is within just a few feet of the road, vehicle emissions will enter open apartment windows and the air intake units potentially causing health impacts to the residents.

I encourage all of you to consider a more suitable location for families within our beautiful city. This location offers no park or other safe open space for the children to run around and play. The tot lot will be of interest to only the youngest kids. I know we can do better and I respectfully ask you consider a more appropriate use for this parcel. Light commercial, low density residential (set-back from the road) or green space with access directly from Shady Oak Road are all better uses for this challenging parcel.

Best Regards,
Jeri Massengill
4272 Oak Drive Lane, Minnetonka

August 15, 2017
Hi Bob, it was a pleasure speaking with you last night after the council meeting. As you know, there is nobody in our neighborhood whom is particularly in favor of this development, in fact most if not all are in strong opposition. We believe that a development such as this deserves be something that we can all be happy to support and welcome with open arms. Instead it is something that we are all having to 'settle' for, and that nobody is actually happy with nor excited about.

We are doing an injustice to ourselves, our community and the eligible tenants, and are operating in stark contrast to the City's own Mission and Goals by promoting this development.

I'm curious if anyone on the Development Board, Staff, or Council has assembled a pros/cons, cost/benefit, benefits/detriments analysis that we can use to more tangibly weigh the value of this application.

If not, I have, please see below. Id encourage you to refine and/or elaborate as you see fit.

As you'll see, it does not add up to a win.

From: andy braun  
Sent: Tuesday, August 15, 2017 4:58 PM  
To: Julie Wischnack <jwischnack@eminnetonka.com>  
Subject: Re: 4312 Shady Oak Road - Redevelopment

Hi Julie, I'd like to know if you, staff, council or commission can please help us out with a very basic and on going concern we have.

I'm curious why this particular property is getting so much attention in the first place? What's the compelling reason to put so much focus on this property in particular?

I see the city of Minnetonka owns a lot of undeveloped land, much of which is located adjacent to the Village Centers as defined in the EXISTING comp plan.

Wouldn't one of those other parcels provide a fix for most if not all of the issues we're having at the 4312 location?
   1) Immediate access to public transit  
   2) Increased buffering which is consistent with the other high density developments in Minnetonka  
   3) Not relying entirely on low density residential roads for access, including emergency vehicles.  
   4) Increased access to amenities, especially those supported by Minnetonka.
5) Not require a change to the Comp Plan and Zoning
6) Allow for a higher quantity of units.
7) Little to no negative impact and resistance on the local neighborhood.
8) Not be in stark contrast to the city of Hopkins comp plan and zoning.

Couldn't one of these other properties just as easily be sold for development? and that money be used to recoup the cost of the 4312 property, its clean up and preparation for its next phase of usage? Thus allowing us to turn the property into much needed green space or other uses?

Ultimately we're still waiting on the explanation about how the 4312 proposal MAKES SENSE or is a WIN. So far we have heard no explanation. We're doing everything we can to try to coax that out of you/staff/board/council....but still its yet to be provided.

Please help us out on understanding this, we feel we deserve at least to understand how its being justified.

Thanks and with kind regard.

Andy Braun

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August 16, 2017

From: Julie Wischnack
Sent: Wednesday, August 16, 2017 9:57 AM
To: 'andy braun'
Cc: Loren Gordon <lgordon@eminnetonka.com>; Alisha Gray <agray@eminnetonka.com>
Subject: RE: 4312 Shady Oak Road - Redevelopment

Thank you for your email. There is a staff report being generated for next week’s planning commission meeting. Some of the questions below will be addressed by that report. If they are not addressed, or you don’t agree with the report findings, the public hearing portion of the meeting is specifically for that purpose: discussion and different points of view.

As far as selling other properties, that is a council decision and direction is necessary to move that way.

Julie

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From: andy braun
Sent: Wednesday, August 16, 2017 11:43 AM
To: Julie Wischnack <jwischnack@eminnetonka.com>
Cc: Loren Gordon <lgordon@eminnetonka.com>; Alisha Gray <agray@eminnetonka.com>
Subject: Re: RE: 4312 Shady Oak Road - Redevelopment
Hi Julie, I see in the Project Narrative that the project will be financed through the "Minnesota Housing Finance Agency (MHFA) 9% tax credit program". I'm looking to educate myself on the terms of that program. Can you please point me to the specific documentation that you/RC are using as reference material? I'm finding a lot of different information online, and want to make sure I'm reviewing the same documents you are.

I've attached the 2019 Housing Tax Credit Self-Scoring Worksheet (for the 9% Housing Tax Credits as described in the project narrative), and the State of Minnesota Housing Tax Credit 2017 Qualified Allocation Plan (QAP), and the Housing Tax Credit Program Compliance Manual.

Are these the correct documents?


Thanks,
Andy Braun

From: Alisha Gray
Sent: Wednesday, August 16, 2017 2:20 PM
To: andy braun; Julie Wischnack <jwischnack@eminnetonka.com>
Cc: Loren Gordon <lgordon@eminnetonka.com>
Subject: RE: RE: RE: 4312 Shady Oak Road - Redevelopment

Andy-

If you have specific questions related to the tax credit program and where to find the application and reference materials contact MHFA at 651-296-9832.

There is a general landing page for available funding located at: http://www.mnhousing.gov/wcs/Satellite?c=Page&cid=1385305184884&pagename=External%2FPage%2FEXTStandardLayout

Best,

Alisha Gray | Economic Development and Housing Manager | City of Minnetonka | 14600 Minnetonka Blvd. | Minnetonka, MN  55345 | p. 952.939.8285 | f. 952.939.8244| agray@eminnetonka.com
Thanks Alisha, my question though I think is better suited for you guys, because its really focused on the unique attributes of this specific application.

that is, which form are you and RC using to Score, Qualify and Ensure compliance? Are they the ones I had previously attached?

Are there any forms I've missed specific to the 9% Housing tax credit as indicated in the Project Narrative?

For example, the information you pointed me to describing the 9% credit (See attached MHFA_1041358.pdf, from the link below) describes the program as "Low-Income Housing Tax Credit" and I understood that this term is quite distinct and different from "affordable housing." maybe I'm mixing my terms, but this is an example of why I think its important we're all using the same documents and terms, and why I'm asking for clarification and guidance.

Is this still a section 42 based proposal?

thanks.
From: Alisha Gray  
Sent: Wednesday, August 16, 2017 3:04 PM  
To: andy braun  
Cc: Julie Wischnack <jwischnack@eminnetonka.com>; Loren Gordon <lgordon@eminnetonka.com>  
Subject: RE: RE: RE: 4312 Shady Oak Road - Redevelopment

Andy-

The developer applies for the tax credits through MHFA, not the city. Yes, this is considered a Section 42 project. An overview of LIHTC program is located on the website that I linked to in the previous email. All the scoring criteria and priorities are listed in the HTC’s Qualified Action Plan (QAP).

Again, all the tax credit information and forms are on the MHFA website:  

Best,

Alisha Gray | Economic Development and Housing Manager | City of Minnetonka | 14600 Minnetonka Blvd.  
Minnetonka, MN  55345 | p. 952.939.8285 | f. 952.939.8244 | agray@eminnetonka.com

From: Julie Wischnack  
Sent: Wednesday, August 16, 2017 3:24 PM  
To: ‘andy braun’  
Cc: Loren Gordon <lgordon@eminnetonka.com>; Alisha Gray <agray@eminnetonka.com>  
Subject: RE: RE: 4312 Shady Oak Road - Redevelopment

You have the proper link in your email.

Julie

From: andy braun  
Sent: Wednesday, August 16, 2017 3:25 PM  
To: Bob Ellingson <bellingson@eminnetonka.com>  
Subject: Spot Zoning - Ordinance

Hi Bob, Can you please help in understanding a few things?

We’re really concerned about "Spot Zoning" that would be occurring if the Council approves the rezoning being applied for by Ron Clark with the 4312 Shady Oak Road, 49 unit, section 42 subsidized apartment development.

Is there an existing ordinance that prevents/protects against "Spot Zoning"? I have not found one.
If not, could you please introduce one ASAP?

I've spoken with Corrine Heine, a staff lawyer there, and she wasn't able to provide any insight into this matter as her role is support staff and council, and not the public :( please let me know.

thanks.

Andy Braun

August 17, 2017

From: Becky Aspelund
Sent: Thursday, August 17, 2017 8:58 AM
To: Loren Gordon <lgordon@eminnetonka.com>
Subject: Shady Oak redevelopment

Hi, Rebecca Aspelund here: 4237 Oak Drive Lane, Minnetonka Does anyone recognize the impact of heavy machinery, construction trucks, workers and all that goes with this apartment complex being built in our neighborhood on our small residential road. For what a year or more ? Can you imagine the traffic and congestion this will cause on our only access to go north on Shady Oak! What a nightmare trying to leave our homes with all those large trucks turning in and out on our little street. Please reconsider this proposal, all it offers Us is a really long Nightmare!

Sent from my iPad

From: Mark Bauer
Sent: Thursday, August 17, 2017 10:38 AM
To: Bob Ellingson <bellingson@eminnetonka.com>; Loren Gordon <lgordon@eminnetonka.com>
Subject: 4312 Shady Oak Road

Hello my name is Mark Bauer and I live at 4266 Oak Drive Lane.

I am opposed to the Ron Clark development plan at 4312 Shady Oak Road for reasons stated below. I have spoken with many people in the surrounding area and the feeling is pretty consistent..

Traffic, height, high-density, noise/privacy, safety, quality of life, Minnetonka values, traffic residential road use, outside light rail radius, not in Mtka where may need more housing., Hopkins services & schools.

Please develop it..... BUT Not in this fashion
Mr. Ellingson,
This is in your ward (1) take a look around and see if you truly feel that a project of this nature belongs at this location.

Just want to be "on record"

Thank you,

Mark Bauer

From: Kathy Dols
Sent: Thursday, August 17, 2017 11:42 PM
To: Bob Ellingson <bellingson@eminnetonka.com>; Loren Gordon <lgordon@eminnetonka.com>
Subject: Shady Oak Road Redevelopment, 4312 Shady Oak Rd.

(I would have added this to my last email, but I did not hear back from my phone request to the Hopkins school district.)

Some of those in favor of this proposed development feel this area needs many additional affordable housing apartments. I feel this is not the case. There is research showing several affordable housing locations within close proximity to this site. Once again, the proposed building is too large/has too many apartments. Other areas of Minnetonka are severely lacking affordable housing in comparison to this area. As a guideline, we can use the number of students enrolled in the Free and Reduced Price Lunch program. My phone research to the school districts showed the Minnetonka school district has about 5.5% of the students enrolled and the Wayzata school district has approximately 12% of the students enrolled. In lieu of being able to talk to someone from the Hopkins school district, I looked up the program statistics at the Minnesota Department of Education which showed 40% plus of the students in the Hopkins school district were enrolled in the program. My conclusion from this is that Minnetonka doesn't need to locate all their affordable housing on the Hopkins border, which already has housing options, but rather needs to offer more of the affordable housing in the other school districts to better balance the housing throughout our City. I think, too, that some of the proponents of this affordable housing development were quite excited at the possibility of moving to Minnetonka and most probably thought that translated to the Minnetonka school district, not the Hopkins school district.

Kathy Dols
4228 Oak Drive Lane

From: andy braun
Sent: Thursday, August 17, 2017 12:11 PM
To: Julie Wischnack <jwischnack@eminnetonka.com>
Subject: 4312 Shady Oak Road - Redevelopment
Julie, as this will be our last opportunity to provide feedback and guidance on this proposal I’d like to request documentation on the correspondence between Hopkins and Minnetonka regarding the coordination of comp plans, zoning and any other type of planning for this section of the Shady oak corridor between Hwy 7 and Excelsior Blvd. If you review the two cities’ comp plan, you will see active and purposeful “maintaining of the downscaled, low level, low density, low impact development, and maintaining in its current state into the future”

I'd like to request an ordinance to prevent/protect against "Spot Zoning"

I'd like to request a ‘first right of refusal public option’ to 'buy back' this lot at the RC sale price, and put it into a public land trust.

I'd like to request that if approved we receive fair compensation for our losses as previously explained.

I think it's important to understand that this design is NOT consistent with the common convention/common practice design principles found in the rest of Minnetonka high density developments. And we argue that they should. Especially because it's public land and public financing. Why are affordable tenants less deserving of what market rate tenants receive? Especially when we're paying the developer to bring it up to par? We’re providing them with all the money they need that they still can’t accomplish a meet-comp consistent with common convention? This is either because of deception or incompetence, or some reason not yet explained. Perhaps because the site simply has too many restrictions due to errors in oversite of the ‘pre-development improvement phase’ related to the road construction and storm water easement, which cannot be overcome?

We CAN NOT trust Ron Clark. They have proven to be dishonest and admittedly providing false information regarding the ‘minimal viability’ of each of the previous 2 design iterations. How can we allow them to go back on their word? They specifically told us that iteration 1 it was ‘minimally viable, that they could not reduce the scope in any way, its as small as they can go to be viable’ Then they came back with iteration 2 which was a ‘downscaled version, slightly reconfigured but with the same number of units, and again told us ‘minimally viable, that they could not reduce the scope in any way, its as small as they can go to be viable.’ Then a third time with a completely different look, somewhat augmented configuration and a 10% reduction in the number of units. And again tell us ‘minimally viable, that they could not reduce the scope in any way, its as small as they can go to be viable.’ So which one is it? Not all 3 can be true at the same time. This is either due to deception, incompetence or some other reason yet to be described. I understand the “iteratively sharpening the pencil” approach, especially as a “strategy for acceptance and approval” however they should have told us that to begin with. Coupling “this is just a concept” with “this is minimally viable” does not excuse their lack of accuracy or truthfulness. They promote that they’re a professional developer and we should hold them to a high standard of professional conduct. They are clearly professional scam artists as well, it seems this is their real expertise, because they seem to be doing a fine job of pulling the wool over our eyes.
This proposal clearly falls short on several items that are necessary for adequate design, acceptance and approval.

1) Too big/too invasive/too high density for the neighborhoodSCALE of the area.
2) No immediate access to public transit
3) Little to no buffering which is inconsistent with common practice of the other high density developments in Minnetonka
4) Relies entirely on low density residential roads for access, including emergency vehicles.
5) Little to no 'Cue' area for access on/off Shady Oak Road.
6) Little to no outdoor space or buffering for children/pedestrians/park access. (Shady oak is already dangerous enough especially for children, and Minnetonka is promoting that parks are provided across shady oak on the Hopkins side, as a positive design attribute)
7) Most/all amenities are provided by Hopkins.
8) Requires an amendment to the Comp Plan and Zoning
9) Does not conform with the ‘Village Centers’ model’
10) Significant negative impact to the local neighborhood which is being disregarded.
11) Stark contrast to the city of Hopkins comp plan and zoning.
12) Drives out local business. Does not promote minority or non profit based developers.
13) Does not promote green building practices.
14) Does adhere to the City's Mission and Goals.
15) Promotes "spot zoning"

Can anybody argue that we’re so desperate for this particular development that we’re willing to make so many sacrifices?! Especially when there are ample alternatives that are more accessible and don't have these inherent/unsolved/unsolvable problems?!

It's important to remind everyone that this is our government, and we expect accurate and thorough representation.
It’s also important to understand how this proposal fits with our Mission and Goals.

Mission and Goals

In May 2011, the Minnetonka City Council revised the city’s mission, vision and strategic goals to help guide the city’s future priorities and policies [Is time to revise it again? Because clearly the bar has been set too high and they aren’t being followed]. The mission, vision and strategic goals are listed below.

Mission

Our purpose is to provide the core public services [forcing this development upon our neighborhood is not a core service, clearly overstepping the role of this government] our community residents and businesses [whom are being undermined and neglected] rely upon in their daily lives, while striving to preserve and enhance [Demolish and diminish] the distinctive character [what’s distinctive about a generic building, oh, its how it infringes on the neighborhood and forces unsafe outdoor access to recreation and transportation, yes that is distinctive character] that makes Minnetonka a special place to live. [its special all right, a special kind of neglect for the wellbeing of prospective affordable tenants and the neighborhood]

Vision

Minnetonka will be the community of choice [where’s the choice in this, for anyone? I couldn’t choose to live in this apartment, I don’t qualify. I can’t choose to put it in a more appropriate location, I can’t choose that it gets done to an appropriate scale, I can’t choose that it gets done with green building practices, I can’t choose to have my losses as a tax paying property owner be recouped. The tenants can choose to recreate in a tot lot, parking lot, back ally, small neighborhood street, abandoned gravel lot or push their stroller across a 4 lane county road? And then go where? Can choose to not risk merging onto a busy county road instead to ‘shortcut’ through a low density residential]
Guiding Principles

- We will focus on excellent customer service [by whitewashing and neglecting to accurately represent our feedback? By not answering many of my questions? Oh by serving Ron Clark first, as they’re a bigger customer than we are?] by striving to do the right thing [Striving sounds like a disclaimer, where’s the commitment and accountability?], at the right time [now is the time to finally getting around to addressing the affordable housing issue, nows the time to neglect the interests of residence and prospective affordable housing tenants], for the right reason [Still waiting to hear what the right reasons for this proposal that aren’t primarily rooted in the interests of the city’s and developers bottom line].

- We will set the standard for innovative leadership [Innovative leadership would be steering Ron Clark to build GREEN, actually no, that’s not innovative, that is the state of the art, we’re clearly behind the times. The standard of innovative leadership in this regard is very low, I see no innovation nor leadership] by forging collaborative partnerships [Between the city and Ron Clark, and disregarding the neighborhood], adopting new technologies [The technologies of forcing your will upon the people through coercion?] and promoting effective service delivery [Services such as those provided primarily by Hopkins? Oh, services like fire, ambulance and waste management, they don’t even have decent access. Oh, services such as community support and fostering wellbeing? Not in this case]

- We will foster open and inclusive communication to encourage community involvement [what good is communication and involvement if our positions and feedback are disregarded, ignored and belittled?], and to maintain the trust and respect of those we serve. [I trust that the cities and developer put their values before those of their constituents, oh I know, this] of authentic communication [authentic communication is not whitewashing and misrepresenting the feedback of the community], contagious enthusiasm [I see disdain and frustration from all parties], shared success [Shared to whom? Certainly not the affordable tenants nor neighborhood], outcome focused teamwork [negative outcomes in this case, teamwork spelled with an “I” not inclusive of your constituents needs], adaptable
learning [learning how to not be accountable to your constituents] and innovation, [innovating ways to use brute force in favor of collaboration and problem solving] and healthy human relationships. [Healthy human relationships do not involve segregation, neglect, lowered standards of living, and infringing on property rights].

Goals

Responsible stewards [responsible to the city’s and Ron Clarks interests before the neighborhoods and prospective affordable tenants]

We will be responsible stewards of the city’s physical assets [By erroneously buying a property, then improving it with roads and storm water easement in a way that completely undermines any reasonable future development. Or by operating the property at near slum lord levels, or by not maximizing on the sites potential?] human capital [By dragging us through this process of hours of meetings, research and feedback which is disregarded, multiple phases of deceptive or incompetent ‘minimal viability’ downscaling] and financial resources by: [using public funds to buy then erroneously improve a property rendering it almost entirely unusable for development?]

- Providing good value for the dollars entrusted to us.[Value which is a benefit only to the developer in this case]
- Managing for the long-term to ensure the city’s ongoing ability to provide quality services at a reasonable price. [Long term of the developers bottom line? Long term of the cities tax base? Services such as emergency vehicles which have the quality of extremely poor access to this property? At a price which we have to ‘lose our hat on’ to resell the property, then pay to pad the pockets of the developer because they can’t or won’t develop a truly affordable building? Are we talking about “long-term” as in the “100 year plan” as cited in previous council meetings? Because based on the precedence set in this process, the city is forcing me to consider no longer paying my taxes due to the lack of representation. What value or purpose is there in government without representation? Oh I know, to promote for-profit interests before its constituents…that is a common trend, locally, regionally, nationally and internationally. I guess I should expect no less than the status quo]
- Sustaining core services and continuing infrastructure investments, while living within our means. [Core services which can’t adequately access the property. Core services such as parks and rec, libraries and public transit which these tenants wouldn’t have adequate nor easy access to? Except for the services which are somewhat accessible but are provided by Hopkins.]

Natural environment

We will protect and enhance the unique natural environment of our community by:

- Carefully balancing growth and development with preservation efforts that protect the highly valued water and woodland resources of our community. [By
cramming and filling the entire parcel with high density housing. The closest immediate natural environment is provided by the private residence, not the city, and is only accessible by vision, and not physically. What good is protecting and enhancing a unique natural environment for these prospective affordable tenants if they don’t have adequate or reasonable access?

• Developing and implementing realistic long-term plans to mitigate threats to water quality, urban forests, and the unique natural character of Minnetonka. [long term plans which can be easily changed and undermined via a comp plan and zoning amendment. Maybe ‘realistic’ is a disclaimer that says ‘reality is whatever serves the city and Ron Clark the best today.’ The threat is the precedence that this type of development promotes, there is no mitigation in this case, only brute force of a self-imposed undermining of this goal. Or long term plans such as the “100 year plan” (cited in previous council meetings) well we’re all going to be dealing with millions of climate refugees, disease, water and food shortages, and complete social unrest if we’re not already dead, if we don’t implement significant sustainability practices NOW which this proposal completely neglects. If we’re looking at the”100 year plan” then our focus on this development is completely irrelevant. My proposal for year round-low impact-food production does address the “100 year plan” head on. We’d build one of those deep winter greenhouses on every street corner, back yard, front yard or any possible space if we knew what was good for us, but much like this apartment proposal, blatant oversight and short term thinking is the norm.

• Taking an active role in promoting energy and water conservation, sustainable operations and infrastructure, recycling and environmental stewardship. [This is hilarious, couldn’t be a more blatant lie. This development is contrary to almost everything here, and certainly contrary to the spirit of this goal]

Public safety

We will maintain quality public safety for our residents and businesses by: [promoting the development of a property with extremely limited accessibility, direct exposure to a busy 4 lane county road, and no immediate access to sufficient outdoor spaces. Is it safe to build using entirely unsustainable practices?]

• Implementing appropriate recommendations in the Public Safety Management and Operations Study to address the evolving police, fire and emergency service needs of our community, including an aging and more diverse population. [Devolving in this case, falls well beneath the bar of common practice standards]

• Providing seamless, coordinated and integrated public safety services through common protocols and shared practices among departments and personnel. [I hope they build a helicopter pad because ambulance won’t be able to access when there are other emergency road vehicles on site]

• Leading collaborative efforts with other agencies to cost-effectively provide quality public safety services, with an emphasis on coordinated technology, equipment and programs. [and a deemphasis on building sites with adequate access. Perhaps you’re banking on drone-ambulances?]
Transportation

We will work to meet the transportation needs of our residents and businesses by:

- Providing and preserving a quality local street system, based on a financially sustainable plan for reconstruction and ongoing maintenance. [the qualities of restricting access for emergency vehicles, public transit, and local transit from small residential roads on/off the 4 lane county road?]
- Collaborating with our state, regional and local partners in the timely development of shared highways and streets. [collaboration which significantly restricts access for emergency vehicles, public transit, and local transit from small residential roads on/off the 4 lane county road? And which significantly and erroneously undermines the sites potential for future development.]
- Actively participating in regional light rail planning and development to ensure that community needs and interests are served. [planning to put this development outside of ‘village centers’ where light rail and public transit is focused. This development is completely decoupled from the proposed LRT station]
- Pursuing shared sub-regional transit solutions with neighboring communities to improve service within the area. [Pretty much going to have to rely on uber drones]

Community development

We will support well-planned, responsible community development by:

- Carefully balancing individual property rights with community-wide interests, while respecting the unique character of Minnetonka’s neighborhoods. [Really? Where’s the care or balance? Property rights are being infringed upon, community wide interests are being undermined, and the unique character of the neighborhood is being negatively altered and diminished through he brute force of selfish government and developer interest]
- Initiating programs and policies that broaden housing choices to both meet the needs of our aging population and attract young residents. [This development does neither, and was initiated by the met council, not the city]
- Actively promoting the vitality of designated village centers, which integrate uses and connect people to commercial, residential, employment, and public activities.
[would the comp plan amendment turn this into a village center? This development does not promote the village center concept, in fact it undermines the intent of a village center. The intent of village centers has merit and value, lets maintain that traction and effort going forward.]

- Supporting business retention and expansion and attracting new businesses to help our private sector be economically competitive. [This is hilarious. This will drive out existing business, completely block out future business (except maybe home based business), but it does help Ron Clark’s business, but does not support minority nor non-profit, nor green business, but that’s cool, who cares about them anyway]

Recreation

We will provide excellent **recreational** amenities by: [By landlocking affordable housing complexes from reasonable access?]

- Offering a full range of programs for people of all ages and ability levels. [but only if they have a car to get there]
- Responsibly maintaining our parks, trails and recreational facilities, while fairly balancing user fees with general community support. [Oh that’s great, parks that these tenants can’t reasonably access unless they have a car. Whos going to feel comfortable pushing a stroller across a 4 lane county road? Or riding their tricycle in a gravel parking lot?]
- Renewing, expanding and maintaining a trail system to encourage outdoor recreation, and improve the connectivity and walkability of our community. [Where’s the walkability to nearby parks? Where’s the integration with trail systems?]

I look forward to receiving feedback on these and all previously outstanding inquiries.

Thank you, with kind regard.

Andy Braun
4408 Crawford Rd.
Minnetonka MN, 55343

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From: andy braun
Sent: Thursday, August 17, 2017 1:02 PM
To: Julie Wischnack <jwischnack@eminnetonka.com>
Subject: Re: 4312 Shady Oak Road - Redevelopment

please take note.

*Peter Calthorpe: 7 principles for building better cities*
Andy Braun

From: Thursday, August 17, 2017 3:21 PM
To: Julie Wischnack <jwischnack@eminnetonka.com>
Cc: Loren Gordon <lgordon@eminnetonka.com>
Subject: Letter to City of Minnetonka with attachments

Julie and Loren, Please make sure this latter and all attachments get into the packet for the Planning Commission Meeting on Aug. 24th.
Thank you, Chris and Ann Aanestad

From: Thursday, August 17, 2017 3:22 PM
To: Julie Wischnack <jwischnack@eminnetonka.com>
Cc: Loren Gordon <lgordon@eminnetonka.com>
Subject: Fwd: [2/3]Attached Image

There should be 17 pages total.
Thanks again, Chris
Chris Aanestad
Commercial Account Manager
New Brighton Ford

From: Thursday, August 17, 2017 3:24 PM
To: Julie Wischnack <jwischnack@eminnetonka.com>
Cc: Loren Gordon <lgordon@eminnetonka.com>
Subject: Fwd: [3/3]Attached Image
Dear City of Minnetonka,

The Ron Clark proposal remains basically the same. It did not address neighborhood concerns regarding traffic, safety, high density, noise, privacy, and height.

When asked if there is any apartment complex of this size that uses a small residential road to access their complex, Loren Gordon, Minnetonka’s city planner, said two examples are The Ridges and The Cliffs of Minnetonka. PLEASE go and look at these apartment complexes. They do not use residential roads to access them and the neighborhood behind these apartments is totally separated with a huge buffer of trees. Traffic from the apartments and from the neighborhood have their own roadways.

It is not acceptable anywhere else in Minnetonka to have a large apartment complex use a small residential road as their only access. It is not acceptable in this area either. Shady Oak Road is a busy road and Oak Drive Lane is a small local residential road not designed for massive traffic. There is a current permanent curb cut on Shady Oak Road that is used by the commercial businesses located on this parcel. It was built for reason-to keep traffic off of Oak Drive Lane. Any development that is built on this parcel needs to use the access from Shady Oak Road and/or gain access from the light at Main Street.

This proposal is unacceptable as the driveway to this project is directly across from the single-family home across the street on Oak Drive Lane and next to other single-family driveways in the neighborhood. It will set a precedent in Minnetonka that will allow large apartment complexes to be built on residential roads in neighborhoods. How would you like the driveway next to yours to be a driveway for 49 families and 100+ cars making multiple trips at all times of the day/night?

Also, any other Ron Clark development uses a major road and is not connected with a neighborhood. Their New Hope project, Compass Pointe, is just one example where access is off of West Broadway. It is NOT connected to the neighborhood.

This proposal is too massive for this area as Shady Oak Road is all low profile buildings. This massive apt. proposal leaves very little green space and residents would have limited access to parks. It is not a safe place for families with children to live, as Shady Oak Road is very busy.

Please vote "NO" to this proposal. Imagine your residential road being used by a massive apartment complex. It is not acceptable anywhere else in the city. Vote NO.

Hundreds of residents are against this proposal. You have received petitions, letters and phone calls regarding this. We want to keep our neighborhoods and community safe. This proposal will have a negative impact on our community.

Attached are many examples that prove that apartment complexes in Minnetonka are not attached to neighborhoods. It is a bad idea to start a precedent of building large apartment buildings in small residential neighborhoods using only residential roads to access them.

Sincerely, Ann and Chris Aanestad

8/16/2017
Traffic Issue for Oak Drive Lane

Traffic will and does backup to north access of Oak Drive Lane forcing residents of new building to cut through. This is NOT acceptable!

[Signature]

01/17/17
The Ridge Apartments
Hennepin County Property Map

Date: 8/17/2017

PARCEL ID: 0211732230058

OWNER NAME: Sunset Ridge Minnetonka, Lp

PARCEL ADDRESS: 12708 Wayzata Blvd, Minnetonka MN 55305

PARCEL AREA: 1.75 acres, 78,336 sq ft

A-T-B: Torres

SALE PRICE:

SALE DATA:

SALE CODE:

ASSESSED 2016, PAYABLE 2017
PROPERTY TYPE: Apartment
HOMESTEAD: Non-Homestead
MARKET VALUE: $8,944,000
TAX TOTAL: $94,141.22

ASSESSED 2017, PAYABLE 2018
PROPERTY TYPE: Apartment
HOMESTEAD: Non-Homestead
MARKET VALUE: $8,931,000

Comments:

- No residential access.

The data is furnished R/W/O without representation as to completeness or accuracy. It is furnished with the warranty of any kind, and (b) is for information purposes only, engineering or surveying purposes. Hennepin County shall not be liable for any damages, injuries or losses resulting from the data.

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CA. elorka
PARCEL ID: 14117222400011

OWNER NAME: Applewood Pointe Co-Op Mka

PARCEL ADDRESS: 12201, Minnetonka Blvd, Minnetonka MN 55305

PARCEL AREA: 4.08 acres, 177,846 sq ft.

A-T-B: Abstract

SALE PRICE: $1,944,500

SALE DATE: 11/2015

SALE CODE: Vacant Land

ASSESSED 2016, PAYABLE 2017
PROPERTY TYPE: Cooperative Housing
HOMESTEAD: Non-Homestead
MARKET VALUE: $1,869,000
TAX TOTAL: $31,257.98

ASSESSED 2017, PAYABLE 2018
PROPERTY TYPE: Cooperative Housing
HOMESTEAD: Non-Homestead
MARKET VALUE: $1,958,000
TAX TOTAL: $33,319.91

Comments:
- No residential access
- Border by Bike Trail

This data is furnished AS IS with no representation as to completeness or accuracy, all is furnished with no warranty of any kind, and (ii) is intended for general information or marketing purposes. Hennepin County shall not be liable for any damage, injury or inconvenience from the data.
**Property Card**

**Parcel ID Number**: 264450016

---

**Taxpayer Information**

**Taxpayer Name**: VILLAGE COMMONS LIMITED PART

**Mailing Address**: 7100 W 76 ST EDINA MN 55439

---

**Property Address**

**Address**: 14122 VIRGINIA AVE

**City**: SAVAGE MN 55378

---

**Parcel Information**

<table>
<thead>
<tr>
<th>Uses</th>
<th>132 Acre 4+ units.</th>
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<tr>
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<td>Developed Area</td>
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<tr>
<td>Plat:</td>
<td>VILLAGE COMMONS</td>
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<tr>
<td>Lot:</td>
<td>001</td>
</tr>
<tr>
<td>Block:</td>
<td>001</td>
</tr>
</tbody>
</table>

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**Tax Description**

Block 001 Lot 001 Subdivision Gd 264450 Subdivision Name: VILLAGE COMMONS

---

**Building Information**

- **Bedrooms**: 0
- **Bathrooms**: 0.00
- **Garage Lot #**: 10

---

**Miscellaneous Information**

<table>
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<tr>
<th>School District</th>
<th>Taxing District Code</th>
<th>Homestead Status</th>
<th>Gross Acres</th>
<th>Adj Preserves</th>
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<td>710</td>
<td>2107</td>
<td>N</td>
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<td></td>
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</table>

---

**Assessor Information**

- **Estimated Market Value**
  - **Land**: $1,100,000.00
  - **Building**: $6,800,000.00
  - **Total**: $8,900,000.00

**2016 Value (Payable 2017)**

- **Taxable Value**: $8,000,000.00
- **Sale Value**: $100,000.00

**Last Sale**: 10000101

---

**NO residential access.**

---

**Wednesday, May 24, 2017**

---

**Scott County, MN**
Ron Clark "Carver Crossing"

Property Card

Taxpayer Information
Taxpayer Name
CARVER CROSSING LP

Mailing Address
7500 W 78TH ST
EDINA, MN 55439-2517

Property Address

Address
1583 HARTWELL DR

City
CARVER, MN 55315

Parcel Information

Uses
Apt 4+ units

GIS Acres
2.1

Net Acres

Deeded Acres

Plat: CARVER CROSSING
Lot: 001
Block: 001

Tax Description

Building Information

Building Style

Above Grade
Finished Sq Ft

Bedrooms

Year Built
Garage

Miscellaneous Information

School District
0112

Watershed District
WS.067 CARVER CD WMN

Homestead
N

Green Acres
N

Ag Preserve
N

Accessory Information

Estimated Market Value
2016 Values
(Payable 2017)
2017 Values
(Payable 2018)

Land
$175,600.00
$175,600.00

Building
$3,748,700.00

Total
$3,922,300.00

Last Sale

Date of Sale
7/9/2012

Sale Value
$750,000.00

NO Residential Access or
in area.
- No residential access.
- Large natural buffer between adjacent neighborhood.

https://www.google.com/maps/place/The+Cliffs+Of+Minnetonka+Apartments/@44.97379,,-94.07868/19z/data=!4m5!3m4!1s0x81d95a0a7e4899ad:0x3b7e61eaf1d9c8a9!8m2!3d44.97379!4d-94.07866
Music Barn Proposal

Location Map

Project: Music Barn Apartments
Applicant: Community Housing Corp of America, Shelter Corp
Address: 5740 & 5750 Shady Oak Rd
(09002.15a)

"Music Barn"
No residential
in area.
No residential housing in this area.
- No residential access
- Large fence between adjacent neighborhood.

* See attached "Reviews" for Ron Clarke - Compass Pointe.
There are no available units.

<table>
<thead>
<tr>
<th>Beds</th>
<th>Bath</th>
<th># of Units</th>
<th>Average SF</th>
<th>Availability</th>
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<td>1 Ba</td>
<td>2</td>
<td>794 SF</td>
<td>None of these are available.</td>
</tr>
<tr>
<td>2 Br</td>
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<td>56</td>
<td>1,062 SF</td>
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<tr>
<td>3 Br</td>
<td>2 Ba</td>
<td>22</td>
<td>1,548 SF</td>
<td>None of these are available.</td>
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Below are rent ranges for similar nearby apartments:

<table>
<thead>
<tr>
<th>Beds</th>
<th>Average Size</th>
<th>Lowest</th>
<th>Typical</th>
<th>Premium</th>
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</thead>
<tbody>
<tr>
<td>1 Br</td>
<td>794 sq ft</td>
<td>$765</td>
<td>$790</td>
<td>$825</td>
</tr>
<tr>
<td>2 Br</td>
<td>1,062 sq ft</td>
<td>$1,080</td>
<td>$1,150</td>
<td>$1,200</td>
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<tr>
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<td>1,548 sq ft</td>
<td>$1,315</td>
<td>$1,380</td>
<td>$1,480</td>
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<tr>
<td>4 Br</td>
<td>1,500 sq ft</td>
<td>$1,400</td>
<td>$1,480</td>
<td>$1,540</td>
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</tbody>
</table>

844-586-5274 Apartments.com

https://www.apartments.com/compass-pointe-new-hope-mn/9wxhgp4/
VERIFIED RESIDENT
Resident from 2015 - 2017
Recommended Property
Reviewed 05/09/2016

4.0
Scale of 5

Noise 3
Safety 5
Grounds 5
Maintenance 5
Neighborhood 5
Office Staff 5

It is ok. It is some place i can afford, with out being nickle and dime to death. we need more
tenants to take better not abuse there rights. Sorry but we do not always have that much to say.

VERIFIED RESIDENT
Resident from 2015 - 2016
Recommended Property
Reviewed 01/10/2016

3.0
Scale of 5

Noise 2
Safety 3
Grounds 3
Maintenance 4
Neighborhood 3
Office Staff 4

So far it has been OK there are a few things that happen that staff has no control over its a few
community members that don't parent there children i feel we need cameras in the hall ways the trash
room isn't being used properly the children are out of control

https://www.apartmentratings.com/mn/new-hope/compass-pointe_9199332346275159532/ 5/24/2017
Reviews

VERIFIED RESIDENT
Resident from 2016
Recommended Property
Reviewed 02/15/2016

Noise 4
Safety 3
Grounds 3
Maintenance 4
Neighborhood 5
Office Staff 4

There have been some incidents in the summer. Police had to be called. There are children and of course they will be loud some of the time. The custodians could keep it more cleaner. When you put something on the walls and you use those Commandals and remove them the paint will also come off.

Write a reply...

VERIFIED RESIDENT
Resident from 2015 - 2016
Recommended Property
Reviewed 02/11/2016

Noise 3
Safety 5
Grounds 5
Maintenance 5
Neighborhood 3
Office Staff 5

https://www.apartmentratings.com/mn/new-hope/compass-pointe_9199332346275150532/ 5/24/2017
VERIFIED RESIDENT:
Resident from 2016 - 2017
Recommended Property
Reviewed 10/03/2016

Noise: 1
Safety: 4
Grounds: 3
Maintenance: 5
Neighborhood: 5
Office Staff: 5

Good at first, then little by little I lost faith in the management. Complaints are not heard. Most residents are disrespectful and leave trash and dirt directly after I notice one of the caretakers cleaning. Nothing is done to aid in this. Non-residents walk in freely by either waiting for the door to open or a resident jamming it open.
Ron Clark

"Compass Pointe" Reviews

2.0
State of:
Not Recommended
Reviewed 05/26/2017

Noise 2
Safety 4
Grounds 2
Maintenance 4
Neighborhood 4
Office Staff 4

Some of the residents that live there are not clean, there are unssupervised children that's outside and roaming the hallways. The hallways, and elevator are sometimes filthy, there is trash in the parking lot and playground, and the garage is very dusty, and some residents storage in the in the garage needs to be cleaned and organized. I think it should be some rules enforced to residents about maintaining the building or there will be consequences.

Write a reply...

© NO COMMENTS

https://www.apartmentratings.com/mn/new-hope/compass-pointe_9190332346275159532/ 5/24/2017
Correct "Curb Cut" shows on almost all plans.
Like the police, aren't your interests to serve and protect the residents if your City? Ask yourself if this is the best and highest purpose for this property. The answer is no.

The density is too much for this tiny lot. The traffic concerns are great. I fear a tragic accident will happen with the addition of so many apartments on the site. Plus the congestion on residential streets Oak Drive Lane, James Road and Fairview Avenue and the added use of county road Shady Oak Road will change our somewhat quiet neighborhood into a traffic nightmare.

For the quality of life and safety of all concerned, I ask for a highly reduced number of homes on the 4312 Shady Oak Road site. As always, if this site must be residential then a low number of townhomes would be my choice.

Thank you for your consideration,

Kathy Dols
Minnetonka
Dear New Resident:
On behalf of the city council, it is my pleasure to welcome you to the city of Minnetonka. The citizens of Minnetonka have a great deal of pride in their city. Minnetonka has a thriving business community, high quality office developments, and beautiful residential areas. There are dozens of ponds and three major creek corridors in the city. In addition, careful planning has allowed the city to maintain a significant amount of open space, park land and wetland areas. These characteristics help make Minnetonka truly a special community.

The community center, a part of the civic center complex on Minnetonka Boulevard and Williston Road, houses an active senior citizens program, as well as a beautiful banquet room and meeting rooms for the public’s use. The city has numerous recreation programs and more than 40 public parks available to residents. In addition, there are many opportunities for citizens to participate in community recreational and volunteer activities.

I believe the quality of life in Minnetonka ranks among the highest in the metropolitan area. We are pleased that you have chosen our city as a place to live. If you have any questions or would like more information about Minnetonka, our staff would be pleased to assist you. The city hall phone number is 952.939.8200.

Sincerely,

Terry Schneider
Mayor

Throughout the summer and fall of 2016, the City of Minnetonka asked residents to provide feedback for a community-wide visioning and strategic planning project, Imagine Minnetonka. Residents of all ages were asked to share their response to the question: "How do you want your city to look and feel in the next 20 years?"

Hundreds of ideas were submitted in a variety of ways -- in-person, online and via social media -- before the community engagement period concluded in November 2016. Three strong themes emerged from the feedback that was received:

- **Character**: Participants stressed the importance of maintaining and preserving the features that give Minnetonka its unique character, including wetlands, parks and open spaces.
- **Connection**: Residents expressed an interest in the creation of more trails and sidewalks to safely connect the city, as well as more opportunities to connect with others and build relationships in the community.
- **Citizens**: The city received lots of feedback about the importance of protecting and preserving the outstanding quality of life currently enjoyed in Minnetonka, and the desire to ensure the same quality of life is available for all citizens in the years to come.

If the City of Minnetonka values "character" this proposal does not include access to parks and open spaces. No thought has been given to where children of all ages are going to play. The nearest park is over a mile away.
If the City of Minnetonka values a "safe connection" to the city, then this proposal should be built in the interior of Minnetonka where children have safer places to play and better opportunities for transportation.

If the City of Minnetonka values "feedback from citizens" and "quality of life" the city council has not listened to its taxpaying citizens in the surrounding neighborhoods.

Sincerely,
Ann Aanestad
Good Morning,

Thank you for considering seriously the many negative impacts of the proposed development at 4312 Shady Oak.

I wanted to reach out to you to make you aware of a particular inconsistency that has come up multiple times in regard to this development proposal, specifically relating to Julie W of Minnetonka communicating with Hopkins. We have an interest in Hopkins so we attended a planning event put on by representatives of Hopkins not too long ago. When the Shady Oak corridor came up I asked them how involved they were with Minnetonka and whether they were planning in tandem, the response was a no. They are not planning anything between hwy 7 and excelsior. They have other interests in other locations and have nothing for that area anywhere in their plans. I don't like being lead to believe that there is a relationship and support for a thing where there is not and that is what Julie does. We the residents are not happy having our concerns whitewashed by both her and Loren during this process. They have done a terrible job communicating with us, neither are clear or straightforward even with simple questions they seem to turn it into a weeks long process to get any responses as Ron clark swiftly moves through a process where there is a very large movement of opposition for legitimate reasons. She seems to be playing PR for Ron clark, she is not impartial, has no good answers to our traffic, safety and accessibility concerns with this over sized building.

I would really appreciate your advocacy regarding the legit concerns that piling affordable housing on the furthest out tiniest plot of land Minnetonka probably owns which lacks all of the resources most city residents get to enjoy is not fair to the current residents and not fair to future residents.

One traffic update: As you may be aware I use Bradford to exit the neighborhood and its sort of a nightmare. we chose to deal with when we bought the place, before we knew the intention to plop 50ish more residential homes on the next block. Anyways- the print shop building has created a put through in their parking lot that we are using so that we have more reasonable access to Shady Oak Road. The best way for me to get out of my neighborhood is no longer a Minnetonka city street, its a private parking lot through Hopkins. Can we consider this a moment and reflect whether this is truly a good practice? And whether exacerbating an already difficult to navigate area with high density reflects good practices?

I again, thank you for your efforts to build and plan the city with the best intentions in mind-I have been very impressed with the level detail and interest I have seen from your group. You are the best of Minnetonka, please consider what building affordable housing in this fashion says about us.
August 18, 2017

On Friday, August 18, 2017, 7:20:32 AM CDT, John Powers <jpowers@eminnetonka.com> wrote:

Mr. Braun,

With most or all the well detailed and thought through argumentation in your opposition to the current proposal, what precisely do you want done/built on this site and how are you seeking others to help you achieve your vision; and what's your considered timeframe for building your vision.

In order for me to consider what you want, I need to know what you want and not just what you don't want or don't like. I need to hear from a developer who wants to build what you want and presents a proposal that I can consider.

I can think about and consider your argumentation against many components of the current proposal by Ron Clark, but I can only vote on proposals brought before the planning commission and so far it is the only proposal I can consider.

Thanks,

John

Sent from my iPad

From: andy braun
Sent: Friday, August 18, 2017 11:31 AM
To: John Powers <jpowers@eminnetonka.com>
Cc: Julie Wischnack <jwischnack@eminnetonka.com>
Subject: Re: 4312 Shady Oak Road - Redevelopment

Hi John, thanks for the email,

Black Huffman has submitted a proposal and application to Julie. Did she not share that with you all? I understand it's positioned towards affordable housing for veterans, battered women, handicapped, less socially advantaged. And is at a lesser scale than the 49 unit RC application.

Blake Huffman
Journey Homes

Also, I had previously proposed Community Based - year round food production, where the 'developer' is a community partnership among various organizations and
institutions. All the city has to do is to align with the vision/framework/model I've described, support the initiative as a collaborative partner, then bask in the glory and accolades of a project with truly aligns with city's mission and goals, zoning and comp plan (and 100 year plan), which benefits the public first, and maximizes the sites potential. This is the WIN we've been looking for. We can start today, and be finished in 60 days. (see attached)

If we're so desperate that we're willing to sacrifice so much for the RC project, then I'd argue that out of this desperation we should find the courage to CHOOSE for ourselves, putting our interests and values first, and to NOT make this sacrifice.

Also, I had requested a 'community buy back, first right of refusal' at the RC sale price (or perhaps donated/granted/'re-purposed' by the city) to turn the lot into a land trust. Where it could be used to build out native pollinator landscapes, permaculture, aquaculture, recreation, picnic shelter and playground, zen garden, 4 season community supported food production, solar and geothermal energy production garden, arboretum or combination. This part of town is seriously lacking in Minnetonka provided amenities. I understand this side/fringe of town may not be a priority, but we deserve to be recognized and represented.

It's important to understand that this is a public property, even if payed for by a 'non tax' levy, that levy was still initiated, supported and propped up by tax dollars, therefore the proceeds/profits from that levy is the public interest and discretion on how to best utilize, its the same public cookie jar. Its a public property and therefore should be provided and positioned as a public asset for public benefit FIRST, before private alternatives are considered. and therefore should be up to the public's first right of refusal on how to develop the property, or sell it to a private party or consider other options.

I understand that the initial purchase by the city 'earmarked' an intent for 'some kind of future development' and that's wonderful, however narrowly focusing that development on housing (because that's what the private builders say was the only viable format, and we all know how developers are trustworthy and grounded in morality and judgement focused on the public's greater good and well being) is simply too narrow a vision. (cite the city's missions and goals) I understand we're asking you to do more work, and I understand its int he city's interest to 'wash their hands' of the situation, however this does not reflect the city's mission and goals.

We should be able to choose what we want based on the interests of the public, not be told by a private developer that we don't have choice. (again site the mission and goals)

This option should not have come this far in the process, it should have been squashed early on, just like the other proposals, as it simply does not pass the 'smell test' just like the others.

Just because this option is the only one to get this far in the process, does not provide any more justification for its merit/value/purpose/rational/favor. This does NOT provide a justification for lowering our standards or 'settling' just because its the easy way out. We have a responsibility to stand behind our mission and goals.
As the RC proposal calls for an amendment to the rezoning and comp plan, does it also call for an amendment to our mission and goals? or perhaps an amendment to our better judgment and gut instinct? or perhaps an amendment to our logical reasoning?

Nobody has been able to describe how this adds up to a win. Why are we so concerned with strong arming development of this lot? There are many other lots that could be more easily and more appropriately developed with out these restrictions and issues. Why not focus on them? Is it because the landlord business is too tough? That policing and enforcing your own health and safety codes in your own neglected building is becoming too risky or unprofitable? or because you're worried about a defamation or personal injury lawsuit? because you're desperate to make our money back (even at a loss as with the RC deal?) because nobody has been able to describe any other reasons for acting so desperately? are there perhaps other 'anterior motives' for this desperation? Perhaps a kickback, not surprising with all the wheeling and dealing RC has accomplished. (I apologize to have to ask these questions and stir this rhetoric, but nobody has provided answers to these basic and reasonable questions regarding 'why so desperate', and that tells me something is being hidden or is simply not understood well enough or some other reason, so I'm simply left to my speculation)

The objective and subjective pros and cons, merit and value, benefits and detriments, have been thoroughly described for all parties involved. I think we're all very clear on how this project stacks up. There's really nothing new to uncover or discuss in this regard. But what nobody has been able to describe is

1) What are the qualifications we've defined?
2) How do the attributes of the RC proposal satisfy these qualifications?

Basically we understand "what it is", but nobody has described "why it is" and we all deserve to understand this before making any decisions.

Thank you for your attention.
With kind regard

Andy Braun
From: andy braun  
Sent: Friday, August 18, 2017 11:45 AM  
To: John Powers <jpowers@eminnetonka.com>  
Cc: Julie Wischnack <jwischnack@eminnetonka.com>  
Subject: Re: 4312 Shady Oak Road - Redevelopment

Ultimately, the test is "is this something we're (the majority) all proud to support and welcome into the community"

unfortunately it is not.

Andy Braun

From: Julie Wischnack  
Sent: Friday, August 18, 2017 12:04 PM  
To: 'andy braun'; John Powers <jpowers@eminnetonka.com>  
Cc: Loren Gordon <lgordon@eminnetonka.com>; Alisha Gray <agray@eminnetonka.com>  
Subject: RE: 4312 Shady Oak Road - Redevelopment

Andy, your email implies that the council was unaware of Mr. Huffman’s communication with the city (no proposal or application was received, contrary to your note below). Mr. Huffman’s email was provided to the city on Sunday evening and it was provided in the change memorandum to the city council on Monday.


I also let Mr. Huffman know that we had to wait and see council direction regarding if they would like to review additional proposals.

I will place your additional communication in the change memorandum for the planning commission on Thursday.

Julie

August 20, 2017

On Aug 20, 2017, at 7:27 PM, Ann Aanestad < > wrote:

Dear City of Minnetonka Planning Committee,

We would really like the opportunity to speak with you before the August 24th meeting regarding the Shady Oak Rd/Oak Drive Lane Development project. There are many questions, issues and concerns that the neighborhoods have regarding this proposal. Please let me know if you are able to meet any afternoon/evening this week (Monday-Wednesday). If possible we could meet at Chalet Pizza anytime between 4-8PM. Or if it works better we would happy to meet you prior to the Thursday meeting at city hall. We
are able to meet at multiple times with whoever is available on any day. I look forward to meeting with you to discuss this proposal and all its many issues further. Thank you and we look forward to hearing from you.

Sincerely, Ann and Chris Aanestad, Oak Drive Lane Residents

August 21, 2017

On Aug 21, 2017, at 4:48 PM, wrote:

Hello Planning Commission,

The Shady Oak Proposal really seems to be having a lot of changes that are snowballing before the vote by City Council in September.

Our main questions are..

1. Access off Oak Drive Lane- I have included several examples in Minnetonka where access is completely separate from an apartment building. This is a very bad precedent to start in our city to allow this building to be built with access directly off a residential street.

( Look at several of the many ideas and would be plans. They clearly show access to the proposed building from OFF of SHADY OAK. All show the permanent "CURB CUT" that is there now and being used!)

   It is not our neighborhoods fault that Hennepin County could not come to an agreement on accessing the this property from MAIN STREET where there is a STOP LIGHT! This really left us with the "PICKLE" there today and nobody wants to step up and try to figure it out?

ACCESS OFF OAK DRIVE LANE is UNACCEPTABLE!

  2. Buffer to Oak Drive lane Neighborhood. None of the plans show any kind of fence or natural buffer between the areas.

  3. Change to Plat Line, Where did this come from? All of a sudden the City is going to move the west boundary closer to the neighborhood. I realize the City owns both parcels but it seems like the project is moving closer to our neighborhood with no discussion.

  4. Building Height - we have seen the lower "Flat Roof " design but have heard that the height is measured from the top of the grade? Sounds like after they build up the grade with fill and a berm is created- the building will be a lot taller from street level than proposed.

  5. Building "fill" across the Easement. It looks like the proposal is adding too much fill
over the NEW Permanent Easement that includes a sanitary and a storm sewer. This sounds
like Ron Clark is asking again for so many changes that are not being discussed
publically.
6. CHANGE to COMP PLAN- This is a HUGE deal. Change our Comp Plan for one
builder and
it opens up so many issues with future developments!.
7. IMPACT on HOPKINS: According to Julie and Gordon, Hopkins is not interested in
what is planned.
That is false. In several of their meetings they realize the impact on schools and cost of
City Services.
Heck: most people I talk to think this is Hopkins anyway!

Please know that this type of project can happen in your back yard too.
I would ask that you DO NOT recommend this project because it is
too big and has too changes associated with it.

I do think Minnetonka can do better.
The City owns a lot of land better suited for this proposal where it will actually impact
Minnetonka.
The Hwy. 7 and 101 area is one of them. Music Barn site is another.

LETS MEET and DISCUSS.

Thanks so much for the work you do.
Respectfully Submitted,
Chris Aanestad
4255 Oak Drive Lane

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August 22, 2017

From: andy braun
Sent: Tuesday, August 22, 2017 11:13 AM
To: Brian Kirk <bkirk@eminnetonka.com>
Cc: Julie Wischnack <jwischnack@eminnetonka.com>
Subject: Re: 4312 Shady Oak Road - Redevelopment

HI Brian, in anticipation of Thursdays Planning Commission Meeting I'd like to request
that a representative from RC or the city present the scoring and detailed explanation of
the score for the attached MHFA_1041462.rtf titled 2019 Housing Tax Credit Self-
Scoring Worksheet, 9% Housing Tax Credits.

Thanks for attention and support on this matter.

we look forward to Thursday.
Andrew Braun

August 23, 2017

From: andy braun
Sent: Wednesday, August 23, 2017 10:33 AM
To: Loren Gordon <lgordon@eminnetonka.com>
Subject: 4312 Shady Oak Road - Shady Oak Crossing

Hi Loren, In the meeting tomorrow, I'd like to request that someone please describe how a 9% tax credit is covering a 40-60% subsidy?

that is:

The tax credit is for 9% (as previously described by RC)
The 'market rate' for this development is "$2000" (as previously described by RC)
The expected rent is between $800 and $1200, (which is 40%-60% of 2000) (as previously described by RC)

So am I missing something? because this math doesn't add up.

thanks

Andy Braun

-------------------------------------------

From: andy braun
Sent: Wednesday, August 23, 2017 10:51 AM
To: Loren Gordon <lgordon@eminnetonka.com>
Subject: 4312 Shady Oak Road - Shady Oak Crossing

Hi Loren,

You can do the right thing right, or you can do the right thing wrong

This is the right thing done the wrong way.

Remember we're paying RC to bring this up to par of market rate... or that is to build 'market rate', but charge less to the tenants for it, and tax payers make up the difference, but they're still unable to meet that threshold/qualification of market rate equivalent housing/common Minnetonka convention.

That's why it should not be approved.

Social engineering at its finest. Our "class system" aka capitalist system aka corporate welfare, actively hoards and consolidates as much money as possible (based in their assessment, aka tax plan and interest rate manipulation) at the top, depriving the lower and middle class of fair wages/benefits of their labor, then tells us it's on the common
taxpayer to make up the difference (thus dinging the common taxpayer again) so that common families can now afford housing. ("Here's how you will divvy up the scraps today pawns") The burden should be on the capitalist and "free" market engineers, aka political and financial elite class and federal reserve, not on us common folk as we didn't cause this socioeconomic inequality of this magnitude.

State and Federal credit to support affordable housing (MFHA, QAP and HTC and the like) is all just part of the game they play with us and our limited financial resources and we're their chess pieces. to pit us against each other to fight over the scraps under the guise of "supporting each other" when really it's their creed, perversion and corruption of the system that put us here.

"Affordable housing" is just a bandaid and a cover up for the real causal issue.

This is a 'double dip' corporate welfare because RC is unable or unwilling to build housing which is truly affordable based on the market, so now we have to pay to make up for where they and their "market" fall short.

Affordable housing is just a small short term remedy, that does nothing to actually resolve the engineered systemic causation.

If the met council, city, county or state was really on "our" side (though I'm sure they think they're doing their best with the only "tools" at their disposal) and really wanted to fix the problem they would somehow provide for a more fair redistribution of capital. However it is clear they are not as they too are simply pawns of the Financial, social and political elite class.

Just like this proposal, it's the fox watching the hen house, and we're all the hens.

I'd prefer if our tax dollars went directly into the pockets of the tenants which need assistance, so they could choose to take their money where they wanted, (this is what section 8 does) instead our dollars are being used to pad the profit margins of a for profit builder, for only one property which of course is the only "option" for the tenants.

Now, since we're forced to live within the confines/rules/laws set by our masters/owners and enforced by their thugs/police/IRS, by threat of violence and/or detainment, we have to play the game as best we know how and be happy little neo-slaves to the elite class.

"Ok poor people, were going to take more of your money by threat of force, to pay the rich people to build housing for those other poor people, aren't we virtuous and being so generous and helpful". Makes sense says our masters.

if the market worked "as designed, or as its promoted" builders would build to suite the market, that is, less expensive housing. But clearly they can't. (Again by design) Another indication of a rigged system.
Let's cast blame where blame is due. Not on each other (as they've led us). and let us not hold each other responsible for a system of which we have no control or authority over.

Aside from these obvious root causal problems, (that the affordable housing initiative fails to address, again, by design) the building just doesn't fit well enough/make sense, for all the reasons previously described, that's all. Nothing personal.

Let's all remember. Us common folk are all on the same side, all looking out for each other. The real enemy/problem is the states ruling class.

We're defending the interest of affordable tenants by making sure it gets done right and up to the same standards that market rate demands.

Andy Braun
- Sent from mobile

From: andy braun
Sent: Wednesday, August 23, 2017 11:31 AM
To: Loren Gordon <lgordon@eminnetonka.com>
Subject: 4312 Shady Oak Road - Shady Oak Crossings.

Hi Loren,
In review of the staff report, I have a few questions.

"The location affords residents the ability of easy and convenient roadway and bus route access"
this is blatantly false. this is not afforded to the current residence, how can it be afforded to the future residence?

"There are a number of high density residential housing units immediately adjacent to single family residential neighborhoods"

"However, it's location on the Shady Oak Road provides screening, buffering and less impactful use characteristics to the residential neighborhood that otherwise would not be possible if the property remained as a commercial use"
a single line of trees is 'screening'? 10 to 15 feet of grass and a retaining wall is "buffering? 3 stories and 290 foot wide wall of people with direct line of site into your private residence is less impactful than than the current commercial use where nobody can see into our private residence? Children playing catch, riding bikes, parents pushing stroller accross 4 lane county road, and shortcutting on their commute through the neighborhood because the county road is already over saturated, and poorly designed for on/off access, is less impactful than current use?

"is it reasonable. yes"
Only reasonable from a minority, and personal and subjective perspective of the staff member whom wrote the report. Not reasonable in the minds of the overwhelming majority of the constituents whom the council represents.

" and fits in the context of the Shady Oak Road commercial corridor "
As has been described since day one, this would significantly change the context of the commercial coordinator. existing is all 1 story commercial, or 2 story town homes. with ample buffering. This is 3 stories with minimal buffering.

thanks

Andy Braun

From: Elizabeth A
Sent: Wednesday, August 23, 2017 11:47 AM
To: John Powers <jpowers@eminnetonka.com>
Cc: Brian Kirk <bkirk@eminnetonka.com>; Deborah Calvert <dcalvert@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>; David Knight <dknight@eminnetonka.com>; Loren Gordon <lgordon@eminnetonka.com>; Terry Schneider <tschneider@eminnetonka.com>; Julie Wischnack <jwischnack@eminnetonka.com>
Subject: Re: Pic shady oak

Good Morning John,

I have pictures available for you. Please let me know if you require a video. The pictures depict exiting from bradford to get on to or cross shady oak road. you can see the end of bradford has cars lined up at the stop light, making it difficult to get to the left hand turn lane which many of us use to take a u-turn on the shady oak and excelsior intersection. The 4th picture shows the alleyway you enter from to get to the parking lot from which you can take a left hand turn on Shady Oak. The rest of the pictures show how much traffic there was this morning just after 8am, it takes awhile to cross here as well but at least you're not forcing others to let you into the left hand turn lane so that you can u-turn. So this really is the best option: alleyway to private parking lot (technically in city of Hopkins), to Shady Oak. This is just south of 4312, less than 1 block away.

Thanks again for your attention to the safety issues surrounding the high density proposal. Its just too catty wampus to safely navigate through as is, clearly 49 households being added to that block/next block will not be an improvement to for the flow of traffic.

A lower density project would have less of a negative effect. Even though what the constituents prefer is that the city do is leave this spot alone and build affordable housing in more appropriate areas that can safely house a high density building.

Thanks,
Elizabeth
This is a classic example of The *tragedy of the commons*. Which is an economic theory of a situation within a shared-resource system where individual users acting independently according to their own self-interest behave contrary to the common good of all users by depleting or spoiling that resource through their collective action.

Let’s not be a tragedy of the commons.

Andy Braun

August 24, 2017

Ms. Gray,

I am unable to come to the Planning Commission meeting tonight where the Shady Oak Road Redevelopment project will be discussed. However I do want to express my support of this project.

This community has a high need for affordable housing. While this can easily be confused with “low-income housing”, affordable housing in a community where property values continue to increase rapidly will provide housing for households making up to $54,240 per year. That means our high school and college graduates that grew up in this area have a place they can afford to live while staying connected to the community they love. It provides an opportunity for our seniors on fixed incomes that are ready to downsize from their homes an affordable place to live. It provides people who work in our community and provide valuable services to our community, a place to live near their work.

I have been impressed with Ron Clark’s design and his redesigns based on community and Planning Commission comments. At ICA I hear our neighbors with families wanting 3-bedroom apartments so was excited to see 14 3-bedroom units included.

Overall this appears to be a much improved look for this property than what is currently on the site, enhancing the area while providing much needed apartments that many in our community are eager to rent.
Please pass these comments on to the Planning Commission and the City Council.

Thank you for all you do for our community,

Peg Keenan
Executive Director
ICA FOOD SHELF

August 25, 2017

From: Deborah Calvert
date: August 25, 2017 at 1:53:04 PM CDT
To: >, Loren Gordon <lgordon@eminnetonka.com>
Subject: Re: Meeting to discuss Shady Oak Rd. Proposal : QUESTIONS

Hi Chris-
I apologize for not responding sooner. Unbeknownst to me, I had a setting in my email that was only allowing certain emails to pop up until yesterday afternoon. Duh. I figured it out because I was expecting an email that wasn’t showing up. I would be happy to meet with you to discuss your concerns. I have a crazy busy schedule, but can do morning coffees. Please be advised that I will be mostly listening - I cannot express anything that would be construed as a decision on this project outside of an official public meeting. But I can certainly listen to concerns, take questions with me, and viable suggestions and ideas are most welcome.

Best,

Deb
Sent from my iPad

From: Deborah Calvert <dcalvert@eminnetonka.com>
date: August 25, 2017 at 1:58:46 PM CDT
To: Ann Aanestad
Cc: Loren Gordon <lgordon@eminnetonka.com>
Subject: Re: meeting to discuss Shady Oak Rd. Proposal

Hi Ann,

As I explained in an email to Chris, I apologize for not getting back to you sooner. I had a setting in my email that was filtering emails, and didn't see this until just before the meeting yesterday when I finally figured out why I wasn't getting certain emails I was expecting from staff. I have an extraordinarily busy schedule, and can pretty much only meet for early morning coffees during the week. But I am happy to meet. As I told Chris, I will primarily be listening as I am prohibited from expressing anything that could be construed as a decision on this project outside the confines of an official public meeting. I can, however, listen to your concerns, questions, suggestions and viable alternatives and address them to the best of my ability at the next meeting.
Best,

Deb

Sent from my iPad

From: Deborah Calvert <dcalvert@eminnetonka.com>
Date: August 25, 2017 at 2:13:48 PM CDT
To: Elizabeth A
Cc: Loren Gordon <lgordon@eminnetonka.com>
Subject: Re: 4312 Shady Oak

Hi Elizabeth-

I was embarrassed to find out just as I was leaving for yesterday's meeting that I had a filter on my email that was not allowing me to see some of the items in my inbox. Duh. I figured it out and saw this just as I was leaving to attend the meeting. Thank you for sharing your concerns with us. I have been taking all the comments under advisement and took copious notes at the last few meetings on this project.

I am sorry that you feel the communication has been less than transparent. For my part, I see that projects like this are very complex, and I'm not sure there are always easy answers to questions that you may believe to be simple, but are, in actuality, quite involved. It's why decision-making responsibilities for projects like this are divided between the EDAC, the Planning Commission and the City Council. I truly hope we can come to a positive resolution.

I have offered to meet with some of your neighbors, and am happy to meet with you as well, and any of the neighbors. I have been making the disclaimer that I would be listening primarily. I am prohibited from expressing opinions that may be construed to be decisions about projects before the Planning Commission outside of the confines of official public meetings. I have an insane schedule, and the only times I have available are early mornings before work for coffee, and I like coffee, so am happy to do it if it works for you.

Best,

Deb

Sent from my iPad

August 28, 2017

From: Beverly Montgomery
Sent: Monday, August 28, 2017 5:45 PM
To: Brad Wiersum; Tim Bergstedt; Dick Allendorf; Tony Wagner; Terry Schneider; Patty Acomb; Bob Ellingson
Cc: Deborah Calvert
Subject: Shady Oak Crossing

As members of our city council, I want you to know I fully support the plan for the building of the Shady Oak Crossing apartments.

I am pleased to see that there is at least a margin of green around the building and trust that parking is adequate. I am also interested to know that there are some affordable priced units and that there is an assurance rents will be competitively priced for many years.

Living in a condo building of a similar size, I can affirm that traffic is minimal, with cars going in and out at various time, and never a steady stream of traffic. I can imagine that traffic on Shady Oak might be similar.

Good luck on your endeavor to provide some much needed housing for Minnetonka.

Beverly Montgomery
14601 Atrium Way, #333
Minnetonka MN 55345

August 29, 2017

From: andy braun
Sent: Tuesday, August 29, 2017 9:05 AM
To: Loren Gordon <lgordon@eminnetonka.com>; Brian Kirk <bkirk@eminnetonka.com>
Subject: Shady Oak Crossing - Aug 24 meeting.

Hi Brian and Loren, we really appreciate your continued support in vetting out the RC proposal.

Please see the attached statement of which I read a few excerpts from last Thursday the 24th at the Planning Commission meeting, and please submit it to the study packet.

I'd like to remind you guys that similar to how RC has a "minimum viability" (though it seems to change with the wind...) The city and community too has a "minimum viability" or "minimum level of acceptance" or "minimum threshold of acceptance". The City has a well defined code, ethics, comp plan and zoning, as well as a mission and goals statement, but its clearly willing to amend said plans, or otherwise overlook things such as its mission and goals. Whereas the local neighborhood and community as a whole it trying to uphold the city to its mission and goals. Also though we're not as well organized nor funded as the City or RC, we have held firm and unwavering of our
position in defense of our neighborhood and prospective affordable tenants, and the merits of affordable housing as a whole.

And though there are many good and favorable attributes to the proposal, and though RC is doing "everything they can" to make it work, they are simply unable or unwilling to meet our minimum threshold of acceptance. and thats OK! We're certainly not desperate enough to make those sacrifices and lower our standards.

as they say "when it doubt, its out"

To be clear, the minimum threshold for acceptability in various categories which this RC proposal misses are:
1) Sustainability.
2) Safety (traffic/pedestrian, neighborhood/residence).
3) Transportation access, buss pull offs/buss stops, safe/navigable roadways.
4) buffering/setbacks/scale/context to the neighborhood.
4) Neighborhood, local, benefit.

I don't see anybody that's actually happy with this proposal, shouldn't we be happy with it?

thanks

Andy Braun

To the Minnetonka Planning Commission, Council and Staff. August 24th, 2017
From the August 24th Staff Report.

"The location affords residents the ability of easy and convenient roadway and bus route access"
This is blatantly false. This is not afforded to the current residence, further there is no mention in the plan of how it will be afforded to the future residence.

"There are a number of high density residential housing units immediately adjacent to single family residential neighborhoods"
Yes, and the difference is that they’re done “well” as they provide considerably more buffering/setbacks, with adequate access to local amenities such as trails and parks. And do not negatively impact the local neighborhood such as access and traffic. They may share residential roads for access, but they also offer more options/throughways in/out of the neighborhood/development.

"It’s location on the Shady Oak Road provides screening, buffering and less impactful use characteristics to the residential neighborhood that otherwise would not be possible if the property remained as a commercial use"
It may be screening and buffering, but notice how it does not say “adequate” screening or buffering, that’s because it is inadequate.
A 3 story tall and 290 foot wide wall of people with direct line of site into your private residence is far more impactful than the current commercial single story ‘normal working hours’ type usage. Significant infringement on personal privacy, Children and parents ‘spilling over’ and out of the buffering into residential streets because they have nowhere else to go, parents pushing strollers across a 4 lane county road, and shortcutting on their commute through the neighborhood because the county road is already over saturated, and poorly designed for on/off access, is far more impactful than current use. The current use is very low impact, and the impact that is there is ‘previously known’ by the residence who choose to move into the area. What little impact there is, is also welcomed and acceptable as it supports local, small independent business, which we all strive to support.

"is it reasonable. yes"
Its only reasonable from the perspective of a small minority, and personal and subjective perspective of the staff member whom wrote this report. This statement is in direct contradiction to the overwhelming majority of the constituents whom the council represents. And due to a lack of representation from the council this majority has been representing itself and reiterating this position since the first stages of this process. This is unreasonable in that when evaluating the pros/cons, for all stakeholders, the cons far outweigh the pros. And the pros which do exist could be more easily and more adequately met by a different location. This is unreasonable in that the only reasons for its justification are rooted in servicing the needs of the city and developer first.

"and fits in the context of the Shady Oak Road commercial corridor"
Similar to the previous comment, It only “fits in the context” from the perspective of a small minority, and personal and subjective perspective of the staff member whom wrote this report. This statement is in direct contradiction to the overwhelming majority of the constituents whom the council represents. And due to a lack of representation from the council this majority has been representing itself and reiterating this position since the first stages of this process. This would significantly change the context of the commercial coordinator. Existing is all 1 story commercial, and a few 2 story town homes. with ample buffering. Whereas his is 3 stories, a football field long, and with minimal buffering, sits right on the 4 lane county road, and would be unsafe for tenants, the neighborhood and commuters.

There was a pre-requisite for 'some kind of future development' earmarked by the city during the city's purchase of this property. Slated by the guidance of the city, to develop this public land in a traditional sense such as housing or light commercial or retail or possibly something else. However, that pre-requisite was later completely undermined by the restrictions resulting from the build-out of the county road and storm water easements negotiated between the city and county, rendering the property nearly if not completely unviable for ‘traditional redevelopment.’ Then the city entrusted private, for-profit developers to tell the city what type of development would be most viable, not for the public good, but instead for the developer to generate profit. This was done in favor of determining for ourselves, on our own behalf, or with the support of community outreach and advocacy organizations, how to best use this public land, in a way that would be most beneficial for the neighborhood, and of service to the community. This is clearly exemplified by this ‘development vetting process’ which we all continue to
painstakingly endure, and is then highlighted by this specific application from Ron Clark. These Highlights include but are not limited to:

1) Does not align with the city’s Mission and Goals.
2) Requires significant amendments to the Comprehensive plan. As this application does not align with the “village center” model which was carefully designed in close partnership with the city of Hopkins. And is in stark contrast to the Hopkins comp plan.
3) Requires significant amendments to the Zoning ordinance, as this application forces “Spot Zoning” High Density directly adjacent to the surrounding low density.
4) Too massive, too invasive, too dense for the scale of the neighborhood.
5) No current nearby access to public transit, and no nearby room to add in a buss lane, nor on-street nor off-street transit stop. According to the MHFA Minnesota Housing and Finance Agency 2019 Housing Tax Credit Scoring Worksheet, Strategic Priority Threshold, Access to Fixed Transit, the site is outside the ‘half mile limit’ of planned or existing LRT, BRT or Community Rail Station.
6) Little to no buffering to the 4-lane county road nor surrounding neighborhood, which is inconsistent with Minnetonka’s common convention of high density development.
7) Little to no outdoor recreational space for residence, guests, children, pets, or pedestrians,
8) Little to no ‘cue’ lane for access on/off shady oak road for residence, guests, delivery, school bus, taxi, nor emergency vehicles. Likely to cause ‘shortcuts’ through the low-density neighborhood street.
9) Relies 100% on one single low density residential neighborhood street for access. Snow management and spill over, especially for emergency situations is a major challenge.
10) There is no room to add amenities, and the amenities that do exist are provided primarily by Hopkins across a 4-lane county road.
11) Drives out existing local business while not promoting growth of new local business especially not minority nor non-profit based business.
12) Does not promote green building practice nor sustainability.
13) Does not align with the 100 year plan.
14) Does not provide any meaningful benefit to the neighborhood, nor represent its position.
15) There are many other alternative sites available which would not have any of these problems nor restrictions.
16) This is public land and should be used for the public good.
17) Does not meet the minimum threshold of acceptance in the overwhelming majority of the constituents which the City Council represents.

Andy Braun
Dear Ms. Montgomery:

Thank you for taking the time to write to me and to share your point of view. I appreciate knowing your thoughts.

Sincerely,

Brad J. Wiersum
Minnetonka Ward 3

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**August 30, 2017**

From: Elizabeth A  
Date: August 30, 2017 at 10:51:09 AM CDT  
To: Julie Wischnack <jwischnack@eminnetonka.com>, Loren Gordon <lgordon@eminnetonka.com>, Bob Ellingson <bellingson@eminnetonka.com>, Deborah Calvert <dcalvert@eminnetonka.com>, John Powers <jpowers@eminnetonka.com>, David Knight <dknight@eminnetonka.com>, Brian Kirk <bkirk@eminnetonka.com>, Rebecca Schack <rschack@eminnetonka.com>, "Joshua Sewall" <jsewall@eminnetonka.com>, Sean O’Connell <ssoconnell@eminnetonka.com>, Terry Schneider <tschneider@eminnetonka.com>  
Subject: down zoning 4312  
Hello Julie and Loren,

Could you please let me know how moving the zoning from low intensity commercial to high density residential is a down zoning.  
We are going to add 2 additional stories of people to that site 24 hours/day, rather than the business hours they currently keep.  
How can you justify your use of the term 'down zoning' when effectively the traffic and usage of the tiny parcel will be dramatically increased?  
The residents cannot make sense of your choice of words here.

Additionally, the plan that rc has effectively switched to has a 'shorter' building, but they are regrading and adding height to the front grading. Just wanted to point out to you that we, the local residents do not see that kind of of wording as being straight forward. The effective overall height of the building, rc still has no idea on (as they were flustered and could not give a response during the last planning commission meeting). We have a legitimate and invested interest in the effective change of height on the building (since day one) but rc still does not have an answer to that question.
Lastly, can you name another high density apartment building in Minnetonka that touches private residential lots with no buffer?

We would really like this plan to be omitted as an option for now in order to better explore opportunities that have not presented themselves in order to get the local residents' concerns met. The county changed the usability of this land when they built out Shady Oak. No high density please, it just does not work here no matter how you try to sell it, its wrong for the local residents and Minnetonka, future and present.

Thanks for considering the directly adjacent residents' concerns with special recognition of the time, research, effort and experience they've amassed.

Looking forward to your response on the term 'down zoning', and how the overall effective height of the building has changed and whether the city has every forced high density living into private residents' back yards before? Much appreciated.

Elizabeth
way. Therefore the traffic study may be helpful but its only one indicator of a very complex puzzle, for that reason doesn't really hold much water. And if you recall the resident on Oak drive lane whom indicated that with one car parked at the curb, that only one car can get through, which is fine when its a low density quiet neighborhood, with little traffic, but if we approve this apartment then we're choosing to sacrifice the safety of the neighborhood and tenants.

Such blatant disregard for fundamental attributes such as sustainability and transpiration/access impact are clear indicators that RC lacks competence, and this proposal does not meet our minimum threshold for acceptability.

Why are we inviting them back to show us how they've reduced the fill/grading on the storm water easement/pipes when they've (or the project) completely fails in two fundamental and key attributes...not to mention does not comply with the cities mission and goals (something I've been requesting an explanation on for months, that is, does the city have a legal obligation to comply or for this application to comply? or is it simply a moral responsibility? and if only moral then how can we be so quick to dismiss and waver on our morality?)

thanks for your attention.

Andy Braun
September 7, 2017

From: Barb Westmoreland
Sent: Thursday, September 07, 2017 12:04 PM
To: Brian Kirk <brian.bj.kirk@gmail.com>; Loren Gordon <lgordon@eminnetonka.com>; Julie Wischnack <jwischnack@eminnetonka.com>
Subject: Shady Oak Crossing

Dear Chair Kirk, Julie and Loren,
I plan to be at the Planning Commission meeting this evening, in full support of Shady Oak Crossing.

Too many times I have experienced the frustration of unsuccessful hunts for affordable housing with our families who want their children to remain in Hopkins Schools. This development will at least put a "small dent" in our community's lack of enough affordable housing.

I also have a few friends who live on Oak Drive and nearby. I empathize with their concerns about the size of the building and increased traffic, but NOT with racist comments and NIMBY.

Ron Clark and city staff have done a remarkable job bringing the scale of the building to a better fit for Shady Oak Road.

My concern is that the neighbors see this as a win - lose situation.

My ideas to make this a win - win:

• Make Oak Drive a dead end street, accessible only by the current north entrance. The current south entrance to Oak Drive would then only be used to enter & exit the apartment parking lot/underground parking. (I live on Caribou Drive and have always enjoyed the dead end, with only neighbors driving on that end of the street.)

• Develop the dead end/cul-de-sac, and perhaps also the lot the city owns (current rental), into a park that the entire neighborhood can enjoy - apartment families & Oak Drive families & families on surrounding streets.

Good luck tonight.

Barb Westmoreland
4713 Caribou Dr
Minnetonka

September 11, 2017
From: andy braun  
Sent: Monday, September 11, 2017 9:32 AM  
To: Terry Schneider <tschneider@eminnetonka.com>  
Subject: Re: Re: Shady Oak Crossing - Sept 7

Good morning Terry,

This proposal is sub-par. Nobody on the staff, commission nor council is happy or excited about in any way, except that its 49 units of affordability (5% of the 1064 allocation, a drop in the bucket) and that you get wash your hands of the property. But instead sees it as 'just barely good enough' and still falls short on many of the other key attributes afforded to ALL the other high density developments in Minnetonka.

The neighborhood and prospective tenants should not be the ones to take the hit (make the sacrifice) because of the city's neglect to promote/mandate affordable developments in a timely fashion. The city should make up for that.

The tax payer is gifting the developer 72% of the funding, GIFTING! We have to hold ourselves accountable to allocating that money in the most responsible, meaningful and effective way. We have to hold this project to the minimum standards set by all other high density development in Minnetonka.

Remember the old saying “when in doubt, its out”? well there’s a lot of doubt from City Council and Planning commission on this project.

Or the old saying “you can do the right thing the right way, or you can do the right thing the wrong way”? This is clearly the latter.

I’d like to know if anyone on City Council or the Planning Commission is actually proud to support this project. It sure doesn’t seem like it. And if we’re not proud of it, then why are we doing it? All we hear is “well I don’t love it, but I guess so,” and “I have a lot of reservations and outstanding concerns, but we’re really behind on affordability, and its better than what’s there now.” This is not good enough for me. This did not pass in elementary school, it should not pass now.

There are approximately 300 acres of undeveloped land immediately surrounding city call. We should build high density there.

- Provides plenty of space for access, buffers and outdoor recreational use.
- Provides close access to amenities.
- Its already public land, just like Shady Oak Crossing.
- Change the comp plan? Yes, just like Shady Oak Crossing.
Change the Zoning? Yes, just like Shady Oak Crossing.

As you know, with PUD there’s no setback, so you could put them right on Minnetonka Blvd and really pack them in, just like Shady Oak Crossing.

Aligns with City’s Mission and Goals? Yes, but if not, you can ignore it, just like Shady Oak crossing.

You could easily fit the entirety of the 1064 affordable units allocated to the city.

Provides segregation and isolation, just like Shady Oak Crossing.

Minimal Public Transit? Yes, just like shady oak crossing.

Ignore the plight of neighborhoods and prospective tenants? Yes, just like Shady Oak Crossing.

Have to move some wetlands around? Yes, just like Shady Oak Crossing.

Plus you’d get to look out and marvel in the awe and splendor of YOUR high density-affordable housing right next door.

Please ask your constituents what THEY WANT from the 4312 parcel. They should have first right of refusal, this never happened, and instead you first asked a private developer what THEY want. This was complete neglect on the part of the city.

Your constituents want to ‘buy it back,’ demo it, clean it up, and turn it into a community garden, park and recreational facility.

Thank you for your time and attention

with kind regard.

Andy Braun

September 12, 2017

From: andy braun
Sent: Tuesday, September 12, 2017 9:09 AM
To: Julie Wischnack <jwischnack@eminnetonka.com>; Loren Gordon <lgordon@eminnetonka.com>
Subject: Shady Oak Crossing

Hi Julie and Loren,

I’d like to request the following:
1. Put the project out to bid.
2. Perform an energy audit on the design.
3. Perform a safety and accessibility audit.
4. Redesign with the inclusion of adjacent gravel lot.

Why aren’t we putting the project out to bid? Isn’t it best practice to first define the scope, design the project then put it out to bid? As this ensures both that we’re getting competitive pricing and also making the project available to any developer whom wishes to bid? Since this is primarily funded through public sources (73% of the funding is from tax payer gifts (Tax credits) and 11% is from a city loan), isn’t it our due diligence to put it out to bid? Doesn’t the city put all of its projects out to bid? If so, how is this project different? This is a sweetheart deal for RC, instead I’d argue that we should favor minority developers (woman, veteran, minority ethnicity, non-profit etc), and make sure we’re getting a square deal.

Unfortunately RC has not provided a design which conforms to the city’s “green initiative” (J I know we don’t have one, but we should, and the cities Missions and Goals can be interpreted as providing guidance in this regard, but of course the project ignores many of the missions and goals already, so what good would that do) but they should have taken it upon themselves (and after our many requests) to design to and gain LEED certification (at a minimum), build the ‘greenest' building possible and leverage the many State and Federal subsidies, tax credits, rebate and loan programs. The ‘sustainability’ features of this building fall short of what we should demand for ALL new commercial developments (especially publicly funded), frankly its laughable. It wasn’t even an item on their radar until we pressed them on their oversight (this is grounds for disqualification in my mind) it wasn’t even a thing they considered. Do you remember when asked about what they’re doing with the flat roof at the council meeting on the 14th? “its either black or white, but there are no amenities” The roof is prime real-estate for so many things (another huge missed opportunity by RC) should be lined with solar panels or PV shingles, wind turbines, or green/living/food production roof. Heck even roof top patios to maximize the recreational space/green space (that’s incredibly lacking in the design). I’d like to request that we perform an energy audit on this design and then verify upon completion. As this will ensure they’ve done everything they can to make it as efficient as possible. Remember this will also help to ensure the rent pricing is kept low, even lower than it is now (now that’s affordable housing). They’re excavating the whole site, all they have to do is lay down coils of Polyethylene/PVC pipe then pour their foundation, excavation is always the most expensive part of GT system, and that cost is already accounted for and that work is already being performed. Geothermal, Photo Voltaic (solar panels) and Wind will save money and can be subsidized. It’s the right thing to do for financial and environmental sustainability. The facility should also have composting facilities and be zero-landfill impact. It should also have EV hookups, (how do they not have EV hookups?!). It should be sourcing sustainable materials. Are we this far behind the times?

Has the fire marshal or police chief reviewed the design? Are they happy with it? Can they even get emergency vehicles in their? Has the traffic consultant factored in the
foot traffic across the county road/Shady Oak and Excelsior to public transit, amenities and recreation? And how that will back up traffic?

Now that we know that Rick Johnson is happy to consider offers (and not make offers himself) we need to capitalize on this opportunity. It seems everyone is in agreement that the property would provide a fix for many of the most critical concerns that are otherwise going unaddressed and sacrificed.

Thank you for your time and attention.

Andy Braun

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September 13, 2017

From: andy braun
Sent: Wednesday, September 13, 2017 3:54 PM
To: Terry Schneider <tschneider@eminnetonka.com>
Subject: Shady Oak Crossing - Sept 13

Hi Terry, I'd like to invite you to explain some logic to me.

Since the traffic impact is just a 'drop in the bucket' onto Oak Drive Lane and Shady Oak Road, and can be so easily be dismissed as a non-relevant issue because it has 'negligible' impact.

and

Since the infringement on privacy, security, safety, access, property value and scale of the neighborhood can be so easily be dismissed as a non-relevant issue because it has 'negligible' impact.

and

Since the life safety risk and sub-par-minnetonka standard living 'offered' the prospective tenants can be so easily be dismissed as a non-relevant issue because it has 'negligible' impact.

and

Since 'real' sustainability can be so easily be dismissed as a non-relevant issue because it has 'negligible' impact.

and

Since Comp plan amendments, zoning amendments and City Mission and Goals can be so easily be dismissed as a non-relevant issue because it has 'negligible' impact.

and
Since its public land, with public 84% public funding, but the public interest can be so easily be dismissed as a non-relevant issue because it has 'negligible' impact.

and

Since 49 units of the 1064 met council allocation is also just 'drop in the bucket', then I'd argue that if we follow the logic and wisdom guided by your staff and commissions, that you and your council should also dismiss this proposal as its non-relevant issue because its has 'negligible' impact.

I look forward to your response.

thanks.

Andy Braun

September 14, 2017

From: Pat Ridgely
Date: Thursday, September 14, 2017 2:08 PM
To: Julie Wischnack <jwischnack@eminnetonka.com>, Alisha Gray <agray@eminnetonka.com>
Subject: Shady Oak development

Just a quick note regarding the Shady Oak development. I am not affiliated with the project in any way, nor do I live in the adjacent neighborhood. But I live not all that far away, and I often shop in that area and pass through it regularly.

While recognizing the concerns of the residents in that neighborhood, I am in favor of the project. We need affordable housing, and it seems there has been plenty of dialogue with citizens. Minnetonka can't stay the same forever.

Thanks,
Pat Ridgely

4314 Queens Way
Minnetonka
PUBLIC COMMENTS SUBMITTED AT THE AUGUST 24TH PLANNING COMMISSION MEETING
4312 Shady Oak Road Proposed Redevelopment

TOPIC: “BUILDABLE AREA”

Here are 4 different values for size of proposed building site.

All of these examples are from Public Documents

1. Request for Developer Interest Page 3 1.12 acres
2. Community Engagement Process Page 6 11/16/2016 1.54 acres
3. Planning Commission Packet 8/24/2017 1.63 acres
4. RON CLARK Letter 7/24/2017 1.58 acres

The buildable area is the area NOT including the large EASEMENT.
As a result the “Units per Acre” gets skewed.

RON CLARK’s #s are 1.58 acres / 49 Units = 31 Units per Acre

ACTUAL UNITS per ACRE 1.12 acres / 49 Units = 43.75 Units per Acre

This error has been brought up to the City Council and to the City Planners.
I have attached a COPY of the RDI that clearly shows these figures.
This is way too large of a building with very poor access into a neighborhood.
This project needs to scrapped completely.

Respectfully Submitted,

Chris Aanestad 4255 Oak Drive Lane
Existing Conditions

The table below lists the existing conditions of the parcels including size, buildable area, zoning, and future land use.

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Area</th>
<th>Buildable Area</th>
<th>Building Footprint</th>
<th>Zoning</th>
<th>Future Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>4312 Shady Oak Road</td>
<td>1.60 acres</td>
<td>0.68 acres</td>
<td>25,680 sq. ft</td>
<td>B-2, Limited Business</td>
<td>Commercial</td>
</tr>
<tr>
<td>4292 Oak Drive Lane</td>
<td>1.12 acres</td>
<td>0.31 acres</td>
<td>1,625 sq. ft</td>
<td>R-1, Low Density</td>
<td>Low Density</td>
</tr>
<tr>
<td>Combined</td>
<td>2.28 acres</td>
<td>1.43 acres**</td>
<td>N/A</td>
<td>N/A</td>
<td>Residential</td>
</tr>
</tbody>
</table>

*Guidance from City of Minnetonka 2030 Comprehensive Plan
**If parcels were combined, area would be 2.21 acres

Site Survey

A survey of the site was completed by the City and is shown in Attachment B. The two parcels are separated by multiple temporary and existing easements for drainage, utilities, and sanitary sewer. An approximately 0.25 acre wetland is also located on the southwest corner of the site.

Environmental

The City conducted environmental studies for the site. The following is an overview of the stormwater requirements, groundwater conditions, key findings from the Phase I and II reports, and soil borings. See the project website for complete reports. http://minnetonka.com/current-projects/planning-projects/1490-shady-oak-rd-redevelopment.

Stormwater requirements may be covered by the Shady Oak Road reconstruction project; however, the developer will be responsible for ensuring these requirements are met.

Based on a Phase II ESA that was produced for the parcels, groundwater was encountered at approximately 10 feet below ground surface located on the west side of the building.

Groundwater was also encountered at approximately 20 feet below grade on the south side of the building starting at a higher elevation.

The general direction of regional groundwater flow in the area of the subject property is presumed to be to the east-southeast.

A Phase I was conducted for the site in November 2014 and was recently updated. The Phase I revealed the following Recognized Environmental Conditions (RECs) relative to the property:

- The presence of historical machine shop and dry cleaner tenants at the property that handled various oils and solvents and operated at the same time as the former septic and cesspool system is considered an REC.
- Heavy oil staining from a leaking compressor located in the northwest corner of the building in a vacant tenant space is considered an REC.

Although not considered RECs, Conditions RECS (CRECs), or Historical RECs (HRECs); the ESA also revealed the following items that constitute environmental business risks:
Resident Comments and Questions related to the proposed redevelopment of the City of Minnetonka owned parcel at Oak Drive Lane and Shady Oak Road
Prepared August 24, 2017 and submitted by Ann Aanestad and Jeri Massengill, residents of Oak Drive Lane

Clarification regarding the development packet prepared for this meeting.
The first 16 pages of the Shady Oak Redevelopment, August 24, 2017 packet has what we believe to be inaccurate information that does not reflect the input from neighbors in the immediate area. We would like to clarify the following points:

• The residents in the immediate area have always been open to low-profile, light commercial redevelopment or low-density residential redevelopment on this property.
• We have been consistent in asking for a maximum 1 or 2 story development that blends in with the neighborhood character of low density residential and light commercial.
• We have been consistent in our concerns that the existing curb cut which provides access from Shady Oak Rd to the city owned property is slated for removal and the proposed plan allows access only from Oak Drive Lane.
• We have been consistent in our concerns about the scale of this project and do not agree with City Staff that our concerns have been met by revised proposals that provide only a small downsizing of the project.

Traffic & Access – Summary of Concerns
• Cut through traffic on Oak Drive Lane (ODL) due to backups on Shady Oak Rd (SOR) will increase. We will see more traffic that will enter the north leg of ODL and follow it around to the south leg in order to access the apartment building driveway located on ODL.
• There will be a significant increase in vehicles that can only use Oak Drive Lane (ODL) to get home. This leads to quality of life concerns for the current neighborhood residents including an increase in:
  o Traffic
  o Traffic related air pollution
  o Noise from more traffic
  o Safety concerns for neighborhood children and the elderly due to the increase in traffic on ODL and SOR.

Quality of Life – Summary of Concerns
• Current residents will see a marked increase in light pollution and expect at least some increase in noise from the apartment building and its parking lot. Please note, most neighbors currently do not experience light pollution from the current commercial building on the property, and very little noise or traffic comes through our neighborhood related to the current commercial occupants of the property.
• Future Residents of a High Density Housing Development at this location will experience:
  o A very long walk to a possible future light rail station. We do not agree that this is truly within walking or biking distance for most future apartment residents considering some or many will be young, elderly, not physically able, etc. Also please know that the sidewalks in our area of Minnetonka and Hopkins are not well maintained in the winter (rarely are all sidewalk routes to the bus lines shoveled).
  o Bus routes (those within walkable distance of the apartment building) that are very limited in where they run and how frequently they run. We do not believe this meets the needs of residents that rely solely on public transportation.
  o Health and safety concerns for apartment building children who will play in the surrounding parking lots and streets due to the absence of green space on or adjacent to the apartment building. Background: The proposed tot lot will only be of interest to the youngest residents…
and most kids will cross SOR to access the parks in Hopkins. The current proposal is calling for 12 one bedroom, 23 two bedroom and 14 three bedroom apartments. Typical rental means 1 bedroom=3 people, 2 bedroom=5 people, 3 bedroom=7 people. That may change if a family has more children. That is 249 people with no access to outdoor space except a parking lot and small tot lot.

- A very real potential for exposure to air pollution that enters the due to vehicles passing on SOR and vehicles queued/backed-up at the intersection of Mainstreet and SOR. Background: Information from the MN Dept. of Health states in part; “On average, census tracts where more than 20 percent of residents live at or below the federal poverty level have the highest traffic exposure across Minnesota communities. Across high-poverty census tracts, about 50 percent of residents live within 300 meters of busy roads, where air pollution from vehicle traffic is highest. Traffic-related air pollution includes serious pollutants like fine particles, which are linked to lung and heart diseases. Children, older adults, and individuals with chronic health conditions like asthma, COPD or heart disease, are more vulnerable to harmful effects of air pollution.” Full version at [https://www.beairawaremn.org/news/mapping-traffic-differences-between-minnesota-communities](https://www.beairawaremn.org/news/mapping-traffic-differences-between-minnesota-communities).

We are aware that people who need affordable housing often have very limited choices on where they live. We believe this proposed apartment building perpetuates this past trend of locating housing for low income people in unhealthy/unsafe locations due to its proximity to busy SOR and lack of green space green for the children to play.

Questions for City Staff and Planning Commission:

- In the staff report, what is meant by "soften the edges at Main Street and Oak Drive Lane intersections with Shady Oak Road?"

- Why has the zoning recommendation been changed to Planned Unit Development (PUD)? Is the City considering adding parcels to this PUD in the future, for example add in the adjacent city owned single family residence or other single family properties nearby? If so, what is the plan for these other parcels?

- Information was previously requested on any other similar housing developments of this size that use a small residential road for its only access/driveway. We were told of examples but once we visited the locations, we determined these developments were in fact not using only a small residential road for access and were also buffered from surrounding homes by large natural vegetation buffers. So we will ask again, are they any high-density housing developments in Minnetonka or nearby communities that use only a small residential road for its only access? If there are, we would like to see what was done to mitigate the safety concerns and traffic issues that resulted from the addition of many additional vehicles in those neighborhoods.

- Residents in the surrounding neighborhoods and even those further away have been part of all the city meetings and open house gatherings giving input and ideas. We keep attending only be told what will be built instead. So in order for us the learn how to better engage with City Staff, we ask:
  - What input from the neighborhood meetings did the staff find helpful?
  - Do you weigh the comments and concerns of residents and businesses not located near this proposed development the same as those of the neighbors in the immediate area?
  - Were you at any point given direction by City officials to focus on high-density housing for this location? If so, when was that direction given to you?
• It is our understanding that the City decided to limit its RFI for redevelopment of this property to just a few housing developers. We are aware there have been inquiries directed to city staff in the past few months from other developers that are experienced in building low density housing or commercial properties. We also know these developers learned of the redevelopment only after we contacted them. Why has the City not been willing to look at other possibilities, such as low density housing, for this property?

• Does the City have an Affordable Housing Plan that lays out the steps the City is taking to meet its affordable housing goals? If not, we strongly urge the City to start working on one with input from the community to ensure all future affordable housing residents have access to good public transit options, parks and/or trails, good quality, affordable food, and stores and services such as grocery stores, libraries and health care clinics that are within walking distance or easily accessible by public transit.
SAY NO TO HIGH DENSITY RESIDENTIAL APARTMENT AT SHADY OAK RD and OAK DRIVE LANE

About this petition

SAY NO TO HIGH DENSITY RESIDENTIAL APARTMENT AT

SHADY OAK RD and OAK DRIVE LANE

***Minnetonka Residence, for tracking purposes, please identify yourself as a "Resident of Minnetonka." For privacy purposes please don’t include your personal contact information. Please contact your representative directly! *** We encourage all members of the community to sign and contact your local representatives

BACKGROUND:

The City of Minnetonka is considering a 54 Unit, 3+ story apartment building, on the site of 4312-4342 Shady Oak Road. We oppose this and any other redevelopment on this site that has height, high-density and major safety and traffic issues.

This proposed apartment building would blight the skyline and impact the local character and living conditions of the existing neighborhoods throughout this area.

This site is currently zoned commercial with no change to its status in the Minnetonka Comprehensive plan.

New and existing buildings (commercial & residential) along Shady Oak Road are all one story/low profile. We do not want to start a precedent of allowing oversized, multi-story buildings.

With the construction of Shady Oak Rd complete, we see the negative impact it has already had on local traffic. Further study and options need to be evaluated for this site. Rushing to develop this, based on old data and former traffic patterns, will have irreversible consequences.

PLEASE SIGN THIS PETITION!

We, the undersigned, say NO to large, high-density housing on this parcel. We demand the city re-evaluate the use of this site in regards to the Minnetonka Comprehensive Plan and forbid the construction of tall buildings on this site.

Link to the City's project webpage.

https://eminnetonka.com/current-projects/planning-...
<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>elizabeth miller</td>
<td>Residents should have a say in community development!</td>
</tr>
<tr>
<td>2</td>
<td>Andy Braun</td>
<td>We can do better!</td>
</tr>
<tr>
<td>3</td>
<td>Holly Ricke</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Michael Kern</td>
<td></td>
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<td>5</td>
<td>Allison Bittner</td>
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<td>6</td>
<td>Justin Grumbir</td>
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<tr>
<td>7</td>
<td>Ed Hassler</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>REBECCA CASHIN</td>
<td>Will ruin Hopkins/Minnetonka small town look and bring more trashy buildings into Hopkins. I'm off work today because of drugs being done in a building that is already in Hopkins of that sort and I left work because I didn't want to be exposed. This isn't the first time either!</td>
</tr>
<tr>
<td>9</td>
<td>Jenny Osberg</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Jenny</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Rachelle Brost</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Heather rider</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Dani</td>
<td></td>
</tr>
</tbody>
</table>
14. Name: Sarah Gunderson  on 2017-03-09 21:53:34
   Comments:

15. Name: Erin Niedermaier  on 2017-03-09 21:53:53
   Comments:

16. Name: Marie Robinson  on 2017-03-09 21:59:12
   Comments: No

17. Name: Tracy L Downing  on 2017-03-09 22:10:20
   Comments:

18. Name: Peter McDermott  on 2017-03-09 22:11:54
   Comments:

19. Name: Angela Shaw  on 2017-03-09 22:20:50
   Comments:

20. Name: Katy Yannitelli  on 2017-03-09 22:31:59
   Comments:

21. Name: Sonya Tangen  on 2017-03-09 22:37:27
   Comments:

22. Name: Christopher Goede  on 2017-03-09 22:56:52
   Comments:

23. Name: Nancy Mattoon  on 2017-03-09 23:03:47
   Comments: I don't believe that this is the right thing for our neighborhood. Traffic and safety issues are enormous as well as the building itself. It's too large for that space.

24. Name: Denise Jorgensen  on 2017-03-09 23:35:00
   Comments: Please no multi level, high density development. This is a small quaint community and high density developments are changing the reason people like it here.

25. Name: Roxanne Kiely  on 2017-03-10 00:09:50
   Comments: Just leave the neighborhood alone. It's not fair to the people already living there!

26. Name: Diane Braun  on 2017-03-10 01:00:45
   Comments:
Comments: Drive this stretch of road and decide for yourself if a 3-story structure belongs here. Drive anywhere in downtown Hopkins/Minnetonka border and put yourself in the shoes of a homeowner that would be affected by this proposed project. You'll lose a lot of the DNA that contributes to this beautiful neighborhood.

Comments: Drive anywhere in downtown Hopkins/Minnetonka border and put yourself in the shoes of a homeowner that would be affected by this proposed project. You'll lose a lot of the DNA that contributes to this beautiful neighborhood.

Comments: I am opposed.

Comments: I hereby sign this petition.

Comments: I strongly am against this! Hopkins is a nice low key area and to "upgrade" this area will drive the mom and pop stores it for good. It will give the feel of it being rich and will increase traffic to an area that is not meant. For that kind of traffic. It Is a safety issue.

Comments: We did not buy our properties with an apartment in our view for a reason!!! Why would we want it now! Are you willing to relocate the residents who are against this???

Comments: This will negatively impact the single family homes in the surrounding area. Traffic, noise and light pollution as well as a lack of a play space for kids are my main concerns. The building of high density housing is unnecessary as there is so much already within a few blocks of the Hopkins border.

Comments: I am strongly against a high density living structure being built due to the
negative impacts it will have on the neighborhood.

38. Name: Benjamin Niedermaier  on 2017-03-10 14:58:41
   Comments:

39. Name: Kim Crouch on 2017-03-10 15:00:42
   Comments: No! We choose to live here because of the lower density and the quiet natural areas. Shady Oak is already heavily populated with masses of quadplexes and other businesses. Please do not ruin the area by oversaturating it.

40. Name: Susie Jose on 2017-03-10 16:00:47
   Comments: Shady Oak Rd is to busy a road to have an apartment building with a children's play area.

41. Name: Jessica Brandt on 2017-03-10 18:07:34
   Comments: I do not want this many people at the edge of my quiet and safe neighborhood. It would also create additional traffic issues on Shady Oak and would be an eye sore as it doesn't match the area.

42. Name: Christopher Connery on 2017-03-10 18:08:14
   Comments:

43. Name: Joan Larkin on 2017-03-10 19:56:31
   Comments:

44. Name: carissa wallin on 2017-03-10 19:57:33
   Comments:

45. Name: Cheryl Niska on 2017-03-10 20:15:55
   Comments: No - traffic is already an issue between Oak Drive Lane and Shady Oak and that will only make it worse.

46. Name: GREG SMITH on 2017-03-10 20:16:06
   Comments: PLEASE DO NOT DO THIS!!! WE DO NOT WANT TO HAVE ANOTHER BLAKE ROAD AND ALL THE PEOPLE PROBLEM'S THAT'S HAPPENING DOWN THERE. SHADY OAK ROAD IS FINALLY GETTING NICE & FULL OF GOOD BUSINESS'S THIS WOULD RUIN IT!!!
   GREG

47. Name: Jaymes Cardwell on 2017-03-10 20:19:26
   Comments:

48. Name: Liz Olson on 2017-03-10 20:23:52
   Comments:
50. Name: Anna Latzer on 2017-03-10 20:26:32
Comments: Please do not build this - the negative affects are not worth it - please keep
this area clean. Why would you want to create this sort of disruption in the community.

51. Name: Tomas on 2017-03-10 20:36:24
Comments:

52. Name: Deb Jance on 2017-03-10 20:36:28
Comments:

53. Name: Jesse Donat on 2017-03-10 20:42:08
Comments:

54. Name: Kristi Ryan on 2017-03-10 20:46:55
Comments: No

55. Name: Diana Sweeney on 2017-03-10 20:50:22
Comments:

56. Name: Wendy Dorn on 2017-03-10 20:58:37
Comments: Please do not build this in our area. We want to preserve Hopkins and keep
its citizens safe.

57. Name: Sherry Flannagan on 2017-03-10 21:03:22
Comments:

58. Name: Anna Eskola on 2017-03-10 21:03:59
Comments:

59. Name: Patricia Gustafson on 2017-03-10 21:18:07
Comments: Definitely does not fit in the area of single family homes. Our elected
representatives need to listen to us.

60. Name: CHRISTINA WINTER on 2017-03-10 21:27:13
Comments:

61. Name: Kristy Egan on 2017-03-10 21:34:44
Comments:
62. Name: Bev Gillen     on 2017-03-10 21:50:59
   Comments:

63. Name: Tim Greeley    on 2017-03-10 21:55:56
   Comments: Do not change the character of shady oak road with high density housing.

64. Name: Jessica may    on 2017-03-10 21:59:15
   Comments:

65. Name: Beth Grashorn   on 2017-03-10 22:00:09
   Comments:

66. Name: Mary jensen     on 2017-03-10 22:04:51
   Comments: Agree with no zoning change for this building.

67. Name: Julie Marie Muskat on 2017-03-10 22:23:42
   Comments:

68. Name: Gregory C Pope   on 2017-03-10 22:27:05
   Comments: I know we have a dearth of low income housing available, and i don't oppose it. I do oppose any kind of high density housing. We moved out here from Lake Harriet to get away from the traffic and density. The monstrosities along Minnetonka Blvd are anathema to why we moved here in the first place. They ruin the whole patina of the Minnetonka, Hopkins experience. Please stop it.

69. Name: Heather Vargo   on 2017-03-10 22:27:54
   Comments:

70. Name: Jeff Crouch      on 2017-03-10 22:30:04
   Comments:

71. Name: Gavin Clemmons   on 2017-03-10 22:48:47
   Comments:

72. Name: Timothy Gustafson on 2017-03-10 23:28:22
   Comments:

73. Name: William Eelkema   on 2017-03-10 23:35:12
   Comments:
74. Name: Adam Amato on 2017-03-11 00:07:15
   Comments: No

75. Name: Tim Grant on 2017-03-11 00:35:54
   Comments: Local residents first

76. Name: Diane palmersheim on 2017-03-11 00:47:58
   Comments:

77. Name: Mary jo Brouillard on 2017-03-11 00:58:30
   Comments:

78. Name: Deb Kirkeeide on 2017-03-11 01:03:23
   Comments:

79. Name: Jessica Mutunga on 2017-03-11 01:25:29
   Comments: Please consider other options that can make Hopkins better for existing residents. Thanks.

80. Name: Linda Stageberg on 2017-03-11 01:25:33
   Comments: Stay with plan. Don't approve new buildings.

81. Name: Scot Rider on 2017-03-11 01:29:32
   Comments:

82. Name: Michael Sullivan on 2017-03-11 02:00:20
   Comments:

83. Name: Mary Pat Noonan on 2017-03-11 02:37:48
   Comments:

84. Name: Cindy Schaefer on 2017-03-11 03:27:24
   Comments:

85. Name: Heidi Huseth on 2017-03-11 03:49:55
   Comments:

86. Name: Kelly Lazauskas on 2017-03-11 04:08:07
   Comments:

87. Name: Meagan Millage on 2017-03-11 09:37:20
   Comments:
88. Name: Cody Espeseth  on 2017-03-11 13:27:48
   Comments:

89. Name: Craig Schaefer  on 2017-03-11 14:43:44
   Comments:

90. Name: Laurie Trow  on 2017-03-11 15:09:26
   Comments:

91. Name: Scott Wales  on 2017-03-11 15:11:00
   Comments:

92. Name: Alex Lewer  on 2017-03-11 16:30:21
   Comments:

93. Name: Mark Bauer  on 2017-03-11 16:38:49
   Comments: To high density.

94. Name: Jennifer Bauer  on 2017-03-11 16:43:25
   Comments: To large. Does not fit the area.
            Mixed use would be better.

95. Name: Michelle Carter Seurer  on 2017-03-11 18:28:40
   Comments:

96. Name: Nathan T  on 2017-03-11 18:31:56
   Comments: This proposal is too large for the area.
            And the traffic for any new development on this site needs to go through the stop light,
            not directly onto Oak Drive Lane to avoid traffic congestion.

97. Name: Mary Schoen  on 2017-03-11 19:41:54
   Comments:

98. Name: David  on 2017-03-11 19:59:07
   Comments: No on the low income residential multi story!

99. Name: Larry Fyten  on 2017-03-11 20:01:59
   Comments:

100. Name: Mitchell aspelund  on 2017-03-11 20:02:33
     Comments:
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<tr>
<th></th>
<th>Name: Anni Dahlgren-Fyten</th>
<th>on 2017-03-11 20:03:36</th>
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<th>Name: Kyle Ricke</th>
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<th>Name: Ben Raley</th>
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<th>Name: Janet Labrecque</th>
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<th>Name: Kyle H</th>
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<th></th>
<th>Name: Mike Nordquist</th>
<th>on 2017-03-11 20:34:56</th>
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<td></td>
<td>Comments: I live across the pond. I, like most, endured the never ending Shady Oak project. I was also upset at the loss of all of the oak trees, which kept me from looking at the road and area of the proposed housing project. Though I agree something needs to be done, this is definitely not the answer for our neighborhood or community.</td>
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<th></th>
<th>Name: Erin Herdina</th>
<th>on 2017-03-11 20:50:42</th>
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<td>Comments: This project is not appropriate for area.</td>
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<th>Name: Jennie Doyle</th>
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<th>Name: Joanne Strate</th>
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<td>Comments: Need a bigger area!</td>
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<tr>
<th></th>
<th>Name: Joanne Strate</th>
<th>on 2017-03-11 21:02:55</th>
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<td>Comments:</td>
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</table>
Name: Jennifer Indermaur on 2017-03-11 21:12:21
Comments:

Name: Thomas Knutson on 2017-03-11 21:20:26
Comments: I agree that this Building proposal looks out of place for our region and that using the existing entrance and exit from Oak Drive Lane to Shady Oak with the quoted density is not acceptable. Then this Shady Oak 4 lane project first was proposed was not the planners objective to limit access to this thoroughfare.

Name: Chris Kalogerson on 2017-03-11 21:20:50
Comments:

Name: Pat and Dave Hamilton on 2017-03-11 21:35:28
Comments:

Name: Roy E Wirth on 2017-03-11 21:58:51
Comments:

Name: Prabal on 2017-03-11 22:03:38
Comments:

Name: Karen Spaeth on 2017-03-11 23:31:16
Comments:

Name: Layla Gibson on 2017-03-11 23:54:42
Comments:

Name: Courtney Algeo on 2017-03-11 23:59:08
Comments: We just bought our house last year. It's our first. We bought in an up and coming neighborhood with good prospects because those are the considerations of homebuying. I am concerned about the property value dropping, as one commissioner admitted it might in an article I read. We are paying tons of special taxes for this Shady Oak project already, I hope our voices are heard.

Name: Matt McEathron on 2017-03-12 00:03:46
Comments:

Name: Claudia Pennella on 2017-03-12 00:46:01
Comments: My husband Mike Pennella also says NO WAY!

Name: Katie Roeber on 2017-03-12 00:54:12
Comments:
126. Name: Brad Janzen on 2017-03-12 01:21:32
Comments: Minnetonka, please stop developing every last square inch of real estate into its alleged highest and best use. Keep your fingers off of mature communities. Residents know best what their community requires. People's interest must always trump monied interests.

127. Name: Abbey Holm on 2017-03-12 02:32:57
Comments: I hate the proposed plan. It would be devastating to the neighborhood.

128. Name: Robin McDougal on 2017-03-12 02:39:39
Comments:

129. Name: Marty Finke on 2017-03-12 02:43:05
Comments:

130. Name: Zoi Hills on 2017-03-12 02:43:34
Comments:

131. Name: Frank Sago on 2017-03-12 02:53:35
Comments: This is not the answer for low income housing. How about buy out the lot on the corner of Hopkins crossroads and excclor and put them there. The restaurants dint seem to be working there. Or build up over the restaurants???

132. Name: Meleah Beddor on 2017-03-12 02:58:13
Comments:

133. Name: Alexander Browning on 2017-03-12 04:25:25
Comments:

134. Name: Leigh Jensen on 2017-03-12 04:36:43
Comments: This community does not need more apartments or low income housing. With all of the appartments going up Hopkins is over saturating the rental market. These buildings are eye sores. If you want to build something there build something that will get people with money to come spend it in Hopkins.

135. Name: Laura Elliott on 2017-03-12 04:45:50
Comments:

136. Name: Sara Beers on 2017-03-12 04:50:42
Comments:

137. Name: Camille Christopherson on 2017-03-12 05:16:56
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<td>Kelly Barta</td>
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<td>Ben Elliott</td>
<td>2017-03-12 13:03:46</td>
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<td>Lucy Lyons</td>
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<td>Dayna Kaplan</td>
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<td>Dan Meyers</td>
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<td>Crystal Johnson</td>
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<td>Malcolm Vinger</td>
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<td>Brent Westbrook</td>
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<td>Brandi Westbrook</td>
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<td>Dave Horner</td>
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<td>Jeri Massengill</td>
<td>2017-03-12 17:25:03</td>
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<td>Megan Bergman</td>
<td>2017-03-12 18:15:15</td>
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Comments:

I am strongly opposed to this proposed development. I have lived on Oak Drive Lane with my family for almost 15 years. This proposed high density apartment building will have too many residents with too many cars. The tall, large footprint building is too high and so looks down on and blocks the view from nearby properties. This development will also result in increased traffic problems for our neighborhood. No, no, no.
150. Name: Norman Irgens on 2017-03-12 18:28:41
Comments: We do not need an apartment complex at this location. The rise in traffic will be terrible,

151. Name: G Terrell on 2017-03-12 19:10:50
Comments: This space needs to a Park...for generations to enjoy! The city of Hopkins should buy this land and then designate a Park space. Keep some of the old, open space as you turn down main street in Hopkins from Shady Oak Road.

152. Name: Kim Toldt on 2017-03-12 19:49:26
Comments:

153. Name: Jean Hedlund on 2017-03-12 20:18:41
Comments:

154. Name: Kelly Kempf on 2017-03-12 21:00:31
Comments:

155. Name: S Selseth on 2017-03-12 22:21:06
Comments: The market value of my house dropped $22,000 (approx 10%) in the two years the Shady Oak Rd project was completed. Thanks Minnetonka council members. The aesthetic and peaceful appeal of the neighborhood dropped significantly. Thanks Minnetonka council members. Loss of trees, widened roads, poor design have all contributed to noise, unsafe conditions and excess speed & traffic in the area & neighborhoods. Thanks Minnetonka council members. We are now surrounded by new business that don’t care about residents, much unlike the previous family-owned business that did care. Thanks Minnetonka council members. Daily, I see semis, delivery trucks & Domino's drivers cut through Bradford Rd because they want to save 10 seconds. Thanks Minnetonka council members. I watch Hopkins put up privacy fences to help residents while Mtka puts up split rail fences. I watch Hopkins listen to residents while Mtka takes notes but does nothing different. Thanks Minnetonka council members. A year later we still wait for promised trees to be planted and damaged yards from semi drivers to be fixed. Thanks Minnetonka council members. Please don’t approve another giant building that doesn’t fit into the area or is needed. Stop targeting the Hopkins School District with your affordable housing - it’s needed in the Minnetonka School District and you know it. It’s time to actively listen to neighborhood input even though we are working middle class. Follow the current single-story building design & zoning plan, enlighten yourselves with Myron Orfield & Met Council’s research and do the right thing. Pushing the working middle class backwards is not the answer. This is exactly why people voted for Trump. No one wants more of that. Last thought - Dump Minnetonka Domino's.

156. Name: Frank sago on 2017-03-12 23:36:09
Comments:

157. Name: Chris Bergman on 2017-03-12 23:47:17
Comments:

158. Name: Joan  on 2017-03-12 23:50:14
Comments:

159. Name: Jeff Poplawski  on 2017-03-13 00:46:53
Comments: No more appts needed in this area.

160. Name: Tammy Poplawski  on 2017-03-13 00:47:41
Comments: Not needed in this area.

161. Name: Abbie Seba  on 2017-03-13 00:57:52
Comments:

162. Name: Drew Cohen  on 2017-03-13 01:15:01
Comments: The last thing Hopkins needs is more generic apartment complexes. The placement of this complex will also take away the views as well as the "neighborhood feel" many of the residents in this part of town live here for. Unacceptable.

163. Name: Pamela Lundequam  on 2017-03-13 02:00:04
Comments:

164. Name: Chris  on 2017-03-13 02:52:20
Comments: I do not personally want more pedestrian and car traffic near my home. This end of town is NOT designed for high density housing. Don't forget that the developers of this property, no matter how kind they may seem, are in this to make a buck and not to create housing for lower income families. Follow the money...

165. Name: Scott Roeber  on 2017-03-13 13:43:13
Comments:

166. Name: Steve Smith  on 2017-03-13 14:02:49
Comments: Please keep the history of Mtka planning as is.

167. Name: Daniel Browning  on 2017-03-13 16:21:13
Comments: I am concerned about excessive congestion and traffic issues.

168. Name: John Hawkins  on 2017-03-13 18:15:09
Comments: We do not want this apartment for all the reasons stated.

169. Name: Ellen Cousins  on 2017-03-13 18:44:20
Comments:
171. Name: Bill Ellerbrock on 2017-03-13 23:19:37
   Comments: We have already seen a significant increase in traffic to the side streets over
   the years and especially since the redesign of Shady Oak. Since 1st Street was closed
   as an available exit from Shady Oak, that traffic now attempts to jump the waiting line on
   Shady Oak to Hwy 7 East by exiting on 2nd Street. Depending on Shady Oak congestion
   2nd street is frequently a raceway during rush hour. An increase in population density
   (with an increase in vehicle traffic) in the immediate area along Shady Oak is going to
   further increase traffic and noise to (previously quiet) side streets. I oppose the proposed
   high density residential apartment at 4312-4342 Shady Oak. Higher population density in
   the area is not going to be good for the neighborhood.

172. Name: G burdick on 2017-03-14 00:36:09
   Comments: This is just another push by the UNELECTED met Council to increase the
   urban density for a LRT that likely won't be built!

173. Name: Jennifer Hawkins on 2017-03-14 15:04:29
   Comments:

174. Name: Erin Vassar on 2017-03-14 16:18:55
   Comments:

175. Name: Tara Buettner on 2017-03-14 18:38:04
   Comments: NO TO HIGH DENSITY RESIDENTIAL APARTMENT AT SHADY OAK RD
   and OAK DRIVE LANE

176. Name: Vincent Buettner on 2017-03-14 18:50:17
   Comments:

177. Name: Bridget Albani on 2017-03-14 19:10:20
   Comments:

178. Name: Ryan on 2017-03-15 01:40:04
   Comments:

179. Name: Mary Hall on 2017-03-16 13:43:09
   Comments:

180. Name: Jill Wanous on 2017-03-16 15:28:58
   Comments: I am a Minnetonka resident.

Page 18 of 19
PUBLIC COMMENTS SUBMITTED AT THE SEPTEMBER 7TH PLANNING COMMISSION MEETING
Concerns about Retention Pond on Revised Site Plan 7/24/17

In the progression of plans over the last few years it seems the retention pond has been moving closer to 4292 Oak Drive lane and is now completely on that property. It brings up several questions...

- Is Ron Clark going to PAY for this land? The City has already "discounted" 4312 property to "make the numbers work" for Ron Clark.

1. What are the plans for the residential 4292 Oak Drive Lane?
2. Does 4292 Oak Drive Lane need to be ReZoned as a result of the pond?
3. What is the VALUE of 4292 Oak Drive Lane with HALF of the property a pond?
4. Is the pond going to be SAFE with a fence around it?
5. Who pays for the pond and who pays to maintain it?

After talking with Tom Dietrich at the City of Minnetonka he had few insights:

1. The POND will show as an "easement" on 4292 Oak Drive Lane.
2. This will "encumber" that property and "lower the value" of this RESIDENTIAL Property
3. A "Maintenance Agreement" will have to be set up with RON CLARK.

The City bought 4292 Oak Drive Lane and has said many times that it will remain as/is. This "Retention Pond" is a clear violation of those promises brought forth by the city.

CONCLUSION: This REVISED SITE PLAN is UNACCEPTABLE and we ask the Planning Commission to "NOT RECOMMEND" this proposal. Too many unanswered questions that need to be addressed.

Respectfully Submitted, Chris Aanestad 4255 Oak Drive Lane
Where is retention pond?
Retention pond in now on 4292 Oak Dr.
More Twin Cities Homes Opting for Smaller Lots

Home / Uncategorized / More Twin Cities Homes Opting for Smaller Lots
More Twin Cities Homes Opting for Smaller Lots

Minnetonka has long taken pride in its large home lots, nestled in wooded, curving neighborhoods.

But as the number of smaller lots increases, the west metro community, including suburbs from Eden Prairie to Lakeville, is seeing its landscape change. For aging suburbs like Minnetonka, which approved new zoning rules for smaller lots this year, they’re a way to draw downsizing baby boomers or younger families who prefer home features to large lawns.

In 2010, the Twin Cities had nearly 300,000 small home lots, defined by the Metropolitan Council as those of a quarter-acre or less. By 2040, the demand for small lots is expected to reach 500,000, according to a report commissioned by the agency.

“More developers are proposing small lots in suburbs or more of a mix of lot sizes,” said Libby Starling, manager of regional policy and research for the Met Council. “...Cities with a mix of housing are better positioned to be resilient.”

But for suburbs heavily developed with large single-family lots, smaller home lots pose a challenge, clashing with some residents who oppose the more “urban feel” of homes closer together and closer to the street.

“I think that’s always the struggle — where should these be located?” said Minnetonka Community Development Director Julie Wischnack. “The response
... is huge,” she said, referring to a development featuring smaller lots. “People are lining up for spots.”

The shrinkage in lot sizes is being driven by rising land costs and developers trying to meet changing demands from consumers who, they say, are looking for smaller mortgages and interiors with features like updated kitchens and oversized pantries — not large lawns that require a lot of maintenance.

Millennials with growing families and seniors downsizing from larger homes aren’t interested in yard work and no longer put priority on large lots, experts say. Smaller lots make it more affordable to live in more expensive cities like Minnetonka. And to compensate, more developers are adding parks, even pools, within developments where families can gather and play.

“It’s becoming less about the size of the lot and more about the attributes of the house. They [homeowners] haven’t said they want more lawn work,” said Graham Epperson, division president for Pulte Group Minnesota, which is building nearly 130 homes on 9,100-square-foot lots in Plymouth and a 5-acre neighborhood park. “A lot of the consumer feedback is the large, oversized lot sizes that we’ve seen the last seven, eight years [aren’t] desirable.”

Small lots, big homes

Pulte’s Enclave on the Greenway is part of an uptick in smaller lots in Plymouth, the city says, bringing more variety to its housing stock.

The same is true in Lakeville, where the city changed zoning rules in 2010 to allow houses on 70-foot-wide...
lots, instead of the standard 85 feet, with shorter setbacks to reduce front yards. The city says nearly half of the 429 new single-family homes approved in Lakeville in 2014 have been on smaller 8,400-square-foot lots, or 70 feet wide.

“Post-recession, there seems to be more interest in small lots. And I don’t see that changing,” said David Olson, director of community and economic development. “I don’t think it’s unique to Lakeville. If you go to a lot of cities, that’s a trend in terms of smaller lot sizes.”

But not all small lots mean smaller homes. In Edina and Excelsior, the housing trend is teardowns, with big homes being built on small existing lots, much to the dismay of some long-term residents. After some complaints in Excelsior, the city’s Planning Commission in early January will discuss setting new height and size rules for the 6,300-square-foot lots established in the Lake Minnetonka town in the 1890s and early 1900s.

In New Brighton, the Pulte Group is building homes on lots as small as 7,800 square feet. While it may be smaller than the standard lot size in the Twin Cities, Epperson said it all depends on the perspective.

“In most markets across the country, that would be quite a large lot,” he said. “In the Twin Cities, that’s considered a ‘small lot.’”

Slowing denser growth

But not everyone wants the smaller lots in the suburbs.

In Eden Prairie this year, the city pursued putting a “green,” high-density housing development on a vacant
8-acre lot off Hwy. 212 to bring more affordable housing to the city. But nearby residents opposed the Eden Gardens development in part because the 36 smaller lots and homes wouldn’t fit in. In response to this concern, the developer is building bigger, more expensive homes on the perimeter of the development and “market-rate” homes ranging from $330,000 to $360,000 inside the development.

Eden Gardens, which includes a small park and opens in 2015, had deposits on most of the homes even before the city gave its final approval.

“For some communities, this will be more of a trend, but I’ve heard from developers not every city is in favor of it,” said Shawn Nelson, board president of the Builders Association of the Twin Cities. “The majority of Minnesotans like a large lot for kids to play in and dogs to run around in. If that is what a family is looking for, it’s still available.”

In fact, Minnetonka has mostly half-acre lots that preserve its topography and wooded areas, unlike cities on grids or with smaller lots like Minneapolis, where typical lots are about one-tenth of an acre. Now, however, pockets of land wedged into neighborhoods have made Minnetonka ripe for subdivisions. Larger estates are being broken up and the city’s last farm is being turned into the suburb’s largest subdivision of single-family homes since the 1990s.

More than 250 people have expressed interest in the 28 single-family homes, which will have an average lot size of 7,600 square feet, along with a mix of twinhomes, condos and possibly townhouses — all association-managed so homeowners don’t have to keep up lawns.
The developer, Ron Clark Construction, said the development is meant to fill a void in the market, aimed at everyone from young professionals to “right-sizing” baby boomers interested in moving from large lots to the rambler-style villas on smaller lots overlooking wetlands and woods.

The company needed special approval for a planned unit development since Legacy Oaks didn’t fit the city’s standard residential zoning. Now, the city has a new small-lot ordinance that eases the process for developers by adding a new residential zoning rule for 75-foot-wide lots, or 15,000 square feet, instead of the standard 22,000-square-foot, or half-acre, lots.

But that doesn’t mean Minnetonka is losing its large-lot character, City Council Member Brad Wiersum said. Higher density is expected in infill redevelopment or commercial areas near transit hubs like Ridgedale, where a six-story apartment building that some residents opposed was just approved, but the city is mostly developed.

“Minnetonka is a large-lot community, and it probably always will be a large-lot community compared to surrounding communities,” he said. “[But] I think we will become a more dense community.”

Kelly Smith • 612-673-4141 – StarTribune.com

By admin | January 19th, 2015 | Uncategorized | Comments Off
Dear Minnetonka Planning Committee and City Council,

I appreciate all the questions and concerns raised by the Planning Committee at the August 24th, 2017 meeting.

It is important to note that Loren Gordon, our Minnetonka city planner, continues to mention apartments in Minnetonka that are adjacent to neighborhoods for examples to look at. ALL of the examples he has mentioned are completely different than the access we are talking about on Oak Drive Lane and Hennepin County State Aid Highway 61 (Shady Oak Road.) His examples are false and very misleading.

NONE of the examples have DIRECT access and their ONLY access from a small residential road. I urge you to go and look for yourself or look it up online. We went to each of the apartments and took pictures and notes. There are NO apartment complexes in Minnetonka that use only a small residential road as their only access. Plus this proposed apartment complex will be directly next to a very busy four lane Hennepin County State Highway.

Here are the examples that Loren Gordon said are examples:

1. The Ridges of Minnetonka-No neighborhood access and a huge natural buffer of trees and hill.
2. The Cliffs of Minnetonka-Next to the Ridges. No neighborhood access.
4. Atrium-Has own road, multiple ways out to Woodhill-not a Hennepin County State Highway
5. Zvago-14301 Stewart Lane-Own roadways. Large woods. Does not share residential road.
6. Glen Lake Shores-Stewart Lane-own roadway. Woods
7. Sunrise-own roadways/Senior Living/Frontage road access
8. Stratford Woods-“Over 30 wooded acres.” Own roadways/Trees & huge Swamp Buffer
9. Minnetonka Blvd. East Apartments-Not sure what Loren Gordon was thinking about in this area?
   There are a few: All OWN roads-No residential access.
10. Oakridge Apartments (Hopkins/East Minnetonka)-Own road
11. Overlook- (East Minnetonka) –Own road and no neighborhood/city owns land around this complex?
12. Cedar Lake Road Apartments-own roads on Cedar Lake Rd.

There are huge buffers around these apartment complexes as well.

- The Ron Clark proposal is unacceptable as there is no room for a buffer to the neighborhoods or a buffer for the future residents from the four lane Hennepin County State Highway 61.
- **This will set a precedent in Minnetonka that huge apartment complexes can be build within a neighborhood using only small residential roads-literally the driveway next to yours.**
- Snow removal is another concern that was brought up at the planning committee. Ron Clark’s answer was to have all the apartment vehicles park on Oak Drive Lane during snow removal or “sneak” into a business lot. Not acceptable.
- Is there a “tot lot” on the “revised plan? Or a place for older children to play? The street?
- The “revised” plan brings part of the project’s parking lot directly facing Oak Drive Lane-more lights and noise. No buffer. Not acceptable. Too BIG!
- **Wait to gain access from the Main Street light for this parcel.**
The Ron Clark proposal: NO Buffer, Only ONE direct access on residential road, NO green space or park area near by, Next to Hennepin County State Highway, Parking lot is next to residential neighborhood with car lights pointing into homes, It is using the adjacent single family home’s back yard for a holding pond....

This proposal requires multiple rezoning, subdivision and comp. plan changes...

TOO MUCH-TOO BIG!
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<th>Major Goals</th>
<th>Key Strategies</th>
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| **We will be responsible stewards of the city’s physical assets, human capital and financial resources** | → Providing good value for the dollars entrusted to us.  
    → Managing for the long-term to ensure the city’s ongoing ability to provide quality services at a reasonable price.  
    → Sustaining core services and continuing infrastructure investments, while living within our means. |
| **We will protect and enhance the unique natural environment of our community** | → Carefully balancing growth and development with preservation efforts that protect the highly valued water and woodland resources of our community.  
    → Developing and implementing realistic long-term plans to mitigate threats to water quality, urban forests, and the unique natural character of Minnetonka.  
    → Taking an active role in promoting energy and water conservation, sustainable operations and infrastructure, recycling and environmental stewardship. |
| **We will maintain quality public safety for our residents and businesses**  | → Implementing appropriate recommendations in the Public Safety Management and Operations Study to address the evolving police, fire and emergency service needs of our community, including an aging and more diverse population.  
    → Providing seamless, coordinated and integrated public safety services through common protocols and shared practices among departments and personnel.  
    → Leading collaborative efforts with other agencies to cost-effectively provide quality public safety services, with an emphasis on coordinated technology, equipment and programs. |
| **We will work to meet the transportation needs of our residents and businesses** | → Providing and preserving a quality local street system, based on a financially sustainable plan for reconstruction and ongoing maintenance.  
    → Collaborating with our state, regional and local partners in the timely development of shared highways and streets.  
    → Actively participating in regional light rail planning and development to ensure that community needs and interests are served. |
| **We will support well-planned, responsible community development**         | → Carefully balancing individual property rights with community-wide interests, while respecting the unique character of Minnetonka’s neighborhoods.  
    → Initiating programs and policies that broaden housing choices to both meet the needs of our aging population and attract young residents.  
    → Actively promoting the vitality of designated village centers, which integrate uses and connect people to commercial, residential, employment, and public activities.  
    → Supporting business retention and expansion and attracting new businesses to help our private sector be economically competitive. |
| **We will provide excellent recreational amenities**                        | → Offering a full range of programs for people of all ages and ability levels.  
    → Responsibly maintaining our parks, trails and recreational facilities, while fairly balancing user fees with general community support.  
    → Renewing, expanding and maintaining a trail system to encourage outdoor recreation, and improve the connectivity and walkability of the community. |
PLANNING COMMISSION MEETING MINUTES
AUGUST 24, 2017
D. Items concerning Shady Oak Crossing at 4312 Shady Oak Road.

Chair Kirk introduced the proposal and called for the staff report.

Gordon reported. He recommended that the planning commission hear the staff report, conduct a public hearing, discuss the proposal, and table the item to allow the applicant time to provide a revised site plan.

Gordon explained that the planning commission deals with land use issues. Its purview does not include financial aspects of projects. The EDAC and city council review and make decisions regarding financial aspects as well as affordable housing. Wischnack added that the EDAC and city council meetings are linked to the project’s page at eminnetonka.com.

Powers noted that there is only one access to the property. He assumed the easement located on the back of the property prevents the building from being adjusted to the west. He asked if there are any similar sites in the city. Gordon noted that Zvago has one access drive from Stewart Lane. It serves both above and underground parking. The Overlook on Minnetonka Boulevard has one access drive for the underground and surface parking.

Sewall asked if the trees that would be planted would be as large as they appear on the landscape plan. Gordon explained that the city’s minimum standard is six feet in height for evergreen trees and two and a half inches in trunk diameter for deciduous trees. The developer has indicated that they would like to plant taller trees along Shady Oak Road.

Schack asked for the benefits of a PUD in this situation. Gordon stated that this site is located in a commercial corridor. An R-5 district is geared for suburban areas. The setbacks of an R-5 district would be larger and would not fit with a commercial corridor.

O’Connell asked what could be built with the current zoning. Gordon stated that the B-2 Commercial Zoning District would allow uses that would have more impact than the current proposal including a gas station, a use with a drive-through, and other high-traffic businesses with outdoor circulation and storage.

Chair Kirk confirmed with Gordon that the PUD would not include the residential parcel. The proposed project would provide water retention for future
opportunities for the residential lot. The sanitary sewer easement and environmental conditions do not allow the pond to be located on the residential parcel.

Powers asked if the cost for cleanup of the site has been a deterrent for developers. Wischnack stated that a contaminated site makes redevelopment difficult. It is hard to estimate cleanup costs until digging has begun. The city has experience cleaning up contaminated sites.

Tim Whitten, of Whitten and Associates, applicant, stated that:

- It is a difficult site. Access is limited to Oak Drive Lane, there is a stormwater easement, and the grade is higher on the south end.
- The first design was a straight-lined building with two access points from Oak Drive Lane. Some of the neighbors were concerned with traffic and stacking. That building was 56 units and 3 stories. Some neighbors were concerned with the size of the building, so every effort has been made to reduce the mass of the building.
- In order to address the access points, the building has been pulled back to allow a drive to the structured parking. This also reduced the length of the building along Shady Oak Road.
- The current site plan dropped the height of the building on the ends and the corner. He pointed out the guest parking, structured parking, access, and common areas.
- The proposal would provide pedestrian connections for residents to access Shady Oak Road, Main Street, and transit.
- He reviewed the first sketch given to the city council. The concept is on the edge of urban with residential. It would fit like a library or school would fit into an existing neighborhood.
- He provided an illustration of how the building would look from Main Street. The mass of the building was considerably reduced. The all-flat roof received a positive response.
- He went over the landscape plan that includes a retaining wall and evergreen trees.
- The exterior would utilize brick and metal. It would be very attractive.
- He provided a variety of views of the building.
- The grades would be kept as close to the first level as possible.
- As much privacy would be created along the adjacent property as possible. There would be a strong focus of evergreen trees to soften the edge.
• He described the main entrance off of Oak Drive Lane and traffic pattern.
• He provided an aerial view of the area.
• He pointed out an area of trees that would remain.
• There would be 66 underground parking stalls. He pointed out the entrances and described the building’s floor plans.
• He explained the grading plan and the addition of a fence.

Mike Waldo, of Ron Clark Construction and Design, stated that:

• Bike racks would be available on site and each resident would have storage above their vehicle in the garage. A couple extra indoor stalls would be used for bike storage based on the need.
• The northwest corner and another corner would have trees planted by spading to provide an instant impact.
• Trees would be planted along the adjacent single-family lot.
• There is a pipe that has prompted a revision.
• The site today has no cleaning of its runoff. The proposal would include the pond that would allow for treatment of water runoff prior to entering the wetland.
• The building would not be able to access Shady Oak Road even if it could be pushed back 40 feet. The county denied the request.
• He provided images of projects done in Savage and Prior Lake.
• He reviewed images of the units’ floor plans, common spaces, playgrounds, and patio areas.
• He provided the affordable housing income limits.
• He was available for questions.

Knight asked if there would be windows on the third floor overlooking the flat roof. He questioned what would be seen from the third-floor windows. Mr. Waldo stated that the view would be of a dark or lite colored roof. There would be no mechanical equipment located on the roof.

Knight asked if a child could access the roof. Waldo said that there would be a four-inch lock on windows, so a window would not be able to be opened more than four inches. The front side above the second story would be designed to prevent anyone from getting on the roof.

Chair Kirk appreciated the view from Crawford Road. He asked if there would be tree loss on that side. Mr. Waldo said that one or two trees would be removed for the ponding area. The shape of the pond would limit the amount of tree loss.
Gordon pointed out the trees that would be removed. Mr. Waldo described the landscaping for that area.

Chair Kirk asked what the practice would be to remove snow. Mr. Waldo stated that residents would be required to park in the indoor structure during plowing.

Powers asked for the size of the tot lots. Mr. Waldo estimated 2,000 to 3,000 square feet in size.

The public hearing was opened.

Betty Wentworth, 5516 Bimini Drive, stated that:

- She supports the project.
- It would provide a good transition to the area. She is not concerned with the traffic since there are 300 units where she lives and there are two ways to get in and out. Traffic is not a major issue.
- The proposal would be affordable housing, not low-income housing. She probably could not afford to live there.
- It seems like a good proposal.
- The developer has a proven track record.
- The proposal is the right thing to do. She tries to live by the golden rule. People who work full time should be able to have good housing. Children who have stable housing do better in school and life and parents have enough stress in their lives. She supports the looks of the project and supports the project from a moral standpoint.

Ann Annestad, 4255 Oak Drive Lane, stated that she represents some neighbors. She stated that:

- She appreciated staff meeting with individuals and providing the packet of comments to commissioners.
- Residents in the area have always been open to “low profile,” like commercial redevelopment or low-density residential, redevelopment on the property. They have been consistently asking for a maximum of a one or two-story building that would blend in with the neighborhood character which is low density and light commercial throughout the Shady Oak corridor.
- The existing curb cut should remain.
- The scale of the building would be too massive.
The traffic and access are big issues.
The proposal would cause more cut-through traffic. It happens now.
The traffic study was flawed because the north leg of Oak Drive Lane was not included.

Jeri Massengill, 4272 Oak Drive Lane, stated that:

- She handed staff a map. Sixteen of 21 Oak Drive Lane property owners contacted oppose the project.
- She provided petitions created over the last few months.
- She provided a written list of the “quality of life” issues.
- The current site plan has a lower elevation. Traffic is not visible and there is no light pollution. The existing commercial building creates very little noise. The proposal would be a big change.
- She did not agree that people would walk a half mile to a train station. The existing bus lines are limited in where they go and run infrequently. The proposal would not meet the needs of a population that would utilize affordable housing at this location.
- The sidewalks are poorly maintained and the area lacks sidewalks.
- She was glad that there would be bike racks.
- She was concerned with families living near the busy intersection.
- There are no adjacent green spaces or parks. Most of the children would cross Shady Oak Road to access parks and trails in Hopkins.
- She is not opposed to affordable housing.
- She would love to see the building pulled back from the road.
- Air pollution is created along traffic corridors. There would be windows 16 feet from the road.
- The location is unhealthy and unsafe due to its proximity to busy Shady Oak Road and the lack of green space for kids to play.
- She asked what is meant by “softening the edges.”
- She asked why the recommendation is to change the zoning from residential to a PUD.
- She asked what information is helpful to staff.
- She asked if the input from people who live closer to the site is weighted more than people who live further from the site.
- She asked at what point the redevelopment focused on high-density residential.
- She asked if the city has an affordable housing plan.

Andy Braun, 4408 Crawford Road, stated that:
• The land is owned by the city. The public should be asked how it should be used instead of developers.
• There is no mention of sustainability.
• There is no bus access to the site.
• He did not see a similar use in the immediate area, nearby, but not the immediate area.
• The proposal is not reasonable.
• The cons outweigh the pros.
• It does not fit in the context of the Shady Oak Road corridor.
• There would not be enough buffering.

Sarah Biese, 640 Oakridge Road, Hopkins, stated that:
• Affordable housing is an important need in the area.
• She is excited about the proposal.
• The area has access to the ICMA Food Shelf and Community Action Partnership of Suburban Hennepin County that would help and support people that would reside in the proposal. There are many faith-based communities in the area as well.
• The proposal is very much needed.

Elizabeth Miller, 4408 Crawford, stated that:
• She agreed with the comments regarding safety and the need for affordable housing in Minnetonka.
• The safest way for her to drive to work is through an alley and a parking lot. It is difficult to turn left on Shady Oak Road.
• There are no bike trails.
• When construction occurs on the interstates traffic increases on Shady Oak Road.
• She is tired of listening to the developer. She is not interested in high density. It would be unsafe.
• She thanked commissioners for their time.

Chris Aanestad, 4255 Oak Drive Lane, stated that:
• The parcel has 1.128 buildable acres which does not include the stormwater easement and wetland areas of the property.
• He calculated the site to be 43.7 units per acre. There are too many flaws in the proposal.
Steve Philbrook, 4222 Oak Drive Lane, stated that:

- The road is narrower than other residential roads. If vehicles are parked on both sides of the street, it is difficult to drive a vehicle through the parked vehicles.
- He is terrified when his son rides his bike. Safety is the big issue. The place is not safe for kids. The bus stop is at the intersection of Oak Drive Lane and James Road. There is no stop sign at the intersection. Vehicles travel fast on Shady Oak Road.

Henry Yoon, 4240 Oak Drive Lane, stated that:

- He just moved into the ideal neighborhood.
- Adding more people would increase traffic.
- He is not opposed to affordable housing, but the proposal would be detrimental to his neighborhood.

Abbey Holm, 4234 Oak Drive Lane, stated that:

- There would be no buffer or transition. The proposal would be high density located near single-family residences.

Andy Braun, 4408 Crawford Road, asked that the proposal be compared to the city’s mission and goals.

Betty Wentworth, 5516 Bimini Drive, stated that:

- She asked if Oak Drive Lane could be “chopped off” so that the residents living in the proposal would travel a different direction to eliminate an increase in traffic on Oak Drive Lane.

Eric Johnson, 2 Shady Oak Road, Hopkins, stated that:

- He met with the developer. He was interested in talking. No deal has been offered to him.

No additional testimony was submitted and the hearing was continued until the next planning commission meeting.

Chair Kirk explained that review, discussion, and action for the item will be tabled until the September 7, 2017 planning commission meeting. The city council is tentatively scheduled to review the item at its meeting on September 25, 2017.
Wischnack explained the roles of staff and the planning commission. The city council will make the final decision.

Gordon answered some of the questions from the public hearing:

- He explained that “softening the edges” in the staff report refers to reducing the height of part of the building, increasing the setback from the sidewalk, and providing landscaping.
- Staff determined that R-5 zoning would not be the best fit for the site. A PUD would allow more flexibility with setbacks to accommodate the easement area and protection of the wetland.
- Staff appreciates comments specific to the project being proposed. Specific suggestions on ways to improve the proposal are helpful.
- The city has an affordable housing plan included in the Minnetonka Comprehensive Guide Plan. An excerpt from the affordable housing plan is included in the staff report. It identifies ways for the city to reach its affordable housing goals.

Wischnack added that the city participates in the Livable Communities Act which operates on a regional level. The SWLRT study identified housing gaps along the SWLRT line. The city adopted a resolution that requires developers when receiving assistance or asking for a land use change to make a portion of the proposal meet affordable housing standards. Many of the projects over the years have been required to have a percentage of its units meet affordable housing regulations.

Gordon stated that 68,626 square feet is 1.575 acres which is the size of the property including the stormwater easement and wetland areas.

Chair Kirk suggested that the community benefits of the proposal, in addition to affordable housing, be clearly outlined at the next meeting.

O’Connell asked for clarification on how commissioners should consider safety issues related to traffic, pedestrians, and bicyclists.

Calvert requested that the project’s sustainability be elaborated on at the next meeting.

Schack asked if Shady Oak Road is a designated detour for state highways and, if it is, if that should be taken into consideration. She noted the legal issues associated with limiting locations for affordable housing. She asked if a city would
be able to establish a regulation that would require a proposal to have an affordable housing component. Wischnack stated that the city council has adopted a resolution that requires affordable housing to be part of a project when conditions such as a change in zoning or an increase in density are included in the project.

_Sewall moved, second by Calvert, to recommend that the planning commission table the item until the planning commission meeting on September 7, 2017 to allow the applicant time to provide a revised site plan._

_Calvert, Knight, O’Connell, Powers, Schack, Sewell, and Kirk voted yes. Motion carried._
C. **Items concerning Shady Oak Crossing at 4312 Shady Oak Road.**

Chair Kirk introduced the proposal and called for the staff report.

Gordon reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Chair Kirk listed comments from the last public hearing.

Mike Waldo, of Ron Clark Construction and Design, stated that the revised site plan works quite well. It would have zero fill along the pipe and it would provide more green space and buffer from the single-family residence. The building was reduced a foot and a half in relationship to the road to make everything work for the grade. He is available for questions.

The public hearing was continued.

Kyle Holm, 4234 Oak Drive Lane, asked what would be the livable space for the buildings and what would be the zoning.

Chris Aanestad, 4255 Oak Drive Lane, stated that:

- He wanted the project scraped because of the location of the retention pond. He asked if Ron Clark would pay for 4292 Oak Drive Lane. The city already discounted 4312 Oak Drive Lane.
- He asked for the plans for 4292 Oak Drive Lane.
- The revised site plan is unacceptable. He wanted the planning commission to deny the proposal.

Stephen Philbrook, 4222 Oak Drive Lane, stated that:

- The road is narrow. If a vehicle is parked on one side, other vehicles can barely pass through.
- He does not want kids playing in four lanes of traffic. He was concerned with safety.
- He would like a stop light and entrance on the adjacent property.

Andy Braun, 4408 Crawford Road, stated that:
• He asked why there would not be a 50-foot setback from a county road.
• The traffic study was not inclusive. It did not incorporate pedestrian traffic crossing the four-lane county road.
• The other high density examples have a larger setback from the road.
• Adjacent property to the south could solve accessibility problems.

Elizabeth Miller, 4408 Crawford, stated that:

• She has not heard back from county staff regarding her questions that asked why the road was built and what was it built for?
• The plan is barely viable for the developers. It is not viable for the neighboring community. She worried for future residents. The rents would go up higher and faster than their wages would.
• The cost of the units would be $260,000. She thought that would decrease her property value.
• The examples do not look like the proposed site. The street is narrow.
• This is not a good place for high-density.
• There are bus stops, but the buses do not run very often.
• She wants the plan put on hold.
• She thanked staff for having so many meetings.

Jeri Massengill, 4272 Oak Drive Lane, stated that:

• There are three buses in the morning and three buses in the afternoon. There are four other buses that run in the evening. There are 10 buses in the morning for a different route that run again in the evening. There is a gap in the afternoon when there are no buses.

Sarah Biese, 640 Oakridge Road, Hopkins, stated that:

• She appreciates the neighbors’ research.
• She could utilize the proposed affordable housing.
• Affordable housing is an important need in the area.
• This is a long-term fix.
• The proposal is very much needed.

Carol Johnson, 12611 Orchard Road, stated that:
• The proposal would be a good use of the land.
• She has friends who would like to live there.
• The need is very great for affordable housing.
• She heard the same reasons from people who opposed the construction of the ICMA Food Shelf building. Over the years, through mediation and communication, all of the issues have been resolved. She hopes the same could happen with this project because it is needed.

Ms. Miller stated that she supports affordable housing, but she opposes a building taller than one or two stories. She questioned how Minnetonka would provide affordable housing.

Veta Segal, 12830 April Lane, stated that:

• She cannot afford to live in her house anymore. There is very little housing in Minnetonka for seniors in her situation who cannot find affordable housing. She was astounded to find out that she might have to move out of Minnetonka to downsize to an apartment that she can afford. It pains her that she has to look outside of the city for housing. It is a catastrophe.
• She was a social worker for many years. She helped people obtain jobs in Minnetonka, but the workers could not take the jobs because they could not afford to live in Minnetonka or the transportation to Minnetonka.

Ann Annestad, 4255 Oak Drive Lane, stated that:

• She provided written copies of what she is going to say.
• She disagreed with the staff report. She has always been open to commercial and low-density uses.
• The area has many young families. Traffic and safety issues are a concern.
• The holding pond would decrease the size of the yard next door.
• Mr. Johnson is open to negotiation.
• She requested that the planning commission vote “no.”
• She was told that there were no plans, when there were plans.
• The traffic study was inaccurate.
• The size of the property changed. It is 1.2 buildable.
• “Adjacent” is different than sharing the only access road.
• Beacon Hill and The Atrium have multiple accesses.
• Zvago has its own road. Stratford Woods has a huge swamp and creek that separates it from the neighborhood. She provided address of sites for commissioners to visit.
• There is no room for a buffer.
• The cars would face Oak Drive Lane from the parking lot.
• It is not a plan to park on Oak Drive Lane or in commercial parking lots for plowing of parking lots.
• The easement is a sloped hill, not a play area.
• The lights would not be acceptable.
• Traffic and noise would occur at all hours.
• She is o.k. with change, but the proposal would be too big and too much for the parcel.

Kyle Holm, 4234 Oak Drive Lane, questioned where residents would park if the old lines would fracture and be cut off.

Ellen Cousins, 4531 Greenwood Drive, stated that:
• She wants to know where she can build good affordable houses.
• She asked why a different project with two and a half acres and 97 units did not include affordable housing.
• This property needs to be joined with Mr. Johnson’s property so Oak Drive Lane would not have to absorb all of the traffic. She would like proof that staff communicated with Mr. Johnson. She questioned why there were 16 or 17 meetings for this proposal.
• The site is not good for a high-density apartment building. She is against this because she can see what it would do to the neighborhood.

Chris Aanestad, 4255 Oak Drive Lane, stated that:
• He thought it is inappropriate for city officials to be quoted on a developer’s website. This is a huge conflict of interest. He did not appreciate it. He thought Wischnack should “be removed” because of that. Councilmember Brad Wiersum was also quoted.

No additional testimony was submitted and the hearing was closed.

Chair Kirk confirmed with Gordon that the documents provided by public hearing speakers would be included in the city council agenda for the next meeting.

Gordon addressed some of the questions:
• All of the examples provided have high-density zoning with R-4, R-5, or PUD. The Atrium has the lowest density with 15 units per acre. The narrowest street is 34th Street which is 19 feet wide. The other streets are 25 to 26 feet in width which is the same as Oak Drive Lane.

• The colored slide illustrated green space, building placement, and sidewalks. It is not intended to be detailed like the civil plans.

• The water retention pond is not meant to hold water for an extended period of time. The water would infiltrate down into the groundwater and would be dry most of the time.

• The pond has always been in its current location. It cannot be located on the site because of the easement and existing contamination. Earlier concepts did show the retention pond in other locations. Grading limits were designed to preserve as many trees as possible.

• The PUD would allow the 16.5-foot setback at the narrowest point to Shady Oak Road.

• The bus routes typically run from 5:15 a.m. to 9:15 a.m. and 4:30 p.m. to 8 p.m. for Route 12 and Route 60 is an express route traveling from downtown to Minnetonka.

• The preliminary plat shows the size of the site to be 1.57 acres. The easement is not excluded for net density purposes.

Gordon stated that he has met with Mr. Johnson, but has not had negotiations with Mr. Johnson since the road project. Wischnack agreed. There were no numbers discussed.

Chair Kirk stated that it was unfortunate timing for Mr. Johnson to bring up the issue of his property at the public hearing. Commissioners agreed.

Wischnack noted that staff is always open to meeting with residents and will continue to do that. If the proposal moves forward, there is a two-year window in the contract with the developer because things can change in that time period. The door is still open to discuss that option.

Gordon explained that the site is currently blighted and contaminated. That is the worst situation to impact property values. The proposal would have a positive impact on property values. Calvert noted studies that have shown that high-density residential properties do not decrease the property values of low-density residential properties.
Wischnack clarified that the quote cited by Ron Clark’s website was taken from an interview she conducted with the *Minneapolis Star Tribune*. Calvert added that the website includes the entire article and it cites the *Minneapolis Star Tribune*.

Chair Kirk confirmed with Wischnack that most affordable housing projects need to have an incentive to include affordable housing.

Gordon stated that the traffic study found that the generated vehicle trips would typically not enter the neighborhood, but would travel to Shady Oak Road. Chair Kirk noted that the increase in trips would be a drop in the bucket. Powers visited Oak Drive Lane from 7 a.m. to 8:30 a.m. on two separate occasions and found virtually no traffic from Oak Drive Lane. The gas station attendant said that traffic happens from 6 a.m. to 7 a.m.

Calvert would like to know the snow removal plan to plow the surface lot. Chair Kirk stated that the plan would be to have tenant vehicles parked in the indoor parking structure.

Schack agreed that the additional traffic would be a drop in the bucket compared to the current volume on Shady Oak Road.

Calvert acknowledged that staff made a concerted effort to reach out to commercial as well as residential developers to accommodate the vision that neighbors were looking for because she was part of those discussions. Wischnack added that the information from 2016 is on the website. No new commercial developers would work on the site. Not even for a mixed use. Calvert thought mixed use sounded great at the time, but no developer was interested.

Chair Kirk stated that commissioners receive comments from residents and neighbors. He grew up in the area. He appreciates that the house on 4292 Oak Drive Lane would be preserved to provide a buffer.

Calvert noted that there is a slide and information in the agenda packet that explains the sustainable aspects of the proposal. The proposal would decrease the site’s amount of impervious surface by 32 percent. That is a tremendous improvement.

Schack recognized that Minnetonka is considering sustainability in the next comprehensive guide plan.

Mr. Waldo confirmed with the management company that residents are notified of a two-hour window when the lot would be plowed. It would occur during the
day when the majority of residents would be at work and the remaining tenants usually chose to run an errand during that time or park on a street.

Knight supports the proposal. He did not think traffic would be an issue. If he lived in the proposed building, he would not travel west. He did not think safety is a concern. Shady Oak Road is a mess right now because of Highway 169 being under construction. It will get better.

Schack does not take the proposal lightly. The concerns of the community, residents, and neighbors are taken seriously. It is a matter of providing affordable housing in as many places as possible. This is a really good start. The environmental benefits are noteworthy. Pervious surface would be added. The contamination would be cleaned up. The green space seems minimal, but a lot of trees would be planted. She trusts that the developer would plant large trees. Minnetonka has more jobs available than places for workers to live. That is a big problem for retail, restaurants, and business owners needing workers. This type of development helps everyone.

Calvert has met with many of the audience members. She lives in the community because it is an American dream community. She feels privileged to live here. She wants to take really good care of the city and the residents. She agreed with Schack. Minnetonka is not business friendly because it does not have adequate workforce housing. That includes employees who work for the city. There is no affordable housing for police officers and teachers. She is not a big fan of the design of the proposal. The landscaping would help a great deal. She is concerned with parking during snow removal and conscious of where the driveway accesses the road across the street from a residence. The developer moved the driveway to the east 25 feet to help alleviate that situation. The advantages include providing workforce housing, a 32 percent increase in pervious surface, toxic cleanup, high-density housing near transit, and the type of housing that would attract young families to the community. There will be a 40 percent increase in residents over 65 years of age in the next 10 years. This proposal would have 3-bedroom units that a young family would live in. She appreciates the proposed stormwater treatment and buffering of the wetland. She encouraged the developer to include attractive detail on the building. There really is not a comparable development with the same access and egress.

Chair Kirk knew that this site would be guided for residential. He struggled with the access to Shady Oak Road. The proposal would impact neighbors’ views across the swamp. Inevitably, the site would be developed. The proposal is missing a buffer to the neighborhood. Tearing down the house at 4292 Oak Drive Lane might be the right thing to do to provide a buffer and tree cover. He did not think the building would need to be stepped back on the east side. He would
prefer to push the density to the south, step the building down as it approaches Oak Drive Lane, and move the building back to allow room for a buffer.

Calvert struggled with the lack of transition from high density to residential.

Chair Kirk thought the location is great for affordable housing. He did not support the project. The mass of the building needs to be shifted to allow more of a buffer. One way or another, development is going to happen. He supports moving the drive off of Oak Drive Lane.

Powers found this to be the most difficult project that he has worked on for the planning commission. The neighbors are organized and capable, but attempting to impugn the integrity of staff or commissioners is counterproductive. He loves the affordable housing component. The future residents of the proposal would be the future homeowners on Oak Drive Lane. The area is blighted on that corridor. A commercial use would have to be very large. He wished the building would be two stories which would remove 14 units and 15 feet in height. He supports the proposal. The corridor needs to be developed and the developer needs to be gutsier, more forward thinking, and build more vertical on the south end. The half-acre residential lots in Minnetonka would subdivide into two residential houses and there would be few opportunities for affordable housing in Minnetonka.

Sewall stated that staff are experts who do an excellent job. Commissioners do not always agree with staff, but their opinion is valued and respected as professionals. He appreciates that. He stated that the developer is not out to pull one over on anyone or be deceptive. This is a negotiation process. This situation is not unique. The developer has been working to make progress. He understands that neighbors would prefer lower density, but he knew that would not happen because market conditions would not support it. He supports the comprehensive guide plan amendment, the rezoning, and the subdivision. He is stuck with the direct access to Shady Oak Road. He drove it today and thought that the stop light would provide the perfect spot. He would support the proposal if the access could be relocated at the stop light.

Calvert saw this as a perfect opportunity for affordable housing. She struggled and is still making up her mind.

Chair Kirk hoped the best for the property and the neighbors.

Powers moved, second by Schack, to recommend that the city council adopt the following with the modifications provided in the change memo dated September 7, 2017:
1. A resolution approving a comprehensive guide plan amendment;

2. An ordinance rezoning the property from B-2 to R-1; and

3. A resolution approving final site and building plans and preliminary and final plats.

Knight, Powers, Schack, and Calvert voted yes. Sewall and Kirk voted no. O'Connell was absent. Motion carried.

The city council is tentatively scheduled to hear this item at its meeting on September 25, 2017.
City Council Agenda Item #14B  
Meeting of September 25, 2017

**Brief Description**  
Items Concerning Shady Oak Crossings located at 4312 Shady Oak Road:

1) Contract for Private Development  
2) Introduction of Ordinance Authorizing Sale of Property

**Recommendation**  
Recommend the city council adopt the resolution approving the Contract for Private Development and Introduce the Ordinance

**Background**

In March 2015, the city purchased the properties at 4312 Shady Oak Road and 4292 Oak Drive Lane as a result of Hennepin County's road reconstruction project on Shady Oak Road. The city currently owns and manages the commercial building at 4312 Shady Oak Road and the residential building at 4292 Oak Drive Lane.

To prepare for redevelopment, the city hosted a series of meetings to gain input on development of the properties from January to April of 2016. The residents and business owners surrounding the project site in both Minnetonka and Hopkins were invited to three neighborhood meetings to introduce the project and gather issues/concerns/expectations from the surrounding neighborhood. In addition to the meeting with the neighborhood, the city hosted a developers’ roundtable for an invited group of developers to gauge interest and ideas on redevelopment options. Lastly, a project update was given at a city council meeting regarding development options for the property on March 21, 2016. The complete summary notes from these meetings are posted on the city’s website here: [http://eminnetonka.com/current-projects/planningprojects/1490-shady-oak-rd-redevelopment](http://eminnetonka.com/current-projects/planningprojects/1490-shady-oak-rd-redevelopment)

With the input of the neighborhood and the development community, the city solicited interest from developers for potential options for redeveloping the 4312 Shady Oak Road (commercial) property. The solicitation for developers did not identify only housing, but indicated the city’s willingness to include commercial, retail, and/or residential. The goal of the process was to prepare and form a feasible redevelopment plan that would be reviewed by the city, neighborhood and local stakeholders.

On November 14, 2016, the city council conducted developer interviews and selected Ron Clark Construction to continue negotiations. The city is currently engaged in negotiations with Ron Clark to redevelop the property. The negotiations are not complete and no agreement has been established with the developer. However, the developer formally submitted its land use application on July 24 and requested city and
Economic Development Authority (EDA) financial assistance, which will be reviewed by the city council at the September 25, 2017 meeting.

**Redevelopment Plan Overview**

Ron Clark Construction is proposing a 49-unit, three-story building with a flat roof and two-story components at each end, located at 4312 Shady Oak Road (commercial site). The developer has provided a number of iterations of a site plan as well as changes to the architectural plans. The city council packet will include the revised concept plans that were received July 24, 2017. The proposed redevelopment project includes:

- Three-stories over structured parking
- Resident community room, exercise room, onsite manager, outdoor play area
- 100 percent workforce housing with income levels at 60% Area Median Income (AMI), with rents at 50% AMI for the first 10 years. After 10 years, 100 percent of the units will have rents that have rent limitations at 60% AMI for the remaining 20 years of the affordability period.
- Mix of one, two and three bedroom units
- Rents between $800 and $1200 per month (cap of 30% of income on household rent payment)
- Supports workforce housing for local employees such as retail, administration, and health care positions.

**Financing Request**

The city’s legal counsel, Julie Eddington at Kennedy & Graven, drafted the attached Contract for Private Development that was developed based upon the requests for city assistance by the developer with feedback from the EDAC and city council. The contract outlines the major points associated with the Tax Increment Financing (TIF) request, as well as other expectations for the development. Both Ms. Eddington and the city’s financial consultant, Stacie Kvilvang from Ehlers, will be available at the city council meeting to answer any questions regarding the Contract for Private Development and to answer questions related to the financial request.

**Summary of the Contract for Private Development**

**Purchase of Land**

- The developer, “Shady Oak Crossing Limited Partnership”, will purchase the land on or before December 31, 2019 at a price of $734,400. The purchase price reflects the appraised value of the property.
- The developer has request the conveyance of the property in conjunction with the redevelopment of the property. The conveyance of city property requires adoption of an ordinance, which the city council is requested to introduce at the September 25 council meeting. Final adoption of the ordinance is scheduled for the October 23, 2017 council meeting. If adopted, the ordinance would be effective 30 days after publication.
The city continues to be open to negotiations with the property owner directly to the south of 4312 Shady Oak Road regarding a potential future sale of that property. If there were a revised concept proposed as part of the acquisition of that parcel, the developer would submit revised plans for planning commission and city council review. This is not included in the Contract for Private Development but could be added at a later date if a new concept is proposed that includes the inclusion of the parcel to the south.

Construction Commencement and Completion
- Construction must commence by December 31, 2019 and be completed by December 31, 2021. If the developer does not receive a tax credit allocation on or before June 30, 2018 the commencement and construction deadlines may be extended for up to a year at the discretion of the EDA. The extension would allow the developer to pursue a second round of tax credit allocations.

Demolition Funding and Performance
- The developer intends to coordinate with the city on the submission of a grant application to assist with the funding for the costs of demolition and contamination clean-up on the site. Any grant applications that would be made to the Department of Employment and Economic Development, Hennepin County, and/or Metropolitan Council must be approved through a resolution of support by the city council. If grants are not obtained for such costs, the city and developer will work cooperatively to review and modify the project budget and determine who would pay what for the demolition and clean up.

Declaration of Restrictive Covenants
- Given that the developer is requesting TIF pooling assistance and utilizing tax credit financing through the Minnesota Housing Finance Agency (MHFA), there are certain income and rent restriction requirements the developer must follow. The developer is proposing to make all 49 units affordable to those at 60% AMI or less. Historically, it has also been the city’s position to also require that the rent limits on those affordable units also be set at 50% of AMI. Additionally, it has historically been the city’s position to require a minimum of 30 years of affordability. All of these items are called out on the term sheet.

- As an example, rents are anticipated to be $800 - $1,200 per month (depending on the size of the unit). At 60% AMI, the maximum estimated annual income allowable for one person is approximately $37,000 ($17.30/hour). For a four-person household, the estimated annual income allowable is approximately $54,000 ($24.50/hour). In similar developments in Minnetonka, residents indicated employment at these wages in retail, administrative, and health professional careers.

TIF Deferred Loan and Other Funding Sources
The developer has asked the city to consider a deferred loan not to exceed $1.379 million to assist with financing. Staff is proposing utilizing TIF pooling dollars from the
Boulevard Gardens TIF district as the source of funding for this request. Ms. Kvilvang reviewed this request and prepared the attached memo that includes analysis of the request and a recommendation. The following is a summary of Ehlers’ recommendation that is included in the memo:

- Provide up to $1.209 million (rather than the requested $1.379 million) in TIF pooling assistance, structured as a deferred loan with a cash flow note.
  - The developer increased the first mortgage to accommodate the reduction in TIF pooling assistance.
- After repayment of the deferred developer fee potentially to occur in year six, allow the first $30,000 of cash flow to be paid to the developer, whereby the city would collect 50% of available cash flow thereafter through the term of the note.
- At the meeting on August 14, 2017 and September 7, 2017 the developer requested that the council and EDAC consider allowing the first $30,000 of cash flow to the developer, then allow the city to collect 30% of available cash flow. The term sheet and draft contract reflect the staff recommendation of the 50% cash flow allocation. Overall, the city should not assume that repayment on the note will happen over time. Under these terms, if the project performs better than anticipated, the city will receive repayment on the note sooner than anticipated.
- Developer fee will not exceed 10% of the total development costs.

The assistance requested from the developer would result in a per unit cost of approximately $822 per year over a 30 year affordability period based on total assistance of $1.209 million. The per unit assistance on previously approved housing redevelopment projects ranges from $673 per unit/per year to $3,968 per unit/per year.

The developer also indicated it would take reasonable steps to apply for grant funding through the Metropolitan Council’s Livable Communities Demonstration Account (LCDA), Hennepin County HRA’s Affordable Housing Incentive Fund (AHIF), and Hennepin County’s HOME Investment Partnership Program to assist with project costs and seek other equity sources that do not impact Minnesota Housing Finance Agency (MHFA) tax credit scoring. Any grant assistance received would be utilized to reduce the amount of city assistance.

**Land Write-Down**

- In addition to the deferred loan for TIF pooling, staff is proposing to write down the cost of the land for the developer in the amount of $515,889. Staff is proposing that the city be reimbursed with TIF pooled funds from Boulevard Gardens. This will assist the city in recuperating costs relating to the purchase and carrying costs of the land.

**Relocation**

- The city will relocate tenants following the award of tax credits to the developer.
EDAC/City Council Joint Meeting Summary

On August 14, 2017 the EDAC and city council convened at a joint meeting to review the developer’s city financing request. Below is a summary of questions and responses from the joint meeting.

- Council Member Allendorf inquired about the city’s ability to collect repayment of the $515,889 of the city land-write down through the cash flow note.
  - Ms. Kvivlang clarified that the $515,889 is an upfront cost to the city that can be refunded through TIF pooling as an eligible expense. The overall $1.209 TIF request could be reduced by tax credit pricing but would depend on the final financing of the project. The council should not anticipate that this will happen.

- Council Member Wagner asked a clarifying question about the prior allocation of Boulevard Gardens TIF pooling funding.
  - Julie Wischnack clarified that The Ridge received a deferred loan allocation of $1,050,000 and the Music Barn was approved for $500,000; however, the Music Barn project is no longer moving forward.

- Commissioner Johnson asked why the developer is not contributing any cash equity to the project.
  - Ms. Kvivlang clarified that the equity is provided through the tax credits that are sold to the investors (who receive a tax break). Tax credits are structured like a mortgage and are not a grant to the developer.

- Mayor Schneider inquired about the ability of the developer to set aside some of the units at 80% AMI vs. the 60% AMI that are being proposed.
  - Ms. Kvivlang clarified that the affordability of the units is established through the scoring of the MHFA tax credit program. The lower affordability level is required to score competitively in the tax credit program.

- Council Member Wiersum asked a clarifying question regarding the income levels and rent restrictions. Commissioner Isaacson clarified that it is a two part test that includes both rental income limits and household income limits below:
  - Rent is capped at between $800 and $1200 per month depending on the size of the unit; and
  - The maximum income that a household can earn is capped at 60% of the AMI which is $58,240 for a family of four (based on 2017 limits).

- Council Member Acomb asked a question regarding how many tax credit projects are awarded each year and the trend for the upcoming year.
  - Ms. Eddington commented that the tax credit program continues to be very competitive and there are more projects than available funding.
  - Mike Waldo of Ron Clark construction also clarified that 25-35% get awarded each year. Ron Clark construction received tax credits awards for three of the past five projects funded in the first year and funding for the remaining two projects in the second year of funding.
  - Mr. Waldo clarified that the developer would request an extension of the contract if tax credits are not awarded in the first year.

- Council Member Wagner asked a clarifying question regarding the shift in rents from 50% AMI to 60% AMI in years 20-30.
Commissioner Isaacson clarified that the competitive scoring of the tax credit program provides more points if the rents are lower during the initial five to 10 year period. Rents can be raised after the initial five to ten year period to 60% AMI.

- Mayor Schneider asked if the project would be eligible to receive additional scoring points on the tax credit application due to its proximity to the future Southwest LRT station at the Shady Oak Station.
  - Ms. Wischnack clarified that the project is just outside the half-mile area that is required to receive points for transit.
  - The city will apply for Livable Communities Demonstration Account funding in future years. Any funds received through other grant resources would reduce the city’s contribution of TIF pooling funding. The city’s contribution will be the last money into the project.

- Mayor Schneider inquired about the vacancy rates and how wage inflation impacts the income and rent restrictions on the units.
  - Ms. Kvilvang clarified that income and rents could rise in some years and decrease in other years. The Department of Housing and Urban Development (HUD) adjusts the limits accordingly each year.
  - Mr. Waldo provided clarification that the development proforma includes an increase of 2% increase in income and 3% in rents each year. The proforma also assumes a 5% vacancy rate. The current vacancy rate in Minnetonka is approximately 2%.

- Council Member Bergstedt inquired about the city’s ability to obtain a cleanup grant for the contamination and who is responsible to pay for cleanup if grant funds are not received.
  - The city will apply for grant funding to assist with the costs for demolition and cleanup. If funding is not received or cleanup costs increase, the developer would likely request additional assistance from the city and/or seek additional grant sources. The environmental consultant prepared a conservative estimate for the cleanup of the site.

**EDAC Recommendation**

On September 7, 2017, the Economic Development Authority Commission (EDAC) met to review the Contract for Private Development and unanimously recommended its approval with the inclusion of the following terms:

- Revised the commencement date and completion date to coincide with the developer’s tax credit application process. If tax credits are not received in year one the developer will be required to ask the council for an extension to apply for funding in year two.
- Added language to the contact to clarify that the purchase price of $734,400 is reflective of the appraised value of the property.
- Added HOME and AHIF to the list of grants and loans that the developer will seek to assist with financing for the project.
- Modified the surplus cash flow language to allow project accountants identified in the limited partnership agreement to prepare the audit.
Recommendation

Staff recommends the city council adopt the resolution approving the Contract for Private Development and introduce the ordinance authorizing the sale of the property. (The final ordinance authorizing the sale would be placed on the October 23, city council agenda.)

Submitted through:
   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director
   Merrill King, Finance Director

Originated by:
   Alisha Gray, EDFP, Economic Development and Housing Manager

Supplemental Information:

   EDAC Unapproved Meeting Minutes September 7, 2017

   Joint City Council/EDAC Meeting August 14, 2017
Ron Clark has proposed to construct a 49-unit, non-age restricted apartment community on City-owned property at 4312 Shady Oak Road. They have requested $1.379 million in financial assistance from the City from its Boulevard Gardens TIF account. You requested we provide background information on the source of these funds, what they can be used for, explanation on 9% federal low-income-housing tax credits (LIHTC) and an analysis of the financial need of the project.

**Boulevard Gardens TIF (District 1-2)**

Boulevard Gardens is a redevelopment TIF district that was established in 1996 to facilitate a mixed-use development consisting of retail, affordable family and senior rental units, and condominium/townhomes. This District received its first tax increment revenue in 1997 and will decertify on December 31, 2022.

In 2010, the City modified the TIF District’s plan to allow up to 35% of the TIF generated from the District to be utilized for affordable housing. The City completed this modification to provide a source of financing to assist the City in providing affordable housing. In 2012, The EDA committed $1,025,000 to Community Housing Coalition for The Ridge, a 64-unit affordable apartment community located on I-394. Currently there is a balance of approximately $3,138,000 in the account and it is expected that the District will receive approximately $650,000, annually, from 2017 – 2022 (approximately $7M total available).

These funds are limited on what they can be utilized for. Essentially, the funds can only be expended on rental projects and more specifically, LIHTC eligible rental housing. The assistance provided to any project cannot exceed the qualified basis of the tax credits, as defined under section 42(c) of the Internal Revenue Code, less the amount of any tax credits allowed. In this instance, the project has approximately $11.28 million in eligible basis for tax credits, but is only receiving approximately $9.285 million in tax credits. That leaves approximately $2 million in eligible costs where the City could use increment from this district to provide financial assistance to the project.
Low income housing Tax Credits (LIHTC)

The LIHTC program was created in the Tax Reform Act of 1986 and is the Federal government’s primary tool to incentivize the construction of new affordable housing in the United States. The purpose of the LIHTC program is to encourage private investment in affordable rental housing. The investor (which are often banks or insurance companies) provide cash (equity) to developers of affordable housing and, in exchange, receive an offset on their federal tax bill—LIHTC is not a grant nor is it a Section 8 program. These investors expect that the project they invest in will perform at a level that generates adequate cash flow to repay the mortgage, their annual asset management fee and any deferred developer fees within a specified time frame (typically 10 years). If the project doesn’t perform or fails to comply with Federal regulations, the investor can lose their tax credit.

Each year, the Federal government allocates a limited number of LIHTCs to each state. The Minnesota Housing Finance Agency (MHFA) is charged with creating and overseeing the process for allocating the LIHTC in most of the State. In the spring of each year, MHFA issues their “Super RFP” that details the process to compete for what is known as the “9% LIHTC” and other “soft” funding sources. The applications are typically due in June and this is a one-time opportunity to receive LIHTCs on an annual basis. MHFA announces the awards each year at the end of October.

Because 9% LIHTCs are so scarce and thus highly sought after and competitive, MHFA has created a strict scoring process to rank the submitted funding requests. In 2016, only one in five requests received 9% LIHTCs. MHFA scores applications on a number of priorities, including:

1. **Funding Contributions and Financial Readiness**
2. **Lowest Income Tenants**
3. **Bedroom Count**
4. **Workforce**
5. **Households Experiencing Homelessness**
6. **Location**
7. **Cost Containment**

The more priorities a project meets, the higher the scoring and greater chance it will receive a 9% LIHTC allocation (projects often compete down to the last possible point). By showing committed funds from the City and requesting NO additional dollars from MHFA, the chances of the project being funded in 2018 significantly increase.
Analysis of Financial Need

Ehlers conducted a thorough review of the developer’s budget and operating pro forma to ensure all development costs, anticipated revenues, and expenditures are represented appropriately and accurately. The table below depicts the proposed sources and uses for the project.

<table>
<thead>
<tr>
<th>SOURCES</th>
<th>Amount</th>
<th>Pct.</th>
<th>Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Mortgage</td>
<td>1,797,000</td>
<td>14%</td>
<td>36,673</td>
</tr>
<tr>
<td>Minnetonka Deferred Loan</td>
<td>1,379,100</td>
<td>11%</td>
<td>28,145</td>
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<tr>
<td>Tax Credits</td>
<td>9,285,818</td>
<td>73%</td>
<td>189,506</td>
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<tr>
<td>Deferred Developer Fee</td>
<td>237,417</td>
<td>2%</td>
<td>4,845</td>
</tr>
<tr>
<td><strong>TOTAL SOURCES</strong></td>
<td><strong>12,699,335</strong></td>
<td><strong>100%</strong></td>
<td><strong>259,170</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>USES</th>
<th>Amount</th>
<th>Pct.</th>
<th>Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition Costs</td>
<td>734,400</td>
<td>6%</td>
<td>14,988</td>
</tr>
<tr>
<td>Construction Costs</td>
<td>9,826,780</td>
<td>77%</td>
<td>200,547</td>
</tr>
<tr>
<td>Professional Services</td>
<td>499,700</td>
<td>4%</td>
<td>10,198</td>
</tr>
<tr>
<td>Financing Costs</td>
<td>349,309</td>
<td>3%</td>
<td>7,129</td>
</tr>
<tr>
<td>Developer Fee</td>
<td>1,045,000</td>
<td>8%</td>
<td>21,327</td>
</tr>
<tr>
<td>Cash Accounts/Escrows/Reserves</td>
<td>244,146</td>
<td>2%</td>
<td>4,983</td>
</tr>
<tr>
<td><strong>TOTAL USES</strong></td>
<td><strong>12,699,335</strong></td>
<td><strong>100%</strong></td>
<td><strong>259,170</strong></td>
</tr>
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</table>

Generally, this project meets the expectations of a 9% LIHTC rental project with regards to the financing structure, projected revenues, on-going operational costs and developer fee. Following are our findings relating to the analysis completed for the development:

- LIHTC projects typically never have any developer equity in the project. The equity comes from the LIHTC investor. The developer only receives a development fee (payment for time and expenses into the project), of which a portion is usually deferred to fill a gap in the financing, and they receive payment over time if there is any cash flow. Typically, 9% LIHTC projects that have rents at the proposed 50% level only provide enough annual cash flow to pay back the deferred developer fee and little to no future cash flow is expected for “profit” purposes.

- Developer is requesting $1,379,000 in a deferred loan from the City, which is 11% of the overall project financing and is only very slightly higher than what we see in most 9% LIHTC projects (typically not more than 10%). We are of the opinion that the first mortgage amount can be increased to reduce the City’s level of participation.

- The developer’s fee is only 8% of total development costs, which is lower than they could charge for their time, effort and overhead on developing the project and obtaining land use approvals and financing for the project (typical range for LIHTC projects is 10% to 15%). However, the lower fee helps the overall project financially and they are deferring 23% of the developer fee to be paid out of cash flow over the next 10-years, which is typical. However, we are of the opinion that slightly more of the fee can be deferred in order to reduce the City’s participation.

- The total development costs for this project are approximately $12.7 million, or $260,000/unit. These costs have increased per unit from their first application due to reducing the size of the project by 5 units and adding a flat roof based upon input, which increased costs by $195,000.
Based upon the above referenced comments, the updated sources and uses are as follows:

<table>
<thead>
<tr>
<th>SOURCES</th>
<th>Amount</th>
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</tr>
</thead>
<tbody>
<tr>
<td>First Mortgage</td>
<td>2,035,000</td>
<td>16%</td>
<td>41,531</td>
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<tr>
<td>Minnetonka Deferred Loan</td>
<td>1,209,000</td>
<td>9%</td>
<td>24,673</td>
</tr>
<tr>
<td>Tax Credits</td>
<td>9,285,818</td>
<td>73%</td>
<td>189,506</td>
</tr>
<tr>
<td>Deferred Developer Fee</td>
<td>246,918</td>
<td>2%</td>
<td>5,039</td>
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<tr>
<td><strong>TOTAL SOURCES</strong></td>
<td>12,776,736</td>
<td>100%</td>
<td>260,750</td>
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<td>8%</td>
<td>21,327</td>
</tr>
<tr>
<td>Cash Accounts/Escrows/Reserves</td>
<td>321,547</td>
<td>3%</td>
<td>6,562</td>
</tr>
<tr>
<td><strong>TOTAL USES</strong></td>
<td>12,776,736</td>
<td>100%</td>
<td>260,750</td>
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Please note the overall project budget increased by approximately $77,000 due to tax credit fees that were not in the original submission. As noted, we reduced the City’s loan by $170,000 to $1,209,000 and increased the deferred developer fee by $9,501 (can defer this much more and still have it paid off within 11 years).

**Recommendation**

Based upon our review of the developer’s pro forma and current market conditions, the proposed development will not reasonably be expected to occur solely through private investment within the reasonably near future. Due to the costs associated with redeveloping the property and constructing housing with affordable rents, this project is feasible only through assistance, in part, from the City’s contribution.

We recommend providing a Cash Flow Note (Note) to the project for $1.209 million. This will assist them in obtaining more points from MHFA, which increases their scoring and the likelihood they will be awarded 9% LIHTC in the June 2018 round (basically assure the housing gets developed). The Note will be structured to allow the first $30,000 of cash flow, after the deferred developer fee is repaid, to be paid to the developer and anything above that will be split 50/50 between the developer and the City for repayment on the Note. Any balance outstanding on the Note at refinancing and/or sale for the property will be repaid at that time.

Based upon typical underwriting of 5% vacancy and 2% annual increase in revenue and 3% increase in expenses, it is expected that the deferred developer fee is repaid in year eleven (11). However, annual cash flow is only anticipated to be approximately $23,000/year starting in year twelve (12), leaving no available cashflow for repayment on the City’s Note. If the project performs at a 2% vacancy (more typical for the City’s market), then the deferred developer fee will be repaid in year six (6). Annual cash flow starting in year seven (7) is anticipated to be approximately $43,000/year. Based upon the terms noted above, the first $30,000 will go to the developer. The remaining $13,000 will be split 50/50 between the City and the developer.

Overall, the City should not assume that repayment on the Note will happen over time. However, if the project performs better than anticipated and no unforeseen capital repairs are needed, there is a mechanism in place for the City to receive repayment on the Note sooner than anticipated.
Policy Number 2.14
Tax Increment Financing Pooling Funds

Purpose of Policy: This policy establishes evaluation criteria that guide the city council in consideration of use of tax increment financing pooling funds.

Introduction

Under the Minnesota Statutes Chapter 469, at least 75 percent of tax increment in a redevelopment tax increment financing (TIF) district must be spent on eligible activities within the district, leaving up to 25 percent of the funds to be pooled and therefore eligible to be spent outside of the district, but within the project area.

An exception to the pooling funds is for affordable rental housing. The city may allow the pooling allowance to be increased to 35 percent, which can then go to finance certain affordable housing projects. The project may be located anywhere in the city, and not limited to the project area. Each financed project must be rental housing that is eligible for federal low income housing tax credits. The amount of the assistance is also limited to any amount that satisfies tax credit rules.

The council is aware that use of such TIF pooled funds may be of benefit to the city and will consider requests for pooled funds subject to this council policy. The council considers the use of these funds to be a privilege, not a right.

It is the judgment of the council that TIF pooled funds is to be used on a selective basis. It is the applicant’s responsibility to demonstrate the benefit to the city, and that they should understand that although approval may have been granted previously by the city TIF pooled funds for a similar project, the council is not bound by that earlier approval.

Evaluation Criteria

The city will use the following criteria when evaluating a development proposal requesting the use of TIF pooled funds:

- The project supports reinvestment in an identified village center and addresses the goals set out in the comprehensive plan for that center.

- Priority will be provided for projects that are within a “regional” village center or support transit areas.

- Weight will be given when the proportion of affordability is greater than what is customary in other tax increment financed projects in the city, overall affordability of 20% of units (usually at 60% AMI for rental).

- The project may request both tax increment financing and pooling dollars as long as the project has provided data that “but for” the additional pooling dollars, this project would not occur.
• If the project is receiving funds from other sources, the pooled dollars would be the last source utilized unless it impacts other sources.

Other Provisions
• A project will not normally be given financing approval until all city planning and zoning requirements have been met. Planning and zoning matters may be considered simultaneously with preliminary approval of the financing.

• The city is to be reimbursed and held harmless for any out-of-pocket expenses related to the TIF pooling funds, but not limited to, legal fees, financial analyst fees, bond counsel fees, and the city’s administrative expenses in connection with the application. The applicant must execute a letter to the city undertaking to pay all such expenses.

• The applicant will be required to enter into a development agreement with the city outlining the terms of the use of TIF pooled funds.

Adopted by Resolution No. 2011-039
Council Meeting of May 16, 2011
CONTRACT

FOR

PRIVATE DEVELOPMENT

between

ECONOMIC DEVELOPMENT AUTHORITY
IN AND FOR THE
CITY OF MINNETONKA, MINNESOTA,

CITY OF MINNETONKA, MINNESOTA

and

SHADY OAK CROSSING LIMITED PARTNERSHIP

Dated __________, 2017

This document was drafted by:

KENNEDY & GRAVEN, CHARTERED (JAE)
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CONTRACT FOR PRIVATE DEVELOPMENT

THIS CONTRACT FOR PRIVATE DEVELOPMENT, made on or as of the ____ day of ____________, 2017 (the “Agreement”), is by and between the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), the CITY OF MINNETONKA, MINNESOTA (the “City”), a home rule city duly organized and existing under its Charter and the laws of the State of Minnesota, and SHADY OAK CROSSING LIMITED PARTNERSHIP, a Minnesota limited partnership (the “Developer”).

WITNESSETH:

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.090 through 469.1082, as amended (the “Act”), and was authorized to transact business and exercise its powers by a resolution of the City Council of the City; and

WHEREAS, the Authority and City have undertaken a program to promote economic development and job opportunities, promote the development and redevelopment of land which is underutilized within the City, and facilitate the development of affordable housing, and in this connection created a development district known as Development District No. 1 (the “Project”) in the City, pursuant to Minnesota Statutes, Sections 469.124 to 469.134, as amended; and

WHEREAS, by Resolution No. 93-9649, the City transferred control, authority and operation of the Project from the City to the Authority; and

WHEREAS, the City and the Authority have established Redevelopment Tax Increment Financing District No. 2 (the “TIF District”) within the Project and adopted a financing plan (the “TIF Plan”) for the TIF District in order to facilitate redevelopment of certain property in the Project, all pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the “TIF Act”); and

WHEREAS, pursuant to Section 469.1763, subdivision 2(d) of the TIF Act, the Authority and City modified the TIF Plan for the TIF District in order to increase the amount of Tax Increments (defined hereinafter) that may be spent outside the boundaries of the TIF District from twenty-five percent (25%) to thirty-five percent (35%), provided that such pooled Tax Increment is used solely to assist the development of rental housing that meets the requirements for federal low income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the City owns certain property located within the Project (the “Development Property”) and proposes to convey the Development Property to the Developer;

WHEREAS, the Developer has proposed a development of an affordable rental housing facility described further herein as the “Minimum Improvements” on the Development Property, which facility is expected to receive federal low income tax credits; and
WHEREAS, the Authority has proposed to provide the Developer with a loan of tax increment from the TIF District to assist in financing the acquisition and construction of the Minimum Improvements on the Development Property; and

WHEREAS, the Authority and the City believe that the development of the Development Property pursuant to this Agreement, and fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State of Minnesota and local laws and requirements;

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

(The remainder of this page is intentionally left blank.)
ARTICLE I

Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Act” means the Economic Development Authority Act, Minnesota Statutes, Sections 469.090 through 469.1082, as amended.

“Affiliate” means with respect to the Developer (a) any corporation, partnership, or other business entity or person controlling, controlled by or under common control with the Developer and (b) any successor to such party by merger, acquisition, reorganization or similar transaction involving all or substantially all of the assets of such party (or such Affiliate). For the purpose hereof the words “controlling,” “controlled by,” and “under common control with” shall mean, with respect to any corporation, partnership, corporation or other business entity, the ownership of fifty percent or more of the voting interests in such entity, possession, directly or indirectly, of the power to direct or cause the direction of management policies of such entity, whether ownership of voting securities or by contract or otherwise.

“Agreement” means this Agreement, as the same may be from time to time modified, amended, or supplemented.

“Authority” means the Economic Development Authority in and for the City of Minnetonka, Minnesota, or any successor or assign.

“Authority Representative” means the Executive Director of the Authority, or any person designated by the Executive Director to act as the Authority Representative for the purposes of this Agreement.

“Business Day” means any day except a Saturday, Sunday, legal holiday, a day on which the City is closed for business, or a day on which banking institutions in the City are authorized by law or executive order to close.


“Certificate of Completion” means the certification to be provided the Developer, pursuant to Section 4.4 hereof and substantially in the form attached as SCHEDULE B.

“City” means the City of Minnetonka, Minnesota.

“City Representative” means the City Manager or person designated in writing by the City Manager to act as the City Representative of the City of Minnetonka, Minnesota.
“Closing” has the meaning provided in Section 3.2(b) hereof.


“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed on the Development Property which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City and the Authority, and (b) shall include at least the following for each building: (1) site plan; (2) foundation plan; (3) basement plans; (4) floor plan for each floor; (5) cross-sections of each (length and width); (6) elevations (all sides); (7) landscape plan; and (8) such other plans or supplements to the foregoing plans as the Authority may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“County” means the County of Hennepin, Minnesota.

“Declaration” means the Declaration of Restrictive Covenants attached as SCHEDULE C hereto.

“Developer” means Shady Oak Crossing Limited Partnership, a Minnesota limited partnership, or its permitted successors or assigns.

“Development District” means the Authority’s Development District No. 1.

“Development Plan” means the Development Program for the Development District.

“Development Property” means the property described in SCHEDULE A hereto.

“Event of Default” means an action by a party described in Section 9.1 hereof.

“Holder” means the owner or mortgagee of a Mortgage.

“Minimum Improvements” means the construction on the Development Property of a rental housing facility containing 49 Rental Housing Units, subject to the affordability requirements described in Section 4.5 hereof.

“Mortgage” means any mortgage made by the Developer in favor of one of the Other Lenders which is secured, in whole or in part, with the Development Property, and which is a permitted encumbrance pursuant to the provisions of Article VIII hereof.

“Other Lenders” means any entities (other than the Authority and the Tax Credit Investor) that provide grants or loans to the Developer in order to finance a portion of the cost of the Minimum Improvements.
“Other Loans” means a construction loan to be obtained by the Developer for the construction of the Minimum Improvements, a permanent first mortgage loan to be obtained by the Developer for permanent financing of the Minimum Improvements, and any other loan financing obtained by the Developer and related to the construction of the Minimum Improvements.

“Rental Housing Units” means the rental housing units constructed as part of the Minimum Improvements.

“State” means the State of Minnesota.

“Surplus Cash” means the annual cash flow of the Developer, calculated pursuant to the limited partnership agreement of the Developer as total cash receipts of the Developer from ordinary operations of the Minimum Improvements less the total cash disbursements of the Developer associated with the Minimum Improvements, such as, but not limited to: (1) operating expenses, (2) costs of repair or restoration, (3) management fees, (4) financing fees or other requirements of any lender to the Developer, (5) interest and principal repayments of the Other Loans, as the same may be refinanced, to the extent such amounts are due and payable under the applicable loan documents associated with the Other Loans, and (6) costs paid by the Developer, if any, to provide tenants with supportive services, and (7) amounts paid in connection with the establishment or maintenance or reserves required for the Minimum Improvements; and, further, less payments to the Tax Credit Investor for unpaid Credit Adjuster Payments and Credit Adjuster Advances, payments to the Tax Credit Investor for Asset Management Fees, payments of unpaid Developer Fees, payments of Operating and Construction Deficit Loans, all as defined in the limited partnership agreement of the Developer.

“Tax Credit Investor” means Wells Fargo Affordable Housing Community Development Corporation or any other investor limited partner selected by the Developer.

“Tax Credit Law” means Section 42 of the Code.

“Tax Increment” means that portion of the real property taxes which is paid with respect to the TIF District and which is remitted to the Authority as tax increment pursuant to the Tax Increment Act.

“Tax Increment Act” or “TIF Act” means the Tax Increment Financing Act, Minnesota Statutes, Sections 469.174 through 469.1794, as amended.

“Tax Increment District” or “TIF District” means the Authority’s Redevelopment Tax Increment Financing District No. 2.

“Tax Increment Plan” or “TIF Plan” means the Authority’s Tax Increment Financing Plan for the TIF District, as most recently modified by the Authority and City on December 20, 2010, and as it may be amended from time to time.
“Tax Official” means any County assessor, County auditor, County or State board of equalization, the commissioner of revenue of the State, or any State or federal court including the tax court of the State.

“Termination Date” means the later of the date the TIF Loan is paid in full in accordance with its terms, or the date of termination of the “Qualified Project Period” as defined in the Declaration.

“TIF Loan” has the meaning provided in Section 3.9(a) hereof.

“Transfer” has the meaning set forth in Section 8.2(a) hereof.

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of war, terrorism, strikes, other labor troubles, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the City or the Authority in exercising its rights under this Agreement) which directly result in delays. Unavoidable Delays shall not include delays in the Developer’s obtaining of permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under Section 4.3 hereof, unless (a) the Developer has timely filed any application and materials required by the City for such permit or approvals, and (b) the delay is beyond the reasonable control of the Developer.

(The remainder of this page is intentionally left blank.)
ARTICLE II

Representations and Warranties

Section 2.1. Representations and Covenants by the Authority.

(a) The Authority is an economic development authority duly organized and existing under the laws of the State. Under the provisions of the Act and the TIF Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The Authority will use its best efforts to facilitate development of the Minimum Improvements, including but not limited to cooperating with the Developer in obtaining necessary administrative and land use approvals and construction and/or permanent financing pursuant to Section 7.1 hereof. The Authority will also use its best efforts in obtaining various grants for the Minimum Improvements, including but not limited to, a Tax Base Revitalization Account grant from Hennepin County and a Livable Communities Demonstration Grant from the Metropolitan Council, and other grants for environmental remediation and demolition of existing buildings on the Development Property.

(c) The activities of the Authority are undertaken for the purpose of fostering the development of affordable rental housing, which will also revitalize this portion of the Development District and increase tax base in the City.

(d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of charter or statutory limitation or any indebtedness, agreement or instrument of whatever nature to which the Authority is now a party or by which it is bound, or constitutes a default under any of the foregoing.

Section 2.2. Representations and Warranties by the City. The City represents and warrants that:

(a) The City is a home rule city duly organized and existing under its Charter and the laws of the State. Under the provisions of the TIF Act, the City has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The City proposes to convey the Development Property to the Developer and will use its best efforts to facilitate development of the Minimum Improvements, including but not limited to cooperating with the Developer in obtaining necessary administrative and land use approvals and construction and/or permanent financing pursuant to Section 7.1 hereof. The City will also use its best efforts in obtaining various grants for the Minimum Improvements, including but not limited to, a Tax Base Revitalization Account grant from Hennepin County, and a Livable Communities Demonstration Grant from the Metropolitan Council, and other
grants for environmental remediation and demolition of existing buildings on the Development Property.

(c) The activities of the City are undertaken for the purpose of fostering the development of affordable rental housing, which will also revitalize this portion of the Development District and increase tax base in the City.

(d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of charter or statutory limitation or any indebtedness, agreement or instrument of whatever nature to which the City is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(e) The City shall promptly advise the Developer of all litigation or claims affecting any part of the Development Property.

Section 2.3. Representations and Warranties by the Developer. The Developer represents and warrants that:

(a) The Developer is a limited partnership duly organized and in good standing under the laws of the State of Minnesota, is not in violation of any provisions of its organizational documents, or, to the best of its knowledge, the laws of the State, has power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of it partners.

(b) The Developer will construct, operate and maintain the Minimum Improvements in accordance with the terms of this Agreement, the Construction Plans, and all applicable local, State and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations) in all material respects.

(c) The Developer will obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, State and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

(d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any partnership or company restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which either is bound, or constitutes a default under any of the foregoing.

(e) The Developer shall promptly advise the Authority in writing of all litigation or claims affecting any part of the Minimum Improvements and all written complaints and charges made by any governmental authority materially affecting the Minimum Improvements or
materially affecting the Developer or its business, which may delay or require changes in
collection of the Minimum Improvements.

(f) The proposed redevelopment on the Development Property hereunder would not
occur but for the financial assistance being provided by the Authority hereunder.

(g) The Developer will construct the Minimum Improvements in accordance with all
local, state or federal laws or regulations.

(The remainder of this page is intentionally left blank.)
ARTICLE III

Land Conveyance: Tax Increment Assistance

Section 3.1. Status of the Property. As of the date of this Agreement, the City owns the Development Property. In order to assist the Developer in making construction of the Minimum Improvements economically feasible, the City will convey title to and possession of the Development Property to the Developer at a reduced cost, subject to all the terms and conditions of this Agreement. The Authority has no obligation to acquire any portion of the Development Property.

Section 3.2. Conditions of Conveyance. (a) The City will convey title to and possession of the Development Property to the Developer by quit claim deed substantially in the form of the deed attached as SCHEDULE D to this Agreement for a purchase price of $734,400. $734,400 is the appraised value of the Development Property but the cost to the City to purchase the Development Property, including the payment of relocation benefits and other costs, was $1,250,289. The City will reimburse itself for the land write-down in the amount of $515,889 from Tax Increment. The City’s obligation to convey the Development Property to the Developer is subject to satisfaction of the following terms and conditions:

(1) The City and the Authority having approved Construction Plans for the Minimum Improvements in accordance with Section 4.2, and the City having approved the Developer’s site plan;

(2) The Authority and the City having approved financing for construction of the Minimum Improvements in accordance with Article VII hereof, and the Developer having closed on the permanent financing at or before Closing on transfer of title to the Development Property to the Developer;

(3) The City having approved the conveyance of the Development Property by ordinance as required by the City’s Charter;

(4) The Developer having reviewed and approved (or waived objections to) title to the Development Property, including survey matters, as set forth in Section 3.4;

(5) The Developer having reviewed and approved (or waived objections to) soil and environmental conditions as set forth in Section 3.5; and

(6) There being no uncured Event of Default under this Agreement.

Conditions (1) and (2) are solely for the benefit of the Authority and the City, and may be waived by the Authority and the City. Condition (3) cannot be waived. Conditions (4) and (5) are solely for the benefit of the Developer, and may be waived by the Developer. Condition (6) is for the benefit of the Authority, the City, and the Developer and must be waived by all parties. If a condition is not waived by the relevant party, that party may terminate this Agreement, upon the
receipt of which this Agreement will be null and void and neither party will have any liability hereunder, except the Developer’s obligations under Section 3.11 hereof for Administrative Costs incurred through the date of termination. If any conditions described in this Section 3.2 are waived, the waiver must be in writing.

(b) The Closing on conveyance of the Development Property from the City to the Developer must occur upon satisfaction of the conditions specified in this Section, but no later than December 31, 2019 (“Closing”). If the Developer does not obtain Tax Credits pursuant to an application submitted on or before June 30, 2019, the deadline for closing on the conveyance of the Development Property may extended by up to one year at the sole discretion of the Authority.

Section 3.3. Place of Document Execution, Delivery and Recording, Costs. (a) Unless otherwise mutually agreed by the City and the Developer, the execution and delivery of all deeds and documents will be made at the offices of the title company selected by Developer or any other location to which the parties may agree.

(b) The deed will be in recordable form and will be promptly recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property. At Closing, the Developer must pay: recording costs for the deed and any additional recordable documents referenced in this Agreement other than documents needed to clear title encumbrances, if applicable; state deed tax, title insurance commitment fees and premiums, if any; and title company closing fees, if any. The parties agree and understand that the Development Property is currently exempt from property taxes but will be subject to property taxes upon conveyance to the Developer.

Section 3.4. Title. (a) As soon as practicable after the date of this Agreement, the Developer must obtain, at Developer’s sole expense, a commitment for issuance of an owner’s title insurance policy for the Development Property and a survey of the Development Property. Within ten (10) days after the date of the later of (i) the Developer’s receipt of the commitment and survey, or (ii) the date of this Agreement, the Developer must review the title to the Development Property and provide the City with a list of written objections to title (including survey matters). Upon receipt of the Developer’s list of written objections, the City agrees to attempt in good faith and with all due diligence to cure the objections made by the Developer. If the City fails to cure objections within sixty (60) days after its receipt of the Developer’s list of objections, the Developer may, by giving written notice to the City, (i) terminate this Agreement; or (ii) waive the objections and proceed to Closing. If the Developer terminates this Agreement, the Agreement will be null and void upon the City’s receipt of Developer’s notice, and neither party will have any liability to the other under this Agreement, except that Developer will remain obligated for Administrative Costs incurred through the date of termination, as provided in Section 3.11 of this Agreement. The City has no obligation to take any action to clear defects in the title to the Development Property, other than the good faith efforts described above and the actions described in Section 3.4(b).

(b) The City will take no actions to encumber title to the Development Property between the date of this Agreement and the time the deed is delivered to the Developer. The City expressly agrees that it will not cause or permit the attachment of any mechanics, attorneys, or other liens to the Development Property prior to Closing.
(c) The Developer will take no actions to encumber title to the Development Property between the date of this Agreement and the time the deed is delivered to the Developer. The Developer expressly agrees that it will not cause or permit the attachment of any mechanics, attorneys, or other liens to the Development Property prior to Closing. Notwithstanding termination of this Agreement prior to Closing, Developer is obligated to pay all costs to discharge any encumbrances to the Development Property attributable to actions of Developer, its employees, officers, agents or consultants, including without limitation any architect, contractor, and or engineer.

Section 3.5. Soils, Environmental Conditions. (a) Before Closing on conveyance of the Development Property from the City to the Developer, the Developer may enter the Development Property and conduct any environmental or soils studies deemed necessary by the Developer. If, at least ten (10) days before Closing the Developer determines that hazardous waste or other pollutants as defined under federal and state law exist on the Development Property, or that the soils are otherwise unsuitable for construction of the Minimum Improvements, the Developer may at its option terminate this Agreement by giving written notice to the City, upon receipt of which this Agreement will be null and void and neither party will have any liability hereunder, except the Developer’s obligations under Section 3.11 hereof for Administrative Costs through the date of termination.

(b) The Developer acknowledges that the City makes no representations or warranties as to the condition of the soils on the Development Property, or their fitness for construction of the Minimum Improvements or any other purpose for which the Developer may make use of the property. The Developer further agrees that it will indemnify, defend, and hold harmless the Authority, the City, and their governing body members, officers, and employees, from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants on the Development Property which are placed on the property on or after Closing.

(c) In the event any material contamination requiring remediation is discovered on any part of the Development Property, and the Developer does not elect to terminate this Agreement as provided in this Section 3.5, then the Authority, the City, and the Developer shall cooperate in any submission of the impacted property to the Minnesota Pollution Control Agency Voluntary Investigation and Clean-up Program (VIC) or the Voluntary Petroleum Investigation and Clean-up Program (VPIC) and the obtaining of appropriate assurances for the parties related to liability. Any costs of participating in the VIC or VPIC programs shall be paid by the Developer.

Section 3.6. Relocation of Tenants. Upon the award of Tax Credits, the City will commence relocation of existing tenants of the commercial building presently on the Development Property in accordance with Minnesota Statutes, Sections 117.50 to 117.56 (the “Minnesota Uniform Relocation Act”) and shall be responsible for all costs and expenses of such relocation including the payment of any required relocation benefits.

Section 3.7. Cost of Acquiring Land and Land Write-Down.
(a) The costs to the City of acquiring the Development Property (including the payment of relocation benefits and less funds received from Hennepin County for the purchase of right of way and anticipated revenues from the Development Property) is estimated to be $1,249,889. The parties agree and understand that, in conveying the Development Property to the Developer for $734,000, the City will sell the Development Property for amount which is $515,889 less than what it paid to acquire the Development Property. The land write-down represents an advance of City funds in the amount of $515,889. The Authority will reimburse the City for the land write-down from Tax Increment on the Closing Date.

Section 3.8. Demolition and Environmental Remediation.

(a) Upon closing on the acquisition of the Development Property, the Developer agrees to perform demolition of all existing buildings and undertake all required environmental remediation in order to make the Development Property suitable for the construction of the Minimum Improvements. Neither the City nor the Authority shall have any responsibility for the payment of any costs relating to demolition or environmental remediation on the Development Property.

(b) The City and the Authority shall work cooperatively with the Developer to apply for grants for the costs of demolition of existing buildings and environmental remediation on the Development Property, including but not limited to, a Tax Base Revitalization Account grant from Hennepin County, a Metropolitan Livable Communities Demonstration Account grant from Metropolitan Council, an Environmental Response Fund grant from Hennepin County, and a Contamination Cleanup Grant from the Department of Employment and Economic Development. The City and the Authority shall also work cooperatively with the Developer to apply for other available grants or loans for demolition and environmental remediation. If no grants or other funding are available to finance the demolition and environmental remediation, the parties will work cooperatively to review and modify the project budget in order to pay for such costs, which may require amendments to this Agreement.

Section 3.9. Tax Increment Assistance.

(a) **TIF Loan.** In order to make development of the Minimum Improvements financially feasible, the Authority will make a loan to the Developer in an amount of $1,209,000 (the “TIF Loan”). The amount of the TIF Loan is subject to reduction as described in paragraphs (b) and (c) of this Section, and proceeds of the TIF Loan shall be disbursed in accordance with paragraph (b). The TIF Loan shall not bear interest.

(b) **Disbursement of TIF Loan.** Notwithstanding anything to the contrary herein, if the total costs of developing the Minimum Improvements required to be financed as of the Closing are reduced below the amounts estimated as of the date of this Agreement due to additional financing for the Minimum Improvements from other sources (except for a Tax Base Revitalization Account grant from Hennepin County or other grants received for the demolition of existing buildings or environmental remediation on the Development Property) or a reduction in anticipated total development costs, such reduction shall be applied first to reduce the amount of the TIF Loan, prior to reducing any other funding sources; provided that if the Developer
demonstrates to the Authority’s reasonable satisfaction that such reduction in the TIF Loan will impair the Developer’s eligibility to receive the full amount of tax credits awarded for the Minimum Improvements under the Tax Credit Law, then the TIF Loan reduction amount will be adjusted to a level that prevents such impairment. Subject to the immediately following conditions, the TIF Loan shall be funded in a single disbursal of funds to the Developer on the date of Closing. The Authority’s obligation to fund the TIF Loan is subject to satisfaction of the following conditions as of the Closing:

(i) the Developer having provided evidence satisfactory to the Authority that the Developer has established a separate accounting system for the Minimum Improvements for the purpose of recording the receipt and expenditure of the TIF Loan proceeds;

(ii) the Authority having approved Construction Plans for the Minimum Improvements in accordance with Article IV hereof;

(iii) the Developer having obtained, and the Authority having approved, financing as described in Article VII hereof;

(iv) the Developer having delivered to the Authority the executed Declaration in accordance with Section 4.5 hereof;

(v) the Developer having delivered to the Authority a list of all sources of funding to be used to develop the Minimum Improvements and evidence of the total costs of developing the Minimum Improvements, in a form reasonably satisfactory to the Authority, evidencing any reduction in the amount TIF Loan as described in this paragraph;

(vi) there being no uncured Event of Default under this Agreement; and

(vii) the Developer having provided evidence reasonably satisfactory to the Authority and the City that it has taken reasonable steps to secure grants or loan from other public entities (including but not limited to a loan from Hennepin County HRA’s Affordable Housing Incentive Fund and a grant from Hennepin County’s HOME Investment Partnerships Program) to provide required equity for the Minimum Improvements so long as applying for and receiving such funds will not negatively affect the Minnesota Housing Qualified Allocation Plan scoring to receive Tax Credits for the Minimum Improvements.

(c) Reduction of TIF Loan. Subject to the provisions of Section 3.9(b), if after review of the sources of funds and total costs of developing the Minimum Improvements provided by the Developer pursuant to Section 3.9(b)(vi), but prior to disbursal of the TIF Loan to the Developer, the Authority’s financial advisor reasonably determines that all or a portion of the amount of the TIF Loan is not necessary to cover a gap in the amount of funds needed to construct the Minimum Improvements, the TIF Loan will be reduced to the amount necessary to cover the gap in the amount of funds needed to construct the Minimum Improvements.
(d) **Developer Fee.** The Developer further agrees that the aggregate amount paid to the Developer as a developer fee from proceeds of all sources of funding and from the proceeds of permanent financing entered into upon completion of construction of the Minimum Improvements (but net of any portion of such fee reinvested to pay Minimum Improvements costs) shall not exceed ten percent (10%) of the total cost of development of the Minimum Improvements. Upon completion of the Minimum Improvements (and as a condition to issuance of a Certificate of Completion), the Developer shall provide to the Authority a report from an independent certified public accountant evidencing compliance with this paragraph. Upon request from the Authority from time to time (but no more often than annually), the Developer shall provide to the Authority a report certifying and evidencing compliance with clause (ii) of this paragraph.

(e) **Repayment of TIF Loan.** The Authority and the Developer agree that principal of the TIF Loan will be subject to repayment in full. Prior to March 15 of each year, commencing with first fiscal year following the repayment in full of the developer fee, the Developer shall submit to the Authority, evidence of the Surplus Cash for the Minimum Improvements for the preceding fiscal year. In addition, if requested, the Developer agrees to provide to the Authority any background documentation reasonably related to the financial data, upon written request from the Authority or the Authority’s municipal advisor. Each year, within thirty (30) days of submission by the Developer of its Surplus Cash calculation for the previous fiscal year, the Developer shall repay the principal of the TIF Note in an amount equal to fifty percent (50%) of Surplus Cash after deducting a $30,000 retainage for the Developer. The Developer shall continue to make principal payments on the TIF Loan each year until the TIF Loan is repaid in full. The principal of the TIF Loan must be paid in full on the later of (i) 30 years following the Closing; or (ii) the maturity of any permanent mortgage loan obtained by the Developer to finance the Minimum Improvements.

(f) **Sale of Property.** The Developer shall repay the principal amount of the TIF Loan in full upon a sale of the Development Property or refinancing of any mortgage loan obtained by the Developer to finance the Minimum Improvements. However, in the event that any mortgage loan obtained by the Developer is refinanced, the Authority may, in its sole discretion, review the terms of such refinancing and consent to the refinancing without requiring the payment in full of the outstanding principal amount of the TIF Loan. In addition, the Authority hereby consents to the repayment in full of the Developer’s construction financing for the Minimum Improvements, upon the completion of the Minimum Improvements, and the placement of permanent financing on the Development Property and agrees that such actions by the Developer shall not constitute a sale or refinancing requiring approval of the Authority hereunder. Additionally, a conveyance of the limited partner’s partnership interests in the Developer pursuant to the limited partnership agreement of the Developer (e.g. the tax credit investor exiting the partnership) shall not constitute a sale of the Development Property.

Section 3.10. **Additional Grants and Funding Sources.** The City and the Authority will work cooperatively with the Developer to apply for grants for the costs of constructing the Minimum Improvements on the Development Property, including but not limited to, and a Livable Communities Demonstration Grant from the Metropolitan Council.
Section 3.11. Payment of Administrative Costs. The Authority acknowledges that the Developer has deposited with the City and the Authority $15,000. The City and the Authority will use such deposit to pay “Administrative Costs,” which term means out-of-pocket costs incurred by the Authority together with staff costs of the Authority, all attributable to or incurred in connection with the negotiation and preparation of this Agreement, the TIF Plan, and other documents and agreements in connection with the development of the Development Property. At the Developer’s request, but no more often than monthly, the Authority and the City will provide the Developer with a written report including invoices, time sheets or other comparable evidence of expenditures for Administrative Costs and the outstanding balance of funds deposited. If at any time the Authority and the City determine that the deposit is insufficient to pay Administrative Costs, the Developer is obligated to pay such shortfall within fifteen (15) days after receipt of a written notice from the Authority and the City containing evidence of the unpaid costs. If any balance of funds deposited remains upon the issuance of the Certificate of Completion pursuant to Section 4.4 hereof, the Authority shall promptly return such balance to the Developer; provided that Developer remains obligated to pay subsequent Administrative Costs related to any amendments to this Agreement requested by the Developer. Upon termination of this Agreement in accordance with its terms, the Developer remains obligated under this section for Administrative Costs incurred through the effective date of termination.

Section 3.12. Exemption from Business Subsidy Act. The parties agree and understand that all financial assistance provided by the Authority and the City under this Agreement represents assistance for housing, and accordingly is not subject to the Business Subsidy Act.

Section 3.13. Park Dedication Fees. The Developer must pay all water and sewer hook-up fees, SAC, WAC, and REC fees, and park dedication fees associated with the Minimum Improvements in accordance with applicable City policies and ordinances.

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ARTICLE IV

Construction of Minimum Improvements

Section 4.1. Construction of Minimum Improvements. In consideration for the assistance provided pursuant to Article IV, the Developer will construct or cause construction of the Minimum Improvements on the Development Property in accordance with approved Construction Plans and at all times through the Termination Date will operate, maintain, preserve and keep the respective components of the Minimum Improvements or cause such components to be operated, maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition.

Section 4.2. Construction Plans.

(a) Generally. Before commencing construction of the Minimum Improvements, the Developer shall submit Construction Plans for the Minimum Improvements to the Authority. The City’s chief building official and community development director will review and approve all Construction Plans on behalf of the Authority, and for the purposes of this Section 4.2 the term “Authority” means those named officials. The Construction Plans shall provide for the construction of the Minimum Improvements and shall be in conformity with this Agreement and all applicable State and local laws and regulations. The Authority will approve the Construction Plans in writing or by issuance of a permit if: (i) the Construction Plans conform to all terms and conditions of this Agreement in all material respects; (ii) the Construction Plans conform to the goals and objectives of the TIF Plan; (iii) the Construction Plans conform to all applicable federal, State, and local laws, ordinances, rules and regulations; (iv) the Construction Plans are adequate to provide for construction of the Minimum Improvements; and (v) there is no uncured Event of Default. No approval by the Authority shall relieve the Developer of the obligation to comply with the terms of this Agreement, applicable federal, State, and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements in accordance therewith. No approval by the Authority shall constitute a waiver of an Event of Default, or waiver of any State or City building or other code requirements that may apply. Within thirty (30) days after receipt of complete Construction Plans and permit applications for the Minimum Improvements, the Authority will deliver to the Developer an initial review letter describing any comments or changes requested by Authority staff. Thereafter, the parties shall negotiate in good faith regarding final approval of Construction Plans for that building. The Authority’s approval shall not be unreasonably withheld or delayed. Said approval shall constitute a conclusive determination that the Construction Plans (and the Minimum Improvements constructed in accordance with said plans) comply to the Authority’s satisfaction with the provisions of this Agreement relating thereto. The issuance by the City of permits for the construction of the Minimum Improvements shall be considered evidence of the Authority’s approval of the Construction Plans.

The Developer hereby waives any and all claims and causes of action whatsoever resulting from the review of the Construction Plans by the Authority and/or any changes in the Construction Plans requested by the Authority, except for any failure by Authority to perform its
obligations under this Section. Neither the Authority, the City, nor any employee or official of the Authority or City shall be responsible in any manner whatsoever for any defect in the Construction Plans or in any work done pursuant to the Construction Plans, including changes requested by the Authority.

(b) Construction Plan Changes. If the Developer desires to make any material change in the Construction Plans or any component thereof after their approval by the Authority, the Developer shall submit the proposed change to the Authority for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 with respect to such previously approved Construction Plans, the Authority shall approve the proposed change and notify the Developer in writing of its approval. Such change in the Construction Plans shall, in any event, be deemed approved by the Authority unless rejected, in whole or in part, by written notice by the Authority to the Developer, setting forth in detail the reasons therefor. Such rejection shall be made as soon as reasonably practicable but in any event within thirty (30) days after receipt of the notice of such change. The Authority’s approval of any such change in the Construction Plans will not be unreasonably withheld.

Section 4.3. Completion of Construction.

(a) Subject to Unavoidable Delays, the Minimum Improvements must commence construction on or about December 31, 2019 and complete construction by August 31, 2021. Construction is considered to be commenced upon the beginning of physical improvements beyond grading. If the Developer does not obtain Tax Credits pursuant to an application submitted on or before June 30, 2018, the commencement and completion of construction deadlines set forth in this Section 4.3(a) may be extended by up to one year at the sole discretion of the Authority.

(b) All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Development Property shall be in substantial conformity with the Construction Plans as submitted by the Developer and approved by the Authority. The Developer agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that the Developer, and such successors and assigns, shall promptly begin and diligently prosecute to completion the redevelopment of the Development Property through the construction of the Minimum Improvements thereon, and that, subject to Unavoidable Delays, such construction shall be commenced and completed within the period specified in this Section 4.3. Until construction of the Minimum Improvements has been completed, the Developer shall make reports, in such detail and at such times as may reasonably be requested by the Authority, as to the actual progress of the Developer with respect to such construction.

Section 4.4. Certificate of Completion.

(a) Promptly after substantial completion of the Minimum Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Developer to construct the Minimum Improvements (including the dates for completion thereof), and delivery of the developer fee evidence described in Section 3.9(d) hereof, the Authority will
furnish the Developer with a Certificate of Completion in substantially the form attached as SCHEDULE B. Such certification by the Authority shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in any deed with respect to the obligations of the Developer, and its successors and assigns, to construct the Minimum Improvements and the dates for the completion thereof. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any Holder of a Mortgage, or any insurer of a Mortgage, securing money loaned to finance the Minimum Improvements, or any part thereof.

(b) The Certificate of Completion provided for in this Section 4.4 shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property. If the Authority shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.4, the Authority shall, within thirty (30) days after written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Authority, for the Developer to take or perform in order to obtain such certification.

(c) The construction of the Minimum Improvements will be considered substantially complete when the Developer has received a certificate of occupancy from the City for all Rental Housing Units.

Section 4.5. Affordable Housing Covenants.

(a) The Developer shall cause at least 49 (100%) of the Rental Housing Units in the Minimum Improvements to be rent-restricted and income-restricted in accordance with the Tax Credit Law, all as further described in the Declaration attached as SCHEDULE C. Notwithstanding anything to the contrary in the Tax Credit Law, such restrictions shall remain in effect for later of (i) the 30-year period described in the Declaration; or (ii) the repayment of the TIF Loan. On or before the Closing, the Developer shall deliver the executed Declaration to the Authority in recordable form.

(b) Pursuant to Section 3(a)(iv) of the Declaration, the Developer shall provide the Authority with annual reports regarding tenant eligibility and rents within the Minimum Improvements for any tenants new to the Rental Housing Units in the year for which a report is to be submitted.

(c) The Authority, the City and their representatives shall have the right at all reasonable times while the covenants in this Section are in effect, after reasonable notice to inspect, examine and copy all books and records of the Developer and its successors and assigns relating to the Development Property’s satisfaction of the covenants described in this Section and in the Declaration.

Section 4.6. Records. The Authority, the City, the legislative auditor, and the State auditor’s office, through any authorized representatives, shall have the right after reasonable
notice to inspect, examine and copy all books and records of the Developer relating to the construction of the Minimum Improvements. Developer shall maintain such records and provide such rights of inspection for a period of six years after issuance of the Certificate of Completion for the Minimum Improvements.

Section 4.7. Property Management Covenant. The Developer has or will contract with Steven Scott Management, Inc. to act as the initial property manager for the Minimum Improvements. Nothing herein shall prevent the Developer from utilizing the services of a different property manager during the term of this Agreement so long as the Developer provides the Authority with notice of such change. The Developer shall cause its property manager to operate the Minimum Improvements in accordance with the policies described in this Section. For any documented disorderly violations by a tenant or guest, including but not limited to prostitution, gang-related activity, intimidating or assaultive behavior (not including domestic), unlawful discharge of firearms, illegal activity, or drug complaints (each a “Violation”), the Developer agrees and understands that the following procedures shall apply:

(a) After a first Violation regarding any tenancy in the Minimum Improvements, the City police department will send notice to the Developer and the property manager requiring the Developer and the property manager to take steps necessary to prevent further Violations.

(b) If a second Violation occurs regarding the same tenancy within twelve (12) months after the first Violation, the City police department will notify the Developer and the property manager of the second Violation. Within ten (10) days after receiving such notice, the Developer or the property manager must file a written action plan with the Authority and the City police department describing steps to prevent further Violations.

(c) If a third Violation occurs regarding the same tenancy within twelve (12) continuous months after the first Violation, the City police department will notify the Developer and the property manager of the third Violation. Within ten (10) days after receiving such notice, the Developer or the property manager shall commence termination of the tenancy of all occupants of that unit. The Developer shall not enter into a new lease agreement with the evicted tenant(s) for at least one year after the effective date of the eviction.

(d) If the Developer or the property manager fails to comply with any the requirements in this Section, then the Authority may provide at least ten (10) days’ written notice to the Developer and the property manager directing attendance at a meeting to determine the cause of the continuing Violations in the Minimum Improvements and provide an opportunity for the Developer and the property manager to explain their failure to comply with the procedures in this Section.

(e) If the Developer and property manager fail to respond to the written notice under paragraph (d), or at least two additional Violations occur within the next 12-month period after the date of the notice under paragraph (d), then the Authority may direct the Developer to terminate the management agreement with the existing property manager and to replace that entity with a replacement property manager selected by the Developer but approved by the Authority. The parties agree and understand that appointment of any replacement manager may
also be subject to consent by the City, the Tax Credit Investor, and the Holder of a one or more of the Other Loans on the Development Property.

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ARTICLE V

Insurance

Section 5.1. Insurance.

(a) The Developer or the general contractor engaged by the Developer will provide and maintain at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the Authority, furnish the Authority with proof of payment of premiums on policies covering the following:

(i) Builder’s risk insurance, written on the so-called “Builder’s Risk – Completed Value Basis,” in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called “all risk” form of policy. The interest of the Authority shall be protected in accordance with a clause in form and content satisfactory to the Authority;

(ii) Commercial general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with a Developer’s Contractor’s Policy with limits against bodily injury and property damage of not less than $2,000,000 for each occurrence, and shall be endorsed to show the City and Authority as additional insureds (to accomplish the above-required limits, an umbrella excess liability policy may be used); and

(iii) Workers’ compensation insurance, with statutory coverage.

(b) Upon completion of construction of the Minimum Improvements and prior to the Termination Date, the Developer shall maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the Authority shall furnish proof of the payment of premiums on, insurance as follows:

(i) Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses.

(ii) Commercial general public liability insurance, including personal injury liability, against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of $2,000,000 and shall be endorsed to show the City and Authority as additional insureds.

(iii) Such other insurance, including workers’ compensation insurance respecting all employees of the Developer, if any, in such amount as is customarily
carried by like organizations engaged in like activities of comparable size and liability exposure.

(c) All insurance required in this Article V shall be taken out and maintained in responsible insurance companies selected by the Developer that are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Developer will deposit annually with the Authority a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V each policy shall contain a provision that the insurer shall not cancel nor modify it in such a way as to reduce the coverage provided below the amounts required herein without giving written notice to the Developer and the Authority at least thirty (30) days before the cancellation or modification becomes effective. In lieu of separate policies, the Developer may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Developer shall deposit with the Authority a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) The Developer agrees to notify the Authority immediately in the case of damage exceeding $100,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. In such event the Developer will forthwith repair, reconstruct, and restore the Minimum Improvements to substantially the same or an improved condition as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction, and restoration, the Developer will apply the net proceeds of any insurance relating to such damage received by the Developer to the payment or reimbursement of the costs thereof.

(e) The Developer shall complete the repair, reconstruction and restoration of the Minimum Improvements, regardless of whether the net proceeds of insurance received by the Developer for such purposes are sufficient to pay for the same. Any net proceeds remaining after completion of such repairs, construction, and restoration shall be the property of the Developer.

Section 5.2. Subordination. Notwithstanding anything to the contrary herein, the rights of the Authority with respect to the receipt and application of any insurance proceeds shall, in all respects, be subordinate and subject to the rights of any Holder under a Mortgage allowed pursuant to Article VII hereof.

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ARTICLE VI

Tax Increment; Taxes

Section 6.1. Right to Collect Delinquent Taxes. The Developer acknowledges that the Authority and the City are providing substantial aid and assistance in furtherance of the redevelopment described in this Agreement. The Developer understands that, while the Development Property itself is not located within the TIF District or any other tax increment financing district, one purpose of the assistance under this Agreement is to increase the property tax base of the City. To that end, the Developer agrees for itself, its successors and assigns, in addition to the obligation pursuant to statute to pay real estate taxes, that it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Development Property and the Minimum Improvements. The Developer acknowledges that this obligation creates a contractual right on behalf of the Authority and the City through the Termination Date to sue the Developer or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit, the Authority and the City shall also be entitled to recover their costs, expenses and reasonable attorneys’ fees. Notwithstanding the foregoing, nothing in this Agreement in any way limits or prevents the Developer from contesting the assessor’s proposed market values for the Development Property or the Minimum Improvements.

Section 6.2. Review of Taxes. The Developer agrees that prior to the Termination Date, it will not cause a reduction in the real property taxes paid in respect of the Development Property through: (A) willful destruction of the Development Property or any part thereof; or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 5.1 hereof. The Developer also agrees that it will not, prior to the Termination Date, apply for a deferral of property tax on the Development Property pursuant to any law, or transfer or permit transfer of the Development Property to any entity whose ownership or operation of the property would result in the Development Property being exempt from real estate taxes under State law (other than any portion thereof dedicated or conveyed to the City or Authority in accordance with this Agreement). The Developer may, at any time following the issuance of the Certificate of Completion, seek through petition or other means to have the estimated market value for the Development Property reduced. The Authority, the City, and the Developer acknowledge and understand that the Developer intends to seek the “class 4d” property classification rate for affordable rental properties under Minnesota Statutes, Section 273.13 for the Development Property at all times during the term of this Agreement.

Section 6.3. Use of Tax Increment. The parties agree and understand that the Authority expects to finance the TIF Loan under Section 3.7 hereof. However, the Authority may use any funds available to the Authority to fund the TIF Loan. The Developer has no title or interest in Tax Increments, except to the extent the Authority elects to use Tax Increment to fund the TIF Loan.
ARTICLE VII

Financing

Section 7.1. Financing.

(a) Before the Closing, the Developer shall submit to the Authority and the City evidence of receipt of a reservation of or preliminary determination letter evidencing eligibility for low income tax credits under the Tax Credit Law from the Minnesota Housing Finance Agency and one or more commitments for other financing (including without limitation the Other Loans) which, together with committed equity for such construction, is sufficient for acquisition of the Development Property and construction of the Minimum Improvements. Such commitments may be submitted as short-term financing, long-term mortgage financing, a bridge loan with a long-term take-out financing commitment, or any combination of the foregoing.

(b) If the Authority and the City find that the financing is sufficiently committed and adequate in amount to pay the costs specified in paragraph (a) then the Authority and the City shall notify the Developer in writing of their approval. Such approval shall not be unreasonably withheld and either approval or rejection shall be given within twenty (20) days from the date when the Authority is provided the evidence of financing. A failure by the Authority and the City to respond to such evidence of financing shall be deemed to constitute an approval hereunder. If the Authority or the City rejects the evidence of financing as inadequate, it shall do so in writing specifying the basis for the rejection. In any event the Developer shall submit adequate evidence of financing within ten (10) days after such rejection.

Section 7.2. Option of Authority and City to Cure Default on Mortgage. In the event that any portion of the Developer’s funds is provided through mortgage financing, and there occurs a default under any Mortgage authorized pursuant to this Article VII, the Developer shall make commercially reasonable efforts to cause the Authority and the City to receive copies of any notice of default received by the Developer from the Holder of such Mortgage. Thereafter, the Authority and the City shall have the right, but not the obligation, to cure any such default on behalf of the Developer within such cure periods as are available to the Developer under the Mortgage documents.

Section 7.3. Modification; Subordination. In order to facilitate the Developer obtaining financing for the development of the Minimum Improvements, the Authority and the City agree to subordinate their rights under this Agreement to the Holder of any Mortgage securing construction or permanent financing (including but not limited to the reversionary rights described in Section 9.3 hereof), under terms and conditions reasonably acceptable to the Authority and the City. Any agreement to subordinate this Agreement must be approved by the Board of Commissioners of the Authority and the City Council of the City.

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ARTICLE VIII

Prohibitions Against Assignment and Transfer; Indemnification

Section 8.1. Representation as to Redevelopment. The Developer represents and agrees that its purchase of the Development Property and its other undertakings pursuant to the Agreement are, and will be used, for the purpose of redevelopment of the Development Property by the Developer and not for speculation in land holding.

Section 8.2. Prohibition Against Transfer of Property and Assignment of Agreement. The Developer represents and agrees that until the Termination Date:

(a) Except as specifically described in this Agreement, the Developer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, to any person or entity (collectively, a “Transfer”), without the prior written approval of the Authority’s Board of Commissioners and the City Council of the City. The term “Transfer” does not include (i) encumbrances made or granted by way of security for, and only for, the purpose of obtaining construction, interim or permanent financing necessary to enable the Developer or any successor in interest to the Development Property or to construct the Minimum Improvements or component thereof; (ii) any lease, license, easement or similar arrangement entered into in the ordinary course of business related to operation of the Minimum Improvements; or (iii) a transfer of any ownership interests in the Developer in accordance with the terms of the Developer’s partnership agreement. The Developer may effect a Transfer of the Development Property to the Developer or its Affiliate without approval by the Authority and the City provided that the Developer submit to the Authority and the City an assignment and assumption executed by the Affiliate in accordance with Section 8.2(b)(2) hereof.

(b) If the Developer seeks to effect a Transfer requiring approval by the Authority and the City, the Authority and the City shall be entitled to require as conditions to such Transfer that:

(1) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the Authority and the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer as to the portion of the Development Property to be transferred; and

(2) Any proposed transferee, by instrument in writing satisfactory to the Authority and the City and in form recordable in the public land records of the County, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority and the City, have expressly assumed all of the obligations of the Developer under this Agreement as to the portion of the Development Property to be transferred and agreed to be subject to all the conditions and restrictions to which the Developer is
subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority and the City) deprive the Authority or the City of any rights or remedies or controls with respect to the Development Property, the Minimum Improvements or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally, or practically, to deprive or limit the Authority or the City of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Development Property that the Authority and the City would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority and the City to the contrary, no such transfer or approval by the Authority and the City thereof shall be deemed to relieve the Developer, or any other party bound in any way by this Agreement or otherwise with respect to the Development Property, from any of its obligations with respect thereto; and

(3) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII shall be in a form reasonably satisfactory to the Authority and the City.

(c) If the conditions described in paragraph (b) are satisfied, then the Transfer will be approved and the Developer shall be released from their obligations under this Agreement, as to the portion of the Development Property that is transferred, assigned, or otherwise conveyed, unless the parties mutually agree otherwise. Notwithstanding anything to the contrary herein, any Transfer that releases the Developer from its obligations under this Agreement (or any portion thereof) shall be approved by the Authority’s Board of Commissioners and the City Council of the City, which approval shall not be unreasonably withheld, conditioned, or delayed. If the Developer remains fully bound under this Agreement notwithstanding the Transfer, as documented in the transfer instrument, the Transfer may be approved by the Authority Representative and the City Representative. The provisions of this paragraph (c) apply to all subsequent transferors.

(d) Except as otherwise provided herein, upon the sale of the Minimum Improvements, the principal amount of the TIF Loan shall be due and payable in full in accordance with Section 3.9(f) hereof.

Section 8.3. Release and Indemnification Covenants.

(a) The Developer releases from and covenants and agrees that the Authority and the City and the governing body members, officers, agents, servants and employees thereof shall not be liable for and agrees to indemnify and hold harmless the Authority and the City and the
governing body members, officers, agents, servants and employees thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements.

(b) Except for willful or negligent misrepresentation, misconduct or negligence of the Indemnified Parties (as hereafter defined), and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Developer agrees to protect and defend the Authority and the City and the governing body members, officers, agents, servants and employees thereof (the “Indemnified Parties”), now or forever, and further agrees to hold the Indemnified Parties harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Minimum Improvements.

(c) Except for any negligence of the Indemnified Parties (as defined in clause (b) above), and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer, or its respective officers, agents, servants or employees or any other person who may be about the Minimum Improvements due to any act of negligence of any person.

(d) All covenants, stipulations, promises, agreements and obligations of the Authority and the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and the City and not of any governing body member, officer, agent, servant or employee of the Authority or the City in the individual capacity thereof.

(The remainder of this page is intentionally left blank.)
ARTICLE IX

Events of Default

Section 9.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events, after the non-defaulting party provides thirty (30) days’ written notice to the defaulting party of the event, but only if the event has not been cured within said thirty (30) days or, if the event is by its nature incurable within thirty (30) days, the defaulting party does not, within such 30-day period, provide assurances reasonably satisfactory to the party providing notice of default that the event will be cured and will be cured as soon as reasonably possible:

(a) Subject to Unavoidable Delays, failure by the Developer on the one hand or the Authority or the City on the other to observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement; or

(b) the Developer having:

(i) filed any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law and failing to discharge the same within ninety (90) days;

(ii) made an assignment for benefit of its creditors;

(iii) admitted in writing its inability to pay its debts generally as they become due; or

(iv) been adjudicated as bankrupt or insolvent.

Section 9.2. Remedies on Default.

(a) Whenever any Event of Default referred to in Section 9.1 hereof occurs, the non-defaulting party may exercise its rights under this Section 9.2 after providing thirty (30) days’ written notice to the defaulting party of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days or, if the Event of Default is by its nature incurable within thirty (30) days, the defaulting party does not provide assurances reasonably satisfactory to the non-defaulting party that the Event of Default will be cured and will be cured as soon as reasonably possible. The Authority and the City agree that they will provide notice and an opportunity to cure any Event of Default to the Tax Credit Investor and they will accept such cure as though it was made by the Developer.

(b) Upon an Event of Default by the Developer, the Authority or the City may (i) demand repayment of the outstanding principal and accrued interest on the TIF Loan, and
(ii) take whatever action, including legal, equitable, or administrative action, which may appear
necessary or desirable to collect any payments due under this Agreement, or to enforce
performance and observance of any obligation, agreement, or covenant under this Agreement.

(c) Upon an Event of Default by the City or the Authority, the Developer may take
whatever action, including legal, equitable, or administrative action, which may appear necessary
or desirable to enforce performance and observance of any obligation, agreement, or covenant
under this Agreement.

Section 9.3. Revesting Title in Development Property in City Upon Happening of Event
Subsequent to Conveyance to Developer. In the event that subsequent to conveyance of the
Development Property to the Developer and prior to receipt by the Developer of the Certificate of
Completion for the Minimum Improvements required to be constructed on the Development
Property:

(a) the Developer, subject to Unavoidable Delays, fails to begin construction of the
Minimum Improvements in conformity with this Agreement and the failure to begin construction is
not cured within ninety (90) days after written notice from the City to the Developer to do so; or

(b) subject to Unavoidable Delays, the Developer after commencement of the
construction of the Minimum Improvements, fails to carry out its obligations with respect to the
construction of the improvements (including the nature and the date for the completion thereof), or
abandons or substantially suspends construction work, and any failure, abandonment, or suspension
is not cured, ended, or remedied within ninety (90) days after written demand from the City to the
Developer to do so; or

(c) the Developer fails to pay real estate taxes or assessments on the Development
Property when due, or creates, suffers, assumes, or agrees to any encumbrance or lien on the parcel
(except to the extent permitted by this Agreement), or has allowed any levy or attachment to be
made, or any materialmen’s or mechanics’ lien, or any other unauthorized encumbrance or lien to
attach, and the taxes or assessments have not been paid, or the encumbrance or lien removed or
discharged or provision satisfactory to the City made for their payment, removal, or discharge,
within thirty (30) days after written demand from the City to do so; provided, that if the Developer
first notifies the City of its intention to do so, it may in good faith contest any mechanics’ or other
lien filed or established and in the event the City will permit the mechanics’ or other lien to remain
undischarged and unsatisfied during the period of contest and any appeal and during the course of
the contest the Developer will keep the City informed respecting the status of its defense; or

(d) there is, in violation of the Agreement, any transfer of the parcel or any part thereof,
or any change in control of the Developer or a change in the general partner of the Developer, and
the violation is not cured within sixty (60) days after written demand by the City to the Developer,
or if the event is by its nature incurable within thirty (30) days, the Developer does not, within the
30-day period, provide assurances reasonably satisfactory to the City that the event will be cured as
soon as reasonably possible; or
(e) the Developer fails to comply with any of its other covenants under this Agreement related to the Minimum Improvements and fails to cure any noncompliance or breach within thirty (30) days after written demand from the City to the Developer to do so, or if the event is by its nature incurable within thirty (30) days, the Developer does not, within the 30-day period, provide assurances reasonably satisfactory to the City that the event will be cured as soon as reasonably possible; or

(f) the Holder of any Mortgage secured by the Development Property exercises any remedy provided by the Mortgage documents or exercises any remedy provided by law or equity in the event of a default in any of the terms or conditions of the Mortgage (subject to the terms of any subordination agreement executed by the City and Authority);

then the City will have the right to re-enter and take possession of the Development Property and to terminate (and revest in the City) the estate conveyed by the deed to the Developer, it being the intent of this provision, together with other provisions of the Agreement, that the conveyance of the Development Property to the Developer will be made upon, and that the deed will contain a condition subsequent to the effect that in the event of any default on the part of the Developer and failure on the part of the Developer to remedy, end, or abrogate the default within the period and in the manner stated in the subdivisions, the City at its option may declare a termination in favor of the City of the title, and of all the rights and interests in and to the Development Property conveyed to the Developer, and that the title and all rights and interests of the Developer, and any assigns or successors in interest to and in the parcel, will revert to the City, but only if the events stated in Section 9.3(a)-(f) have not been cured within the time periods provided above.

Section 9.4. Resale of Reacquired Property; Disposition of Proceeds. Upon the revesting in the City of title to and/or possession of the Development Property or any part thereof as provided in Section 9.3, the City will, pursuant to its responsibilities under law, use reasonable efforts to sell the Development Property or part thereof as soon and in the manner as the City will find feasible and consistent with the objectives of the law, the TIF Act and of the Project to a qualified and responsible party or parties (as determined by the City) who will assume the obligation of making or completing the Minimum Improvements or the other improvements in their stead as will be satisfactory to the City in accordance with the uses specified for the parcel or part thereof in the Project and in accordance with the TIF Act. During any time while the City has title to and/or possession of a parcel obtained by reverter, the City will not disturb the rights of any tenants under any leases encumbering the parcel. Upon resale of the Development Property, the proceeds thereof will be applied:

(a) First, to reimburse the City for all costs and expenses incurred by it, including but not limited to salaries of personnel, in connection with the recapture, management, and resale of the parcel (but less any income derived by the City from the property or part thereof in connection with the management); all taxes, assessments, and water and sewer charges with respect to the parcel or part thereof (or, in the event the parcel is exempt from taxation or assessment or the charge during the period of ownership thereof by the City, an amount, if paid, equal to the taxes, assessments, or charges (as determined by the Hennepin County Assessor) as would have been payable if the parcel were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the parcel or part thereof at the time of revesting of title thereto in the City or to
discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the subject improvements or any part thereof on the parcel or part thereof; and any amounts otherwise owing the City by the Developer and its successor or transferee; and

(b) Second, to reimburse the Developer, its successor or transferee, the amount actually invested by it in making any improvements on the Development Property or part thereof, less any gains or income withdrawn or made by it from this Agreement or the Development Property. Any balance remaining after the reimbursements will be retained by the City as its property.

Section 9.5. **No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Authority, the City or the Developer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the City to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article IX.

Section 9.6. **No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.7. **Attorney’s Fees.** Whenever any Event of Default occurs and if the City or the Authority employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, and the City or the Authority prevails in the action, the Developer agrees that it will, within ten (10) days of written demand by the City or the Authority, pay to the City or the Authority the reasonable fees of the attorneys and the other expenses so incurred by the City and the Authority.

(The remainder of this page is intentionally left blank.)
ARTICLE X

Additional Provisions

Section 10.1.  Conflict of Interests; Authority Representatives Not Individually Liable. The Authority, the City, and the Developer, to the best of their respective knowledge, represent and agree that no member, official, or employee of the Authority or the City shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the Authority or the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Authority or City or for any amount which may become due to the Developer or its successors or on any obligations under the terms of the Agreement.

Section 10.2.  Equal Employment Opportunity. The Developer, for their respective successors and assigns, agrees that during the construction of the Minimum Improvements provided for in the Agreement it will comply with all applicable federal, State and local equal employment and non-discrimination laws and regulations.

Section 10.3.  Restrictions on Use. The Developer agrees that until the Termination Date, the Developer, and such successors and assigns, shall devote the Development Property to the operation of the Minimum Improvements for uses described in the definition of such term in this Agreement and shall not discriminate upon the basis of race, color, creed, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Development Property or any improvements erected or to be erected thereon or any part thereof.

Section 10.4.  Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Development Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.5.  Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.6.  Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, overnight mail, or delivered personally; and

(a) in the case of the Developer, is addressed to or delivered personally to the Developer at:
Shady Oak Crossing Limited Partnership
7500 West 78th Street
Edina, Minnesota 55439
Attention: Mike Waldo

with copies to:

Winthrop & Weinstine, P.A.
3500 Capella Tower
225 South Sixth Street
Minneapolis, Minnesota 55402
Attention: Erin E. Mathern

(b) in the case of the Authority, is addressed to or delivered personally at:

Economic Development Authority in and for the City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55345-1502
Attention: Executive Director

(c) in the case of the City, is addressed to or delivered personally at:

City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55345-1502
Attn: Community Development Director

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 10.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.8. Recording. The Authority and the City may record this Agreement and any amendments thereto with the County recorder or registrar of titles, as the case may be. The Developer shall pay all costs for recording.

Section 10.9. Amendment. This Agreement may be amended only by written agreement approved by the Authority, the City and the Developer.

Section 10.10. Authority and City Approvals. Unless otherwise specified, any approval required by the Authority under this Agreement may be given by the Authority Representative and any approval required by the City under this Agreement may be given by the City Representative.
Section 10.11. **Termination.** This Agreement terminates on the Termination Date, except that termination of the Agreement does not terminate, limit or affect the rights of any party that arise before the Termination Date. In addition, the Developer may elect to terminate this Agreement for any reason prior to the Closing by providing written notice of such termination to the City and the Authority. In the event of such termination by the Developer, the Developer shall promptly pay any amounts then due and payable under Section 3.11 hereof.

(The remainder of this page is intentionally left blank.)
IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed in its name and behalf on or as of the date and year first written above.

ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA

By __________________________________________

Its President

By __________________________________________

Its Executive Director

STATE OF MINNESOTA  )
COUNTY OF HENNEPIN  ) SS.

The foregoing instrument was acknowledged before me this _____________, 2017, by Terry Schneider, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

__________________________________________
Notary Public

STATE OF MINNESOTA  )
COUNTY OF HENNEPIN  ) SS.

The foregoing instrument was acknowledged before me this _____________, 2017, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

__________________________________________
Notary Public
CITY OF MINNETONKA, MINNESOTA

By ____________________________
   Its Mayor

(SEAL)

By ____________________________
   Its City Manager

STATE OF MINNESOTA   )
COUNTY OF HENNEPIN    ) SS.

The foregoing instrument was acknowledged before me this _____________, 2017, by Terry Schneider, the Mayor or the City of Minnetonka, Minnesota, on behalf of the City.

____________________________________
Notary Public

STATE OF MINNESOTA   )
COUNTY OF HENNEPIN    ) SS.

The foregoing instrument was acknowledged before me this _____________, 2017, by Geralyn Barone, the City Manager of the City of Minnetonka, Minnesota, on behalf of the City.
SHADY OAK CROSSING LIMITED PARTNERSHIP

By: ____________________ LLC
Its: General Partner

By ________________________________
Its ________________________________

STATE OF MINNESOTA  )
COUNTY OF HENNEPIN  ) SS.

The foregoing instrument was acknowledged before me this ______________, 2017, by __________________, the __________________ of __________________ LLC, a Minnesota limited liability company, the general partner of __________________ Limited Partnership, a Minnesota limited partnership, on behalf of the Developer.

____________________________________
Notary Public
SCHEDULE A

DESCRIPTION OF DEVELOPMENT PROPERTY

Those portions of the following described properties, to be platted as Lot 1, Block 1, SHADY OAK CROSSINGS:

Par 1:
All that portion of the tract or parcel of land described at paragraph “A” below, which lies Northerly of a line drawn parallel to and 200 feet Southerly of the North line thereof and the same extended, to-wit:

Paragraph “A”. That portion of the West Half of the Southeast Quarter of Section 23, Township 117, Range 22, described as follows: Starting at the Northeast corner of the Southwest Quarter of the Southeast Quarter of said Section; thence South along the East line of the West Half of the Southeast Quarter of said Section, a distance of 300 feet; thence Westerly at right angles to said East line for a distance of 284 feet; thence Northerly along a line parallel to said East line a distance of 600 feet; thence Easterly along a line at right angles to said East line 209 feet to the center line of McGinty Road; thence Southeasterly along the center line of McGinty Road to the East line of the West Half of the Southeast Quarter of said Section 23; thence Southerly along said East line 33.5 feet to the point of beginning.

Par 2:
Lot 20, Block 2, Ginkels Oakridge Addition

AND

Lot 19, Block 2, Ginkels Oakridge Addition
SCHEDULE B

CERTIFICATE OF COMPLETION

The undersigned hereby certifies that Shady Oak Crossing Limited Partnership, a Minnesota limited partnership (the “Developer”), has fully complied with their obligations under Articles III and IV of that document titled “Contract for Private Development” dated ________________, 201_ (the “Contract”), by and between the Economic Development Authority in and for the City of Minnetonka, Minnesota, the City of Minnetonka, Minnesota, and the Developer, with respect to construction of the Minimum Improvements in accordance with the Construction Plans, and that the Developer is released and forever discharged from its obligations to construct the Minimum Improvements under Articles III and IV of the Contract, but all other covenants under the Contract remain in full force and effect.

Dated: ________________, 20__.

ECONOMIC DEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF MINNETONKA,
MINNESOTA

By ________________________________
Executive Director

STATE OF MINNESOTA    )
) SS.
COUNTY OF HENNEPIN     )

The foregoing instrument was acknowledged before me this ________________, 20__, by ________________________________, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

________________________________________
Notary Public
SCHEDULE C

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (this “Declaration”) dated as of ______________, 20__, by SHADY OAK CROSSING LIMITED PARTNERSHIP, a Minnesota limited partnership (the “Developer”), is given to the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA (the “Authority”).

RECITALS

WHEREAS, the Authority entered into that certain Contract for Private Development, dated __________, 20__, filed __________, 20__ in the Office of the [Recorder] [Registrar of Titles] for Hennepin County as Document No. _________ (the “Contract”), between the Authority, the City of Minnetonka, Minnesota (the “City”), and the Developer; and

WHEREAS, pursuant to the Contract, the Developer is obligated to cause construction of 49 housing units of rental housing on the property described in Exhibit A hereto (the “Property”), and to cause compliance with certain affordability covenants described in Section 4.5 of the Contract; and

WHEREAS, Section 4.5 of the Contract requires that the Developer cause to be executed an instrument in recordable form substantially reflecting the covenants set forth in Section 4.5 of the Contract; and

WHEREAS, the Developer intends, declares, and covenants that the restrictive covenants set forth herein shall be and are covenants running with the Property for the term described herein and binding upon all subsequent owners of the Property for such term, and are not merely personal covenants of the Developer; and

WHEREAS, capitalized terms in this Declaration have the meaning provided in the Contract unless otherwise defined herein.

NOW, THEREFORE, in consideration of the promises and covenants hereinafter set forth, and of other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer agrees as follows:

1. Term of Restrictions.

   (a) Occupancy and Rental Restrictions. The term of the Occupancy Restrictions set forth in Section 3 hereof and the Rental Restriction set forth in Section 4 hereof shall commence at the end of the first taxable year of the credit period for the Property under the Tax Credit Law for all rental units on the Property. The period from commencement to termination is the “Qualified Project Period.”
(b) **Termination of Declaration.** This Declaration shall terminate upon the date that is 30 years after the commencement of the Qualified Project Period.

(c) **Removal from Real Estate Records.** Upon termination of this Declaration, the Authority shall, upon request by the Developer or its assigns, file any document appropriate to remove this Declaration from the real estate records of Hennepin County, Minnesota.

2. **Project Restrictions.**

(a) The Developer represents, warrants, and covenants that:

(i) All leases of units to Qualifying Tenants (as defined in Section 3(a)(i) hereof) shall contain clauses, among others, wherein each individual lessee:

1. Certifies the accuracy of the statements made in its application and Eligibility Certification (as defined in Section 3(a)(ii) hereof); and

2. Agrees that the family income at the time the lease is executed shall be deemed substantial and material obligation of the lessee’s tenancy, that the lessee will comply promptly with all requests for income and other information relevant to determining low or moderate income status from the Developer or the Authority, and that the lessee’s failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the lessee’s tenancy.

(ii) The Developer shall permit any duly authorized representative of the Authority to inspect the books and records of the Developer pertaining to the income of Qualifying Tenants residing in the Project.

3. **Occupancy Restrictions.**

(a) **Tenant Income Provisions.** The Developer represents, warrants, and covenants that:

(i) **Qualifying Tenants.** From the commencement of the Qualified Project Period, at least 49 Rental Housing Units shall be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants. Qualifying Tenants shall mean those persons and families who shall be determined from time to time by the Developer to have combined adjusted income that does not exceed sixty percent (60%) of the Minneapolis-St. Paul metropolitan statistical area (the “Metro Area”) median income for the applicable calendar year. For purposes of this definition, the occupants of a residential unit shall not be deemed to be Qualifying Tenants if all the occupants of such residential unit at any time are “students,” as defined in Section 151(c)(4) of the Internal Revenue Code of 1986, as amended (the “Code”), not entitled to an exemption under the Code. The determination of whether an individual or
family is of low or moderate income shall be made at the time the tenancy commences and on an ongoing basis thereafter, determined at least annually.

(ii) **Certification of Tenant Eligibility.** As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant shall be required, during such tenant’s first year of occupancy, to sign and deliver to the Developer a Certification of Tenant Eligibility substantially in the form attached as Exhibit B hereto, or in such other form as may be approved by the Authority (the “Eligibility Certification”), in which the prospective Qualifying Tenant certifies as to qualifying as low or moderate income. In addition, such person shall be required to provide whatever other information, documents, or certifications are deemed reasonably necessary by the Authority to substantiate the Eligibility Certification. Eligibility Certifications will be maintained on file by the Developer with respect to each Qualifying Tenant who resides in a Project unit or resided therein during the immediately preceding calendar year.

(iii) **Lease.** The form of lease to be utilized by the Developer in renting any units in the Project to any person who is intended to be a Qualifying Tenant shall provide for termination of the lease and consent by such person to immediate eviction for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Eligibility Certification.

(iv) **Annual Report.** The Developer covenants and agrees that during the term of this Declaration, it will prepare and submit to the Authority on or before March 15 of each year, a certificate substantially in the form of Exhibit C hereto, executed by the Developer, (a) identifying the tenancies and the dates of occupancy (or vacancy) for all Qualifying Tenants in the Project, including the percentage of the dwelling units of the Project which were occupied by Qualifying Tenants (or held vacant and available for occupancy by Qualifying Tenants) at all times during the year preceding the date of such certificate; (b) describing all transfers or other changes in ownership of the Project or any interest therein; and (c) stating, that to the best knowledge of the person executing such certificate after due inquiry, all such units were rented or available for rental on a continuous basis during such year to members of the general public and that the Developer was not otherwise in default under this Declaration during such year.

(v) **Notice of Non-Compliance.** The Developer will immediately notify the Authority if at any time during the term of this Declaration the dwelling units in the Project are not occupied or available for occupancy as required by the terms of this Declaration.

4. **Rental Restrictions.** Commencing at the end of the first taxable year of credit period for the Property under the Tax Credit Law and continuing for ten (10) years thereafter, the Developer represents, warrants and covenants that the maximum gross rent for all units occupied by Qualifying Tenants shall not exceed thirty percent (30%) of the fifty percent (50%) income limitation. Following the ten (10) year anniversary of the commencement of the Rental Restrictions and continuing until the Termination Date, the Developer represents, warrants and covenants that the maximum gross rent for all units occupied by Qualifying Tenants shall not
exceed thirty percent (30%) of the sixty percent (60%) income limitation, all in accordance with the Tax Credit Law.

5. Transfer Restrictions. The Developer covenants and agrees that the Developer will cause or require as a condition precedent to any Transfer (as defined in the Contract) that the transferee of the Project pursuant to the Transfer assume in writing, in a form acceptable to the Authority, all duties and obligations of the Developer under this Declaration, including this Section 5, in the event of a subsequent Transfer by the transferee prior to expiration of the Rental Restrictions and Occupancy Restrictions provided herein (the “Assumption Agreement”). The Developer shall deliver the Assumption Agreement to the Authority prior to the Transfer.

6. [Intentionally omitted.]

7. Enforcement.

(a) The Developer shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of the Authority to inspect any books and records of the Developer regarding the Project with respect to the incomes of Qualifying Tenants.

(b) The Developer shall submit any other information, documents or certifications requested by the Authority which the Authority deems reasonably necessary to substantial continuing compliance with the provisions specified in this Declaration.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided in this Declaration is to ensure compliance of the property with the housing affordability covenants set forth in Section 4.5 of the Contract, and by reason thereof, the Developer, in consideration for assistance provided by the Authority under the Contract that makes possible the construction of the Minimum Improvements (as defined in the Contract) on the Property, hereby agrees and consents that the Authority shall be entitled, upon any breach of the provisions of this Declaration and the Developer’s failure to cure such breach within the cure periods described in Section 9.1 of the Contract, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Developer of its obligations under this Declaration in a state court of competent jurisdiction. The Developer hereby further specifically acknowledges that the Authority cannot be adequately compensated by monetary damages in the event of any default hereunder.

(d) The Developer understands and acknowledges that, in addition to any remedy set forth herein for failure to comply with the restrictions set forth in this Declaration, the Authority may exercise any remedy available to it under Article IX of the Contract.

8. Indemnification. The Developer hereby indemnifies, and agrees to defend and hold harmless, the Authority from and against all liabilities, losses, damages, costs, expenses (including attorneys’ fees and expenses), causes of action, suits, allegations, claims, demands, and judgments of any nature arising from the consequences of a legal or administrative proceeding or action brought against them, or any of them, on account of any failure by the
Developer to comply with the terms of this Declaration, or on account of any representation or warranty of the Developer contained herein being untrue.

9. **Agent of the Authority.** The Authority shall have the right to appoint an agent to carry out any of its duties and obligations hereunder, and shall inform the Developer of any such agency appointment by written notice.

10. **Severability.** The invalidity of any clause, part or provision of this Declaration shall not affect the validity of the remaining portions thereof.

11. **Notices.** All notices to be given pursuant to this Declaration shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing. The Developer and the Authority may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent. The initial addresses for notices and other communications are as follows:

   To the Authority: Economic Development Authority in and for the City of Minnetonka
   14600 Minnetonka Blvd.
   Minnetonka, Minnesota 55345
   Attention: Community Development Director

   To the Developer: Shady Oak Crossing Limited Partnership
   7500 West 78th Street
   Edina, Minnesota 55439
   Attention: Mike Waldo

   with copies to:

   Winthrop & Weinstine, P.A.
   3500 Capella Tower
   225 South Sixth Street
   Minneapolis, Minnesota 55402
   Attention: Erin E. Mathern

12. **Governing Law.** This Declaration shall be governed by the laws of the State of Minnesota and, where applicable, the laws of the United States of America.

13. **Attorneys’ Fees.** In case any action at law or in equity, including an action for declaratory relief, is brought against the Developer to enforce the provisions of this Declaration, the Developer agrees to pay the reasonable attorneys’ fees and other reasonable expenses paid or incurred by the Authority in connection with such action.
14. **Declaration Binding.** This Declaration and the covenants contained herein shall run with the real property comprising the Project and shall bind the Developer and its successors and assigns and all subsequent owners of the Project or any interest therein, and the benefits shall inure to the Authority and its successors and assigns for the term of this Declaration as provided in Section 1(b) hereof.

15. **Relationship to Tax Credit Law Requirements.** Notwithstanding anything to the contrary, during any period while at least 49 units in the Property are subject to income and rent limitations under the Tax Credit Law, evidence of compliance with such Tax Credit Law requirements filed with the Authority at least annually will satisfy any requirements otherwise imposed under this Declaration. During any portion of the Qualified Project Period as defined herein when the Tax Credit Law income and rent restrictions do not apply to the Property or during any period when the requirements of this Declaration are more prohibitive than the Tax Credit Law, this Declaration controls.

Drafted by:

Kennedy & Graven Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
IN WITNESS WHEREOF, the Developer has caused this Declaration of Restrictive Covenants to be signed by its respective duly authorized representatives, as of the day and year first written above.

SHADY OAK CROSSING LIMITED PARTNERSHIP

By: _________________ LLC
Its: General Partner

By _______________________________
Its ______________________________

STATE OF MINNESOTA    )
COUNTY OF HENNEPIN    ) SS.

The foregoing instrument was acknowledged before me this _____________, 2017, by __________________________, the __________________________ of _________________ LLC, a Minnesota limited liability company, the general partner of Shady Oak Crossing Limited Partnership, a Minnesota limited partnership, on behalf of the Developer.

______________________________
Notary Public
This Declaration is acknowledged and consented to by:

ECONOMIC DEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF MINNETONKA,
MINNESOTA

By ________________________________
   Its President

By ________________________________
   Its Executive Director

STATE OF MINNESOTA     )
COUNTY OF HENNEPIN      ) SS.

The foregoing instrument was acknowledged before me this _____________, 20__, by Terry Schneider, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

__________________________________________
Notary Public

STATE OF MINNESOTA     )
COUNTY OF HENNEPIN      ) SS.

The foregoing instrument was acknowledged before me this _____________, 20__, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

__________________________________________
Notary Public
EXHIBIT A

Legal Description

[Insert Legal Description]
EXHIBIT B

Certification of Tenant Eligibility

(INCOME COMPUTATION AND CERTIFICATION)

Project: [Address]

Developer:

Unit Type: _____ 1 BR _____ 2 BR _____ 3 BR

1. I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully, frankly and personally each of the following questions for all persons (including minors) who are to occupy the unit in the above apartment development for which application is made, all of whom are listed below:

<table>
<thead>
<tr>
<th>Members of the Household</th>
<th>Relationship To Head of Household</th>
<th>Age</th>
<th>Place of Employment</th>
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</table>

Income Computation

2. The anticipated income of all the above persons during the 12-month period beginning this date,

(a) including all wages and salaries, overtime pay, commissions, fees, tips and bonuses before payroll deductions; net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness); interest and dividends; the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts; payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation and severance pay; the maximum amount of public assistance available to the above persons; periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling; and all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; but
(b) excluding casual, sporadic or irregular gifts; amounts which are specifically for or in reimbursement of medical expenses; lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen’s compensation), capital gains and settlement for personal or property losses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments received pursuant to participation in ACTION volunteer programs, is as follows: $_____________.

3. If any of the persons described above (or whose income or contributions was included in item 2) has any savings, bonds, equity in real property or other form of capital investment, provide:

   (a) the total value of all such assets owned by all such persons: $___________;

   (b) the amount of income expected to be derived from such assets in the 12 month period commencing this date: $_____________; and

   (c) the amount of such income which is included in income listed in item 2: $__________.

4. (a) Will all of the persons listed in item 1 above be or have they been full-time students during five calendar months of this calendar year at an educational institution (other than a correspondence school) with regular faculty and students?

   Yes _________________   No ________________

   (b) Is any such person (other than nonresident aliens) married and eligible to file a joint federal income tax return?

   Yes _________________   No ________________
THE UNDERSIGNED HEREBY CERTIFY THAT THE INFORMATION SET FORTH ABOVE IS TRUE AND CORRECT. THE UNDERSIGNED ACKNOWLEDGE THAT THE LEASE FOR THE UNIT TO BE OCCUPIED BY THE UNDERSIGNED WILL BE CANCELLED UPON 10 DAYS WRITTEN NOTICE IF ANY OF THE INFORMATION ABOVE IS NOT TRUE AND CORRECT.

________________________________________
Head of Household

________________________________________
Spouse
FOR COMPLETION BY OWNER
(OR ITS MANAGER) ONLY

1. Calculation of Eligible Tenant Income:

   (a) Enter amount entered for entire household in 2 above: $__________

   (b) If the amount entered in 3(a) above is greater than $5,000, enter the greater of (i) the amount entered in 3(b) less the amount entered in 3(c) or (ii) 10% of the amount entered in 3(a): $__________

   (c) TOTAL ELIGIBLE INCOME (Line 1(a) plus Line 1(b)): $__________

2. The amount entered in 1(c) is less than or equal to _______ 60% of median income for the area in which the Project is located, as defined in the Declaration. 60% is necessary for status as a “Qualifying Tenant” under Section 3(a) of the Declaration.

3. Rent:

   (a) The rent for the unit is $______________.

   (b) The amount entered in 3(a) is less than or equal to the maximum rent permitted under the Declaration.

4. Number of apartment unit assigned: ____________.

5. This apartment unit was ____ was not ____ last occupied for a period of at least 31 consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit was less than or equal to 60% of Median Income in the area.

6. Check as applicable: ______ Applicant qualifies as a Qualifying Tenant (tenants of at least ___ units must meet), or ____ Applicant otherwise qualifies to rent a unit.

THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE HAS NO KNOWLEDGE OF ANY FACTS WHICH WOULD CAUSE HIM/HER TO BELIEVE THAT ANY OF THE INFORMATION PROVIDED BY THE TENANT MAY BE UNTRUE OR INCORRECT.

NAME OF OWNER,
a Minnesota __________________

By ________________________________
Its_______________________________
EXHIBIT C
Certificate of
Continuing Program Compliance

Date: _______________________, ______.

The following information with respect to the Project located at __________________,
Minnetonka, Minnesota (the “Project”), is being provided by _________________ (the
“Developer”) to the Economic Development Authority in and for the City of Minnetonka,
Minnesota (the “Authority”), pursuant to that certain Declaration of Restrictive Covenants dated
_______, 201__ (the “Declaration”), with respect to the Project:

(A) The total number of residential units which are available for occupancy is
27. The total number of such units occupied is ________________.

(B) The following residential units (identified by unit number) have been
designated for occupancy by “Qualifying Tenants,” as such term is defined in the
Declaration (for a total of ____units):

1 BR Units:

2 BR Units:

3 BR Units:

(C) The following residential units which are included in (B) above, have been
re-designated as units for Qualifying Tenants since _______________, 20___, the date
on which the last “Certificate of Continuing Program Compliance” was filed with the
Authority by the Developer:

<table>
<thead>
<tr>
<th>Unit Number</th>
<th>Previous Designation of Unit (if any)</th>
<th>Replacing Unit Number</th>
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</table>
(D) The following residential units are considered to be occupied by Qualifying Tenants based on the information set forth below:

<table>
<thead>
<tr>
<th>Unit Number</th>
<th>Name of Tenant</th>
<th>Number of Persons Residing in the Unit</th>
<th>Number of Bedrooms</th>
<th>Total Adjusted Gross Income</th>
<th>Date of Initial Occupancy</th>
<th>Rent</th>
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(E) The Developer has obtained a “Certification of Tenant Eligibility,” in the form provided as EXHIBIT B to the Declaration, from each Tenant named in (D) above, and each such Certificate is being maintained by the Developer in its records with respect to the Project. Attached hereto is the most recent “Certification of Tenant Eligibility” for each Tenant named in (D) above who signed such a Certification since ______________, _____, the date on which the last “Certificate of Continuing Program Compliance” was filed with the Authority by the Developer.

(F) In renting the residential units in the Project, the Developer has not given preference to any particular group or class of persons (except for persons who qualify as Qualifying Tenants); and none of the units listed in (D) above have been rented for occupancy entirely by students, no one of which is entitled to file a joint return for federal income tax purposes. All of the residential units in the Project have been rented pursuant to a written lease, and the term of each lease is at least ___ months.

(G) The information provided in this “Certificate of Continuing Program Compliance” is accurate and complete, and no matters have come to the attention of the Developer which would indicate that any of the information provided herein, or in any “Certification of Tenant Eligibility” obtained from the Tenants named herein, is inaccurate or incomplete in any respect.

(H) The Project is in continuing compliance with the Declaration.

(I) The Developer certifies that as of the date hereof at least ____ of the residential dwelling units in the Project are occupied or held open for occupancy by Qualifying Tenants, as defined and provided in the Declaration.

(J) The rental levels for each Qualifying Tenant comply with the maximum permitted under the Declaration.
IN WITNESS WHEREOF, I have hereunto affixed my signature, on behalf of the Developer, on ____________________, 201_.

SHADY OAK CROSSING LIMITED PARTNERSHIP

By: __________________ LLC
Its: General Partner

By ________________________________
Its ________________________________
SCHEDULE D

FORM OF QUIT CLAIM DEED

THIS INDENTURE, between the City of Minnetonka, a municipal corporation and political subdivision of the State of Minnesota (the “Grantor”), and Shady Oak Crossing Limited Partnership, a Minnesota limited partnership (the “Grantee”).

WITNESSETH, that Grantor, in consideration of the sum of $734,000 and other good and valuable consideration the receipt whereof is hereby acknowledged, does hereby grant, bargain, quitclaim and convey to the Grantee, its successors and assigns forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota described as follows, to-wit (such tract or parcel of land is hereinafter referred to as the “Property”):

[insert legal description]

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging.

SECTION 1.

It is understood and agreed that this Deed is subject to the covenants, conditions, restrictions and provisions of an agreement recorded herewith entered into between the Grantor, the Grantee and the Economic Development Authority in and for the City of Minnetonka, Minnesota on the __ day of __________, 2017, identified as “Contract for Private Development” (hereafter referred to as the “Agreement”) and that the Grantee shall not convey this Property, or any part thereof, except as permitted by the Agreement until a certificate of completion releasing the Grantee from certain obligations of said Agreement as to this Property or such part thereof then to be conveyed, has been placed of record. This provision, however, shall in no way prevent the Grantee from mortgaging this Property in order to obtain funds for the purchase of the Property hereby conveyed or for erecting the Minimum Improvements thereon (as defined in the Agreement) in conformity with the Agreement, any applicable redevelopment program and applicable provisions of the zoning ordinance of the City of Minnetonka, Minnesota, or for the refinancing of the same.

It is specifically agreed that the Grantee shall promptly begin and diligently prosecute to completion the development of the Property through the construction of the Minimum Improvements thereon, as provided in the Agreement.

Promptly after completion of the Minimum Improvements in accordance with the provisions of the Agreement, the Grantor will furnish the Grantee with an appropriate instrument so certifying. Such certification by the Grantor shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction and termination of the agreements and covenants of the Agreement and of this Deed with respect to the obligation of the Grantee, and its successors and assigns, to construct the Minimum Improvements and the dates for the beginning and completion thereof. Such certifications and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Grantee to any holder of a mortgage, or any insurer of a
mortgage, securing money loaned to finance the purchase of the Property hereby conveyed or the Minimum Improvements, or any part thereof.

All certifications provided for herein shall be in such form as will enable them to be recorded with the County Recorder, or Registrar of Titles, Hennepin County, Minnesota. If the Grantor shall refuse or fail to provide any such certification in accordance with the provisions of the Agreement and this Deed, the Grantor shall, within thirty (30) days after written request by the Grantee, provide the Grantee with a written statement indicating in adequate detail in what respects the Grantee has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Grantor, for the Grantee to take or perform in order to obtain such certification.

SECTION 2.

The Grantee’s rights and interest in the Property are subject to the terms and conditions of Section 9.3 of the Agreement relating to the Grantor’s right to re-enter and revest in Grantor title to the Property under conditions specified therein, including but not limited to termination of such right upon issuance of a Certificate of Completion as defined in the Agreement.

SECTION 3.

The Grantee agrees for itself and its successors and assigns to or of the Property or any part thereof, hereinbefore described, that the Grantee and such successors and assigns shall comply with all provisions of the Agreement that relate to the Property or use thereof for the periods specified in the Agreement, including without limitation the covenant set forth in Section 10.3 thereof.

It is intended and agreed that the above and foregoing agreements and covenants shall be covenants running with the land for the respective terms herein provided, and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Deed, be binding, to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, the Grantor against the Grantee, its successors and assigns, and every successor in interest to the Property, or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof.

In amplification, and not in restriction of, the provisions of the preceding section, it is intended and agreed that the Grantor shall be deemed a beneficiary of the agreements and covenants provided herein, both for and in its own right, and also for the purposes of protecting the interest of the community and the other parties, public or private, in whose favor or for whose benefit these agreements and covenants have been provided. Such agreements and covenants shall run in favor of the Grantor without regard to whether the Grantor has at any time been, remains, or is an owner of any land or interest therein to, or in favor of, which such agreements and covenants relate. The Grantor shall have the right, in the event of any breach of any such agreement or covenant to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled; provided that Grantor shall
not have any right to re-enter the Property or revest in the Grantor the estate conveyed by this Deed on grounds of Grantee’s failure to comply with its obligations under this Section 3.

SECTION 4.

This Deed is also given subject to:

(a) Provision of the ordinances, building and zoning laws of the City of Minnetonka, Minnesota and state and federal laws and regulations in so far as they affect this real estate.

(b) Declaration of Restrictive Covenants, dated _____________, 2017, executed by the Developer for the benefit of the Economic Development Authority in and for the City of Minnetonka, Minnesota.

(c) [Any other permitted encumbrances after Developer’s title review]

Grantor certifies that it does not know of any wells on the Property.
IN WITNESS WHEREOF, the Grantor has caused this Deed to be duly executed in its behalf by its Mayor and City Manager and has caused its corporate seal to be hereunto affixed this _____ day of ______________, 2017.

CITY OF MINNETONKA, MINNESOTA

By ________________________________
  Its Mayor

By ________________________________
  Its City Manager

STATE OF MINNESOTA )
 ) ss
COUNTY OF HENNEPIN )

On this ___ day of __________, 2017, before me, a notary public within and for Hennepin County, personally appeared _______ and ________ to me personally known who by me duly sworn, did say that they are the Mayor and City Manager of the City of Minnetonka named in the foregoing instrument; that the seal affixed to said instrument is the seal of said Authority; that said instrument was signed and sealed on behalf of said City pursuant to a resolution of its governing body; and said ________________ and __________ acknowledged said instrument to be the free act and deed of said Authority.

______________________________
Notary Public

This instrument was drafted by:

Kennedy & Graven, Chartered (JAE)
470 US Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402
Ordinance No. 2017-___

An ordinance authorizing sale of certain property located at Shady Oak Road and Oak Drive Lane

The City of Minnetonka Ordains:

Section 1. Findings and Purpose.

1.01 The city of Minnetonka owns certain properties located at the corner of Shady Oak Road and Oak Drive Lane with the addresses of 4312 Shady Oak Road and 4292 Shady Oak Drive Lane.

1.02 Shady Oak Crossing Limited Partnership has requested that city convey to it the property at 4312 Shady Oak Road and a small portion of the property at 4292 Shady Oak Drive Lane, in conjunction with the redevelopment of the property for the facilitation of affordable housing in the city. The city is willing to do so based on the conditions outlined in the Contract for Private Development approved by the Minnetonka City Council by Resolution No. 2017-______, on September 25, 2017.

1.03 The property to be conveyed is legally described on the attached Exhibit A.

Section 2. Authorization.

2.01 The city council approves the conveyance of the property described in Exhibit A to Shady Oak Crossing Limited Partnership, in accordance with the Contract for Private Development.

2.02 The mayor and city manager are authorized and directed to execute all documents necessary to complete the conveyance as contemplated by the Contract for Private Development.

Section 3. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on **.
Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction:  September 25, 2017
Date of adoption: 
Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent:  Ellingson
Ordinance adopted.

Date of publication: 

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on **

David E. Maeda, City Clerk

Date: ________________________________
EXHIBIT A

Those portions of the following described properties, to be platted as Lot 1, Block 1, SHADY OAK CROSSINGS:

Par 1:
All that portion of the tract or parcel of land described at paragraph “A” below, which lies Northerly of a line drawn parallel to and 200 feet Southerly of the North line thereof and the same extended, to-wit:

Paragraph “A”. That portion of the West Half of the Southeast Quarter of Section 23, Township 117, Range 22, described as follows: Starting at the Northeast corner of the Southwest Quarter of the Southeast Quarter of said Section; thence South along the East line of the West Half of the Southeast Quarter of said Section, a distance of 300 feet; thence Westerly at right angles to said East line for a distance of 284 feet; thence Northerly along a line parallel to said East line a distance of 600 feet; thence Easterly along a line at right angles to said East line 209 feet to the center line of McGinty Road; thence Southeasterly along the center line of McGinty Road to the East line of the West Half of the Southeast Quarter of said Section 23; thence Southerly along said East line 33.5 feet to the point of beginning.

Par 2:
Lot 20, Block 2, Ginkels Oakridge Addition

AND

Lot 19, Block 2, Ginkels Oakridge Addition
Resolution No. 2017-

Resolution approving a contract for private redevelopment between the Economic Development Authority in and for the City of Minnetonka, the City of Minnetonka, and Shady Oak Crossing Limited Partnership

BE IT RESOLVED by the City Council (the “Council”) of the City of Minnetonka (the “City”) as follows:

Section 1. Background.

1.01. The City and the Economic Development Authority in and for the City of Minnetonka (the “Authority”) have established Redevelopment Tax Increment Financing District No. 2 (Boulevard Gardens) (the “TIF District”) within a larger development district known as Development District No. 1 (the “Development District”) and adopted a financing plan (the “TIF Plan”) for the TIF District in order to facilitate redevelopment of certain property in the Development District, all pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended. The TIF Plan provides for pooling tax increment for housing projects outside the TIF District if the housing project meets certain affordability requirements.

1.02. In order to facilitate development of affordable rental housing in the City, the City and the Authority have caused to be prepared a Contract for Private Development (the “Contract”) between the City, the Authority, and Shady Oak Crossing Limited Partnership, a Minnesota limited partnership (the “Developer”), under which the City will convey certain real property (the “Development Property”) to the Developer, the Developer will construct a 49-unit multifamily housing rental facility on the Development Property, subject to certain income and rent limitations, and the Authority will provide certain financial assistance to the Developer using pooled tax increment revenues derived from the TIF District.

1.03. Pursuant to the Contract, the City will convey the Development Property to the Developer for the appraised price, which is substantially less than the cost to the City to acquire the Development Property. The Contract provides that the City will reimburse itself with pooled tax increment from the TIF District for the land write-down in the amount of $515,889.

1.04. The purpose of the Contract is to facilitate development of the property within the City and provide affordable housing in the area to alleviate a shortage of, and maintain existing supplies of, decent, safe, and sanitary housing for persons of low or moderate income and their families, which will promote economic development,
increase the City’s tax base, and encourage development or redevelopment of underutilized land within the City.

1.05. The Council has reviewed the Contract, and finds that the execution thereof by the City and performance of the City’s obligations thereunder are in the best interest of the City and its residents.

Section 2. Council Action.

2.01. The Contract is approved in substantially the form on file in City Hall, subject to modifications that do not alter the substance of the transaction and are approved by the Mayor and City Manager of the City; provided that execution of the document will be conclusive evidence of their approval.

2.02. The Mayor and City Manager are authorized and directed to execute the Contract and any other documents or certificates necessary to carry out the transactions described therein.

2.03. The reimbursement of the City for its land costs in the amount of $515,889 from pooled tax increment from the TIF District is approved.

Adopted by the City Council of the City of Minnetonka, Minnesota this 25th day of September, 2017.

______________________________
Terry Schneider, Mayor

ATTEST:

______________________________
David E. Maeda, City Clerk
ACTION ON THIS RESOLUTION:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held September 25, 2017.

______________________________
City Clerk
City Council Agenda Item #14C
Meeting of September 25, 2017

Brief Description: Items related to the 2018 preliminary tax levy

1) Resolution setting a preliminary 2017 tax levy and preliminary 2017 HRA levy, collectible in 2018, and a preliminary 2018 budget, and consenting to a special benefit tax levy of the Minnetonka Economic Development Authority

2) Resolution setting a preliminary 2017 tax levy, collectible in 2018, for the Bassett Creek Watershed Management Tax District

Recommended Action: Adopt the resolutions

As discussed at the city council’s August 21 study session, the proposed 2018 levy and budget presented herein is consistent with the city of Minnetonka’s strategic goals and community values. Capped at a maximum preliminary levy increase of 3.6 percent above the current year, the proposed budget employs intentional reductions to offset greater wage and inflationary pressures than the city has experienced in recent years. It also incorporates new administrative costs associated with public sector legal compliance and the city’s intensified capital efforts, including bonding as well as park and trail planning. And finally, it anticipates implementing the council’s direction to contract with Hennepin County for 9-1-1 dispatch services should the arrangement be approved by the county board tomorrow, September 26, 2017.

Staff proposes adopting a resolution this evening to accommodate this one-day delay in Hennepin County’s expected approval of the agreement. In the unlikely event that the county does not act before the statutory preliminary levy deadline of October 2, staff would recommend setting the preliminary levy at a level that is 5.5 percent above the current year to ensure ongoing administration of the city’s dispatch center. While staff anticipates the final 2018 levy would still drop to an increase of only 3.6 percent, the higher level is a safeguard should the county fail to act on the agreement before next fiscal year.

Staff currently estimates that the proposed general levy increase of 3.6 percent will have minimal impact, i.e. $4 for the year, upon the city taxes of the median value residence in Minnetonka ($322,800 for 2018). As always, the exact impact on specific properties can vary extensively related to assessed market value changes different than the average.

The city’s eventual proposed levy increase of 3.6 percent is likely to place Minnetonka at the lower end of our group of similar cities in the metro. While several of our comparable cities began to receive Local Government Aid in 2014, Minnetonka will
continue to not receive this state financial support in 2018. In addition, it’s important to continue to note that the city’s levy and budget support a financial structure absent of any special assessments to property owners for road-related infrastructure.

Per general city council direction in August, staff also recommends a 0.2 percent overall levy increase for the HRA levy. This would raise the HRA levy by an additional $75,000 to a total $250,000 to support economic development and housing programs. As further directed by council, this proposal incorporates the reappropriation of $25,000 of the 2017 budget into the 2018 budget.

OUR PUBLIC PROCESS

State law requires cities, school districts and other government taxing jurisdictions to certify preliminary budgets and tax levies to the county by September 29, 2017. The city’s preliminary levy is the maximum amount we may levy for 2018. Counties then report these preliminary levies to all property owners in early November.

Guided by council’s initial discussions in August, staff will develop detailed budget requests for council review in November and final adoption in December. At the November 20 study session, staff will have more complete information regarding revenues and expenses for the current year, along with more accurate information for forecasting 2018. The final 2018 levy may be less than the preliminary amount, but cannot be greater.

Minnetonka always encourages input on its budget from the public. The city council will hold a public hearing when it adopts the final 2018 levy and budget on Monday, December 4, 2017, during the regular city council meeting beginning at 6:30 pm in the City Council Chambers.

In addition, residents and businesses will again have an opportunity to provide feedback via the city’s website, www.eminnetonka.com. All individual comments received in all formats will be shared with council as budget options are considered, and updated information will consistently be posted in the Minnetonka Memo, social media and on the city’s website.

ENSURING MINNETONKA’S POSITION OF FISCAL RESPONSIBILITY

As detailed in the city’s adopted Strategic Profile, the city of Minnetonka takes a responsible, long-term perspective with financial planning and management. Decisions are made with the future in mind to ensure the city’s ongoing ability to provide quality services at a reasonable price.
Current Spending & Financial Projections

**Revenues.** 2017 revenues are currently estimated to come in around 1.5 percent below the adopted budget forecast. Low investment interest continues to plague the city’s revenue stream along with lower public safety fine revenue that is now forecasted to be slightly above last year, but below initial 2017 projections along with several other non-tax sources of revenue.

Nonetheless, staff still estimates that total revenues will continue to cover projected obligations from 2018 through 2022. The long-term forecast responsibly assumes that the currently higher proceeds from development will taper off next year and return to the city’s ten-year average.

**Spending.** Operating costs in 2017 are currently estimated to be at a pace greater than last year. There still remains some significant 2017 costs that are not specifically known at this time, such as the number of snow plow events in early winter and negotiated separation incentives for public safety dispatch employees.

Despite these spending uncertainties, estimates still likely portend some funds available to be either transferred from the General Fund balance for one-time costs within the city’s capital program during council deliberation next year or to ensure the fund balance can remain at sufficient levels over the next five years to meet council policy. As we approach the council’s second detailed budget study session in November, additional information may adjust these current forecasts.

Between now and the second council study session on the 2018 budget in November, any new data either unanticipated or not currently available will allow staff to further analyze 2017 service cost projections and new revenues. Per regular procedures, the CIP budget may be amended with levy and budget adoption in December to reflect more accurate capital project cost projections and/or altered plans and priorities relative to new information.

**2018 BUDGET**

Assuming Hennepin County approves the transition of 9-1-1 dispatching services from the city to the county, staff proposes the 2018 General Fund city operating budget total $33.9 million. This total, financed with multiple sources of revenue, is only 1.9 percent greater than the 2017 adopted budget.\(^1\) As a primarily service organization, the city is being significantly impacted by market wage pressures. However, proposed budget reductions identified after careful scrutiny by staff of spending trends plus savings projected to be realized from the city’s solar garden contracts will significantly offset the budget increase that would otherwise be required next year.

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\(^1\) If the Hennepin County dispatch agreement is not approved by the county commissioners before the preliminary levy deadline of September 29, the 2018 General Fund operating budget is initially proposed to be $34.7 million, which is 4.0 percent greater than the 2017 adopted budget.
General Fund operating budget ($ thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017 Adopted</th>
<th>2018 Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current services</td>
<td>1,157</td>
<td></td>
</tr>
<tr>
<td>Reductions &amp; savings</td>
<td>(349)</td>
<td></td>
</tr>
<tr>
<td>Additions, compliance</td>
<td>532</td>
<td></td>
</tr>
<tr>
<td>Hennepin Co. dispatch</td>
<td>(713)</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$33,318</td>
<td>$33,945</td>
</tr>
<tr>
<td><strong>Increase</strong></td>
<td></td>
<td>1.9% increase</td>
</tr>
</tbody>
</table>

Additional proposed spending is comprised of funding for four new positions associated with complying with government open records requests and related public recordkeeping; information technology demands; park and trail planning; and financial oversight of our intensified capital program. Staff also proposes additional funds to further analyze and develop a plan to address ongoing challenges facing the city’s paid-on-call fire service structure.

**Current services, inflationary personnel cost pressures**

Because city government is primarily a service industry, three-quarters of the General Fund operating budget is the cost of its greatest assets, its workers. Commensurately, much of the increase to maintain current level services for our community is to compensate our human resources. While our effective relationships with our bargaining units continue to reap both production and economic benefits for the community, the city faces market pressures to retain and recruit these high-valued assets.

The city plans to continue to use a 1.5% base salary increase and review all positions according to its market philosophy structure to ensure that employees are fairly and competitively compensated compared with what other comparable cities pay their employees with similar responsibilities. Market wage pressures on the city of Minnetonka will require an average approximately 3.52 percent total increase in wages in 2018 (base plus market). In addition, two of the city’s three labor contracts will expire at the end of 2017 and will be up for negotiation.

As a member of the LOGIS Healthcare Consortium, a guaranteed rate cap for 2018 has been negotiated and is not to exceed a 9 percent increase for health insurance premiums. Since the city structures its benefits package using a cafeteria contribution system, the premium increase is largely borne by employees who enroll in the city’s benefit offerings. Using this information, an employer benefit contribution increase has been estimated based upon the insurance package selected. This approach reinforces the philosophy to move from an equitable to an affordable benefits package.
Budget reductions and savings

The city of Minnetonka conservatively budgets revenues and expenses in a manner that balances the economic impact of taxes and fees upon property owners and tenants with ensuring that vital local government services are never interrupted. Nonetheless, staff recognized that the city’s overall operating expenditures were more significantly below budget at the end of 2016 than recent prior years. A significant portion of the unspent dollars was directly associated with an unusual weather year that substantially reduced costs for snow-plowing events including labor, energy and supplies. Therefore, staff closely scrutinized patterns of spending over the last three years to identify budget reductions where less funding would not affect services.

Including estimated savings from the city’s solar garden contracts, staff ascertained a total of nearly $350,000 in budget reductions across city programs to be incorporated into the 2018 budget. The largest of these is a recalibration of fleet costs (labor, materials/equipment and fuel) across all divisions that require city vehicles, which totaled over $168,000 for the General Fund (GF). Solar garden savings to the GF for numerous city divisions are projected at $100,000. Based on spending patterns in recent years, staff is proposing to reduce the budget for contract work overseen by the natural resources division ($55,000) and the information technology division ($25,000).

<table>
<thead>
<tr>
<th>Budget Reductions, Savings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fleet maintenance costs (GF only)</td>
</tr>
<tr>
<td>Solar garden savings (GF only)</td>
</tr>
<tr>
<td>Natural resources contract services</td>
</tr>
<tr>
<td>Technology division contract services</td>
</tr>
<tr>
<td><strong>Total Budget Reductions, Savings</strong></td>
</tr>
</tbody>
</table>

Budget enhancements

The proposed 2018 budget includes new funding of just over $530,000. The great majority of these costs is for four additional non-management positions.

- one to ensure compliance with public recordkeeping and expanding government data requests;
- one to respond to the growing information technology needs within the city and to offset the loss of the public safety communication manager duties;
- one to respond to a council directive for purposeful planning and public education around the city’s growing parks and trails system; and
- the last to administer and coordinate the finances of our capital program which has substantially grown in both costs and complexity over the last ten-plus years.

**Public data compliance.** Minnesota state statute closely governs the management of public records, and the city has been continually challenged to comply with these requirements on an ongoing basis. These records are not only needed for use by staff; in the majority of open record request cases, they need to be accessible to the public.
Over the years the city has invested in both technology and electronic storage capacity to host records and, in many examples, to continually create records.

In the last several years, the city has experienced an exponential increase in demand for immediate electronic information and data, both by the public and the media. By default, these data requests have been fielded by some of the city’s more highly compensated employees who spend inordinate hours of time to appropriately search and legally scrutinize the city’s archives to redact and respond responsibly.

Because these requests are on an upward trend and, in anticipation of even greater mandates that have bi-partisan support from the Minnesota Legislature for more transparency, staff recommends adding front line staffing to manage this process. The proposed 2018 budget includes funding to hire a records specialist to address this required government service. The new position would assume the laborious duties of archiving and indexing records, plus develop and administer more efficient data systems and procedures to improve the city’s response to data requests.

**Park and trail planning.** Earlier this summer, a subgroup of the city council met to discuss a more aggressive approach to expanding the city’s trail system and appropriate funding sources. In addition to system expansion, the group expressed a preference for more enhancements, such as public education campaigns, wayfinding, accessibility improvements, and dedicated bike lanes. The subgroup encouraged pursuit of public/private partnerships, government partnerships, easement donations, grants, and more creative funding options.

Planning is an essential component of being responsive to the needs of the users of our park and trail system. During the park renewal and open space process, a tremendous level of planning and community dialogue occurred to renew 45 neighborhood, special use and community parks. Some of that infrastructure is currently approaching 15 years of age. Changes in recreational trends are evident in the type of leisure activity desired, as noted by the huge popularity of pickleball and the heightened public demand for more and safer trails. The current Park and Trail Fund of the CIP includes appropriations for significant trail additions, primarily along county roadways; major park related investments in the Opus and Ridgedale areas; a recreational facilities study; and an unfunded project at Big Willow Park.

City staff structure has changed since park renewal and is presently stretched to the point that it is unable to properly serve these growing demands. Therefore, the addition of a park and trail planner is proposed to suitably address these high community priorities. With a responsible staff member, advances can be made to meet council strategic goals of providing excellent recreational and transportation amenities. This will also assist with achieving **Imagine Minnetonka**’s visionary goal to connect all residents to woods and wetlands as well as developing a multimodal transportation plan that will safely connect major pedestrian areas.
Capital program finance oversight. Since 2005, the city’s five-year capital program has grown by two and a half times from $60.6 million for the 2005-09 CIP to $149.4 million for the 2018-22 CIP. Similarly, the complexity of financing city projects has intensified as well. For example, issuing debt and accounting for such expenditures requires greater and more careful accounting, investing and reporting under current federal laws and banking regulations. The former CIP included only $12.3 million in bond proceeds, and the current CIP now includes $55 million in bond proceeds, which is nearly a quintupling of such monies in the plan.

Because the number of accounting finance department staff has remained constant since prior to 2005, much of the capital expenditure oversight has been carried out by non-finance personnel in other city departments. The complexities of the work is now pressing those other departments to request significant assistance. Therefore, the 2018 proposed budget includes funding for one additional finance analyst position. The addition will bring the department accounting staff to a total of six, including the director/treasurer, controller, accounts payable, accounts receivable and payroll.

IT support. As discussed in the next section of this report regarding dispatch services, one of the nine positions lost would be the currently vacant communications manager job. In addition to supervising the dispatch operations, this position performed crucial public safety technology and radio system tasks. As indicated in the PSAP study, the recommendation going forward was to split technology related tasks from the supervisory position and add one additional Information Technology staff member to the city IT division. Those duties would be absorbed by the entire IT division under a cross training model of service delivery, avoiding compartmentalization of duties with single position incumbents. This addition would also ensure that the growing technology needs of both the police and fire departments are met, including the anticipation of police body camera implementation in 2019. Staff recommends this position regardless of the decision on the future provision of dispatching services.

Fire service operational study. Changing workforce demographics and requirements of the federal Affordable Care Act (ACA) continue to challenge the city and other metro cities to adapt fire service management structures in order to maintain the very high quality and clear efficiencies wrought by our paid-on-call (POC) fire force. Despite ongoing work to address these challenges, the naturally high turnover of these unique positions requires a long-term management strategy. Because the ACA was enacted after completion of a 2010 strategic public safety plan, most of which has already been acted upon, the proposed 2018 budget includes funding to refine specifically the method and priority deployment of fire service provision in the coming years.

The results of the proposed operational study are not expected to affect design of the public safety facility project currently being discussed by the city, as the city’s central fire station will be staffed regardless of operating model, and the administration and life safety functions of the facility are unlikely to change significantly. The operational study will provide a better understanding on staffing models and highlight indicators that will appear if the model needs to change. It will assist in determining the priority of services
provided to the community and, in conjunction, when and how quickly those resources are deployed.

**Dispatch services**

At a June study session, the city council discussed an extensive report completed by an outside consultant examining Minnetonka’s 9-1-1 public safety answering point (PSAP), a.k.a. dispatch services. The thorough analysis included exploration of detailed costs and service benefits of three alternatives – appropriately staffing the city’s current dispatch division (the analysis recommended two additional FTEs in dispatch at an annual cost of $170,000 to do so), contracting for dispatch services with the city of Eden Prairie, and developing an agreement with Hennepin County for dispatch services. After thoughtful deliberation, the city council directed staff to pursue negotiations with Hennepin County for dispatch services.

As several important aspects of transitioning dispatch services to Hennepin County continue to be fully fleshed out, staff has calculated the costs that will impact the 2018 budget as indicated below. At an ongoing operating net savings of over $713,000 primarily due to the loss of nine dispatch positions, the city must hire a total of 3.4 new full-time equivalents (FTEs) to backfill some of the city-specific ancillary duties that must continue to be performed. Therefore, the proposed 2018 budget includes funding for one records clerk and four part-time community service officer (CSO) positions along with some ongoing minor operating costs. The city will realize another $76,000 in operating savings in 2019 when the city’s obligation to the LOGIS technology consortium for dispatch-related technology services has ended.

Additionally, the city will be required to purchase equipment and systems to communicate with county staff, alert and communicate amongst city staff, and monitor alarms that are now covered by the current city-run dispatch system, utilities that will not be covered by the county. Based upon preliminary bids and quotes, staff estimates these one-time conversion expenses will cost almost $175,000. At the same time, there is currently $258,000 in dispatch-related equipment included within the adopted 2018-22 Capital Improvements Program (CIP) that will no longer be required without a city-operated dispatch center. Supported by the Public Safety Fund, these adopted capital funds will more than cover the required one-time costs of conversion and a CIP amendment will be included with the 2018 final budget to do so. Any net savings will be available for consideration with deliberation of the next capital budget in the spring.
Ongoing Annual Budget Adjustments:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>City dispatch 2017 operating budget</td>
<td>($890,800)</td>
</tr>
<tr>
<td>Four (4) part-time CSOs, 2.4 FTE</td>
<td>84,300</td>
</tr>
<tr>
<td>Records clerk, one FTE</td>
<td>77,000</td>
</tr>
<tr>
<td>Backfill operating costs</td>
<td>16,200</td>
</tr>
<tr>
<td><strong>Total, operating budget reductions</strong></td>
<td><strong>($713,300)</strong></td>
</tr>
</tbody>
</table>

One-time Capital Budget Adjustments:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018-22 adopted CIP dispatch items</td>
<td>($258,000)</td>
</tr>
<tr>
<td>Conversion equipment, systems costs</td>
<td>$174,300</td>
</tr>
<tr>
<td><strong>Total, Public Safety Fund balance savings</strong></td>
<td><strong>($83,700)</strong></td>
</tr>
</tbody>
</table>

Since the August budget study session, staff is near completion of several critical tasks needed to convert dispatch services to Hennepin County in mid-December 2017 as currently planned. First, an agreement was negotiated and agreed upon with the city’s own, valued dispatch employees to ensure they are appropriately compensated to stay with the city of Minnetonka until the date of conversion and are treated justly in appreciation for their years of service to our community. Second, staff has almost concluded several fiscal details with Hennepin County related to turning over the city’s 9-1-1 fee revenue stream of $67,000 per year and fund balances currently remaining in our coffers from that source.

As a final legal step, the Hennepin County Board must formally act in agreement to take on the responsibility of dispatch services for the city of Minnetonka. On September 12, the county board’s public safety committee considered the matter and unanimously voted 7-0 to recommend final approval by the county board on September 26, tomorrow. If all goes as anticipated and the Hennepin County Board approves, a preliminary levy increase of 3.6 percent for the city would be certified to the Hennepin County clerk.

However, because the county’s action is slated to occur after the city’s action, the wording in the city’s levy adoption resolution must account for the contingency of an otherwise unplanned but much later county approval. If the county board does not act before the statutory deadline of September 29, the costs of the city’s current dispatch must be included and certified within the city’s preliminary budget levy, and another $713,000 (an additional 1.9 percent increase) must be added. (Note this does not include the addition of two dispatchers as recommended in the consultant’s study.) In either case, we expect the final 2018 levy increase would be lowered to 3.6 percent when the city council is scheduled to adopt it on December 4.
**HRA LEVY**

The city’s first levy for housing and redevelopment began in 2009. State law limits levies, and the maximum rate is 0.0185 percent of a city’s taxable market value. This equals approximately $1.55 million in Minnetonka. Beginning in 2010, the annual levy increased to $175,000 (0.00212 percent) and has remained at that dollar level to accommodate village center master planning, housing programs, marketing efforts, and more recently light rail.

On June 12 the city council adopted the 2018-2022 Economic Improvement Program (EIP), which would have set the 2018 HRA levy at $300,000 (up from its 2017 level of $175,000). The indicated uses of the funds were: Homes within Reach/WHAHLT ($100,000); Southwest Light Rail Transit ($75,000); Housing Loan Programs ($100,000) and Business Outreach ($25,000). The light rail funds have been obligated by the council for a ten-year payback to the city’s Special Assessment Construction Fund for a portion of the city’s commitment to the project.

The Economic Development Advisory Commission (EDAC) reviewed the HRA budget at its July 27 meeting and recommended adopting a preliminary HRA levy of $175,000 (no levy increase). The EDAC’s recommended budget would include Homes within Reach/WHAHLT ($75,000), Housing Loan Programs ($25,000) and for the Southwest Light Rail Transit ($75,000).

At its August budget study session, the city council discussed a preliminary HRA levy below the EIP-adopted plan, which removes funding for Business Outreach in 2018 ($25,000) and sets a 2018 preliminary HRA levy of $250,000 and a 2018 HRA budget as illustrated below:

<table>
<thead>
<tr>
<th>($ thousands)</th>
<th>EIP</th>
<th>EDAC</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>SW Light Rail</td>
<td>$75</td>
<td>$75</td>
<td>$75</td>
</tr>
<tr>
<td>WHAHLT</td>
<td>100</td>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>Housing Loans</td>
<td>100</td>
<td>25</td>
<td>75</td>
</tr>
<tr>
<td>Business Outreach</td>
<td>25</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total HRA Levy</strong></td>
<td><strong>$300</strong></td>
<td><strong>$175</strong></td>
<td><strong>$250</strong></td>
</tr>
</tbody>
</table>

State law requires the city council to adopt a resolution supporting levy actions of the Economic Development Authority (EDA), whether or not the city council also acts as the authority. Therefore, the proposed preliminary levy resolution for the city contains a provision to support the EDA’s HRA preliminary levy, which the EDA is to consider and adopt later tonight.

**2018 PRELIMINARY LEVY**

The 2018 proposed operating and adopted capital budgets will require eventually an overall increase in the city property tax of 3.6 percent. The change is the net effect of
As a result, the city’s proposed 2018 tax increase of 3.6 percent is in keeping with our recent history of increases below historic averages. Included in these projections over the next five years are the expected debt service payments associated with selling $25 million GO bonds for new police and fire stations beginning in 2020 as well as the rising but self-funded tax abatement levy for Ridgedale Mall.

As of September 25, 2017
Staff currently anticipates a greater than average levy increase in 2019, and this rise is largely associated with foreseeable heightened costs associated with managing and administering police body camera data. Because council has not yet vetted policy considerations related to the issue and no decisions have yet been made, there may be opportunities to smooth out this aberration with future deliberations.

**Comparisons with Other Cities.** The proposed 2018 city levy increase is likely to place Minnetonka at the low end of comparable cities. The differences amongst these communities appears mostly to be related to whether cities are adding staff and whether those new costs may be offset with permit revenue increases or debt retirement.

Further, two of the comparable cities listed continue to receive an allocation of state Local Government Aid (LGA), which began in 2014. As has been the case for many years, Minnetonka does not and will not receive LGA in 2018. Equally important, unlike many of these other cities, the city does not rely upon special assessments to fund street reconstruction and maintenance.

### Homeowner Impacts.

Staff calculates there will be only the slightest impact to the amount of property taxes paid by the median-valued home in Minnetonka ($332,800 in 2017). Using the average increase in assessed market value (2.7 percent), as reported by the city assessor last spring, the median-valued home will experience a rise in property taxes of only $4 for the year. The exact impact on specific properties can vary extensively related to assessed market value changes different than the average.
Staff anticipates the proposed levy increase will be offset by several factors. First, new development and redevelopment in the city increased the city's property tax base last year. Overall, the city's assessed market value increased by 5.2 percent, a portion of which was the result of actual improved real estate as opposed to market forces alone. Second, the residential and commercial proportions of the city's tax base both declined relative to apartment properties, with residential at its lowest percentage since the 2003 tax year. This will cause slight shifts in the property tax burden away from both commercial and residential to apartments. And lastly, for the first time in recent memory, Minnetonka's net negative share of the fiscal disparities property tax base declined, which will result in a net tax base increase for the city.

RECOMMENDATION

Responsible long-term financial planning has continued to position the city of Minnetonka to provide highly rated services to city residents and businesses. If Hennepin County acts on the city's agreement for dispatching, the 2018 preliminary city tax levy will be limited to an increase of 3.6 percent to address market wage pressures of our valuable workforce, ensure compliance with public recordkeeping requirements and capital planning and fiscal oversight. This eventual increase is near the lower end of comparable cities. It ensures our position of fiscal responsibility, preserves our standards of excellence, and encourages innovative and creative thinking. The HRA levy increase would result in a 0.2 percent increase in all city levies.

As always, the city of Minnetonka will continue to provide the excellent services our residents and businesses have come to expect, and at a reasonable price, both in 2018 and well into the future.

Therefore, staff recommends the city council adopt the following resolutions:

1) Resolution setting a preliminary 2017 tax levy and a preliminary 2017 HRA levy, collectible in 2018, and a preliminary 2018 budget, and consenting to a special benefit tax levy of the Minnetonka Economic Development Authority

2) Resolution setting a preliminary 2017 tax levy, collectible in 2018, for the Bassett Creek Watershed Management Tax District.

Originated by:
Geralyn Barone, City Manager
Merrill King, Finance Director
Resolution No. 2017-
Resolution setting a preliminary 2017 tax levy, collectible in 2018, and a preliminary 2018 budget, and consenting to a special benefit tax levy of the Minnetonka Economic Development Authority

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01. As required by state legislation under M.S. 275.065, municipalities are required to adopt a preliminary budget and tax levy by September 29, 2017.

1.02. The law also requires that the City Council hold a meeting to discuss the budget and property tax levy and, before a final determination, allows public input to its final adoption in December.

1.03 The law further requires the final levy be adopted on or before December 27, 2017, and the final tax levy may not exceed the preliminary tax levy.

Section 2. Findings.

2.01. The City Manager’s preliminary 2018 budget of $69,853,398 (the Preliminary Budget) appears reasonable and sufficient to fund the desired general fund municipal services, general fund debt service, and capital needs in 2018, provided the Hennepin County board of commissioners approves the proposed agreement with the city to transfer the city’s 9-1-1 dispatch services to Hennepin County.

2.02. The City Manager’s alternate preliminary 2018 budget of $70,566,398 (the Alternate Preliminary Budget) appears reasonable and sufficient to fund the desired general fund municipal services, general fund debt service, and capital needs in 2018, if the Hennepin County board of commissioners does not approve the proposed agreement for transfer of 9-1-1 dispatch services to the county.

2.03. Preliminary general, capital and debt tax levies of $36,914,897 for levy in 2017, collectible in 2018, will fund the City Manager’s Preliminary Budget. Preliminary general, capital and debt tax levies of $37,627,897 for levy in 2017, collectible in 2018, will fund the City Manager’s Alternate Preliminary Budget.

2.04 A preliminary tax abatement levy of $20,000 for levy in 2017, collectible in 2018, is estimated to equate to revenues associated with and will fund commitments under the Ridgedale Mall development agreement adopted by the city council on April 15, 2013.
Section 3. Authorization.

3.01. The Preliminary Budget and tax levy in the amount of $36,914,897 is hereby approved, on the condition that, prior to noon on September 29, 2017, the Hennepin County board of commissioners approves the proposed agreement with the city to transfer the city’s 9-1-1 dispatch services to Hennepin County.

3.02. If the condition set forth in paragraph 3.02 is not satisfied, the Alternate Preliminary Budget and tax levy in the amount of $37,627,897 is hereby approved.

3.03. Pursuant to Minn. Stat. Section 469.033, subd. 6, the City Council consents to the Economic Development Authority in and for the City of Minnetonka (the “EDA”) levying a special benefit tax levy in the amount requested by the Board of Commissioners of the EDA by resolution adopted on the date hereof.

3.04. The City Clerk is hereby directed and ordered to transmit a certified copy of this resolution to the Hennepin County Director of Property Tax and Public Records and to simultaneously transmit to the Hennepin County Director of Tax and Public Records a certificate that attests to the final preliminary budget and tax levy amounts, based upon the condition set forth in paragraph 3.01 above and upon the decision of the Hennepin County board of commissioners as of noon on September 29, 2017.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 25, 2017.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on September 25, 2017.

__________________ ________________
David E. Maeda, City Clerk
Resolution No. 2017-

Resolution setting a preliminary 2017 tax levy, collectible for 2018, for the Bassett Creek Watershed Management Tax District

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01. Minnesota state law requires special taxing districts to adopt a preliminary budget and tax levy by September 29 of this year.

1.02. The law also requires that the City Council hold a meeting to discuss the budget and property tax levy and, before a final determination, allows public input to its final adoption in December.

1.03. The law requires a final levy be adopted after that public input and the final tax levy may not exceed the preliminary tax levy.

Section 2. Findings.

2.01. A preliminary tax levy of $28,053 for the Bassett Creek Watershed Management District for levy in 2017, collectible in 2018, will fund the City’s expenses for that tax district.

Section 3. Authorization.

3.01. The preliminary tax levy of $28,053 for the Bassett Creek Watershed Management District is hereby approved.

3.02. The City Clerk is hereby directed and ordered to transmit a certified copy of this resolution to the Hennepin County Director of Property Tax and Public Records.

Adopted by the City Council of the City of Minnetonka, Minnesota, on September 25, 2017.

____________________________________
Terry Schneider, Mayor
ATTEST:

________________________________________
David E. Maeda, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on September 25, 2017.

________________________________________
David E. Maeda, City Clerk
13B. Temporary on-sale liquor license for Unmapped Brewing, LLC, 14625 Excelsior Blvd

Attached is comment received after the council packet was distributed.

14A. Items concerning Shady Oak Crossings located at 4312 Shady Oak Road:

Attached are comments received after the council packet were distributed.
ITEM 13B – Temporary on-sale liquor license for Unmapped Brewing, 14625 Excelsior Blvd.

The attached comment was received following distribution of the agenda packet.

ITEM 14A – Items concerning Shady Oak Crossings, 4312 Shady Oak Road

The following comments were received following distribution of the agenda packet:

From: Elizabeth A
Sent: Thursday, September 21, 2017 5:13 PM
To: Terry Schneider <tschneider@eminnetonka.com>; Patty Acomb <pacomb@eminnetonka.com>; Bob Ellingson <bellingson@eminnetonka.com>; Dick Allendorf <dallendorf@eminnetonka.com>; Brad Wiersum <bwiersum@eminnetonka.com>; Tony Wagner <twagner@eminnetonka.com>; Julie Wischnack <jwischnack@eminnetonka.com>; Tim Bergstedt <tbergstedt@eminnetonka.com>
Subject: sign

Hello-

I am from the Bradford/Crawford neighborhoods on the western most side of the suburb off of Shady Oak. There were some recent businesses that opened next to Snap Print on Shady Oak which have a drive way that leads out to Shady Oak, in my experience it is far superior in safety and timeliness when it comes to exiting our neighborhood. The private property owners whose drive we have been using to more safely exit our neighborhood have put out a sign saying that it is a private drive.
Can we please get together to ask permission to use their through way so that the residents of the Bradford and Crawford neighborhoods may feel utilize it? It is far safer than what is provided by the county on Shady Oak or the city on Excelsior. We are tax paying citizens and would appreciate being heard and responded to on this very important issue. I have brought these intersections up so many times and am completely ignored.

Additionally, no one has budged on the Shady Oak development. No one, not a single one (of us current tax payers) who will be directly affected by the high density building are in favor. We are 100% against having a high density building right there. It is unreasonable for a multitude of reasons. Some of these are evidenced by such things as rush hour every morning on a county road that was not built for a high density type zoning (see above). We have been steadfast from the beginning and despite hearing ourselves being misrepresented meeting after meeting- this is really truly what we think. Please no high density, please help this side of the city figure out how to heal from the disaster that was the road construction rather than just shoveling another layer of hurt on. Much appreciated.

Truly,
Elizabeth Miller

On Sep 22, 2017, at 10:01 AM, > wrote:

Hello Mayor Schneider, I have not heard from you so I am reaching out again.
I believe this Retention Pond Issue is enough to Table this vote on Monday until a few things are cleared up.
This issue really got the attention of the Planning Committee - enough that two voted NO because of this.
Call Brian Kirk and see what he says.
1. In all meetings and conversations the Oak Drive Lane Property was "not on the table". This was said SO MANY TIMES!
2. As things moved along, all of a sudden the retention pond jumped over into the RESIDENTIAL Property.
This brings up a few more issues.
3. Does the Oak Drive Lane property need to be RE-ZONED? YES
4. Ron Clark should pay for this land. YES
5. Who pays to maintain and this Easement with is now an Encobrance on Oak Drive Lane Property?
6. This Encumbrance now "de values" the Oak Drive Lane Property
7. Should there be a Safety Fence around this retention pond? Yes

As you can see this is a bigger deal than the Council may think and I am pretty sure it is enough to "Table" the vote on Monday night. I am guessing a lawyer that specializes in these things would have an easy time stopping this.
I sent a hand out to Planning Commission and noticed it was NOT included in the
STAFF NOTES. WHY?
Did you see it?

In this attachment it clearly shows the intention of the City of Minnetonka allowing Ron Clark to use the Oak Drive Lane RESIDENTIAL Property for FREE and without any PUBLIC Discussion or discussion by the EDAC or Planning Commission. It really looks like the City and Staff are overstepping their bounds on this one.

Please call me if you have time on Sunday night.

Thanks for listening, Chris Aanestad
4255 Oak Drive Lane

On Fri, Sep 22, 2017 at 3:37 PM, Loren Gordon <lgordon@eminnetonka.com> wrote:

Elizabeth,

I received your email regarding alternative access to Shady Oak Road. I would like to respond to a few things.

If you wish to approach the property owner to ask permission to use their property as an alternative access to Shady Oak Road, that would be at your own discretion. City staff would not make that contact for you or endorse that for a number of reasons: 1) it is private property that would essentially be burdened with public traffic, 2) the private alley is not a designed to accommodate traffic like a public street, and 3) the burden of moving public traffic through a parking lot isn't safe or advisable for the concerns of others who use the property for public purposes. Again, if you have an arrangement for yourself that can be worked out with the owner, that is up to you.

Regards,
-Loren

Loren Gordon, AICP | City Planner | City of Minnetonka

From: Elizabeth A
Sent: Monday, September 25, 2017 8:47 AM
To: Loren Gordon <lgordon@eminnetonka.com>
Cc: Julie Wischnack <jwischnack@eminnetonka.com>; Susan Thomas <sthomas@eminnetonka.com>
Subject: Re: your email

Hi Loren,

So you're ok with helping a developer move in and further tear up our neighborhood and
City Council Change Memo – September 25, 2017

further degrade the driving issues for the current residents. And at the same time are unwilling to help mediate and discuss to find safer alternatives for the residents who are suffering through the pain of all your and Julie's, the developers' and the the city councils' plans for our neighborhood. Please let me know if I'm interpreting that incorrectly.

Sincerely a disgusted resident,
Elizabeth

From: Gail Anderson
Date: September 25, 2017 at 12:44:15 PM CDT
To: tschneider@eminnetonka.com, dallendorf@eminnetonka.com, pacomb@eminnetonka.com, bellingson@eminnetonka.com, twagner@eminnetonka.com, bwiersum@eminnetonka.com, tbergstedt@eminnetonka.com
Subject: Shady Oak Road project

Hello Mayor Schneider and Minnetonka City Council Members,

I am writing in favor of the affordable housing development on Shady Oak Rd.

I am a resident of Ward 1 about a mile from the proposed development. I drive by it almost daily so I am very familiar with the site and the neighborhood.

Projects of this sort always get push-back from people who do not want the neighborhood to change. I empathize with them. I was sorry to see my favorite bakery, Nelson's, leave during the road construction.

But this kind of housing is necessary for us to remain a vibrant community.

I am skeptical of some of the objections. Buried beneath complaints about potential traffic problems and air quality for the residents is often a fear of bringing undesirable people into the neighborhood. I am following the discussion on Next Door, and recently someone said it is "pushing Hopkins problems into Minnetonka." I do not believe that the people who qualify for affordable housing are undesirable.

This project is imperfect, but I can't imagine the "perfect" place for affordable housing. This piece of land, with its proximity to transit, grocery stores, post office, banks, restaurants, etc, seems a very reasonable place.

Please vote to approve the project tonight,

Gail Anderson
3942 Willmatt Hill
Minnetonka, MN 55305
September 25, 2017

Dear Minnetonka City Council and City Staff:

I’m writing to add my thoughts about Unmapped Brewing Co’s application for an Event/Liquor License in Glen Lake on Saturday, October 21, 2017. As you know, I’m their neighbor on the south, so I’m impacted by any noise and greater-than-usual traffic & parking.

I’m not writing to express opposition. I enjoyed the brewery’s first outdoor event for their Grand Opening in August and wasn’t adversely impacted by traffic or crowd noise, although obviously I did hear the live music throughout the day. It was, not unsurprisingly, loud, as amplified music will be, when it’s right next door! But thankfully, apparently I share music tastes with JD & Megan Park and thought the bands were toe-tapping good choices. And Unmapped Brewery made a conscientious effort to shut the music down at 9PM; I was at the event then and saw the owners make their way towards the band, but it went on about 15 min longer. I understand they were trying to communicate with the band, which kept playing, but hopefully this time they’ll be able to shut down promptly at 9PM.

Nevertheless, live music like this takes place in the heart of quite a small commercial area surrounded by homes and residences. When I got the notice for another event only 2 months after the first, I had a sense of event-fatigue. I didn’t expect the outdoor, live-music events to be so frequent, so I do have some concerns.

• How many “outdoor events” does Unmapped expect per year? My notes from discussions suggest “2-3 per year”. I spoke with Kathy Leervig, who said Unmapped was “approved for 3 events a year”? I attended the October 24 Council meeting when the application for the brewery was approved and don’t recall firm numbers being a part of the discussion or the final resolution. Does that really boil down to 3 events during Spring/Summer/Early Fall, or every couple of months?

• For comparison, how many events do other local breweries in Mtka and surrounding communities have?

I’ve had a good experience with Unmapped as a new neighbor and so will wait-and-see how much impact frequent, live, outdoor events end up having on my home life. JD and Megan are building a good reputation as conscientious and responsive business owners. I would just ask the Council and City Staff to continue to assess whether Glen Lake can sustain the frequency of such events as time progresses. Thank you for your consideration.

Sincerely

Anne Malm Hossfeld
1. **INTRODUCTION**

The Shady Oak Crossing commercial development is proposed to be located at 4312 Shady Oak Road, Minnetonka, MN. In addition to the new building, the re-developed site will include a new parking lot with an entrance to Oak Drive Lane, along with the removal of the previous access to Shady Oak Lane. Impervious coverage on the property will be reduced, and a stormwater management system will convey all site runoff to a new basin installed on the adjacent property to the west.

The primary parcel for the project construction is approximately 1.6 acres, while the western parcel is 0.68 acres. The development must meet the stormwater management standards of the City of Minnetonka, the Nine Mile Creek Watershed District (NMCWD), and the MPCA NPDES Permit.

**Regulatory Stormwater Requirements:**

1) Infiltrate or otherwise retain the volume of 1" of rainfall over all site impervious area.

2) Treat the runoff to the following pollutant reductions: 90% TSS & 60% TP.

3) Match or reduce stormwater discharge rates for the 2-, 10-, and 100-year, Atlas-14 storm events.

4) Include a pretreatment device when underground infiltration methods are employed.

5) Maintain a minimum of 3.0' of separation from the bottom of an infiltration device to the groundwater table elevation.

2. **EXISTING SITE CONDITIONS**

The existing parcels total approximately 2.28 acres, with the easterly parcel consisting almost entirely of impervious surface associated with existing commercial development, and the smaller westerly parcel including a residence and natural area. The soils present at the site consist primarily of silty sands with moderate to good infiltration capacity, according to soil logs collected at the site (additional soils information included in Appendix A).

The property is covered with 1.22 acres of impervious surface, and primarily drains west into the wetland. Existing drainage patterns on the site are illustrated on Figure 1 (Appendix B).