Minutes  
Minnetonka City Council  
Monday, July 8, 2019

1. Call to Order
   Mayor Brad Wiersum called the meeting to order at 6:33 p.m.

2. Pledge of Allegiance
   All joined in the Pledge of Allegiance.

3. Roll Call
   Council Members Deb Calvert, Rebecca Schack, Susan Carter, Mike Happe, Tim Bergstedt, Bob Ellingson and Brad Wiersum were present.

4. Approval of Agenda
   Schack moved, Calvert seconded a motion to accept the agenda, as amended with addenda to Item 12.A, Item 14.B and Item 14.D. All voted “yes.” Motion carried.

5. Approval of Minutes: None

6. Special Matters: None

7. Reports from City Manager & Council Members
   City Manager Geralyn Barone reported on upcoming city events and council meetings.

   Schack stated during the last week of June she attended the League of Minnesota Cities (LMC) Conference in Duluth. She commented on the conference noting the city was awarded the next step in the Minnesota GreenStep Cities program. She congratulated the Mayor on being appointed the First Vice President of the League of Minnesota Cities.

   Calvert reported she attended the National League of Cities Conference in Indiana at the end of June. She reported 14 resolutions were considered.

   Carter explained she attend the community worship service at Destiny Hill with Calvert. She encouraged residents in Minnetonka to understand this was a congregation that wanted to belong and add value to the community.
Wiersum indicated he attended the League of Minnesota Cities Conference in Duluth. He noted the conference was very well attended and had tremendous speakers. He stated he appreciated the collaborative efforts that were demonstrated at this event. He explained he was elected to be First Vice President of the League of Minnesota Cities and noted City Manager Geralyn Barone received a leadership award from the Women in Municipal Government. He offered City Manager Barone a round of applause.

8. Citizens Wishing to Discuss Matters not on the Agenda

Hennepin County Chief Judge Ivy Bernhardson provided the council with an overview on the District Court. She reviewed a handout with the council discussing in further detail the urban court system. She noted Hennepin County had 63 judges and heard 500,000 cases each year. She commented on the importance of residents serving their jury duty. She stated Hennepin County’s e-court technology was both innovative and beneficial to the court system. She provided further comment on the types of cases being heard by the county, how the courts were funded and asked for comments or questions from the council.

Wiersum thanked Chief Judge Bernhardson for her presentation.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote: None

11. Consent Agenda – Items requiring Five Votes:

A. Items concerning Chase Bank at 4795 Co Rd 101:

1) Final site and building plans, with a parking variance; and

2) Conditional use permit

Ellingson moved, Calvert seconded a motion to adopt Res. 2019-052 and Res. 2019-053 approving the request. All voted “yes.” Motion carried.

B. Items concerning Chipotle at 10995 Red Circle Drive:

1) Resolution approving an amendment to the master development plan and final site and building plans, with a parking variance; and

2) Resolution approving a conditional use permit for a restaurant, with a drive-up window and outdoor seating area
Ellingson moved, Calvert seconded a motion to adopt Resolution 2019-054 and Resolution 2019-055 approving the request. All voted “yes.” Motion carried.

C. Time extension for a conditional use permit, with a parking variance, to expand an existing medical clinic at 10653 Wayzata Boulevard

Ellingson moved, Calvert seconded a motion to approve a twelve-month time extension. All voted “yes.” Motion carried.

12. Introduction of Ordinances:

A. Items concerning Shady Oak Road Redevelopment:

1) Master Development Plan,

2) Site and Building Plan review,

3) Preliminary Plat,

4) Detachment/Annexation,

5) Comprehensive guide plan amendment, and

6) Rezoning

City Planner Loren Gordon gave the staff report.

Calvert asked what the setbacks were on Shady Oak Road. Gordon reviewed the setbacks with the council.

Happe questioned if there had been any material changes since the concept plan was reviewed on May 20. Gordon stated he would know more about this by Friday. He commented on the surface it appears the plans were very similar.

Wiersum inquired if the applicant had anything to add. The applicant had nothing to add at this time.

Schack moved, Carter seconded a motion to introduce the ordinance amending the master development plan, rezoning the property to Planned Unit Development and refer it to the planning commission. Schack, Carter, Bergstedt, Ellingson, Calvert and Wiersum voted “yes”. Happe voted “no”. Motion carried.

13. Public Hearings: None
14. Other Business:

A. Appeal of the planning commission denial of a front yard setback variance to construct an enclosed porch at 18724 South Lane

City Planner Loren Gordon gave the staff report.

Calvert asked if a porch could be constructed on the back of the home. Gordon commented this would be another opportunity for the home, to connect the garage to the home.

Aliaksandr Smolau, 18724 South Lane, explained he was looking to create an entry area on the front of his house for storage purposes and to assist in keeping the cold air out of the front of his house. He reported the porch would assist him in improving the function of his home. He indicated he started to remodel his home four years ago. He requested the council approve his enclosed porch. He reported his neighbors supported the porch addition.

Calvert stated she visited the home this weekend and understood the home was smaller with limited space. She commented while she was sympathetic to the homeowner, she could not support the requested variance to the front yard setback.

Bergstedt indicated he supported the variance. He stated this house was built in 1918 and was moved onto the property. He reported this was long before ordinances and setbacks were in place. He believed this was a unique circumstance. He was of the opinion the request met the intent of the ordinance, was consistent with the comprehensive plan, was reasonable and did not alter the character of the neighborhood. He commented further on the number of homes in the neighborhood that were non-conforming. He reported the applicant was going to great lengths to improve his property. He indicated he would be supporting the variance.

Schack stated she was inclined to agree with Bergstedt. She reported this home was quite old and met the naturally occurring affordable housing in Minnetonka. She indicated she would like to see this affordable housing preserved and enhanced. She appreciated the fact the applicant was working to improve his home. She did not believe a precedent would be sent if the variance were approved, because the situation was unique. She noted she was inclined to override the decision of staff and the planning commission.

Happe commented as much as he did not like the idea of overturning the planning commission and a staff recommendation, he noted he could support the variance.
Carter stated her two primary concerns were setting a precedent and noted the homeowner had alternative options. She recognized the improvements the homeowner was making to the home.

Ellingson reported he agreed with Bergstedt's comments. He explained there were quite a few homes in this neighborhood that were closer to the street. He was of the opinion this home would fit in just fine. He wanted to see the council assist the applicant in improving his home.

Wiersum stated when he came to the meeting, he was undecided on this item. He understood there were homes in this neighborhood that were closer to the street. However, given the testimony given by his fellow council members and because he wanted to encourage naturally occurring affordable housing, he stated he would be supporting the requested variance.

Bergstedt reported the council typically had to come up with reasons for overturning the decision of the planning commission. He stated because the home was built in 1918 and moved onto the lot the variance should be approved. In addition, the request met four of the five variance requirements noting there were other non-conforming properties in the immediate area. Gordon reviewed the findings as recommended by staff and suggested 3B be amended to read: The home was built in 1918 prior to the adoption of City Code.

City Attorney Corrine Heine commented the record was unclear about whether the house was moved to the site prior to ordinances being adopted. She noted the home was built in 1918, but it was unclear when it was moved to the site. She indicated it was entirely possible the home was moved to the site when ordinances were in place. She noted she had reviewed the resolution without the addition of this finding, she recommended finding 3B be omitted.

City Manager Geralyn Barone questioned if the fact the council wanted to preserve naturally occurring affordable housing could be considered a finding of fact. Community Development Director Julie Wischnack reported this should not be written into the resolution, even though it was an admirable function of the council.

Gordon reviewed the line of sight for the home to the west and noted it was in front of the applicant's home. He anticipated the applicant's home would be adjacent to this home after the porch was completed.

Bergstedt moved, Schack seconded a motion to adopt Resolution 2019-056 overturning the planning commission decision and approving the front yard setback variance to construct a front porch at 18724 South Lane with the findings amended as discussed. All voted "yes." Motion carried.
B. Amendment to the approved master development plan and final building plans for Doran at 11650 and 11706 Wayzata Boulevard

City Planner Loren Gordon gave the staff report.

Schack stated she was struggling with the general requests or if there were any red flags. Gordon explained if staff had any red flags, they would have been noted in the staff report. He commented on the windows and noted this project met all I-394 building design requirements.

Calvert questioned if the parapets were too short. She believed the elegance of the building design was being lost by the low, narrow parapets. Gordon agreed.

Calvert expressed frustration with the fact the building design plans showed fully mature trees and told very little about the building. Gordon reviewed several other building elevations with the council.

Wiersum commented the aesthetics of the approved plans for the windows were significantly more attractive than the requested windows.

Tony Kuechle, Doran representative, explained he spent a lot of time on this project working to address its mass. He reported the corner units had a kitchen against the wall which allowed for a window on that wall. He indicated this necessitated a smaller window. He stated he elected the proposed windows because they were a higher quality Anderson window. He commented this window was used at a project in Maple Grove and noted the windows have received high reviews. He commented further on the grading of the project and landscaping plan.

Happe indicated he believed the changes that were being made to the building were quite minor and he appreciated hearing the explanation from the developer.

Calvert commented she believed the council had a lot of say about aesthetics and she was of the opinion the original plan was much more attractive. She stated she would fight for every bit of quality to make this building look elegant for the neighbors. In addition, she wanted to be assured that the landscaping would be done appropriately.

Carter agreed with Calvert regarding her concerns with the aesthetics. However, she was uncertain how much the council should weigh in on the colors of the walls. She agreed the previously approved plans were more elegant and appealing. She noted she preferred the previous plans.

Bergstedt indicated he agreed with Calvert’s comments as well. He stated when he reviewed the previously approved plans versus the requested plans, the
differences were night and day. He expressed concern that the requested plans had been redone in such a manner that the building as no longer stunning. He stated he would have appreciated the larger parapets and other architectural elements. He believed the revised plans had an inferior look to the original plans.

Schack commented she did not want the council to design the project, but noted she was disappointed with the revised plans. She stated she could support the new windows given the fact they were superior quality. However, she did have issues with the bulky look of the building. She indicated she missed the parapets from the previous plans.

Ellingson explained he was not excited about many apartment designs in the metro area because all appeared to be boxy and similar. He thanked Doran for providing an explanation as to why the windows had been changed. He commented he was not qualified to be the architect of the project and noted this was not the council's calling.

Calvert stated people in the community were going to have to make a huge adjustment going from a single story to this huge four story building. She noted the council had one chance to get this project right and she wanted to be sure it was done right. She believed that the new windows and changed exterior took away from the rhythm of the building. She explained there was nothing special to the proposed building and that it looked like every other apartment building in the metro area. She stated the other building looked extremely elegant, drew the eye and was architecturally superior.

Wiersum commented he believed the approved version was more attractive as the majority of the council had stated. He explained the council did not approve the building simply because it was attractive but rather this was a factor. He stated if the building didn't have any affordable housing, it would not have gotten approved. He reported when he looked at apartment buildings one of the most important amenities was natural light. He commented the proposed windows were not as pretty from the outside, but he understood why the change was made. He indicated he did not like the new design but stated the main reason the building was being constructed was to provide affordable housing for Minnetonka residents. He stated he did not like the new building design as well as the original plans. However, he indicated the role of the council was to make policy decisions as the council was not designers. He explained he did not want to see the council become the design police as this would be step in the wrong direction.

Carter stated she heard the mayor's comments clearly and asked why this item came before the council if the council was not to address design standards.
Wiersum explained he did not state the council could not comment on design. He stated his opinion was when decisions are made policy and strategy should be considered. He commented this matter was brought to the council by staff because the plans had changed enough the council had to weigh in.

Bergstedt summarized the comments made by staff regarding the project noting staff was aware the council and neighbors were concerned with the aesthetics. He reported staff did not believe the changes were overly significant, but wanted the council to have the final decision. He indicated he believed the original plans looked better, but understood the reasons why the final plans had been adjusted. He stated he was content moving forward and approve the revised plans.

Wischnack reported staff could work with the developer to address the parapet concerns as well as the rhythm of the building.

Wiersum stated he would appreciate staff working on the parapet concerns with the developer.

Happe moved, Bergstedt seconded a motion to adopt Resolution 2019-057 approving the request. Schack, Bergstedt, Happe, Ellingson, and Wiersum voted “yes”. Calvert and Carter voted “no”. Motion carried.

C. Crosby Road Culvert Replacement

City Engineer Will Manchester gave the staff report.

Happe stated he was proud to observe how well city staff managed this situation while also listening to the neighbors.

Wiersum agreed and thanked staff for addressing this situation in a timely manner.

Happe moved, Schack seconded a motion to adopt Resolution 2019-058 and amend the CIP. All voted “yes.” Motion carried.

D. Items concerning HIGHCROFT MEADOWS at 14410 Orchard Road:

1) Rezoning a portion of the property from R-1 to R-2; and

2) Preliminary plat, with variances

City Planner Loren Gordon gave the staff report.

Wiersum asked the applicant to come forward at this time.
David Stradtman, Rachael Development, discussed the preliminary plat for Highcroft Meadows with the council. He commented on the neighborhood meeting that was held per the council's request. He stated he came away from that meeting feeling very positive. He explained all of the lots within the development were compliant with the city's R-1 requirements.

Rick Denman commented on the front elevations that were provided to staff and the council for this neighborhood. He explained the units would not be repetitive.

Calvert noted she walked the property extensively and noted the R-1 property was heavily wooded at this time. She asked if the city required grading plans prior to approval. Mr. Stradtman reported a grading plan was submitted for this lot. He explained some clearing would occur at the road and but noted his plan was below the significant tree impact. Gordon stated staff was very cognizant while reviewing these plans and would work to address the grading along with managing tree loss. He provided further comment on the proposed grading plan for the project.

Wiersum opened the meeting for comments from the public.

Ralph Dacut, 3710 Westmark Drive, explained he attended the neighborhood meeting on June 10. He stated he believed the meeting was very positive. He appreciated the fact that only 12 lots were being pursued versus 14.

Chris Osgood, 3604 Sunrise Drive West, thanked the council for thinking about the trees.

Cathy Kramer, 1631 Sheridan Avenue in Minneapolis, stated she was looking to make a change to the Lifestyle Villas. She appreciated the fact the developer would be building units that were not cookie cutter in style. She encouraged the council to approve the proposed project.

Wiersum closed the meeting for public comments. He thanked all who were involved in this project for the amount of give and take from all sides.

Happe stated he appreciated the process that was followed for this project and thanked the neighbors for all of their input.

Schack explained she would be supporting this project but noted the most troubling issue for her was the value of the housing units that would be created.

Calvert stated she agreed with Schack but noted because of the topography of the property, 19 homes would have been extremely difficult. For this reason, she supported the proposed project with 12 lots in order to minimize the tree loss and to address the concerns of the neighbors. She feared that this project could be
precedent setting. She cautioned the council on moving forward with this project and discussed how it would impact Orchard Road.

Bergstedt stated he concurred with the statements made by Happe. He appreciated the process that was followed for this project and thanked the developer for working with the city and the neighbors to design a project that would work. He stated he fully supported the project.

Carter commended the neighbors and developer for working together on this high quality project. She explained she wouldn't pick this type of development personally and understood affordable housing wasn't an option for this unique lot. She stated she was inclined to support the proposed development.

Ellingson thanked the neighborhood and developer for coming together on this project. He feared how the development would be impacted by the increase in the price of the homes and noted these homes would only appeal to a very narrow market of homebuyers.

Wiersum stated this was true. He commented on the compromise that was reached between the neighbors and the developer, and thanked both parties for their engagement. He was of the opinion this was a good development that would fit nicely into Minnetonka. He understood the project would not be affordable but noted no new construction was considered affordable. He stated he would be offering his support to this project.

**Happe moved, Bergstedt seconded a motion to adopt Ordinance 2019-15 and Resolution 2019-059 approving the proposal. All voted “yes.” Motion carried.**

E. **Affordable Housing Policy**

Community Development Director Julie Wischnack gave the staff report.

Bergstedt requested further information regarding the comments made by the EDAC. Wischnack discussed the comments made by the EDAC.

Bergstedt commented on the payment in lieu policy and requested further information on this topic. Wischnack reported staff did not support a payment in lieu policy at this time. She reported she was reviewing how this policy was working in the cities of Bloomington and Edina to learn more about the process and would be reporting back to the council in November or December.

Happe questioned if salaries were verified to ensure renters remained within the AMI requirements. Wischnack explained salaries were verified annually for those living within an affordable housing unit. She noted there was a grace period and if a renters income were raised, perhaps the rent structure would be changed for
the affordable unit. She noted this was not an eviction situation, but rather management would work with the renter to make an adjustment to the rent another unit within the complex would become affordable.

Wiersum opened the meeting for public comments.

Veta Segal, 12830 April Lane, explained she has been a resident of Minnetonka since 1957. She noted she used to live on Belmont Road for several years before moving to her current address. She stated she has been involved in the issue of affordable housing for years as she previously worked as a social worker and assisted individuals going from welfare to work. She explained she often had a problem with finding jobs in Minnetonka because she could not find affordable housing and transportation. She encouraged the council to reconsider the area median income. She stated there was far more need for affordable housing in the city than there was for luxury housing, especially when it came to seniors.

Wiersum closed the meeting to public comments.

Happe stated he was pleased to see the policy was written to address owned housing as a target area. He expressed concern with the word "shall" within the policy and he wished this term could be softened.

Schack discussed the timeline and noted there were other tasks ahead of the council with respect to affordable housing. She understood the council was working to address naturally occurring affordable housing as well as providing affordable units for those at the 30% to 40% Area Median Income (AMI). She was pleased the city was chipping away at this and stated she supported the draft policy as presented.

Calvert agreed with Schack's comments. She explained she appreciated the word "shall" and believed the policy needed to have teeth. She indicated she would appreciate the council holding a study session meeting in the future to further discuss how to address near homelessness.

Bergstedt commented affordable housing was a problem that was not going away but would only get worse both in Minnetonka and around the state. He stated this was a more challenging topic for Minnetonka given the fact this was a wealthy community. He was pleased the city had a plan and that staff was committed to this plan. He supported the draft policy moving forward.

Wiersum thanked staff for drafting a great policy. He believed the policy sets a great standard for the city going forward into the future.
Schack moved, Calvert seconded a motion to adopt Resolution 2019-060, approving the draft affordable housing policy. Schack, Carter, Bergstedt, Ellingson, Calvert and Wiersum voted "yes". Happe voted "no". Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Happe moved, Carter seconded a motion to adjourn the meeting at 9:10 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Becky Koosman
City Clerk