Addendum
Minnetonka City Council
Meeting of May 18, 2015

14A. *Items concerning the Music Barn Apartments, at 5740 and 5750 Shady Oak Road*

Included is a change memo from the city planner with a revised ordinance. Also, attached are emails received after the council packet was distributed.
Memorandum

To: City Council

From: Loren Gordon, AICP, City Planner

Date: May 18, 2015

Subject: Change Memo for the May 18, 2015 City Council meeting

ITEM 14A – Music Barn Apartments

- A finding pertaining to natural resource preservation has been added to the rezoning ordinance. See page 1 of the attached revised ordinance.

- Additional resident comments were received. See attached.
Ordinance No. 2015-

Ordinance rezoning the existing properties at 5740 and 5750 Shady Oak Road from R-1 to PUD and adopting a master development plan

The City Of Minnetonka Ordains:

Section 1.

1.01 The properties at 5740 and 5750 Shady Oak Road are hereby rezoned from R-1, low-density residential, to PUD, planned unit development.

1.02 The properties are legally described in EXHIBIT A.

Section 2.

2.01 This ordinance is based on the following findings:

1. The rezoning would result in the provision of affordable housing, providing a public benefit.

2. The rezoning would result in greater preservation of existing natural resources, including steep topography and high-priority trees, than would otherwise be provided under non-PUD development;

2.3. The rezoning would be consistent with the intent of the zoning ordinance and of the comprehensive guide plan.

3.4. The rezoning would be consistent with the public health, safety, and welfare.

Section 3.

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

   a) Grading plan dated September 26, 2014
   b) Utility plan dated September 26, 2014
   c) Landscape plan dated September 26, 2014
   d) Building elevations received March 31, 2015 and May 4, 2015

   The above plans are hereby adopted as the master development plan for The Music Barn Apartments.

2. Development must further comply with all conditions as outlined in City Council Resolution No. 2015-XXX, adopted by the Minnetonka City Council on May 18, 2015.

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 May 18, 2015.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this ordinance:

Date of introduction:  April 20, 2015
Date of adoption:    May 18, 2015
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

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 regular meeting held on May 18, 2015

______________________________
David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:
That part of the East 30.00 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northeast Quarter, thence on an assumed bearing of South 87 degrees 06 minutes 28 seconds West along the South line of said Southeast Quarter of the Northeast Quarter a distance of 972.30 feet; thence North 2 degrees 53 minutes 46 seconds West a distance of 488.09 feet, said last described line if extended would intercept the North line of said Southeast Quarter of the Northeast Quarter at a point 1006.55 feet West of the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence North 57 degrees 06 minutes 28 seconds East a distance of 97.56 feet to the point of beginning of the land to be described; thence South 20 degrees 34 minutes 09 seconds East a distance of 160.00 feet; thence North 63 degrees 25 minutes 51 seconds East a distance of 208.95 feet to the Southwesterly right of way line of County Road Number 61; thence Northwesterly along said right of way line to its intersection with a line bearing North 63 degrees 25 minutes 51 seconds East to the point of beginning; thence South 63 degrees 25 minutes 51 seconds West to the point of beginning.

Hennepin County, Minnesota
Abstract Property

Parcel 2:
That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of Section 35, thence South 87 degrees 06 minutes 28 seconds West, assumed bearing, along the South line of said Southeast Quarter of the Northeast Quarter, 996.01 feet; thence North 1 degree 19 minutes 39 seconds West 388.02 feet; thence North 86 degrees 20 minutes 14 seconds East 12.59 feet, which point is marked by a Judicial Landmark; thence South 2 degrees 53 minutes 46 seconds East, along the last described line, 400.23 feet; thence North 87 degrees 06 minutes 28 seconds East 97.56 feet; thence North 63 degrees 25 minutes 51 seconds East 186.14 feet to the Southwesterly right of way line of County Road 61 (also known as Shady Oak Road); thence North 54 degrees 36 minutes 25 seconds West, along said right of way, 249.72 feet; thence North 36 degrees 23 minutes 15 seconds West, along said right of way, 173.57 feet, to its intersection with a line which bears North 50 degrees 09 minutes 52 seconds East from the point of beginning; thence South 50 degrees 09 minutes 52 seconds West, along said line, 42.72 feet to the point of beginning.

Hennepin County, Minnesota
Abstract Property
Stuffing this Music Barn Apartment into this postage stamp sized lot will have the same result as stuffing the properties that Pairings, Jimmy’s, Jimmy John’s and the other businesses on that super small area development on Shady Oak Road near the Crosstown. Why did Pairings fail? No parking was one of it’s major problems. The City approved this project and now we have a large empty business space?

Providing two parking spaces per unit is short sighted. Where do visitors, including the property manager and service vehicles park? What are the parking rules for trailers, and over sized vehicles? Is there Handicap parking on site? Regarding the headlight screening, how was this resolved to protect the Homeowners in Beachside development?

No matter what the Traffic Engineers say, there will be rear-end accidents from vehicles turning into the development going south on Shady Oak Road. That’s a reality that will happen. There needs to be turn-in lanes. Will the trash haulers drive straight into the property or back into for garbage and re-cycling pick-up.

What are the expectations for furnishings being stored used on the front porches? Will the PUD include and operating rules and regulations?

While it has been stated the Lone Oak Park is behind the development, the drive areas from Shady Oak Road is the only pathway for kids and adults to reach the park. Maybe I’m a slow walker, but it will take 10+ minutes to walk from that development to the park. I’ve walked it several times. The kids are not going to make that trek too often.

I am NOT comfortable with the project, because these questions have not properly been addressed.
Well that could be true about the former Pairings owner, but I had two Real Estate Brokers tell me the spaces in general were difficult to lease, because of the lack of circulation and the parking issues.

I am really against this project because there are far too many issues regarding good site space planning, parking, activity space, and I’m really concerned about site and Shady Oak Road safety. In the presentation to the Planning Commission, comments were made about young families living here, Young kids need somewhere outside to play. The Lone Oak Park is .4 miles from the front of the Music Barn to the Playground using a vehicle roadway as most of the pathway to and from the park. Yo-Yo, Popping Corn, the Candy store, and Scoreboard all look mighty inviting to young families and kids. Cutting across Shady Oak Road will be the most traveled pathway. Not walking down to the Bren Road signal light. Traffic turning in and out of an elevated drive space off Shady Oak Road is an hazard. While the Police patrol Shady Oak Road a lot, their presence is not there when the traffic is heavy and speeding. Vehicles will be turning in and out of the property at those busy times. My next door neighbor is a Traffic Engineer for Hennepin County. While he can’t officially comment on my thoughts or the reality of the problems, he didn’t say I was wrong.

The developer stated they have resolved operational problems at other sites, regarding the number of parking space and parking on elevations, garbage hauling, and providing activities on a small site. There are a lot of statements made by the developer, but I’d like to see some proof. Once it’s built, it’s too late to properly address the problems I believe are real.

I just really want these issues to be thoroughly thought though and addressed. If I didn’t present my concerns and something could be done now, before the project progresses, I’d not be happy with myself. I’m sure the City doesn’t want to ignore obvious problems.

Larry

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Mr. Rose,

I understand that you disagree with city staff’s opinions and recommendation regarding the Music Barn proposal. I will forward your comments to the city council.

Please note that the closure of Pairings was not based on parking issues. Rather, the owner of the restaurant was legally unable to retain a liquor license due to a felony conviction. This lack of license, financing issues, and the decision of the landlord resulted in the closure of the restaurant. A new restaurant has signed a lease to occupy the space; they are hoping to be open in the fall.

Susan
Stuffing this Music Barn Apartment into this postage stamp sized lot will have the same result as stuffing the properties that Pairings, Jimmy’s, Jimmy John’s and the other businesses on that super small area development on Shady Oak Road near the Crosstown. Why did Pairings fail? No parking was one of it’s major problems. The City approved this project and now we have a large empty business space?

Providing two parking spaces per unit is short sighted. Where do visitors, including the property manager and service vehicles park? What are the parking rules for trailers, and over sized vehicles? Is there Handicap parking on site? Regarding the headlight screening, how was this resolved to protect the Homeowners in Beachside development?

No matter what the Traffic Engineers say, there will be rear-end accidents from vehicles turning into the development going south on Shady Oak Road. That’s a reality that will happen. There needs to be turn-in lanes. Will the trash haulers drive straight into the property or back into for garbage and re-cycling pick-up.

What are the expectations for furnishings being stored used on the front porches? Will the PUD include and operating rules and regulations?

While it has been stated the Lone Oak Park is behind the development, the drive areas from Shady Oak Road is the only pathway for kids and adults to reach the park. Maybe I’m a slow walker, but it will take 10+ minutes to walk from that development to the park. I’ve walked it several times. The kids are not going to make that trek too often.

I am NOT comfortable with the project, because these questions have not properly been addressed.

Larry Rose
5651 Sanibel Drive
Thank you Susan for your converting my exhibits to power point this afternoon, in preparation for Monday's 6:30 Council meeting. Your professionalism is commendable!

I realize that you and other staff members recommend approval of the Shelter Corporation 27 unit Music Barn Apartment project. Regardless of the 'public benefit' conformance to the PUD ordinance [affordable housing], the physical site constraints of this unique site have not allowed 'creative design' to solve what the developer has proposed as a 'compromise' to the 2014 concept for 38 units. Maybe the current proposal was planned as a so called 'compromise'. Regardless of conforming to the Minnetonka Comp. Guide Plan, a proposal attempting to meet the requirements of R-3 zoning, even with potentially approved variances, would not have been possible. Staff has to be aware of this. Knowing this the developer was smart enough to attempt the PUD approach. As a result you now see this approach of taking advantage of the PUD ordinance [site, City, 'public benefit', etc.], not to mention MAJOR visually intrusive aesthetic concerns, tenant and public safety issues, and overly ambitious site coverage. It fits; HOWEVER, that is not the only reason to consider approval.

Staff did an outstanding job of presenting their position on behalf to the developer at the Public Hearing last week, illustrating walking distances to and from various transit and park locations. Staff did not mention that there is virtually no safe, usable open space for common and routine tenant outdoor activities, i.e, walking, children play, grilling, walking the dog or just plain relaxing. Can you imagine letting your child walk around the cemetery, then down to the playground area in Lone Lake Park, approximately 1/3 mile, potentially without adult supervision? This is similar to walking to Sundial Center or further to Caribou Coffee near the CrossTown. There is only one designated crossing at Bren Road at the south.

Walking along Shady Oak Road (County Rd. 61) during 'good' weather is concern enough with traffic traveling often in excess of the 45 mph speed limit, not to mention 'jay walking', try this in the winter. Please note: Hennepin County and Minnetonka plow snow at the speed limit, spraying snow in excess of 20 feet beyond the curb, covering the walk, blocking driveways and crushing any susceptible vegetation and structures, not to mention the proposed development, good reason for normal setbacks, which there are none on this site. THEN, some days later the City accomplishes a partial removal which still is not safe for walking for quite some time.

The Minnetonka Council can make legal decisions based on facts together with conformance with the Minnetonka Code of Ordinances. Just relying on staff recommendations and developer responses that 'it has worked on other projects', should not be considered 'absolute'.
I suggest an in depth review of Sections of the Minnetonka Code of Ordinances, specifically the following as relating to this proposed project:

   Section 300.22 Planned Unit Development District

   Chapter 3: Zoning Regulations
   Section 300.07 Variances

   Chapter 4: Subdivision Regulations
   Section 400.055 Variances

It appears that the requirements for PUD approval have changed to accommodate the development of a multiple housing project on this site.
Inherent variances, in this case, are being exaggerated beyond comprehension.

There are numerous aesthetic and safety issues, glossed over by the Planning Commission, that still need to be addressed. Don't rush this project.

David Kirscht
5664 Sanibel Drive