Joint City Council Work Session Agenda
City of Hopkins
City of Minnetonka

January 17, 2017

Dinner at 5:00 P.M.
Meeting 5:30 P.M. – 6:30 P.M.

Raspberry Room — Hopkins City Hall
1010 1st Street S.
Hopkins, MN 55343

1. Call to Order

2. Discussion - Shady Oak Station Area Joint Planning

3. Adjournment
City of Hopkins and City of Minnetonka
Joint City Council Study Session
Meeting of January 17, 2017

Brief Description
Shady Oak Station Joint Planning Discussion

Background
This past summer, the Minnetonka and Hopkins city councils jointly reviewed, discussed, and provided general direction on a proposed zoning approach for the Southwest Light Rail Transit Shady Oak Station Area. The councils also briefly discussed how zoning approvals in this area might be structured with an approach that would engage both communities using a joint planning board rather than having each community assume their customary autonomous roles. Without much detail presented, the councils generally supported this approach.

Options for Structuring Joint Planning

Since that discussion, Hopkins and Minnetonka community development and legal staffs have evaluated jurisdictional options for joint planning around the Shady Oak Station. Minnesota state statute provides cities with the powers to engage in joint planning, and legal staff has provided the attached memorandum overviewing the statutory options. Based on that, staff has developed two viable joint planning structures that are legally permissible. They are:

1. Joint Planning Commission, and

2. Joint Approval Board

In either scenario, it is assumed the mechanics of an ordinance to implement zoning for the Shady Oak Station will need further review. It is difficult to prepare the final ordinance without the legal structure of the group because that impacts how the ordinance is written. Prior to proceeding in too much additional work on zoning details, the jurisdictional approaches need further discussion.

1. Joint Planning Commission

The joint planning commission (JPC) structure would create a new planning commission or advisory body comprised of equal members of each community. This JPC would likely be comprised of seated planning commissioners from each community. The JPC would review development proposals for the entire station area and provide a recommendation to the city council for action on that development. Action would be taken by the council for the city in which the project is located.
Structure:
- 6 members (3 Hopkins, 3 Minnetonka).
- Each city council has final authority for projects in its jurisdiction.
- Each city adopts the zoning ordinance separately – the cities’ agreement would require consistency between the ordinances.
- Bylaws to address working structure:
  - Comprehensive plan consistency with station development strategy

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<th>Cons</th>
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<tr>
<td>Easy to understand</td>
<td>Potential for inconsistent decisions</td>
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<tr>
<td>Most like existing processes</td>
<td>because of different decision-making</td>
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<tr>
<td>Each city council retains its</td>
<td>bodies</td>
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<td>decision-making authority</td>
<td>More opportunity for member turnover</td>
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2. Joint Approval Board

The joint approval board (JB) structure would create a single approval body comprised of members from each community. This joint board would essentially assume the authority of a city council for zoning and land use related matters. For efficiency, the JB would be comprised of 6 members – 3 from each community -- but only 5 members could vote on any specific project. The non-voting member would be one of the members from the community in which the project is not located. Removing a member or assigning a non-voting status to a member from each community would prevent split votes and keep community representation in the majority. The JB could be informed by a planning commission, of the host city or potentially a joint planning commission, or it could act without a commission as long as the JB also served as the body to conduct public hearings required by statute.

Structure:
- 6 members (3 Hopkins, 3 Minnetonka) include mayors and/or city council members
- 5 Voting members. Majority based on the jurisdiction where the project is located.

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<th>Pros</th>
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<td>Designation of nonvoting member prevents</td>
<td>Not as much vetting, depending on the</td>
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<td>tie decisions</td>
<td>planning commission structure</td>
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<td>More streamlined</td>
<td>Unknown time commitment</td>
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<td>Economic Development friendly</td>
<td>Number of projects</td>
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<td>Number of meetings</td>
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Recommendation

Although either approach is permissible and administratively acceptable, staff prefers the joint approval board approach for the following reasons:

- Focuses the board on implementing shared vision with one common board representing the interests of each city during decision making.
- A simpler review process is helpful for administration between cities. This more streamlined review process would be less cumbersome to the development community as well.
- Economic development friendly, again, as both city interests are at the table during decision making.

Next Steps

Depending on the preferred approach, there may be the need for further discussion. If there is clear direction, staff will prepare a draft of an agreement for review at a future meeting. Staff would also prepare the final ordinance to reflect the specific structure. Staff anticipates an agreement would be ready for review in late spring/early summer.

Originated by:
Jason Lindahl, AICP, City Planner — City of Hopkins
Loren Gordon, AICP, City Planner — City of Minnetonka
Corrine Heine, City Attorney – City of Minnetonka

Through:
Mike Mornson, City Manager — City of Hopkins
Geralyn Barone, City Manager — City of Minnetonka
Julie Wischnack, AICP, Community Development Director – City of Minnetonka
Kersten Elverum, Director of Economic Development and Planning – City of Hopkins
To: Minnetonka and Hopkins Community Development Staff  
Cc: Hopkins City Attorney, Scott Riggs  
From: Corrine Heine, Minnetonka City Attorney  
Date: January 17, 2017  
Subject: Available Joint Planning Options

This memo reviews items that we have previously discussed, regarding the legal authority for Hopkins and Minnetonka to jointly exercise planning powers in the vicinity of the Shady Oak light rail station. Examples of other joint planning efforts and different decision-making structures are also provided.

Authority to do joint zoning

The cities’ authority to engage in joint planning is given by Minn. Stat. § 471.59, the joint power act. Under that statute, cities may jointly or cooperatively exercise any power and may provide for the exercise of powers by one participating unit on behalf of other units. When the joint powers agreement (JPA) provides for a joint board, the board must be representative of the parties to the agreement. If the joint board is given the authority to issue bonds (which is not to suggest that this board would be given that authority), the statute requires that the members of the joint board be composed of members of the governing bodies of the member units. Otherwise, the law does not require that the joint board be comprised of city council members.

For information, the legislature has recognized the need for cooperative efforts among local government units in a variety of situations. Although the statutes listed below do not apply to the joint exercise of zoning powers, they are illustrative of the legislature’s intent to facilitate local cooperation. Any two or more cities may enter into a joint powers agreement for conduct of regional planning activities. For example:

- Minn. Stat. § 462.371 authorizes creation of a regional planning agency. (This is for development planning, not zoning.)
- Minn. Stat. § 462.383 – can have regional development commissions to develop plans. **Doesn’t apply to this situation.** Statute recognizes ability to conduct planning under 471.59.

- Minn. Stat. § 462.3585 allows county and city to have a joint planning board for the unincorporated area within miles of a city’s corporate limits.

- Minn. Stat. ch. 414 allows creation of joint zoning boards in connection with annexations.

- Minn. Stat. ch. 360 requires a joint zoning board for airports and adjacent cities, to address airport safety zoning.

- Minn. Stat. § 394.32 allows cities and counties to contract for planning and zoning services and provide for joint planning activities. The agreement may designate the county board as the city’s planning agency.

**Options for structuring joint zoning:**

We discussed several options for structuring the cities’ cooperative zoning efforts:

- **A JPA that provides for cooperative zoning by the two cities, but without any separate board.** Under this structure, the cities would cooperate in establishing zoning ordinances for area and amending their respective comprehensive plans. However, there would be no joint board, and each city would administer its zoning ordinance in the same manner as it does zoning applications from other areas of its city. The JPA would include an agreement that the cities would not revise their ordinances or comprehensive plan for the station area for a specified time period, except by mutual agreement. This method, although technically cooperative planning, provides the least assurance of consistent planning for the station area.

- **A JPA that provides for a joint planning commission, but not a separate decision-making board.** Under this structure, the JPA would establish an independent planning commission to review proposals within area and make recommendations, but each council would make the final decision for its city. The JPA would also require city cooperation in establishing zoning regulations, and would provide that the cities would not revise a specified time period, except by mutual agreement. This is an improvement upon the structure mentioned above, because it provides for review of all applications by a single body that can attempt to assure consistency. However, that body is advisory only.
• A JPA that provides for a joint zoning board. Under this structure, the JPA would establish a zoning board with authority to enact zoning regulations and make zoning decisions within the district. The JPA could provide for a joint planning commission as well or for review by respective city commissions with recommendation to zoning board. The JPA would designate the manner of appointing members to the board. Depending upon the cities’ preference, the joint board could be comprised of existing planning commission members, existing council members, or neither. Each city must have representation on the board.

Examples of other joint zoning efforts:

As mentioned above, state law provides for cooperative zoning in a number of different circumstances. The following are examples of joint zoning efforts that are currently in place, with a summary of how they are structured.

• Arden Hills and Ramsey County – TCAAP site
  o Pursuant to 471.59
  o Created a joint development authority (JDA) to exercise various powers regarding the TCAAP site, 427 acres in area
  o JDA board – city and county each appoint two members from their governing bodies. City appoints a third non-elected person to serve as JDA chair. Can also have alternates
  o JDA has its own budget, which must be reviewed and approved by each party. City and county staff provide staffing (included in JDA budget, I assume), but JDA hires consultants
  o City prepares master plan and AUAR for site. Parties work cooperatively to address standards in city’s comp plan and zoning code, and master plan must comply. JDA will recommend public process for consideration of master plan. City and county each approve master plan by resolution.. After approval, master plan is part of city’s approved comp plan, and city must conform zoning to the master plan. JDA implements master plan as approved and serves as governing body for approvals.

• Greater Bemidji Area Joint Zoning Board
  o Originated through orderly annexation – authority in ch. 414.
  o City appoints 4 members, who must be members of council. Towns each appoint 2 members, who must be members of town board. Each may name alternate appointee to serve as substitute if someone cannot attend.
- Board has authority to enact ordinances and make zoning decisions, except as limited by agreement. Zoning and subdivision ordinances must first be approved by three participating entities.
- Each entity gets to decide park dedication fees and whether to accept land or cash in lieu.
- Each entity gets to decide street acceptance and vacation decisions, consistent with JPA.
- Joint board appoints planning commission-six recommended by city, 3 recommended by each town, for total of 12.
- Parties contribute toward costs of operation as agreed by three entities in their annual budget, considering certain factors. Joint board charges development fees to offset its costs.
- Board has no authority to levy taxes or issue bonds.

- Hutchinson, 4 townships and McLeod County
  - Established under 462.3585, which allows county and city to have a joint planning board for the unincorporated area within miles of a city’s corporate limits.
  - County and city must have equal representation on the board, and members of board must be from the governing body of the city/county.
  - Appointed board serves as the governing body for municipal planning purposes.

- Joint airport zoning board
  - Authority is provided under Minn. Stat. ch. 360.
  - Government entities that have jurisdiction over airport and airport hazard areas may create joint airport zoning board. Met Council must have JAZB for each of its airports.
  - Representatives on board are appointed by the entity that owns or controls airport (2 reps), each county or city in which airport hazard is located (2 reps each).
  - JAZB agreement for MSP – JAZB Board adopts the JAZB ordinance. Cities enforce the requirements and individually adopt them as well. Statute provides that most stringent requirement prevails when there is a conflict between city ordinance and JAZB ordinance. Appeals are to board of adjustment which must be created by the JAZB.
Pursuant to due call and notice thereof a joint work session of the Hopkins City Council and Minnetonka City Council was held on Tuesday, August 16, 2016 at 5:30 p.m. in the Raspberry Room at Hopkins City Hall, 1010 First Street South, Hopkins.

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<th>Hopkins Council Present:</th>
<th>Katie Campbell, Jason Gadd, Kristi Halverson, Aaron Kuznia, and Mayor Molly Cummings</th>
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<td>Minnetonka Council Present:</td>
<td>Patty Acomb, Dick Allendorf, Tim Bergstedt, Bob Ellingson, Tony Wagner, Brad Wiersum, and Mayor Terry Schneider</td>
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<td>Hopkins Staff:</td>
<td>City Manager Mornson, Director of Economic Development and Planning Elverum, Assistant City Manager Lenz, City Planner Lindahl</td>
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<td>Minnetonka Staff:</td>
<td>City Manager Barone, City Planner Gordon, City Attorney Heine, Director of Engineering Manchester, Community Development Director Wischnack</td>
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Mayor Cummings called the meeting to order and welcomed the City of Minnetonka staff and Council. Mayor Cummings commented on the importance to meet regularly in order to plan and accomplish the goals of both cities.

City Planner Lindahl and City Planner Gordon gave an overview of the Joint Work Session agenda. The staff will review the proposed zoning regulations that will help shape the ordinance and joint powers agreement.

Mr. Gordon gave an overview of the development strategy and vision for the Shady Oak Station area. The area would be a high-density area that includes employment and housing opportunities with the focus on the station area. Mr. Gordon reviewed the comments from the Hopkins and Minnetonka Planning Commissions Work Session regarding the draft zoning regulations. Mr. Gordon discussed the purpose of the development district which includes building upon the character of the area, importance of mobility and focus on the trailhead and station area.

Mr. Lindahl gave an overview of the zoning districts and Mr. Gordon discussed the uses for the areas which should complement each other. Staff recognizes that some of the existing uses will be nonconforming with the new zoning regulations. Mr. Gordon commented that it is important to have zoning in line with the strategy adopted.

Mr. Lindahl commented that staff has looked closely at the specific zoning standards which are different from typical development strategies. The area is intended to have a more dense development pattern that will support transit. To accomplish this goal, the district includes recommendations to create active building edges, useable open space, sufficient vehicle and
bicycle parking, adequate loading areas, focused vehicle access and minimum floor area ratios, building heights and residential densities. Staff noted the district should also include standards for lighting, landscaping, parking studies and exterior building materials. Staff reviewed each of the recommended development standards in detail.

Mr. Gordon discussed the structure of the Joint Planning Board that would have representation from both cities. Staff asked the Councils for feedback on the composition of the Joint Planning Board and how the board should function. Mr. Gordon commented that in summary if the city councils support the proposed zoning, the next steps would be to draft a joint powers agreement and draft a zoning ordinance.

Director of Economic Development and Planning Elverum commented that the focus of the area is to support transit in a safe environment with development focus around the station area.

City Manager Mormson asked about the number of acres available for development. Staff commented that most of the 200 acres is available excluding areas of soil correction, storm water management and the Southwest Light Rail Transit (SWLRT) Operations and Management Facility (OMF).

There was discussion regarding the timing of the Comprehensive Plan changes. Community Development Director Wischnack commented that it is important not to have too much development in before the zoning is structured.

Staff asked the Councils for feedback on minimum height standards and the structure of the Joint Planning Board. Staff has looked height standard guidelines of neighboring cities and more discussion is needed regarding the structure and authority of the Joint Planning Board.

Council Member Wagner commented on concerns about uses in the high-density area, nonconforming status of existing uses and the low FAR by the station area. Staff commented that the Consultant incorporated uses and set minimum levels to make the district function and support transit but the Councils could decide to set higher FAR standards.

Council Member Allendorf commented that developers should be included in a round table discussion to get their feedback regarding zoning areas that are market friendly.

Council Member Wagner asked if the zoning map would work for tax subsidy. Community Development Director Wischnack commented that those mechanisms still need to be thought out.

Council Member Wiersum commented that he would like to see examples of areas with similar elements to better understand the challenges and target audience. Ms. Elverum commented that the Consultant has examples of case studies and staff could get those from the Council. Ms. Elverum commented that staff would like developer feedback on the concept of district parking.

Council Member Acomb commented on the importance of safety, pedestrians and bicycle
opportunities. Council Member Acomb would be interested in hearing what developers say regarding the FAR and development standards. Council Member Acomb commented on the importance of sustainable storm water management and the possible impacts to Shady Oak Lake.

Mayor Cummings commented on the types of uses in the area and the importance to accommodate the existing non-profits that are already in the area. Ms. Elverum commented that the types or themes of uses has yet to be determined but the uses would be developed around transit.

Mayor Schneider commented on forming objectives and goals for the vision and theme of permitted uses and that permitting existing nonconforming use until the property sells or is redeveloped then they need to comply. He commented that it is important to establish criteria for meaningful development parcels. Mayor Schneider also asked about affordable housing in the area. Mayor Schneider commented that the Joint Board should act as an advisory board to the Council meeting regularly during times of application. The concept review stage should be at the Council level with both Councils meeting jointly to review the concepts. Ms. Elverum discussed the existing Overlay District at the east end of Hopkins. Staff will continue to look at the process to structure the sites and the affordable housing study completed by the Metropolitan Council.

Council Member Wagner would like to explore further recommendations on the makeup and legal requirements of the Joint Planning Board. He commented that the Councils would consider the recommendations and feedback of the board with each city having an opportunity to weigh in on the discussion. City Attorney Heine commented on the statutory authority, agreements and establishment of governing boards. Staff commented that they will continue to work on the structure of the Joint Planning Board and bring options back for the Councils to consider.

Council Member Allendorf commented that a developer could look at the parcels as a master development. Ms. Wischnack commented that developers are looking at smaller properties, 5-7 acres but staff will look at reconnecting with developers for their feedback.

Council Member Kuznia commented that the structure of the Joint Planning Board should operate like the Planning Commission. Recommendations are brought back to the Councils and each City Council would make the final decision.

Council Member Gadd commented that it is important that the Joint board focus on the vision for the area yet not push out what is existing. Ms. Elverum commented that the Joint board would focus on the area to make it a cohesive district.

Council Member Campbell commented on the importance of sustainable uses in the area with possible incentives for storm water management.

Council Member Halverson commented that it is important that both Councils have the same vision for the area and that the Joint Board should strive for continuity in uses for the area. Council Member Halverson would like to consider higher minimums for the FAR closer to the station area. Staff will continue to investigate what other cities have done regarding minimums
CITY OF HOPKINS AND CITY OF MINNETONKA
JOINT CITY COUNCIL WORK SESSION
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for height and density as well as maximum height limits.

There was discussion regarding setting standards for the developer process and assigning a higher FAR for different types of uses. Staff will continue to look at uses and FAR to assist the developer process and share the existing use map so Council has clear vision of uses and nonconforming uses.

Council Member Wiersum commented that a mechanism is needed for nonconforming uses and that height constraints are needed.

City Manager Barone commented that the City of Minnetonka is looking at a Public Works addition and will be asking the Hopkins Council to consider a property annexation. The City of Minnetonka will process all the documentation and handle the legalities.

The Work Session adjourned at 6:52 p.m.

Respectfully Submitted,
Debbie Vold