1. **Call to Order**

Chair Kirk called the meeting to order at 6:30 p.m.

2. **Roll Call**

Commissioners Odland, Rettew, Calvert, Knight, Magney, and Kirk were present. O’Connell was absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Principal Planner Susan Thomas, Planning Technician Ashley Cauley, Water Resources Engineer Liz Stout, and Natural Resource Manager Jo Colleran.

3. **Approval of Agenda:** The agenda was approved as submitted with modifications provided in the change memo dated May 7, 2015.

4. **Approval of Minutes:** March 19, 2015 and April 9, 2015

   *Odland moved, second by Magney, to approve the March 19, 2015 and April 9, 2015 meeting minutes as submitted.*

   *Odland, Rettew, Calvert, Knight, Magney, and Kirk voted yes. O’Connell was absent. Motion carried.*

5. **Report from Staff**

Gordon briefed the commission on land use applications considered by the city council at its meeting of May 4, 2015:

- Adopted a resolution approving preliminary and final plats for Congregation Hill, a subdivision on Meeting Street.
- Adopted a resolution approving items for At-Home Apartments on Rowland Road.
- Adopted a resolution approving items for the Circle K gas station located at Highway 7 and Hopkins Crossroads.

There was a workshop held last week to discuss ways to promote engagement with the public.
There was a meeting of Minnetonka and Hopkins representatives to review plans for the SWLRT Shady Oak station area. More information and updates can be found on the city’s website “eminnetonka.com” on the planning projects page entitled “The Shady Oak Area Development Strategy.” Input may be provided through a link.

The next planning commission meeting will be May 28, 2015.

6. Report from Planning Commission Members

Knight attended the Shady Oak station area meeting. He liked the revised area plan with the addition of more housing near the station and biking and pedestrian trails. Calvert felt the presentation was well done, organized, and informative. Audience participants expressed great ideas. Every mode of transportation would be encouraged. There would be the right amount of retail uses. The tenor of the meeting was positive. Chair Kirk noted that the plans are going in the right direction. Anyone interested in serving on the art committee for the SWLRT stations, should please notify Wischnack.

7. Public Hearings: Consent Agenda

No item was removed from the consent agenda for discussion or separate action.

Odland moved, second by Rettew, to approve the item listed on the consent agenda as recommended in the respective staff report as follows:

A. Expansion permit for an addition to the house at 3146 Shores Boulevard.

Adopt the resolution on pages A14-A17 of the staff report which approves an expansion permit for an addition to the house at 3146 Shores Boulevard.

Odland, Rettew, Calvert, Knight, Magney, and Kirk voted yes. O’Connell was absent. Motion carried and the item on the consent agenda was approved as submitted.

Chair Kirk stated that an appeal of the planning commission’s decision must be made in writing to the planning division within 10 days.

8. Public Hearings
A. Conditional use permit for a 2,200-square-foot accessory structure at 1721 Oakland Road.

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

Cauley reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Arnold Zachman, applicant, stated that Cauley did a thorough job explaining the proposal. The exterior would be stucco with steel siding. The garage would be set into the hill.

Calvert asked how many trees would be removed. Mr. Zachman answered two of the three large trees. The owner wants to keep as much vegetation as possible.

The public hearing was opened.

Katie Damberg, 1717 Oakland Road, asked what would be done to protect the private road and how many phases the proposal would have.

Mathew Rain, 13930 Hill Ridge Drive, asked if there would be landscaping added to the back of the garage and the side opposite of the driveway.

Susan Kaufman, 13931 Hill Ridge Drive, asked what would be done to prevent children from climbing on the roof. Kids play in the woods.

No additional testimony was submitted and the hearing was closed.

Mr. Zachman explained that there would be one-inch plywood added for the trucks to drive out. If there would be damage, the property owner would take care of it. The trucking should take a week and the garage should be done within two months. He could get together with the surrounding property owners to discuss adding screening on the northeast corner. A fence may be added to deter kids. The east side of the roof would not be accessible without a ladder. The property owner has fixed damage done to a road in the past.

In answer to Chair Kirk’s question, Colleran explained that the proposal meets tree protection ordinance requirements. Trees are allowed to be removed within the building pad and its 20-foot perimeter. There would be 18 to 20 trees removed. There is no mitigation required.
Cauley stated that the plans for the roof would be reviewed during the building permit process to make sure it would meet state code requirements. Chair Kirk noted that the grade could be lowered to make it more difficult for a child to climb onto the roof.

Gordon suggested that the condition of the road could be documented by residents prior to the start of construction.

**Odland moved, second by Magney, to recommend that the city council adopt the resolution on pages A8-A11 of the staff report. This resolution approves a conditional use permit for an accessory structure with a gross floor area of 2,200 square feet.**

**Odland, Rettew, Calvert, Knight, Magney, and Kirk voted yes. O’Connell was absent. Motion carried.**

This item is tentatively scheduled to be reviewed by the city council at its meeting on May 18, 2015.

**B. Conditional use permit with lot area variance for a 12-resident licensed residential care facility at 2401 Minnetonka Boulevard.**

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

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Magney asked how close future development would be from the site. Thomas estimated that there would be 400 feet from the site to the proposed senior cooperative building. She did notify the senior cooperative representatives regarding the proposal. They did not provide any feedback.

Rettew asked if there are other 12-resident residential care facilities in Minnetonka. Thomas answered that there are 3 other residential care facilities in the city. She believed one has 11 residents, another has 15 residents, and another has 10 residents. Rettew asked if they meet the lot area requirement. Thomas recalled that they do.

Rettew asked if there is a requirement for the building size per resident. Thomas answered that the application would meet the requirement for 300 square feet of building space per resident.
Rettew asked if approval of the application would set a precedent. Thomas explained that staff is not concerned that a precedent would be set. Each application is reviewed uniquely. If an application came forward on an oddly shaped property, with an office building, on a collector road, then there may be a precedent, but approval would not establish a legal precedent for a residential care facility in a single-family home in the middle of a single-family neighborhood.

Chair Kirk noted how a residential care facility can impact a single-family neighborhood when it exceeds six residents. He felt the 3,000 square-foot lot requirement would have been created to provide buffering to neighbors. He noted that the conditional use permit would allow another provider to have a 12-resident care facility on the site. Thomas agreed that, from a zoning perspective, staff and commissioners cannot make a determination on the type of resident who lives at a residential care facility. One of the conditions of approval requires that detailed information on programming, policies, and the activities schedule be provided to the city to anticipate the traffic and parking demands. Any change to the approved use that would result in a significant change in traffic or parking can require a review of the conditional use permit.

Odland asked if a change of owner or provider would require review of the conditional use permit. Thomas answered in the negative. The city does not review or regulate who the residents may be.

Benjamin Palmby, representing One Twelve, the applicant, stated that:

- The clientele that would be served at the site would be clients of a medium-intensity residential program. A primary-intensity residential program would require a higher level of care. Residents are deemed stable and are working on coping skills.
- The program is 90 days. A typical stay is 75 days.
- The residents are screened for mental health issues.
- Less than half of the residents would have vehicles. There would be 18 parking spots. Three stalls would be used by staff members, so half of the 18 parking stalls would be empty.
- The site would be located on a major arterial road. There are currently 6 residents and it has been running well.
- There is an integrated security system with cameras outside and inside.
- Building code, fire code, and health codes need to be followed. Those requirements will be done before the city council meeting.
- Detailed program information and staffing patterns will be provided.
• There would be three staff members on site at a time. If there is a medical issue, an ambulance would be called.
• The care facility has kept a low profile because of the way the clients are screened.
• The planters are now landscaped on Minnetonka Boulevard to screen the parking lot.
• He is open to any questions and suggestions. He brought his whole staff. They are at the facility from 6 hours to 8 hours a day to make sure that everyone is doing what they are supposed to be doing.
• The primary goal is to extend each resident’s sobriety, get them on their feet, and integrate them back into the community. The staff help clients get back into the work force to become high-functioning members of the community.
• Right now, 65 percent of the residents are from Hennepin County.
• If a resident abuses alcohol or drugs, then the resident is transported to the nearest detoxification facility and moved to a higher level of care after that.
• He was available for questions.

Rettew asked how many square feet per resident the other facilities have. Mr. Palmby estimated 500 square feet per resident in one and 400 square feet per resident in another. The state requirement is 90 square feet for a single person and 140 square feet for 2 residents in a room. Minnetonka’s requirement is well above that. No facility has more than 2 beds in each room.

Rettew asked if he considered expanding the building to accommodate 12 residents. Mr. Palmby answered that there is plenty of room available right now. If there are personality conflicts, then residents are moved to different care facilities.

In response to Rettew’s question, Mr. Palmby stated that internet use is monitored and certain sites are restricted. If there is an ongoing issue, the resident would be discharged. So far, no facility has had an issue with that.

Mr. Palmby thanked staff and commissioners for their service. Minnetonka has been the easiest city to work with. He especially appreciated working with Thomas.

The public hearing was opened. No testimony was submitted and the hearing was closed.
Rettew was sympathetic for the need of the use. He noted two other residential care facility applications to house more than 6 residents that were denied because of the location in a single-family neighborhood. He noted that the 3,000-square foot requirement would not be met, but the living requirement of 300 feet per person would be met.

Odland felt it would be a great use for the existing building and an odd-shaped lot. The long-term benefit would pay off.

Calvert concurred.

Odland stated that having the proposed senior facility 400 feet down the road as a neighbor would be beneficial to both parties. There is ample room for traffic and parking which is the main issue for care facilities in single-family residential areas. This site would meet the need in a great way.

Calvert added that the facility would treat addiction for residents which is a health issue. Her concern was with parking, but those questions were answered in the staff report. She was concerned with the amount of traffic in general on Minnetonka Boulevard because there is no good way for her to get to work currently, but that is another issue. She has no concerns for the proposal whatsoever.

Rettew asked if the applicant owns the building. Mike Holmes answered affirmatively.

Knight felt that the location alone is enough reason to justify deviating from the lot-size requirement. Chair Kirk agreed. He supports the application. He would suspect that the future residents of Applewood would not even realize the function of the use operating in the office building.

**Odland moved, second by Magney, to recommend that the city council adopt the resolution including modifications in the change memo dated May 7, 2015 approving a conditional use permit for a licensed residential care facility serving 12 residents at 12401 Minnetonka Boulevard. See pages A8-A14 of the staff report.**

**Odland, Rettew, Calvert, Knight, Magney, and Kirk voted yes. O’Connell was absent. Motion carried.**

This item is tentatively scheduled to be reviewed by the city council at its meeting May 18, 2015.
C. Items concerning the Music Barn Apartments at 5740 and 5750 Shady Oak Road.

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

Thomas and Gordon reported. Thomas recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Chair Kirk asked for information on the TIF part of the proposal. Wischnack explained that the applicant is not requesting to create a TIF district, but, instead, use the city’s pooled tax increment funds. Tax increment pooling money refers to the tax increment funds created by existing TIF districts that may be used for affordable housing. The EDAC reviewed the proposal at its last meeting and agrees with using the tax increment funds. Chair Kirk noted that tax increment funds create an incentive for a developer to provide affordable housing.

Chair Kirk asked what the restrictions are for a steep slope and the site’s tree preservation requirements. Thomas explained that there is a steep slope ordinance that requires a development to meet certain findings outlined in the resolution. It does not restrict development, but gets to minimizing impact to the slope. Staff found that the application does minimize encroachment. The tree ordinance allows up to 35 percent of a woodland preservation area to be removed. Both the tree and steep slope ordinances would not restrict the proposal. It meets those ordinance requirements. Colleran explained the three types of tree classifications. There is a map in the packet that illustrates a woodland preservation area, but that map is not accurate. There is no woodland preservation area on the proposed site. Three high-priority trees of a total of 16 high-priority trees would be removed from the site.

Chair Kirk asked for the definition of medium-density residential housing. Thomas defined medium density as over 4 units per acre and up to 12 units per acre. The proposal is at the high end of medium density. It would be just under 12 units per acre. The Beachside neighborhood across the road is at 9 units per acre. High density is over 12 units per acre.

Jay Jensen, of Shelter Corporation, applicant, stated that:

- He appreciated the opportunity to present the proposal.
- He listened to the comments to the previous plan and reduced the number of units from 38 to 27. The height of the building was reduced from 4 stories to 3 stories. He spent a lot of time on the
exterior design. He thanked staff for their suggestion on the exterior design.

- There would only be two high-priority trees removed. A large walnut tree would be able to be preserved. The focus would be to save as many trees as possible.
- The garage access was moved to the north side to provide a right-in lane on Shady Oak Road. There is room to do that.
- He is excited about the proposal and appreciates the commissioners’ consideration.
- He is available for questions.

Calvert appreciated the applicant moving the structure closer to the road to protect the trees and slope. She would like a depiction of the landscape in the front. Mr. Jensen answered that the landscape plan includes a row of trees across the front. Colleran provided the types of salt-tolerant trees that would be added on Shady Oak Road. The trees must be planted off of the right of way to provide room for maintenance.

Mr. Jensen provided the landscape plan.

Knight asked if the expected tenants would be families or single people. Kids riding bikes on the path would concern him a little. Mr. Jensen anticipated the whole spectrum of residents including families with one or two parents, young couples, and single people. He would anticipate a number of young, single residents who work in the Opus business park. Wischnack noted that affordable housing allows tenants with 60 percent of the median area income. That equals $50,000 per year salary. There are other projects in the city with the same affordable range including The Ridge. This would not be low-income housing.

In response to Chair Kirk’s question, Colleran explained that the trees on the slope would be protected. If 30 percent or more of the critical root zone of a tree would be impacted, then the tree is considered lost. The trees adjacent to the retaining wall would be saved. The trees to the west would still be there. The trees on the north side would remain.

Chair Kirk asked about stormwater management. Mr. Jensen answered that his engineer is working with city engineering staff to come up with a plan to put stormwater management features underground, underneath the parking lot. The features would include a holding area and drains to release the water into the ground. He has used that plan on other projects. Stout added that the proposal would meet the city’s stormwater management requirements for runoff rate control. The water quality treatment goals and infiltration requirements would be
met. All of the water would be captured from the roof and treated and released into the existing storm sewer system on Shady Oak Road. That eventually discharges into a wetland on the south side of Sanibel, on the east side of Shady Oak Road. A permit would be required by the Nine Mile Creek Watershed District.

Chair Kirk confirmed with Stout that the site currently has no stormwater management. The proposal would improve the site’s water quality.

Chair Kirk appreciated the architectural features not commonly seen with affordable housing including front porches and articulated rooflines. He likes how residential it looks. Mr. Jensen confirmed that is the plan that would be used.

The public hearing was opened.

Sohan Uppal, resident of 8334 Virginia Avenue South, Bloomington, and owner of the property adjacent to the south border of the proposed site, commended Mr. Jensen for being very professional. He supports the project for being a residential project. This is a prime location. The road is popular. He requests that a comprehensive plan be looked at for this site and his property. He is not against the project, but he would like the area to be looked at overall. He has been busy the last few years. This project is much better than what was previously considered.

David Kirscht, 5664 Sanibel Drive, stated that:

- He is a retired landscape architect.
- He provided exhibits illustrating the site. He described the grade changes.
- He complemented Shelter Corporation for fitting everything that could be fit on the site; however, there are some elements that do not work.
- The people across the street would look at a major change.
- He asked if the barn would be structurally sound for the intended use.
- He pointed out trees that would be removed.
- The driveway would be located where the grade is 4.5 percent.
- There would be 10 parking stalls on the slope. He would not propose parking on that slope. He was concerned with sliding in the winter, doors opening, and maneuvering.
- The grade at 28 percent is unmanageably steep.
• He questioned how a garbage truck would get to the garbage pad.
• The entrances would be difficult on the 45 mph road.
• There is no typical boulevard that he could see.
• He asked of what material the retaining wall would be made.
• There would be a lot of tree disturbance.
• The south end of the property would have a 3 percent slope on the driveway. He questioned if there would be screening.
• He questioned if the sidewalk or retaining walls would have to have railings.
• The spruce tree would be removed for the driveway.
• There would be 3 feet between the sidewalk and the building.
• Primary access for the tenants would be through the garage and surface parking. Visitors would walk through the barn and take an elevator. “All of this is done for that” which he does not think enhances the treatment of the area.
• He superimposed the previous and current plans to show the difference. Everything is dictated by the elevation of the barn.
• He reviewed elevations of the sidewalk, stoop, and wall.
• The retaining wall would be 8 feet from the sidewalk. It does not fit.
• He is not in favor of the project.
• Traffic, grades, and various issues have not been addressed. The city must consider the safety issues.
• Thirty-eight units would not have fit at all.
• It is like trying to fit a Kleenex box into a toilet paper roll.

Jill Schaefer, 5400 Sanibel Drive, stated that:

• She is concerned with the traffic on Shady Oak Road. She supports a left-turn lane added for both directions.
• The thoroughfare is so busy and there are no side streets to accommodate school buses, garbage trucks, and deliveries.
• She is concerned with the loss of green space. The renderings are very nice, but she did not think they accurately depict the appearance of 27 vehicles parked in the lot. She questioned what all of the vehicles would look like.
• It would not be a good fit for the area.

Kristine Soleta, 5656 Sanibel Drive, stated that:

• The proposal would be a monster building on a tiny lot.
• It would not be livable.
• The building would be too close to the road.
• Traffic travels 45 mph to 50 mph.
• It was great the trees would be saved, but it would not be livable.

Paul Hines, 11112 Abbot Lane, stated that:

• It was hard to hear from the back of the city council chambers.
• He bet a person could not walk from the site to the lite rail station in 15 minutes.
• He was unable to understand the definition of affordable housing. He did not think residents living in affordable housing would “be dining at Jimmy’s on a regular basis.”
• Traffic congestion is the issue.
• He said that the project would be good for the property owner, the development company, and for the city if a person thinks having more affordable housing is good for the city. He has not heard why it would be good for the neighborhood.

David Kirscht, 5664 Sanibel Drive, learned that there would be American Linden trees proposed along the front of the project between the retaining wall and the street. It will not look good because the trees would be planted on a 3:1 slope.

No additional testimony was submitted and the hearing was closed.

Mr. Jensen stated that:

• The barn is structurally sound.
• The grades are challenging. His engineers, from Loucks and Associates, are working with the city engineers. The plan has been approved by city engineering staff.
• The requirements for handicap accessibility would be met.
• The engineers are working with Hennepin County to create a left-turn-in lane on Shady Oak Road.
• He has a similar project in Oakdale. The residents include young professionals and some families. The project is a good fit in the residential neighborhood. The rent is not super affordable, but good in comparison to today’s rental rates which are very high. People who would move into the building typically live within two miles of the site today.
Chair Kirk asked about the concern for noisy traffic. Mr. Jensen said that he built a project right on the Crosstown and worked with insulation and windows to mitigate inside noise. The setback is 20 to 30 feet. The playground would be south of the barn with the adjacent park around the corner.

Chair Kirk asked if the porches are driving the need for the retaining wall. Mr. Jensen answered affirmatively. The porches create a residential look. The barn has been integrated into the farm feel.

Chair Kirk questioned if railings would be needed on the retaining wall. Thomas answered that the building code would have a requirement depending on the height of the retaining wall. That would be reviewed during the building permit review process.

Calvert wondered what accommodation would be made for a school bus stop. Gordon explained that the bus would stop on the road with its stop arm out. That happens on every county road in the city.

Chair Kirk confirmed with Thomas that there would not be enough street right of way to construct a right-turn lane traveling south bound on Shady Oak Road. The proposal would include adding a left-turn lane traveling north bound on Shady Oak Road.

Chair Kirk suggested the garage entrance be located on the south side to minimize grade issues. Mr. Jensen described a project done in Eden Prairie with the same garage entrance and grade. The garbage would be removed the same way and there has not been a problem in 12 years.

Calvert asked if the access would only allow a right turn to exit. She asked how turning left onto Shady Oak Road would work. Thomas explained that the north access would allow a turn in both directions. The south access would allow only a right-turn in and a right-turn out.

Odland has personal experience with The Colony. It is a well built and well maintained complex. Shelter Corporation did a super job on that. She commended the developer for listening to the commission and neighbors.

Chair Kirk asked for comments on the impact to the neighborhood outside of the traffic. Knight likes the look of the building more than the original plan. It looks more inviting and more residential than a big apartment building. When the owner of the property to the south spoke, it made him wonder what could be proposed for that site.
Rettew felt that it depends on how one defines the nature of the neighborhood. He was sad to lose the open space. If the comprehensive guide plan determines the nature of the neighborhood to be medium density and that there is a need for affordable housing, then the proposal does a great job in designing affordable housing that has character like front porches, a barn, and is in close proximity to transit. Affordable housing provides housing for teachers and police officers. There is a need for that. Given the comprehensive guide plan, the developer has done a masterful job incorporating the input from a year ago and coming back with a new plan.

Calvert concurred. Change is hard, but there is a need for affordable housing and opportunities for young families to move into the area. Housing costs are very expensive in the city. This gives single professionals and young people a chance to move into a wonderful community with amenities located close by, an adjacent park, and dining facilities across the street. It is sad to lose the green space, but it is an attractive building and it does meet the goals of the comprehensive guide plan.

Magney echoed Calvert. He appreciated the developer listening to the comments from a year ago and scaling down the building and number of units. He likes the looks of it. It would fit in with the neighborhood. It would help meet the city’s affordable housing goals. He supports the proposal.

Chair Kirk concurred. He appreciates when community members research the projects. He trusts staff to check the slopes and structural aspects. The scale and mass of the building was reduced and the architecture has been articulated to fit in with residential housing. The architectural elements come with a price. He supports the proposal.

**Odland moved, second by Knight, to recommend that the city council adopt the following with modifications provided in the change memo dated May 7, 2015:**

- An ordinance on pages A53-A56 of the staff report rezoning the existing property from R-1, low-density residential, to PUD, planned unit development, and adopting a master development plan for Music Barn Apartments.
- A resolution on pages A57-A66 of the staff report approving final site and building plans for the Music Barn Apartments.
Odland, Rettew, Calvert, Knight, Magney, and Kirk voted yes. O’Connell was absent. Motion carried.

This item is tentatively scheduled to be reviewed by the city council at its meeting May 18, 2015.

9. Adjournment

Knight moved, second by Calvert, to adjourn the meeting at 9:15 p.m. Motion carried unanimously.

By: ____________________________

Lois T. Mason
Planning Secretary