

**Minnetonka Planning Commission  
Minutes**

**Jan. 16, 2020**

**1. Call to Order**

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

**2. Roll Call**

Commissioners Hanson, Henry, Knight, Luke, Powers, and Sewell were present.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, and Natural Resources Manager Leslie Yetka.

**3. Approval of Agenda**

***Powers moved, second by Knight, to approve the agenda as submitted with modifications provided in the change memo dated Jan. 16, 2020.***

***Hanson, Henry, Knight, Luke, Powers, and Sewell voted yes. Motion carried.***

**4. Approval of Minutes: Dec. 19, 2019**

***Powers moved, second by Luke, to approve the Dec. 19, 2019 meeting minutes as submitted.***

***Hanson, Henry, Knight, Luke, Powers, and Sewell voted yes. Motion carried.***

**5. Report from Staff**

Gordon briefed the commission on land use applications considered by the city council at its meeting of Jan. 6, 2020:

- Introduced an ordinance for items related to Shady Oak Crossings.

Gordon reported that five neighborhood meetings will be held to discuss the Minnetonka Mills Church site.

The next planning commission meeting is scheduled to be held Jan. 30, 2020.

Gordon thanked Knight for his eight years of service on the planning commission. Commissioners expressed their appreciation of Knight's knowledge.

**6. Report from Planning Commission Members**

Henry shared that he, Gordon, Ingvalson and Wischnack, attended a meeting for the Partners in Energy (PIE) program. PIE is a collaboration with CenterPoint Energy and

Xcel Energy to identify goals and strategies to reduce the city's carbon footprint. He invited anyone interested in participating to find more information on the city's website: [minnetonkamn.gov](http://minnetonkamn.gov).

**7. Public Hearings: Consent Agenda: None**

**8. Public Hearings**

**A. Preliminary plat with lot-width setback variance for Moore Addition at 5024 Beacon Hill Road.**

Chair Sewall 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.

Hanson and Chair Sewall confirmed with Thomas that the proposal would be required to meet the current tree protection ordinance requirements and the conditions of approval would allow the removal of five high-priority trees.

Powers clarified with Thomas that the tree ordinance may change in the near future. Thomas stated that commissioners could suggest adding a condition that would allow the removal of five high-priority trees or what a future tree protection ordinance would allow.

Henry confirmed with Thomas that each building permit is reviewed by five different departments. Compliance with the tree protection ordinance and conditions of approval would be reviewed for compliance prior to the issuance of a building permit.

Luke confirmed with Yetka that the trees' health is evaluated by natural resources staff.

Henry confirmed with Yetka that the tree inventory includes every tree on the site, except for those less than two inches in diameter.

Michael Klein, applicant, stated that:

- He discussed dividing the property into three lots with a city planner 20 years ago. Things have changed since then.
- The existing house needs to be torn down.
- He does not intend to build on Lot One at this time. The theoretical house location on Lot One could be adjusted to save high-priority trees.
- He stated that walnut trees create a toxin that kills other trees and plants.
- One of the trees on Lot Two is a kadamba tree. He thinks it is rotting on the inside and will fall down on its own within a year.
- He would work with staff to position the house on Lot Two to save as many trees as possible. He was not sure if no more than five trees would

be removed. The cedar trees near the foundation of the house would not survive demolition of the house.

In response to Henry's question, Mr. Klein said that he is considering moving an existing house to the site. The existing house on Lot One has no value.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Thomas stated that the tree protection ordinance allows the removal of up to 35 percent of the high-priority trees on a site. The proposal would be allowed to remove five high-priority trees.

Yetka explained that staff will work with the applicant to identify unhealthy trees. Once a certificate of occupancy is issued for a property, then there is a two-year lookback period that prohibits the removal of trees during those two years.

Luke was fine with the proposed lot widths. The lots would be in character with the surrounding lots. She supports staff's recommendation.

Luke suggested looking at changing the tree protection ordinance to not include trees in the tree removal count that are located so close to a structure that they would not survive demolition of the structure.

Henry supports the tree protection ordinance requirements. The lot division would fit with the character of the neighborhood. He supports staff's recommendation.

Chair Sewall concurred. Minnetonka is a leader in regard to tree coverage. He supports staff's recommendation and wished the applicant success for the project.

Powers supports staff's recommendation.

Henry supports enforcing the current tree protection ordinance for this proposal whether the regulations would change in the future or not.

Knight did not think the applicant should be penalized for trying to save trees located so close to the structure that removal of the structure could not be done without killing the trees. He supports staff's recommendation.

Chair Sewall felt that the subdivision is very straight forward. He agreed that a tree growing out of the foundation of the house should not be counted as a high-priority tree. He support's staff's recommendation.

***Knight moved, second by Powers, to recommend that the city council adopt the resolution approving the preliminary plat of Moore Addition, a two-lot subdivision with lot-width-at-setback variance, at 5024 Beacon Hill Road with the removal of a condition limiting the number of code-defined, high-priority trees allowed to be***

*removed to five and adding a condition that restricts the number of code-defined, high-priority trees allowed to be removed as established by future tree ordinance requirements.*

*Hanson, Henry, Knight, Luke, Powers, and Sewell voted yes. Motion carried.*

**B. Items concerning Shady Oak Crossing at 4312 Shady Oak Road.**

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

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

In response to Hanson's question, Wischnack explained that the affordable housing units would be able to be rented by tenants who earn no more than 60 percent of the annual median income (AMI). Hanson heard that there is a lack of units designated for affordable housing with three bedrooms.

Sewall asked how far the building would be setback from Oak Drive Lane in this plan compared to the previous plans. Gordon answered that the building would be setback approximately 50 feet which is over twice the distance as the last plan.

Luke asked how eight units were added to a shorter building. Gordon answered that the units decreased in size.

Mike Waldo, Ron Clark Construction, applicant, stated that:

- The three-bedroom units were removed since the subsidy level would have been so extreme that the economics of the project would not have worked and the price point was so high that single-family residents could be purchased with a lower monthly mortgage. Of the affordable units, one third would be one-bedroom units, one third would be alcoves, and one third would be two-bedroom units.
- The proposal would provide more of a buffer with a nice section of trees.
- With the purchase of additional property, the access is now located on the south side.
- This type of housing, with the mix of units, is in high demand.
- The proposal does everything possible to balance the needs of the neighbors to the north and moves the access and traffic onto Shady Oak Road.
- He met a neighbor who lives across from the site. He would work with him on choosing screening.
- He was available for questions.

In response to Henry's questions, Mr. Waldo explained that:

- Some of the units do not have the layout figured out yet. There would be 75 units, 97 bedrooms, and 106 parking stalls which equals 1.14 parking stalls per unit. There would be an additional 7 proof-of-parking stalls.
- There would be a lot of bike storage including hangers inside the garage.
- There would be two walkways to provide pedestrian access from the building to Shady Oak Road.
- There would be a fenced-in dog run area on the north side of the building.
- All of the units would have a walk-out patio or balcony.
- The site currently provides no treatment of stormwater. The proposal would create an infiltration pond to treat the stormwater before it travels into the wetland.

Wischnack added that the site currently has contaminated groundwater which would be cleaned up as part of the proposal.

Henry asked if energy saving tools would be utilized. Mr. Waldo stated that the applicant would work with Xcel to do approximately \$40,000 worth of energy upgrades such as using LED light bulbs. There would be zone heating and air conditioning.

The public hearing was opened.

Chris Aanestad, 4255 Oak Drive Lane, stated that:

- The city owns a house next door where the infiltration pond would be located. He asked if the infiltration pond would need to be bigger since the building got bigger. The area is "not very safe."
- He would like less surface parking. The parking lot is too big. Stacking might be a huge issue.
- He appreciated the applicant purchasing the additional property.
- The play area seems fine.
- Stormwater management features would be added.

Christopher Bernard, 4295 Oak Drive Lane, stated that:

- No one in the room would want 75 apartment units to be constructed across the street from one's residence, but he knew about the possibility when he purchased his house one year ago. He was thankful for the current plan which is much better than the plan two years ago. The addition of the property located in Hopkins is huge as it would allow the access to be located on Shady Oak Road. He understood that would not be an easy negotiation. That provided a great benefit to his neighborhood.
- Moving the play area from the north end to the main area is a huge win.
- He questioned the need for 29 guest parking spaces. The parking lot would remove most of the existing buffer. He requested high-priority trees be planted to provide a buffer.

- The concept looks a lot better. Ron Clark has a good record of constructing high-end buildings. The building would look tastefully done and look more residential.
- He was excited to see the introduction of 70 percent AMI. The variety of rents would be a great mix for the area.
- He thanked city staff and Ron Clark staff for their work on the project. He looked forward to meeting with Mr. Waldo to discuss buffering.
- He enjoys living in the tight-knit community.
- He requested that the surface parking area be reconsidered and the entrance to the guest parking lot moved one way or the other. It would be too close to the mouth of his driveway.

Jeri Massengill, 4272 Oak Drive Lane, stated that:

- The initial plan proposed 56 units. The next plan reduced the number of units to 49. Now the proposal includes 75 units. She was not thrilled with the huge apartment building which would be larger than any other structure in the area.
- She did not think 29 surface-parking stalls would be needed. She favored green space.
- She wanted more vegetation buffering to decrease the noise from Shady Oak Road. Hundreds of trees were removed for the Shady Oak Road improvement project and none were replaced.
- Moving the underground parking access off of her street was a huge improvement.
- She still thought the building would be located too close to Shady Oak Road for the apartment residents to open a window.

No additional testimony was submitted and the hearing was closed.

Gordon stated that the infiltration pond would meet stormwater management requirements. It would be possible to change two paved-surface-parking stalls into two proof-of-parking stalls. The code would require a six-foot trees to serve as a buffer because it would establish itself faster, have better survival rates, and grow faster than trees taller than six feet.

Mr. Waldo explained that the location of the access to the parking area was selected to allow more room for stacking. The parking lot entrance slopes down all the way to Oak Drive Lane which would prevent some headlight bleed. A buffer of low vegetation would block the headlights. There needs to be enough visitor parking to handle events like holidays. The proposal has a nice balance.

Knight asked if any motorist could park in one of the nine parking spaces located on a nearby cul-de-sac. Wischnack explained that overnight parking would not be allowed in Minnetonka, but that the stalls are located in Hopkins.

In response to Knight's question, Mr. Waldo stated that the proposed building would be dramatically smaller than the second building. Adding 26 units increased the footprint by 4,000 square feet and would result in the building being 20 percent larger than the original, 49-unit building. Almost all of the addition was added to the south.

Knight discussed the traffic pattern with Mr. Waldo. Mr. Waldo explained how large trucks would navigate the site. The strip mall parking lot is never very full.

Knight asked who would be responsible for the environmental cleanup. Wischnack explained that the city would apply for a grant through Hennepin County for the cleanup funds, but if the grant would not be awarded, then the contract directs the developer and city to renegotiate the costs. The asbestos in the building and underground contamination need to be removed. Mr. Waldo noted that the city owns the property today. The applicant's purchase agreement is contingent on the city applying for and providing grant funds to clean up the site.

Powers prefers the proposal to have 72 units and two elevators. He supports the developer working with the neighbor to provide a buffer. He favors planting larger trees. He supports staff's recommendation. He would rather error by the project having too much surface parking than the project not having enough.

Hanson appreciated the applicant working with the neighbors. That went above and beyond what most applicants have done. He thought the proposal is much better than before which led him to believe that it could still be a little better. He supports where the proposal is headed. He would support a reduction in the mass of the building.

Luke would like an additional elevator or one more centrally located. This is the best version of the project. She supports staff's recommendation.

Henry appreciates the neighbors attending the meeting and providing input and the developer making changes to the proposal in response to neighbors' concerns. Moving the access was a huge improvement. He supports staff's recommendation.

Knight agreed that the applicant has made great strides by improving the appearance of the building, pushing the building south on the north end, purchasing the property adjacent on the south, and removing the access from Oak Drive Lane. He was not sure if another elevator would be necessary. He likes the proposal. He supports the project.

Henry agreed that one elevator would be sufficient.

Chair Sewall stated that:

- He agrees with Knight. He appreciated the applicant continuing to work with the neighbors on the buffering.
- Affordable housing is desperately needed in Minnetonka. He is comfortable with the proposed mix of affordable and market-rate units to provide long-term health and diversity on all spectrums. He would like to

have more affordable units, but there would be more than normal, so that is a positive.

- He understood why neighbors would want a smaller surface parking lot, but the consequences could cause a much bigger issue such as vehicles parking on the street.
- He liked that the building would be pulled back further from Oak Drive Lane. The tradeoff would be the building being located closer to Shady Oak Road, but he preferred that the building encroach on Shady Oak Road to allow more of a buffer for the neighbors on the west and north sides.
- He supports staff's recommendation.

***Knight moved, second by Luke, to recommend that the city council adopt the following with modifications provided in the change memo dated Jan. 16, 2020:***

1. ***Ordinance adopting a master development plan.***
2. ***Resolution approving final site and building plans and preliminary plat.***
3. ***Resolution approving a concurrent detachment/annexation and associated actions with the parcel which consist of:***
  - a. ***Comprehensive guide plan amendment to high-density residential.***
  - b. ***Rezoning to a planned unit development.***

***Henry, Knight, Luke, Powers, and Sewell voted yes. Hanson voted no. Motion carried.***

9. **Adjournment**

***Knight moved, second by Powers, to adjourn the meeting at 9:44 p.m. Motion carried unanimously.***

By: \_\_\_\_\_  
Lois T. Mason  
Planning Secretary