

**Minutes
Minnetonka City Council
Monday, November 9, 2020**

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:31 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members Brian Kirk, Rebecca Schack, Susan Carter, Deb Calvert, Bradley Schaeppi and Brad Wiersum were present. Council Member Kissy Coakley was excused.

4. Approval of Agenda

Carter moved, Kirk seconded a motion to accept the agenda with addenda to Items 10.C, 14.A, and 14.B. All voted "yes." Motion carried.

5. Approval of Minutes:

A. September 14, 2020 study session

Calvert commented she made a minor change to these minutes stating the committee she reported on was the National League of Cities.

Schack moved, Calvert seconded a motion to accept the minutes, as amended. All voted "yes." Motion carried.

B. October 12, 2020 regular council meeting

Schack moved, Calvert seconded a motion to accept the minutes, as presented. All voted "yes." Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming city events and council meetings. She discussed the recent election noting over 90% of the community voted. She indicated the community approved the implementation of ranked choice voting. It was noted city hall would be closed on Wednesday, November 11 in observance of Veterans Day.

Calvert reported a new Dairy Queen was open at the corner of 101 and Highway 7. She stated this was a lovely new facility.

Schack explained she spoke to an election judge about how well the recent election went. She thanked all of the staff members and residents who served as election judges.

Schack reported she participated in the community conversation about race and policing with the police department. She thanked all who participated in this conversation. She hoped this would be something the city could do with the greater community in the future. She thanked Chief Boerboom for making this event happen.

Wiersum commented he received numerous positive comments and thank you's on how well the recent election went. He thanked city staff and all of the election staff for their great work.

Wiersum stated that on Friday, November 13 he would be attending the Hopkins Race and Equity Initiative meeting. He invited the rest of the council to consider attending this meeting.

Wiersum reported COVID was raging through the state, the nation and the community. He indicated this was a serious matter. He encouraged residents to wear a mask, to stay properly social distanced and to stay home when sick in order to protect others. He urged everybody to be mindful of this horrific disease in order to stop the spread of COVID in Minnetonka.

8. Citizens Wishing to Discuss Matters not on the Agenda:

Linda Russell, 5423 Maple Ridge Court, stated she was speaking to the city council on behalf of the Friends of Lone Lake Park. She explained there were areas of concern within the construction of the multi-use trail at Lone Lake Park. She indicated the trail construction does not follow several of the guidelines that were established by the city or the US Fish and Wildlife. She reported she sent photos to staff and the council. She thanked staff for walking through the trail on October 19. She explained the plastic based erosion mat that she observed on the trail has been removed. She noted the four paper birch trees that had their trunks bermed have been addressed. She explained her next concern was with the trail width. She understood the goal was to have the trail width no more than three feet. She commented the initial trail cut was closer to 40" to 48" in width, which was the width of the excavator. She asked that the corridor be filled in to the agreed upon dimensions where ever it exceeds 10 feet. She discussed the concerns she had regarding side casting and stated this was to be avoided in order to prevent the growth of invasive species. She recommended the side cast material be removed and that soil be restored to the edges of the corridor. She

commented on the need for tree protection and tree roots. She commented further on how trees would be impacted if their roots or trunk have been damaged. She expressed concern with the fact features had been added to the trail that include jumps, rocks, built up berms and switchbacks. She believed encouraging faster riding could be dangerous and asked that all features be removed. Lastly, she noted she was concerned about the erosion that was occurring along the multi-purpose trail. She asked that the vertical areas be addressed in order to hold up the sloped areas. She encouraged the city to correct the areas that were in violation of the original agreement.

Wiersum thanked Ms. Russell for her presentation and explained this information would be shared with Kelly O'Dea and his team.

9. Bids and Purchases:

A. Contract for structural firefighting self-contained breathing apparatus (SCBA) on behalf of the 36 Joint Powers Agreement (JPA) members

City Manager Geralyn Barone gave the staff report.

Kirk moved, Calvert seconded a motion to award the contract to Clarey's Safety Equipment for Scott SCBA on behalf of the Joint Powers Agreement. All voted "yes." Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Ordinance amending city code section 625, relating to tobacco

Schack moved, Kirk seconded a motion to adopt Ordinance 2020-20. All voted "yes." Motion carried.

B. Ordinance authorizing sale of city property adjacent to 3841 Baker Road

Schack moved, Kirk seconded a motion to approve the purchase agreement and adopt Ordinance 2020-21. All voted "yes." Motion carried.

C. Items concerning public buildings at Crane Lake Park at 11905 Ridgedale Drive and the new Park at Ridgedale at 12590 Ridgedale Drive:

- 1) Conditional use permits for public buildings and facilities; and
- 2) Site and building plan review

Schack moved, Kirk seconded a motion to adopt Resolution 2020-092 and Resolution 2020-093 approving the request. All voted "yes." Motion carried.

D. Replacement contract for design services for Ridgedale Area Park Improvements

Schack moved, Kirk seconded a motion to approve the agreement with Damon Farber Landscape Architects, in the amount of \$704,800. All voted "yes." Motion carried.

11. Consent Agenda – Items requiring Five Votes:

A. Resolution approving the preliminary plat, with lot width at setback variances, of TONKAWOOD FARMS THIRD ADDITION, a 3-lot subdivision at 15014 Highwood Drive

Calvert moved, Kirk seconded a motion to adopt Resolution 2020-094 approving the request. All voted "yes." Motion carried.

12. Introduction of Ordinances:

A. Affordable Housing Trust Fund Ordinance

Community Development Director Julie Wischnack gave the staff report.

Schaeppi asked what the breakdown was for the three different defined categories (very low income, low income, and moderate income) of demand. Wischnack stated she would email the council with this information.

Calvert moved, Carter seconded a motion to introduce the Ordinance to create a permanent affordable housing trust fund. All voted "yes." Motion carried.

13. Public Hearings:

A. Substantial Amendment to the Community Development Block Grant (CDBG) Action Plan

Community Development Director Julie Wischnack gave the staff report.

Schaeppi stated he was pleased to see this amendment moving forward. He asked if there was any concern with over subscription to this grant program. Wischnack commented this program was similar to the Community Development Loan Program and this program ran on a first come, first served basis.

Carter indicated her only concern with the first come, first served methodology was that this may work against those who have English as a second language. Wischnack stated this was an excellent point and noted translated materials are available along with a language line to help communicate Q&A's within the application. In addition, she noted there was some prescreening tools available on the city's website and the city's website was available in multiple languages.

Wiersum opened the public hearing.

With there being no comments, Wiersum closed the public hearing.

Schack thanked staff for their efforts on the proposed amendments to the plan.

Calvert commented on the discussion that was held by the EDAC noting this group wanted to be assured people had equal access to this program.

Wiersum stated he appreciated how nimble and flexible staff has been during this pandemic. He thanked staff for developing this program and looked forward to the aid this would provide to Minnetonka residents.

Calvert moved, Carter seconded a motion to hold the public hearing and adopt Resolution 2020-095. All voted "yes." Motion carried.

14. Other Business:

A. Conditional use permit for a licensed residential care facility at 12701 Lake Street Extension

City Planner Loren Gordon gave the staff report.

Schack requested further information regarding the licensing for this facility. Gordon reported the city addressed the land use portion of this request and the operations of the facility would be licensed through the state.

Kirk asked where the drainage and utility easement was located. Gordon explained this was located along the west side of the property. He commented there were no special setbacks for drainage and utility easements.

Kirk questioned why the property was positioned as proposed. Gordon deferred this question to the application.

Kirk commented the majority of this home's square footage was on one level. He inquired if this was typical for other homes in Minnetonka. Gordon stated this was fairly rare as most homes had square footage on multiple levels.

Kirk questioned how much screening had to be on the site near the street and property lines for the parking spaces. Gordon explained the city did not require a certain number of trees or shrubs, rather the city had a more subjective approach for this landscaping.

Calvert stated this home would have 12 residents and six staff members residing in it. She questioned at what point is a structure considered multi-family or requires an R-2 zoning given the size of the structure and that it would have 18 parking spaces. She inquired why this building was being considered R-1 versus Commercial or R-2. Gordon indicated this was a question more about the specifics that were applied to a conditional use permit versus the need for a rezoning. He stated the city could have a similar facility within the R-2 zoning district with a CUP.

Calvert stated the parking was a concern to her along with the density. She discussed how the size of the building, the parking lot and the intensity of this use would impact the neighborhood.

Schaeppi asked why all of the parking was being placed in the front of the building, versus being split between the front and the rear. Gordon explained the parking site plan that was provided to staff showed the parking in front and in the rear of the building. Staff believed the parking should be removed from the front and all be placed in the rear of the building.

Schaeppi questioned how much exterior parking a single family home could have versus how much parking was being proposed here. Gordon indicated a single family neighborhood would allow for parking up to four cars outside. However, code does not restrict the amount of hard surface on a residential property unless it is in a shoreline district. He stated schools have a standard for parking spaces per classroom. He commented for this use, staff was trying not to over park or under park the site.

Carter inquired if schools and churches were zoned differently than this site. Gordon reported most school facilities have an R-1 zoning designation, which was the same as this property.

Carter understood these facilities were important. She thanked staff for all of their efforts on this request. She commented as a resident she believed these gray spaces were frustrating. She stated she was grappling with the fact both sides of this issue were struggling with this proposal. She indicated it would be in the city's best interest to close the gaps in the gray spaces so the city was not trying to find a "best fit" for a property.

Schack asked what would tip this into a rezoning request. Gordon explained if 13 residents or more were living within this facility a rezoning request would be required.

Wiersum thanked the council for their questions and comments. He stated the applicant was proposing to build a 6,500 square foot one-level building with a large amount of hard space. He inquired if this were a housing proposal, would the McMansion come into effect. Gordon explained it was not real common to come into the floor area ratio for something like this. Community Development Director Wischnack reported the McMansion policy does not apply here because a variance was not being requested. She discussed how FAR for this property and noted it was fairly low for this property.

Wiersum commented on the state law for homes that have six or fewer residents in a residential neighborhood. He explained the neighbors were concerned about how this building and this facility would impact the character of their neighborhood. He understood the request was not for a single family home, but this facility would be located in a residential neighborhood surrounded by single family homes.

Calvert discussed some of the more difficult cases the planning commission and city council had reviewed in the past, such as the synagogue. She asked what power the council had to apply city and state law to help the developer in designing a building that was more in keeping with the surrounding neighborhood. She indicated the council could deny the request, but she would rather have all parties come together in order to find a solution. She questioned what would happen if the council were to deny the request.

Carter stated if the council were to vote against the CUP the council would have to have reasons for not adhering to the city's standards. She feared a no vote would require clearly articulated reasons. Gordon stated the council's ability to review the project and make some decisions on the building location, parking location and buffering, were all within the council's influence. He discussed the options available to the council noting input can be taken from both the applicant and the neighbors. He commented from a staff level, he believed there were some aspects of the project that could be made better, one of which was the parking location. He indicated staff would like the parking moved to the rear of the building. He explained additional buffering techniques could be explored.

Calvert asked if the 200 year old oak on the property line would be impacted by this project. She stated she would like to see this tree preserved. Gordon reported this 33" white oak appeared to be located on this property. He explained this tree was not specifically protected.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

Wiersum invited the applicant to speak at this time.

Faisale Boukari, the applicant, introduced himself to the council. He indicated he began his career as a registered nurse. He explained he worked in the emergency room and ICU at the Hennepin County Medical Center. He stated over the years he has seen that people get stuck in hospitals because they have no place to be discharged to. He reported back in 2008, he started working part-time at a group home. He discussed his experiences at this group home and how he was led to own and operate his own group homes over the past 11 years. He commented he had a passion to take care of people and with every home he builds, he furthers this passion. He indicated the property he was proposing to building in Minnetonka would allow his clients to have private bedrooms. He commented further on the trained staff that would be working at this facility.

Alicia Thielen-Boukari, wife of the applicant, explained she was a registered nurse. She stated she worked at HCMC for several years noting she began her nursing career in 2001. She explained she worked in pediatrics, med-surge, oncology, and the ICU. She indicated she grew upon a farm in small rural area and had compassion for animals. She reported she truly enjoyed caring for people and this inspired her to go into the nursing career. She discussed the needs quadriplegics and those living on breathing machines had. At this time, she met her husband who was working part-time at a group home, which led them to start their own group home. She indicated they started their first group home in 2010 and have continued to receive referral after referral. She reported there was a high demand for the type of group home she and her husband have been offering. She noted they already had group homes in Brooklyn Park and Maple Grove. She stated after receiving a number of referrals for clients in Minnetonka they began researching a property in the city. She explained that families were not interested in bringing their loved ones to Maple Grove or Brooklyn Park when they lived in Minnetonka. She explained the proposed lot was wooded and would provide an excellent setting for a quite home environment. She commented further on the compassionate care she and her husband provide their clients.

Barry Stock, representative for the applicant, introduced himself to the council noting he served as a project manager to the Boukari's. He reported the applicants were attracted to this site given its location and size. He explained this site had been previously approved for a lot split which led them to consider building two six person buildings. However, this would result in some major site grading and tree loss. He understood the City of Minnetonka likes its trees and for this reason, they pursued a 12 unit building to mitigate the tree loss and grading concerns. He stated he understood this would require a CUP and public hearing. He discussed the city's CUP standards and explained he believed this project could meet the city's standards. He commented on the Spirit Care project that was approved earlier this year. He noted this project did not have enough parking and for this reason, he proposed more parking. He stated he would be more than happy to move the parking to the back of the building and would be

supportive of reducing the number of parking stalls. He indicated he may be able to save the old oak tree if the structure were moved to the west, however this may lead to additional tree loss on the other side of the building. He indicated he would be supportive of additional landscaping in the front and to the east of the building. He discussed the size and mass of the building and noted this structure met the city's floor area ratio. He noted this building had an FAR of .09 and it could be at .23, meaning a 16,000 square foot facility could be built. He stated he was frustrated by the ordinance and understood the council was considering amendments. However, he reported his request met the standards and he appreciated the council's consideration.

Calvert asked if the building would be accessible to emergency vehicles. Mr. Stock reported with the parking in the rear, the area could be designed to have adequate space for a turnaround for emergency vehicles. He estimated that the facility would have one emergency call per month and he believed the facility would have adequate room at the rear of the building for emergency vehicles to enter and exit the site.

Kirk questioned how the site received food service. Mr. Boukari explained 50% of his clients do not eat, but rather are fed through tubes. He explained the remaining clients receive prepared meals. He noted the onsite nurses heat and serve these meals. He indicated the vehicle that delivers the meals was like an amazon truck.

Kirk inquired how much garbage was generated by a group home. Mr. Boukari estimated one can per three residents was generated each week. He indicated the Minnetonka facility would require four or five garbage cans per week.

Kirk commented there was very little room to provide a buffer on the east property line. He asked why the building was positioned as proposed and questioned if the building could be shifted to the west to increase the buffer. Mr. Stock discussed the amount of space required to plant evergreen trees and explained the current space would not allow for this. He stated a cedar shrub would be appropriate in this space. He noted if the building was moved five feet to the west, everyone may be better suited.

Kirk inquired how the garage in the back would be accessed. Mr. Stock explained the garage area would provide storage and would have two parking stalls.

Kirk questioned if the facility would have any outdoor recreational space. Mr. Stock indicated the clients in the facility would rarely be recreating outside the building. He noted the sidewalk on the property would be installed for egress/emergency purposes only.

Calvert asked why the applicant was proposing to build a 12 person facility. Mr. Stock discussed the cost differential between building two six person buildings versus one 12 person building. He indicated there would be operational cost savings to staffing one building versus two. He stated they were requesting 12 residents because up to 12 was allowed within the CUP. He commented the more occupants in the building the more efficient the building would be.

Wiersum requested the applicant describe the typical resident of the group home in Brooklyn Park and how intense the needs were for these residents. Mr. Boukari explained this varies. He stated he has one gentleman that is 26 years old that gets up every day in his wheelchair and goes to school accompanied by a nurse. He indicated there was another resident who gets up with the help of nurses and has a job. He commented on the other side of the spectrum there is a client that needs 24 hour life support. He explained some of the clients have gone through rehab and have gotten to a place where this is the condition they have to live with for the rest of their life. He described how he works with their families.

Wiersum inquired if the applicant had any other homes with this number of residents. Mr. Boukari stated he recently went through a process where a six bedroom home was constructed next to a four bedroom home.

Wiersum asked if these homes were operated separately or combined. Mr. Boukari reported the homes operated separately.

Wiersum questioned how the applicant found staff. Mr. Boukari explained he has worked hard to retain his staff even through the pandemic. He indicated he has not had any incidents of COVID-19 in his facilities. He discussed the strict policies he had in place to protect his residents.

Wiersum opened the meeting for public comment.

Brad Wistrom, 12618 Lake Street, explained he lived directly across from the proposed development. He stated two other members of the neighborhood have prepared a presentation for this meeting. He requested they be allowed to speak before him.

Jeff Louwagie, 12600 Lake Street Extension, stated he lived across the street from the proposed site. He thanked the council for their time. He reported his neighborhood understands there was a need for resident care facilities. However, the proposed location was a concern to him. He provided a presentation to the council and noted it was the work of numerous people. He focused on the character of the neighborhood, the proposed density of the residential facility, roadway safety and neighborhood disruptions. He did not believe the proposed facility does not fit with the character of the neighborhood noting a 6,500 square foot home was not representative of the surrounding

neighborhood. He discussed how his property value could be adversely impacted by the proposed facility. He reviewed the size of the surrounding homes noting the average was 1,708 to 2,440 square feet. He stated the proposed facility would be an oddity. He questioned when enough would be enough with respect to density. He feared that if this care facility were allowed, additional facilities would sprout up on neighboring properties if they were to sell.

Mr. Louwagie addressed the concerns he had regarding traffic along Lake Street. He stated he has lived in his home for the past 25 years. He discussed the change in elevation (12%) near the proposed property and explained people are sliding into the guardrails each and every winter. He noted the maximum allowable driveway grade in Minnetonka is 10% and federally funded highways are 6% or less. He feared that emergency vehicles visiting the proposed care facility would struggle with this grade change. He indicated the residents that live in the neighborhood have adjusted to the hill or opt to avoid it.

Mr. Louwagie discussed how the safety of the neighborhood would be disrupted by a 24/7 commercial facility. He commented on the number of vehicles that would be coming and going from the facility which was estimated to be 31 trips per day versus 6.2, which was the suburban average. In addition, he recommended the care facility be required to install sidewalks throughout for its residents. He explained this facility would have more lights, traffic and noise due to its commercial use. He discussed how the exiting and entering vehicles would impact the surrounding properties. He estimated six to twelve homes would be directly impacted by light wash from this site. He ended the presentation with several videos of cars driving dangerously along Lake Street.

Jen Chamberlain, 4125 Windridge Circle, she reported she lived in the cul-de-sac across from the proposed site. She explained she has a petition signed by the surrounding neighbors that oppose the proposed development. She noted this petition was sent to the city councilmembers and mayor. She indicated the petition consists of 38 signatures from surrounding neighbors who received different mailers from the city. She commented three additional people signed the petition after it was sent to the city, which meant there were 41 individuals and 21 confirmed households who oppose the project. She reported there were 15 additional households that she was unable to speak with about this project prior to this meeting. It was her hope this petition demonstrated the collective concern the neighborhood has regarding the proposed project.

Mr. Wistrom thanked the council and staff for their time. He indicated he was not experienced with this and appreciated the time staff spent discussing this project with him. He discussed how the Plateau project developed and stated a neighborhood meeting should have been held prior to this item moving forward for planning commission and city council consideration. He found it interesting that his home, nor his neighbors, were shown on Plateau's plans. He understood that something other than a big farmhouse should be built on this property,

however, he did not believe the proposed care facility was the best use. He discussed the other group home projects (more than six residents) that had been approved by the city. He believed that the Plateau project did not compare to the other projects because Plateau was proposing to cram a large building onto a lot with a great deal of parking. He stated he was not trying to take anything away from Plateau as he believed their intentions were honorable. He commented on how the proposed use differed from a church or school because there would be a great deal of traffic entering and exiting near a dangerous hill. He questioned why the building needed 12 to 17 parking stalls. He stated the proposed facility did was a commercial use that did not fit with his neighborhood and he encouraged the council to deny the request.

Wiersum closed the meeting for public comment.

Schack stated she appreciated the concerns of the neighborhood. She indicated the city council may have a policy issue. She commented in her view the council had to operate under the law that was in place. She understood the council had the authority to change the ordinance, but a different standard could not be applied until this was done. She indicated the applicant could construct two six unit homes and this would not require a CUP. She noted she lived on a similarly sized lot in a single-story rambler. She anticipated that moving the parking to the rear would address some of the visual concerns from the neighbors. She stated she felt compelled under the law to approve the request because it met the CUP standards. She understood the residents would not approve of this line of thinking, but explained this request met city ordinance requirements.

Kirk indicated he was disappointed by the fact a neighborhood meeting was not held for this request. He did not believe the proposed care facility belonged in a residential neighborhood. He stated this building as out of character and he wished it could be measured against the character of the neighborhood because then it could be turned down. He anticipated the neighbors hoped that one or two single family homes would be located on this lot, versus the proposed care facility. He reported the proposed CUP was for a care facility, which was honorable. However, he encouraged the council to keep in mind that this facility could change hands and a different type of facility could assume the CUP, such as a chemical dependency facility. He stated he was not prepared to support this application because the location of the parking needed to be addressed. He feared the city was trying to put a square peg into a round hole. He explained he would like to see the facility redesigned to fit better onto the site with a larger buffer to the east. In addition, he did not want to see the site overparked. He stated the building did not fit properly on this site and he suggested the project be denied.

Schaeppi commented he appreciated all of the feedback provided by the neighboring residents. He believed the applicants were proposing to place a commercial use in a residential neighborhood. However, at the same time, the

city had an ordinance in place that had to be followed. He recommended that the parking be moved to the rear. He commented he could support a moratorium for these types of properties in order to allow the council to review this matter further. He discussed the number of concerns that have been brought to the city council, but understood there wasn't anything the council could do given the fact the request met current city standards. He indicated he was more concerned about the function of this facility than the size of the building. Even with the concerns that he had, he stated he would be supporting the request.

Calvert discussed how the council implored the Haddad synagogue to address the concerns being voiced by the residents and city council. She believed this request had many of the same concerns and she supported the city addressing group homes further at a future worksession. She indicated there were many aspects that do not meet the spirit of the law, but do meet the wording of the law. She explained that just one more resident in this facility would require a rezoning. She believed it was unfair for the adjacent residents to have light shining in their windows. She stated she felt constrained and agreed the building may be overparked. She supported the building being redesigned to pull back the footprint in order to make more room for greenspace in order to fit into the adjacent neighborhood. She commented the proposed building does not fit with the character of the neighborhood. She was disappointed with the fact a neighborhood meeting was not held and did not believe COVID could be used as the excuse. She hoped that the 36" oak tree could be saved and she supported the city revisiting its tree ordinance in order to save trees in redevelopment projects. While she understood the Boukari's were running an admirable operation, she feared they were pushing the limit. She was conflicted about this request and how it would impact the character of the neighborhood.

Schack commented she understood the concerns. However, she believed the statements being made about "these people" and "these places" should be done with caution. She reported the residents that live in residential care facilities are disabled and cannot return to their home. She encouraged the council to be more careful with their language. She stated the city's commitment to diversity doesn't stop at skin color. She indicated this also included accepting people who were otherwise abled.

Carter stated she wanted to articulate her reasons in a similar manner as Councilmember Kirk and Councilmember Calvert. She indicated she was inclined to decline this request. She agreed with Councilmember Schaeppi and she detested the dialogue that suggested the council's hands were tied. She explained the city council was the policy making body and if there was discomfort the policy should be changed. She stated she did not want to have further conversations about uncomfortable gray areas. She reported she was inclined to decline the request. While she understood the concerns raised by Councilmember Schack, this request wasn't about them or who, but rather was about sheer scale and how many residents would be housed in this facility, along

with the amount of impervious surface that was being proposed. She indicated this was all about the land use, character and not feeling like this project was quite right yet. She explained it was not about who houses it as she looked forward to adding inclusivity and diversity to the community.

Calvert stated this was not about who was living there but rather this would be a for-profit business that wanted to establish in a neighborhood and would be pushing the envelope because the city council has not had the time to address this agenda item at a worksession meeting. She explained this was about the building scale, the number of cars, the number of people, the mass, and the appearance of the mammoth structure. She indicated everyone was acknowledging they were not comfortable with the request. She stated the council was not uncomfortable with the who, but rather with the number of residents, amount of garbage and how this facility would impact the neighborhood. She believed the building rendering was attractive but the footprint had to change, the amount of parking had to change, the location of the parking had to change, the buffering had to be addressed. She feared that the applicant was not showing respect to the neighbors by not letting them know of their intentions. She stated she was not against a residential group home on this property, but she would feel more comfortable with more dialogue. She questioned what could be done, that was similar to the steps taken with Haddad, where the parties came together in order to feel more comfortable. She understood the law was the law, but she believed there was enough councilmembers that were uncomfortable with this request that further discussions should be held. She recommended the city council revisit these policies.

Kirk stated he supported group homes and understood they provided an environment that was more conducive to being a part of a neighborhood. However, when a group home grew beyond a home with six residents they no longer look or acted like a residential home. Rather, these facilities grew into an institution. He understood the business model made more sense when having more people under one roof. He understood it would cost more to run two homes than one. He indicated he did not support the council putting a moratorium in place. He reviewed City Code Section 300.16(3)(g) and stated this section of code could be referred to with this project noting that it doesn't fit. He explained landscaping buffers are addressed in this portion of code and the applicant has provided no buffer. He reported the council needs to ensure that the request brought forward with the CUP meets all potential care facility needs. Therefore, he believed that an adequate buffer had to be in place both to the east and from the street.

Wiersum stated he appreciated all the input from the city councilmembers. He believed there had been some very good thinking on this topic. He indicated Councilmember Schack made some good points. He discussed how he felt about larger group homes in residential neighborhoods stating he was the only

“no” vote for the Spirit Care Facility request. He explained he has severely disabled twin daughters that were 34 years old. He reported he cared a lot about how people are cared for in group homes. He understood there was a growing need for group homes in residential neighborhoods. However, he feared that when group homes became too large, they destroyed the confidence of the residents in the city. While he would like to take more time to review this request, the council had to follow the laws and ordinances that were in place at this time. He stated if an applicant came to the city and checked all the right boxes, why are CUP requests even considered by the council. He explained these matters are reviewed by the city council because the council does have some discretion.

Wiersum appreciated the comments that were made by Councilmember Kirk. He indicated he would not be voting to approve the proposal before the council. The reason for this was that the proposal did not have the parking to the rear; it did not offer a buffer or additional landscaping. He recommended if the applicant was serious about this proposal, that they hold a neighborhood meeting and work with staff in order to address the concerns that have been expressed. He stated the applicant did not have the votes from the council this evening to move this item forward. He recommended a six unit proposal be brought back to the council. He believed that a residential care facility with 12 individuals would be taxing on staff. While he believed Plateau was a kind and caring organization, he feared that the group home staff would not be able to keep up with the 24/7 needs of the disabled residents. He then reviewed the rules and regulations for group homes with more than six residents in neighboring communities. He understood the council had to observe the laws on the book, but also encouraged the council to use discretion.

Schack stated she knew the council was not anti-group home. She encouraged the council to be more careful and precise with its language in order to remain sensitive to people who are different.

Carter thanked Councilmember Schack for acknowledging that language matters.

City Manager Geralyn Barone requested the City Attorney speak to the council on how to proceed with this matter. City Attorney Corrine Heine reported state law requires land use decisions be accompanied by written findings of fact. She recommended if there was to be a motion that it be directed to staff to bring a Resolution back for formal consideration at its next meeting.

Kirk recommended staff address buffering and screening from the north and east.

Wiersum suggested the scale and mass of the building be addressed. Barone reported the council had to make a decision on this CUP by December 6 and the council would meet next on November 23.

Kirk moved, Carter seconded a motion to direct staff to bring a Resolution for denial back for formal consideration at its next meeting with findings of fact. Calvert, Kirk, Carter and Wiersum voted "yes." Schack and Schaeppi voted "no". Motion carried.

Barone discussed the city council's worksession schedule and anticipated from a workload standpoint, this item would not come before the council until March of 2021.

Wiersum stated this was a very good point. He asked if it would be reasonable for the council to have some conversation with staff between now and November 23 to decide how to proceed with this matter.

Calvert explained she wanted to be mindful of staff's workload especially given the fact this was a complex issue. She understood this was a challenging time. She believed this was an important matter and there was a sense of urgency. She commented as soon as was possible she wanted the council to have a conversation regarding group homes and the city's policy towards them.

Schack agreed with Councilmember Calvert. She stated optics matter and this was a complicated issue. She did not believe the council wanted to rush this matter through. She wanted to learn more about what was going on in neighboring cities. She explained she would defer to staff to make this discussion happen in a deliberate and meaningful manner.

Kirk indicated after hearing from Mayor Wiersum how many communities do not allow a 12 person group home, he feared Minnetonka would become a target for larger group homes. He did not want to be in the same position in March. Except for this project, he recommended a moratorium be put in place in order to allow the council some time to thoroughly review this topic. Barone reported when this item comes back on November 23 staff can provide an outline on how to approach this topic.

Wiersum stated this would be helpful. He commented his concern was with the fact the applicant had studied Minnetonka and understood 12 was the maximum number of residents allowed with a CUP. He feared that there were others that were watching and would be making this same request. For this reason, he recommended the council consider what tools are in place to address this concern.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

B. Addition of Groveland Elementary School Crossing to CIP

Public Works Director Will Manchester gave the staff report.

Wiersum requested further information regarding what would happen when this unfunded page was added to the CIP. Manchester explained a placeholder would be put into the CIP and funding options would be considered next year.

Schaeppi stated he supported this school crossing request and noted it would meet a need for this vulnerable population. He explained he has received comments from 15 or more neighbors that are concerned for their children's safety. He believed this was a worthwhile project for the City of Minnetonka.

Schack commented she supported adding this page to the CIP. She indicated she would like to know more about the safety of this crosswalk.

Calvert explained she could support adding an unfunded page to the CIP. She appreciated the fact residents had brought this safety concern to the council's attention. She anticipated there were other locations in the city that had safety concerns and recommended the council follow its priorities when taking this matter into consideration.

Carter stated both of her children attended Groveland Elementary and while she lived only several blocks from the school, for safety reasons, her kids were never allowed to walk or bike to school. She understood the need for a safe route to Groveland and supported this item moving forward for future consideration.

Wiersum agreed with all of the comments made by the council and the need for the council to be objective in prioritizing projects. He strongly believed pedestrian safety was a critical issue in Minnetonka. He understood there was a need to improve pedestrian safety for the students that attend Groveland Elementary School. He recommended crossing guards also be considered at this crosswalk.

Carter moved, Schaeppi seconded a motion to amend the CIP. All voted "yes."
Motion carried.

C. Concept plan review for Minnetonka Station at 10400, 10500, and 10550 Bren Road East

City Planner Loren Gordon and Community Development Director Wischnack gave the staff report.

Scott Richardson, Lyndon Street Partners, thanked the council for their time and consideration. He introduced himself and his team members to the city council.

Mike Krych, BKV Group, provided the council with a presentation on the concept plan. He discussed the goals for the project within the Opus community. He explained this entire area was a mixed use development and he wanted to enhance that environment. He believed the proposed project would be an integral part of Opus. He highlighted the location of the proposed bike and walking paths. The planting zones and site amenities were discussed with the council. It was noted a solar array was being considered for the building rooftop. He commented further on the proposed site plan and asked for feedback on the project.

Wiersum thanked Mr. Krych for his detailed presentation.

Schack stated he appreciated the thought that went into this development. She asked if there were sustainability features that were incorporated into the project. Mr. Krych reported the stormwater management, solar array and natural vegetation were all sustainable measures that were already in place.

Calvert questioned if any the developer was proposing to have any three bedroom units. Mr. Krych explained the apartment building would have studio, one bedroom and two bedroom units.

Calvert stated she appreciated the proposed sustainability features within this development. She inquired if the sustainability features would remain in place if the city were not able to provide the developer with \$8 million. Scott Richardson explained some of the sustainability efforts would be completed no matter what, but he had to also take into consideration the affordability requirements. He commented it was too soon to say what would and would not be included.

Kirk asked why the development did not include two levels of underground parking, versus just one. Mr. Krych reported this was due to the water table.

Kirk stated he appreciated all of the wall art and explained he wanted to ensure the south façade remained decorative no matter what level of funding the developer received. He explained he was a little concerned about the view from the north side of the development because this would be the view from the LRT station. He encouraged the developer to consider enhancing the north side view.

Schack stated she believed this development was well thought out and would be a signature piece in the Opus area. She appreciated the proposed art features and amenities. She hoped that all of the proposed amenities could be completed.

Calvert commented she did have concerns with the north side of the development as well. She understood that this development was transit focused but she feared this development was close to being under parked. She explained she appreciated all of the proposed artwork, amenities and sustainability efforts.

While she appreciated the proposed affordable housing, she was uncomfortable with the fact a carrot was being dangled out in front of the city. She hoped that staff can work with the developer in order to bring this project to fruition.

Schaeppi thanked the applicant for the time and energy that was put into the project plans. He stated he was excited about the changes that were coming to the Opus area. He indicated this project looks very dialed in. He explained he supported the proposed building height but encouraged the developer to consider a green roof.

Calvert noted she was not averse to building height. She indicated she would rather see this building go up than out, especially if this means accomplishing some of the city's goals.

Wiersum commented the developer's renderings were outstanding, particularly to the south. He indicated these renderings were more exciting than what was previously proposed for this site. He stated his only concern was the affordability aspect of the project. He anticipated hard decisions would have to be made in the future and he hoped that the proposed amenities and sustainability measures would remain in the project. He suggested the amenities be prioritized and that tradeoffs be considered. He encouraged the developer to be creative and innovative when approaching the sustainability measures. He recommended the north side of this building be reconsidered in order to add interest. He stated what was happening in Opus was exciting.

Mr. Krych thanked the council for their feedback.

Discussed concept plan with the applicant. No formal action required.

D. Concept plan for Doran Development at Shady Oak Road at 5959 Shady Oak Road

City Planner Loren Gordon and Community Development Director Wischnack gave the staff report.

Due to a technical difficulty, Mayor Wiersum was kicked out of the meeting. City Manager Geralyn Barone reported she had messaged the mayor and explained he would need to sign back into the meeting.

Tony Kuechle, Doran Development, provided the council with a presentation on the proposed development. He stated he really liked this site for housing. He noted it had great walkability and mobility options, while also being close to the LRT line. He reported the site was previously considered for a commercial use, in particular a grocery store. He explained he has had a number of conversations with grocer vendors and this site had access issues. He stated these access issues were also a concern when trying to bring in another retail

type use. He described how the proposed building was oriented and noted a lower density was being pursued along with high sustainability goals. He reported the development would have 10% of the units being affordable at 80% AMI. He explained this would be done without seeking assistance from the city. He discussed on the neighborhood meeting that was held and indicated the neighbors had requested a privacy fence. He stated the townhomes on the east side had been eliminated. He commented on the housing market in Minnetonka and reported there was still a strong need for apartment units.

John Ferrier, President of Doran Architecture, discussed the details within the proposed development. He reported 375 units were being proposed and there would be a mix of market and affordable units that were alcove, one, two and three bedroom units. He stated the site would have 22 surface parking spaces and 556 internal parking spaces on two levels. He described the location of the two access points off Red Circle Drive. The bold architectural elements were described in further detail, along with the proposed amenities.

City Manager Geralyn Barone stated the council would have to make a motion to extend the city council meeting beyond 12:00 a.m. Wiersum requested the council make a motion to extend the meeting to 12:30 a.m.

Schack moved, Calvert seconded a motion to extend the city council meeting to 12:30 a.m. All voted "yes." Motion carried.

Calvert stated she was happy to hear the developer was willing to meet the city's affordable housing policy. She appreciated the amenities, public art and sustainability features within this development. She explained she would like to see more architectural interest given the size and scale of this building. While she understood the developer was trying to break up the mass of the building, she reported she has mixed feelings about the color palette.

Schack commented she was very pleased with the developer's responsiveness to the neighbors' concerns. She explained she wasn't completely sold on the building exterior, but she appreciated the overall design. She stated she also appreciated the green roof, solar garden and all of the proposed amenities.

Kirk asked what the angled and dashed lines were depicting within the shadow study. Mr. Kuechle reported this was showing the shadows that would be cast by the building and trees.

Kirk stated the city wants their buildings to be higher, but in building higher shadows will impact adjacent properties, which was a concern for him. He explained he appreciated the change in architectural colors, but recommended more contrast be considered, versus the proposed monotone. He commented he was disappointed that a retail hub could not be created in this area because he saw vitality and value in having little bars or restaurants in this area.

Schaeppi thanked the developer for his thorough presentation. He appreciated how the building massing was split up on the north side. He recommended the long horizontal edge of the building be broken up.

Calvert stated she supported the comments made by Councilmember Kirk. She agreed that more amenities, such as bars and restaurants should be considered within Opus, especially close to Shady Oak Road.

Wiersum commented he understood Doran built high quality products. He explained a very large building was being proposed, which would require a great deal of creativity. He discussed the building renderings and stated they appeared to belong in Florida or southern California. He did not believe the proposed renderings belonged in Minnetonka. He encouraged the developer to reconsider the building renderings with more color and dimension in order to break up the building. He discussed the walkability within Opus and stated he too wanted to see services located within the development.

Mr. Kuechle thanked the council for their feedback.

Discussed the concept plan with the applicant. No formal action required.

E. Resolution electing to continue participating in the Metropolitan Council Livable Community Act

Community Development Director Wischnack gave the staff report.

Calvert stated she appreciated the detailed staff report.

Calvert moved, Kirk seconded a motion to adopt Resolution 2020-096. All voted "yes." Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Calvert moved, Schack seconded a motion to adjourn the meeting at 12:19 a.m. All voted "yes." Motion carried.

Respectfully submitted,

A handwritten signature in cursive script that reads "Becky Koosman".

Becky Koosman
City Clerk