

Addenda
Minnetonka City Council Meeting
Meeting of December 21, 2020

ITEM 11C (NEW ITEM) – Emergency ordinance relating to outdoor dining

The attached item has been added to the meeting agenda.

ITEM 14B – Twelve-month extension of final site and buildings for Chabad Center for Jewish Life at 11021 Hillside Lane; 2327, 2333 and 2339 Hopkins Crossroad; and 11170 Mill Run

The attached correspondence was received after distribution of the packet.



14600 Minnetonka Blvd. | Minnetonka, MN 55345 | 952-939-8200 | eminnetonka.com

TO: City Council
FROM: Julie Wischnack, AICP, Community Development Director
DATE: Dec. 21, 2020
SUBJECT: Change Memo for Dec. 21, 2020 City Council Meeting

ITEM 11C – Emergency ordinance relating to outdoor dining

Please add the attached as new item 11C.

ITEM 14B – Chabad Center for Jewish Life, site and building plan extension

The attached comments were not included in the packet.

City Council Agenda Item #11
Meeting of Dec. 21, 2020

Brief Description Emergency ordinance relating to outdoor dining

Recommendation Adopt the ordinance

Background

Minnetonka has been under a local state of emergency since March 16, 2020. The city council most recently extended the state of emergency by Resolution No. 2020-040. The conditions that gave rise to the state of emergency have not abated.

On June 8, 2020, the city council adopted Ordinance No. 2020-13, an emergency ordinance relating to outdoor dining. The ordinance authorized the community development director to administratively issue permits to restaurants and food establishments for temporary outdoor dining areas. The ordinance enabled restaurants to re-open outdoor dining without the time and expense involved in obtaining a conditional use permit, which would otherwise be required by the zoning code. By city charter, emergency ordinances are effective for a maximum of 61 days; The June 8 ordinance would have expired on Aug. 8, 2020.

On July 27, 2020, the council adopted Ordinance No. 2020-15, extending the emergency ordinance relating to outdoor dining. By city charter, this ordinance will expire on Sept. 26, 2020.

On Sept. 21, 2020, the council adopted Ordinance No. 2020-17, extending the emergency ordinance relating to outdoor dining. By city charter, this ordinance expired on Nov. 21, 2020.

The need for the temporary outdoor dining areas continues. Under Executive Order No. 20-103, restaurants, cafes, bars, and similar establishments must remain closed for indoor dining, but may provide outdoor service. Outdoor occupancy must ensure a six-foot distance between tables, no more than four customers seated at one table, with an occupancy or 50 percent capacity and a maximum of 100 people.

The community development department previously issued 10 permits and received no complaints.

Staff Recommendation

Staff recommends the city council adopt the ordinance

Through: GERALYN BARONE, City Manager
 Julie Wischnack, AICP, Community Development Director
 Loren Gordon, AICP, City Planner

Originator: Susan Thomas, AICP, Assistant City Planner

Ordinance No. 2020-

An Emergency Ordinance relating to outdoor dining

The City of Minnetonka Ordains:

Section 1. Preamble

On March 16, 2020, Mayor Brad Wiersum declared a local state of emergency, which the Minnetonka City Council consented to by adopting Resolution No. 2020-029 and extended by Resolution No. 2020-40. On June 8, 2020, the city council enacted Ordinance No. 2020-13, which authorized administratively-issued permits to licensed restaurants for temporary outdoor eating areas. On July 27, 2020 and Sept. 21, 2020 the city council enacted Ordinance Nos. 2020-15 and 2020-17, respectively, extending the authority to issue administrative temporary outdoor dining permits. Ordinance No. 2020-17 expired on Nov. 21, 2020. Under executive orders issued by Governor Tim Walz, restaurants, cafes, bars, and similar establishments must remain closed for indoor dining, but may provide outdoor service subject to significant restrictions on occupancy. There is a need to re-enact the provisions of Ordinance No. 2020-17. This emergency ordinance is adopted in accordance with Section 900 of the City Code to help mitigate the effects of the local emergency upon the community.

Section 2. Temporary Outdoor Dining Permits

2.01. Administrative temporary outdoor dining permits. For the duration of this ordinance, the community development director is authorized to administratively issue a temporary outdoor dining permit for a sidewalk café or outdoor eating area that is accessory to a licensed restaurant. The permit may allow for the establishment of a new outdoor eating area or expansion of an existing outdoor eating area on areas adjacent to the restaurant, including the use of parking spaces or portions of a public sidewalk or public right of way. No outdoor eating area may be established or expanded into an area that would interfere unreasonably with pedestrian or vehicular movement in the vicinity or interfere with access by emergency vehicles.

2.02. Permit conditions. The community development director shall establish minimum requirements for temporary outdoor eating areas to protect the public health and safety, to ensure compliance with state liquor law requirements, if applicable, and to ensure that the use is conducted in accordance with applicable executive orders and guidance issued by the State of Minnesota, as those executive orders and guidelines may be modified during the duration of this ordinance. Upon written notice to the permit holder, the community development director may modify the conditions of a permit at any time to address changes in state executive orders or guidance that occur after the permit has been issued. A permit to use a public sidewalk or public right of way for outdoor dining must be conditioned upon execution of an agreement to defend and indemnify the city against claims and may not be issued without the consent of the public works director. The community development director shall have the authority to revoke a temporary outdoor dining permit for violation of any of the permit's conditions of approval.

Section 3. Effect

This emergency ordinance supersedes inconsistent or conflicting provisions of the City Code and any resolution or ordinance while this emergency ordinance remains in effect. Any

temporary outdoor dining permit issued prior to the effective date of this ordinance is ratified on the condition that the permit is made subject to this ordinance.

Section 4. Duration

This emergency ordinance is effective immediately upon adoption and shall expire sixty-one (61) days after its adoption or upon the expiration of the local emergency to which it relates, whichever comes first.

Adopted by the city council of the City of Minnetonka, Minnesota, on Dec. 21, 2020.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this Ordinance:

Date of introduction:
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on Dec. 21, 2020.

Becky Koosman, City Clerk

From: Jo Soo [REDACTED]
Sent: Tuesday, December 8, 2020 9:04 AM
To: Brad Wiersum <bwiersum@minnetonkamn.gov>
Cc: Kristin Soo [REDACTED]
Subject: Chabad Center project extension request

Hi Mayor Wiersum,

Hope you are staying healthy and coping with the year 2020 challenges. Upon receiving the notice with regards to Chabad Center's request for a I-year extension for its Site and Building Plan, we have several questions for you.

We would like to invite you to come over to our house and view the project from our backyard (safely, and less than 30 minutes), hopefully before the Friday snow, for you to see the current state of the project and to answer some of the questions that we have, based on what you can see.

Some of the questions we have are:

1. How many extensions can a project apply for?
2. What kind of duration can extensions be granted for, 3 months, 6 months, etc.?
3. How would the City ensure a timely project execution? So far, we've not been notified of the project timeline/schedule. This negatively affects our ability to landscape our own backyard, as the planting of trees on our side (in addition to the screening that Chabad will put in) is highly dependent on the project, and we've been advised to wait until Chabad's landscaping has been put in.
4. With the current state of the project, the site is in a condition that negatively affects its neighbors, and it needs to be rectified, especially if the project is not starting anytime soon.

Please let us know what works for you this week.

Thank you,

Jo Soo

From: Kristin Soo [REDACTED]
Sent: Monday, December 7, 2020 1:09 PM
To: Susan Thomas <stthomas@minnetonkamn.gov>
Cc: Jo Soo [REDACTED] Rebecca Schack <rschack@minnetonkamn.gov>
Subject: Question on Chabad Center extension request

Hi Susan,

We received the notice in the mail regarding the Chabad Center's request for a 1-year extension for its Site and Building Plan. I have a couple of questions:

- 1) How many extensions is a project eligible to have?
- 2) Once work on a site starts, what are the parameters around when a project needs to be fully completed, including landscaping?

Thank you,

Kristin Soo

From: Jo Soo <[REDACTED]>
Sent: Tuesday, December 15, 2020 5:41 PM
To: Brad Wiersum <bwiersum@minnetonkamn.gov>; Kristin Soo <kristin.soo@gmail.com>
Cc: Geralyn Barone <gbarone@minnetonkamn.gov>; Mike Funk <mfunk@minnetonkamn.gov>; Julie Wischnack <jwischnack@minnetonkamn.gov>; Rebecca Schack <rschack@minnetonkamn.gov>
Subject: Re: Chabad Center project extension request

Dear Mayor Wiersum,

Thank you very much for your response and for taking the time to look at the site this weekend. We wanted to clarify that we are not opposed to the extension, but felt it was a good time to touch base.

We appreciate your perspective that the site looks like it is at the beginning of construction. We do have some concerns such as the large weed-covered construction dirt piles near our property that have been there for a year, and how long a site can be a construction site. Per your message we will direct our questions to the planning department.

Again we appreciate your time. All the best to you and your family this holiday season and stay safe!

Jo and Kristin Soo

Dear Mayor Wiersum and City Council Members:

As the City Council prepares to consider extending Chabad's building permit application deadline, we request that each of you drive or walk by Rabbi Grossbaum's residential construction site before the City Council meeting on 12/21/20.

The building permit for Rabbi Grossbaum's home at 11170 Mill Run was issued by the city on 9/19/19, 453 days ago. The property sits unfinished and the site remains a construction zone. The following are visible without entering the property:

1. Sod was not put down before or after the 240 day post permit deadline, which led to extensive weed growth during the summer;
2. As of 12/14/20, the exterior of the structure had not been completed;
1. Trees were cut down on the site in late September or early October, 2019. Tree limbs and multiple stumps remain on the property;
2. A dumpster has been onsite for multiple months without being emptied;
3. There is still temporary plastic fencing by the driveway;
4. There is at least one mound of excavated dirt on the property;
5. Plastic bags, plastic piping and other debris are scattered on the site.

It appears to us that a number of the aforementioned violate the city's nuisance ordinance.

The project that was approved by the City Council in March, 2019 will take ongoing financial resources and expertise if it is to be properly constructed, managed and maintained. If the property owner cannot complete a home in a timely fashion and without violating nuisance ordinances, how is he going to build, manage and maintain a 16,000 square foot building with a complex and expensive landscaping plan? A poorly constructed, maintained and managed institutional property that dominates a residential neighborhood can diminish property values and diminish nearby homeowners' enjoyment of their properties. It's also not good for the City or the surrounding neighborhood to run the risk of a having large, poorly maintained property situated along a highly trafficked section of Hopkins Crossroad. Given the current situation, as a part of your deadline request deliberations, we believe that it is in all parties' best interests for you to consider finding a way for the city to play an active (instead of reactive) oversight role in the construction, maintenance and management of the site, should a building permit ever be issued. It will provide a greater opportunity for a successful outcome for all parties.

Thank you for your consideration of this email.

Best Regards and Happy Holidays,

Jim Moscovitz and Amy Taswell
11120 Mill Run