



**Agenda
Minnetonka City Council
Study Session
Monday, March 15, 2021
6:30 p.m.
WebEx**

1. Reports from City Manager & Council Members
2. Emergency management overview
3. Licensed residential care facilities
4. Doran Development – 5959 Shady Oak Road project
5. Adjournment

The purpose of a study session is to allow the city council to discuss matters informally and in greater detail than permitted at formal council meetings. While all meetings of the council are open to the public, study session discussions are generally limited to the council, staff and consultants.

City Council Study Session Item #2
Meeting of Mar. 15, 2021

Brief Description: Emergency management overview

Background

Emergency management is an evolution of the cold war 'Civil Defense' program, expanded to address all hazards that can be anticipated in communities. Emergency management is responsible for coordinating emergency and disaster mitigation, preparedness, response and recovery efforts within the city and in collaboration with other local, state, county, and private-sector agencies.

Minnetonka's emergency management division is housed in the fire department and is led by Fire Chief John Vance serving as the city's emergency management director and Assistant Chief Jim Flanders serving as the emergency management manager. As elected officials, city council members have a role in the policy direction of the city's emergency management program.

At the March 15 study session, Hennepin County Emergency Management Director Eric Waage will present the following information to the council:

- An overview of what emergency management is, its role, and how it functions
- Local elected officials' functions and responsibilities during a disaster or emergency versus staff's operational responsibilities
- An overview of emergency powers and procedures
- Information dissemination during an emergency
- The procedures for requesting resources during an emergency

Discussion Points:

- ***Does the city council have any questions or comments about emergency management in general?***
- ***Does the city council have any questions or comments about the role of elected officials in emergency management?***

Summary

Minnetonka has consistently taken a leadership role in Hennepin County emergency management, with participation in such programs such as AED Registry, HeartSafe Community, StormReady, WeatherReady Ambassador. Emergency management has been responsible for coordinating recovery from severe weather events, the city's response to our recent pandemic and planning for anticipated emergencies. Sharing information on this function should increase the council's understanding of the city's role and responsibilities in emergency situations.

Submitted through:

Geraldyn Barone, City Manager
John Vance, Fire Chief

Originated by:

James Flanders, Assistant Fire Chief

**City Council Study Session Item #3
Meeting of Mar. 15, 2021**

Brief Description: Licensed residential care facilities

Background, State

Until the 1970s, zoning ordinances throughout Minnesota – intentionally or otherwise – were preventing care facilities and their residents from locating in single-family neighborhoods. In 1975, to address this exclusionary zoning practice, the following language was added to the state statute pertaining to local zoning controls:

In order to implement the policy of this state that mentally retarded and physically handicapped persons should not be excluded by municipal zoning ordinances from the benefits of normal residential surroundings, a state-licensed group home or foster home serving six or fewer mentally retarded or physically handicapped persons shall be considered a permitted single-family use of property for the purpose of zoning.

In 1984, the statute was amended to read:

A state-licensed residential facility service six or fewer persons or a licensed daycare facility serving 12 or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning.

The statute, pertaining to single-family zoning, currently reads:

*A state-licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons, a licensed daycare facility serving 12 or fewer persons, and a group family daycare facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children shall be considered a **permitted** single-family residential use of property for the purposes of zoning ...¹*

There is also companion language in the statute that addresses multifamily zoning districts (7-16 persons considered a “permitted use” in those districts). To view the entire statute, see this [link](#).

Background, Minnetonka

Minnetonka chose to expand upon state law in 1986 as part of a major re-write of the zoning ordinance. At that time, the ordinance was updated to allow facilities serving over six residents as conditionally permitted uses on single-family properties. Over the last 35 years, the city has approved seven of these larger facilities. There are currently 45 state-licensed residential care facilities operating in Minnetonka single-family neighborhoods.

¹ The statute goes on: “except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.”

	Number of Facilities	Zoning Approval Required
Serving 6 for fewer residents	39	N/A
Serving over 6 residents	6 ²	CUP

Other Communities

Staff recently reviewed the zoning ordinances of 18 Minnesota communities. Ten of the communities are regularly used by city staff during the review or drafting of Minnetonka ordinances. During the 2020 consideration of the Plateau Healthcare conditional use permit request, Mayor Wiersum suggested the other eight community ordinances be provided. Of these 18 communities, only Golden Valley reflects Minnetonka's practice of permitting facilities serving over six residents on single-family properties.

		Six or More Residents Allowed	
		Single-Family Properties	Multifamily Properties
Regularly Reviewed	Brooklyn Park	No	Yes, by CUP
	Burnsville	No	Yes, by CUP
	Eagan	No	No
	Eden Prairie	No	No
	Edina	No	No
	Lakeville	No	Yes, Permitted Use
	Maple Grove	No	Yes, by CUP
	Plymouth	No	Yes, Permitted Use
	St. Louis Park	No	No
	Woodbury	No	No
Additional Review	Chanhassen	No	Yes, by CUP
	Deephaven	No	No
	Excelsior	No	No
	Golden Valley	Yes, by CUP	Yes, by CUP
	Hopkins	No	Yes, by CUP
	Shorewood	No	Yes, by CUP
	Wayzata	No	No
	Woodland	No	No

City Control

In 2010, the city amended the ordinance to 1) eliminate an unenforceable locational requirement for permitted residential care facilities (6 or fewer), and 2) add locational requirements for conditionally permitted facilities (7-12) to specify the facilities needed to be located on a higher level road.

The current city council has frequently expressed concern that residential care facilities may negatively impact the character of neighborhoods. Staff interprets those concerns to be

² One of the approved facilities, Spirit Care Home, has not started operating

specifically related to visual changes to the property on which the facilities are located and/or increased levels of activity on the property, such as:

- Visual {
 - Facilities with larger footprints or overall size than surrounding homes.
 - An increase in the number of vehicles parked in driveways or on roads.
 - An increase in the number of trash/recycling bins out on collection days.

- Activity {
 - An increase in traffic, due to staff and visitors.
 - Resident outdoor activities.
 - Activities that may be different in nature than the neighborhood.

Aside from the city's nuisance ordinance, which applies to all properties in the community, there is no way to address visual change or level of activity at residential care facilities servicing six or fewer residents. For such facilities, the city cannot control:

- Where the facilities are located in the community – proximity to other facilities, location on collector, arterial, or cul-de-sac roads, etc.
- The type of facilities – memory care, differently-abled, chemical dependency, etc.
- Who may own/operate facilities.
- The outward design of facilities – setbacks, height, landscaping, screening of parking, fencing of yard area, etc. – so long as the design meets the standards applied to all other single-family homes.
- The number or time schedule for staff or visitors.

For facilities serving over six residents, the city can control:

- Whether such facilities are allowed in the community.
- If allowed:
 - ✓ How such facilities are allowed – permitted uses, conditional uses, or interim uses.
 - ✓ Where the facilities can be located in the community – the zoning district, proximity to other facilities, location on collector, arterial, or cul-de-sac roads, etc.
 - ✓ The size of the facilities – number of residents, overall building square footage, building square footage relative to adjacent/nearby structures, etc.
 - ✓ The outward design of the facilities – setbacks, height, landscaping, screening of parking, fencing of yard area, etc.

Housing Information

The 2040 Comprehensive Plan and [Housing Plan](#) provide for goals for a variety of housing types within the community. Any time housing-related ordinances are considered, reference to the city's goals and policies should be considered:

- Housing Goal 1. - Housing Preservation
- Housing Goal 2. – Affordable Housing Production
- Housing Goal 3. – Provide a Range of Housing Choices
- Housing Goal 4. – Increase Housing Options for Seniors

Based on the city council's concerns expressed about conditionally permitted residential facilities with more than six residents, staff is seeking feedback and guidance on any potential changes to the ordinance. Note that should there be a change, approved facilities would be allowed to continue operating as non-conforming uses.

Following council's discussion and direction, staff will prepare a communication plan. This may include discussions with interested groups, a Minnetonka Memo article, and online information and surveys. Subsequent to the communication effort, staff will present to the council the feedback received and draft ordinance language for consideration.

Discussion Points

- ***Does the city council want to consider prohibiting facilities serving over six residents?***
- ***Does the city council want to allow facilities serving over six residents to continue as a conditionally permitted use but under different conditions? If so, under what conditions?***

Through: Geralyn Barone, City Manager
 Julie Wischnack, AICP, Community Development Director
 Loren Gordon, AICP, City Planner

Originator: Susan Thomas, AICP, Assistant City Planner

City Council Study Session Item #4
Meeting of Mar. 15, 2021

Brief Description Doran Development – 5959 Shady Oak Road project

Background

The city council raised several issues during the Feb. 22, 2021 ordinance introduction for Doran Development's 5959 Shady Oak Road project. The issues include 1) the amount of affordable housing and 2) site and building plan-related items. Staff is seeking further clarification of these issues to provide the direction to the developer prior to review by the planning commission and further review from the EDAC.

Affordable Housing

Following the [Oct. 29, 2020 EDAC](#) meeting, staff continued to have discussions with the developer on the proposed level of affordability for the project. On [Feb. 22, 2021](#), the city council also reviewed the project at its introduction and provided feedback to the developer to consider increasing the amount of affordable units to exceed the policy guidance. The developer responded by providing the city with the additional affordability proposals for consideration:

1. Meet the city's policy 5% at 50% AMI and 5% at 60% AMI
 - No assistance requested
 - 19 units at 50% AMI and 19 units at 60% AMI
 - Total of 38 units

2. Increase affordable units to 5% at 50% AMI, 5% at 60% AMI, and 5% at 80% AMI
 - Requesting up to \$280,000 in assistance
 - Unit mix:
 - 19 units at 50% AMI, 19 units at 60% AMI, 19 units at 80% AMI
 - Total of 57 units

3. Increase affordable units to 10% at 50%, and 5% at 80% AMI
 - Requesting up to \$1.1M in assistance
 - Unit mix:
 - 38 units at 50% AMI and 19 units at 80% AMI
 - Total of 57 units

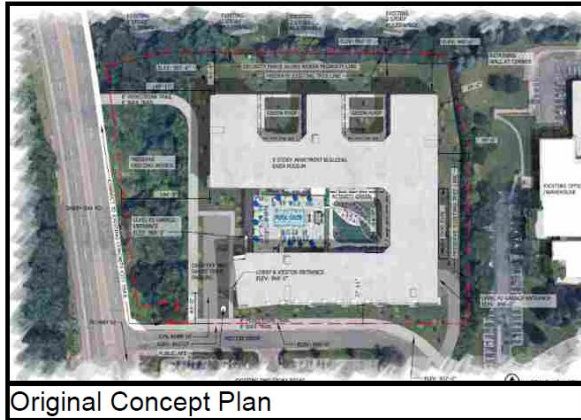
Based upon the discussion of the overall mix of housing in Opus that was provided to the EDAC on [Feb. 25, 2021](#), staff is supportive of approaches to increase the number of affordable units with assistance, primarily at the 50% AMI and 80% AMI affordability levels. Staff will share the EDAC's feedback from the March 11, 2021 EDAC meeting at the city council study session on March 15. Following that meeting, staff would provide a more thorough review of the developer's proforma and return to EDAC with a financing recommendation and contract for private development.

Site and Building Plan

City Council comments from the 1) building mass and 2) buffering along Shady Oak Rd.

Original Concept Plan

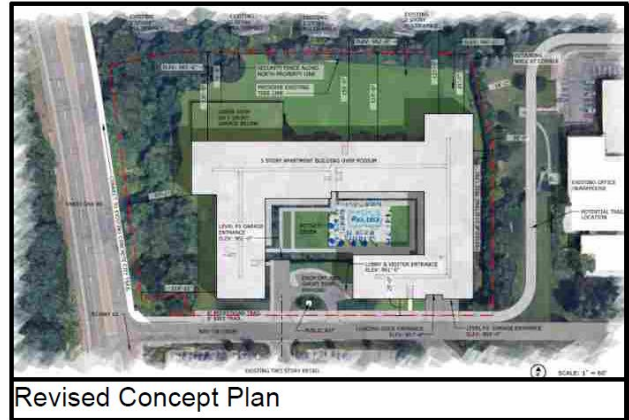
- 375-unit, six-story (west side entry)



Original Concept Plan

Revised Concept Plan

- 350-unit, six-story (south side entry)



Revised Concept Plan

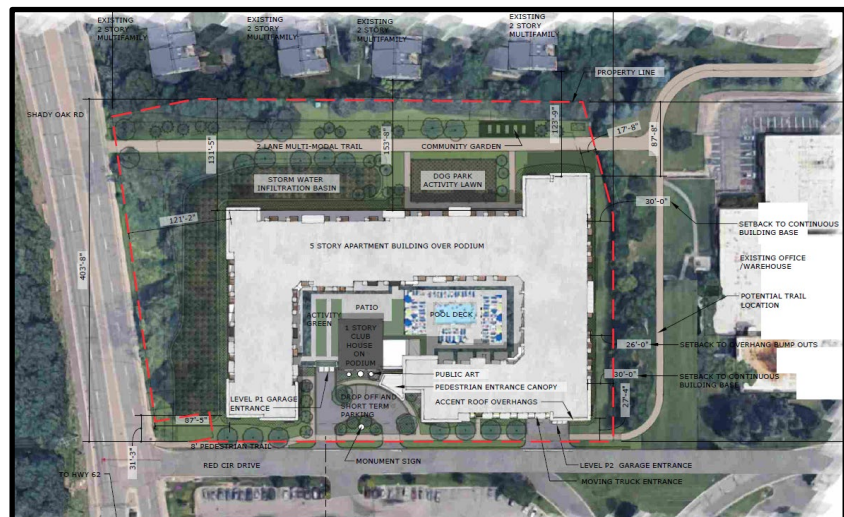
The city council reviewed the original concept plan on [Nov. 9, 2020](#) generally supporting the residential use of the property and commenting on the overall mass of the building and potential impacts on adjacent properties, especially the townhomes to the north.

Doran Development provided a revised concept plan the city council reviewed on [Dec. 21, 2020](#). The concept provided an increased building setback from the north property line, a revised layout, and reoriented south entrance. The council generally commented that the revised plan was an improvement on the original concept.

Formal Development Plan

The formal development plan submittal further improved a few aspects of the original and revised concept plans:

- Decreased number of units.
- Decreased the north elevation building height.
- Increased north setback
- Reduced impact to trees along Shady Oak Rd.



At the Feb. 22, 2021 city council meeting, the council provided comments for the planning commission to review during the public hearing. The developer has since identified some challenges in the attached letter.

Discussion Points:

- 1. Does the council want the developer to exceed the city's policy on affordability, and if so, at what level?***

- 2. Based on the developer's letter, what guidance does the council have regarding building massing and buffering?***

Through: Geralyn Barone, City Manager
Julie Wischnack, AICP, Community Development Director

Originator: Alisha Gray, Economic Development and Housing Manager
Loren Gordon, AICP, City Planner



March 8th, 2021

City Staff has requested a City Council study session to further discuss the affordability component and design direction for our proposed project at 5959 Shady Oak Rd. We will be prepared to work with the Council and answer questions they may have with the goal of receiving clear direction on these two important aspects of the project.

Massing and Design Direction

In October and November of 2020, we shared an initial site plan and concept design with the Planning Commission and City Council for the redevelopment of 5959 Shady Oak Rd. that included approximately 375 apartment units. We received valuable feedback from these meetings regarding architectural design and site plan features. We then refined our proposal and presented an updated project concept to the City Council on December 21, 2020. In our updated plan we utilized the strategy of increasing the setback from the neighbors to the north, decreasing the height of the building and reducing the number of units to approximately 350 units. The setback was increased from 51 feet to 138 feet to the property lines and 161 feet between our building and the townhomes. The height of the building was decreased from 78 feet to 66 feet in height. The Council generally commented that the site plan was a large improvement, and the discussion was largely focused on architectural design. We then updated our project incorporating many of the Council's comments regarding architectural design and submitted our formal application on January 15th, 2021. At the February 22nd meeting City Council meeting the Ordinance was introduced. The Council raised concerns regarding the setbacks and massing suggesting additional mitigation measures should be explored.

Affordability Component

Our proposed project meets the 10% affordable housing policy of the City of Minnetonka with no financial assistance. At the February 22 Ordinance Introduction meeting the Council questioned the level of affordability, suggesting the possibility of requiring that we include additional affordable units beyond the approved policy in Minnetonka.

Discussion

The issues of building massing/setbacks and affordability are not mutually exclusive. For every project there are fixed costs that do not change based upon the number of units; land acquisition costs, due diligence costs, architectural costs, and site improvement costs, to name a few. This project is financeable because of its size.

The loss of income due to reduced rents to meet the City of Minnetonka's 10% affordable housing policy results in a \$6.3 million dollar in a reduction in value to the project. This also reduces the amount that we can leverage for financing by \$4.725 million dollars. However, we are able to absorb this reduction without financial assistance because the project is large enough to allow us to spread the burden over a greater number of apartment units. If the number of units decreases, the fixed costs per unit go up and financial metrics go down, making the project unfeasible.

This fact influenced our strategy to increase the setbacks, rather than tier the building down like we did at the Birke because we need to maintain at least 350 apartments on this site to make the project financially feasible. Given that we have a natural tree buffer to the north with 50 foot and 65 foot evergreen trees that will be augmented by additional landscaping we thought it would be best to set the building back as far as possible from the neighbors, creating a 2+ acre

DORAN

DEVELOPMENT

landscaped buffer area that can be utilized as a valuable amenity for this project and for the residents and employees of the larger Opus area.

We are looking forward to receiving feedback from the Council regarding the affordability, mass and site design for the project that will allow us to ultimately make a decision as to the best path forward for the project.

Sincerely



Tony J. Kuechle
President of Development