

**Minnetonka Planning Commission
Minutes**

June 3, 2021

1. Call to Order

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

2. Roll Call

Commissioners Powers, Waterman, Banks, Hanson, Maxwell and Sewall were present. Henry was absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon and Assistant City Planner Susan Thomas.

3. Approval of Agenda

Maxwell moved, second by Powers, to approve the agenda as submitted with additional comments received after the agenda packet was completed included in the change memo dated June 3, 2021.

Powers, Waterman, Banks, Hanson, Maxwell and Sewall voted yes. Henry was absent. Motion carried.

4. Approval of Minutes: May 6, 2021

Waterman moved, second by Banks, to approve the May 6, 2021 meeting minutes as submitted.

Powers, Waterman, Banks, Hanson, Maxwell and Sewall voted yes. Henry was absent. Motion carried.

5. Report from Staff

Gordon briefed commissioners on land use applications considered by the city council at its meeting of May 24, 2021:

- Adopted a resolution to approve a conditional use permit for a drive-through-only Taco Bell to be located at the SportMart Plaza.
- Introduced an ordinance for items related to the Wellington proposal.

Planning commissioners are invited to join councilmembers on July 19, 2021 to hear a presentation from the Urban Land Institute and are also invited to a boards and commissions dinner on July 21, 2021.

The next planning commission meeting is scheduled to be held June 17, 2021.

6. Report from Planning Commission Members

Chair Sewall thanked planning and information technology staff for making the planning commission's virtual meetings as seamless as possible during the past 16 months. He appreciates being able to have the meetings in person again.

7. Public Hearings: Consent Agenda: None

8. Public Hearings

A. Resolutions approving a conditional use permit and final site and building plans for Bauer's Minnoco Custom Hitches and Auto Repair at 13118 Excelsior Blvd.

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.

Michael Bauer, applicant, 13319 East Crestridge Drive, stated that:

- The entire parking area would be paved. He is tired of getting dust on his shoes and tracking it into the trucks.
- He tried to come up with a plan to complete the improvements and be friendly to the neighbors. The elevation of the structure would be reduced to hide seven to eight feet of it from the view from Baker Road. The current plan seems to work the best.

Maxwell asked if there would be a berm or vegetation to screen the north side. Mr. Bauer answered affirmatively. Pollinator garden flowers would be added around a bicycle oasis that would also have a water fountain for bicyclists to fill water bottles. He wants to be a good neighbor. A lot of trees died on the property due to oak wilt. He hopes to save all the existing trees and is happy to add additional trees. He will work with staff to choose the best trees for the site.

Banks asked if the existing garages would be removed. Mr. Bauer said that, in the future, he hopes to remove a third of the existing building and lower the floor eight inches to make it more compliant with ADA requirements and service ice cream. There are many bicyclists who travel the trails near the site.

Powers asked if the applicant had decided on the exterior color of the proposed building. Mr. Bauer answered a neutral, muted color. He had no problem with staff's recommendation.

The public hearing was opened.

Lee Ann Rixe, 4732 Baker Road, stated that:

- She lives across Baker Road. She does not want to look at it. The buffer has been getting smaller. The flowers would not cover the building.
- She is a bicyclist. There is no lane for bicyclists. Ten vehicles park on the site. There are many near-miss accidents.
- She understood the applicant's interest to make improvements.
- She would appreciate large evergreen trees or something similar being planted along Baker Road.
- She hears beeping from vehicles backing at 3:30 a.m.

No additional testimony was submitted and the hearing was closed.

Powers felt that the neighbor has a valid concern.

In response to Maxwell's question, Mr. Bauer stated that the proposal would not change the amount of traffic on the site. The proposal would allow vehicles to be cleaned indoors and allow for ice removal in the winter. The proposal would have heated floors which employees are looking forward to utilizing in the winter. The proposal would allow for the removal of two outdoor sheds. The proposal would be much more attractive than the current site. He would be happy to add large trees for screening from Baker Road that would fit on the site.

Mr. Bauer stated that the beeping is caused by trucks unloading gas which are supposed to deliver at 6:30 a.m. to 7 a.m.

Hanson appreciated the applicant answering questions. He lives within 400 feet of the site and received the public hearing notice postcard. He was excited to see the business grow and support what is happening in the community. He appreciates the applicant's thoughtful approach and willingness to work with staff. He supports the application. He looks forward to being able to purchase an ice cream cone at the site in the future.

Banks agrees with Hanson. He lives close by. He is excited to see the improvements and utilize the facility. There is another large gas station and auto-mechanic shop nearby. He understood the neighbor's concerns. He trusts that the applicant and staff would agree upon an appropriate buffer. The proposal would be an improvement to the area. He looks forward to seeing it completed and enjoying the ice cream.

Waterman agrees with staff's recommendation. The proposal is an appropriate use of the property. It would be repurposing an existing use. He appreciates the applicant's consideration of how it would impact neighbors. It would meet all setback requirements and conditional use permit standards.

Powers agreed with commissioners. He would like the conditions of approval for the conditional use permit to include a landscape plan that would buffer Baker Road when the application is reviewed by the city council. The proposal meets all the standards. He will vote to approve it.

Maxwell supports including a condition of approval for the conditional use permit to require a buffer on Baker Road. She appreciates that the increase in impervious surface would be relatively small. There has already been a run-off study completed by the watershed district. The proposal is a reasonable use for the area and a reasonable site and building plan.

Chair Sewall supports the proposal.

Hanson moved, second by Waterman, to recommend that the city council adopt the resolutions approving a conditional use permit and final site and building plans to physically expand the existing auto-related use for Bauer's Minnoco Custom Hitches and Auto Repair at 13118 Excelsior Blvd.

Powers, Waterman, Banks, Hanson, Maxwell and Sewall voted yes. Henry was absent. Motion carried.

B. Items concerning a multi-family apartment project at 5959 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.

Waterman confirmed with Gordon that it would be possible that the trail would not be built if the grade of the property east of the site would not be able to be lowered to an acceptable elevation. Wischnack added that the condition in the resolution states that the trail would be built if a feasible solution is agreed upon. Waterman was concerned that the location of the SWLRT would increase the number of pedestrians that would travel through the property. A trail would be especially beneficial for the site. Wischnack provided the Avidor project as an example of a trail that was built on that site, but it took a little longer for the neighboring land owner to come to an agreement to have a connecting trail constructed on the neighboring property.

Hanson likes that the third lane would be built now. The Caribou is usually busy. Hanson confirmed with Gordon that the traffic study utilized traffic levels prior to Covid reducing the number of commuters driving to work.

Hanson confirmed with Gordon that the garage shown on the site plan has already been removed and replaced with green space.

Waterman asked if he understood correctly that the shadow study shows that the proposed building would not create a shadow all day long on the neighboring property. Gordon agreed that the existing evergreens and vegetation create a longer shadow for most of the width of the property than the building would create. The proposal would not reduce the amount of sunlight currently reaching neighboring properties.

Banks confirmed with Gordon that the proposal would include affordable-housing units.

Banks asked for the location and number of guest-parking stalls. Gordon explained that there would be six outdoor parking stalls in front for guests and deliveries. The proposal includes 489 parking stalls which equals 1.1 parking stalls per bedroom which is in the middle of the range required for new apartment buildings being constructed. There would be more guest parking available inside the garage. He invited the applicant to explain how guest parking would be managed on the site.

Chair Sewall confirmed with Gordon that the current proposal's location to hook up the proposal's sanitary sewer lines would be on the property east of the site and would require a private easement agreement between the property owners.

In response to Chair Sewall's question, Gordon identified that the proposal includes several public benefits to warrant a change in zoning to a planned unit development including the affordable-housing component, public trail, and addition of a traffic lane.

Tony Kuechle, representing Doran Companies, applicant, introduced himself and Ben Lindau, architect for the project. Mr. Kuechle provided a presentation which stated that:

- The current use will be vacating the site at the end of this school year.
- The proposal would include 450 apartment units and 489 parking stalls. The apartments would be a mix of studio, alcove, one-bedroom, two-bedroom, and three-bedroom units.
- The city's affordable housing goals would be met by providing five percent of the units at 50 percent AMI and five percent of the units at 60 percent AMI. The proposal would go a step further by providing another five percent of the units being affordable at 80 percent AMI in exchange for tax-increment-financing. The project would have 52 affordable units.
- In response to feedback received from councilmembers, commissioners, and neighbors, the current proposal has been modified by changing the architectural style of the building, reduced the number of units from 375 to 350, reducing the building mass by creating openings in the façade, reducing the height of the building on the north side, increasing the north setback from 51 feet to 138 feet, and adding an eight-foot privacy fence along the trail with landscaping on both sides of the fence. Large trees would be planted in the fence openings.
- He explained the two shadow studies included in the staff report. The existing vegetation currently creates shadows on the townhomes. The proposal would not create any additional shadows on adjacent properties than there is today.
- A trail would be added to travel west to east. He explained the grade and stairs that would allow a direct connection to the SWLRT. It would be possible to walk a bike up and down along the side of the stairs. He stated that the neighboring property on the east is on the market for redevelopment right now which may create the opportunity sooner rather than later to continue the trail.

- There would be 2.2 acres of open space on the site. There would be plenty of landscaping including the preservation of 96 trees and addition of 162 trees. The functionality of the existing stormwater pond on the west side would be increased. A pollinator garden would be added on site. The UMN bee squad would manage some hives within the pollinator garden.
- Residential outdoor activities would be located along the trail.
- Public art would be displayed along Red Circle Drive.

Ben Lindau, architect for Doran Companies, provided a presentation. He stated that:

- The building would capture the historic feel of a brownstone with a roof cap on top similar to the one on the St. Paul Hotel. The exterior of the building would be brown brick and white to keep it simple. It would look simple and relaxed. The windows are larger than typical.
- The entrance would have generous landscaping and a monument sign to look inviting. Pots would have ornamental trees and vegetation. There would be a canopy, artwork, and outdoor trellis.
- The trail shows a connection to the property on the east.
- There would be an activity lawn, community garden and significant pollinator garden. The UMN bee squad would create a garden to always have something blooming for bees to pollinate. Watching the activity would be fun.
- The proposal would increase the overall efficiency of the building 20 percent above the building-code requirement. There would be electric car charging stations and motion-activated lighting sensors in common areas where allowed. LED lighting would be used throughout. The applicant would enroll in the same program as the city to receive the solar power benefit.

Mr. Kuechle stated that:

- Amenities would include outdoor movie nights; indoor business centers and common work areas; a game room with a golf simulator; entertainment suites for family gatherings; fitness centers; outdoor pools and spas; heated concrete used year round; saunas; grill stations; fire pits; a bike lounge with fix-it stations and areas to hang out; a movie room; an outdoor dog run; pet spas; and outdoor green areas for bocce ball.
- The first entrance to the indoor garage area would not require a code. The door would automatically open. A visitor could park in that indoor garage area and enter directly into the lobby of the building. There would be 50 to 60 indoor visitor-parking stalls.
- The current sanitary sewer pipes for the site hook up with the neighboring townhomes' sanitary sewer system. The proposal would remove the sanitary sewer hook up with the townhomes and locate it elsewhere.

Chair Sewall appreciated the thorough presentation.

In response to Hanson's question, Mr. Kuechle explained that the project would exceed the state building code's requirements for energy efficiency by 20 percent. Doran Companies is a long-term holder. Spending more up front to create a more energy-efficient building creates a better return on Doran Companies' investment. This proposal would score higher on a LEED-point basis than a project Doran Companies completed in Edina that is LEED certified.

In response to Waterman's question, Mr. Kuechle clarified that the applicant was asked to keep a lot of the existing vegetation along Shady Oak Road and plans to do so.

Maxwell confirmed with Mr. Kuechle that the site plan shows the location of the third traffic lane on Red Circle Drive.

Hanson asked Mr. Kuechle what he would like to see be located on the adjacent property east of the site in the future. Mr. Kuechle answered that that he has spoken with grocers and retailers, but there is no interest from them due to the poor visibility to the site from Shady Oak Road. Locating apartments on the property to the east makes sense. Some service businesses may locate near the SWLRT station in the future.

In response to Banks' question, Mr. Kuechle explained that all tenants would have access to all amenities. There would be no differentiation between affordable and market-rate units or parking stalls. The affordable units would be scattered throughout the building. The EDAC felt this range and amount of affordability would provide the most bang for the buck for the proposal.

Waterman asked if the white portion of the building would look good over time. Mr. Lindau answered that the proposed paint and color used would be an industry standard warranted for 25 years to not need washing.

The public hearing was opened.

Laurie Huebner, 5931 Abbott Place, stated that:

- The proposal would be wonderful, but it would be located in her "back yard."
- She was told it would be lower than six stories and not have balconies. She would not have privacy. She does not have trees in her back yard. She has full sun now with a garden. She would not have sun like she does now.
- She questioned what the fence would look like. She does not want huge trees closer to her property. The trail would be along the south side of her backyard. The trail would be closer to the houses on the north side.
- She asked when construction would start and how long would it last.
- She would not have sun for her garden.

- The proposal would affect her quality of life. She got an end unit because she wants the sun exposure.
- The school workers and students leave at 3 p.m.
- She questioned what the north side would look like.
- She would look at the building from her yard and the tenants would look at her in her yard.
- She did not want the building or trees to create a shadow on her property.

No additional testimony was submitted and the hearing was closed.

Gordon showed the rendering of the northeast corner of the building and the north face of the building along the trail. The community garden would be north of the trail and south of the trees that would be planted along the north property line.

Chair Sewall confirmed with Gordon that the current plan moved the trail further south than the previous concept plan.

Gordon pointed out where the trail and landscaping would be adjacent to Ms. Huebner's property. The trail and trees would be located on the applicant's property.

Mr. Kuechle stated that:

- Construction would begin in August and be complete in 20 months to 22 months.
- He submitted samples of fence types to the homeowners' association which selected an eight-foot, Trex fence.
- The selection of the trees to be located along the north property line was done by the homeowners' association. He would be happy to relocate the trees that would have been planted along 5931 Abbott Place to somewhere else on the site.
- The homeowners' association prefers the building to be six stories in height with a 138-foot setback instead of the building being four stories in height with a 51-foot setback.

Mr. Lindau clarified that no shadow from the proposed building would reach 5931 Abbott Place during the growing season. In the winter, the shadow would reach part of the back yard. He provided illustrations from the shadow study. The trees west of the opening would cast a shadow that would reach 5931 Abbott Place in the winter at 3 p.m.

Hanson confirmed with Gordon that the public would not have access rights for anything within the building footprint. Anything outside of the building footprint including the trail would be a public amenity.

Henry joined the meeting.

Henry stated that:

- He likes that the developer took the feedback and created credible solutions.
- He appreciates the applicant's quality presentation.
- The majority of surrounding homeowners expressed their approval of the plan.
- The proposal looks like a great improvement to the Opus area.
- He likes the trails.
- The proposal would fit in the area.
- The current plan is much better than the previous concept plan.
- He thanked the applicants for the hard work put into the project.

Banks stated that:

- He understood the neighbor's concern, but he agrees with the homeowners' association's opinion that pushing the building back and increasing the building setback from the property line would be better than the previous concept plan.
- The proposal would be a great fit for the space.
- He looks forward to its completion.

Maxwell stated that:

- She appreciates the use of solar power, electric-car charging stations, pollinator garden, and utilization of the UMN bee lab.
- She recommends that the amount of shade that would cover the pollinator garden area be kept in mind when selecting the plants.
- She appreciates the common work areas inside the building.
- She would prefer the roof lines not extend out if there is no other purpose for them than aesthetics.
- She suggests decreasing the width of the trail from 16 feet if possible to create more green space.
- She suggests making the edge along the stairs where a bike could be walked wide enough for a fat-tire bike.

Waterman stated that:

- He agrees with staff's recommendation and commissioners.
- He appreciates the changes made to the proposal to address the feedback.
- He appreciates the applicant looking into the feasibility of retail being located in the area.
- He agrees that changing the zoning to a planned unit development would be appropriate. Affordable housing would provide a public benefit.

- He really likes the current site plan.
- He thought that the front of the building is beautiful, but the rest of it could use a little more “pop.” He suggested adding more public art around the building.
- He appreciates the traffic study being done early on. He feels it would be wise to add the third-traffic lane during construction.
- It is a wise move for the proposal to move the egress parking away from the west side.

Powers stated that:

- He likes the affordable housing component increasing to 15 percent on the units and the addition of the turn lane.
- He did not like the choice of colors for the building. He thinks that white is a mistake. He does not like the look of it. He does not think that the building colors need more “pop.”
- The Burke is located very close to townhouses. This building would be quite a bit further away from the neighboring townhomes.
- The applicant has been trying very hard to be a good neighbor. He suggested the applicant meet with the homeowners’ association and Ms. Huebner one more time to see if an amicable agreement could be reached.

Hanson stated that:

- He appreciates the developer’s presentation and staff’s presentation which shows how the applicant listened to the feedback and changed the concept plan to address the concerns.
- He felt sympathy for the neighbors who will have other developments and the SWLRT being constructed near them.
- The applicant worked with the homeowners’ association to come to an agreement on the type of fence, building setback, and height of the building.
- He appreciated learning that a building with an increase in energy efficiency of 20 percent more than the building code requires would be more energy efficient than what LEED certification requires.
- The inside of the building is awesome. It reacts and provides solutions to what everyone has gone through the last year. Having the common work spaces will provide a lot of value.
- He looks forward to supporting the proposal and the three traffic lanes being completed.
- He looks forward to the future when the area may gain amenities that could be utilized by surrounding residents.

Chair Sewall stated that:

- The townhouse residents to the north have had to deal with a lot of change over the last six years and it will continue for at least a few more years. He felt bad for them having more than their fair share of change.
- He appreciates the land use change. It makes sense.
- He wishes that a retailer or amenity would locate in the area, but there does not seem to be enough density yet to support one.
- He felt there was a disagreement between Ms. Huebner and the homeowners' association. Doran's proposal is a great product, but there is always a negotiation process. The proposal has been improved by moving the building away from the north property line. He appreciates Doran following the wishes of the homeowners' association.
- He supports the proposal.
- The 22,000-square-foot-pollinator garden may be the largest one he has ever seen.

Powers moved, second by Waterman, to recommend that the city council adopt the following items related to a multi-family residential development at 5959 Shady Oak Road:

- ***Ordinance rezoning the property from B-1, office, to PUD, planned unit development, and adopting a master development plan.***
- ***Resolution approving final site and building plans.***
- ***Resolution approving a preliminary plat.***

Powers, Waterman, Banks, Hanson, Henry, Maxwell and Sewall voted yes. Motion carried.

9. Adjournment

Waterman moved, second by Banks, to adjourn the meeting at 8:42 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary