Ordinance No. 2018-05

An ordinance repealing and replacing Ordinance No. 2015-12 for redevelopment of the properties at 5740 and 5750 Shady Oak Road

The City Of Minnetonka Ordains:

Section 1.

1.01 On May 18, 2015, the city council adopted Ordinance No. 2015-12. The ordinance rezoned the site generally referred to as the Music Barn properties to PUD, planned unit development, and adopted a master development plan.

1.02 The properties are located at 5740 and 5750 Shady Oak Road and are legally described on Exhibit A.

1.03 In 2017, the city was informed that the 2015 plan was no longer financially feasible.

Section 2.

2.01 To facilitate redevelopment of the site, this ordinance hereby repeals and replaces Ordinance No. 2015-12.

2.02 The properties at 5740 and 5750 Shady Oak Road are hereby rezoned to PUD.

2.03 This ordinance is based on the following findings:

1. The rezoning to PUD would result in the provision of a mix of housing types and single-level living options desirable to the city.

2. The rezoning would be consistent with the intent of the zoning ordinance and of the comprehensive guide plan.

3. The rezoning would be consistent with the public health, safety, and welfare.

2.04 This ordinance is subject to the following conditions:
1. The site must be developed and maintained in substantial conformance with the following plans:
   - Site Plan, dated March 23, 2018
   - Grading and Drainage Plan, dated March 23, 2018
   - Sanitary and Watermain Plan, dated March 23, 2018
   - Stormsewer Plan, dated March 23, 2018
   - Landscaping Plan, dated March 23, 2018
   - Architectural Plan Set, dated March 5, 2018


Section 3. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on May 14, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

Action on this ordinance:

Date of introduction: April 16, 2018
Date of adoption: May 14, 2018
Motion for adoption: Calvert
Seconded by: Bergstedt
Voted in favor of: Bergstedt, Ellingson, Happe, Calvert, Wiersum
Voted against: Wagner, Acomb
Abstained:
Absent:
Ordinance adopted.

Date of publication: May 24, 2018

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 regular meeting held on May 14, 2018.

David E. Maeda, City Clerk
EXHIBIT A

Parcel 1:

That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northeast Quarter, thence on an assumed bearing of 87 degrees 06 minutes 28 seconds West along the South line of said Southeast Quarter a distance of 972.80 feet, thence North 26 degrees 34 minutes 28 seconds East a distance of 97.56 feet to the point of beginning of the land to be described, thence South 26 degrees 34 minutes 28 seconds East a distance of 448.09 feet, thence North 87 degrees 06 minutes 28 seconds East a distance of 1000.65 feet, thence North 63 degrees 25 minutes 51 seconds West to the point of beginning.

Hennepin County, Minnesota
Abstract Property

Parcel 2:

That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of said Section 35, thence South 87 degrees 06 minutes 28 seconds West, assumed bearing, along the South line of said Southeast Quarter of the Northeast Quarter, 808.01 feet; thence North 1 degree 19 minutes 39 seconds West, 348.02 feet; thence North 86 degrees 20 minutes 14 seconds East, 12.59 feet, which point is marked by a Judicial Landmark; thence North 2 degrees 55 minutes 45 seconds West, 400.24 feet to the point of beginning of the land to be described, which point is marked by a Judicial Landmark; thence South 2 degrees 55 minutes 45 seconds East, along the last described line, 460.23 feet; thence North 87 degrees 06 minutes 28 seconds East, 448.09 feet, thence North 63 degrees 25 minutes 51 seconds East, 1000.65 feet to the Southwesterly right-of-way line of County Road Number 61 (also known as Seven Oaks Road); thence North 54 degrees 36 minutes 20 seconds West, along said right-of-way, 248.72 feet; thence North 59 degrees 23 minutes 15 seconds West, along said right of way, 173.57 feet, to its intersection with a line which bears North 50 degrees 39 minutes 32 seconds East from the point of beginning, thence South 50 degrees 08 minutes 52 seconds West, along said line, 42.72 feet to the point of beginning.

Hennepin County, Minnesota
Abstract Property
Resolution No. 2018-057

Resolution amending Resolution No 2018-015 as it pertains to an expansion permit, for a restaurant with outdoor eating area at 5445 Eden Prairie Road

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 On Feb. 26, 2018 the city council adopted Resolution 2018-015. The resolution approved a conditional use permit, with variance and expansion permit, for a restaurant with outdoor eating area at 5445 Eden Prairie Road.

1.02 The property is legally described as follows:

That part of the abandoned right of way of the Minneapolis, St. Paul & Suburban Railway Company, Section 33, Township 117 North, Range 22, lying East of the East line of Eden Prairie Road and West of a line drawn at right angles to the center line of said right of way from a point in said center line 260 feet Northeasterly along center line of said right of way from its intersection with the east line of said Eden Prairie Road, as said right of way appears upon the plat of Glen Lake Park.

Torrens Property

Begin registered land as evidenced by Certificate of Title No. 1071440

1.03 The approved expansion permit allowed for change in the roof pitch over a portion of western half of the building.

1.04 Chris Bjorling, property owner, is now requesting that the city approve a change in roof pitch over the entire western half of the building rather than just a portion of this area. The request requires an amendment to that portion of Resolution 2018-015 pertaining to the expansion permit.

Section 2. Standards.

2.01 By City Code §300.18 Subd. 5(b), buildings within the B-2 zoning district must maintain a 50-foot setback from front property lines. The existing building was
constructed 20 years before adoption of the city's first zoning ordinance. It has non-conforming front yard setbacks of nine feet and three feet from south and west property lines respectively. By City Code §300.29 Subd. 7(c) the city may approve expansion of a non-conformity when an applicant meets the burden of proving that:

1. The proposed expansion is a reasonable use of the property, considering such things as: functional and aesthetic justifications for the expansion; adequacy of off-site parking for the expansion; absence of adverse off-site impacts from such things as traffic, noise, dust, odors, and parking; and improvement to the appearance and stability of the property and neighborhood.

2. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and

3. The expansion would not adversely affect or alter the essential character of the neighborhood.

Findings.

The proposed revision would continue to meet the expansion permit standard as outlined in City Code §300.29 Subd. 7(c):

1. Reasonableness and Neighborhood Character. The proposed roof pitch change is reasonable and would not negatively impact the character of the surrounding neighborhood. The change is for aesthetic reasons only and it would not increase the footprint or usable space of the existing building.

2. Unique Circumstance. The existing building is situated in the far southwest corner of the subject property. It exceeds required setbacks from the north and east property lines and has non-conforming setbacks from south and west lines. It is not "centered" on the lot. This is a unique circumstance not common to every similarly zoned property.

City Council Action.

Section 4.01 of Resolution 2018-015 is amended as follows:

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
   • Site plan dated, Jan. 8, 2018
   • Floor plan dated, Jan. 8, 2018
Exterior Elevations, dated, May 1, 2018

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 14, 2018.

Brad Wiersum, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption: Bergstedt
Seconded by: Wagner
Voted in favor of: Bergstedt, Wagner, Ellingson, Acomb, Happe, Calvert, Wiersum
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held May 14, 2018.

David E. Maeda, City Clerk