

BRAINERD PLANNING COMMISSION

Wednesday, January 9, 2013

6:00 p.m.

City Hall Council Chambers

1. Call to Order
2. Election of Chair and Vice Chair
3. Approval/Amendment of Agenda
4. Approval of minutes of the regular meeting of December 12, 2012
5. NEW BUSINESS
 - a. Northtown West Site Plan Revisions
 - b. Mobile Food Units – Draft Ordinance Review
 - c. Mississippi Riverfront – see email
 - d. Year End Review
6. OLD BUSINESS

NONE
7. Commissioners' Questions/Comments
8. City Planner's Comments
9. Adjournment

Any individual needing special accommodations please call 218/828-2309

PLANNING COMMISSION
Wednesday, December 12, 2012

Chairman Mike Jay called the meeting of the Brainerd Planning Commission to order at 6:02 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Cumberland, Plantenberg, Jay, Lambert, Cole and Hirst. Noted absent were Commissioners Erickson and Hirst. Also present was City Planner Ostgarden.

#2 Approval/Amendment of Agenda

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND CUMBERLAND, DULY CARRIED, TO APPROVE THE AGENDA AS AMENDED.

#3 Approve minutes of the regular meeting of November 14, 2012

MOTION AND SECONDED BY COMMISSIONERS CUMBERLAND AND LAMBERT, DULY CARRIED, TO APPROVE THE MINUTES FOR THE REGULAR MEETING OF NOVEMBER 14, 2012.

#4 NEW BUSINESS

a. “A Window into Brainerd’s Bright Future” – Barrett Steenrod MLA/MURA Capstone Project Presentation

The Planning Commission heard a presentation by Barrett Steenrod MLA/MURA entitled “Brainerd: A Window to a Bright Future”. Planning Commission members were very complementary of the proposal and informed Mr. Steenrod that it will review the draft recommendations.

b. I-Places Presentation – Tad Erickson, Region V Community and Economic Development Planner

The I-Places presentation by Tad Erickson, Region V Community and Economic Development Planner was postponed. Mr. Erickson was unable to attend the meeting. It will be rescheduled.

#5 OLD BUSINESS

NONE

#6 Commissioners’ Questions/Comments

Commissioner Cumberland thanked the Planning Commission for her time on the Commission as Council liaison. She referenced the new City Council will be making appointments which may possibly include a new Planning Commission liaison.

Commissioner Jay spoke on the following:

- Requested a yearend review of activity be provided to the Planning Commission. A 2012 review can be proceeding at the January 2013 meeting.
- Inquired if there has been any feedback or inquiries about the roundabouts. The City Planner stated he will check with the Engineering Department.
- Suggested that City staff talk to the bus drivers about roundabout use. He stated he has observed buses stopped in the roundabouts.
- Asked that we be vigilant in keeping sidewalks walkable during the winter. He stated he has observed that Washington Street is a problem.

#7 City Planner's Comments

City Planner Ostgarden informed the Planning Commission of the following:

- The Gustafson B-2 zoning was approved.
- Brainerd was not selected to participate in the Smart Growth America Technical Assistance Program.
- The City Council is planning a visioning process for 2013.
- Commissioner Hirst has resigned.
- Several terms have expired and letters have been sent to those individuals.

#8 Adjournment

As there was no further business the meeting adjourned at 7:45 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

/lt

MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner 

DATE: January 4, 2013

RE: Northtown West Site Revisions

Northtown West is an approved seventy five (75) unit Common Interest Community (CIC) that includes a mix of three (3) and four (4) unit two story buildings. To date eighteen (18) units have been constructed. The new owners are proposing a plan revision that will:

1. Reduce the total number of units to sixty-two (62).
2. Include an option to construct one (1) story units in addition to two (2) story units.

Attached is a drawing that illustrates the new building locations and the number of units in each building. Also attached is a basic elevation drawing of a one story unit.

The drawing illustrates buildings that were not part of the original plan on:

1. Outlot J – One (1) - four (4) unit building. This building cannot be constructed as this lot has been deeded to the City and a retention pond has been built on the parcel. This will reduce the new total to fifty-eight (58) units.
2. Lot One Block One – Two (2) - three (3) unit buildings.

The Zoning Ordinance requires that Northtown West was approved as a Planned Unit Development (PUD). The Zoning Ordinance specifies the following when a PUD revision is proposed:

Amendments to the Planned Unit Development (PUD).

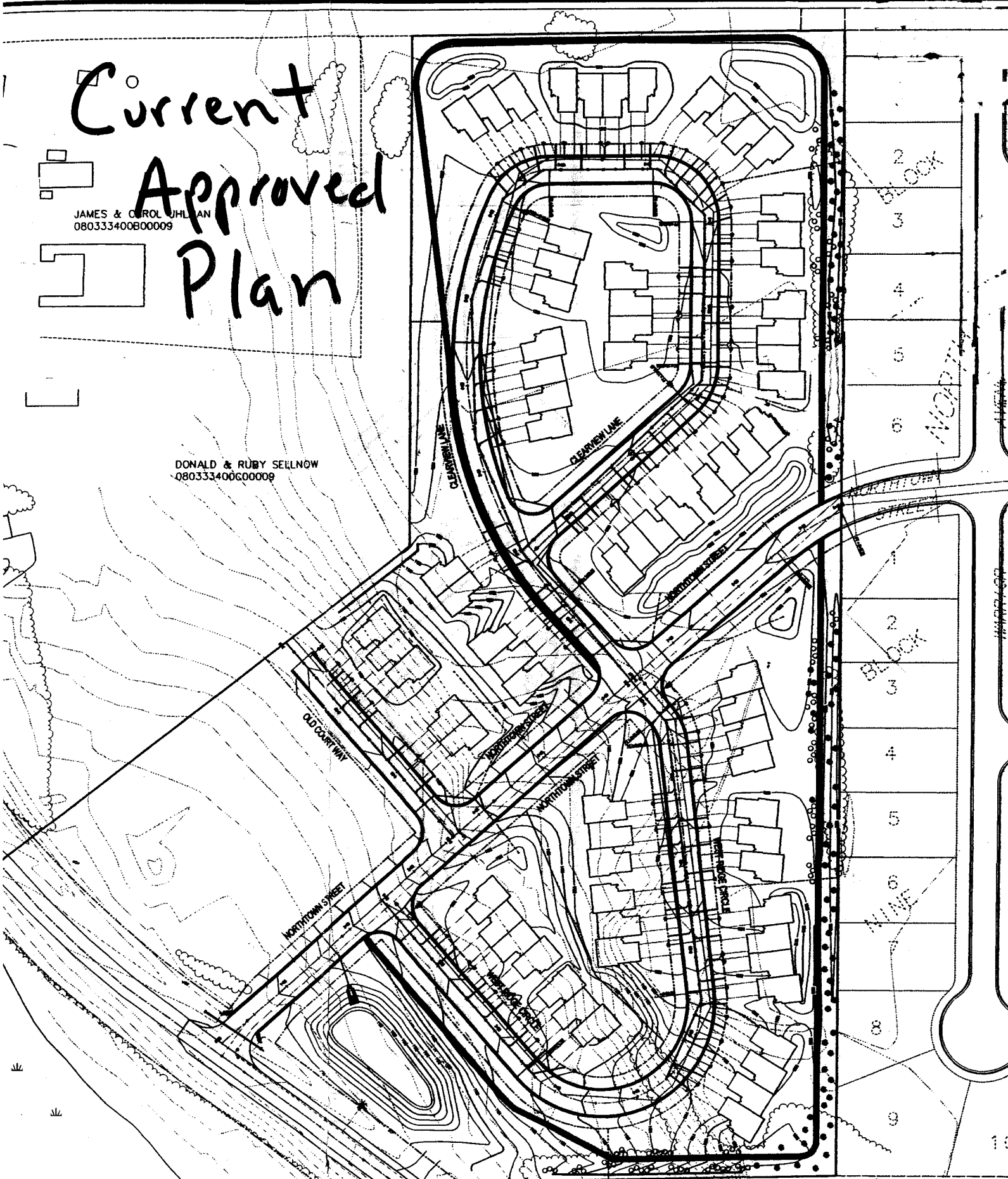
1. *Any deviation or modification from the terms or conditions of an approved Planned Unit Development (PUD), or any alteration in a project for which a Planned Unit Development (PUD) permit has been approved, shall require an amendment of the original Planned Unit Development (PUD). An application for an amendment specifying the proposed alteration shall be submitted to the City, together with a fee as provided for by Ordinance.*
2. *Action by the Planning Commission and City Council. The same application and review procedure shall be followed with respect to the applicant's initial request as outlined in Section 515-11-10.*

Section 515-11-10 Procedure for Processing a Planned Unit Development specifies the process for a PUD amendment requires a Conditional Use Permit (CUP) review. The amendment is being submitted to the Planning Commission for its position on whether the CUP review should be followed. Strict compliance with the Zoning Ordinance requires the process, however the argument can be made the revisions are not significant to warrant the requirement.

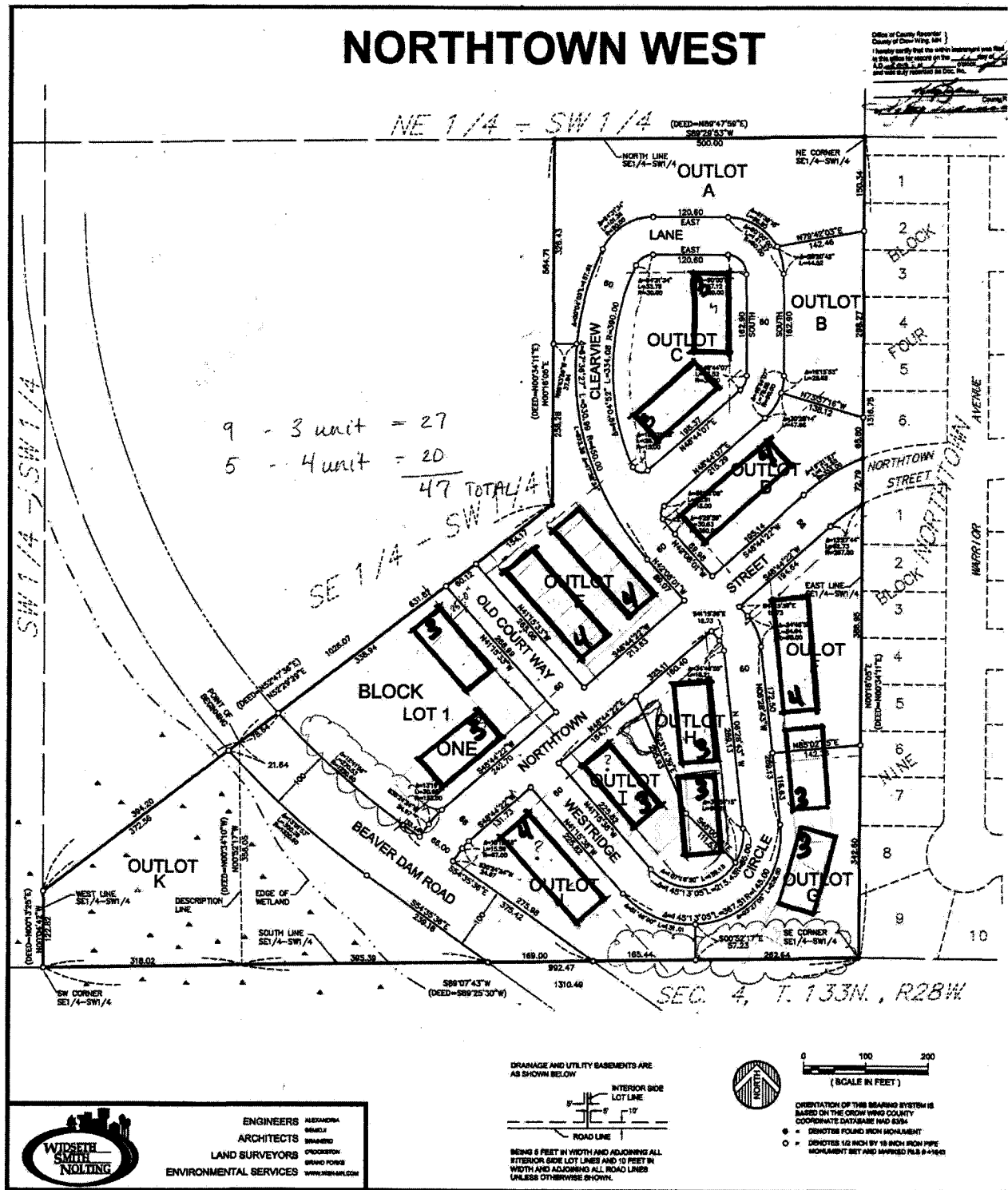
Current Approved Plan

JAMES & CAROL UHLER
080333400600009

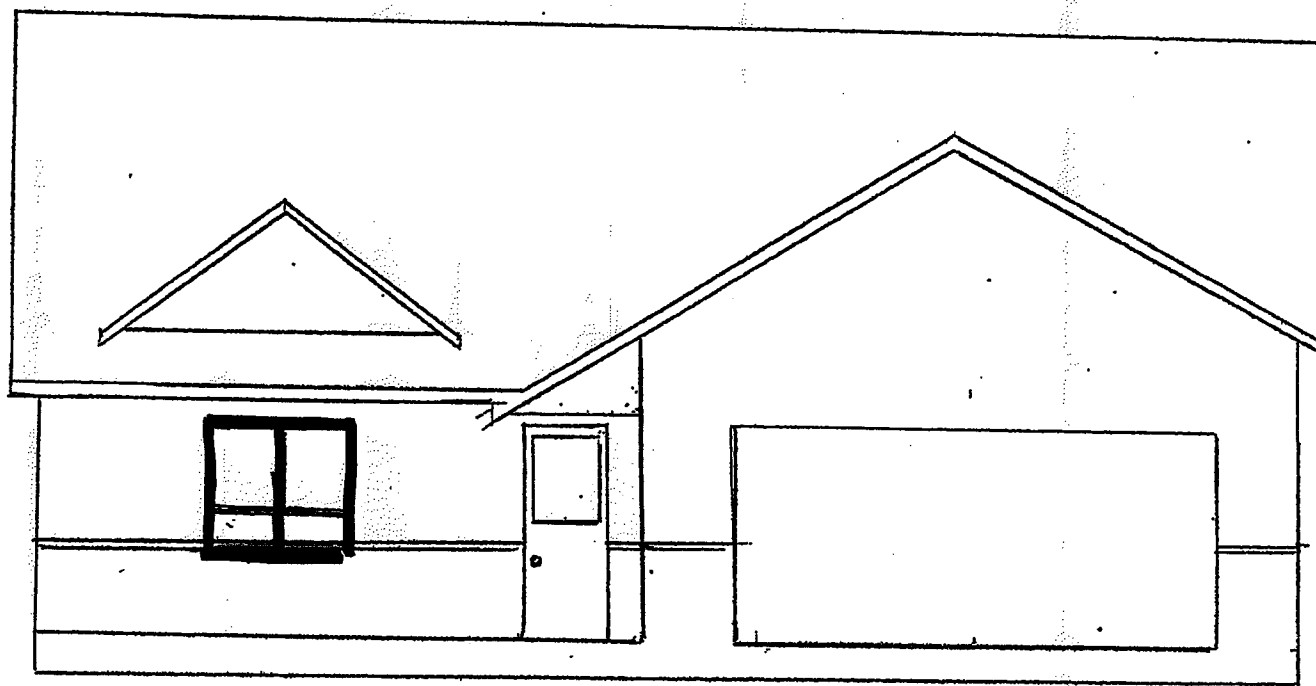
DONALD & RUBY SELNOW
080333400600009



Proposed Plan



12/12/12



MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner 

DATE: January 4, 2013

RE: Mobile Food Units (e.g. Food Trucks, etc.)

There has been considerable discussion about permitting food trucks in the City of Brainerd. This became an issue in 2102 when Prairie Bay setup its food truck in the MidMinnesota Savings and Loan parking lot. When the Zoning Ordinance was adopted we did not include this use as one allowed in the community. Our use denial was challenged by Prairie Bay who thought a food truck met the definition of a restaurant. The interpretation by the Planning Commission and City Council was that a food truck does not meet the definition. Following its decision the City Council requested the Planning Commission consider amending the Zoning Ordinance to allow mobile food units on private property.

Attached is a memo with attachments to the City Attorney on this issue. He and I have discussed the draft material and he is comfortable with what has been prepared. Note that revisions to Ordinance 1150 are also included. Because the Zoning Ordinance regulates uses on private property, to allow mobile food units on public property and/or street rights-of-way, separate language (Ordinance 1150) is needed to permit it to occur. At this time the Planning Commission need not be concerned about the proposed Ordinance 1150 draft amendments. Should the City Council want to consider allowing mobile food units on public property and/or street rights-of-way that will be a regulatory decision for it to make. At this time the Planning Commission's role is to consider language to permit mobile food units on private property. The memo to the City Attorney describes the basic amendments that would be needed for it to occur.

The 1st question the Planning Commission should address is whether it thinks mobile food units should be allowed on private property. Please keep in mind, that it has the prerogative, if it thinks appropriate, to recommend that mobile food units not be permitted.

Should the Planning Commission conclude the use should be permitted, the Zoning Ordinance Definitions section will need to be amended as will the zoning district sections it thinks appropriate to allow the use. Sample definitions are provided as well as a sample district amendment. What may be the more difficult discussion and recommendation are what, if any, parameters should regulate mobile food units on private property (see memo to the City Attorney for examples). No parameters are suggested at this time, so prior to the meeting please give thought to how to address the issues.

MEMO

TO: Tom Fitzpatrick, City Attorney
CC: Theresa Goble, Interim City Administrator
FROM: Mark Ostgarden, City Planner 
DATE: December 4, 2012
RE: Mobile Food Vendors

Attached are several documents that appear to need revisions if we are to consider allowing mobile food vendors.

Zoning Ordinance Definition – Restaurant

This is the term that created the initial confusion about whether a food truck is or is not a restaurant. The definition has been amended to clarify what is a restaurant.

Zoning Ordinance Definition – Temporary Sales

The term is in the Zoning Ordinance, however it is not defined. Note the inclusion of the sale of food and drink and mobile units.

Zoning Ordinance – Sample Zoning District Amendments

To permit mobile food vendors to sell on private property, the activity needs to be a use permitted in the zoning district in which it is proposed to operate. We currently do not make a provision in any zoning district for that to occur. The sample zoning B-2 (Neighborhood Business) District includes language to permit the activity and can be used in any zoning district we decide to permit the activity.

City Code Section 1150 – Peddlers, Solicitors and Transient Merchants - Amendments

Amendments to this section would be in addition to the Zoning Ordinance "temporary sales" definition, and would define a mobile food vendor as a "peddler" making the activity subject to the licensing requirements of this section.

Note that I have made a couple of other modifications to this section:

1. The term "canvasser" appears in other ordinances I reviewed and I have added it as a definition. However note that Section 1150.09 c) appears to exempt canvasser type activities.

2. The term "transient merchant" has been removed from the ordinance. It appears to me that all transient merchants are peddlers and thus two (2) definitions for basically the same activity seemed redundant and confusing. A phrase from the deleted transient merchant definition has been added to the peddler definition.

"Garage sales" or "rummage sales" are including as exempt in this section. Regulating of such sales should be a private property use activity regulated by the Zoning Ordinance. If changes to this section are to be made, considering an amendment to add the activity to the Zoning Ordinance should be considered.

Conclusion

The basic amendments to consider adding mobile food vendors as a permitted activity in the Zoning Ordinance does not appear to be nor should it be very complicated. What will dominate the discussion will be questions about:

1. Allowed locations
2. Number of days per week/month/year
3. Hours of operation
4. Can out of town operations be excluded
5. Submittal requirements for zoning approval
6. Others

I am submitting this information for your review and as a place to begin our review. Could you please contact me so we can arrange a time to meet before the end of the month to discuss the amendments? As I mentioned at the December 3, 2012 City Council meeting, I would like to submit draft Zoning Ordinance amendments to the Planning Commission for its January 9, 2013 meeting.

Amended Zoning Ordinance Definition – Restaurant

Restaurant. An establishment that serves food in individual servings for consumption on or off premises, including sit-down restaurants, take out, pick up, or delivery food sales **WITHIN A BUILDING**, ~~but not including drive-through facilities~~. Outdoor dining areas and drive-through facilities may or may not be allowed in each zoning district: they are not automatically allowed when a restaurant is an allowable use.

ZONING ORDINANCE DEFINITION – TEMPORARY SALES

TEMPORARY SALES: THE PERIODIC SALE OF FOOD, GOODS, WARES AND/OR MERCHANDISE BY ANY PERSON, FIRM, CORPORATION, RESIDENT OR NONRESIDENT. THIS INCLUDES BUT IS NOT LIMITED TO:

- **HORTICULTURE/LANDSCAPING SALES**
- **CHRISTMAS TREES SALES**
- **SEASONAL FRUIT AND VEGETABLE STANDS SALES**
- **FIREWORKS STAND SALES**
- **SALE OF FOOD AND/OR DRINK FROM MOBILE FOOD UNITS (E.G. TRUCKS, CARTS, WAGONS, BICYCLES, STANDS AND THE LIKE)**
- **HIRING, LEASING, USING OR OCCUPYING ANY BUILDING, STRUCTURE, VACANT LOT, MOTOR VEHICLE AND/OR TRAILER FOR TEMPORARY SALES ACTIVITIES**

SECTION 61
B-2, NEIGHBORHOOD BUSINESS DISTRICT

Section:	
515-61-1:	Purpose and Intent
515-61-2:	Permitted Uses
515-61-3:	Accessory Uses
515-61-4:	Uses by Administrative Permit
515-61-5:	Interim Uses
515-61-6:	Conditional Uses
515-61-7:	Lot Area and Setback Requirements
515-61-8:	Building Height
515-61-9:	Exterior Building Standards

515-61-1: Purpose and Intent. The purpose of the B-2 District is to provide for the establishment of integrated neighborhood centers for convenient, limited office and retail businesses that serve nearby residential neighborhoods.

515-61-2: Permitted Uses.

- A. Commercial establishments offering merchandise or services to the general public in return for compensation. Commercial buildings shall be limited to five thousand (5,000) square feet of floor area or less and include the following uses:
1. Retail establishments such as groceries, hardware, pharmacy, clothing and furniture stores, liquor stores (off-sale only), florists, pharmacies, books, cards and gifts.
 2. Personal services such as barber/beauty shop, nail salon, tanning salon, therapeutic massage and spas.
 3. Office Businesses-Clinic. Out-patient health services limited to general medical clinics, mental health providers, physical therapy, chiropractors, dentists, orthodontia, oral surgeons, and opticians.
 4. Repair services such as jewelry and radio and television/appliance repair shops, household items, electronics, shoe repair, upholstery and locksmith.
 5. Office Businesses-General. Professional administrative or clerical service operations limited to attorneys, financial advisors, insurance, travel and real estate.
 6. On-site service businesses such as tailoring/alterations, banks, dry cleaners, self-service laundry and copy centers.

7. Decorating and photography studios.
- B. Government and public buildings, utilities, and/or structures.
- C. Essential services as regulated by Section 36 of this Ordinance.

515-61-3: Accessory Uses.

- A. Off-street parking as regulated by Section 22 of this Ordinance.
- B. Off-street loading as regulated by Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers as regulated by Section 35 of this Ordinance.

515-61-4: Uses by Administrative Permit.

- A. Temporary sales ~~and seasonal and sales provided that:~~
1. No portion of the use shall take place within any public right-of-way or landscaped green strip.
 2. Parking and display areas associated with the use shall not distract or interfere with existing business operations or traffic circulation patterns.
 3. Display areas and parking spaces shall use those parking lot spaces that are in excess of the minimum required parking for the primary use of that property.
 4. The site shall be kept in a neat and orderly manner and display of items shall be as compact as possible so as to not interfere with existing business, parking or driveway operations.
 5. Sales products, trailers, temporary stands, etc. shall be located on an asphalt or concrete surface. ~~as approved in the Administrative Permit.~~
 6. Temporary ~~outdoor seasonal~~ sales uses (with a valid Administrative Permit) may have one (1) on-site temporary sign not to exceed twenty-four (24) square feet in area and not more than six (6) feet in height.

7. A daily cleanup program shall be presented as part of the Administrative Permit application.
8. Temporary sales displays shall not be located within a traffic visibility setback per Section 515-16-5.D of this Ordinance.
9. A SITE PLAN IS SUBMITTED IDENTIFYING THE SIZE AND LOCATION OF THE TEMPORARY SALES.
10. PRIOR TO ISSUING A TEMPORARY SALES PERMIT A BACKGROUND CHECK WILL BE CONDUCTED BY THE BRAINERD POLICE DEPARTMENT IN ACCORD WITH CHAPTER 15 OF THE BRAINERD CITY CODE.

B. OUTDOOR PROMOTIONAL EVENTS PROVIDED THAT:

1. SUCH ACTIVITY IS TARGETED TOWARD THE GENERAL PUBLIC AND INCLUDES GRAND OPENINGS, WAREHOUSE SALES, SIDEWALK SALES, INVENTORY REDUCTION AND LIQUIDATION SALES, AND SEASONAL MERCHANDISE SALES.
2. THE MAXIMUM TERM OF THE EVENT SHALL NOT EXCEED FOURTEEN (14) CONSECUTIVE DAYS, WITH A MAXIMUM OF FOUR (4) PERMITS PER CALENDAR YEAR FOR EACH USE. CONSECUTIVE PERMITS MAY BE ISSUED.
3. NO PORTION OF THE USE SHALL TAKE PLACE WITHIN ANY PUBLIC RIGHT-OF-WAY OR LANDSCAPED GREEN STRIP.

C. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-61-5: Interim Uses.

- A. None.

515-61-6: Conditional Uses.

- A. Private clubs and lodges provided that:
1. Side yards shall be thirty (30) feet.

2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
3. Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
4. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

B. Restaurants without drive-up windows.

1. Side yards shall be thirty (30) feet.
2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
3. Off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
4. Off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

C. On-sale liquor establishments.

1. Side yards shall be thirty (30) feet.
2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
3. Off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
4. Off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

D. Places of worship and related buildings provided that:

1. Side yards shall be thirty (30) feet.

2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
 3. Off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
- E. Commercial day care facilities as regulated by Section 29 of this Ordinance.
- F. Outdoor dining facilities accessory to a restaurant provided that:
1. The applicant shall submit a site plan and other pertinent information demonstrating the location and type of all tables, refuse receptacles, and wait stations.
 2. Access to the dining area to be provided only via the principal building if the dining area is full service restaurant, including table waiting service.
 3. The size of the dining area is restricted to thirty (30) percent of the total customer floor area within the principal structure.
 4. The dining area is screened from view from adjacent residential uses in accordance with Section 20 of this Ordinance.
 5. All lighting be hooded and directed away from adjacent residential uses in accordance with Section 18 of this Ordinance.
 6. The applicant demonstrates that pedestrian circulation is not disrupted as a result of the outdoor dining area by providing the following:
 - a. Outdoor dining area shall be segregated from through-pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, or other methods, and shall be subject to review and approval by the City Council.
 - b. Minimum clear passage zone for pedestrians at the perimeter of the seating area shall be at least five (5) feet without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, street lights, parking meters, or the like.
 - c. Overstory canopy of trees, umbrellas or other structures extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven (7) feet above sidewalk.

7. The dining area is surfaced with concrete, bituminous or decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.
 8. Storage of furniture shall not be permitted outdoors between November 1 and March 31. Outdoor furniture that is immovable or permanently fixed or attached to the sidewalk shall not be subject to the storage prohibition of this Section. However, any immovable or permanently fixed or attached furniture shall be approved as part of the Administrative Permit application.
 9. Additional off-street parking may be required pursuant to the requirements set forth in Section 22 of this Ordinance based on the additional seating area provided by the outdoor dining area.
 10. Refuse containers are to be provided for self-service outdoor dining areas.
- G. Planned Unit Development (including shopping centers) as regulated by Section 11 of this Ordinance.
- H. Motor vehicle fuel sales provided that:
1. Installation is in accordance with State and City standards. Additionally, adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site. Fuel pumps shall be installed on pump islands.
 2. A minimum lot area of forty thousand (40,000) square feet and minimum lot frontage of one hundred (100) feet.
 3. Architectural standards are compliant with the required commercial design construction standards of Section 515-17-3 of this Ordinance.
 4. A protective canopy structure may be located over the pump island(s) as an accessory structure. The canopy shall meet the following performance standards:
 - a. The edge of the canopy shall be twenty (20) feet or more from the front and/or side lot line, provided that adequate traffic visibility both on-site and off-site is maintained.
 - b. The canopy shall not exceed eighteen (18) feet in height and must provide fourteen (14) feet of clearance to accommodate a semi-trailer truck passing underneath.
 - c. The canopy fascia shall not exceed three (3) feet in vertical height.

- d. Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the bottom face of the canopy. Total canopy illumination may not exceed one hundred fifteen (115) foot candles below the canopy at ground level. The fascia of the canopy shall not be illuminated.
 - e. The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.
 - f. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:
 - 1) The canopy signs do not exceed more than twenty (20) percent of the canopy façade facing a public right-of-way.
 - 2) The canopy fascia shall not be illuminated except for permitted canopy signage.
 - g. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
5. Pump islands must comply with the following performance standards:
- a. Pump islands must be elevated six (6) inches above the traveled surface of the site.
 - b. All pump islands must be set at least thirty (30) feet back from any property line. Additionally, the setback between the pump islands curb face must be at least twenty-four (24) feet.
6. Landscaping and screening must comply with standards set forth in Section 20 of this Ordinance.
7. Lighting shall be in compliance with Section 18 of this Ordinance.
8. Circulation and Loading. The site design must accommodate adequate turning radius and vertical clearance for a semi-trailer truck. Designated loading areas must be exclusive of off-street parking stalls and drive aisles. A site plan must be provided to illustrate adequate turning radius, using appropriate engineering templates.
9. Pedestrian Traffic. An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles. In front of the principal structure, the pedestrian sidewalk must be a minimum of five (5) feet wide and clear of any obstacle or impediment. The pedestrian sidewalk may be reduced to a minimum of three (3)

feet wide and clear of any obstacle or impediment when segregated from parking or drive aisles by a physical barrier that prevents vehicles from overhanging the pedestrian sidewalk.

10. Noise. Play of music or advertisement from the public address system is prohibited. Noise control shall be required as regulated in the Brainerd City Code.

I. Funeral homes and mortuaries provided that:

1. Parking and stacking areas are provided subject to the provisions of Section 22 of this Ordinance.
2. The site accesses a collector road.

J. Specialty Food Shops with or without a drive-up window and/or with or without outdoor seating.

1. Coffee beans cannot be roasted on site.
2. Side yard setbacks shall be thirty (30) feet.
3. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
4. Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
5. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

515-61-7: Minimum Lot Area and Setback Requirements.

Lot Area	10,000 square feet
Lot Width	75 feet
Front Yard Setback	20 feet
Side Yard Setback, internal lot	5 feet
Side Yard Setback, corner lot	20 feet
Rear Yard Setback	10 feet
Setback from adjacent residential zoning	30 feet
Adjacent to alley	10 feet

515-61-8: Building Height. Not more than thirty-five (35) feet unless otherwise granted under a Conditional Use Permit.

515-61-9: Exterior Building Standards. Exterior building standards as regulated by Section 515-17-3 of this Ordinance.

DRAFT Section 1150 – CANVASSERS, Peddlers AND Solicitors, and Transient Merchants

1150.01 Definitions. For purposes of this Section, the following terms have the following meanings:

SUBD. 1 "CANVASSER" MEANS ANY PERSON SEEKING FUNDS OR CONTRIBUTIONS DOOR TO DOOR IN THE CITY ON BEHLF OF A CHARITABLE, RELIGIOUS OR NONPROFIT ORGANIZATION AS DEFINED IN INTERNAL REVENUE CODE SECITON 501 (C) 3.

Subd. 1.2 "Peddler" means any person, whether a resident of the City of Brainerd or not, ~~with no fixed place of business~~ who goes from house to house, from place to place, or from street to street, carrying or transporting goods, wares or merchandise, and offering or exposing the same for sale, or making sales and deliveries to purchasers. IN FURTHERANCE OF SUCH PURPOSE MAY HIRE, LEASE, USE OR OCCUPY ANY BUILDING, STRUCTURE, VACANT LOT, MOTOR VEHICLE, OR TRAILER.

Subd. 2.3 "Solicitor" means any person, whether a resident of the City of Brainerd or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for any goods, wares or merchandise, including books, periodicals, magazines, or personal property of any nature whatsoever for future delivery.

~~Subd. 3. "Transient Merchant" means any person, firm or corporation, whether a resident of the City of Brainerd or not, who engages temporarily in the business of selling and delivering goods, wares or merchandise within the City of Brainerd, and who, in furtherance of such purpose, hires, leases, uses, or occupies any building, structure, vacant lot, motor vehicle, or trailer.~~

1150.03 Restrictions. Subdivision 1. Signs. Any resident of the City who wishes to exclude peddlers or solicitors from premises occupied by him may place upon or near the usual entrance to such premises, a printed placard or sign bearing the following notice: "Peddlers and solicitors prohibited." No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises where such a placard or sign is placed and maintained. No person other than the person occupying such premises shall remove, inure, or deface such placard or sign.

1150.05 Prohibition. The practice of selling goods, wares and produce from vehicles and/or trailers parked on City streets or public right of ways is hereby prohibited; it being in the public interest to avoid traffic hazards, parking congestion and health hazards that such practices create.

1150.07 License Required. No CANVASSER, peddler OR solicitor, ~~or transient merchant~~ shall sell or offer for sale any services, goods, wares, or merchandise by invitation within the City unless a license therefore shall first be secured as provided in this Ordinance.

1150.09 Applications. Application for such license shall be made to the City Clerk on a form supplied by the City. The application shall state:

- 1) the name and address of the applicant and of all persons associated with THE ~~him and his~~ business;
- 2) the type of business for which the license is desired;
- 3) in case of ~~transient merchants~~ PEDDLERS:
 - a) the place where the business is to be carried on;
 - b) the length of time for which the license is desired;
 - c) a general description of the thing or things to be sold;
- 4) the places of residence of the applicant for the five years next preceding the date of the application;
- 5) the names of at least two property owners of Crow Wing County, Minnesota, who will certify as to the applicant's good character, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;
- 6) a statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than traffic violations;
- 7) the nature of the offense and the punishment or penalty assessed therefore;
- 8) the last municipalities, not to exceed three, where applicant carried on business immediately preceeding date of application and the addresses from which such business was conducted in those municipalities.

1150.11 Investigation and Issuance. Upon receipt of each application, it shall be referred to the Chief of Police, who shall immediately institute such investigation pursuant to Chapter 15 of the Brainerd City Code of the applicant's business and moral character as deemed necessary for the protection of the public good and shall endorse the application in the manner prescribed in this Section within 72 hours after it has been filed by the applicant with the City Administrator. Thereafter, a license shall be issued by the City Administrator upon payment of the required fee.

(Amended Ord. 864 – 1987, Ord. 1353 - 2010)

1150.13 License Fees. Fees for licenses shall be as follows:

CANVASSER, PER YEAR	\$ _____
Solicitors, per year	\$200.00
Transient Merchants, per year	\$200.00
Peddlers, per year	\$200.00

1150.15 License Not Transferable. All licenses shall be non-transferable. No refunds shall be made on unused portions of licenses except by motion of the Council.

1150.17 Prohibited Practices. No CANVASSER, peddler OR solicitor, ~~or transient merchant~~ shall call attention to his A business or to his merchandise by crying out, by blowing a horn, by ringing a bell, or by any loud or unusual noise.

1150.19 Exemptions. This Chapter does not apply to the following:

- a) The sale of farm or garden products.
- b) Vendors who make an uninvited call upon the occupant of a residence, subject, however, to Section 1150.03, as a preliminary step to the establishment of a regular route service for the sale and delivery of commodities and services to regular customers, such as: vendors of milk, groceries and other perishable commodities; soft water service; dry cleaning; newspapers; and beauty products.

(Amended Ord. 860 – 1987)

- c) The sale of goods or merchandise on behalf of a bona fide charitable, religious, civic, educational, or political organization.
- d) Any sale under court order.
- e) A bona fide auction sale.
- f) Sidewalk sales authorized by the City Council.
- g) Garage sales or rummage sales when conducted in or by a non-profit institution, or when conducted upon the premises of an owner of the articles being offered by sale provided that such sales do not last longer than 72 hours, end provided that no more than four sales be conducted by any given location within one year.
- h) Sales at wholesale to retail dealer.

1150.21 Group Sales. In the case of group sales where two or more ~~transient merchants~~ PEDDLERS are engaged in business at the same time and location, it shall not be necessary for any such ~~transient merchant~~ PEDDLER to obtain a license under this Chapter provided that the sponsor, promoter, or organizer of the group sale has obtained a license as required under this Chapter and has submitted such information for all of the other ~~transient merchants~~ PEDDLER involved in the group sale as may be required by this Ordinance.

1150.23 Revocation. Any license may be revoked by the Council for a violation of any provision of this Ordinance if the licensee has been given a reasonable notice and an opportunity to be heard.

1150.25 Penalty. Any person who violates any provision of this Ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Seven Hundred and no/100 (\$700.00) Dollars or by imprisonment for a period not exceeding ninety (90) days or both.

1150.27 Repeal. Section 1150 of the Brainerd City Code is hereby repealed and the foregoing Ordinance is adopted to replace same.

(Amended Ord. 859 – 1987)

Mark Ostgarden

From: Mark Ostgarden
Sent: Wednesday, December 26, 2012 3:40 PM
To: 'brainerd@rocketmail.com'
Cc: Theresa Goble
Subject: Friday's Dispatch Letter
Attachments: Riverbank Photo.jpg; Rockford Riverwalk 2.jpg; Rockford Riverwalk 3.jpg; Riverwalk Sketch.JPG

Hello Steven, I read your letter in Friday's Dispatch. Thank you for your imaginative ideas about Downtown. We need more of that type of creative thinking.

I would like to offer some comments on your letter. First, with regard to the streetscape project and *"build it and they will come"* let's not forget that it was part of a much needed utility improvement project. We can debate the scope of the streetscape improvement, however it was an opportune time to do the LONG overdue improvements.

Providing Downtown with a pretty bow was not by itself going to mean much in the long term. **We knew that.** Sure there would be the short term novelty but that would wane if there was nothing else to draw people. That is how the Brainerd Main Street Program was supposed to help. It is a program based on 4 core principles:

- Design
- Promotion
- Organization
- Economic Restructuring

Lacking any one of the core principles jeopardizes program success. Here is what happened. We started out well with the Design principle (streetscape) and we were well organized with a Main Street Advisory Committee. The City of Brainerd (City Council and EDA) contributed significantly over the years in support of the Design (streetscape) and Organization (Main Street Coordinator) principles. But things occurred or should I say did not occur. Downtown property owners and businesses were not participating. For example no one was volunteering to run events and without volunteers there are no events. Another example is there has been little exterior building improvement. Yet another was there was no financial support from Downtown to continue the Main Street Program. Finally the City Council said no more funding and the Main Street Program stopped in June 2012. If property owners and businesses aren't interested and cannot see what a great opportunity it had been given, one which is being wasted, why should the public be involved?

With regard to reinventing Brainerd, absolutely that needs to happen. Brainerd needs rebranding and Downtown needs to be a part of that new brand. I keep repeating we cannot talk improving economic development in the region, we need to economically improve the situation in the City of Brainerd. To do so means capitalizing on our assets? Downtown is one of those assets. If anyone thinks Brainerd can improve without a strong and healthy Downtown doesn't understand or refuses to accept that country's changing values. Downtown needs to become a mixed use destination 1st and foremost for our residents, 2nd as a regional draw and 3rd to promote tourism. Shops, restaurants, quality housing, arts and public open space all need to be part of that destination. It is the only way Downtown will be become healthy and strong.

The 2nd asset we need to capitalize on is the ever growing industry developing around multi use trails in our state and the economic potential they bring. Much work has started to make that happen in Brainerd. We have two state trails, the Paul Bunyan and the Cuyuna Lakes that connect in our community. That connection can make our city an important cycling hub if we market and promote it properly. We want the cyclist to stop in our town, eat in our town, shop in our town, explore our town and stay overnight in our town. The trail you see along on S. 8th Street, Oak Street and on College Drive to the river and East River Road is part of Cuyuna Lakes State Trail. Note that the trail on S. 8th Street goes right to Downtown, that was done on purpose. There is more work needed on the Cuyuna Lakes State Trail to continue its construction easterly out of town. We have also started a network of local trails for residents and visitors.

The 3rd asset we need to draw on is the Mississippi River riverfront. We have ignored it long enough. A problem has been the perception that nothing can be done because of the high banks and flooding. This a false impression. There is much that can be done with the riverfront. But if we are going to plan, in my opinion, we need to plan BIG and grand. The attached photos are examples of what I'm talking about. People will say we can't do what is shown in the photographs because the river spills its banks and floods. Well why can't improvements be designed to accept a periodic flood. Other cities have designed accordingly. There have been many meetings over the past few years to create excitement and energy about the riverfront. If we are to successfully rebrand ourselves riverfront redevelopment needs to be part that and the riverfront needs to become a public open space 1st and foremost for our residents, 2nd as a regional draw and 3rd to promote tourism. It will be a difficult process but one on which we cannot give up.

The 4th asset that we need to make part of our rebranding is reestablishing the City of Brainerd as a destination for wintertime sports like cross country skiing and snowmobiling. I have be criticized for a statement I made that the City of Brainerd gets little economic benefit from snowmobiling. We need to change that. We need to get trails that bring the snowmobilers through town not around town. A curling club has been built that can be part of a wintertime destination.

Everything boils down to money. For example creating a plan and redeveloping the riverfront will be costly. From where will those funds come? The private sector will not invest in Downtown without a public sector partner. From where will those funds come? Where will the funds come from needed to develop and implement a marketing and promotion program? If we think we can rebrand and improve ourselves by relying on state and federal dollars and/or private donations we are naïve. We will do the best we can to secure outside funds, however to be successful our community will need to invest in itself and that is where the conversations will get interesting.

We have watched our city over the past years continue to decline and what is troublesome is it has happened without a plan to change our course. We have lost a lot of time and we need to get busy before it's too late.

I would like to emphasize an earlier point, one which I think is the single most important point. None of the above will happen without the community stepping up and champions coming forth and getting involved. If that doesn't happen we will continue to watch our community decline. What concerns me is that historically it has not happened.

I hope this helps describe what has been happening and what needs to happen...at least from my perspective. My role is to ask the questions, stir the imagination and help guide the process.

Thanks again for your thoughts and ideas.

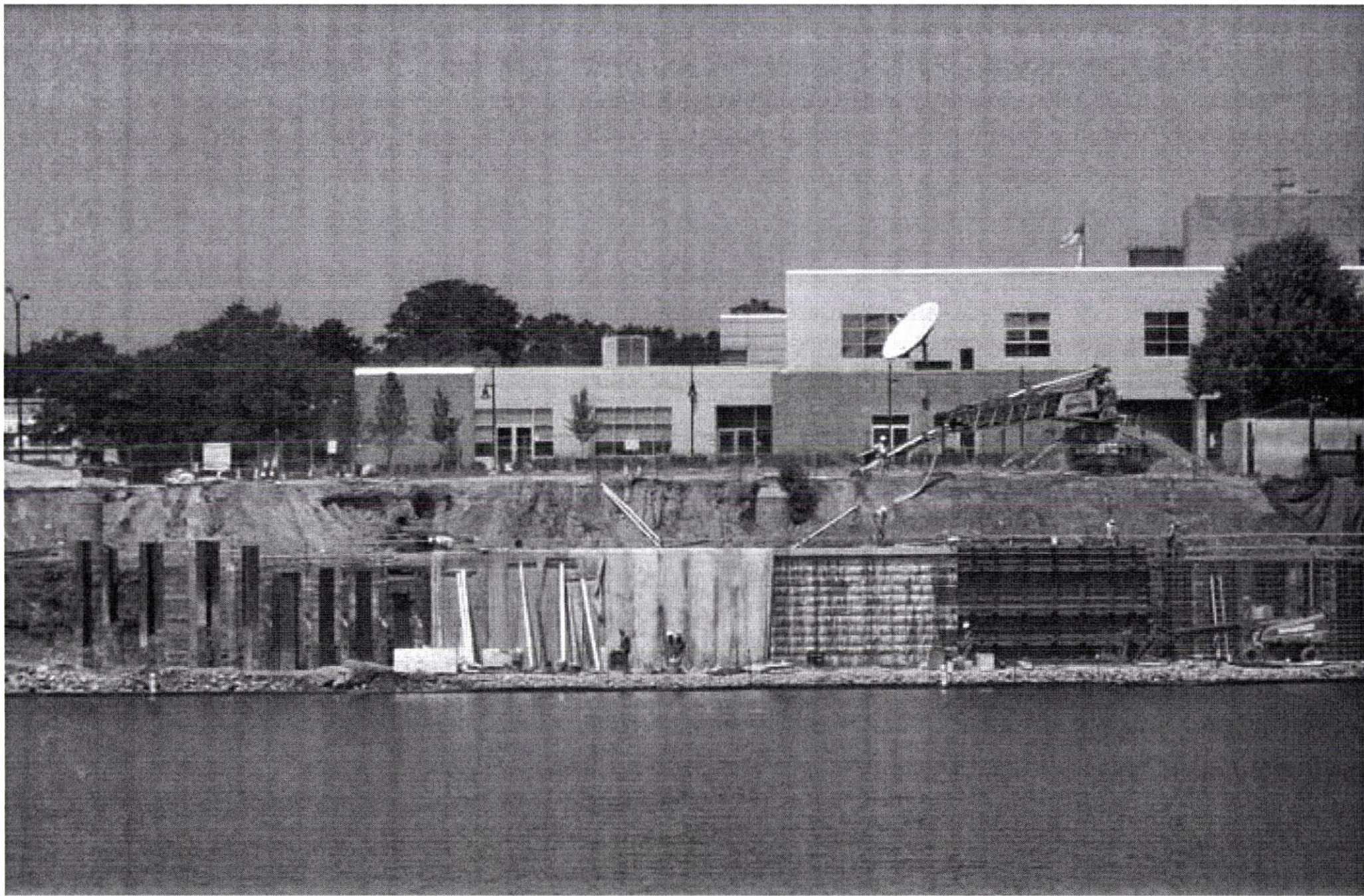
Mark

Cc: Mayor, City Council and City Council elect



kimbriggs.com/photos







StarTribune

Edina teardowns: When the new dwarfs the old

Article by: MARY JANE SMETANKA

Star Tribune

December 13, 2012 - 11:32 PM

Some of the neighbors who live closest to David Valentine's immaculate rambler know him as a kind neighbor who checks on elderly neighbors and takes out their garbage.

Valentine, 66, has lived in his house for 37 years. He loves the street he lives on, his neighbors and the house that he has tailored to his hobbies and tastes.

But now, a two-story, 3,600-square-foot house rising next door has him thinking of moving out.

"I planned to die here," he said recently. "But I don't know if I can stay."

His peace ended this summer, after the elderly man in the small home next door on Hankerson Avenue died and a builder bought the house. While the new house being built next door is not big by Edina standards, it stretches along the snug 50-foot-wide lot, with bedroom windows that overlook the deck and backyard that Valentine considers his private retreat.

While much of the teardown debate in Edina has focused on details like building heights, setbacks and construction traffic, Valentine's dilemma -- to stay in his home as the neighborhood evolves around him, or to leave -- goes to the root of resident fears about redevelopment. At least one City Council member has expressed concern about allowing large new homes on small lots.

Record teardowns

Teardowns are skyrocketing in Edina this year, with 2012 demolition permits for single-family dwellings hitting 87 as of late November. The previous record for an entire year was 53, and city officials say they wouldn't be surprised to see the number hit 100 before year's end.

For longtime residents like Valentine, the large homes that now pock streets lined with ramblers and small Cape Cods can seem overwhelming, destroying the sense of community they valued. He calls it "class warfare," and is afraid of how he might react to the people who buy the home.

"I'm not against new homes," Valentine said. "But this feels like divide and conquer. This was my little retirement home, and now I've lost my privacy...."

"You can't expect to have the old neighbors. But I'll never know these people like I know the lady across the street."

For developer Jeff Schoenwetter of JMS Custom Homes, the homes he's building on Hankerson -- he owns another lot across the street -- are a community investment, replacing obsolete properties with homes that people want to live in. Instead of contributing to urban sprawl, he said, the new homes are being built where there is already water and sewer and streets. He said they boost property values, acting as a confidence builder for other residents who see that their homes have value and are worth investing in.

That's responsible development, he said.

"I feel bad that David Valentine is unhappy; we don't set out to make anybody unhappy," Schoenwetter said. "He's in a rambler, and we built a two-story. ... Those bedrooms will be occupied predominately at night. I don't think kids are going to be sitting there watching what he's doing on his deck."

Neighborhoods 'fragile'

Hankerson Avenue is a microcosm of neighborhoods across the country, said University of Minnesota cultural studies Prof. John Archer, an expert on suburbs.

"Neighborhoods are somewhat fragile things," he said. "The people who already live there grew to love what they had, and then someone comes in and says, 'I'm going to change your whole environment...'"

"There's a certain expectation, and a very unfortunate fallacy, that owning property of an immovable sort is somehow a guarantee that things will persist. We like to think of buildings as durable, but frankly, anything in this country that has a monetary value can be changed."

Retired from the printing industry, Valentine describes himself as "married" to his house, much of which was remodeled to fit his interest in music and video. He shares the house with his rescue cocker spaniel, Nimbus.



Longtime homeowner David Valentine is unhappy about the large home going up next to his rambler. He's worried he will lose the privacy of his backyard.

Bruce Bisping, Star Tribune

EDINA TEARDOWNS

53 in 2011, then a record

87 at the end of November 2012

100 possible by year's end

Source: City of Edina

Outside, the large deck that once looked out on his neighbor's roof faces the wall of the new house. Now, even the privacy slats that he mounts on the deck railing in summer won't shield the deck, he said. He could never plant trees tall enough to create a privacy screen.

Valentine directs much of his ire at the city, saying it shouldn't allow big houses on 50-foot lots. Although Edina's building code has been changed in recent years to limit the spread of "monster houses," in many neighborhoods residents still object to the scale and size of new homes.

Maintaining integrity

It's an issue the city needs to keep an eye on, said Council Member Joni Bennett. Bennett lives in Morningside, where the teardown rate is escalating. She would like to see some building rules tightened, and is concerned about construction on small lots and the effect it has on neighbors.

With small homes disappearing, she worries about losing residents who are downsizing but don't want to move into a condo.

"Over the years we've been attractive to a lot of different people for a lot of different reasons," Bennett said. "I hope we are mindful about not losing that."

Archer said that conflict may be inevitable when big houses pop up in neighborhoods of little houses. Though people say they value diversity, he said, neighborhood unity is usually stronger in areas where residents have similar houses and incomes.

Managing change is a challenge for cities, Archer said. In older areas, they can try to control change by defining historic districts. But that can create clashes with property rights. They can try to control aesthetics through building regulations. But the more restrictive those rules get, the more likely they are to face a court challenge.

Or they can embrace change.

"Maybe a generation down the line, people in Edina will say, 'Wow, look at how things turned over, and weren't we smart to help that happen. Property values increased, and the end result was good,' Archer said.

"Or they could say, 'We let money have its say, and look at the jumble that remains. We let everybody chase their own fancy.'"

Schoenwetter is honest about the future of Valentine's house: "I believe that in time, his house will also be redeveloped, either remodeled or razed."

Recently Valentine went to the JMS offices to air his complaints. The company offered to buy him out, something he is considering.

"I'm a yo-yo," he said. "A week ago I was out of here. But I love my family ..."

Mary Jane Smetanka • 612-673-7380 Twitter: @smetan

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From: Public Works 2012

Posted on: November 30, 2012

Survey results show what people want from local government

PROVO, Utah (Nov. 1, 2012) – 'Tis the season for campaign slogans and bold promises, but what do people really want? Caselle has released its list of the top five practical services and features that residents want from local governments. The results come from a survey of administrators, clerks and finance officers from cities and counties across the western United States.

1. Residents want prompt responses to service requests.

"Most residents don't call unless it's a big problem. When they finally call us, they're in desperation to get something done," Steve Elms, Riverton (Utah) city treasurer, said.

More than 83 percent of survey participants agreed that quick repairs are important to residents, and 55 percent indicated that service requests are a resident's top priority. When residents find themselves without water, natural gas or garbage services, they want help, and they want it fast.

2. Residents want a city or county website that is easy to navigate.

"The website is important for the transparency of government in general," Jefferson (Ore.) City Clerk Deanna Donato said. "Regardless of what we tell them, they can actually go online and see for themselves."

A local government webpage should be a rallying point for the community, not just a warehouse of old meeting agendas. Residents expect the city or county website to keep them up-to-date on current issues, help them voice their concerns and connect them with facilities, schools and administrative departments. The ability to apply online for licenses and permits is another feature residents like.

3. Residents want online payments.

"Paying online is easy," Andrea Iverson, Parker (Colo.) city auditor, said. "It's convenient. It's faster and cheaper than writing a check."

Residents are eager to pay their utility bills, property taxes and court fees from their own homes, but many cities and counties are lagging behind. Online bill payment technology is a major expense, especially for small communities, but this feature is becoming increasingly affordable. Local governments should look to incorporate online payments in order to satisfy their constituents.

4. Residents want an online calendar of local events.

"With an events calendar, more people attend things that are happening locally and put more revenue back into the town," said Kathy Lehmann, deputy treasurer for St. Anthony (Idaho). Residents want to know about everything from ribbon cuttings to rodeos. A good community calendar

includes more than city council meetings. People want to be able to learn about holiday gatherings, reserve local facilities and sign up for sports leagues at the click of a mouse.

5. Residents want text alerts.

"Everybody just does everything via text now," Tisha Green, manager of Hidalgo County (N.M.), said. "It's fast, it's convenient, and everybody has texting. It's especially convenient for emergency response."

Gone are the days of knocking doors or making automated phone calls to keep residents in the know. Text blasts are a fast, efficient way to keep on-the-go residents informed about local events or emergencies.

Keywords

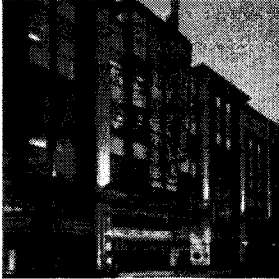
Subject

Administration

Organization

Caselle

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October 15th, 2012

Related Planning
Commissioners Journal
articles by Ed McMahon:

- [The Place Making Dividend](#)
- [The End of the Strip?](#)

To read excerpts from [all of McMahon's articles](#) published in the Planning Commissioners Journal [PlannersWeb members can download the full articles]

What's the Market Telling Us?

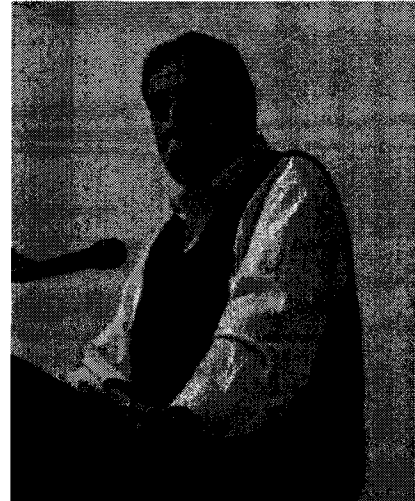
by PlannersWeb Editor Wayne Senville, reporting on October 5, 2012 from Brunswick, Maine

Urban Land Institute planning and land use analyst Ed McMahon (officially ULI's "Senior Fellow for Sustainable Development"), provided a riveting talk at the Northern New England APA Conference in Brunswick, Maine.

McMahon's focus: changing trends in economic development, and how they are affecting the shape of our communities. In other words, what's the market telling us planners and planning commissioners?

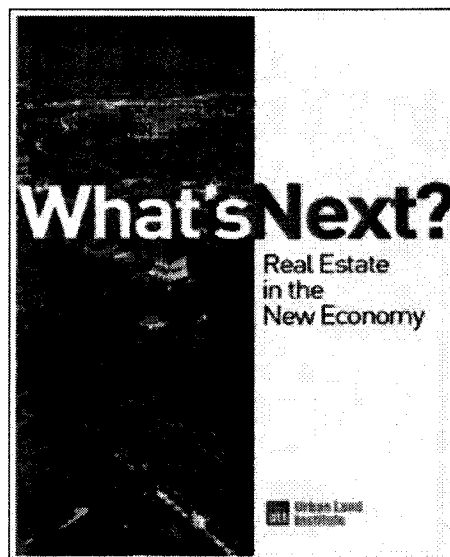
But first McMahon acknowledged the pressures that planners are facing from some who discount the value of community planning or view it as a scheme to destroy property rights. His response:

"Who would invest in a corporation if it didn't have a business plan? ... the same is true for a community if it doesn't have a plan. Every successful institution, whether a corporation or a community, needs to plan."



Ed McMahon speaking at Northern New England APA conference.

A Changing Model of Economic Development



The evidence, McMahon said, shows a major shift in economic development and retail – a shift fostered by changing demographics. The "20th century model of economic development," McMahon explained, "focused on the 'one big thing' ... that is, mega projects like convention centers, giant 'festival marketplaces,' and similar large-scale proposals."

Investors and real estate analysts, however, have realized that "the one big thing rarely works." Instead, they're understanding that "you need lots of little things that work

The ULI's 2011 report, "What's Next" is available online. Click on the image to go to the ULI web page for the report.

together synergistically." To McMahon, that's the 21st century model of economic development, "communities getting stronger one

building at a time."

The single most single most important factor today, McMahon said, is having a highly educated population. "College grads are clustering in certain cities and regions," and we're starting to understand that "the most important infrastructure today is not roads, it's education."

What's more, the U.S. is still growing, "and will increase by 100 million by 2050." But, as McMahon emphasized, the shape of our households is changing dramatically, with an increasing number of female-led households. [Editor's note: you may also recall the flurry of news stories this Spring about Census data indicating that for the first time less than 50% of households were led by married couples; for additional details from the Census Bureau - pdf file].

The Economics of Uniqueness

McMahon also raised an interesting concept — which he termed "the economics of uniqueness." More and more people and businesses, he noted, are seeing that "sameness is not a plus, it's a minus." "If there's one thing you should remember from what I say today," McMahon added, "it's that the image of a community is fundamentally important to its economic well-being."

Interestingly enough, as McMahon continued, the marketplace is catching up to some of the things planners have been promoting for years: strong downtowns; walkable and bikeable communities; abundant green space; and the value of high quality design. Smiling broadly, he noted that "even the National Association of Homebuilders now says that the place is becoming more important than the product."

"They're seeing that walkability is creating a premium in the marketplace."

They're realizing that people value living near open space, so that "today we're essentially building golf courses without the golf course."

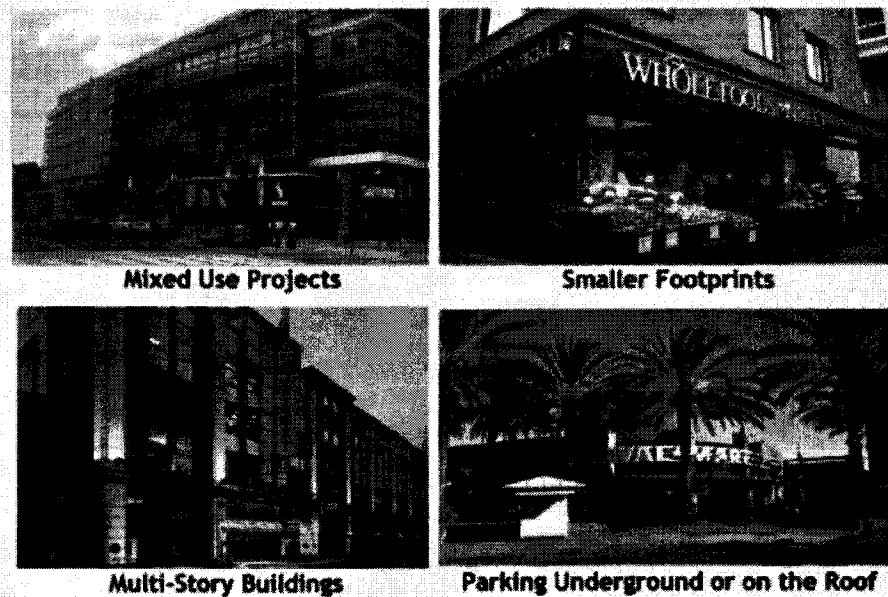
Taking Advantage of Market Trends

So how do communities take advantage of these trends?

"The first thing to do is figure out where NOT to build," McMahon stressed. That's key to preserving open space and natural areas. Moreover, "as you grow your community, you need to green it," he added.

"Ensuring high quality design" is also critical. On this point, McMahon made note of ULI's recent publication, "Urban Design & the Bottom Line."

Finally, McMahon argued that strong downtowns are vital to a healthy economy. Strip malls, he noted, have reached the end of the line, at least in their current form. "We now have one billion square feet of vacant retail in America, and most of this is on strips."



McMahon discussed various trends in retailing, from a rapidly increasing number of mixed-use projects, to smaller footprint stores in downtown and neighborhood areas. Photos provided by Ed McMahon.

Instead, retailers are seeing that “in downtowns, people stay longer and spend more.” They’re recognizing, he added, that young adults – Gen Y – as well as baby boomers, singles, and others want to walk more, drive less, and live in the vibrant core of their community.

What’s more, McMahon said, retailers are unveiling designs that would have been unthinkable just a decade ago.

McMahon pointed to a slide of what could be the new model for Wal-Marts built in urban areas. “Believe it or not,” he said, “there will soon be Wal-Marts with apartments upstairs.”



This could be the future look of Wal-Marts in urban areas – with apartments above the store.

Now that’s a head-spinning thought to end with.

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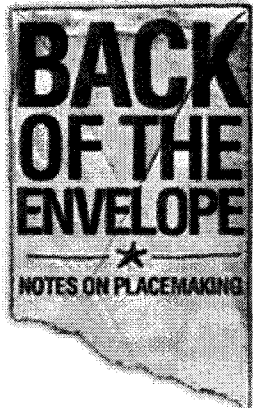
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We're planners, urban designers, form-based code wranglers, storytellers, marketers, advisors and advocates.



October 4, 2012 | 12:01 am

Seven Keys to Stronger Community



In sustainability's triple bottom line of profits, planet and people, it's people that tend to get the shaft. There's an entire industry surrounding environmental advocacy and we can always count on business interests to fight for stable economies, but what about the social resilience of our communities?

Personally, I consider the social leg to be the most critical, as I'm unconvinced that we'll ever be able to effectively handle the challenges of the other two — especially at the local level in times of turmoil and change — in the absence of the rich social interdependencies that used to define us.

Get reconnected first. Then save the planet and the economy.

To that end, I offer today's post as a response to the municipal question: "Where do we start?" It's surely not a comprehensive list — in fact, I'll be seeking your thoughts on how to expand it later — and I've given very short shrift to some very weighty subjects. Nonetheless, if you're looking to bulk up the strength of your community, especially in these times of limited resources, these are the areas that provide the greatest returns.

1. Good governance

Strong community begins and ends with something you can't fake: trust. Elected officials, city hall, and other community leaders listening, engaging in a meaningful examination of competing agendas and trade-offs, and acting on what they've heard is the process through which you transcend political stagnation and start getting somewhere. Leadership is key to setting the collaborative tone which, in time and in practice, can become a collaborative culture.

2. Walkable, connected, mixed-use character

Our human desire to be together is embedded in the built form of the traditional city. Not to say or even imply that such patterns *create* community but, rather, that they foster it. They make community easier, as they contain lessons from a time when we lacked the wherewithal to deny our need for one another. We *had* to be together, and our cities and towns reflected that.

Regardless of why you're looking to build community, development patterns matter. If you've got historic areas, recognize their embedded wisdom and work to preserve them. And for new growth, take on the fact that, across the continent, many of our most admired, human-scaled practices are currently illegal. Reform your current zoning or replace it with a more character and context-sensitive form-based code.



3. Parks and gardens

For compact, walkable communities to thrive, they need contrast. They need the intensity of human settlement to be offset by areas for recharge — both environmental and emotional. Municipalities often table investments in parks due to costs and that's a mistake, as it assumes that the only parks of value are large, centrally managed ones.

Redefining how you categorize and manage parks, in and of itself, can be a community-building act because it leads you to all new options — surplus land reclamation, community gardens, shared green spaces — where design and maintenance can be downloaded to the community. Given opportunity and a sense of ownership, many people will assume a commensurate level of responsibility. And in the course of taking it on, they develop a broader web of connections that can be leveraged later.

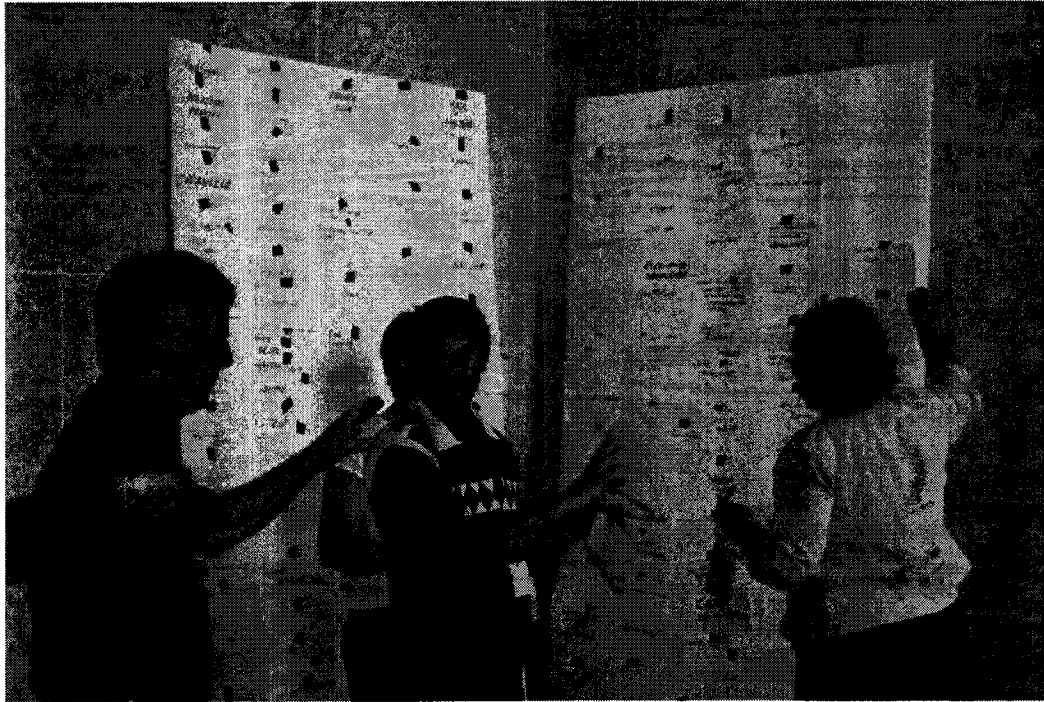


4. Partnerships

You can't do it all. No local government has the time or money to do everything that needs to be done. Nor should they. Instead, the more programs and initiatives delegated from the plates of city government to the often-more-appropriate task lists of community businesses, institutions, nonprofits,

associations, advocates, or willing residents, the better. Not only is this the more fiscally prudent course of action, it's a direct form of community engagement and empowerment, which further strengthens trust and interdependence.

Map your community's assets, draft lists of who has skills, resources and capacity to leverage, and start building bridges. Sometimes, the greatest contribution local government can make towards the solving of a problem is learning how to get out of the way. And the stronger your community gets, the more opportunities you'll have to do so.



5. Programming

Festivals, events and other activities are key opportunities for community mingling and celebration but don't assume that everything needs to be orchestrated by city hall. For every city-wide gathering in your downtown park or square, there's an equal need for gatherings at the block and neighborhood levels. In fact, the most creative and compelling events are often roots-up rather than top-down. In Ithaca, New York, for example, residents created Porchfest, an all-day affair where bands — over a hundred this past year — perform on porches and in front yards across two neighborhoods. A central organization establishes time slots, sets the schedule and handles promotion, then people simply wander around, spending time together and listening to music. All the city has to do is step aside.



6. Neighborhood-responsive schools

Nothing has the potential to bring people together more effectively than schools but two trends in contemporary education undermine their value as community-builders: monolithic, bureaucratic school systems and the removal of schools from the neighborhoods they serve. In short, our efforts towards efficiency have failed because they've largely severed one of the largest resources schools have at their disposal: the sense of emotional ownership taken by the surrounding community.

It's fully acknowledged that school systems typically operate independent of their respective municipalities and no suggestion is made that this is an issue easily solved. But, as a rule, these are the truths that should power your efforts: Schools should be physically integrated with the populations they serve and there should be mechanisms in place that download a meaningful level of decision-making authority to the parents, teachers and school administrators contending with the realities of their local context.



7. Tree culture

More often than not, communities concerned about their tree canopy deal with its preservation through ordinances that prevent tree removal. Not to say that such ordinances are categorically wrong, mind you. Just that, by focusing mostly on trees at the tail end of their lives — the ones that get the most notice and inspire the greatest affection — they steal attention from what should be the greater goal.

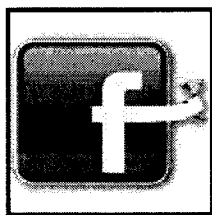
Yes, preventing the death of a tree preserves your existing canopy, at least for a while, but it does nothing beyond the lifespan of what's currently on the ground. Equally notable is that, by forcing tree activists and property rights advocates to square off in a battle over who's in the right, these ordinances actually end up being corrosive to the very community you're trying to build. Instead, communities should put their focus on an ongoing program of tree *planting*. Perpetual canopy replenishment. Not only does this present an opportunity for government, residents, and organizations to proactively work together in perpetuity, further enhancing your community fabric, it establishes and fosters a new, more sustainable culture in which the death of any one tree, while mourned, is viewed in the context of larger cultural values and does not end up being reduced to a criminal act. In short, it puts us all on the same side.



Surely there's more

I've been mentally building and verifying this list for the past decade but this is the first time I've taken a stab at writing it down. What do you think? Is there anything I've missed? Where should communities be concentrating their efforts to strengthen their social fabric?

—Scott Doyon



If PlaceShakers is our soapbox, our Facebook page is where we step down, grab a drink and enjoy a little conversation. Looking for a heads-up on the latest community-building news and perspective from around the web? Click through and "Like" us and we'll keep you in the loop.

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Comments



1. **Matt Korner** says:
October 4, 2012 at 10:40 am

The most important factor is socioeconomic integration.

People of varying incomes must be able to easily form social networks that enhance socioeconomic mobility and spur economic growth.

[Reply](#)



- **PlaceMakers** says:
October 4, 2012 at 10:47 am

Great point, Matt. I suppose I had this one mentally filed under "Walkable, connected, mixed-use character" but definitely failed to address it in the narrative. A worthy addition moving forward. -SD

[Reply](#)



2. **Cathy** says:
October 4, 2012 at 11:55 am

Yes, what you missed was the foundation for good neighborhoods and places and that is safe, affordable housing. Communities will flourish when there is an adequate supply of affordable housing for families, workers, seniors close to all the amenities you described above. But it has to start with a place to live. And building on what Matt said, maintaining existing affordable housing in areas being revitalized and building new affordable housing is critical to supporting and enhancing integration and economic stability for all.

TischlerBise Fiscal & Economic

NEWSLETTER

Should Your Community Incentivize New Development?

In an attempt to take advantage of the current economic climate, we believe developers are going to increasingly request economic/tax

Should the town rebate 50 percent of sales and construction tax?

incentives from local governments in order to facilitate development projects. Given the flat

or declining revenue situation most local governments are experiencing, many may be tempted to grant incentives in order to gain needed revenue. Local governments should keep in mind that there is also a cost associated with these development proposals, which should be considered before agreeing to any economic incentives or tax rebates. A case study in Sahuarita, Arizona, indicates why it is imperative that an independent (not the devel-

(See NEW DEVELOPMENT, p. 2)

Figure 1. Summary of Rancho Sahuarita Town Center Development Program

Project Component	Housing Units	Square Feet	Hotel Rooms
Multifamily Units	560	646,500	
Light Industrial / Flex Space		201,000	
Medical Office		145,100	
Hotel / Lodging		145,800	390
Entertainment District		133,500	
Power Center		789,500	
Office		131,000	
Neighborhood Retail		327,300	
Mixed Use		167,400	
TOTAL	560	2,687,100	390

How User Fees Can Help Cover General Fund Shortfalls

The worst financial crisis in our nation's history since the Great Depression has had a significant negative impact on local government/agency revenue generation. The impact has been so significant that a recent National League of Cities survey found that 9 out of every 10 local government finance officers surveyed reported that their

Increased user fees are paid by those directly benefitting

agencies are less able to meet fiscal needs in 2009 than in the previous year (*Research Brief on America's Cities, National League of Cities, September 2009*). To make matters worse, respondents project that 2010 will be worse due to further declines in property, sales and income tax

receipts, deferred or reduced impact fees, and growing voter discontent for new taxes.

How Are Agencies Responding to the Crisis?

Many are cutting expenditures where feasible, including hiring freezes, salary reductions, furloughs, and deferring capital projects. Projects under construction may have funds appropriated for them but O&M requirements for these projects and other services are not funded. Given the resistance to tax increases due to the current economic situation, the most common responses to enhance local coffers are increases in user fee levels and implementation of new user fees. According to the NLC survey, 45 percent of respondents increased their community's fee levels while 27 percent

(See USER FEES, p. 4)

IN THIS ISSUE

Revenue Enhancement and Fiscal Solutions for Today's Economy

This issue of our Fiscal & Economic Newsletter focuses on two topics that should be of great interest to local government leaders and decision-makers: 1) how to increase General Fund revenue without raising real estate and sales tax rates, and 2) whether local governments should agree to incentivize new development in order to increase their tax bases.

How do you raise revenue without raising taxes?

The first article discusses the importance of conducting a complete fiscal impact analysis when considering incentives for new development. As the article indicates, it is important that the local government understand not only the direct impact of the project but also the project's impacts relative to past and future development decisions. The second article discusses user fees, which are becoming an increasingly popular way for local governments to offset declines in property and sales tax receipts. The article discusses policy issues related to user fees and the need for a long-term perspective. Finally, the third article discusses the need for utility rate structures to adequately capture the indirect and central services costs provided from the General Fund. Failure to do so could result in substantial dollars being left on the table that otherwise would flow into the General Fund as revenue.

As the economy struggles to recover, local governments are faced with two main choices to balance budgets—cut services or increase revenues. We hope this newsletter provides useful and timely options to increase revenues without broad tax increases.

NEW DEVELOPMENT

(continued from p. 1)

oper's) fiscal impact analysis be prepared for these requests.

In Sahuarita, TischlerBise recently completed a fiscal evaluation of the proposed Rancho Sahuarita Town Center development, which would more than double the Town's nonresidential development base. A key component of this development proposal was its request for the Town to rebate 50 percent of the sales and construction tax revenue (sales tax is the main revenue source for Arizona cities and towns) over a 25 to 30-year period (depending on scenario) to pay for site-related infrastructure. A summary of the development proposal is shown in Figure 1 on page 1.

Fiscal Findings

As shown in Figure 2, the Rancho Sahuarita Town Center generates cumulative net surpluses to the General Fund, despite the fact that the Town foregoes 50 percent of the sales and privilege taxes generated by the project. However, as Figure 2 indicates these surplus revenues will be needed to make the Highway User Fund and Capital Fund whole, as cumulative net deficits are incurred by these Funds over the 25-year and 30-year analysis periods.

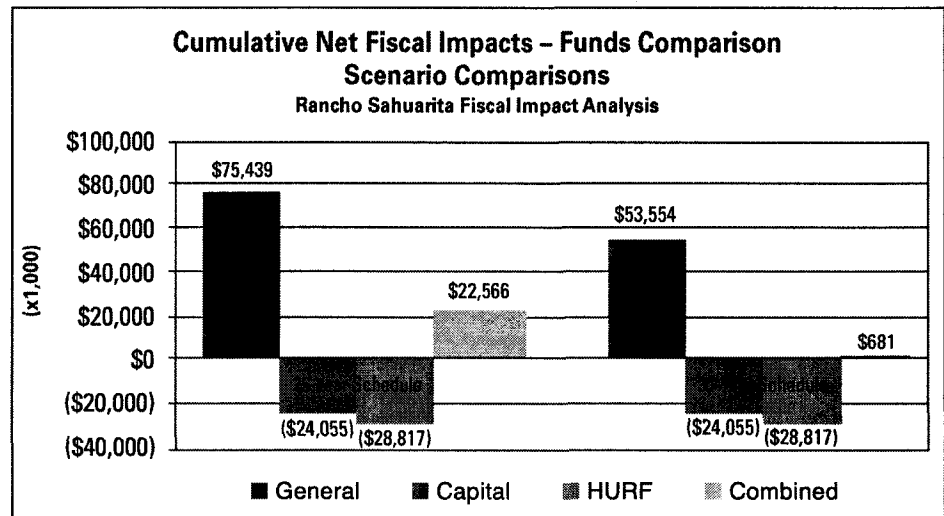
Conclusions

Although our analysis indicated that the project generates net surpluses, it was our opinion that the Town should not enter into the 50 percent tax-sharing agreement as originally proposed, for the following reasons:

- The Town derives little revenue from residential development because the Town has no property tax. Therefore, the Town needs every cent of sales tax generated from this development proposal to offset the cost of existing and future residential development (including 7,000 housing units in the first phase of Rancho Sahuarita, which were not part of this analysis).
- It is likely the Town will experience demand for higher levels of service as a result of Rancho Sahuarita and future developments; such demand would exacerbate the net deficits projected in the Highway User and Capital Funds and decrease the net surpluses for the General Fund.
- It is important to note that as part of an earlier development agreement, the Town has waived its right to implement any future development fees in the Rancho Sahuarita development, thus further inhibiting the Town's ability to make its Capital Fund whole.

In summary, it is important that when being asked to incentivize new development, the local

Figure 2. Cumulative Net Fiscal Results – Fund Comparison (x\$1,000)



government understand not only the direct impact of the project, but also the project's impacts relative to past and future development decisions. For example, the fiscal analysis submitted on behalf of the developer evaluated the Rancho Sahuarita Town Center project in a vacuum. On the surface, the proposed tax rebate

looks like a good deal to the Town. However, the TischlerBise analysis evaluates the development proposal in the context of the Town's total fiscal situation. Look before you leap. Contact TischlerBise the next time you are asked to incentivize new development.

Are Your Utility Rates Fully Recovering Your General Fund Support Services?

Does your agency provide utility services such as water, wastewater and refuse collection? If so, it is likely that your General Fund departments provide indirect and central services support to your utility operations. Labor costs and other resource expenses supporting your utilities can be recovered through your utility rates. This support may include agency administration, accounting and finance, purchasing, information technology, and motor pools.

Many utilities do not reimburse the General Fund sufficiently

In these tough economic times, we recommend a review of your rate structure to ensure service charges are recovering the maximum justifiable amount for indirect and central service support of utility operations. In many of the utility rate studies TischlerBise conducts, we find that most agencies are not capturing the full cost of these central services support to

reimburse the General Fund through their utility rates. Similar to the administration of state and federal programs, grants, and/or loans, a central service or indirect cost allocation plan provides the requisite data and cost layers to include in your utility rates. This formal approach justifies the level of funding required to reimburse your agency's General Fund for support costs provided to the utility.

What if your agency does not have an indirect cost plan or your cost plan has not been updated recently? Not to worry. The relationship between utility rates and the cost layers of central services and indirect support can be quantified in a number of ways in the absence of a formal cost plan. The key is to base your findings on reasonable approaches and present results in a utility rate report or similar technical documentation. Taking these steps will ensure your utility rates fully recover all costs associated with service delivery and that your General Fund is not subsidizing utility operations. Contact TischlerBise for more information or advice.