

PLANNING COMMISSION

Wednesday, October 9, 2013

Chairman Mike Jay called the meeting of the Brainerd Planning Commission to order at 6:00 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Pritschet, Plantenberg, Hayden, Jay, Lambert, Norwood, and Cole. No one was noted absent. Also present was City Planner Ostgarden.

#2 Approval/Amendment of Agenda

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND PLANTENBERG, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

#3 Approve minutes of the regular meeting and workshop of September 11, 2013

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND HAYDEN, DULY CARRIED, TO APPROVE THE MINUTES FOR THE REGULAR MEETING OF SEPTEMBER 11, 2013.

#4 NEW BUSINESS

a. Public Hearing – Text Amendment – Add to the Zoning Ordinance: “Community Center” Definition and Community Center as a Conditional Use Permit in Residential Zoning Districts

City Planner Ostgarden presented a brief overview of permitted uses, interim uses, and conditional uses in residential districts, the amendment procedures for amending the zoning ordinance, and the conditional use permit process with the requirements for submittal and approval process.

City Planner Ostgarden reminded everyone this discussion is focused on community centers around the City and is not specific to Whittier. He understands there are people here to speak about Whittier, but this discussion is to add the community center definition to the Zoning Ordinance along with added a community center as a conditional use in residential zoning districts.

The Public Hearing was opened at 6:20 p.m.

Commissioner Jay noted there have been letters and emails received regarding community centers and the Whittier building.

Mr. Dirk VanDerwerker, 604 North 5th Street, stated he has submitted a letter to the Commission regarding the Whittier building and would like to state that the Commission’s charge shall be to consider possible adverse effects to any amendments, so your job is to look at adverse effects that changes to the zoning ordinance will make. He stated this community center will have tremendous impacts on residential districts throughout the city. He feels it will have negative impact, possibly lower property values, and destroy ones enjoyment of one’s home.

The Public Hearing was closed at 6:24 p.m.

City Planner Ostgarden stated in the response to the email/statement from Mr. VanDerwerker specially his statement on looking at the adverse effects, in the discussions the Commission has had there has been considerable discussion on the adverse effects community centers could possibly have.

The Commission held discussion on the community center definition, the adverse effects on residential districts, and the possible need to make some changes to the definition.

Commissioner Jay stated the Commission agreed on this definition at the September meeting and to move forward with the public hearing. He stated the specifics and conditions for each community center will be done when conditional use permit applications are brought forth and shouldn't be done through the definition.

MOTION AND SECONDED BY PLANTENBERG AND HAYDEN, DULY CARRIED, TO RECOMMEND AMENDING SECTION 515-2-2: DEFINITIONS OF THE ZONING ORDINANCE TO ADD "COMMUNITY CENTER".

City Planner Ostgarden noted community centers are being added to the list of conditional uses in residential zones. He stated this does not need to be done to commercial districts as community centers are already allowed in commercial districts.

The public hearing was reopened at 6:50 p.m.

Ms. Elizabeth Steward, 317 Bluff Avenue, stated she has a concern if there are locations already available in commercial districts for community centers (where they are allowed) why it is necessary to add them to residential districts. She stated she feels it is too broad and could potentially be putting residential districts at risk.

Mr. Dirk VanDerwerker, 604 North 5th Street, submitted some additional comments from residents to the Commission. He stated he also had concerns with the hours listed. He stated he has concerns that any residential structure could become a community center or several single family structures could be torn down to build a community center. He stated within a B-1 District, sales are not allowed, but this language will allow sales in a residential district. He stated it is important for the Commission to understand the purpose of a public hearing is to hear the voices and concerns of the public and to use those in your deliberations and not to consider those comments.

Ms. Margaret Tiplady, 509 Holly Street, stated she is concerned with additional traffic. She stated Brainerd has problems already with deteriorating property values.

Ms. Kathleen Hermerding, 116 Juniper Street, stated she also has concerns with the hours and noted there is a curfew of 10:00 p.m. during the week and 11:00 p.m. on the weekends. She would recommend a change with that along with the other comments she submitted via email.

City Planner Ostgarden noted letters were received from Glenn and Diane Resch opposing the amendment and Charles and Mary Benson also opposed to the amendment.

The public hearing was closed at 6:59 p.m.

Discussion was held regarding hours and potential changes.

MOTION AND SECONDED BY COMMISSIONERS PRITSCHET AND NORWOOD, DULY CARRIED, TO AMEND THE PUBLIC HOURS TO 7:00 A.M. TO 10:00 P.M. THAT COMMUNITY CENTERS ARE SUBJECT TO A CONDITIONAL USE.

Commissioner Plantenberg stated she would like to see 9:00 p.m. on weeknights and 10:00 p.m. on Friday and Saturday.

Commissioner Hayden stated she agreed with a different time for weekdays versus weekends.

Commissioner Cole stated the hours should be 7:00 a.m. to 10:00 p.m. all week and there should be allowance for specific events to request a variance from those hours.

Commissioner Norwood stated he has concerns with merchandise sales within residential districts and what defines merchandise sales.

Commissioner Jay stated this was discussed at length previously and the majority of the Commission agreed to allow merchandise sales.

Commissioner Cole asked if there should be differences in any of the activities between the residential districts.

MOTION AND SECONDED BY COMMISSIONER NORWOOD TO REMOVE MERCHANDISE SALES FROM THE CONDITIONAL USE FOR COMMUNITY CENTERS. MOTION FAILED DUE TO LACK OF A SECOND.

MOTION AND SECONDED BY COMMISSIONERS PLANTENBERG AND PRITSCHET TO ACCEPT THE FOUR ITEMS A COMMUNITY CENTER WOULD BE SUBJECT TO WITHIN RESIDENTIAL DISTRICTS. COMMISSIONER NORWOOD OPPOSED.

City Planner Ostgarden stated in the Comprehensive Plan, one of the goals and strategies to be met is Land Use Goal #5 - support the development that enhances community character and identity, item #4 – support the redevelopment of vacant and abandoned sites within the urban core. He stated that is what has been adopted as one of the policies and guiding principles. We have an abandoned site and a proposed reuse of the abandoned site.

MOTION AND SECONDED BY COMMISSIONERS HAYDEN AND PLANTENBERG TO RECOMMEND AMENDING SECTIONS 515-54-5, 515-55-5, 515-56-5, 515-57-5: CONDITIONAL USES, TO ALLOW COMMUNITY CENTERS IN THESE RESIDENTIAL DISTRICTS SUBJECT AS A CONDITIONAL USE TO THE FOLLOWING: 1) NO INDIVIDUAL ORGANIZATION OR ACTIVITY EXTERIOR ENTRANCES, 2) PUBLIC HOURS ARE LIMITED TO 7:00 A.M. TO 10:00 P.M., 3) NO EXTERIOR ORGANIZATION OR ACTIVITY SIGNS, 4) MERCHANDISE SALES PERMITTED FOR NON-PROFIT AND/OR NOT-FOR-PROFIT AGENCIES. COMMISSIONER NORWOOD OPPOSED.

Commissioner Plantenberg stated as a community anytime we can have something brings us together and gives us a chance to know each other and partake in things together that is a good thing. We've talked about different buildings not being used and I think demolishing any building that is in good shape I think that's sad to see it just destroyed because people don't like

it. I do think that a community center within a residential district as long as there are conditions and restrictions on what they can and can't do is a great fit.

Commissioner Pritschet stated it is a very controversial issue, you're talking about homes in your neighborhoods and any time there is change in your neighborhoods there's fear and rightfully so in a lot of cases. I feel with the conditions set out I think we have enough safe guards in there to eliminate a lot of the harms that could possibly happen, the negatives. I think we have looked at the possible adverse effects. He stated he agrees that something that brings a community together is going to be a benefit, it's going to strengthen the community, I believe. The Whittier neighborhood is already a strong neighborhood and I believe it will continue to be a strong neighborhood. When you look at the other possibilities of community centers in other neighborhoods with the conditions we've set on them, I think they will be beneficial.

Commissioner Cole stated we have churches, schools, a hospital, a grocery store, salons, private businesses within residential districts. The negatives they bring are traffic and noise, but they also bring a lot of positives. I see a community center and the definition we have for it with the conditional uses and restrictions to be really little different as other buildings and churches and businesses that are going on in residential areas.

Commissioner Norwood stated I love community centers and community within the general sense of the term and any opportunity to build community and relationships between individuals throughout a neighborhood I strongly encourage and like to see. I like to see community centers grow and be used within Brainerd proper. As a definition I believe it describes something very acceptable.

Commissioner Lambert stated she also believes a community center will be beneficial for our community. I think we have an advantage, a strong building, a unique building and its history of that neighborhood I think we should keep it around and shouldn't be demolished. I too think we have enough safe guards in place to protect the neighborhood. The northside neighborhood is unique and that will force the owners of the community center to be as good as the neighborhood around it.

Commissioner Hayden stated I believe strongly in community centers in general and they have a very important use and one of many possible uses to keep our communities vibrant. Given the safe guards that we're considering, community centers can be an important part of that. She stated the worst thing you can have is a big empty building in the middle of a neighborhood. This will allow for more flexibility in utilizes our neighborhoods and community and she feels that is important.

b. Public Hearing – Variance at 606 South 8th Street – Capidal Investments LLC

City Planner Ostgarden stated the property at 606 South 8th Street is a single family dwelling, the main portion of the dwelling and the vestibule are encroaching into the front yard setback. He stated the owner is requesting to cover the steps and porch with a roof and support posts that would extend out no further than the steps. In order to cover the porch with a roof a variance is needed. He stated the five (5) foot porch will not be enclosed. He stated the building to the north is constructed to the property line so there are other nonconformities in the neighborhood.

The public hearing was opened at 7:35 p.m.

The public hearing was closed 7:36 p.m.

Commissioner Plantenberg read the findings-of-fact into the record as follows: 1. The property is a nonconforming building located in an R-2 (Medium Density Residential) District; 2. It is nonconforming in that a portion of the dwelling and the entire vestibule are located within the required front yard setback; 3. The porch steps are currently not covered and the new roof and supports will not extend out further nor be wider than the porch steps; 4. The covered porch and steps will be in character with the houses located south along South 8th St; 5. The property to the north is constructed to the front and side street property lines; 6. The variance will support the Strategic Plan Focus Area of investing in neighborhoods.

The Commission added the following findings-of-fact: 7. The porch is currently and proposed to be open.

MOTION AND SECONDED BY COMMISSIONERS HAYDEN AND PLANTENBERG, DULY CARRIED, TO RECOMMEND APPROVAL OF VARIANCE 380 TO ALLOW CONSTRUCTION OF A COVERED PORCH ONTO THE FRONT VESTIBULE AT 606 SOUTH 8TH STREET WITH THE SEVEN (7) FINDINGS-OF-FACT.

The Commission agreed to include a condition that the porch cannot be enclosed.

MOTION AND SECONDED BY COMMISSIONERS HAYDEN AND PLANTENBERG, DULY CARRIED, TO AMEND THE MOTION TO INCLUDE THE ONE (1) CONDITION.

c. Public Hearing – Variance at 602 South 8th Street – Capidal Investments LLC

City Planner Ostgarden stated the property is located at the southwest corner of South 8th Street and Oak Street. The brick portion (a former grocery store) of the building has been there for many, many years and the remainder of the building was added onto it. He stated the brick structure goes up to both the South 8th Street and Oak Street property lines. He noted the flat roof structure is deteriorating. The property owner plans to make this duplex a single family dwelling and to remove the flat roof structure and put a gabled pitched roof over the brick portion for more livable space. Because the building is nonconforming and the addition of livable space is in the required setback, a variance is needed.

City Planner Ostgarden stated a letter was received from a property owner in the neighborhood opposing the proposal stating the structure is too close to Oak Street and South 8th Street to have work done to it and the visibility has always been bad.

City Planner Ostgarden stated the property will be greatly improved and will make this a better looking property. He stated the Commission must decide if the additional roof pitch will conform to the neighborhood and if additional living space is appropriate at this location.

The public hearing was opened at 7:45 p.m.

Mr. Matt Davis, CEO of Fortress Homes, and representing Capidal Investments LLC/Shanna Perez, stated they have owned the property to the south for three years and have been improving that property. They purchased this property to improve it and create a more desirable looking structure. He stated the plan is to stucco the entire exterior to make it look like one building. There will also be other improvements done to the roof, new windows and doors, and will

change it from a duplex to a single family dwelling. He stated they have also purchased the neighboring property to the west on Oak Street. He stated there currently is no garage on this property but there are two garages on the property to the south. The plan is to request to amend the property lines for these three properties which will give this property one of those garages. He stated there will be a change of approximately three feet to the height of the roof pitch.

Commissioner Plantenberg asked if there will be a change to the small area (the stairs) on the southeast corner. Mr. Davis stated it will become a straight wall coming up and will all line up together.

Commissioner Hayden asked if the roof line on the other roof pitch. Mr. Davis stated it will be a stepped gable look but the existing pitched roof will remain the same.

The public hearing was closed at 7:53 p.m.

Commissioner Lambert stated she is excited to see reinvestment into an older area of town and agrees to grant the variance. She stated it is also positive that this is being changed to single family.

Commissioner Pritschet stated this variance meets almost all the requirements and will fit well into the neighborhood.

Commissioner Plantenberg stated she thinks this is a very positive change for the neighborhood.

Commissioner Jay stated he does have concerns with eight (8) foot walls and the 6/12 roof pitch. He stated six (6) foot walls meet code requirements on slant walls and will reduce the height of the roof pitch.

Commissioner Hayden stated she would not be in favor of making six (6) foot walls a requirement.

Commissioner Lambert read the finding-of-fact into the record as follows: 1. The property is a nonconforming building located in an R-2 (Medium Density Residential) District; 2. The variance is to add living space onto that portion of the building located at the front and side street yard property lines; 3. The lot is 50' x 75' (3,750 sf) and there is no area on the property to permit a larger building footprint; 4. The building is currently a duplex and it will be rehabilitated to a single family dwelling; 5. The addition will eliminate a flat roof that leaks, is rotted and needs significant repair; 6. Because the addition is a second story it will not affect driver and pedestrian vision at the corner of South 8th St and Oak Street; 7. The addition should have no negative impact on the church located north across Oak Street and the School District educational services building located east across South 8th Street; 8. The subject building and the dwelling to the south are separated by approximately fifty (50) feet. This separation will permit adequate light, air and visibility for the adjacent residential property to the south; 9. The variance will support the Strategic Plan Focus Area of investing in neighborhoods.

The Commission added the following findings-of-fact: 10. One person spoke in favor and a letter was received speaking against.

The Commission agreed to amend finding-of-fact two (2) to read “The variance is to add living space onto the second level of the building located at the front and side street yard property lines”.

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND PRITSCHET, DULY CARRIED, TO RECOMMEND APPROVAL OF VARIANCE 381 TO PERMIT LIVING SPACE EXPANSION OF A NONCONFORMING BUILDING AT 602 SOUTH 8TH STREET WITH THE TEN (10) FINDINGS-OF-FACT.

#5 OLD BUSINESS

a. Small House and Infill Development

City Planner Ostgarden stated letters were sent out to twenty-five contractors and nineteen (19) realtors regarding small houses and infill development idea/concept. He stated he has not received a single comment.

Commissioner Lambert stated she wonders if there is possibly lack of understanding about what the concept is about.

Commissioner Norwood stated this may be something to put in the paper as a guest column to get some feedback from the public.

City Planner Ostgarden asked if Commissioner Jay would like to do a guest column as the chair of the Commission.

Commissioner Plantenberg stated maybe there wasn't feedback because the contractors and realtors are ready for these changes.

City Planner Ostgarden stated there will still be comments/concerns once this is approved.

Gary Scheeler, 923 Lakeview Lane, stated he is opposed to this for many reasons. He stated he has had concerns with home being so close together and he has purposely purchased the vacant lots next to lots he's purchased to give a buffer and extra land. He stated this may be done to get more tax base, but it will devalue existing properties which will decrease the tax base. He noted there will storage issues. He stated he feels you will see more rentals.

City Planner Ostgarden stated the Commission had inquired about vacant lots and the ownership of those vacant lots. He provided the Commission with a spreadsheet showing which vacant lots are owned by adjacent property owners.

City Planner Ostgarden stated the Commission had developed language regarding small houses and infill development and asked if the Commission would like to proceed with a public hearing to add that language to the Zoning Ordinance.

Discussion was held regarding how to proceed. The Commission agreed to hold additional discussion at the November hearing with a possible public hearing in December.

b. Methadone Clinics

Commissioner Jay stated he met with the City Planner, City Attorney, and Police Chief today and noted it is a big concern for everyone. He stated the clinics license is coming due in December and everyone will gather information about the review process and how complaints can be filed. He stated one of the concerns was that many clinics across the country is creating living facilities next to the clinic and now that the Brainerd Hotel is going out of business that could potentially be something that could happen. He stated we need to have businesses come forward about issues they have had regarding the clinic and their clientele. He stated we cannot say that we cannot have methadone clinics but with community concerns we feel they should be connected to a medical facility. He stated we cannot stop what is going on, but we can say they must conform and would have to be part of an emergency room.

Discussion was held regarding requiring it to be part of an emergency room or a medical facility.

Commissioner Jay stated there needs to be an avenue of control on these facilities. We need to rethink how we classify these and what we do with these types of facilities as far as zoning is concerned. He stated he would like to research and present more information at a workshop.

City Planner Ostgarden stated he will get more information and get back to the Commission about scheduling a workshop.

#6 Commissioners' Questions/Comments

None

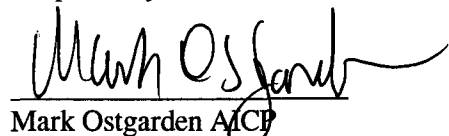
#7 City Planner's Report

City Planner Ostgarden stated the City Council has completed its strategic planning process with one of the areas being a walkable/bikeable community. The City Council has appointed nine (9) people to the Walkable/Bikeable Committee, which the Committee would then be working with the Planning Commission and then through to the City Council. He stated he recommended a member of the Planning Commission be part of that Committee. He asked the Commission to consider becoming a member of that Committee. The focus of the Committee is how to become a more walkable/bikeable community.

#8 Adjournment

As there was no further business the meeting adjourned at 8:32 p.m.

Respectfully submitted,



Mark Ostgarden AICP
City Planner

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