

## **PLANNING COMMISSION**

Wednesday, June 11, 2014

Vice Chairman James Norwood 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, Hayden, Matten, Plantenberg, and Norwood. Commissioners Straw and Cole were noted absent. Also present was City Planner Ostgarden.

### **#2 Approval/Amendment of Agenda**

MOTION AND SECONDED BY COMMISSIONERS PRITSCHET AND MATTEN, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

### **#3 Approve minutes of the regular meeting of May 14, 2014**

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND MATTEN, DULY CARRIED, TO APPROVE THE MINUTES FOR THE REGULAR MEETING OF MAY 14, 2014.

### **#4 NEW BUSINESS**

#### **a. Public Hearing – Variance – John Majka (James Dehen Property Owner) – 212 Ridge Court**

City Planner Ostgarden stated the petitioner is proposing to construct a detached 24' x 32' (768 sf) accessory building on the corner lot at Ridge Drive and Ridge Court. The proposed building location is effected by a significant bluff along the interior of the property. The property is subject to Shore Land Regulations which requires a 30' building setback from the top of the bluff. The proposed building has been complicated by the bluff setback requirement which placed a portion of the building one (1) foot into the required 20' street side yard setback along Ridge Court.

City Planner Ostgarden noted there will not be an additional curb cut and they are positioning the garage to provide for limited removal of trees. He also noted the 12' x 14' shed currently located on the property will be removed.

The Public Hearing was opened at 6:09 p.m.

Mr. James Dehen, 212 Ridge Court, stated they are proposing electricity to the garage but not water and noted there will be an additional curb cut into the cul-de-sac to make the orientation of the garage straight and have a cosmetically pleasant view. He stated the shed will be removed and the concrete slab will be removed.

The public hearing was closed at 6:13 p.m.

Commissioner Norwood read the findings-of-fact into the record as follows:

1. The property is zoned R-1A (Single Family) Residential District. It consists of two lots in the Buffalo Hills Subdivision totaling a little more than one (1) acre.
2. The proposed garage is 24' x 32' (768 square feet) in size.

3. The property has a bluff (ravine) along a side of the property that requires a thirty (30) foot building setback. The proposed garage has been located on the lot to avoid the bluff setback encroachment.
4. The location and angle places a corner of the building within the street side yard setback area.
5. The garage will have a curb cut on the cul-de-sac.
6. The variance is supported by the Comprehensive Plan Goal #3 – Strategy, which reads:

***Strategy***

*Protect and enhance important historical, cultural and natural resources as a means to maintain the integrity, heritage and local character of Brainerd's natural and built environment.*

7. Two neighborhood residents contacted the Planning Department and had no concerns with the variance.

The Commission agreed to add the following finding-of-fact: 8. The petitioner spoke regarding the request and no one spoke in opposition of the request.

MOTION AND SECONDED BY COMMISSIONERS HAYDEN AND PRITSCHET, DULY CARRIED, TO RECOMMEND APPROVAL OF VARIANCE 381 TO PERMIT AN ACCESSORY BUILDING SIDE YARD SETBACK ENCROACHMENT BASED ON THE EIGHT (8) FINDINGS-OF-FACT.

**b. Public Hearing – Rezoning – Central Lakes College – PID #070093103BB0AB0 and PID #070093103BB0AA0**

City Planner Ostgarden stated Minnesota State Colleges and Universities (MNSCU), Central Lakes College and the Central Lakes College Foundation is requesting to rezone the northeast corner of College Drive and CSAH 48 from its current mixture of B-4 and R-1A zoning to R-3 zoning. He stated the property is approximately ten (10) acres in size, split evenly between the B-4 and R-1A zoning. The rezoning to R-3 will permit multi-family housing and it is the College's interest to have multi-family housing on the property.

City Planner Ostgarden stated the purpose of the hearing is to discuss the merits and appropriateness of rezoning the property to an R-3 zone, not to discuss building locations, number of units, and a site plan. He stated the south side of the property is quite high and what will be done with the topography is still being discussed.

City Planner Ostgarden stated during the 2009 Zoning Ordinance was redone and in 2011 the Zoning Map was redone. He noted the zoning prior to the 2011 changes, the majority of the property was zoned R-3 with the north 200 feet being zoned R-2 Urban Residential. He reviewed why the Commission chose to rezone the property to B-4.

City Planner Ostgarden reviewed the access to the site. He stated the County will not allow access to the property off of CSAH 48. He stated there will be design work done to determine if/how an access can be designed into the roundabout on College Drive at the south side of the property. He noted there is capacity on College Drive to handle traffic from this site. He stated there is alternative to the east and there is also, but is not currently being looked at, is to increase the right-of-way on Cindy Street and have an access from there.

City Planner Ostgarden reviewed the reasons for considering the rezoning, noting it is consistent with the Future Land Use map and it was previously zoned R-3. The property is well served by a street to carry the capacity of traffic from this sight along with adequate sewer and water. He stated there is single family residential to the west of the property (across CSAH 48) and to the north on Cindy Street and noted the proximity to where the proposed building would be located.

The public hearing was opened at 6:34 p.m.

Mr. Mike Angland, Engineer with Widseth, Smith, Nolting, stated we are working with the Central Lakes College Foundation on this project and they will be the entity that will be building with a long term lease with MNSCU and will be owned and operated by the Foundation. He reviewed some of the items that have been discussed with the City and considerations of the adjacent properties.

Commissioner Pritschet asked how tall the proposed building(s) will be. Mr. Angland stated at this time they are proposing a three story structure that will potentially have sixty (60) units. He stated they will exceed the height restriction by approximately five (5) feet.

Commissioner Hayden asked if the building will be located on the south parcel. Mr. Angland stated the initial building will be located on the southwest corner of the property with a potential structure in the future located on the north parcel, but they plan to keep a buffer on the north end with the existing vegetation.

Commissioner Norwood stated there is the potential for 180 units. Mr. Angland stated that is the current maximum considered and the Foundation has researched the public need for this type of housing.

Commissioner Pritschet asked if these will be apartments or dorms and will anyone be able to rent them. Mr. Angland it will be available to be rented by anyone and will not be dorms.

Commissioner Hayden asked if there is a time frame for construction. Mr. Angland stated there are a lot of things to work through but there is some preliminary design work being done in order to choose the best location.

Mr. Ben Forness, 472 Highland Scenic Drive, stated he owns one of the three properties to north. He noted he appreciates the consideration being taken regarding the adjacent residential properties. He stated there are concerns about multi-family housing being located across the street with access off Cindy Street being a large concern. He stated he would like to see a buffer on the north side to provide a transition from the R-3 to the residential properties to the north.

Mr. Denny Bollig, 1001 Anabec Street, stated he is not opposed to the rezoning of the B-4 to the R-3. He gave the history of the zoning in that area from the 1980's. He stated there is a lot of concern with the access from the north side and a buffer between the R-3 and the residential areas.

Mr. Terry Moberg, 902 Cindy Street, stated he is concerned with what happens to the property. He also reviewed the history of the zoning in that area in the 1980's. He stated he feels the building should be done on the south half and not on the north half.

Ms. Pam Thomsen, Executive Director of Central Lakes College Foundation, asked if the Commission had any questions.

Commissioner Matten asked if they had any opposition to the change in zoning in 2011. Ms. Tomsen stated she was not involved in that process and would have to defer the question.

Commissioner Hayden asked about her feelings of keeping a buffer zone on the north side of the property. She stated he would have to refer to WSN regarding designing to see how that would work as there are restrictions based on parking and the size of the structure.

The public hearing was closed 6:54 p.m.

City Planner Ostgarden stated the 35 foot height was mentioned as a restriction. He stated buildings above 35 feet are allowed by conditional use permit. He stated property owners should know when they live adjacent to vacant land there is the potential for development and change. He stated it hasn't changed that the property has been identified as having a medium to high density residential use in the Future Land Use Map.

Discussion was held regarding transition between different zoning districts and access off of Cindy Street.

Discussion was held regarding how to rezone the property, such as both parcels or just the south parcel.

Commissioner Hayden stated she is in favor of rezoning the property to promote development in the City.

Discussion was held regarding establishing a buffer zone and access off of Cindy Street.

Commissioner Pritschet stated he is considering the buffer zone as he feels Cindy Street is not adequate for a 60 unit building, prevent a large apartment structure in such close proximity to a single family home, and to prevent concerns with noise, crime, etc that could potentially come with high density areas.

Commissioner Norwood read the findings-of-fact into the record as follows:

1. The property is approximately 10 acres in size and is vacant.
2. The property has frontage on CSAH 48, College Drive and Cindy Street.
3. The current zoning is B-4 (General Commercial) District on the south half and R-1A (Single Family Residential) District on the north half. The proposal is to rezone the site to R-3 (Multiple Family Residential) District.
4. R-3 zoning permits multi-family dwellings.
5. The property to the east is college owned and is used for recreation, parking or is vacant. The property to the south is vacant and has multiple family developments. A convenience store is located at the southwest corner of College Drive and CSAH 48.
6. Three single family residential properties are adjacent to the north. Four single family residential properties are located across CSAH 48.
7. The Future Land Use Map identifies the property as Medium to High Density Residential.

**LAND USE GOAL #3:** *Plan for the orderly, efficient and fiscally responsible growth of residential development in Brainerd.*

**STRATEGY**

- a) *Only place high-density developments in areas with adequate transportation infrastructure.*
  - b) *Encourage development of low density and high density family housing units in those areas designated on the adopted Land Use Plan.*
  - c) *Continue to guide residential growth in an orderly and compact manner so that new developments can be effectively served by public improvements and that the character and quality of the city's existing neighborhoods can be maintained and enhanced.*
8. The property prior to 2012 had been primarily zoned R-3. The northerly 200' was zoned R-2 Urban Residential which permitted duplexes and attached townhouses.
9. The property is served by collector streets and adequate sewer and water. College Drive is designed for 28,000 to 30,000 vehicles/day and current volumes are between 14,000 to 15,000 vehicles/day.
10. Based on the area development pattern, additional multifamily development should not create impacts that negatively affect the public health, safety and welfare.

The Commission agreed to remove finding-of-fact 10.

The Commission agreed to add the following findings-of-fact: 10. Three property owners spoke with concerns about access to Cindy Street. 11. The petitioner and petitioner's engineer spoke about the request.

City Planner Ostgarden noted the previous zoning on the north end of the property was not only single family but was Urban Residential which would allow townhomes.

MOTION AND SECONDED BY COMMISSIONERS PRITSCHET AND MATTEN TO RECOMMEND REZONING THE TWO PARCELS FROM B-4 (GENERAL COMMERCIAL) DISTRICT AND R-1A (SINGLE FAMILY RESIDENTIAL) DISTRICT TO R-3 (MULTIPLE FAMILY RESIDENTIAL) DISTRICT EXCEPT FOR THE NORTH SIXTY (60) FEET OF THE R-1A WHICH SHALL NOT BE REZONED BASED ON THE ELEVEN (11) FINDINGS-OF-FACT. COMMISSIONER HAYDEN VOTED

#5 **PUBLIC FORUM** – Time allocated for citizens to bring matters not on the agenda to the attention of the Planning Commission – Time limits may be imposed.

Mr. Howard Brewer presented information to the Commission and gave an update on the Mississippi Riverwalk project.

#6 **OLD BUSINESS**

a. **Variance – The Pines Apartments – 1203 Campus Drive West**

MOTION AND SECONDED BY COMMISSIONERS PRITSCHET AND NORWOOD, DULY CARRIED, TO UN-TABLE THIS ITEM.

City Planner Ostgarden reviewed the staff report stating the property owner plans to demolish the garage located at the property's south end and construct a new garage on the property's north end. The location selected will be closer to the street than the apartment building on the site and the garage will be located approximately 24 feet from the College Drive property line. He noted a portion of the existing garage had to be demolished during the College Drive reconstruction to accommodate the new entrance onto Mississippi Parkway.

City Planner Ostgarden noted there was not any public comment at the public hearing at the last meeting. He noted the petitioner is here tonight to answer questions from the Commission.

Mr. David Magelssen, Northern Management Inc, stated he manages The Pines Apartments and explained why they are requesting construction of a new garage partially due to the College Drive reconstruction which caused partial demolition of the existing garage. He explained why the garage could not be construction on the lot the has the six-plex noting the two parcels are owned by the same partnership, but the percentage of ownership among the partners is different for each parcel and the depth would not allow for the size of garage they are proposing.

Commissioner Hayden asked if there will be vegetation between the garage structure and College Drive. Mr. Magelssen stated there currently are some trees and he is establishing some maple trees and he will look at curb appeal.

Commissioner Matten asked how large the proposed garage will be. Mr. Magelssen stated it will be three single stall garages with an area for storage.

Clarification was given regarding a demolition permit for a garage noting it was for the portion of the existing garage that had to be demolished for the new entrance and the remainder of that garage will remain.

Commissioner Norwood asked how much closer will the garage be to College Drive than the main building. Mr. Magelssen stated there has been confusion on the location of the property line and where the setback is. He stated it is 10-20 feet closer than the primary building.

Commissioner Hayden stated she believes this is a problem created by the City's street reconstruction and feels the variance should be granted with a condition of screening.

Commissioner Hayden read the findings-of-fact into the record as follows:

1. The property is zoned R-3 (High Density) Residential District.
2. R-3 Districts require a 30' minimum accessory building front yard setback and an accessory building cannot be located closer to the street than the principal building on the lot.
3. The property is a corner lot with College Drive considered front being it is the lot's narrow side.
4. A result of the College Drive project was that the property's College Drive access was removed and replaced with a Campus Drive West access. An existing garage at the new access impeded access and had to be partially demolished for the access.

The Commission agreed to add the following findings-of-fact: 5. The petitioner stated there was some vegetation along College Drive. 6. Petitioner spoke and answered questions. 7. No one spoke against the request.

The Commission agreed to add the following condition: 1. Planting conifer trees along the length of the garage. Tree height at planting shall be 4'-5' and planted according to spacing recommendations.

MOTION AND SECONDED BY COMMISSIONERS HAYDEN AND PRITSCHET, DULY CARRIED, TO RECOMMEND APPROVAL OF VARIANCE 380 TO PERMIT CONSTRUCTION OF A DETACHED GARAGE CLOSER TO THE STREET THAN THE PRINCIPAL BUILDING AND TO CONSTRUCT THE GARAGE WITHIN THE REQUIRED SETBACK BASED ON THE SEVEN (7) FINDINGS-OF-FACT AND ONE (1) CONDITION.

**b. Greg Jedlenski – Request to Reconsider Zoning of Property Rezoned as Part of the 2011 City Wide Rezoning**

City Planner Ostgarden stated Mr. Jedlenski was sent a copy of the agenda with a personal note stating this would be discussed at the meeting tonight. Mr. Jedlenski is not here to speak on this request.

MOTION AND SECONDED BY COMMISSIONERS PRITSCHET AND NORWOOD, DULY CARRIED, TO DISMISS THIS REQUEST.

Commissioner Hayden asked about whether or not he is in compliance. City Planner Ostgarden stated if the rental license lapses for more than a year it cannot become a rental again. He stated Mr. Jedlenski's property at 317 N 8<sup>th</sup> St lost the rental license for the third unit because the license lapsed for over a year.

Commissioner Hayden stated the property was not built as a single family property. City Planner Ostgarden stated a duplex would be permitted, it is a three unit building, but because its nonconforming and the property owner did not continue the third rental license it can only be used as a duplex.

Commissioner Hayden stated Mr. Jedlenski should come back with a specific request since the Commission has voted to not consider the request, but she wants to make sure Mr. Jedlenski understands this is not the final say that it has to go back to a single family or duplex when it is not built that way.

Commissioner Pritschet stated Mr. Jedlenski had issues with not being notified about the rezoning in 2011, but he has been notified twice about this being on the agenda and hasn't responded.

**#7 Commissioners' Questions/Comments**

Commissioner Hayden stated Discovery Woods Montessori School has indicated interest in the Whittier School building just a little bit before the School Board opened bids for demolition of the property. Discovery Woods has asked the School Board for a little more time. She stated Discovery Woods plans to ask the City to reconsider purchasing the building and leasing it to them. She stated they will also be asking the Planning Commission for considerations on some issues also.

#8      **City Planner's Report**

City Planner Ostgarden stated the second/final reading on the small houses/infill ordinance is scheduled for the City Council meeting on Monday, June 16. He stated it sounds like there is consensus on allowing houses under 750 square feet with the following points:

- Minimum dwelling size is 500 square feet
- Dwellings between 500 and 750 square feet would be permitted on nonconforming lots prior to 1989
- Any lot that is conforming could not be used for a home less than 750 square feet

He stated the way the City Council has approached this with the nonconforming lots and before 1989 so the definition of infill will not be needed.

City Planner Ostgarden stated he has presented the Commission with information regarding government training land use planning workshops. He stated please contact him if anyone is interested in attending.

#9      **Meeting with MNDOT and the Walkable/Bikeable City Committee to Discuss B371 Corridor Improvements – set date and time**

City Planner Ostgarden stated MNDOT would like to get public input later this summer therefore it would has been suggested for the Planning Commission and the Walkable/Bikeable City Committee to sit down with MNDOT to have discussion on the project before the end of the month.

Discussion was held regarding two dates. The Commission agreed to June 30 at 4:00 p.m.

#10      **Adjournment**

As there was no further business the meeting adjourned at 8:11 p.m.

Respectfully submitted,

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Mark Ostgarden AICP  
City Planner

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