

PLANNING COMMISSION

Wednesday, August 13, 2014

Chairman Angie Plantenberg 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 Hayden Shaw, Matten, Plantenberg, Norwood, Straw, and Cole. Commissioner Pritschet was noted absent. Also present was City Planner Ostgarden.

City Planner Ostgarden asked to add an item to new business, right-of-way signs.

#2 Approval/Amendment of Agenda

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND MATTEN, DULY CARRIED, TO APPROVE THE AGENDA AS AMENDED.

#3 Approve minutes of the regular meeting of July 9, 2014

MOTION AND SECONDED BY COMMISSIONERS MATTEN AND NORWOOD, DULY CARRIED, TO APPROVE THE MINUTES FOR THE REGULAR MEETING OF JULY 9, 2014.

#4 NEW BUSINESS

a. Public Hearing – Rezoning – Greg Jedlenski – 317 North 8th Street and the Southwest corner of Juniper Street and N 8th Street (PID #09196076010Z009)

City Planner Ostgarden stated Mr. Jedlenski's property was rezoned in 2011 as part of the comprehensive Zoning Map review from R-3 (Multi-Family Residential) District to R-1 (Single Family Residential) District. He reviewed the current zoning map, the zoning map prior to 2011, the existing land use, and the future land use noting the majority of the land use in the area is single family dwellings. He stated rezoning to R-3 would not be in compliance with the Comprehensive Plan Future Land Use map.

City Planner Ostgarden reviewed the five criteria used to assist the Planning Commission and City Council in evaluating the suitability of the requested change such as consistency with Comprehensive Plan, compatibility with land uses, effect upon the area, traffic generation, and impact on utilities.

City Planner Ostgarden reviewed the process that was followed during the Zoning Map review and the type of public notification that was done. He stated we did all we could and went beyond the required notification, but yet there are probably still property owners that were not aware of the changes. He also noted at that time the thought was to reduce the number of rental properties.

City Planner Ostgarden stated he does not agree with the thought of this as not a rezoning but an "unzoning". He questioned what the statute of limitations is on a change in zoning and if you could you go back to what the zoning was ten years ago. He stated there has to be a starting and

stopping point and this should not affect the decision of the Planning Commission. The decision should be made on a rational basis.

City Planner Ostgarden noted there has been one rezoning request that was approved since the 2011 changes and there have been a few changes due to clerical errors.

City Planner Ostgarden stated there is an issue with the rental license at 317 N 8th St, but that is an issue for the City Council and should not impact the Planning Commission's decision.

City Planner Ostgarden stated he has received 14 communications from residents in the neighborhood and all have been opposed to the rezoning. He stated he cannot recommend the rezoning based on the work and decisions made in 2011 during the Zoning Map review.

The Public Hearing was opened at 6:21 p.m.

Mr. Greg Jedlenski, 9089 Dal-Mar Dr, stated when the property was rezoned they were not aware of the consequences that occurred because of the rezoning and now they are having to deal with those consequences. He presented information to the Commission regarding the Comprehensive Plan. He spoke on the quality of the neighborhood, providing housing for all residents, and promoting economic development. He spoke on renters versus homeowners and code violations. He questioned the fairness of the notification process for rezoning. He noted he would be fine with an R-2 (Medium Density Residential) District zoning as it would put them into compliance which is all he wants.

Mr. Andy Larson, 206 N 7th Street, stated a healthy Brainerd is one of balance and with Brainerd having approximately 50% rentals it is not balanced. He stated the majority of calls the police department gets are to rentals. He stated Brainerd has been taking steps on getting the handle on rental issues and rentals. He stated he would urge the Commission to look at the big picture and what is best for the overall community and keeping the zoning as it is.

Ms. Kathy Brown, 715 N 8th St, stated there are many police calls in the neighborhood, mainly in the 200 block. She stated the owner occupied homes have nice yards and are taken care of. She stated there are good renters in the neighborhood, but feels there need to be nice single family homes. She stated she feels Brainerd is getting rougher and it seems the decline of the neighborhood has happened in the last few years and the number of rentals have gone up.

Mr. Andrew Jelinski, 717 Kingwood St, stated you have to be careful when removing rentals in a certain area of town as it goes against the fair housing act.

Ms. Katie Gunderson, 407 N 8th St, stated that north Brainerd is the oldest part of town, is the most historical, and is important to the citizens. She stated she is seeing many changes in homes that used to be rentals and are now single family homes making the block a lot nicer. She stated she would like to see that continue and not go back to the way it was.

Mr. Greg Jedlenski stated you don't know what is happening with the number of police calls as it might not always be the rental or something the landlord can control. Assumptions should not be made.

The public hearing was closed at 6:48 p.m.

Commissioner Cole discussed what occurs with reviewing the Comprehensive Plan and Future Land Use. He also reviewed the public input and notification that was done during the Zoning Map review. He stated he feels there was more than a sufficient amount of notification, no one attended the meetings to oppose the change, and the Commission still waited after the public hearings to receive additional input from the public. He stated he wants to see it stay in the R-1 District.

Commissioner Straw stated there is a question if we are being prejudicial to renters but a lot of work was done and input received during the changes and there seems to have been no input for this location.

Commissioner Plantenberg reviewed the zoning in the area noting she would be OK with an R-2 zoning.

Commissioner Matten stated she doesn't feel renters are the issue here, it's an issue of multiple units. It's have the conformity of the neighborhood with single family homes.

Commissioner Hayden Shaw stated she is not in favor of rezoning the existing home. She stated there is discrimination against renters and many of the more unfavorable homes in north Brainerd are owner occupied. She stated there are reasons to look back at the zoning changes as things change. Zoning should not be locked in stone and R-1 is not always the best zoning for a neighborhood.

Commissioner Norwood stated the issue is more of density and not against renters. He stated he does agree it should stay R-1 zoning and he feels we cannot continue to spot zone.

Commissioner Hayden Shaw stated there is an issue with buildings that are built as two or three family homes that have come into noncompliance, but would not be easily converted to a single family home.

City Planner Ostgarden noted it is State law that if a non-conforming property use lapses for more than one year it cannot be returned to the previous use.

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

1. The area requested for rezoning includes two parcels, one that has a dwelling with two rental licenses and a third license in dispute. The other parcel is vacant.
2. The vacant parcel is 10,000 sf. and by Zoning Ordinance standards is large enough to permit a single family dwelling and has sufficient square footage for a four unit building.
3. There are duplex and multifamily uses in the area however, the predominant land use is single family.
4. The property in question and other properties in the area were rezoned from R-3 to R-1 in 2011 as part of a city wide Zoning Map amendment process.
5. The Future Land Use Map identifies the property and area as future low to medium (3-5 units/acre) density residential land use. The rezoning would not support the following Land Use Goal Strategy that states:

Encourage development of low density and high-density family housing units in those areas designated on the adopted Land Use Plan

6. No rational basis to rezone the property back to R-3 was provided by the property owner.
7. The property and area was rezoned in 2011 to reduce the potential for additional multifamily dwellings in this area of the city.
8. Fourteen communications in opposition to the rezoning have been received.

Discussion was held regarding the language in finding-of-fact three. The Commission agreed to change it to state “There are duplex and multifamily uses in the north Brainerd area however, the predominant land use is single family”.

The Commission agreed to add the following finding-of-fact: 9. Three people spoke in opposition and the petitioner and one other person spoke in favor.

Commission Hayden Shaw asked to review each property separately. She stated she feels there should be consideration to rezone a property back to a zoning that fits the use of the building.

MOTION AND SECONDED BY COMMISSIONERS HAYDEN SHAW AND MATTEN, DULY CARRIED, TO RECOMMEND DENIAL OF THE REZONING REQUEST OF THE SOUTHWEST CORNER OF JUNIPER STREET AND NORTH 8TH STREET (PID #09196076010Z009) FROM R-1 (SINGLE FAMILY RESIDENTIAL) DISTRICT TO R-3 (MULTI-FAMILY RESIDENTIAL) DISTRICT.

Commissioner Cole stated he does not agree with dividing the properties into two separate motions. The request is to change the zoning on both of them.

Commissioner Norwood stated he will not vote in favor of this motion and does not agree with spot zoning.

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND COLE TO RECOMMEND DENIAL OF THE REZONING REQUEST OF 317 NORTH 8TH STREET FROM R-1 (SINGLE FAMILY RESIDENTIAL) DISTRICT TO R-3 (MULTI-FAMILY RESIDENTIAL) DISTRICT. COMMISSIONERS HAYDEN SHAW AND MATTEN OPPOSED.

b. Right-of-Way Signs

City Planner Ostgarden stated signs in the right-of-way are not a Zoning Ordinance issue. The sign section of the Zoning Code only applies to signs on private property not the public right-of-way. Signs in the right-of-way are addressed in the City Code. He stated we have not been diligent about addressing signs in the right-of-way and gave the Commission examples. He stated the question is even though this is not a Zoning Ordinance issue, would the Planning Commission like to have discussion about drafting language to address signs in the public right-of-way. He noted there are not just signs in the right-of-way, but some businesses downtown put merchandise in the right-of-way and seating in the right-of-way. He stated the discussion will also need to include these other items. He stated some cities treat their central business district

different when it comes to placing items in the right-of-way and that would need to be addressed also.

Commissioner Hayden Shaw left the meeting.

Discussion was held regarding these signs.

#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.

#6 **OLD BUSINESS**

a. **Discuss Suggestions from July 2014 Meeting – See #7 of July 2014 Meeting Minutes**

City Planner Ostgarden reviewed a couple of the items brought up in the discussion from July such as the comparison between the City of Baxter's Zoning Code and the City of Brainerd's Zoning Code along with Building Code issues and the status of those two suggestions.

City Planner Ostgarden stated funding for the review of the Comprehensive Plan has been proposed for the 2015 budget. He explained why this process is too much to be done in house.

City Planner Ostgarden asked the Commission to consider attending the State Planner Conference.

Commissioner Plantenberg asked what the process would be regarding preventing demolition of historic buildings. City Planner Ostgarden stated the best way to do that would be to establish a historic district with rules and regulations that apply to that district. Further discussion was held regarding how to preserve some of these historical buildings.

#7 **Commissioners' Questions/Comments**

None

#8 **City Planner's Report**

None

#9 **Adjournment**

As there was no further business the meeting adjourned at 7:49 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

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