

BRAINERD PLANNING COMMISSION

Wednesday, November 12, 2014

6:00 p.m.

City Hall Council Chambers

1. Call to Order
2. Approval/Amendment of Agenda
3. Approval of minutes of the regular meeting of October 8, 2014
4. New Business
 - A. Public Hearing – Variance for Garage Addition Height – 921 19th Street SE – John Stram
 - B. Public Hearing – Variance for Six and One Half (6-1/2) Foot Fence in a street side yard – 1103 Quince Street – Janet Walters
 - C. Public Hearing – Variance from Parking Requirements – Tyrol Hills Center – Kuepers Inc,; 17018 Commercial Park Road, Brainerd, MN 56401 for the Tyrol Hills Center owned by Gustafson Properties of Brainerd LLC, 206 Washington Street, Brainerd, MN 56401
 - D. Public Hearing – Variances from Parking Requirements, Parking Stall Size, Drive Isle Width, Drive-up and Stacking Lane Screening, and Front Yard Setback – 303 W Washington St – Kimley Horn for the proposed Dunkin Donuts
 - E. Public Hearing – Conditional Use Permit to Operate an On-Sale Liquor Establishment in a B-2 District – 1107 Oak Street – Mike Cyrus, 36902 Bugle Rd; Motley, MN 56466
 - F. South 6th Street Zoning – discussion of B-4 (General Commercial) Business District zoning from Pine Street to south of Willow Street
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
7. Commissioners' Questions/Comments
8. City Planner Report
9. Adjourn

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

PLANNING COMMISSION
Wednesday, October 8, 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 Pritschet, Hayden Shaw, Matten, Plantenberg, Norwood, and Cole. Commissioner Straw was 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 AMENDED.

#3 Approve minutes of the regular meeting of September 10, 2014

MOTION AND SECONDED BY COMMISSIONERS HAYDEN SHAW AND MATTEN, DULY CARRIED, TO APPROVE THE MINUTES FOR THE REGULAR MEETING OF SEPTEMBER 10, 2014.

#4 NEW BUSINESS

a. Public Hearing – Conditional Use Permit and Variances – 604 N 7th Street (former Whittier School) – Discovery Woods Montessori School ISD 4198

City Planner Ostgarden gave a presentation on information given to the Planning Commission. He stated Independent School District 181 sold the former Whittier School block property to Whittier Capital Group LLC; Jeffrey Laux, Vice President. It is planning to lease the site to Discovery Woods Montessori School. It will be relocating its school from its present site at 810 NW 7th Street north of the Veteran's Administration. The building was last used as a school in the 2007-08 school years. Since then, the building has been heated and maintained to best preserve its possible future uses. In 2010, the building received some minor improvements in preparation for a six (6) month lease to Essentia Health, who used it for dedicated training space for a system wide technology conversion. The site and amenities had been maintained by ISD 181 for neighborhood recreational purposes. The site does not comply with many current Zoning Ordinance requirements. Discovery Woods is requesting a conditional use permit to operate a school in a residential district and variances from zoning ordinance requirements. The following items were reviewed:

- Site location and parking locations
- Zoning Ordinance requirements
- Conditional Use Permit criteria noting it does not meet the off-street parking requirements and landscaping/screening requirements
- Zoning Ordinance objectives
- Requirements for granting Conditional Use Permits
- Noted Discovery Woods is planning a "steady increase" in enrollment which should be considered when reviewing the proposal

- Off-street and handicapped parking requirements and site recommendations. Total off-street parking spaces required would be eighty-four (84)

City Planner Ostgarden then reviewed the conditional use permit and variance issues to consider:

- Remove asphalt from Grove Street right-of-way and return to green space
- Install sidewalk along Grove Street
- Provide sidewalk and handicapped accessible access to the main entrance from the north side parking lot
- Determine whether more than 17 on-site parking spaces should be provided
- Consider curb cut on Holly Street to provide flow through the site
- Strip parallel spaces along the east side of the building
- All parking space sizes and maneuvering lanes shall comply with minimum standards
- Install screening on the north and south sides of the building
- Install drop-off identification sign

Discussion was held regarding parking locations and requirements.

The Public Hearing was opened at 6:43 p.m.

Mr. Chad Turcotte, representative of Discovery Woods Montessori School, reviewed the following:

- 22 buses will be dropping off students, working with Reichert on the drop off location to try to get the buses off the street
- Potential maximum students would be 150 students with 24 staff members
- Agree with all of the improvements
- Request some improvements to be done in the spring
- Possible ways to meet the parking requirements noting the area on the east side will be gated to protect students going from the school to the playground

Commissioners asked questions regarding parking and events. Mr. Turcotte noted what plans they have for parking and noted they had two to three events next year.

Mr. Ed Shaw, 517 N 9th Street, stated he feels this is a great project for both the school and the neighborhood and noted he does not want to see removal of green space for a large parking area for off-street parking.

The Public Hearing was closed at 6:52 p.m.

City Planner Ostgarden presented condition options and variance options.

Condition option plan

2014

- Identify a handicapped space in the north lot
- Install drop-off identification signs

2015

- Install sidewalk and make entrance accessibility improvements
- Remove asphalt in Grove Street right-of-way
- Install Grove Street sidewalk
- Stripe all parking spaces
- Screen parking on north and south of the building

2016

- Install access on Holly Street
- Construct additional parking

Variance Options

- Deny screening on north and south side of the building. Approve screening along east side parking area
- Deny parking space and parking isle dimension variances
- Determine what, if any, off-street parking variance should be approved

Commissioner Pritschet asked since Discovery Woods seems to be in agreement with all of the improvements/requirements, what are the exact variances they are requesting.

City Planner Ostgarden stated if they are willing to do all of these things then the only variance required is the number of required off-street parking spaces. He noted the other conditions will need to be stated for the record.

Commissioner Hayden Shaw read the findings-of-fact for the conditional use permit into the record as follows:

1. The property is the former Whittier School elementary school.
2. The property ceased operation as a school in 2007.
3. In 2014, Independent School District 181 sold the property to Whittier Capital Group, LLC; Jeffrey Laud, Vice President c/o Foley and Mansfield PLLP; 250 Marquette Ave, Suite 120; Minneapolis, MN 554
4. The property is being leased by Discovery Woods for a charter school.
5. Discovery Woods is a Montessori style school that currently has 22 full time staff and 107 preschool to sixth grade age children. Whittier School had enrollment as high as 188 students.
6. Reuse of the site described by Discovery Woods will return the site to the use that occurred prior to 2007.
7. The site has a parking area constructed in the Grove Street right-of-way and the school block has sidewalk on all sides except Grove Street.
8. The building has a gymnasium capable of seating 80-90 people.
9. Drop off and pick up is planned to occur primarily on N. 7th Street.
10. Discover Woods has stated *"DWMS....is projecting a steady increase of students over the years to come."*
11. The school building occupied approximately 13% of the site leaving room for additional off-street parking to be provided.
12. Building and site reuse for school purposes has been the neighborhood's preferred reuse.
13. North 8th Street is adjacent to the site and is considered a minor arterial street in the Comprehensive Plan.

14. Approving the CUP promotes the Zoning Ordinance objective of:
 - a. *Protect(ing) neighborhoods.*
 - b. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
 - c. *Encourage the protection of historic and aesthetic resources in the City.*
 - d. *Provide for compatibility of different land uses.*
15. Reuse of the site meets the following Comprehensive Plan Goal:
LAND USE GOAL #5: *Support development that enhances community character and identity.*
Strategy
 1. Support the redevelopment of vacant and abandoned sites within the urban core

The Commission agreed to add the following findings-of-fact: 16. Two people spoke in favor. 17. Discovery Woods representative stated there would be a maximum of two additional classrooms with 150 students. 18. Discovery Woods representative stated they were in agreement with all improvements/conditions set forth.

The Commission agreed on the following conditions:

1. Identify a handicapped space in the north lot
2. Install drop-off identification signs
3. Install sidewalk and make entrance accessibility improvements
4. Remove asphalt in Grove Street right-of-way
5. Install Grove Street sidewalk
6. Stripe all parking spaces
7. Screen parking on north and south of the building
8. Require twenty-four off-street parking spaces in a location of choice by Discovery Woods
9. Install access on Holly Street

Discussion was held regarding parking requirements. Commissioner Norwood suggested twenty-four parking spaces. Commissioner Hayden Shaw stated she does not feel we should require them to remove green space to create more parking and we should only require fourteen spaces. Commissioner Cole stated he agrees with twenty-four parking spaces and would like to keep the parking spaces within the Grove Street right-of-way. Commissioner Matten stated she would like to revisit the parking requirements as the school grows and/or if it becomes an issue in the neighborhood. Commissioner Pritschet stated he would like to see the possibility of allowing temporary parking on the green space area.

Discussion was held regarding the Holly Street entrance and removal of the asphalt in the Grove Street right-of-way.

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT TO ALLOW REUSE OF THE WHITTIER SCHOOL SITE AT 604 NORTH 7TH STREET AS A MONTESSORI SCHOOL WITH THE EIGHTEEN (18) FINDINGS-OF-FACT AND THE NINE (9) CONDITIONS.

COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, AMENDED THE MOTION TO ADD THAT THE CONDITIONS MUST BE MET BY DECEMBER 31, 2016.

COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, AMENDED THE MOTION ADDING ALLOWING THE SCHOOL TO USE THE GREEN SPACE FOR TEMPORARY PARKING UP TO FIVE (5) TIMES A YEAR FOR SPECIAL EVENTS.

City Planner Ostgarden corrected that there will be two variances required; one for the number of required off-street parking spaces and one for the screening along the parking spaces along the east side of the building

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

1. The property is the former Whittier School elementary school.
2. The property ceased operation as a school in 2007.
3. In 2014, Independent School District sold the property to Whittier Capital Group, LLC; Jeffrey Laud, Vice President c/o Foley and Mansfield PLLP; 250 Marquette Ave, Suite 120; Minneapolis, MN 554
4. The property is being leased by Discovery Woods for a charter school.
5. Discovery Woods is a Montessori style school that currently has 22 full time staff and 107 preschool to sixth grade age children. Whittier School had enrollment as high as 188 students.
6. The site has a parking area on the building north side; however a portion of the lot is constructed in the Grove Street right-of-way.
7. The building has a gymnasium capable of seating 80-90 people.
8. There are 17 on-site parking spaces, none of which are screened. Based upon current parking requirements, the site is required to have approximately 84 off-street parking spaces.
9. Discover Woods has stated “DWMS....is projecting a steady increase of students over the years to come.”
10. The school building occupied approximately 13% of the site leaving room for additional off-street parking to be provided.
11. Approving the variance will not detrimentally affect the Zoning Ordinance objectives of:
 - *Protect(ing) neighborhoods.*
 - *Encourage the protection of historic and aesthetic resources in the City*
 - *Provide for compatibility of different land uses.*
12. *When the variance is consistent with the Comprehensive Plan.*
 - General Goal #3: Promote community spirit and unity and enhance Brainerd’s character and identity.***
 - 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.***
 - GOAL: Support development that enhances community character and identity.***
 - Strategy – Support the redevelopment of vacant and abandoned sites within the urban core.***

Commissioners agreed to add the following findings-of-fact: 13. Two people spoke in favor.
14. Discovery Woods representative stated there would be a maximum of two additional

classrooms with 150 students. 15. Discovery Woods representative stated they were in agreement with all improvements/conditions set forth

Commissioners agreed to amend finding-of-fact 8 to read 23 on-site parking spaces instead of 17.

MOTION AND SECONDED BY COMMISSIONERS HAYDEN SHAW AND PRITSCHET, DULY CARRIED, TO RECOMMEND APPROVAL OF A VARIANCE TO REDUCE THE NUMBER OF REQUIRED OFF-STREET PARKING SPACES FROM EIGHTY-FOUR (84) TO TWENTY-FOUR (24) AND TO ELIMINATE THE PARKING SCREENING REQUIREMENT ALONG THE EAST SIDE OF THE BUILDING.

b. Public Hearing – Interim Use Permit for the Decommissioning of the former Wausau Paper Site – 1804 Mill Avenue – Brainerd Industrial Center

City Planner Ostgarden gave a presentation on all of the information given to the Planning Commission including the staff report, supporting documents, site plans, and building layouts. He stated Brainerd Industrial Center (BIC) purchased the Wausau property in August 2014. It has submitted an Interim Use Permit (IUP) application 180° different than the IUP submitted and approved for Renu's decommissioning process. BIC does plan to sell and/or scrap the site assets, however that is where the process similarities stop. BIC's vision is the site and buildings have significant value and have tremendous potential for manufacturing, warehousing and even commercial uses and it plans to lease the facility for such purposes. It plans only minor demolition to the main building and to demolish the treatment plant and water tower. This change in decommissioning philosophy results in an IUP review that while requiring many of the same issues from the previous IUP be addressed, the potential for negative impact is greatly reduced and in several areas to completely removed. The following items were reviewed:

- Demolition/asset recovery plan
- Interim Use Permit process
- Site characteristics
- City leased portions of the property
- Sewer/Water/Wastewater information
- Neighborhood characteristics
- Differences between the previous Interim Use Permit (Renu) and this one (BIC)
- Conditional Use Permit criteria
- Decommissioning timeframe
- Neighborhood meetings, hours of operation, truck traffic hours
- Environmental reports that have been done
- Recommended conditions
- Information submitted by Brainerd Industrial Center
- Reports from City Departments

City Planner Ostgarden summarized that this is a very different process than the previous interim use permit submittal. He stated the impact on the neighborhood should be minimal if any, but the City must do their due diligence to protect the safety, health, and welfare of the community.

The Public Hearing was opened at 7:58 p.m.

Mr. Mike Higgins, Brainerd Industrial Center, gave a review of his initial plans for the site. He introduced some staff members that will be working on the project. He stated he has met with many people regarding this project and everyone has worked very well together.

Mr. Jeff Bean, Brainerd Industrial Center, stated he will be working more with the technical issues and the interim use permit and once that portion is completed he will be more involved in the leasing portion of the project. He reviewed the following questions and concerns:

- Truck traffic - how it will apply to leased operations versus the IUP?
- Amend meeting/inspection days from Monday to Wednesday.
- Environmental reports – who will provide the renovation and demolition environmental checklist?
- Approvals by other agencies – they request that the requirement to deal with the State Historic Preservation Office not be part of the IUP as they feel the property differs significantly from the intent of the Historic Preservation items. (he cited examples of his concerns).
- Adding removal of the south electric substation that are no longer in use.
- Termination – request to add a 30 day notice to cure if there is a violation and the IUP will be terminated.
- Truck traffic hours – there is a possibility to have a lease on one of the buildings for warehousing that may want 24 hour truck traffic use which does not fit into the proposed truck traffic hours. Also, it is hard to control trucks that will be coming in from all over the country for removal of equipment. He noted the plan (on a busy day) is to have possibly five to six loads of scrap per day at different times of the day along with three to four with salvageable equipment. He is asking for some flexibility.

Mr. Bean commended City staff for all the work they have done and consideration they have had in working with them on this project.

The following are questions from the Planning Commissioners with responses from Mr. Bean and Mr. Higgins:

- When will concrete crushing occur? Monday through Friday.
- Outside work on the weekends? There will be no outside work done on Sundays.
- Will the truck drivers be educated on the routes/streets they can/cannot use? There will be notices on the guard shack informing drivers they cannot use side streets.
- Questioned the response to the transloader rail location. It was vague because of the unknown of who may utilize the rail but they will be in contact with City staff to make sure it is used correctly.
- How is the surge tank emptied? The wastewater system was explained noting testing prior to being discharged to the river.
- Who will be doing concrete crushing? Some will be done by their staff and some will be contracted. State and Federal regulations were reviewed along with previous projects that were done.
- What is the timeline of the crushing? Ten to fourteen working days.

- What parts of the hours of operation and trucking hours are a concern and what is an alternate suggestion? Hours of operation, exterior demolition/decommissioning 7:00am to 7:00pm Monday-Friday and 9:00am to 5:00pm on Saturday with no Sunday work. Interior hours would not be limited. Truck traffic for demolition/decommissioning would not occur from 9:00pm and 7:00am Monday-Friday. Truck traffic for demolition/decommissioning allowed 8:00am to 3:00pm on Saturday with no demolition/decommissioning truck traffic on Sunday.

Mr. Bruce Buxton, representative of BLAEDC Board and the Wausau Site Task Force, stated he is in support of this project. He stated the reason the State Historic Preservation Office was involved originally was because of the concern with removing everything from the site from the previous interim use permit submittal. He noted at this time there is reason or concern to involve the Historic Preservation Office as the scope of this project is different.

Mr. Chris Robinson, BLAEDC representative, stated BLAEDC has had a lot of involvement in this project and they support the plans to maintain and reuse the buildings on this site. He stated they have strong interest in this site from area businesses and are optimistic that Brainerd Industrial Center will make the project a reality.

The Public Hearing was closed at 8:44 p.m.

City Planner Ostgarden responded to the concerns/suggestions from Mr. Higgins and Mr. Bean.

- Addition of the 30 day notice for termination of the interim use permit can be added.
- The conditions apply only to the demolition/decommissioning process. Any uses would fall under the requirements of the I-2 District in the Zoning Code.
- The Commission will be able to come up with truck traffic and operating hours that are reasonable to both parties.
- The State Historic Preservation Office is a moot point. BIC does not have to do anything with regards to this as the site is not listed on the National Registry of Historic Places and the buildings are not registered.
- The transformer substation can be added to the items to be removed.
- Meeting dates can be changed from Monday's to Wednesday's.

Discussion was held regarding truck traffic and potential hours.

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

1. Brainerd Industrial Center (BIC.), a Michigan Company, has purchased the former Wausau Paper facility located at 1801 Mill Avenue and has submitted an Interim Use Permit application to begin a decommissioning process.
2. The site is approximately 80 acres (owner information identifies the site as 71 acres +/-) and is located in an I-2 (General Industrial) District. Site decommissioning is allowed by Interim Use Permit in the I-2 District.
3. The City of Brainerd Comprehensive Plan Future Land Use Map identifies the property as industrial land use.
4. The decommissioning is supported by Commercial/Industrial, Economic Development and Land Use Goals and Strategies.

5. The industrial zoning will permit BIC to lease the facility during the demolition and decommissioning process.
6. Minnesota local government units have broad authority to condition or deny special use permits (e.g. interim uses) in order to protect public health, safety and welfare. When enacting the Municipal Planning Act ("MPA") in 1965, the Legislature found that "municipalities are faced with mounting problems in providing means of guiding future development of land so as to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities." So long as there is a rational basis for a zoning or land use decision by a local unit of government, the courts have affirmed the broad discretion local governments have in developing land use and zoning regulations and will not disturb a decision unless it is unsupported.
7. Minn. Stat. 462.3597, specifies City's may grant permission for an interim use of property if, among other things, the permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future. This grants the City the ability to set conditions or requirements for the IUP as deemed appropriate to better ensure the costs of demolition completion and to ensure that costs of environmental pollution would not flow through to the public.
8. This IUP does not include new development; therefore many of the typical standards for site plan review do not apply.
9. BIC will conduct a community meeting for the residents of the area.
10. Demolition/Decommissioning process includes:
 - The treatment plant, water tower, two areas of the main building, and the air exchange system on the main building roof.
 - Removal of all paper making assets and associated equipment and material.
11. The demolition and decommissioning process will occur over a two year period meaning that if all required practices are followed the process should result in no negative impacts on the neighborhood and community.
12. The site has Mississippi River frontage which will require compliance with applicable Shoreland Regulations.
13. The site is adjacent to a residential neighborhood requiring that issues such as vibration, noise and dust have prescribed methods for testing and compliance.
14. BIC is aware of the environmental findings in the following reports:
 - a) Phase I Environmental Property Assessment, Barr Engineering, June 2002
 - b) Phase II Environmental Investigation Report, Barr Engineering, Oct. 2002
 - c) Response Action Implementation Report, Barr Engineering, Dec. 2003
 - d) Supplemental Groundwater Investigation Report, Barr Engineering, January 2003
 - e) Phase I Environmental Site Assessment, Landmark Environmental, August 2013
15. Truck traffic is not permitted on local streets.
16. Access will continue to be via the Mill Avenue entrance.
17. The site is accessible in accordance with the provisions of the Americans with Disabilities Act (ADA), including parking spaces, passenger loading zones and accessible routes where applicable.
18. A Storm Water Pollution Prevention Plan (SWPPP) will require that an Erosion Control Supervisor be identified. The SWPPP will address:
 - a. Erosion control sequencing
 - b. BMP inspection and maintenance
 - c. Pollution prevention management measures
 - d. Stabilization schedules

- e. Temporary storm water quality measures, including silt fence, inlet protection, dust control
- 19. Access easements to the hydroelectric dam have been retained.
- 20. The planned demolition and decommissioning process supports the following

Comprehensive Plan goals and strategies:

COMMERCIAL/INDUSTRIAL LAND USE

Goal: *Plan for the orderly, efficient and fiscally responsible growth of commercial and industrial development in Brainerd.*

STRATEGY

Encourage the development of additional commercial and industrial areas within the city in accordance with the land use plan.

ECONOMIC DEVELOPMENT

Goal: *Support the development of a strong, diversified, and growing economic base and create a favorable climate for economic development and ongoing business activities.*

STRATEGY

Promote and encourage quality commercial and industrial development in the city through the support and cooperation of the City Council, EDA, the Brainerd Lakes Development Corporation (BLADC), business organizations and community leaders.

1. Actively promote development and redevelopment within the community,

...

2. Plan for adequate land for future Industrial and Commercial Developments in three principal areas within the city:

 East of Business Highway 371 near the Industrial Park Road

 Within the Redevelopment of the Northern Pacific Center

 **On the former Potlatch Paper Mill site**

 Other areas deemed appropriate

LAND USE

Land Use Goal #5: *Support development that enhances community character and identity.*

STRATEGY

Support the redevelopment of vacant and abandoned sites within the urban core.

- 21. Crow Wing County Engineering Department has submitted a letter with comments related to Mill Avenue use.
- 22. There are 23 approval conditions to protect the community public health, safety and welfare.

The Commission agreed to amend/add the following findings-of-fact:

- Amend 10 to include demolition of the utility substation.
- Amend 15 to read “local residential streets”
- Remove finding-of-fact 18
- Add finding-of-fact 23 – owner Mike Higgins and Jeff Bean who has assisted in the IUP proposal spoke.
- Add finding-of-fact 24 – Bruce Buxton a member of the BLAEDC Board and Wausau Site Task Force and BLAEDC staff member Chris Robinson spoke in support of the BIC request.

The Commission agreed to the following conditions as presented by staff to include amendments previously discussed:

1. **Decommissioning Approval Period.** The Interim Use Permit for all decommissioning activity shall be in effect for two (2) years from the date of the Interim Use Permit approval.
2. **Neighborhood Meeting.** Prior to beginning the decommissioning process, BIC will conduct a neighborhood meeting.
3. **Decommissioning Meeting.** Prior to beginning the process, a decommissioning meeting shall occur with all parties involved to review the decommissioning work plan.
4. **Contact Person.** The owner must designate and maintain throughout the term of the project a site representative with final decision making authority to field questions and complaints from the public and must make this person's name and contact information available to the City and the public before permits are issued for the work shown on the approved plans. The City of Brainerd will designate the Building Official as the contact person on behalf of the City.
5. **Decommissioning Process.** The decommissioning process shall not commence and a City of Brainerd Building Permit will not be issued until all of the applicable submittal requirements specified herein have been submitted and approved by the City of Brainerd.
6. **Document Submittal.** Any and all documents that need to be submitted and revised to be in compliance with the conditions, terms and performance standards of this Interim Use Permit shall be submitted to the City prior to the issuance of a building permit.
7. **Escrow Account.** BIC shall provide and maintain an escrow in the amount of \$5,000 to cover the cost of testing during the decommissioning process, staff time associated with the decommissioning process and for any other unintended damages or needs that arise during the decommissioning process. The unused escrow amount will be returned upon completion of the decommissioning process.
8. **Inspections.** A bi-monthly (every 2 months) meeting with the Building Official shall occur on-site on a Wednesday before a City Council meeting.
9. **Environmental Inspection and Reports.** The owner shall provide a copy of the renovation/demolition environmental checklist to the City of Brainerd along with certifications that the hazardous materials have been removed and properly disposed of.
10. **Easements.** Easements shall that have been granted to the City of Brainerd shall remain. If needed, new easements shall be in a location and size acceptable to the City of Brainerd. Documents for any new easements shall be prepared by the property owner and reviewed by the City of Brainerd. Easements shall be recorded at the Crow Wing County Recorder's office at the property owner's expense.
11. **Utility Connections.** All disconnections from services shall be mechanically capped or bulk headed as required by the City Engineer's Office.
12. **Foundation Removal.** Demolition work shall include complete subgrade walls, floors and foundations/footings.
13. **Fill.** Fill to be either a granular backfill or Class 7 crushed concrete compacted to a 95% maximum density.
14. **Structural Integrity.** An engineered structural solution and restoration plan shall be submitted for any alterations to the remaining load bearing structure.
15. **Noise.** Activities that generate continuous noise, such as concrete crushing and hydraulic hammering, may not exceed the noise standards as established by the Minnesota

Pollution Control Agency (MPCA) on various land uses within audible distances of the activities. Noise measurements will be conducted as soon as weather conditions permit following the commencement of the activity. A sufficient number of spot measurements will be taken to test residential properties located radially from the site. If the noise levels fall within acceptable MPCA guidelines, additional measurements will not be necessary unless there is a change of activity location, a change in noise abatement features, or complaints from the public.

- 16. Vibration.** Measurements at adjacent property lines should not exceed a Peak Particle Velocity (PPV) of 0.5 inches per second. If measurements are greater than 0.5 inches per second, additional readings should be taken to determine a safe distance from the activity. BIC shall submit pre-demolition vibration readings. The owner will provide, upon request by the City of Brainerd vibration readings to the City Engineering Department.
- 17. Waste.** All disposal debris will be hauled to a licensed demolition landfill. The handling and disposal of construction and demolition debris shall be done in accordance with all federal, state and local laws and ordinances.
- 18. Fire Safety.** The owner shall comply with Section 14 of the State of MN Fire Code. An onsite walkthrough inspection by the City of Brainerd Fire Department will be required prior to starting the decommissioning process.
- 19. Trucking Route.** Truck traffic on local residential streets is prohibited.
- 20. Site Buffer/Security.** The existing visual buffer and fencing shall be retained.
- 21. Approvals by Other Agencies.** The owner must obtain approvals and appropriate documentation for the demolition and restoration from all other agencies having jurisdiction, including but not limited to Crow Wing County, Minnesota Department of Natural Resources, Minnesota Pollution Control Agency, and Environmental Protection Agency. Work must be performed as specified in these approvals. The City of Brainerd is not responsible for BIC's approval by these agencies and/or ensuring BIC complies with these agency rules and regulations.
- 22. Termination.** The Interim Use Permit shall terminate upon the occurrence of any of the following events, whichever first occurs:
 - a. The completion date specified in the permit (Condition #1);
 - b. A violation of the conditions under which the permit was issued. A 30 day order to cure will be provided to the owner by the City of Brainerd in advance of termination.
 - c. A change in the City's zoning regulations; however, the City may provide a period of relief for up to a year if warranted.
 - d. A certified copy of any order terminating the Interim Use Permit shall be filed with the Crow Wing County Recorder for recording.
- 23. Compliance.** Any use permitted under the terms of any Interim Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith, and the Interim Use Permit shall remain in effect only so long as the terms and conditions agreed upon are observed and/or until the specified termination date/event occurs.

Discussion was held regarding truck traffic hours. The Commission agreed to remove Condition 9 regarding hours of operation and truck traffic.

MOTION AND SECONDED BY COMMISSIONERS PRITSCHET AND MATTEN, DULY CARRIED, TO RECOMMEND APPROVAL OF THE INTERIM USE PERMIT AS SUBMITTED BY BRAINERD INDUSTRIAL CENTER FOR THE DECOMMISSIONING OF FORMER WAUSAU PAPER SITE LOCATED AT 1801 MILL AVENUE THE WITH THE TWENTY-TWO (22) FINDINGS-OF-FACT AND TWENTY-THREE (23) CONDITIONS.

#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**

None

#7 **Commissioners' Questions/Comments**

None

#8 **City Planner's Report**

None

#9 **Adjournment**

As there was no further business the meeting adjourned at 9:02 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

/lt

STAFF REPORT TO THE PLANNING COMMISSION

November 12, 2014

APPLICANT/LOCATION: John Stram, 921 19th St SE, Brainerd, MN 56401

PROPOSED USE: Construct an accessory building addition that will be four (4) feet taller than permitted.

AREA: Two (2) +/- acres

CURRENT ZONING: R-1 (Single Family) Residential

ADJACENT USES: North: Vacant
East: Vacant
South: Vacant
West: Vacant

The closest dwelling is approximately two hundred eighty (280) feet away.

ADJACENT ZONING: North: R-1 (Single Family) Residential
East: R-3 (High Density) Residential
South: R-3 (High Density) Residential
West: R-3 (High Density) Residential

REPORT

The south end of 19th Street is a remote area of Brainerd. Wetlands to the south impede the ability to extend the street for future development. There are three (3) vacant lots that are buildable adjacent to Mr. Stram's property. Wetlands east, west and north will prevent development beyond that property.

Mr. Stram has approximately two (2) acres on which he has two (2) accessory buildings. One of the buildings is one thousand nine hundred sixty (1,960) square feet. He plans to add one thousand four hundred forty (1,440) sf square feet to it resulting in a two thousand seven hundred thirty-six (2,736) square foot accessory building. The height of the existing building is fourteen (14) feet (measured to the midpoint of the roof). He desires to increase the addition roof height to eighteen feet (18) feet (measured to the midpoint of the roof).

Zoning Ordinance Section 515-17-8 Accessory Buildings, Uses and Equipment reads:
B. Residential Accessory Buildings, Structures and Uses.

- 3c. Height. Detached accessory buildings shall not exceed the height of the principal building or fifteen (15) feet, whichever is less. Exceptions may be granted to allow for the detached accessory building matching the roof pitch of the existing principal building by Conditional Use Permit in accordance with Section 5 of this Ordinance

The house (principal building) measures approximately seventeen (17) feet (measured to the midpoint of the roof). Based on the above language the garage cannot exceed fifteen (15) feet (measured to the midpoint of the roof) and Mr. Stram is proposing (18) feet (measured to the midpoint of the roof) requiring a three (3) foot variance.

Criteria for Granting Variances

A. Variances shall only be permitted:

When they are in harmony with the general purposes and intent of the ordinance. Following is the Intent and Purpose section of the Zoning Ordinance:

- A. Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
- B. This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.*
- C. Protect neighborhoods.*
- D. Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
- E. Provide adequate light, air, and convenience of access to property.*
- F. Prevent congestion in the public right-of-way.*
- G. Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. Protect and preserve the natural environment of the City.*
- I. Encourage the protection of historic and aesthetic resources in the City.*
- J. Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. Provide for compatibility of different land uses.*
- L. Provide for administration of this Ordinance.*
- M. Provide for amendments.*
- N. Prescribe penalties for violation of such regulations.*

- O. *To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

Provide adequate light, air, and convenience of access to property.

Due to parcel size and the distance the building is from the house there should be no effect on light, air and access for the property owner.

Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.

The variance for the increased height will be in harmony with this objective because of development limitations due to wetlands and the site is located in a remote area of the city.

When the variance is consistent with the Comprehensive Plan.

It is difficult to find a relationship between this is type of variance and to the Comprehensive Plan

- B. **Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.**

Subdivision 4. "Practical Difficulties", as used in connection with the granting of a variance means that:

- I. *The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;*

The garage addition will be setback approximately two hundred thirty feet from the adjacent property and is buffered by approximately one hundred (100) feet of woods on Mr. Stram's property. The closest dwelling is approximately two hundred eighty (280) feet away.

- II. *The plight of the landowner is due to circumstances unique to the property not created by the landowner;*

The property is unique due to its size and location in the community and restrictions on surrounding land that limit development.

III. The variance, if granted, will not alter the essential character of the locality.

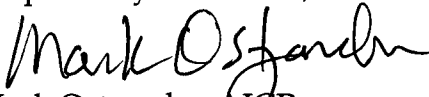
The additional three (3) feet of height will not alter the essential character of the locality as the building is not visible from the road or from other dwellings. The only nearby development that can occur would be on the three (3) adjacent lots. Wetlands restrict the ability for additional development in the locality.

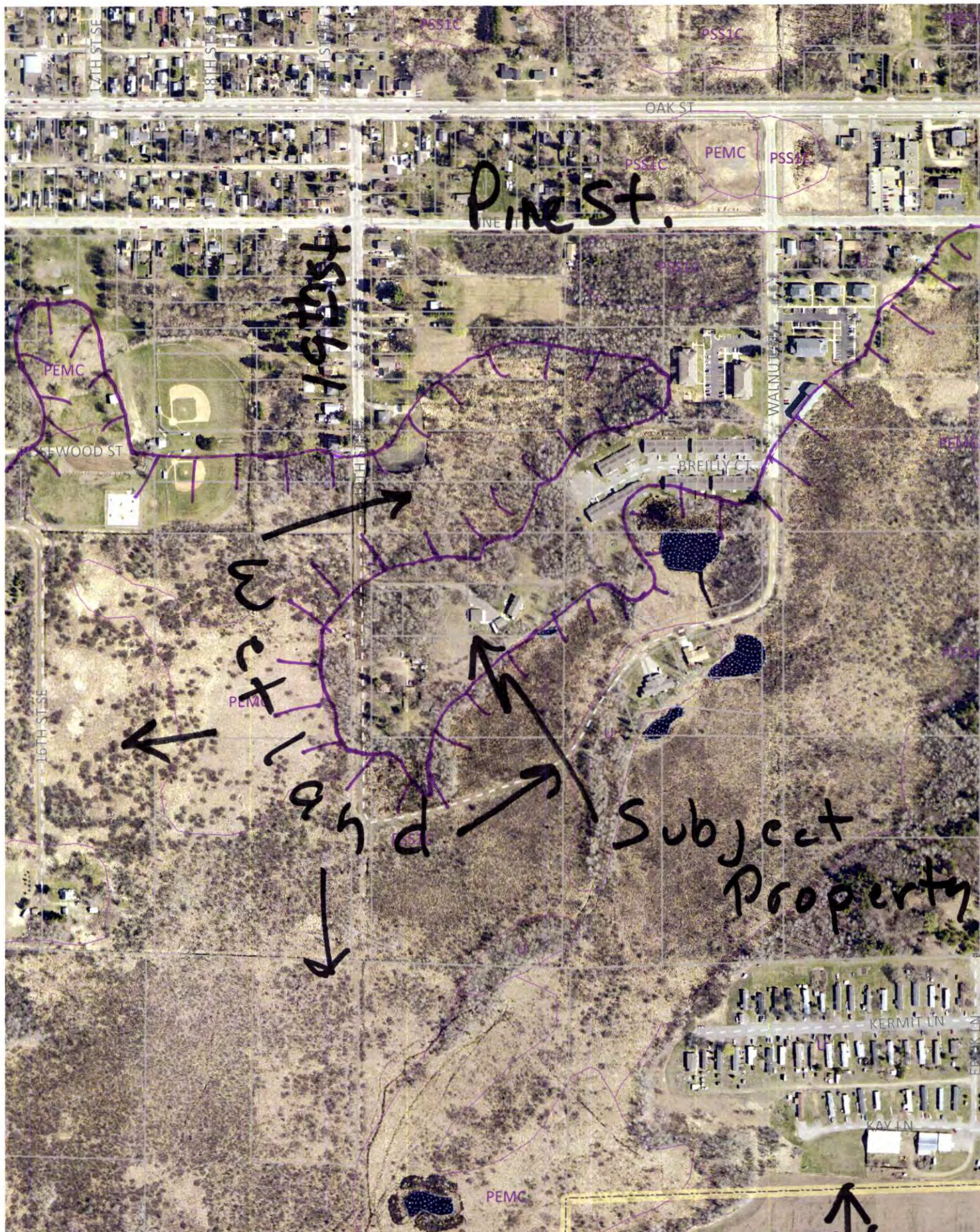
Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission can consider a recommendation at its November 13, 2014 meeting and the City Council can receive the recommendation for consideration at its November 17, 2014 meeting.

Respectfully submitted,


Mark Ostgarden AICP
City Planner





New Garage 40'x36'
with 6' overhang



I AM Asking for A variance for A Larger Garage
Added to my old Garage Addition
would be 1440 SQ feet to old Garage
old Garage is 1296 Square feet Also
need to be Higher with Addition approx
4 feet higher $\frac{1}{2}$ way At peak.
Other smaller Garage on property is 720
Square feet

My Home is 1824 Square feet with
side wall 6 ft 14 feet and to the
peak of 24 feet.

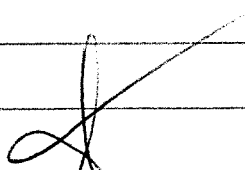
My property is on parcel 09145000011C009
316.51 x 163.63 51,790.53 SQ feet.

My other adjoining property parcel 091450000011D009
316.51 x 163.63 + 23.63 x 100 = 37,789 SQ feet.

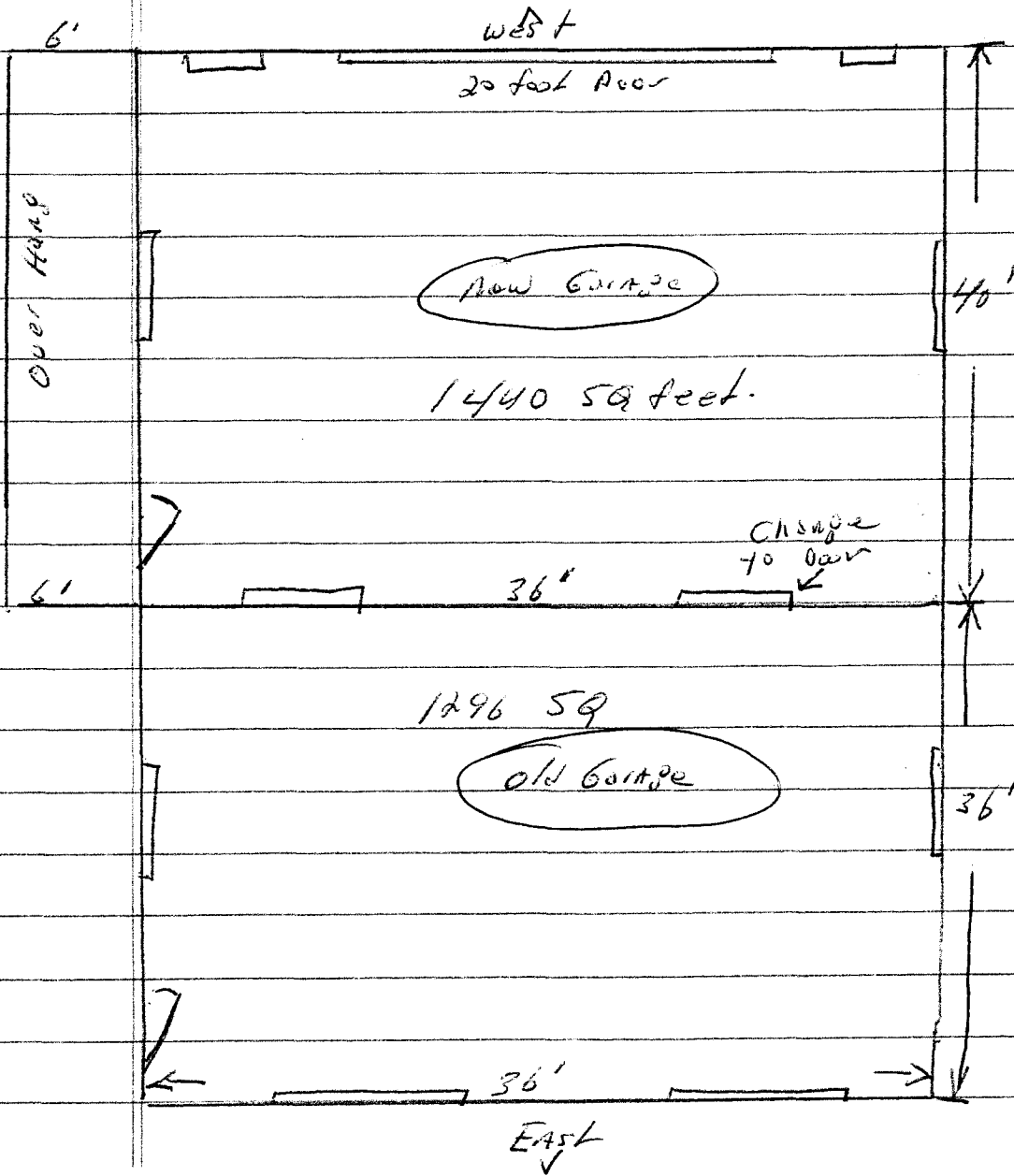
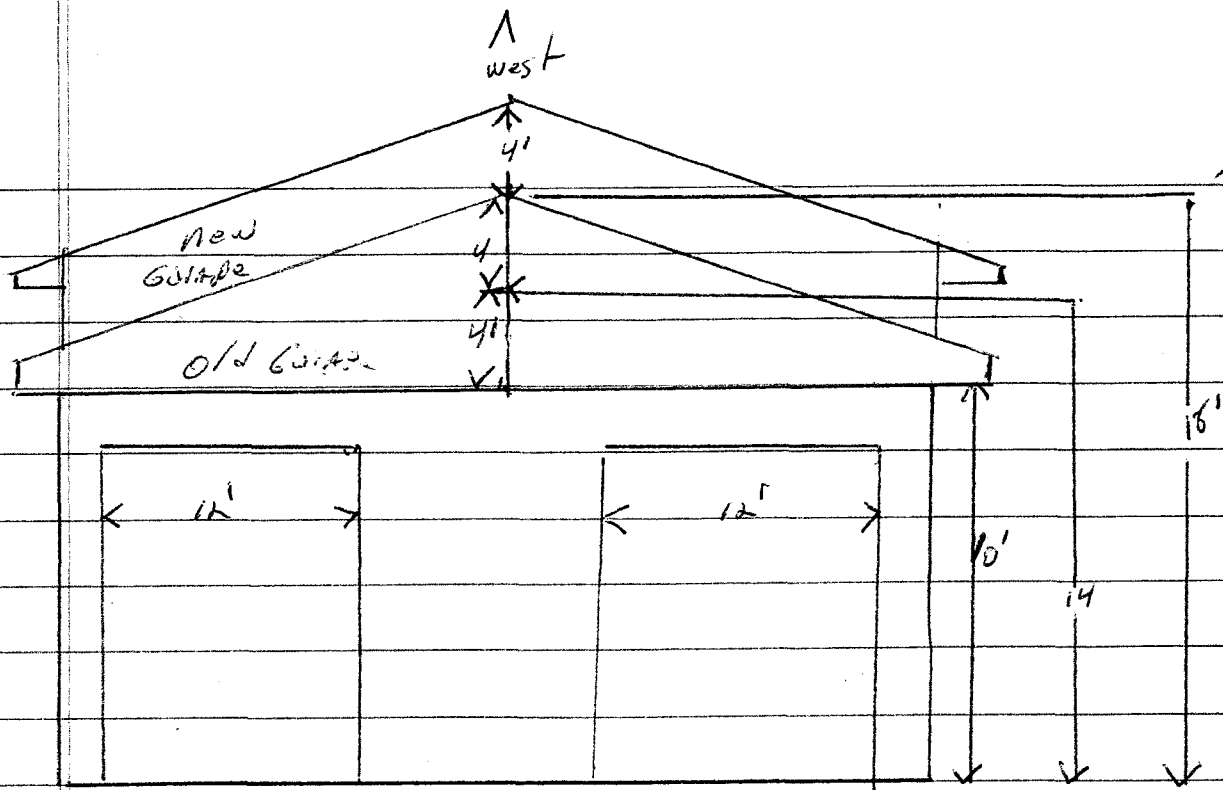
I will consolidate Both properties,
Approximately 2 Acres plus
I live in A wooded Area I AM
Approximately 600 feet from All
Homes Around me

Thank you

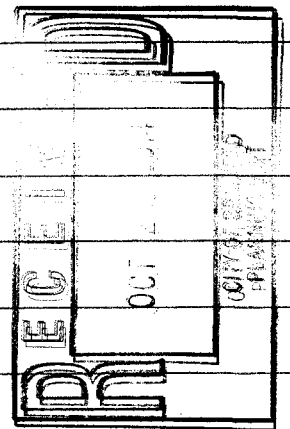
John F Stram



JOHN & LYNN STRAM
921 19TH ST. SE
BRainerd, MN 56401
218-270-2311



- ② 4x4 wds
 - ② 2x4 wds
 - ① side door window
 - ① door into old Garage
- North



NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that John Stram, 921 19th Street SE, Brainerd, MN 56401, has submitted a variance request to construct a garage addition with a roof line four (4) feet higher, eighteen (18) feet at the middle of peak, than the existing garage roof line, fourteen (14) feet at the middle of peak. A variance from the following City of Brainerd Zoning Ordinance requirements is requested:

515-17-8 Accessory Buildings, Uses and Equipment.

B. Residential Accessory Buildings, Structures and Uses.

3c. Height. Detached accessory buildings shall not exceed the height of the principal building or fifteen (15) feet, whichever is less. Exceptions may be granted to allow for the detached accessory building to match the roof pitch of the existing principal building by Conditional Use Permit in accordance with Section 5 of this Ordinance

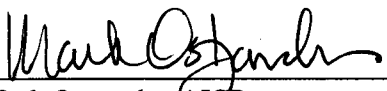
The property is legally described as follows:

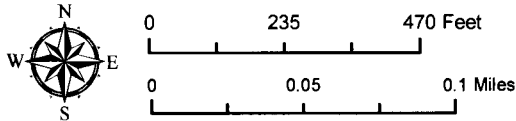
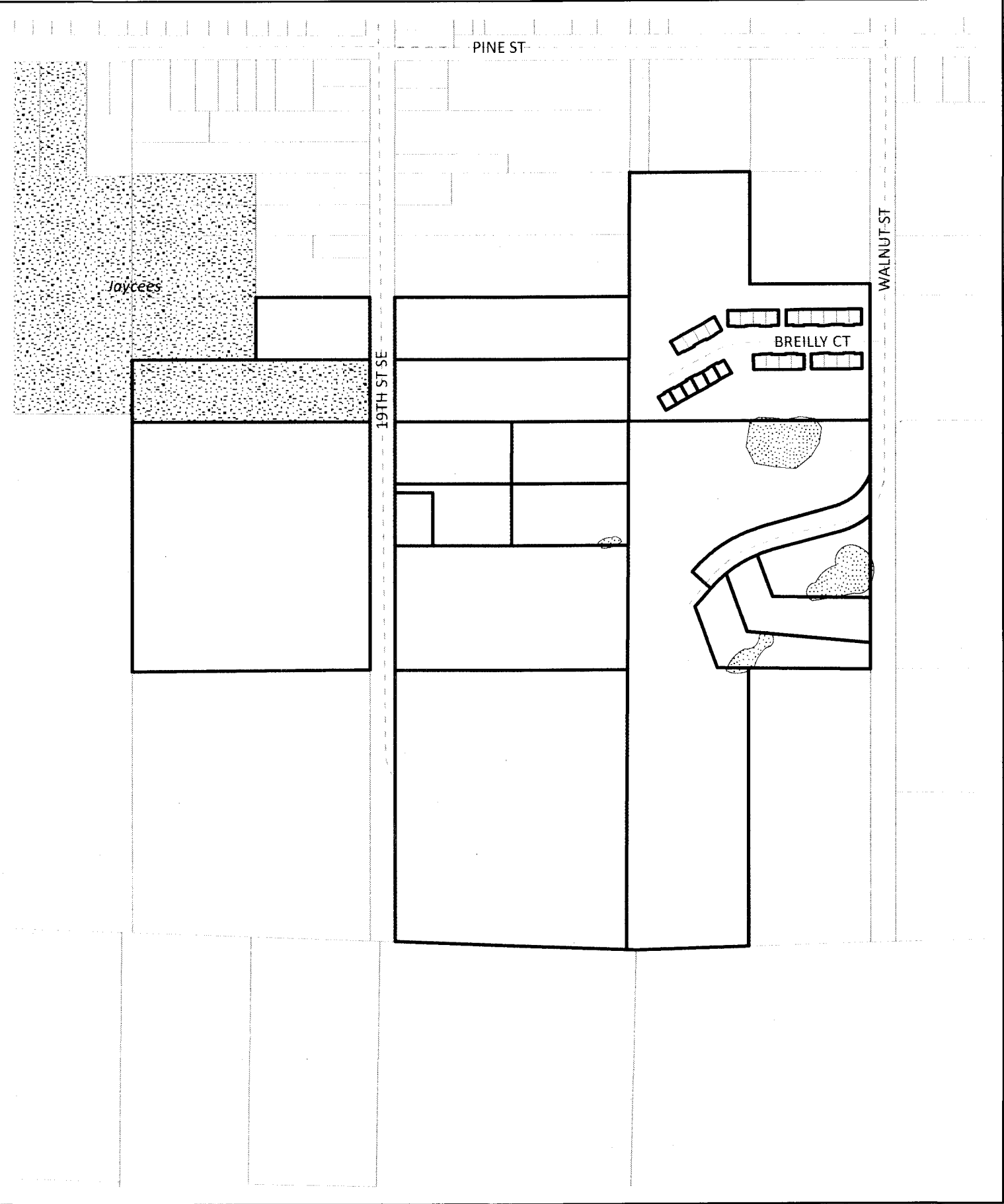
*Tract C Pt of Tract 11 Desc: Comm at NW Cor of Sd Tract 11 then S 2D 33'36" E Assm Bear 163.63 Ft Alg W Line of Sd Tract 11 then N 87D 53'30" E 316.51 Ft to POB of Tract to be Desc then S 2D 33'36" E 163.63 ft to S line of Sd Tract 11 then N 87D 53'30" E 316.51 Ft Alg Sd S Line of Tract 11 to SE Cor of Sd Tract 11 then N 2D 33'36" W 163.63 Ft Alg E Line of Sd Tract 11 to its Inters with Line that Bears N 87D 53'30" E from POB then S 87D 53'30" W 316.51 ft to POB Subj to & Tog/W an Esmt of Rec Subj to Esmnts Reserv & Restr of Rec, Holland's 3rd Addn to the City of Brainerd
P.I.N. No. 09145000011C009
Section 30 Township 45 Range 30*

Notice is further given that the Planning Commission of the City of Brainerd will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., Wednesday, November 12, 2014 to consider the request for the Variance.

Any individual needing special accommodations please call (218) 828-2309.

Dated this 29th day of October, 2014


Mark Ostgarden AICP
City Planner



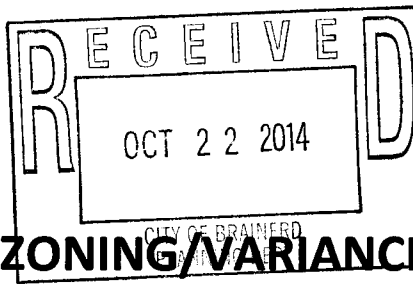
VARIANCE - 921 19TH ST SE

APPRCL	TXNAME	TXADR1	TXADR2	PHYSADDR
091450000100009	CITY OF BRAINERD	501 LAUREL ST	BRAINERD, MN 56401	
091450000190009	CITY OF BRAINERD	501 LAUREL ST	BRAINERD, MN 56401	
091450000120009	CONNELLY, JOHN T	P O BOX 102	BRAINERD MN 56401	1005 19TH ST SE
092760010010009	DENTI, ANNAMARIE	1014 WALNUT ST	BRAINERD, MN 56401	
09145000011B009	FOSTER, SCOTT E & SARA A	10220 GILBERT TRL	BRAINERD, MN 56401	
09144000025Z009	ISEBRAND, BRUCE K & SHARON Y	815 19TH ST SE	BRAINERD, MN 56401	
091450000090009	ISEBRAND, BRUCE K & SHARON Y	815 19TH ST SE	BRAINERD, MN 56401	
09145000013Z009	ISEBRAND, BRUCE K & SHARON Y	815 19TH ST SE	BRAINERD, MN 56401	
09145000016Z009	ISEBRAND, BRUCE K & SHARON Y	815 19TH ST SE	BRAINERD, MN 56401	902 19TH ST SE
0927600090A0009	ISEBRAND, BRUCE K & SHARON Y	815 19TH ST SE	BRAINERD, MN 56401	
092760010030009	ISEBRAND, BRUCE K & SHARON Y	815 19TH ST SE	BRAINERD, MN 56401	1018 WALNUT ST
09145000011A009	ISEBRAND, KATIE	15461 IRONWOOD LN	BRAINERD, MN 56401	
092760010020009	JANNETTA, MICHAEL & LYNN	1016 WALNUT ST	BRAINERD, MN 56401	1016 WALNUT ST
09145000011E009	LAKES AREA HABITAT FOR HUMANITY	PO BOX 234	BRAINERD, MN 56401	
09145000020A009	MOILANEN, KEITH R & PATRICIA	818 SE 19TH ST	BRAINERD MN 56401	818 19TH ST S
096070000150009	PW INVESTMENTS OF BRAINERD, LLC	13029 PERCH LAKE DR	BAXTER, MN 56425	2100 BREILLY CT
096070000160009	PW INVESTMENTS OF BRAINERD, LLC	13029 PERCH LAKE DR	BAXTER, MN 56425	2102 BREILLY CT
096070000170009	PW INVESTMENTS OF BRAINERD, LLC	13029 PERCH LAKE DR	BAXTER, MN 56425	2104 BREILLY CT
096070000180009	PW INVESTMENTS OF BRAINERD, LLC	13029 PERCH LAKE DR	BAXTER, MN 56425	2106 BREILLY CT
096070000190009	PW INVESTMENTS OF BRAINERD, LLC	13029 PERCH LAKE DR	BAXTER, MN 56425	2108 BREILLY CT
09145000011C009	STRAM, JOHN I & LYNN E	921 19TH ST SE	BRAINERD, MN 56401	921 19TH ST SE
09145000011D009	STRAM, JOHN I & LYNN E	921 19TH ST SE	BRAINERD, MN 56401	



City Planning Department

City Hall - 501 Laurel Street
Brainerd, MN 56401
218-828-2309/Fax 218-828-2316
www.ci.brainerd.mn.us



Receipt #	9111
Check #	4668
Date Paid:	10/22/14

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

NATURE OF REQUEST (please check)

CONDITIONAL USE PERMIT (\$190.00) REZONING (\$250.00) VARIANCE (\$220.00)

PROPERTY ADDRESS: 921 19th St SE

LEGAL DESCRIPTION: Lot(s): 11 Block: _____ Addition: Holland's 3rd
(attach description if lengthy) Parcel 09145000011A09 & 09145000011C009

Property Owner Name: John I Stiam

Street Address: 921 19th St SE City: Brainerd State: MN Zip Code: 56401

Phone Number: 218 270 2311 Fax: _____ E-mail: _____

Applicant Name: (If different than Property Owner) _____

Street Address: _____ City: _____ State: _____ Zip Code: _____

Phone Number: _____ Fax: _____ E-mail: _____

Description of Request: Add Garage to Existing Garage
36x40 to Garage that is 36x36
Add Raise Roof Line Approx 4' Higher At
middle of Road.

I live on 2+ Acres and Am Approximately
600 feet From All my Neighbors

[Signature]
Property Owner Signature

10-21-14
Date

John I Stiam
(Please print name)

[Signature]
Applicant Signature

10-21-14
Date

John I Stiam
(Please print name)

AGENCY REVIEW CHECKLIST

Your request may require review by one or more of the agencies listed below. The City of Brainerd will determine which agencies will need to review your application and provide that agency with the notice of public hearing regarding your application:

BRAINERD FIRE DEPARTMENT

Attn: Kevin Stunek, Fire Chief; 23 Laurel St; Brainerd, MN 56401; 218-828-2312; kstunek@ci.brainerd.mn.us

BRAINERD POLICE DEPARTMENT

Attn: Corky McQuiston, 225 East River Road; Brainerd, MN 56401; 218-829-2805; corky.mcquiston@ci.brainerd.mn.us

BRAINERD PUBLIC UTILITIES

Attn: Scott Magnuson, Supt.; P.O. Box 373; Brainerd, MN 56401; 218-829-8726; smagnuson@bpu.org

BWSR (MN Board of Water and Soil Resources)

Attn: John Overland; 1601 Minnesota Dr; Brainerd, MN 56401; 218-828-2383; john.overland@state.mn.us

CROW WING COUNTY HIGHWAY DEPARTMENT

Attn: Tim Bray, County Engineer; 16589 County Rd 142; Brainerd, MN 56401; 218-824-1110/FAX 218-824-1111 tim.bray@crowwing.us

CROW WING COUNTY SOIL AND WATER CONSERVATION DISTRICT

Attn: Melissa Barrick; 322 Laurel St-Ste. 13; Brainerd, MN 56401; 218-828-6197/FAX 828-6095 melissa.barrick@crowwingswcd.us

CROW WING COUNTY SURVEYOR'S OFFICE

Attn: Mark Liedl; 322 Laurel St Ste 14.; Brainerd, MN 56401; 218-824-1124/FAX 824-1126; mark.liedl@crowwing.us

HRA

Attn: Jennifer Bergman; 324 E. River Rd.; Brainerd, MN 56401; 218-828-3705/FAX 828-8817; jennifer@brainerdhra.org

MISSISSIPPI HEADWATERS BOARD

322 Laurel Street Ste 5; Brainerd, MN 56401; 218-824-1307/FAX 824-1104 mhb@mississippiheadwaters.org

MINNESOTA DEPARTMENT OF TRANSPORTATION

Attn: Mary Safgren; 7694 Industrial Park Rd.; Baxter, MN 56425; 218-828-5700; mary.safgren@state.mn.us

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

Attn: Wade Miller; 1601 Minnesota Dr.; Brainerd, MN 56401; 218-828-2605/FAX 828-6043; wade.miller@state.mn.us

MINNESOTA POLLUTION CONTROL AGENCY

Attn: Reed Larson; 7678 College Rd-Ste. 105; Baxter, MN 56425; 218-828-2492/FAX 828-2594 Reed.Larson@state.mn.us

U.S. ARMY CORPS OF ENGINEERS

Attn: Jeff Koshak; 8896 E. Gull Lake Dr.; Brainerd, MN 56401; 218-829-8402

STAFF REPORT TO THE PLANNING COMMISSION

November 6, 2014

APPLICANT/ PROPERTY LOCATION: Janet Walters; 1895 W Gull River Rd SW; Pillager, MN
56473 for the property at 1103 Quince Street

PROPOSED USE: Variance to permit a six and one half (6 ½) foot tall chain link fence between the house and street side yard property line.

LOT AREA: Fifty (50) feet by one hundred forty (140) feet

CURRENT ZONING: R-2 (Medium Density) Residential

ADJACENT USES: North: Single Family Dwelling
East: Duplex Dwelling
South: Single family dwellings
West: Single Family Dwelling

ADJACENT ZONING: North: R-2 (Medium Density) Residential
East: R-2 (Medium Density) Residential
South: R-2 (Medium Density) Residential
West: R-2 (Medium Density) Residential

REPORT

The property is at the northeast corner of Quince Street and 11th Street SE. The owner desires to construct a six and one half (6 ½) foot tall chain link fence to be located four (4) feet in front of the house between the house and the side street property line. The fence is planned for security and to establish a barrier for pets. The Zoning Ordinance specifies that a six and one half (6 ½) foot tall fence is not permitted between the house and street side yard property line. There is approximately eight (8) feet between the house and the side street property line.

Criteria for Granting Variances

A. Variances shall only be permitted:

When they are in harmony with the general purposes and intent of the ordinance. Following is the Intent and Purpose section of the Zoning Ordinance:

- A. Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
- B. This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.*

- C. *Protect neighborhoods.*
- D. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
- E. ***Provide adequate light, air, and convenience of access to property.***
- F. *Prevent congestion in the public right-of-way.*
- G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. *Protect and preserve the natural environment of the City.*
- I. *Encourage the protection of historic and aesthetic resources in the City.*
- J. *Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. *Provide for compatibility of different land uses.*
- L. *Provide for administration of this Ordinance.*
- M. *Provide for amendments.*
- N. *Prescribe penalties for violation of such regulations.*
- O. *To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

Provide adequate light, air, and convenience of access to property.

The fence is chain link which will not impede light nor should it negatively impede visibility for motorists exiting the alley on the north side of the lot.

When the variance is consistent with the Comprehensive Plan.

It is difficult to find a relationship with the Comprehensive Plan.

- B. **Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.**

Subdivision 4. "Practical Difficulties", as used in connection with the granting of a variance means that:

- I. ***The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;***
The dwelling is eight (8) feet from the side street property line and placement of the fence four (4) feet in front of the house and alley and would be permitted if setback. Permitting the fence be four (4) feet closer is reasonable because of its chain link style.

II. The plight of the landowner is due to circumstances unique to the property not created by the landowner;

The dwelling is eight (8) feet from the side street property line where a fifteen foot (15) side street yard setback is required creating a non-conforming street side yard.

III. The variance, if granted, will not alter the essential character of the locality.

Essential - (vital, necessary, **important**, crucial)

Character - (nature, **quality**, personality, makeup)

Because the fence is chain link, constructing it four (4) feet closer to the street than permitted arguably would not alter the essential character of the neighborhood because the chain link style will not create a visual obstruction and be as imposing as a privacy fence so close to the street right of way.

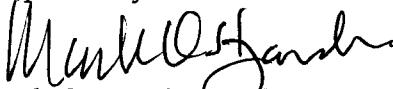
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Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission can consider a recommendation at its November 13, 2014 meeting and the City Council can receive the recommendation for consideration at its November 17, 2014 meeting.

Respectfully submitted,



Mark Ostgarden AICP
City Planner



PINE ST

11TH ST

QUINCY ST

Subject
Property





© 2014 Google
© 2014 Google

Google earth

Google earth

feet 10
meters 3





Fence will be behind
bush line

Variance Request Attachment

Date: October 23, 2014

From: Jan (Janet) Walters, Property Owner

Bridgette Walters, Property Occupant

1103 Quince Street

Brainerd, MN 56401

We are requesting a 6 foot chain link fence for the above noted property for the backyard. Drawing attached.

The reason for the entire backyard to be a 6 foot height is due to the size of the dogs at the residence and the slope of the backyard.

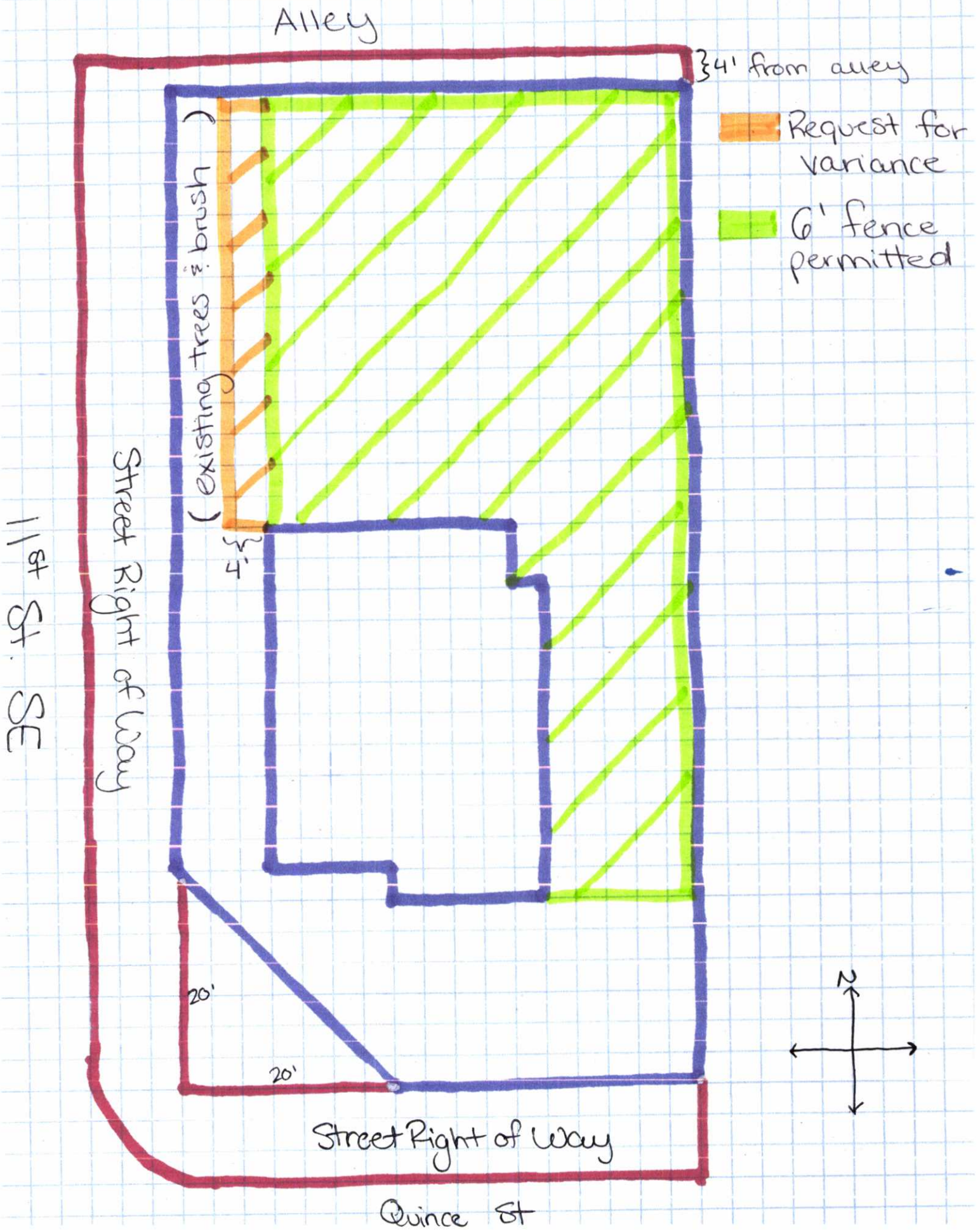
We are requesting the fence is allowed to be near the tree line on the street side of the yard.

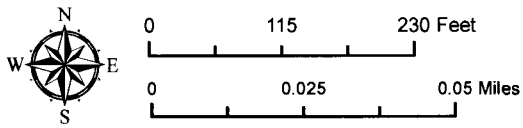
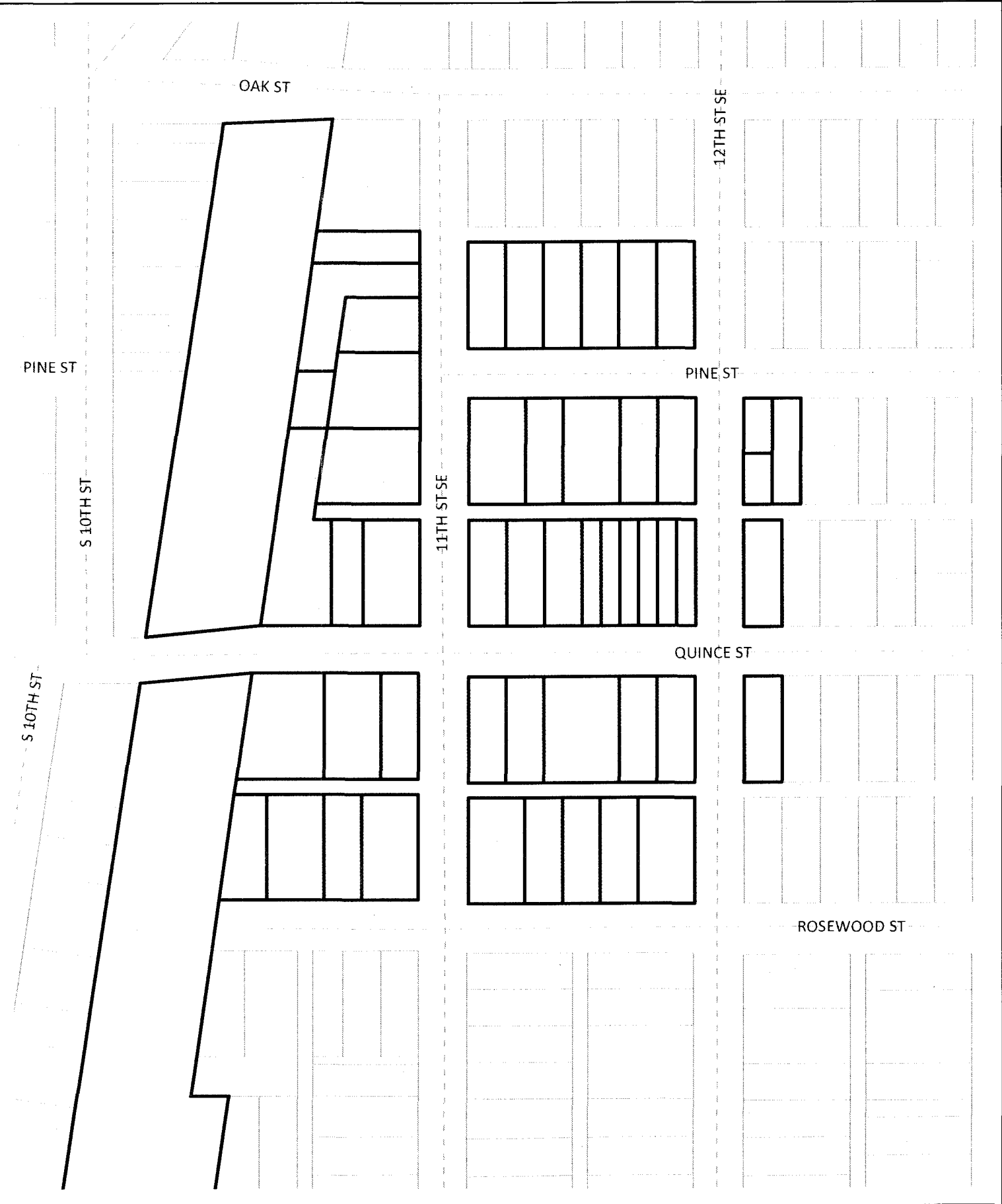
The reasons for this request are:

1. Due to the slope of the backyard, with the slope sharply increasing as you move eastward into the yard, we were told by the fence company that it would be very difficult to put in a fence without moving the fence closer to the street side.
2. The yard is already so narrow that much appreciated usable space would be lost.
3. The existing tree line next to the curb already blocks the view for motorists, so visually the street side would not be changed.
4. This would allow an entrance gate at the southwest point of the backyard.
5. It would be easier to maintain this area vs. having a narrow strip outside of the fence to maintain.

Should we not be able to get the fence installed this fall due to the ground freezing, we are hoping you will allow us to complete the fence in the spring.

Thank you for your thoughtful consideration.





VARIANCE - 1103 QUINCE ST

APPRCL	TXNAME	TXADR1	TXADR2	PHYSADDR
09174007011Z009	ADAMS, VERNONA R	1101 PINE ST	BRAINERD, MN 56401	1101 PINE ST
09174019004Z009	AMES, LINNEA	1017 ROSEWOOD ST	BRAINERD, MN 56401	1017 ROSEWOOD ST
09174018010Z009	BLISS, JEAN M	1101 ROSEWOOD ST	BRAINERD, MN 56401	1101 ROSEWOOD ST
09174008009D009	BOCK, ERIC L	618 11TH ST SE	BRAINERD, MN 56401	618 11TH ST S
09174018015Z009	BOYER, DANNY W	1106 QUINCE ST	BRAINERD MN 56401	1106 QUINCE ST
091740090010009	BRAINERD HOUSING & REDEVELOPMENT AUTHOR	324 EAST RIVER RD	BRAINERD, MN 56401	714 12TH ST SE
091740090020009	BRAINERD HOUSING & REDEVELOPMENT AUTHOR	324 EAST RIVER RD	BRAINERD, MN 56401	716 12TH ST SE
091740090030009	BRAINERD HOUSING & REDEVELOPMENT AUTHOR	324 EAST RIVER RD	BRAINERD, MN 56401	
091740090040009	BRAINERD HOUSING & REDEVELOPMENT AUTHOR	324 EAST RIVER RD	BRAINERD, MN 56401	1113 QUINCE ST
091740090050009	BRAINERD HOUSING & REDEVELOPMENT AUTHOR	324 EAST RIVER RD	BRAINERD, MN 56401	1115 QUINCE ST
091740090060009	BRAINERD HOUSING & REDEVELOPMENT AUTHOR	324 EAST RIVER RD	BRAINERD, MN 56401	
09174018006Z009	BRAVERMAN, DAVE	1113 ROSEWOOD ST	BRAINERD, MN 56401	1113 ROSEWOOD ST
09174010014Z009	BUDROW, GOVINDA D MAKOWSKI	1206 PINE ST	BRAINERD, MN 56401	1206 PINE ST
09174010011Z009	CHRISINGER, LEE H & JANIS E	9194 TIFFANY WAY	BRAINERD, MN 56401	1203 QUINCE ST
060360000A00009	CITY OF BRAINERD	501 LAUREL ST	BRAINERD, MN 56401	
060360000A00009	CITY OF BRAINERD	501 LAUREL ST	BRAINERD, MN 56401	
09174008009H009	CLOUGH, KATHRYN & ROBERT	712 S 11TH ST	BRAINERD MN 56401	712 11TH ST S
09174009016Z009	CUNNINGHAM, IRENE & DONALD MEININGER	1110 PINE STREET	BRAINERD, MN 56401	1110 PINE ST
09174008009C009	DEVRIES, DARREN JAY	614 11TH ST S	BRAINERD, MN 56401	614 11TH ST S
09174018008Z009	ELKINS, MARK K & NANCY S	1107 ROSEWOOD ST	BRAINERD MN 56401	1107 ROSEWOOD ST
09174007001Z009	HOGGARTH, GRETCHEN J	1123 PINE ST	BRAINERD MN 56401	1123 PINE ST
09174008001X009	JOHNSON, RICHARD	1019 QUINCE STR	BRAINERD MN 56401	1019 QUINCE ST
09174007009Z009	LANE, WANDA KAY	1107 PINE ST	BRAINERD, MN 56401	1107 PINE ST
09174018017Z009	LEE, LAWRENCE L & CHRISTINE LEE	5418 FAIRVIEW RD	BAXTER, MN 56425	1112 QUINCE ST
09174018013Z009	LINDROTH, JOEL	9120 DOUBLE DIAMOND PKWY #7	RENO, NV 89521	1104 QUINCE ST
09174008009E009	LORIMOR, DIANNA C	16380 BIRCHWOOD LN	BRAINERD, MN 56401	624 11TH ST S
09174009007Z009	LORIMOR, DIANNA C	16380 BIRCHWOOD LN	BRAINERD, MN 56401	1109 QUINCE ST 1 & 2
091740090090009	LORIMOR, DIANNA C	16380 BIRCHWOOD LN	BRAINERD, MN 56401	1107 QUICE ST 1 & 2
09174009018Z009	LORIMOR, DIANNA C	16380 BIRCHWOOD LN	BRAINERD, MN 56401	1114 PINE ST
09174017013Z009	MANZANO, ANNETTE MARIE	1204 QUINCE ST	BRAINERD, MN 56401-4258	1204 QUINCE ST
09174019011Z009	MOORES PROPERTIES, INC	605 LAUREL ST	BRAINERD, MN 56401	1010 QUINCE ST
09174008004Z009	MURPHY, MICHAEL C REV LIVING TRUST	8371 GREENWOOD RD	BAXTER, MN 56425	1017 QUINCE ST
09174009023Z009	NELSON, RICHARD A	1124 PINE ST	BRAINERD, MN 56401	1124 PINE ST
09174007003Z009	OANES, NATHAN R & JAMIE STATSWELL	1115 PINE ST	BRAINERD, MN 56401	1115 PINE ST
09174008005Y009	OLSON, TERRY L	1013 QUINCE ST	BRAINERD MN 56401	1013 QUINCE ST
09174019015Z009	PAPLOW, DWANA C	1020 QUINCE ST	BRAINERD, MN 56401	1020 QUINCE ST
09174009013Z009	PEARSON, DONNA M	1106 PINE ST	BRAINERD MN 56401	1106 PINE ST
09174019009Z009	PICKAR, RICK J & LINDA L	9968 ST MATHIAS RD	BRAINERD, MN 56401	1001 ROSEWOOD ST
09174019018Z009	PUERINGER, DAVID F PUERINGER INVEST	616 1/2 FRONT ST	BRAINERD, MN 56401	1024 QUINCE ST
09174007007Z009	RADKE, VESTA	1109 PINE ST	BRAINERD, MN 56401	1109 PINE ST
09174010013V009	SCHLIEK, DAVID D & VICKI	13308 KNOLLWOOD DR	BAXTER, MN 56425	1202 PINE ST
09174008009F009	TAX FORFEITED	326 LAUREL ST	BRAINERD, MN 56401-3590	

VARIANCE - 1103 QUINCE ST

APPRCL	TXNAME	TXADR1	TXADR2	PHYSADDR
09174008009G009	TAX FORFEITED	326 LAUREL ST	BRAINERD, MN 56401-3590	
09174018001Z009	TOPETE, MARIO & ALISHA E	1123 ROSEWOOD ST	BRAINERD, MN 56401	1123 ROSEWOOD ST
09174009011Z009	WALTERS, JANET S REV TRUST AGR	1895 WEST GULL RIVER RD SW	PILLAGER, MN 56473	1103 QUINCE ST
09174018023Z009	WELZANT, GENE	1124 QUINCE ST	BRAINERD MN 56401	1124 QUINCE ST
09174018004Z009	WHIRLEY, JAMES A AND SAMANTHA L CHRISTOPH	7744 STATE HWY 25	BRAINERD, MN 56401	1115 ROSEWOOD ST
09174019001Z009	WIBLE, MERRICA J & DAVID C MAKI	1023 ROSEWOOD ST	BRAINERD, MN 56401	1023 ROSEWOOD ST
09174019006Z009	WILT, DAVID A & JOYCE I & RICHARD E	5389 PIONEER TRL	BRAINERD MN 56401	1013 ROSEWOOD ST
09174010013W009	WILT, RICHARD & JOYCE & DAVE	5389 PIONEER TRAIL	BRAINERD, MN 56401	711 12TH ST SE
09174007005Z009	WOITALLA, CLARENCE P & PHYLLIS	515 W 7T ST N	PILLAGER, MN 56473	1113 PINE ST
09174018021Z009	ZEIEN, LUCINDA	1122 QUINCE ST	BRAINERD MN 56401	1122 QUINCE ST
09174009021Z009	ZETAH, DON & JANE	13420 SW 11TH AVE	PILLAGER, MN 56473	1120 PINE ST

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Janet Walters, 1895 W Gull River Rd SW, Pillager, MN 56473, has submitted a variance request for the property located at 1103 Quince Street to install a six and one half (6-1/2) foot tall fence on the west side of the property from the side of the house out four (4) feet towards 11th Street SE where only a four (4) foot tall fence is allowed. See the attached site plan for fence location. In order to construct the fence, a variance from the following City of Brainerd Zoning Ordinance requirements is requested:

515-19-7: Fences; Height:

- A. Fences may be located in any yard up to a height of four (4) feet.
- B. Except as prohibited by Section 515-19-7 E, a fence up to six and one half (6-1/2) feet high may be erected from a line extended from the front façade of the principal building to the side lot lines, and then along the side lot lines and the rear lot line.

The property is legally described as follows:

Lots 11 & 12 Block 9, 2nd Addition to Brainerd

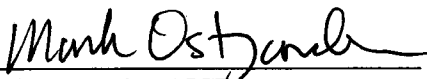
P.I.N. No. 09174009011Z009

Section 25 Township 45 Range 31

Notice is further given that the Planning Commission of the City of Brainerd will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., Wednesday, November 12, 2014 to consider the request for the Variance.

Any individual needing special accommodations please call (218) 828-2309.

Dated this 29th day of October, 2014


Mark Ostgarden AICP
City Planner



City Planning Department

City Hall – 501 Laurel Street
Brainerd, MN 56401
218-828-2309/Fax 218-828-2316
www.ci.brainerd.mn.us

Receipt # 9116
Check # 1223
Date Paid: 10-23-14

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

NATURE OF REQUEST (please check)

CONDITIONAL USE PERMIT (\$190.00) REZONING (\$250.00) VARIANCE (\$220.00)

PROPERTY ADDRESS: 1103 Quince Street Brainerd, MN.

LEGAL DESCRIPTION: Lot(s): _____ Block: _____ Addition: _____
(attach description if lengthy)

Property Owner Name: Janet Walters

Street Address: _____ City: _____ State: _____ Zip Code _____

Phone Number: _____ Fax: _____ E-mail: _____

Applicant Name: (If different than Property Owner) _____

Street Address: 1895 W. Bull River Rd (SW) City: Pillager State: MN Zip Code: 56401

Phone Number: 218 838 1877 Fax: _____ E-mail: _____
218 746 3346

Description of Request: Requesting a variance on a 6' chain link fence to extend 4 feet west of the permitted area. See attached drawing.

[Signature]
Property Owner Signature

10-23-14
Date

Janet S Walters
(Please print name)

[Signature]
Applicant Signature

10-23-14
Date

Bridgette Walters
(Please print name)

AGENCY REVIEW CHECKLIST

Your request may require review by one or more of the agencies listed below. The City of Brainerd will determine which agencies will need to review your application and provide that agency with the notice of public hearing regarding your application:

BRAINERD FIRE DEPARTMENT

Attn: Kevin Stunek, Fire Chief; 23 Laurel St; Brainerd, MN 56401; 218-828-2312; kstunek@ci.brainerd.mn.us

BRAINERD POLICE DEPARTMENT

Attn: Corky McQuiston, 225 East River Road; Brainerd, MN 56401; 218-829-2805; corky.mcquiston@ci.brainerd.mn.us

BRAINERD PUBLIC UTILITIES

Attn: Scott Magnuson, Supt.; P.O. Box 373; Brainerd, MN 56401; 218-829-8726; smagnuson@bpu.org

BWSR (MN Board of Water and Soil Resources)

Attn: John Overland; 1601 Minnesota Dr; Brainerd, MN 56401; 218-828-2383; john.overland@state.mn.us

CROW WING COUNTY HIGHWAY DEPARTMENT

Attn: Tim Bray, County Engineer; 16589 County Rd 142; Brainerd, MN 56401; 218-824-1110/FAX 218-824-1111
tim.bray@crowwing.us

CROW WING COUNTY SOIL AND WATER CONSERVATION DISTRICT

Attn: Melissa Barrick; 322 Laurel St-Ste. 13; Brainerd, MN 56401; 218-828-6197/FAX 828-6095
melissa.barrick@crowwingswcd.us

CROW WING COUNTY SURVEYOR'S OFFICE

Attn: Mark Liedl; 322 Laurel St Ste 14.; Brainerd, MN 56401; 218-824-1124/FAX 824-1126;
mark.liedl@crowwing.us

HRA

Attn: Jennifer Bergman; 324 E. River Rd.; Brainerd, MN 56401; 218-828-3705/FAX 828-8817;
jennifer@brainerdhra.org

MISSISSIPPI HEADWATERS BOARD

322 Laurel Street Ste 5; Brainerd, MN 56401; 218-824-1307/FAX 824-1104
mhb@mississippiheadwaters.org

MINNESOTA DEPARTMENT OF TRANSPORTATION

Attn: Mary Safgren; 7694 Industrial Park Rd.; Baxter, MN 56425; 218-828-5700; mary.safgren@state.mn.us

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

Attn: Wade Miller; 1601 Minnesota Dr.; Brainerd, MN 56401; 218-828-2605/FAX 828-6043;
wade.miller@state.mn.us

MINNESOTA POLLUTION CONTROL AGENCY

Attn: Reed Larson; 7678 College Rd-Ste. 105; Baxter, MN 56425; 218-828-2492/FAX 828-2594
Reed.Larson@state.mn.us

U.S. ARMY CORPS OF ENGINEERS

Attn: Jeff Koshak; 8896 E. Gull Lake Dr.; Brainerd, MN 56401; 218-829-8402

STAFF REPORT TO THE PLANNING COMMISSION

November 6, 2014

APPLICANT/LOCATION: Kuepers Inc.; 17018 Commercial Park Road, Brainerd, MN 56401 for the Tyrol Hills Center owned by Gustafson Properties of Brainerd LLC, 206 Washington Street, Brainerd, MN 56401

PROPOSED USE: Variance to reduce the number off street parking spaces at the Tyrol Hills Center (the Center).

PARCEL AREA/
BUILDING AREA: 2.1 acres and 40,000+/- square feet

CURRENT ZONING: B-4 (General Commercial) District

ADJACENT USES: North: One commercial use building and vacant land
East: Residential/Vacant
South: Public school - Riverside Elementary
West: Commercial

ADJACENT ZONING: North: B-4 (General Commercial) District
East: R-1A (Single Family Residential) District and B-2 Neighborhood Business District
South: R-3 Multifamily Residential) District and B-4 (General Commercial) District
West: B-4 (General Commercial) District

REPORT

The property is a nonconforming use in that one hundred two (102) off-street parking spaces are provided and one hundred sixty six (166) spaces are required by the City of Brainerd Zoning Ordinance. The property owner is planning building exterior improvements resulting in a request that eight (8) off-street parking spaces be removed reducing the total off-street parking to ninety four (94) spaces.

Criteria for Granting Variances

A. Variances shall only be permitted:

When they are in harmony with the general purposes and intent of the ordinance. Following is the Intent and Purpose section of the Zoning Ordinance:

A. Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.

- B. *This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.*
- C. ***Protect neighborhoods.***
- D. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
- E. *Provide adequate light, air, and convenience of access to property.*
- F. ***Prevent congestion in the public right-of-way.***
- G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. *Protect and preserve the natural environment of the City.*
- I. *Encourage the protection of historic and aesthetic resources in the City.*
- J. *Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. *Provide for compatibility of different land uses.*
- L. *Provide for administration of this Ordinance.*
- M. *Provide for amendments.*
- N. *Prescribe penalties for violation of such regulations.*
- O. *To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

Granting the variance to remove eight (8) spaces will be in harmony with:

- ***Protect(ing) neighborhoods.***
- ***Prevent(ing) congestion in the public right-of-way.***

The neighborhood will remain protected as historical use has shown there is ample on-site parking to meet the day to day needs of the Center uses. Removing the spaces will still leave an ample supply of parking, sufficient to meet the day to day user needs without parking on the street or affecting street circulation.

When the variance is consistent with the Comprehensive Plan.

It is difficult to establish a relationship between the Comprehensive Plan and this variance.

- B. **Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.**

Subdivision 4. "Practical Difficulties", as used in connection with the granting of a variance means that:

- I. ***The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;***

The Center has become a mix of office and retail use. The parking area has more than sufficient parking for typical day to day needs. Based upon the number of off-street parking spaces, removal of eight (8) spaces will still permit the property to be used in a reasonable manner without creating parking issues for surrounding property.

II. The plight of the landowner is due to circumstances unique to the property not created by the landowner;

It is difficult to identify unique circumstances associated with the property.

III. The variance, if granted, will not alter the essential character of the locality.

Removing eight (8) spaces from the one hundred two (102) parking space lot should will not alter the essential character of the locality because historical use has proven that it should not result in more on street parking.

Removal of eight (8) spaces will occur near the Center building as part of exterior building improvements and no other changes are planned to the parking lot therefore not altering the essential character of the locality. The exterior building improvements will have a positive effect on the essential character of the locality (however this is not part of the variance).

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission can consider a recommendation at the November 12, 2014 meeting and the City Council would receive the recommendation for consideration at its November 17, 2014.

Respectfully submitted,



Mark Ostgarden AICP
City Planner

Tyrol Hill Variance Request

The owners of Tyrol Hills Center are requesting a variance to reduce the required number of parking stalls to the existing number minus eight.

The request for eight less is a result of designing a covered entry for the new location of the chamber of commerce that will accommodate Paul and Babe. This will give the chamber a new look and a place to enjoy the statues without reducing the width of the existing sidewalk.

In preparing the design, we discovered the center is short of parking. We offer the following uses, square footages and required parking counts.

	USE	SQFT	SQFT/STALL	#OF STALLS REQ
Lakes Area Restorative Justice	Office	1926sqft	200	10
Public TV	Office	1650sqft	200	9
Chamber of Commerce	Office	5200sqft	200	26
Service Drug	Retail	3190sqft	200	16
	Storage	350 sqft	500	1
ACE Hardware	Retail	10625 sqft	200	54
	Storage	1875 sqft	500	4
Pet North	Retail	3500 sqft	200	18
	Storage	1000 sqft	500	2
Medical Supply	Retail	4000 sqft	200	20
	<u>Storage</u>	<u>3000 sqft</u>	<u>500</u>	<u>6</u>
Total				166

Service Drug and Brainerd Medical Supply both serve the public with walk-in retail as well as delivery to the customer's home.

Ace Hardware specializes in short quick turnarounds for their customer visits.

These unique factors combine to reduce the actual need for parking at this center.

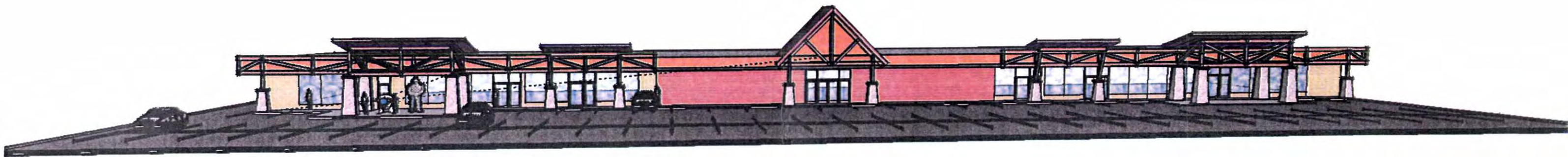


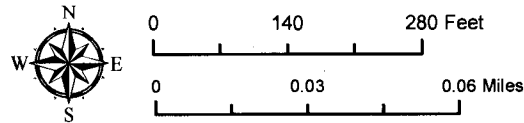
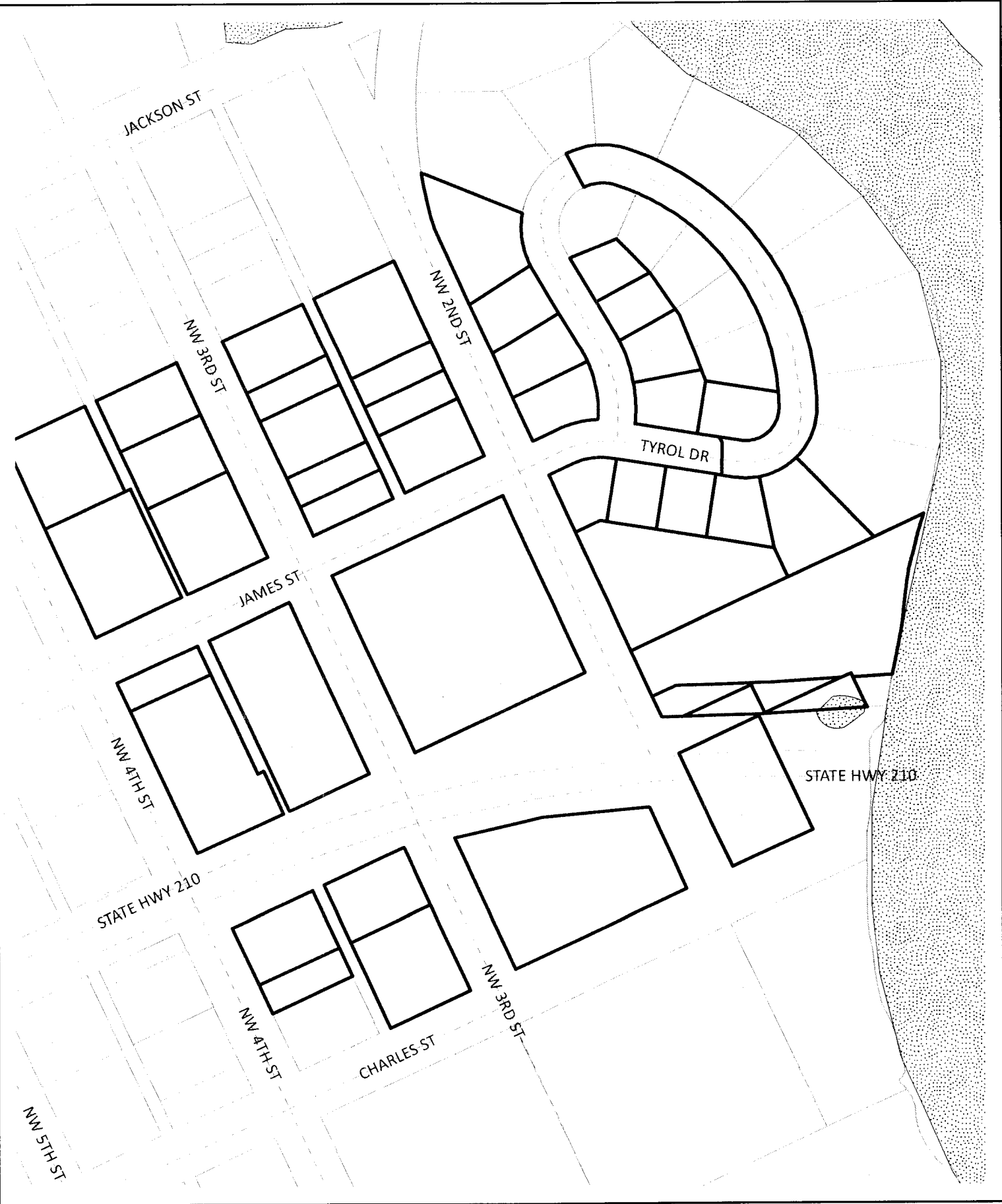
Parking to
be removed



Kuepers Inc., Architects & Builders
17018 Commercial Park Road
Brainerd, MN 56401
MN LIC BC002599 WI LIC 995506

Celebrating 40 years! 1974-2014





VARIANCE - 206 W WASHINGTON ST

APPRCL	TXNAME	TXADR1	TXADR2	TXADR3	PHYSADDR
09197001017Z009	BANK OF AMERICA NA	7105 CORPORATE DR	MAIL STOP: TXC-982-03-02	PLANO, TX 75024	468 TYROL DR
091970020070009	BUCK, ROLLIN R & LINDA E	461 TYROL DR	BRAINERD MN 56401		461 TYROL DR
09197001015Z009	BURTON, KATHERINE M, TRUSTEE BURTON	462 TYROL DR	BRAINERD, MN 56401		462 TYROL DR
091970010190009	DAVIS, JAMES L	470 TYROL DR	BRAINERD, MN 56401		470 TYROL DR
09197001016Z009	EGAN, BEVERLY R LIVING TRUST	466 TYROL DR	BRAINERD, MN 56401		466 TYROL DR
0919800F009Z889	ERICKSON, DAVID A & KEVIN L ERICKSON	12807 BLUEBIRD ST	COON RAPIDS, MN 55448		510 4TH ST NW
09197002008Z009	FARGO, MATTHEW R & NICOLE E	469 TYROL DR	BRAINERD, MN 56401		469 TYROL DR
091970009010009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
091970010010009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
0919800E001Z009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		501 2ND ST NW
0919800E0030009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		509 2ND ST NW
0919800E0040009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
0919800E005Z009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
0919800E007Z009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
0919800E0080009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
0919800E009Z009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
0919800E0110009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
0919800E0120009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		214 JAMES ST
0919800F006Z009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
09198036003X009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		
09198056001Y009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401		TYROL DR
09198038001Z009	IND SCHOOL DIST, # 181	804 OAK ST	BRAINERD, MN 56401		205 W WASHINGTON ST
091970010030009	JOHNSON, JEREMY L & KARI L	428 TYROL DR	BRAINERD, MN 56401		428 TYROL DR
09198040001Z009	KUMMET, LLOYD G 2009 LIVING TRUST	C/O RICHARD KUMMET	1820 S 8TH ST	BRAINERD, MN 56401	309 3RD ST NW
091970010020009	LAMBERT, MICHAEL & JANICE	426 TYROL DR	BRAINERD MN 56401		426 TYROL DR
0919800F001Z009	MATTSON, FRANK	P O BOX 137	BRAINERD, MN 56401		
091970020100009	O'GRADY, KEVIN J & JILL R	471 TYROL DR	BRAINERD, MN 56401		471 TYROL DR
091970020010009	SELL, DIANA L TRUSTEE OF DIANA SELL	433 TYROL DRIVE	BRAINERD MN 56401		433 TYROL DR
09198036001Z009	STATE OF MINNESOTA DEPT OF TRANS	395 JOHN IRELAND BLVD	MAILSTOP 631 (DP)	ST PAUL MN 55155	
09198040008Z009	TT OF BRAINERD LLC	13754 TWO MILE RD	BRAINERD, MN 56401		305 W WASHINGTON ST
091980400100009	TT OF BRAINERD LLC	13754 TWO MILE RD	BRAINERD, MN 56401		
09198040004Z009	TUOMI, NATE	18441 STATE HWY 371	BRAINERD, MN 56401		303 W WASHINGTON ST
09198058001Z009	WALGREEN COMPANY	PO BOX 1159	DEERFIELD, IL 60015		324 W WASHINGTON ST
09198058001Z009	WALGREEN COMPANY	PO BOX 1159	DEERFIELD, IL 60015		324 W WASHINGTON ST
091980580070889	WALGREEN COMPANY	PO BOX 1159	DEERFIELD, IL 60015		422 4TH ST NW
09197002008Y009	WEIK, JANICE J	465 TYROL DR	BRAINERD, MN 56401		465 TYROL DR
091970010040009	WHEELER, R MICHAEL	432 TYROL DR	BRAINERD MN 56401		430 TYROL DR
091970010050009	WHEELER, R MICHAEL	432 TYROL DR	BRAINERD, MN 56401		432 TYROL DR
0919800F007Y009	WILLIAMS, CRAIG E & CLARE D	22765 HOLE IN THE DAY DR	NISSWA, MN 56468		
0919800F004Z009	WILT, JOYCE & DAVID A	5389 PIONEER TRL	BRAINERD, MN 56401		

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Kuepers Inc, 17018 Commercial Park Rd, Brainerd, MN 56401, has submitted a variance request for the Tyrol Hills Center, Gustafson Properties of Brainerd LLC, 206 W Washington Street. The property is a nonconforming use in that 102 off-street parking spaces are provided and 166 off-street parking spaces are required by the City of Brainerd Zoning Ordinance. The property owner is planning building exterior improvements resulting in a request that eight (8) off-street parking spaces be removed reducing the total off-street parking to 94 spaces. A variance from the following City of Brainerd Zoning Ordinance requirements is requested:

515-22-8: Number of Spaces Required:

- V. Office Buildings, Animal Hospitals and Clinics, Professional Offices and Medical Clinics. One (1) space for each two hundred (200) square feet of floor area.
- BB. Retail Sales and Service Business with Fifty (50) Percent or More of Gross Floor Area Devoted to Storage, Warehouses and/or Industry. At least eight (8) spaces or one (1) space for each two hundred (200) square feet devoted to public sales or service, plus one (1) space for each five hundred (500) square feet of storage area.

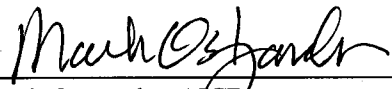
The property is legally described as follows:

Lots 1 thru 12 Inclusive Block 56 & the S'ly 10 ft of James Street between NW Second Street and NW Third Street (Located in Block 56 West Brainerd) Subject to Easement of Record & All of Vacated Alley in Block 56, West Brainerd
P.I.N. No. 09198056001Y009
Section 4 Township 133 Range 28

Notice is further given that the Planning Commission of the City of Brainerd will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., Wednesday, November 12, 2014 to consider the request for the Variance.

Any individual needing special accommodations please call (218) 828-2309.

Dated this 29th day of October, 2014



Mark Ostgarden AICP
City Planner

**City Planning Department**

City Hall – 501 Laurel Street
Brainerd, MN 56401
218-828-2309/Fax 218-828-2316
www.ci.brainerd.mn.us

Receipt #	9117
Check #	2778
Date Paid:	10/24/14

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

NATURE OF REQUEST (please check)

CONDITIONAL USE PERMIT (\$190.00) REZONING (\$250.00) **VARIANCE (\$220.00)**

PROPERTY ADDRESS: Washington Street 206 N Washington PID 0919805600N/009

LEGAL DESCRIPTION: Lot(s): 1-12 Block: 56 Addition: Acres West Brainerd
(attach description if lengthy)

Property Owner Name: Gustafson Properties of Brainerd, LLC

Street Address: 304 E. River Road, Suite 2 **City:** Brainerd **State:** MN **Zip Code:** 56401

Phone Number: 218-831-6551 **Fax:** **E-mail:** laker4@charter.net

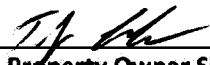
Applicant Name: (If different than Property Owner) Mark Cross, Kuepers Inc. , Architects & Builders

Street Address: 17018 Commercial Park Road **City:** Brainerd **State:** MN **Zip Code:** 56401

Phone Number: 218-829-0707 **Fax:** 218-829-0383 **E-mail:** markcc@kuepers.com

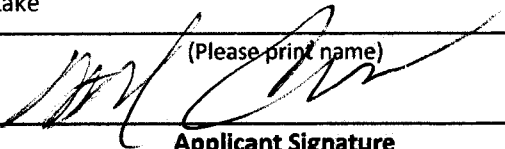
Description of Request:

Requesting a variance to reduce the required parking to existing lot, less 8 stalls for a total of 94 stalls. This request will allow for new canopies at each end of the building (see attached drawings) so Paul & Babe can be displayed outside the Chamber office.


Property Owner Signature

T. J. Lake

10/24/14
Date


(Please print name)

Applicant Signature

Mark Cross

10/24/14
Date

(Please print name)

(OVER)

STAFF REPORT TO THE PLANNING COMMISSION

November 3, 2014

APPLICANT/LOCATION: Kimley Horn; 2550 & University Dr.; St. Paul, MN 55114
for property owned by Nathan Tuomi; 188441 State
Highway 371; Brainerd, MN 56401

PROPOSED USE: Fast food restaurant with drive up window

PARCEL AREA/ 14,000 square feet (140' X 100')
BUILDING SIZE (1,733) square feet not including an attached cooler

CURRENT ZONING: B-4 (General Commercial) District

ADJACENT USES: North: Commercial
East: School
South: Commercial
West: Commercial

ADJACENT ZONING: North: B-4 (General Commercial) District
East: R-3 (Multi-Family Residential) District
South: B-4 (General Commercial) District
West: B-4 (General Commercial) District

REPORT

Dunkin Donuts is planning a store at the southwest corner of Washington Street (Hwy 210) and NW 3rd Street. It is the current site for an auto glass repair shop and is across NW 3rd Street from Riverside Elementary School. Restaurants with drive up windows are permitted uses in a B-4 District. Variances from setbacks, off street parking requirements and screening requirements are being requested.

SITE PLAN

The corner lot is approximately fourteen thousand (14,000) square feet with one hundred forty (140) feet of frontage on Washington Street. The store will be one thousand seven hundred thirty-three (1,733) square feet, not including an attached cooler. To help put the site and building into perspective, Jimmy John's site is seventeen thousand two hundred forty-three (17,243) square feet south of the alley and the store is approximately one thousand nine hundred thirty-eight (1,938) square feet. Attached is a site plan and aerial of the Jimmy John's site. The Dunkin Donuts site will have a drive up window and seating for seventeen (17) to nineteen (19).

VARIANCES

Front Yard Setback

Zoning Ordinance Section 515-63-7: Lot Area and Setback Requirements read:

Front Yard Setback – 30 feet

The building cooler will extend two and seven tenth ($2\frac{7}{10}$) feet into the required front yard along NW 3rd Street.

Off Street Parking - Required Spaces

The site is proposed to have eleven (11) off-street parking spaces. *Zoning Ordinance Section 515-22-8: Number of Spaces Required reads:*

AA. Restaurants, Fast Food. Fifteen (15) spaces per one thousand (1,000) square feet of gross floor area.

Based on this standard twenty-six (26) off street spaces are required.

Off Street Parking – Dimensional Standards

Zoning Ordinance Section 515-22-5: Parking Surface Design Standards reads:

A. Parking Area Standards. Parking areas and the aisles shall be developed in compliance with the following standards:

Angle of Parking (A)	Stall Width (B)	Curb Length Per Car (C)	Stall Length (D)	Stall Depth Wall to Aisle (E)	Stall Depth Interlock to Aisle	Aisle One Way (F)	Aisle Width Two Way (F)
90°	10' 0"	10' 0"	18' 0"	18' 0"	18' 0"	24' 0"	24' 0"
75°	10' 0"	9' 6"	18' 0"	20' 8"	19' 10"	21' 6"	23' 0"
60°	10' 0"	10' 5"	18' 0"	21' 0"	19' 10"	18' 0"	22' 0"
45°	10' 0"	12' 9"	18' 0"	19' 10"	17' 10"	15' 0"	22' 0"
0°	10' 0"	22' 0"	22' 0"	9' 0"	9' 0"	12' 0"	24' 0"

Following are the required and proposed dimensional standards:

	Required	Proposed
45° Parking Space Width	10'	9'
Parallel Parking Stall Width	10'	8'
Parallel Parking Stall Length	22'	21'
One Way 45° Parking Aisle Width	15'	14'
One Way Drive Lane Aisle Width	12'	11'
Drive Up Window Lane Aisle Width	11'	9'

Drive-Up Window and Drive-Up Window Screening

The drive-up window and drive-up window lane will be visible from the residential zoning district across NW 3rd Street and the rights of way of NW 3rd Street and Washington Street. Zoning Ordinance Section 515-63-3: Accessory Uses. reads:

Drive-up service facilities provided that:

The drive-up window and its stacking lanes shall be screened from view of adjoining residential zoning districts and public street rights-of-way.

CRITERIA FOR GRANTING VARIANCES

A. ***Variances shall only be permitted:***

When they are in harmony with the general purposes and intent of the ordinance. Following is the Intent and Purpose section of the Zoning Ordinance:

- A. *Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
- B. *This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.*
- C. *Protect neighborhoods.*
- D. ***Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.***
- E. *Provide adequate light, air, and convenience of access to property.*
- F. ***Prevent congestion in the public right-of-way.***
- G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. *Protect and preserve the natural environment of the City.*
- I. *Encourage the protection of historic and aesthetic resources in the City.*
- J. *Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. ***Provide for compatibility of different land uses.***
- L. *Provide for administration of this Ordinance.*
- M. *Provide for amendments.*
- N. *Prescribe penalties for violation of such regulations.*
- O. *To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

The following Zoning Ordinance general purpose objectives appear to apply to this application:

- *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
- *Provide for compatibility of different land uses.*
- *Prevent congestion in the public right-of-way.*

Granting the variance would permit the property to be redeveloped, which would be consistent with orderly development objectives and the reuse would be compatible as other uses in the area are commercial in nature.

The site is just east of one of the busiest intersections in the community. The distance between the NW 4th Street/Washington Street intersection and the W Washington Street site entrance is about two hundred twelve (212) feet. The morning “rush” creates significant traffic that will be affected by the traffic entering/exiting this site.

MNDOT was consulted about whether it has concerns for this type of traffic generator and attached is its response.

When the variance is consistent with the Comprehensive Plan.

LAND USE GOAL #5: *Support development that enhances community character and identity.*

Strategy

Support the redevelopment of vacant and abandoned sites within the urban core.

B. Subdivision 4. “Practical Difficulties”, as used in connection with the granting of a variance means that:

- I. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;** The store will have seating for eighteen (18) people and eleven (11) onsite parking spaces. Considering five (5) employees per shift, that will leave six (6) customer onsite parking spaces. The site in the morning will be congested with drive up, take out and eat in customer vehicles and parking. There will be a limited lunch menu, however the amount of traffic at the site should drop off significantly after the morning rush.

Off-street parking dimensional requirements have each been reduced by one (1) foot except for the drive up lane width

that has been reduced by two (2) feet. The Engineering Department was part of the discussions with Dunkin Donuts site engineers related to site redevelopment limitations. The only concern mentioned was there could be a tight aisle turning radius for a large vehicle or a vehicle with a trailer.

II. The plight of the landowner is due to circumstances unique to the property not created by the landowner;

The site is fourteen thousand (14,000) square feet in area. Ninety (90) degree parking with a two way drive aisle requires sixty three (63) feet of width from the property line and one way forty five (45) degree angle parking requires thirty-eight (38) feet from the property line. The one hundred (100) foot north/south lot depth and the twenty (20) foot building setback from Washington Street creates a situation where off street parking is difficult north and south on the site.

The parcel size limits the redevelopment potential for the property. Should all setback and off-street parking requirements be met a two thousand three hundred (2,300) square foot building and fourteen (14) parking spaces could be built. A very simple site plan that depicts this scenario is attached.

III. The variance, if granted, will not alter the essential character of the locality.

Requiring less off-street parking than required and reducing dimensional standards by one (1) foot and two (2) feet should not visually alter the character of the locality. The site will be able to be used for commercial purposes and the site can be designed with a building consistent with the character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

PLANNING DEPARTMENT COMMENTS

In III. above, it is suggested that the parking space reduction will not alter the neighborhood character. It will most likely require customers to find parking in adjacent parking lots or on NW 3rd Street. The area is commercially developed and the

presence of more vehicles in parking lots and on the street arguably des not change the neighborhood character.

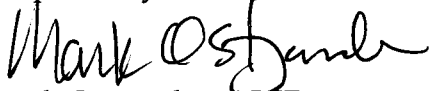
However based on the Zoning Ordinance off street parking requirements for fast food restaurant the site is signifantly deficient in onsite parking. Should the Planning Commission think that such a deviation is too significant an option would be to consider an approval recommendation condition upon the building having no seating.

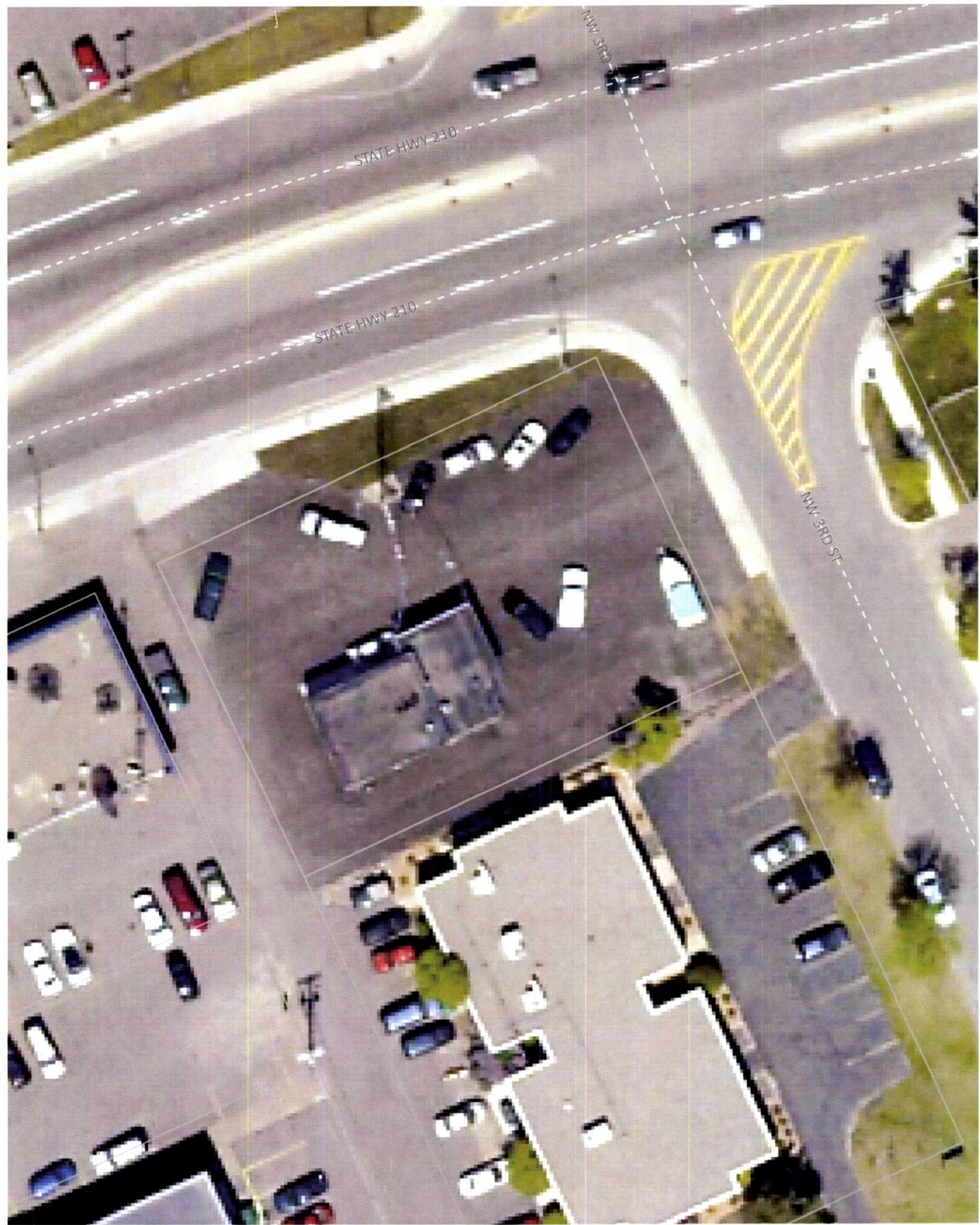
The Planning Commission should also consider whether this type of restaurant should be included with typical fast food restaurants when considering off street parking requirements.

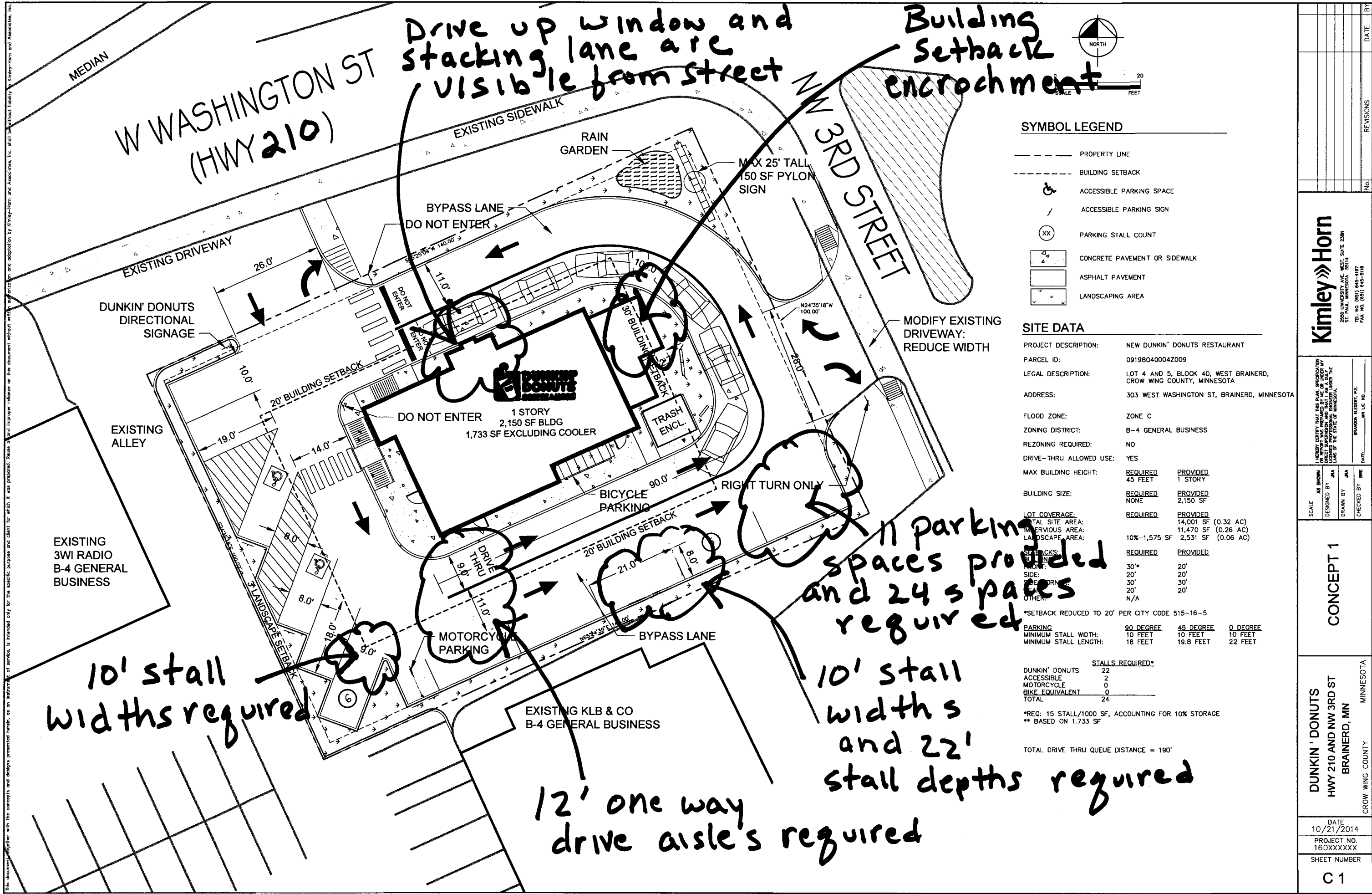
PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission can consider a recommendation at the November 12, meeting and the City Council would receive the recommendation for consideration at its November 17, 2014 meeting.

Respectfully submitted,


Mark Ostgarden AICP
City Planner





SYMBOL LEGEND

- PROPERTY LINE
- BUILDING SETBACK
- ACCESSIBLE PARKING SPACE
- ACCESSIBLE PARKING SIGN
- PARKING STALL COUNT
- CONCRETE PAVEMENT OR SIDEWALK
- ASPHALT PAVEMENT
- LANDSCAPING AREA

SITE DATA

PROJECT DESCRIPTION:	NEW DUNKIN' DONUTS RESTAURANT		
PARCEL ID:	09198040004Z009		
LEGAL DESCRIPTION:	LOT 4 AND 5, BLOCK 40, WEST BRAINERD, CROW WING COUNTY, MINNESOTA		
ADDRESS:	303 WEST WASHINGTON ST, BRAINERD, MINNESOTA		
FLOOD ZONE:	ZONE C		
ZONING DISTRICT:	B-4 GENERAL BUSINESS		
REZONING REQUIRED:	NO		
DRIVE-THRU ALLOWED USE:	YES		
MAX BUILDING HEIGHT:	REQUIRED 45 FEET	PROVIDED 1 STORY	
BUILDING SIZE:	REQUIRED NONE	PROVIDED 2,150 SF	
LOT COVERAGE:	REQUIRED	PROVIDED	
TOTAL SITE AREA:	14,001 SF	(0.32 AC)	
IMPERVIOUS AREA:	11,470 SF	(0.26 AC)	
LANDSCAPE AREA:	10%-1,575 SF	2,531 SF (0.06 AC)	
STALLS:	REQUIRED	PROVIDED	
TOTAL:	22	24	
DUNKIN' DONUTS	22		
ACCESSIBLE	2		
MOTORCYCLE	0		
BIKE EQUIVALENT	0		
TOTAL	24		
*REQ: 15 STALL/1000 SF, ACCOUNTING FOR 10% STORAGE			
** BASED ON 1,733 SF			
TOTAL DRIVE THRU QUEUE DISTANCE = 190'			

Kimley»Horn

250 UNIVERSITY AVE. WEST, SUITE 230N
ST. PAUL, MINNESOTA 55114
TEL: (612) 942-4177
FAX: (612) 942-4178

CONCEPT 1

DUNKIN' DONUTS
HWY 210 AND NW 3RD ST
BRAINERD, MN

CROW WING COUNTY
MINNESOTA

DATE
10/21/2014

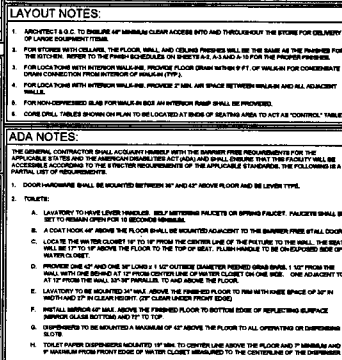
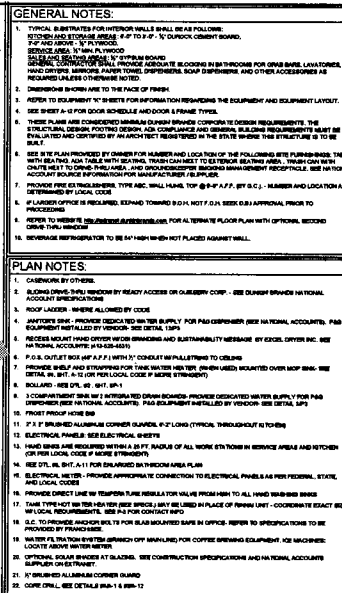
PROJECT NO.
160XXXXXX

SHEET NUMBER
C1

DATE

REVISIONS

BY



00 FRESH BREW 1.0
 DUNKIN' DESIGN GUIDELINES
 FLOOR PLAN, NOTES, &
 PARTITION TYPES

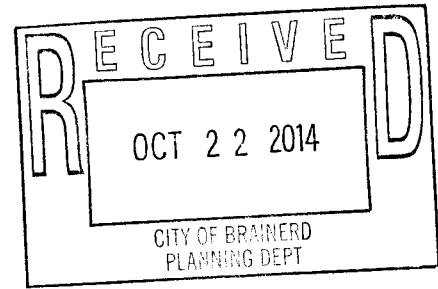
PC NUMBER

4-113

ARCHITECT'S TITLE
 BLOCK & SEAL

REV DESCRIPTION	REV	DATE	DATE
1	INITIAL UPDATE	5-2-13	SCALE
2	REVISION	5-10-13	REVISION
3	REVISION	5-10-13	REVISION
4	REVISION	5-10-13	REVISION
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85	REVISION	5-10-13	REVISION

PARKING & SITE CIRCULATOIN MEMORANDUM VARIANCE REQUEST



To: Mark Ostgarden
Brainerd City Planner

From: Brandon Elegert, P.E.

Date: October 22, 2014

Subject: **Proposed Dunkin' Donuts Restaurant**
303 West Washington Street
Brainerd, MN

INTRODUCTION

The proposed Dunkin' Donuts is located on the southwest corner of West Washington Avenue and NW 3rd Street. This memorandum documents the parking demand calculations utilizing the new land use for the site, and requests a reduction from the City of Brainerd parking supply and dimensional requirements in order to adequately serve the proposed use without over-parking and unnecessarily increasing impervious area.

CITY CODE PARKING SUPPLY CALCULATIONS

Section 515-22 of the City of Brainerd, Minnesota Code of Ordinances requires minimum parking supply of 15 stalls per 1,000 SF of floor area for fast-food restaurants. The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten (10) percent, except when floor plans are submitted that identify net usable floor area of the building exclusive of ancillary floor areas that do not generate parking demand (e.g., stair wells, hallways, restrooms, closets, utility rooms). The net useable floor area of the proposed building is 1,560 SF. Therefore, **23 stalls would be required by City Code.**

DUNKIN' DONUTS PARKING DEMANDS

Dunkin Donuts' has improved their site and building designs to optimize operations, ease of access and customer experience. Building locations are evaluated to have the best lot flow correlation with ingress-egress points, drive-thru and parking requirements. Through a long history of site development, Dunkin' Donuts has found the actual demand equates to one parking stall per table. This building is proposed to have 10 to 12 tables and thus **10 to 12 stalls will be sufficient** for Dunkin' Donuts operations. The number of necessary parking spaces is lower for a Dunkin' Donuts restaurant than that demanded by similar establishments due to the high volume of drive-thru traffic.

Kimley»Horn

Drive-thru traffic is anticipated to be 60% of total traffic initially, with that percentage increasing to up to 75% as the restaurant clientele becomes further established. Initially 40% of the restaurant traffic will park and enter the restaurant. Interpolating the parked vehicles (40%) with the City's parking requirement (23 stalls), **9 parking stalls would be needed.**

To account for the increased drive-thru traffic, a dedicated queue lane has been increased to 190' to allow for 10 cars in the drive thru queue without impeding site circulation.

INSTITUTE OF TRANSPORTATION ENGINEERS (ITE) PARKING DEMANDS

Based on the *Parking Generation, 4th Edition* manual published by ITE, for a "Fast Food with Drive Though Window" with a 95% confidence interval, this land use would require a parking ratio of 8.69 on the weekdays, and a 6.89 parking ratio on the weekends. For a 1,560 usable SF building, this equates to a **14 space weekday requirement and an 11 space weekend requirement.**

MOTORCYCLE, BIKE AND PEDESTRIAN ORIENTED TRAFFIC

A full pedestrian cross walk signalized intersection is located a half a block west at West Washington Street (Highway 371) and NW 4th Street. Sidewalks exist on both sides of West Washington Street (Highway 371) and on the west Side of NW 3rd Street. The restaurant proposes to incorporate convenient pedestrian connectivity and safety on the Site by adding a pedestrian connection to West Washington Street (Highway 371) as well as sidewalk extension on NW 3rd Street. Due in part to the existing and proposed sidewalk system and the expected bicycle trips to the Site, two bike racks with room for 10 bikes will be provided to help encourage alternative transportation. Standards from similar City's equate five bike parking spaces to one vehicular parking space. Therefore the **effective parking for this Site is increased by two stalls** with the addition of parking for 10 bicycles. Similarly, two motorcycle stalls are provided for customer convenience and anticipated store traffic, **increasing the effective parking by two additional stalls, to a total of 15 effective parking stalls.**

PROPOSED SITE & VARIANCE REQUEST

The current ±0.32 acre Site is a vacant auto glass facility. We strongly believe that the redevelopment of the Site with Dunkin' Donuts would have a positive impact on the City and community.

Section 515-7-2 of the City Code allows for variances, *"when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the Comprehensive Plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance."* The applicable Practical Difficulties considerations are as follows, *"The plight of the landowner is due to circumstances unique to the property not created by the landowner; and, the variance, if granted, will not alter the essential character of the locality."*

Kimley»Horn

The below requested variances are in harmony with the general intent of the ordinance, consistent with the Comprehensive Plan. The plight of the landowner is due to the physical site area constraints and not created by the landowner. The variances requested are minor deviations from the City Code, requested in order to maximize the Site safety and efficient circulation, and will not alter the essential character of the locality.

The practical difficulty of the Site is simply the physical site area constraints. Safe and efficient circulation is an upmost priority. A traffic control and snow storage median has been provided on the west side of the Site. With that, the cooler portion of **the building encroaches 3 feet into the building setback** from NW 3rd Street. A variance is requested such that the safety and efficient circulation of the Site can be maintained.

Focusing on safety and circulation, one-way traffic, split from the western alley, with an extra queue lane has been proposed. Due to existing site constraints, **the 45° stalls on the west side of the Site are proposed at nine feet wide as opposed to 10 foot wide stalls as referenced in the City Code. The five parallel stalls south of the building are proposed at eight feet by 21 feet as where the City Code references nine feet by 22 feet.** The proposed stalls are sufficient for normal parking maneuvers.

The attached Site Plan includes 11 vehicular parking stalls, equivalent of two parking stalls with 10 bicycle parking spaces and equivalent of two parking stalls with two dedicated motorcycle stalls. Therefore **effectively 15 parking stalls are provided.**

SUMMARY & PARKING SUPPLY REDUCTION REQUEST

	CITY CODE REQUIRED	EFFECTIVE PARKING PROVIDED	DRIVE-THRU INTERPOLATION FROM CITY REQUIRED	DUNKIN' DONUTS NEEDED STALLS	ITE RECOMMENDED
STALLS	23	15	9	12	14 weekday 11 weekend

Based on the actual operational parking demand, ITE industry standard demand, Dunkin' Donuts commitment to safety and efficient circulation, pedestrian and bike access, and desire to minimize unnecessary impervious area, this memorandum serves as an official request to be granted variances from the City of Brainerd requirement in regards to parking stall supply requirement, parking stall size and building setback for the proposed Dunkin' Donuts Restaurant.



Minnesota Department of Transportation

District 3

7694 Industrial Park Road
Baxter, MN 56425

Office Phone: 218-828-5700

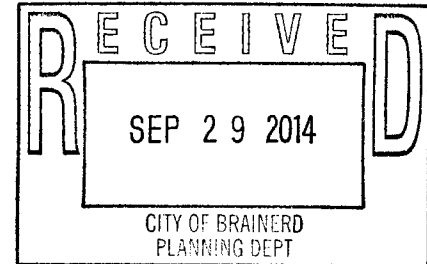
Fax: 218-828-5814

Toll Free: 1-800-657-3971

September 25, 2014

Mr. Mike Ostgarden
City Planner
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

RE: C.S. 4903 R.P. 115.853 (TH 10)
Dunkin Donuts Coffee & More Variance Request
City of Brainerd, Crow Wing County



Dear Mr. Ostgarden:

The Minnesota Department of Transportation (MnDOT) has received the above-referenced notice for a variance pertaining to a proposed Dunkin Donuts Coffee & More drive-thru restaurant establishment at the intersection of Minnesota State Highway 210 (Washington Street) and Northwest 3rd Street. MnDOT would like to make the following comments:

1. The 3rd Street Northwest and Highway 210 intersection is a $\frac{3}{4}$ access intersection that provides right-in/right-out access and a left-turn lane for westbound Highway 210 traffic. Left turning movements onto Highway 210 will not be allowed from Northwest 3rd Street or from the west property driveway entrance. Patrons needing to travel westbound from the site would need to make the left-turn movement at the Northwest 4th Street intersection, which is controlled by a traffic signal. Therefore, access onto Highway 210 from the proposed development is limited to right-in/right-out access.
2. Concern over location of on-site parking at the west end of the property and the impacts on traffic entering/exiting the site as well as the impacts to traffic using adjacent alleyway. Recommend better delineating parking area and/or consider other options to improve on-site traffic circulation.
3. There can be no net increase in stormwater runoff from the development area onto Highway 210 right of way. If there are questions regarding stormwater, you may contact Bob Nibbe at (218) 828-5792.
4. A permit is required to perform any work in the right of way, change in use of an entrance or to construct any entrances. This is considered a change in use. The property owner will need to contact Rich Munsch at (218) 828-5778 for more information.

You may contact me at (218) 828-5780 if you have any comments or questions regarding our review.

Sincerely,

Jon Mason
Senior Planner

mln

cc: District 3 Entrance Committee (electronic version)

An Equal Opportunity Employer

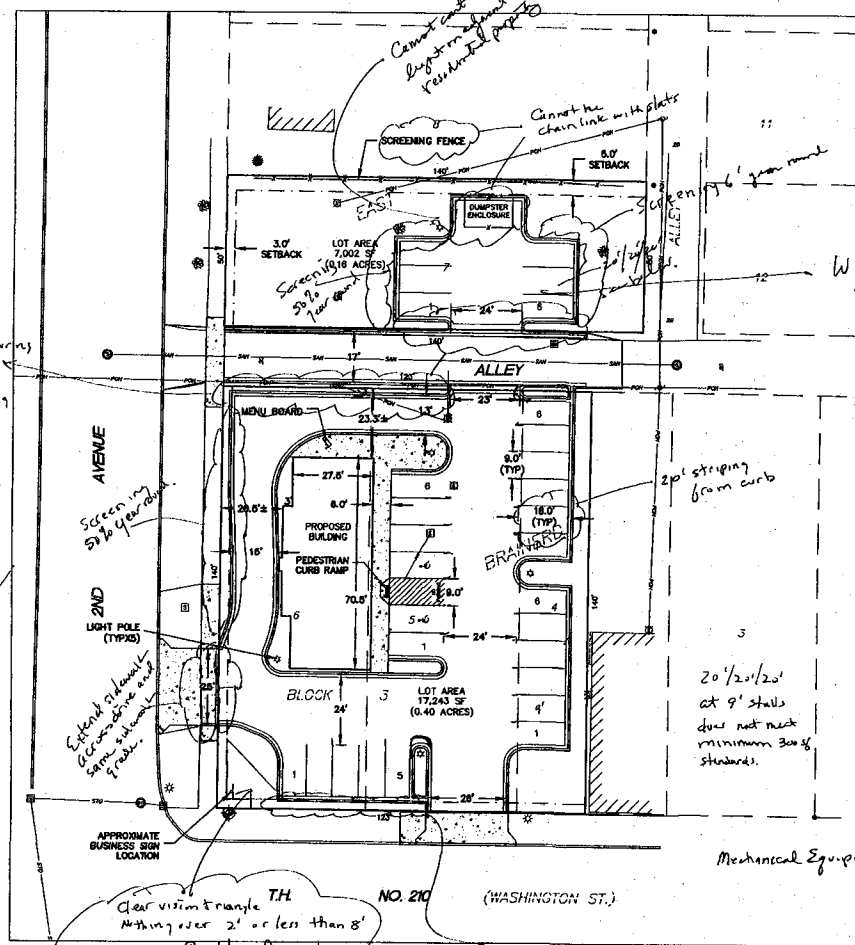


Jimmy John Site Plan

© 2008 Westwood Professional Services, Inc.

Call 48 Hours before digging:
Gopher State One Call
Twin City Area 651-454-0002
Min. Toll Free 1-800-252-1166

OFFICE COPY



AREA CALCULATIONS

TOTAL PROPERTY AREA = 24,245 SF = 0.56 ACRES
PROPOSED IMPERVIOUS AREA = 16,714 SF = 0.38 ACRES
REQUIRED GREEN SPACE - REDEVELOPMENT - 4% = 970 SF
PROPOSED GREEN SPACE = 7,531 SF = 31%

PARKING REQUIREMENTS

CITY OF BRAINERD REQUIREMENT	1 STALL PER 3 SEATS
SEATING CAPACITY	50 SEATS
REQUIRED # OF STALLS	50/3 = 16.7 STALLS
# OF STALLS PROVIDED	28 STALLS (2 HANDICAP ACCESSIBLE STALLS)

GENERAL SITE NOTES

- ALL DETAILS ON THE LIGHTING FIXTURES, SIGNAGE, FENCING AND THE DUMPSTER ENCLOSURE SHALL BE PROVIDED BY THE OWNER. THE OWNER SHALL VERIFY THAT THESE ITEMS LOCATIONS AND DESIGN STANDARDS MEET THE BRAINERD CITY CODE.
 - REFER TO THE LANDSCAPING PLAN FOR DETAILS ON THE RESTORATION, LANDSCAPING, AND REQUIRED SCREENING.
 - ALL SIGNS AND LIGHT POLES SHALL BE PLACED A MINIMUM OF 10' BEHIND THE BACK OF THE CURB IF ALLOWABLE.
 - ALL HVAC EQUIPMENT SHALL BE ROOF MOUNTED (REFER TO ARCHITECTURAL PLANS).
- AND SCREENED.

LEGEND

--- PARKING SETBACK LINE

This will be problematic during the winter. I can see snow storage being a problem.

Washed like to see 3 trees on site north of the alley

No plan? ->

Would like to see 6 trees planted 1 tree/300 sq ft of lot area on site south of the alley

ALL WORK SHALL BE COMPLETED TO CITY SATISFACTION BEFORE A CERTIFICATE OF OCCUPANCY CAN BE ISSUED



Westwood Professional Services, Inc.
423 Laurel Street
Bainbridge, MN 55007
PHONE 218-826-1751
FAX 218-826-4703
TOLL FREE 1-800-252-1166
www.westwoodpro.com

I hereby certify that the plan was prepared by me or under my direct supervision and that I am a duly licensed PROFESSIONAL ENGINEER under the laws of the State of Minnesota.
Signature: [Signature]
Date: 03/17/09 License No. 42826

Seal: [Seal]

Prepared for: Lunch Box Properties, LLC
7001 County Road 11 NE
Alexandria, Minnesota 56008

Prepared for:

Lunch Box Properties, LLC
7001 County Road 11 NE
Alexandria, Minnesota 56008

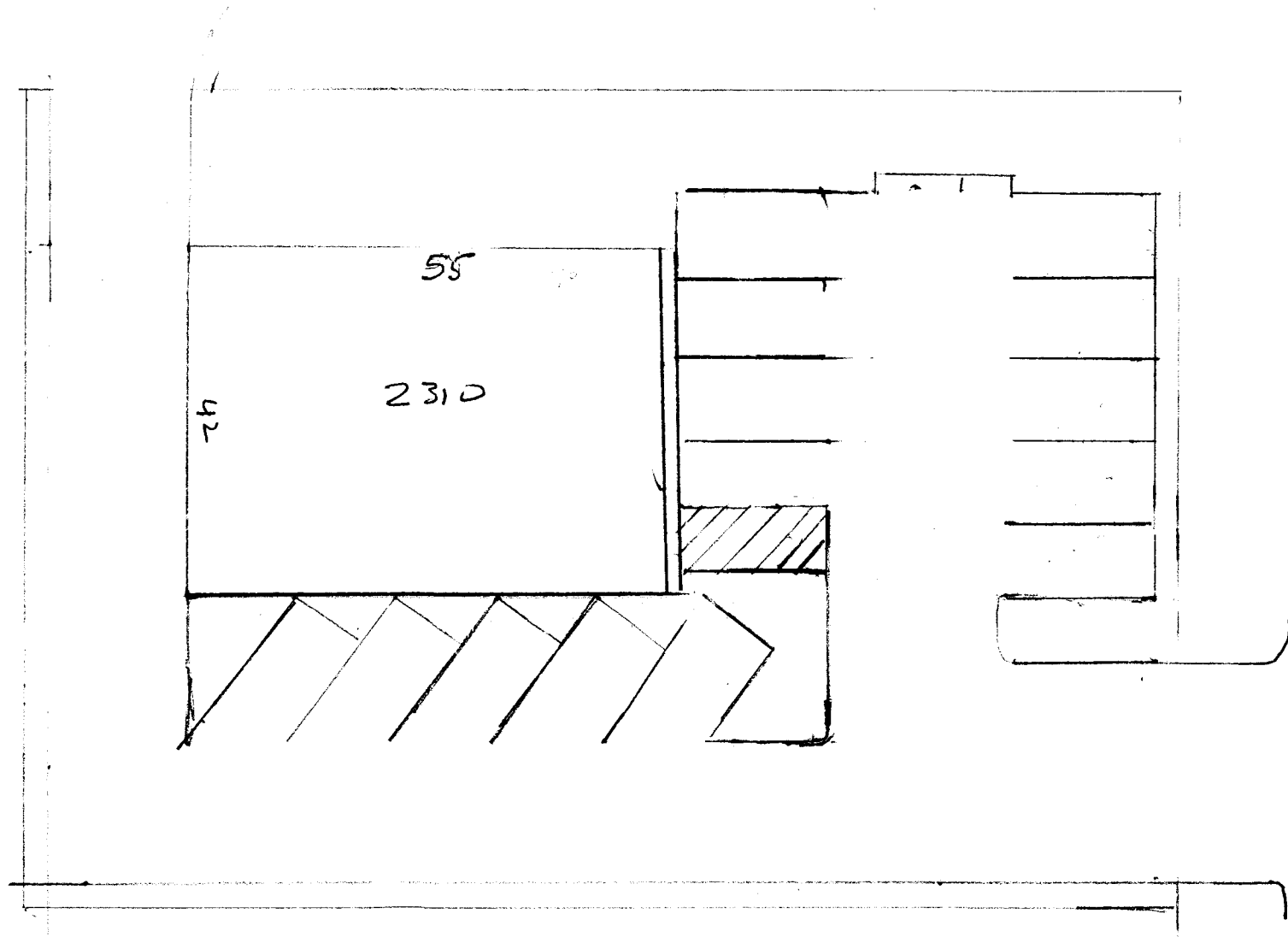
Jimmy Johns

Bainbridge, Minnesota

Date: 03/17/09 Sheet: 3 of 5

Site Plan

Site Plan Example



NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Kimley-Horn, 2550 University Dr, St Paul, MN 55114, has submitted variance requests for the property located at 303 W Washington Street for a reduction in the number of required parking spaces, size of parking spaces, drive isle widths, drive-up window and stacking lane screening, and to construct the building within the required front yard setback. The attached site plan identifies the requested variances. Variances from the following City of Brainerd Zoning Ordinance requirements are requested:

515-22-8: Number of Spaces Required:

AA. Restaurants, Fast Food. Fifteen (15) spaces per one thousand (1,000) square feet of gross floor area.

515-22-5: Parking Surface Design Standards:

A. Parking Area Standards. Parking areas and the aisles shall be developed in compliance with the following standards:

Angle of Parking (A)	Stall Width (B)	Curb Length Per Car (C)	Stall Length (D)	Stall Depth Wall to Aisle (E)	Stall Depth Interlock to Aisle	Aisle One Way (F)	Aisle Width Two Way (F)
90°	10' 0"	10' 0"	18' 0"	18' 0"	18' 0"	24' 0"	24' 0"
75°	10' 0"	9' 6"	18' 0"	20' 8"	19' 10"	21' 6"	23' 0"
60°	10' 0"	10' 5"	18' 0"	21' 0"	19' 10"	18' 0"	22' 0"
45°	10' 0"	12' 9"	18' 0"	19' 10"	17' 10"	15' 0"	22' 0"
0°	10' 0"	22' 0"	22' 0"	9' 0"	9' 0"	12' 0"	24' 0"

515-63-3: Accessory Uses.

F. Drive-up service facilities provided that:

5. The drive-up window and its stacking lanes shall be screened from view of adjoining residential zoning districts and public street rights-of-way.

515-63-7: Lot Area and Setback Requirements:

Front Yard Setback – 30 feet

The property is legally described as follows:

Lots 4 and 5 Block 40, West Brainerd

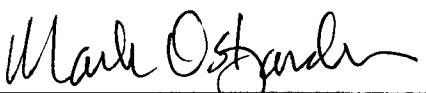
P.I.N. No. 09198040004Z009

Section 4 Township 133 Range 28

Notice is further given that the Planning Commission of the City of Brainerd will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., Wednesday, November 12, 2014 to consider the request for the Variance.

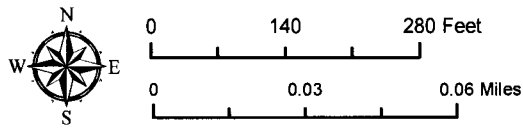
Any individual needing special accommodations please call (218) 828-2309.

Dated this 29th day of October, 2014


Mark Ostgarden AICP
City Planner

VARIANCE - 303 W WASHINGTON ST

APPRCL	TXNAME	TXADR1	TXADR2	PHYSADDR
09198056001Y009	GUSTAFSON PROPERTIES OF BRD LLC	304 EAST RIVER RD SUITE 2	BRAINERD, MN 56401	TYROL DR
09198020001Z009	IND SCHOOL DIST, # 181	804 OAK ST	BRAINERD, MN 56401	RIVERSIDE SCH
09198022000Z009	IND SCHOOL DIST, # 181	804 OAK ST	BRAINERD, MN 56401	
09198038001Z009	IND SCHOOL DIST, # 181	804 OAK ST	BRAINERD, MN 56401	205 W WASHINGTON ST
09198040001Z009	KUMMET, LLOYD G C/O RICHARD KUMME	1820 S 8TH ST	BRAINERD, MN 56401	309 3RD ST NW
091980400110009	LAVALLE, DENNIS W & JULIE A	12096 SCENIC RIVER DR	BAXTER, MN 56425	314 CHARLES ST
091980420010009	LUBKE, JON W	305 NW 4TH ST	BRAINERD MN 56401	301 4TH ST NW
09198042002Z009	LUBKE, JON W	34013 N OAK DR	PEQUOT LAKES MN 56472	305 4TH ST NW
09198024005Z009	NOVOTNY, LARRY L	2400 BRADFORD BAY	ALEXANDRIA, MN 56308	217 4TH ST NW
09198060001Z009	SMITH, ALICE T	22609 HOLE IN THE DAY DR	NISSWA, MN 56468	404 W WASHINGTON ST
09198042006A009	TAX FORFEITED	326 LAUREL ST	BRAINERD, MN 56401-3590	
09198042004Z009	TMJ LLC	20980 SNOWSHOE TRL	BRAINERD MN 56401	401 W WASHINGTON ST
09198040008Z009	TT OF BRAINERD LLC	13754 TWO MILE RD	BRAINERD, MN 56401	305 W WASHINGTON ST
091980400100009	TT OF BRAINERD LLC	13754 TWO MILE RD	BRAINERD, MN 56401	
09198040004Z009	TUOMI, NATE	BRAINERD, MN 56401		303 W WASHINGTON ST
09198058001Z009	WALGREEN COMPANY	PO BOX 1159	DEERFIELD, IL 60015	324 W WASHINGTON ST
09198058001Z009	WALGREEN COMPANY	PO BOX 1159	DEERFIELD, IL 60015	324 W WASHINGTON ST



**City Planning Department**

City Hall – 501 Laurel Street
Brainerd, MN 56401
218-828-2309/Fax 218-828-2316
www.ci.brainerd.mn.us

Receipt # _____
Check # _____
Date Paid: _____

CONDITIONAL USE/REZONING/VARIANCE APPLICATION**NATURE OF REQUEST** (please check)

CONDITIONAL USE PERMIT (\$190.00) REZONING (\$250.00) **VARIANCE (\$220.00)**

PROPERTY ADDRESS: 303 West Washington Street, Brainerd, MN

LEGAL DESCRIPTION: Lot(s): 4&5 Block: 40 Addition: _____
(attach description if lengthy) West Brainerd, Crow Wing County, Minnesota

Property Owner Name: Nathan Tuomi

Street Address: 18441 State HWY 371 **City:** Brainerd **State:** MN **Zip Code:** 56401

Phone Number: 218-831-8393 **Fax:** 218-829-1228 **E-mail:** nathantuomi@gmail.com

Applicant Name: (If different than Property Owner) Brandon Elegert, P.E.; Kimley-Horn

Street Address: 2550 University Dr. **City:** Saint Paul **State:** MN **Zip Code:** 55114

Phone Number: 651-643-0488 **Fax:** _____ **E-mail:** brandon.elegert@kimley-horn.com

Description of Request: The proposed Dunkin' Donuts is located on the southwest corner of West Washington Ave (Hwy 371). and NW 3rd Street. This variance application requests a reduction from the City of Brainerd parking requirements in order to adequately serve the proposed use without over-parking and increasing impervious area. Associated with the parking reduction are site dimension variances from the City of Brainerd requirements in order to improve access and circulation throughout the site. See attached "Parking Memo" for additional information.

Nathan Tuomi

Property Owner Signature

10/20/14

Date

Nathan Tuomi

(Please print name)

Brandon Elegert

Applicant Signature

10/21/14

Date

Brandon Elegert

(Please print name)

(OVER)

STAFF REPORT TO THE PLANNING COMMISSION

October 31, 2014

APPLICANT/LOCATION: Mike Cyrus, 36902 Bugle Rd; Motley, MN 56466 for property at 1107 Oak Street, Brainerd, MN 56401

PROPOSED USE: Conditional Use Permit to operate an on-sale liquor establishment

CURRENT ZONING: B-2 (Neighborhood Business) District

ADJACENT USES: East: Commercial
South: Residential
West: Residential
North: Residential

ADJACENT ZONING: North: R-2 (Medium Density Residential) District
East: B-2 (Neighborhood Business) District
South: R-2 (Medium Density Residential) District
West: R-2 (Medium Density Residential) District

REPORT

Prior to 20XX a on-sale liquor establishment operated at 1107 Oak Street and was vacant until when it was sold. The new owners have reopened the business which requires a Conditional Use Permit.

The question may be asked why a Conditional Use Permit is required to reuse the property for an on-sale liquor establishment. The reason is based on the length of vacancy. Because the building and property have not been used for ____ years, reestablishing the property for school purposes, issuing a Conditional Use Permit is required.

The property is located in a B-2 (Neighborhood Business) District and conditional uses allowed in the District are:

515-61-6: Conditional Uses.

1. *Private clubs and lodges*
2. *Restaurants without drive-up windows.*
3. *On-sale liquor establishments provided that:*
 - a. *Side yards shall be thirty (30) feet.*
 - b. *Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.*

- c. *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.*
- d. *Off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.*
- 4. *Places of worship and related buildings provided that:*
- 5. *Commercial day care facilities as regulated by Section 29 of this Ordinance.*
- 6. *Outdoor dining facilities accessory to a restaurant*
- 7. *Planned Unit Development (including shopping centers)*
- 8. *Motor vehicle fuel sales*
- 9. *Funeral homes and mortuaries*
- 10. *Specialty Food Shops*

The question may be asked why a Conditional Use Permit is required to reuse the property for a use that operated at this location for decades. The reason is based on the length of vacancy. Because the use did not operate for _____ years, reestablishing the property for school purposes, issuing a Conditional Use Permit is required.

Based on B.1. Above, the following are the Conditional Use Permit criteria:

A. Criteria for Granting Conditional Use Permits. In granting a Conditional Use Permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants or surrounding lands. Among other things, the City Council shall make the following findings where applicable.

- 1. *The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.*

The proposed use does not conform to of street parking requirements and screening requirements. This staff report reviews each of these areas.

- 2. *The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.*

This class of conditional use has the following special standards:

- a. *Side yards shall be thirty (30) feet.*
- b. *Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.*

Required Tree Planting. Except for single family and two family lots and parcels developed prior to the adoption of this Ordinance, new development shall have a mixture of evergreen and deciduous trees planted at the rate of one (1) tree per three thousand (3,000) square feet or portion thereof of any unpaved

open area remaining after development for which specific landscaping requirements do not appear in this Section. Required trees may be planted at uniform intervals, at random, or in groupings. Newly planted trees shall comply with the requirements of this Ordinance. Trees retained on site following development can be reduced from the total required plantings.

Green Space. Non-Residential Site Development and Non-Residential Site Redevelopment. When development or redevelopment occurs on existing sites the required green space may be reduced to ten (10) percent of the total site and the fifty (50) percent distribution requirements remain in effect.

Screening. A six (6) foot high fence or landscaped screen, providing eighty (80) percent year around opacity, shall be required wherever a non-residential use abuts directly upon land zoned or used for residential purposes or is across an alley from land used or zoned for residential purposes.

Parking Lots. All exposed parking areas of ten (10) or more required spaces in a front and side street yard shall be screened with landscaping not less than three (3) feet or more than four (4) feet in height. The landscaping shall maintain a year round fifty (50) percent opacity.

When a parking lot is adjacent to or across an alley from a residential use or zone, the required screen height shall be increased to six (6) feet.

- c. 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.***

Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, On-Sale Nightclubs. One (1) space for each forty (40) square feet of dining or bar area and one (1) space for each eighty (80) square feet of kitchen area.

- d. Off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.***

3. *The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.*

Reestablishing the property for on sale liquor sales will have no elements or conditions that will create dangerous, injurious, or noxious to any other property or persons.

4. *The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.*

The existing structure will be reused no changes to siting, orientation or landscaping are planned.

5. *The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.*

There have been no exterior changes to impact on the environment of the neighborhood.

6. *The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.*

The site has access to/from Oak Street and a parking area alongside the building and behind the building. The parking area is large enough to perhaps accommodate 15-16 spaces that comply with our off street parking dimensional requirements.

7. *The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.*

The objectives of the Zoning Ordinance are:

515-1-2: *Intent and Purpose.*

A. *Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*

B. *This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.*

C. *Protect neighborhoods.*

D. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*

- E. *Provide adequate light, air, and convenience of access to property.*
- F. *Prevent congestion in the public right-of-way.*
- G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. *Protect and preserve the natural environment of the City.*
- I. *Encourage the protection of historic and aesthetic resources in the City.*
- J. *Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. *Provide for compatibility of different land uses.*

- Protect neighborhoods.
- Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.
- Provide for compatibility of different land uses.

The reuse complies with all the applicable Zoning Ordinance objectives, in particular the three (3) highlighted sections because it:

1. Protects the neighborhood by preserving an existing structure.
2. Promotes orderly development as the structure will be returned to its intended use.
3. Provides for compatibility of different uses by using the existing structure and no additions are planned.

The reestablishment of an on sale liquor establishment is supported by the following Comprehensive Plan Goal and Strategy:

LAND USE GOAL #5: *Support development that enhances community character and identity.*

Strategy

Support the redevelopment of vacant and abandoned sites within the urban core.

B. Requirements for Granting Conditional Use Permits. In permitting a new conditional use or the alteration of an existing conditional use, the following requirements shall be met where applicable:

1. *Fire Protection. Fire prevention and firefighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.*
2. *Electrical Disturbance. No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.*
3. *Noise. Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled subject to MPCA standards. Fire sirens and related apparatus used solely for public purpose shall be exempt from this requirement.*
4. *Vibrations. Vibrations detectable without instruments on neighboring property in any district shall be prohibited.*
5. *Odors. No odorous gas or matter shall be permitted which is discernible on any adjoining lot or property.*
6. *Air Pollution. No pollution of air by flying ash, dust, smoke, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation or other property.*
7. *Glare. Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.*
8. *Erosion. No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.*
9. *Water Pollution. Water pollution shall be subject to the standards established by the Minnesota Pollution Control Agency.*

The reuse will not effect on any of these issues.

DEPARTMENT INFORMATION

Utilities

No issues.

Fire

No Issues.

Building
No issues

Engineering
No issues.

PLANNING DEPARTMENT REVIEW

There are off street parking surface requirements and screening requirements that will need to be addressed. The attached aerial map identifies where a six (foot) screen is required. The driveway and gravel parking are is required to be asphalt or concrete. The property does not have a properly identified handicapped parking space. It appears that twenty (20) off street spaces will be required a total which requires one (1) handicapped space to be provided. The slope along the west side of the building is too steep for the space. The only location feasible is down the hill behind the building.

Should the Planning Commission recommend CUP approval, consideration should be given to permitting the improvements to be completed in 2015.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission can consider a recommendation on this request at its November 12, 2014 meeting and City Council consideration can occur at its November 17, 2014 meeting.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Ostgarden". The signature is fluid and cursive, with the first name "Mark" and last name "Ostgarden" clearly distinguishable.

Mark Ostgarden AICP
City Planner

Screening
Required

OAK ST

Subject
Property





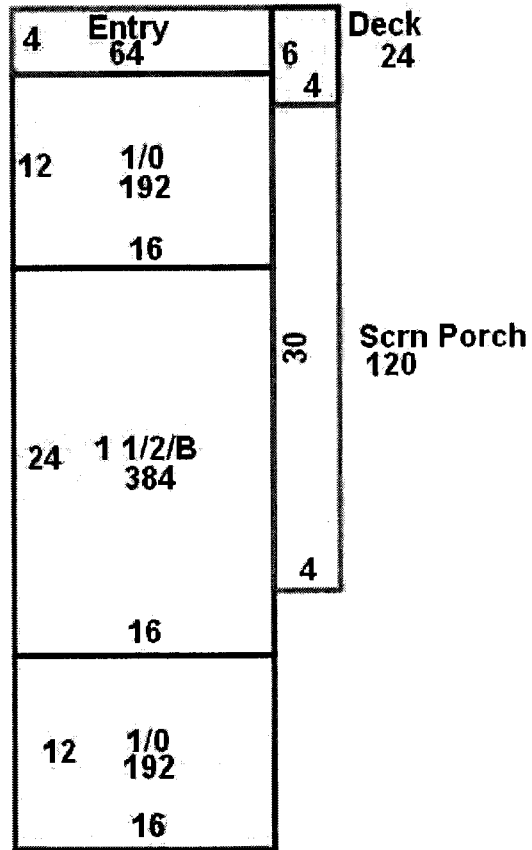
Zoning map

Subject Parcel

Streets: LAUREL ST, MAPLE ST, NORWOOD ST, PINE ST, QUINCE ST, ROSEWOOD ST, PORTLAND AVE, CHICAGO AVE, S 9TH ST, S 10TH ST, S 11TH ST, S 12TH ST, S 13TH ST, S 14TH ST, S 15TH ST, S 16TH ST, S 17TH ST, S 18TH ST, S 19TH ST.

Zoning Districts: R-1, R-2, R-3, B-2, B-3.

Other Features: A large yellow area, a green area, a red area, and a blue area.



Sketch by Apex Medina™

**City Planning Department**

City Hall – 501 Laurel Street
 Brainerd, MN 56401
 218-828-2309/Fax 218-828-2316
 www.ci.brainerd.mn.us

Receipt # _____
 Check # No Charge
 Date Paid: _____

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

NATURE OF REQUEST (please check)

☒ **CONDITIONAL USE PERMIT** (\$190.00)
 ☐ **REZONING** (\$250.00)
 ☐ **VARIANCE** (\$220.00)

PROPERTY ADDRESS: 1107 Oak St. Brainerd

LEGAL DESCRIPTION: Lot(s): _____ Block: _____ Addition: _____
 (attach description if lengthy)

Property Owner Name: Mike Cyrus

Street Address: 36902 Bagley Rd **City:** Motley **State:** MN **Zip Code:** 56461

Phone Number: 218-820-2924 **Fax:** _____ **E-mail:** dcyrus36@gmail.com

Applicant Name: (If different than Property Owner) _____

Street Address: _____ **City:** _____ **State:** _____ **Zip Code:** _____

Phone Number: _____ **Fax:** _____ **E-mail:** _____

Description of Request: _____

run a Tavern at address above--
has been in business for over 40 years.

Michael Cyrus
 Property Owner Signature

10-27-14
 Date

Michael Cyrus
 (Please print name)

Michael Cyrus
 Applicant Signature

10-27-14
 Date

Michael Cyrus
 (Please print name)

(OVER)

MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner



DATE: November 4, 2014

RE: S. 6th Street Zoning Review

BACKGROUND

In August 2013 the dwelling at 705 South 6th Street was destroyed (by arson) and in 2014 was demolished. The property has been vacant (the detached garage remains) since that time and has been marketed as residential property to construct a new dwelling. The dwelling footprint was seven hundred ninety (790) square feet and was located on a one hundred fifty (150) foot by fifty (50) foot parcel.

During the community wide Zoning Map review process in 2011, zoning along the South 6th Street corridor was changed from a residential district to a B-4 (General Commercial) District to promote commercial development. It was understood when this occurred that the commercial zoning would create nonconforming uses along the corridor as most uses are residential and not permitted uses in a B-4. However, it was thought that commercial zoning was the best long term land use for this part of the South 6th Street corridor.

NONCONFORMING USES

Nonconforming uses have rights established by State Statute which reads as follows:

Subd. 1e. Nonconformities.

(a) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) The nonconformity or occupancy is discontinued for a period of more than one year; or

(2) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

Based on the Statute language, because the nonconforming use has been discontinued for more than one year, any subsequent use of the property must be in compliance with current zoning regulations. Because the issue is property use, there is not a variance procedure the property owner has for relief.

The property owner has tried to sell the property to the adjacent owners who have shown no interest. The parcel size makes commercial use unlikely. In order for it to be commercially viable, additional parcels would need to be assembled to create a larger one for development which does not appear likely anytime soon.

The property owner has a parcel that is not developable.

OPTIONS

Following are options that are available for the owner:

1. Do nothing. Doing nothing means the parcel will remain vacant and taxes will need to continue to be paid. This option may lead to a tax forfeit parcel.

2. Sell the property. Continue trying to sell the property with prospective owners knowing it cannot be used for residential purposes.
3. Apply to rezone the property. A property owner has the option to request rezoning of any property. However, rezoning property in this manner is not a procedure that should be supported.
4. Review 2011 Zoned Area. This would review the zoning of the property in context with the zoning of a larger area along South 6th Street. This appears to be the most appropriate process to consider the merits of rezoning the property. However, because this area was rezoned from an R-3 (Multiple Family) Residential District as a part of the 2011 community wide Zoning Map review, the Planning Commission and City Council will need to find that the rezoning was an error, not procedurally but based on factors used to consider the zoning in 2011.

OPTION 4

In 2011, the Planning Commission and City Council thought the best zoning for the future of South 6th Street would be B-4. However, the Planning Department is suggesting that the area that was rezoned be reconsidered for either R-1 (Single Family) Residential zoning or R-2 (Medium Density) Residential zoning. Following are reasons for suggesting the reconsideration:

1. Future Land Use Map. The attached section of the Future Land Use Map identifies this area along the South 6th Street corridor as Low to Medium Density Residential Land Use. Typically that is considered one and two family units.
2. Existing Land Use. Attached is the Existing Land Use for this section of the South 6th Street corridor. The predominate land use is single family residential.
3. Neighborhood Stability. The neighborhood does not appear to be in physical decline and the attached rental property map depicts the area is a typical part of the community for having approximately a fifty percent (50) rental rate.
4. Timing. Should redevelopment in the somewhat near future be anticipated or to prevent redevelopment in the short term that would be contradictory to anticipated development, zoning property not consistent

with existing land use can be effective tool. Should redevelopment seem unlikely, it can be more difficult to justify this type of action.

This appears to be the situation along the South 6th Street corridor. A discussion needs to occur about the likelihood of redevelopment occurring along South 6th Street in this location.

5. Location. Since the construction of the Hwy 371 bypass, traffic volumes on South 6th Street have decreased. There are several vacant commercial buildings at the south end of the corridor. There are also vacancies and redevelopment potential along Hwy 210. Is it likely that the South 6th Street corridor will see any significant commercial redevelopment demand?

In 2011, this South 6th Street and area around it were zoned R-3. The above factors all bring into question the validity of the 2011 South 6th Street corridor B-4 rezoning. Should the Planning Commission desire to initiate a rezoning, a public hearing can be scheduled for the December 10, 2014 Planning Commission meeting. The area to be considered and proposed district(s) would need to be agreed to at the November 12th meeting.



Subject
Property

PINE ST

S 6TH ST

QUINCE ST

S 7TH ST



705 S 6th St. 2008

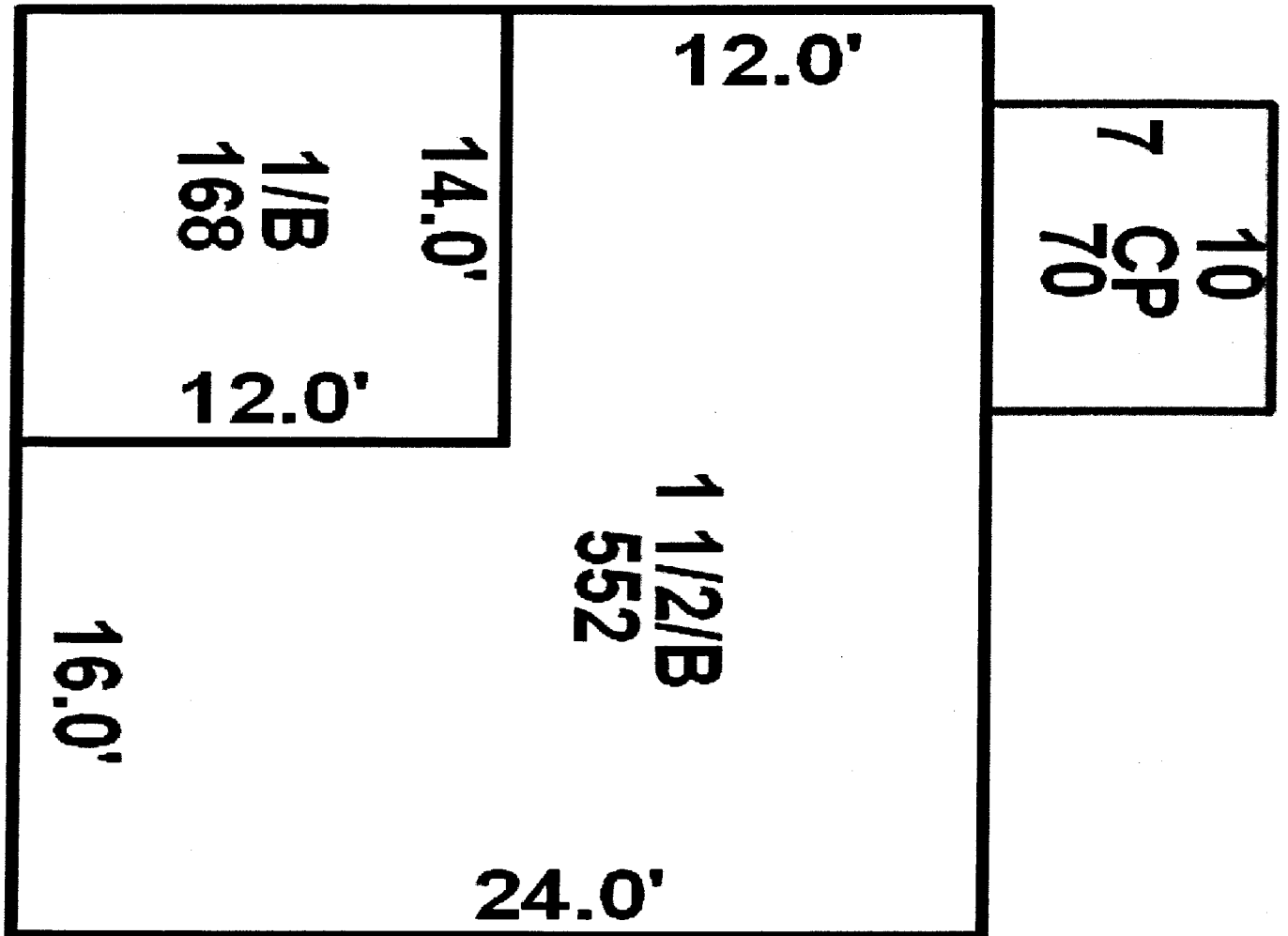


Dwelling



2008

Dwelling Footprint for 705 S. 6th St



705 6th St S.



#1

Subject
Property

56th St

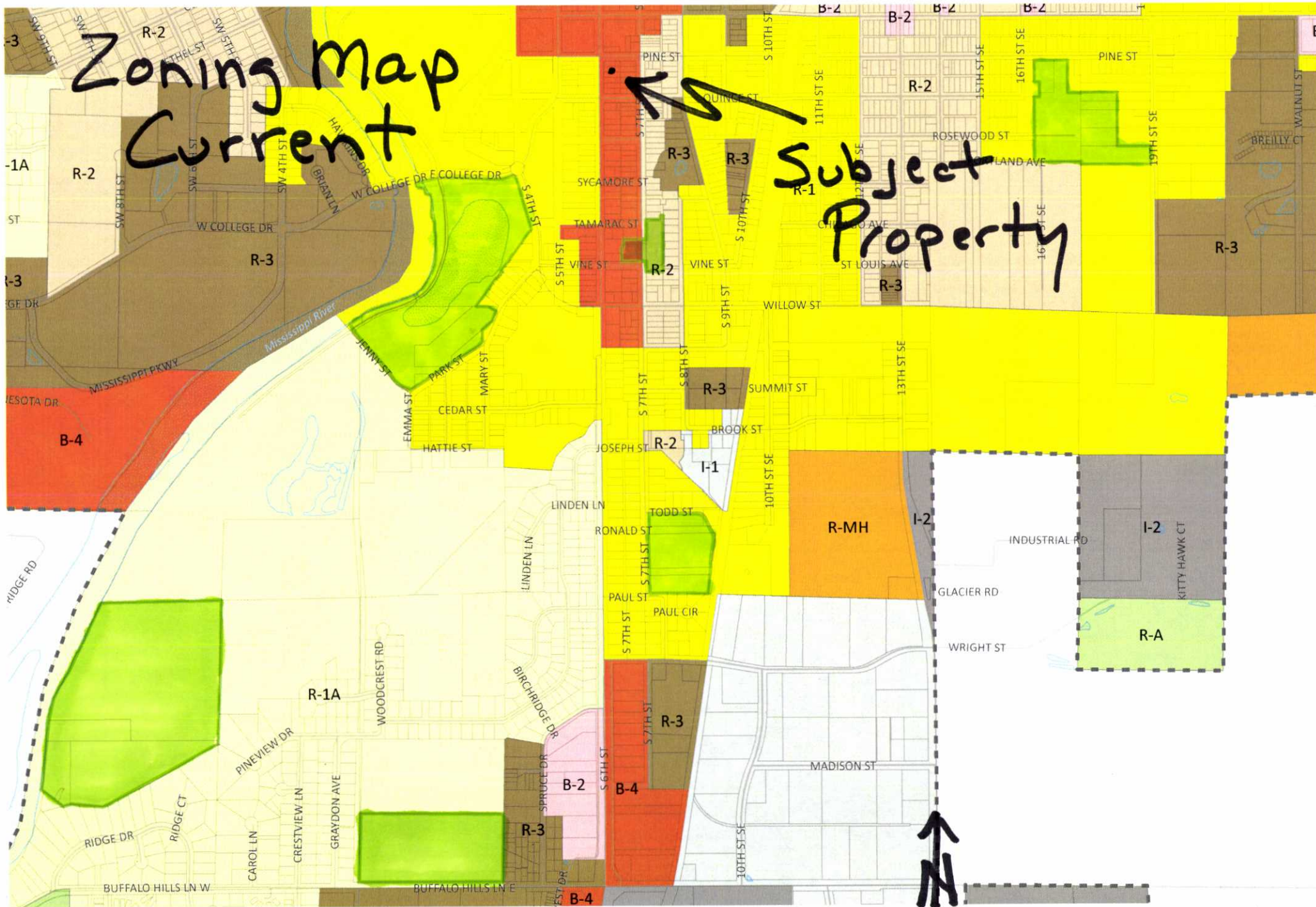


S. 6th St.

#2

Zoning map
Current

Subject
Property

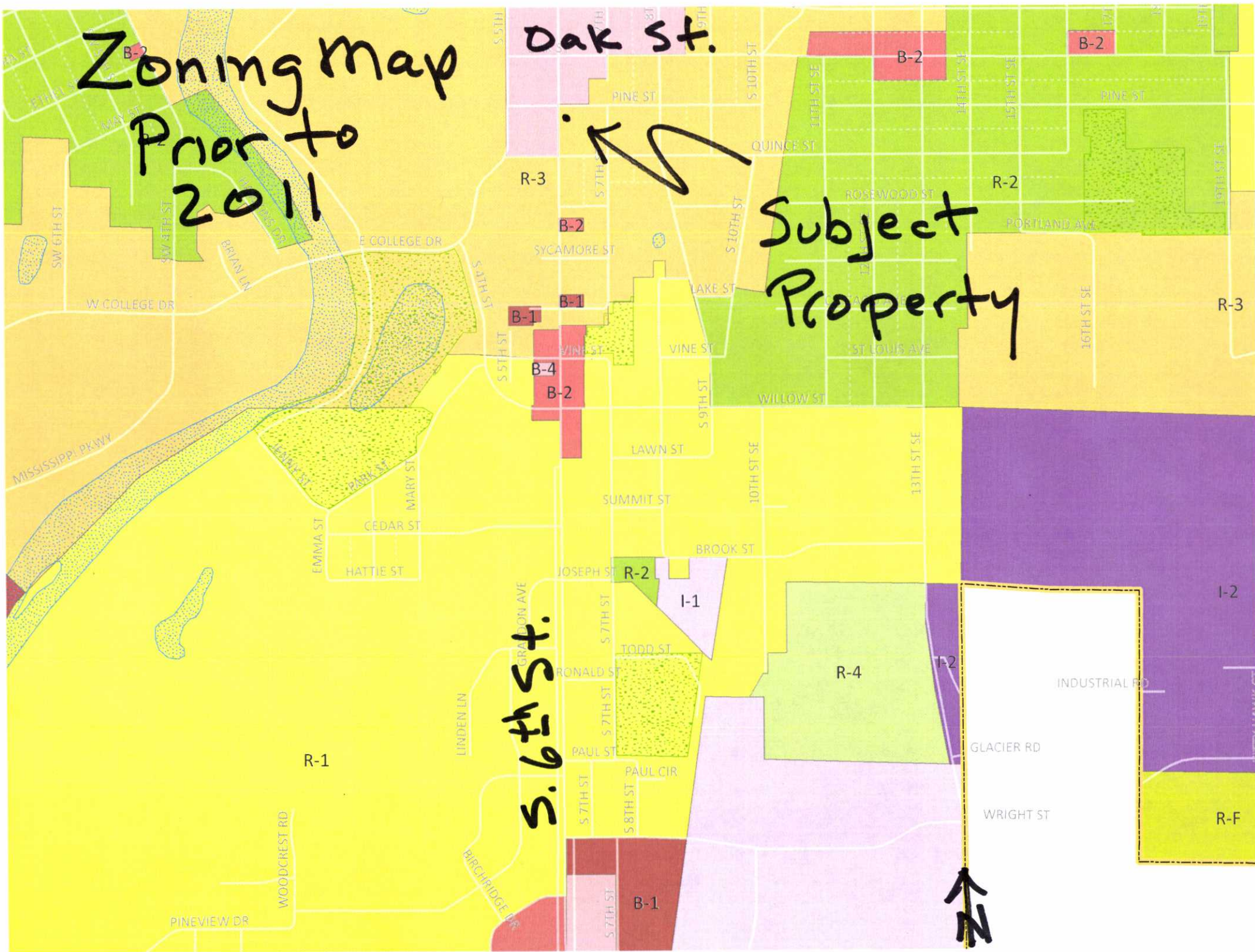


Zoning map
Prior to
2011

Dak St.

Subject
Property

S. 6th St.



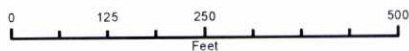


Legend

ELU

Existing Land Use

- Single Family Residential
- Two Family (Duplex)
- Multiple Family Residential
- Manufactured Homes
- General Commercial
- Industrial
- Public / Semi Public
- Park / Trail
- Agriculture
- Vacant / Undeveloped
- Not In City



Print Date
11/07/2014

This map is intended for reference purposes only and is not a legally recorded map nor survey. The City of Brainerd shall not be liable for any damages or claims that arise due to accuracy, availability, use, or misuse of the information herein pursuant to MN Statutes 466.03 Subd 21.





A movable feast? Food truck vendors call for fairness in local laws

Naples Daily News (FL), 2014-10-15

Oct. 15 -- LEE COUNTY, Fla. -- The warning was for "selling BBQ without temp permit."

Lee County Code Enforcement handed it to Leslie A. Hall last month for parking his mobile food joint, Porkin-Out, at Battista Farms, a plant nursery that faces U.S. 41 in San Carlos Park.

Though he was charged no fine, Hall said Porkin-Out will stay off the road until Lee lets food truck owners earn an honest living.

"They don't want to allow you to make a full-time business out of it," Hall said. "To me, that's infringing on my rights."

Nationwide, food trucks have become a trendy option for those craving epicurean adventures. In Southwest Florida, some entrepreneurs say they are turning to food trucks because they have lower overhead costs than traditional restaurants.

"There are a lot of chefs out there who can do some freaky fun stuff on a food truck," said Z. Zackary Ziakas, co-owner of The Sizzle Truck, a Collier County-based mobile eatery that serves sandwiches and a variety of meats.

But local zoning and land development rules, many in place before the rise of mobile gourmet dining, favor brick-and-mortar restaurants by placing cumbersome restrictions on food trucks. Critics say those restrictions stymie economic opportunities for budding entrepreneurs.

In Florida, the state handles health inspections and licensing for food trucks, as it does with brick-and-mortar restaurants. But a patchwork of local community development policies regulate where food trucks can be and for how long.

Food trucks in unincorporated Lee County are required to operate under 30-day, temporary use permits that can be renewed for the same location up to four times a year, with 45-day breaks in between. Each temporary use permit costs \$175. Food trucks are allowed at permitted special events.

Collier will issue temporary use permits to mobile vendors that are good for 14 days, consecutive or not, in unincorporated parts of the county. The \$200 permits can be renewed once a year for the same location. Food trucks in Collier can also set up at farmers markets and special events.

Last week, Lee commissioners asked staff to review the county's food truck policies. Commissioner Brian Hamman raised the issue after meeting with Hall.

"Some of these laws seem to be antiquated when applied to these small businesses," Hamman said. "I didn't suggest anything specific."

Not everyone on the commission was enthusiastic about taking another look at the policies. Too much change could lead to roadside vendors selling rugs and clothes on street corners, said Commissioner Cecil Pendergrass.

"You don't want it to look like a flea market across the county," Pendergrass said.

Collier is considering a review of its food truck policies when it updates the land development code, said Kate Albers , a county spokeswoman.

Ziakas said he and his business partner, Anthony Badalamenti , spent more than \$125,000 to make the Sizzle Truck top-of-the-line before it officially launched in Collier about two months ago. Ziakas said he was concerned about being hand-tied during Collier County's permitting process but tried anyway.

"It wasn't cut and dry and easy, but they were definitely open," said Ziakas. "We're still on a trial basis. I think we are being watched."

Cities set their own standards, which can be tougher than county standards.

Naples does not grant permits to mobile vendors unless they are part of a special event, said Naples Planning Director Robin Singer . Brick-and-mortar restaurants pay rent and "it is a problem if people are setting up in parking lots," Singer said.

By ordinance, only five mobile vendors at a time can be permitted in Bonita Springs . They are banned from a redevelopment overlay district on Old 41 Road between Bonita Beach Road and Rosemary Drive unless there is a special event or the food truck vendor obtains "letters of no objection" from schools, day care centers, churches, restaurants and residences within 500 feet.

"The point was to give brick-and-mortar restaurants a fair shot," said Bonita Springs Planner Jennifer Hagen . "We are looking to infill that area."

The rules maintain the city's quality of life, said Bonita City Manager Carl Schwing .

"The food truck industry would probably not consider it friendly," Schwing said.

For the last four years, Cape Coral has been working on an ordinance that tries to balance the needs of the food truck movement and the community, said Frank Cassidy , code compliance division manager for the city. One of the biggest priorities is ensuring food trucks move from place to place, Cassidy said.

"If you don't want to move, you're not mobile anymore," he said.

When it cited Hall, Lee Code Enforcement acted on a complaint from a neighboring business that wanted to remain anonymous, according to the county's Community Development Department .

Since then, Hall parked his Piggan-Out trailer at a storage facility in Fort Myers . He said he only takes it out to cater events he committed to before the county warning.

Hall, who has another job, estimates he invested more than \$50,000 into the mobile eatery, which has a custom smoker that can cook 300 pounds of meat at a time. Cedar panels give the trailer a mountain cabin look and took him days to build by hand, Hall said.

The North Carolina -native plans to eventually continue bringing his brand of southern-style smoked brisket, pulled pork and ribs throughout Lee , including to Battista Farms , which said it wants him back. But Hall said he's holding off until Lee County gives him a better deal.

"I don't want to create too much grief," Hall said, "but I do want to operate."

Can Waving Orange Flags Really Make Pedestrians Safer?

More cities are trying to make crossing the street less deadly by handing out low-tech flags. But does this just make walkers seem weird?

- Sarah Goodyear
- @buttermilk1
- Sep 9, 2014
- 13 Comments



"Take It to Make It" flags in Kirkland, Washington.

(Brett VA/Flickr Creative Commons)

Florida is a lousy place to walk. Life-threatening, even. Four of the 10 metro areas where pedestrians are most likely to be killed by drivers are in the Sunshine State, according to rankings released earlier this year by Smart Growth America and the National Complete Streets Coalition.

Fort Lauderdale was one of the cities on that miserable list, and city leaders have said they are committed to improving conditions for people on foot using a number of strategies. One of which is asking them to carry an orange flag when crossing a particularly busy boulevard in the heart of the city.

Fort Lauderdale officials say that they're putting out the bright orange flags as just one part of a vision of the city's transportation future [PDF] in which "the pedestrian is first." They've got a long way to go. During a 2012 telephone town meeting, only 10 percent of Fort Lauderdale residents said the city was "very pedestrian friendly," while 54 percent said it "needs lots of improvement." Sixty percent of respondents to a

survey said they thought more bikeable and walkable streets should be among the city's top priorities for capital investment.

These flags are part of a multipronged effort to improve drivers' awareness of laws that require them to stop at marked crosswalks.

The flags aren't costing much, only about \$60 for 15 of the orange banners (although some have already been stolen). "The idea of adding the flags was to add another element of safety, and it's a minimal cost to the city," Vice Mayor Romney Rogers told the *Miami Herald*. "It's all part of the process of changing people's ideas about transportation."

But are flags the right way to do that? What message are they really sending?

Pedestrian flags, with their relatively cheap, low-tech appeal, are nothing new. They are reportedly common in Japan, especially around schools. They've been deployed by neighborhood activists trying to improve street safety in Hawaii. Kirkland, Washington, has had a flag program since the mid-1990s, which a study found to be "moderately effective." [\[PDF\]](#)

Berkeley and Seattle both tried the flags, too, before giving them up as a waste of resources. According to Berkeley's study of the program, "the use of the flags did not have a noticeable effect upon driver behavior," and many flags were stolen, leading to high replacement costs. (Also, this being Berkeley, "Many of those who picked up the flags used them for purposes other than for which they were intended.")

Still, people keep trying it. Bridgeport, Connecticut, has a pilot flag program going on. In St. Paul, Minnesota, Macalester College introduced flags near campus recently after two students were hit and severely injured in a crosswalk in May. One car had stopped for them, but another drove through the crossing, critically injuring one of the students.

Those flags are part of a multipronged effort to improve drivers' awareness of the Minnesota law that requires them to stop for people crossing. "You still have to be cautious, but the flags give you one more tool," a Macalester employee told the *Pioneer Press*. "Some drivers look at you like you're a lunatic and they blow by you, but the majority of the people stop."

Of course, it only takes one person "blowing by" to kill you.

A recent study of driver behavior in Chicago highlights just how difficult it is to change driver behavior—and offers some insight into strategies that actually work. For four years, Illinois has had a law requiring motorists to stop at a painted crosswalk to let pedestrians cross. But according to an observational study conducted by the

advocacy group Active Transportation Alliance, only 18 percent of drivers on average stopped for people on foot in a marked crosswalk.

Expecting people to carry flags so they can cross without getting killed only increases the sense that being on foot is somehow weird or embarrassing.

The story was markedly different, however, at crossings designated by more than just paint. At crosswalks with flashing lights, brick or stone crosswalks, signs, or raised crosswalks, the rate went up to 61 percent. Still depressingly low, and still indicative of a pedestrian-hostile environment. But far better.

What's more, the street designs that proved effective in Chicago and its suburbs don't require pedestrians to do something that many might feel is silly—like carrying a flag. They don't make it seem like crossing the street is an unusual or eccentric thing to do. They weave the protections for the pedestrians into the fabric of the street itself.

Part of the reason drivers in so many parts of the country treat people on foot as if they were invisible is that the streets are designed to keep traffic moving, funneling through the maximum number of cars in the minimum amount of time. More visible crosswalks and other visual cues can help with that part.

But another very important factor is that many people in this country don't walk very much themselves. They don't project themselves in the pedestrian's frame of mind when they're driving, because they are rarely in the pedestrian's position at any other time.

In many communities, people traveling by foot are often stigmatized as poor or mentally ill. Expecting people to carry flags so they can cross without getting killed—in the words of Kirkland's campaign, expecting them to "Take It to Make It"—only increases the sense that being a person on foot is somehow weird or embarrassing. Cities should instead be doing everything they can to advance the radical notion that walking is a perfectly normal thing to do

Amended ordinance broadens business use of sidewalks

West Central Tribune (Willmar, MN), 2014-10-21

Oct. 21 -- WILLMAR -- An ordinance amended by the Willmar City Council in an 8-0 vote Monday night broadens use of sidewalks by businesses in the the downtown central business district.

The council voted after holding a public hearing called to consider adopting several proposed amendments to the current sidewalk ordinance.

Although the ordinance as adopted would be city-wide, most of the activity is expected to take place in the central business district, said Bruce Peterson , planning and development director.

The revisions allow businesses such as restaurants to use the sidewalks seven days per week instead of six and will allow consumption of alcoholic beverages on the sidewalk by officially licensed liquor establishments that have outdoor seating.

Also, the amended ordinance will require that furniture placed on the sidewalk be suitable and be manufactured for outdoor use and that the furniture be maintained in order to maintain a certain standard downtown.

In addition, the amended ordinance prohibits placing the furniture on the sidewalk from December through February.

Peterson said the matter has been before the council several times and the most recent amendment was dealing with the suitability of the furniture. Adoption of the amended ordinance was recommended by staff, Peterson said.

Mayor Frank Yanish opened the public hearing, but no one from the public spoke about the amendments.

Yanish closed the hearing and moved the matter to the council table where Denis Anderson offered a resolution, seconded by Bruce DeBlieck , to adopt the ordinance.

During the discussion, councilman Ron Christianson asked Peterson for examples of where tables and chairs would not be allowed.

Peterson said the ordinance requires that a five-foot pedestrian traffic-way remain open on the sidewalk. He said each business use of the public sidewalk will be done on a permit basis. When a business applies for a permit, the business will be required to provide information that shows the size and proposed location of the furniture.

Peterson said the information will allow staff to quickly determine whether or not the site can accommodate that type of use.

Peterson said Christianson correctly pointed out that there will be instances in which locations with existing benches, trees, utility vaults and other structures may conflict with the ability of the business to use the sidewalk space.

"Just because the ordinance allows for it does not mean that every property is going to be able to utilize the ordinance and have the sidewalk available to them," he said.

Peterson said certain streets, such as Fourth Street , which has wider right-of-ways, will provide for more options for businesses. But certain blocks such as the back side of Benson Avenue have narrower sidewalks that may not work for a particular business, Peterson said.

Christianson asked who will enforce the ordinance: city staff, community service officers or complaints from the public.

Peterson thought all of the above. If staff recognizes an obvious violation, it will be addressed, and Peterson said he would expect community service officers would be versed on the ordinance.

Also, the public as it becomes better educated about the ordinance will understand better and will be a position to tell staff when things don't seem right or don't work right, and staff will deal with the business owner.

Councilman Jim Dokken asked how many inquiries the city has received in the last two years to allow tables and chairs on the sidewalk.

Peterson said at least three or four businesses in the central business district currently have tables and chairs because the city already allows it, and Peterson anticipates more coming.

Dokken said he was in a town within 30 miles of Willmar that allows tables and chairs on the sidewalk and he said it seems to be accepted quite well there.

Peterson said he expects very few issues to arise.

"It's done universally," he said. "We're probably one of the few cities that had the six-day-a-week restriction. Most cities have gone to allowing alcohol service ... in those controlled conditions."

One supporter of the amended ordinance at the council meeting was Warren Hagen , owner of Hagen Orthotics and Prosthetics, located downtown. After the vote was taken, Hagen told the Tribune he was pleased the council was able to work together and extend the outdoor seating to seven days a week.

Four other ordinance supporters included Liv Fuchs , co-owner of the Foxhole Brewhouse being developed downtown.

"It's very exciting, not only for us, but the whole community," Fuchs said. "It shows that the people of Willmar and the council are ready for some good changes to happen."

Leaders ask residents, 'What should St. Cloud become?'

St. Cloud Times (MN), 2014-10-20

Oct. 20 --It's time to dream.

It's time to think about what St. Cloud could be. How to best welcome visitors to downtown. How to make it easier to get from one side of town to the other.

It's time for all of us to visualize how we want our community to progress and develop. St. Cloud is updating its Comprehensive Plan, and there are a number of ways for residents to get involved and share their ideas.

The plan is about creating a community vision for the city's physical space, Community Development Director Matt Glaesman said. That includes housing to transportation to open space to commercial areas.

And how to make St. Cloud stand out from other cities, to attract and retain residents and businesses.

"We're not planning for the norm, we're planning for the unique," Glaesman said.

A starting point

The plan focuses on the community at large, but also will zero in on downtown and the Division Street corridor. It will set the stage for future development and how the city spends money.

It becomes the starting point for nearly every decision relating to physical space in St. Cloud .

That's critical when developers look for new projects in the city. The plan tells them what the community wants and helps them find ways to produce that vision.

It was the community's vision that eventually led to projects such as revitalization of Lake George and the Fifth Avenue Live project that redeveloped buildings downtown for retail, office and student housing.

Tom Grones is chairman of the advisory group that is overseeing the plan update. He said over the past 10 years the city has reached many goals outlined in the 2003 Comprehensive Plan, the River's Edge Convention Center and St. Cloud Public Library being just two.

"We have an opportunity to determine what our priorities are," he said. "How can we make this place where we live even better than it already is?"

So how do you participate?

Surveys, focus groups and open houses are planned. The first open house will be at 7 p.m. Thursday at 912 Regency Plaza , 912 St. Germain St.

There's also a cool feature at www.stcloudplan.com where you can click on points to say that is a community asset, has poor appearance, a bad intersection or something else. You also can add comments.

You can be as specific as suggesting a piece of public art in a certain spot or be as broad as saying a section of road needs to be addressed.

You can look at other people's maps, too. Eventually the maps will be put together so city officials can see common themes.

"A lot of people see government as being off on a hill somewhere, doing things that affect them without them having much influence," Grones said. "This is a very systematic way for all of us to have some type of input that was envisioned when the Founding Fathers created this society. Everyone has a place at the table, all suggestions are taken into account."

Downtown

Specific sub-area plans will be developed for the Division Street corridor and downtown. Those plans will include more specific recommendations for those areas.

Within the downtown plan, four catalyst sites have been identified. Those sites will have specific plans and recommendations.

The sites are the area near Empire Apartments and Skylight Gardens , the Lady Slipper parking lot downtown, the northwest corner of the Southside University Neighborhood that is near Minnesota Highway 23 and the Cooper Avenue and Highway 23 intersection.

Glaesman said those sites are high profile and can serve as important gateways into the community.

Downtown has found a renewed energy over the past couple of years with more businesses opening and thriving along St. Germain Street .

"We need to be maintaining the vibrancy that's developing downtown," Grones said.

Downtown Council President Pegg A.K. Gustafson said she wants the final plan to serve as an aspirational vision for downtown. One goal has been to bring more housing downtown.

"You can't really have a 24-hour urban downtown without that housing component," she said.

She hopes the plan will include specifics on how to implement it and what funding sources can help. The key is to keep the momentum going to create a successful downtown.

"We've come this far ... how do we sustain it and grow?" Gustafson said.

The goal is to have the City Council adopt a final plan by the end of next year.

Follow Kari Petrie on Twitter @karipetrie or contact her at 255-8765.

How you can get involved

There are a number of ways residents can give their input on St. Cloud's future development. The public is invited to participate in one of the following ways:

In person

Community open house at 7 p.m. Thursday at 912 Regency Plaza , at 912 St. Germain St.

Business workshop at 8 a.m. Friday at City Hall .

Downtown workshop at 8 a.m. Nov. 13 at Pioneer Place on Fifth, 22 Fifth Ave S.

Online

Visit www.stcloudplan.com to take an online survey and use an interactive map to show what areas you think need redevelopment. You can also share your ideas for what should be done at those sites.

You lead the discussion

There are also do-it-yourself kits available at the city's planning office at City Hall . The kits teach residents how to lead discussions with their organizations or businesses about the city's future. The kits show residents how to put those ideas on paper and submit it to the city.

For more information on how to get involved, contact the city's planning office at 255-7218.