

PLANNING COMMISSION

Wednesday, March 18, 2015

Chairman Hayden Shaw called the meeting of the Brainerd Planning Commission to order at 6:01 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Pritschet, Parks, Hayden Shaw, Norwood, Straw, and Cole. Commissioner Plantenberg was noted absent. Also present was City Planner Ostgarden.

#2 Approval/Amendment of Agenda

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

#3 Approve minutes of the regular meeting of February 18, 2015

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, TO APPROVE THE MINUTES FOR THE WORKSHOP AND REGULAR MEETING OF FEBRUARY 18, 2015.

#4 NEW BUSINESS

a. **Public Hearing – Zoning Text Amendment to Permit Non-Enclosed Premises (outdoor alcohol service) as a Conditional Use in B-2 (Neighborhood Business), B-3 (Central Business), B-4 (General Business) and B-6 (Washington Street Commercial) Districts and in I-1 (Light Industry) Districts**

City Planner Ostgarden stated currently outdoor facilities for dining are allowed as conditional use permits in the proposed districts but outdoor service of alcohol is currently not allowed. The public hearings are being held for proposed changes to allow non-enclosed areas for dining and/or alcohol service in restaurants and/or bars.

City Planner Ostgarden reviewed the State Statute regarding non-enclosed premises noting it only stated the space should be “compact and contiguous”. He stated instead of drafting language from scratch, he used examples from other cities to draft the proposed ordinance language.

City Planner Ostgarden reviewed the language changes and discussion/questions were received from the Commission.

The Public Hearing was opened at 6:14 pm.

No public comment was received.

The Public Hearing was closed at 6:15 pm.

Discussion was held regarding the following items:

- 30% floor area
- Size and material of the barrier

- Landscaped buffer
- Live and amplified music
- Type of surface such as non-slip surface

It was noted these are conditional use permits and changes in the types of barriers could be approved during that process.

The Commission agreed to the following:

- Keep the 30% floor area as a variance can be requested for more area. Commissioner Hayden Shaw did not agree and suggested a 50% floor area.
- Change the wording in item 11 from prohibit to deter.
- Planters be added to approved barriers and add the language of “or combination of”.
- Change the barrier size to thirty-six (36) inches.
- Remove the two (2) foot landscaped buffer.
- Change the language to “smoking in the area **if allowed by the business owner**”.
- Change the language in all the proposed districts except the B-2 District regarding music to “There shall be no amplified live music allowed in the area except in the case of a special event, which requires a permit from the City. Music shall be kept to a level that is not intrusive to surrounding property”.
- In the B-2 District change the language to read “There shall be no amplified music allowed except in the case of a special event, which requires a permit from the City. Music shall be kept to a level that is not intrusive to surrounding property”.

MOTION AND SECONDED BY COMMISSIONERS NORWOOD AND PRITSCHET, DULY CARRIED, TO RECOMMEND APPROVAL OF THE ZONING TEXT AMENDMENT TO PERMIT NON-ENCLOSED PREMISES (OUTDOOR ALCOHOL SERVICE) AS A CONDITIONAL USE IN B-2 (NEIGHBORHOOD BUSINESS), B-3 (CENTRAL BUSINESS), B-4 (GENERAL BUSINESS) AND B-6 (WASHINGTON STREET COMMERCIAL) DISTRICTS AND IN I-1 (LIGHT INDUSTRY) DISTRICT WITH THE LANGUAGE CHANGES.

b. Public Hearing – Zoning Map Amendments to Establish Transient Food Units Overlay Districts in the following areas:

1. **West Brainerd**
2. **County Government Center**
3. **Downtown**
4. **Northern Pacific Center**
5. **Intersection of Hwys 18 and 25**
6. **Brainerd Industrial Park**
7. **Central Lakes College**
8. **Franklin Art Center**

c. Public Hearing – and Zoning Ordinance Amendment to Add Section 515-66 TFU (Transient Food Unit) District.

The Commission agreed to hold both public hearings pertaining to Transient Food Units at the same time.

City Planner Ostgarden stated there has been a City Council approved trial period to allow food trucks to operate in the City in eight (8) different locations with specific time periods for a couple of years. The City Council has given approval to move forward with the process to allow this type of sale permanently on private property. This does not include the public right-of-way.

City Planner Ostgarden stated there will be two public hearings, the first one to consider adding a zoning district overlay zone to allow transient food units to operate in several areas in the city. The second is to consider adding a new Zoning Ordinance section called TFU (Transient Food Unit) Overlay Districts.

City Planner Ostgarden reviewed what an overlay district is noting it provides a means to incorporate various development regulations across a specified area in the City. These districts are special zones that lie on top of existing zoning categories to supplement or supersede existing regulations. The boundaries may or may not coincide with the boundaries of the underlying zone.

City Planner Ostgarden reviewed the eight (8) locations where food trucks have been allowed to operate during the trial period and noted these are the same eight (8) areas that will be added for the Transient Food Units to operate. The TFU Overlay District Map will be added as Appendix 1 and becomes part of the approved Zoning Map.

City Planner Ostgarden reviewed parts of the Minnesota Department of Health process to become a mobile food unit and noted it is a strict process. He stated there are specific sanitary requirements in order to obtain a license from the Department of Health. He reviewed the different types of permits that can be applied for from the Department of Health.

City Planner Ostgarden stated up until now we've allowed food trucks. It is being suggested to broaden the category to allow trucks, trailers, wagons, cars, seasonal temporary food stands, and seasonal permanent food stands.

City Planner Ostgarden noted the hours for all areas except downtown will be 11:00 am to 7:00pm. The downtown area will be 11:00 pm to 2:00 am. He then reviewed the proposed conditions to be added to Zoning Ordinance language.

Discussion was held regarding language as it pertains to seasonal permanent food stands.

The Public Hearing was opened at 7:09 pm.

Ms. Toni Czczok, owner of Mickey's Pizza and Subs, stated she has several questions regarding the process and the proposed language. She asked the following questions:

- Why can't the boundaries identified be changed?
- Would like to see City parks added as a location.
- What is defined as private property and is the County Government Center considered private property?
- How is the copy of the required state licenses and insurance coverage monitored?
- How is the property owner written approval monitored?
- Questioned the validity of condition fifteen.
- Questioned condition seventeen as it pertains to the fairgrounds.

Mr. Steve Zelinske, 15965 County Road 25, owner of Yesterday's Gone asked for clarification on the 300 feet and if it is from the building or the property line.

Mr. Patrick Wussow, 2018 Crestview Ln, asked about changing it from the interim use to an overlay district and the 300 feet from restaurants or bars. He stated he does not agree with extended the areas from what there was during the interim use period.

Ms. Czeczok questioned the "interim use" and if this will continue to be an interim use or will be submitted to the City Council to become permanent.

The Public Hearing was closed at 7:19 pm.

City Planner Ostgarden addressed the questions noting the following:

- The boundaries can be changed if the Commission so chooses.
- The private/public relationship can be clarified. The intent is to allow the units on property that is not the public rights-of-way.
- Copies of the state license, insurance, and property owner approval will have to be submitted yearly with the application.
- Item fifteen is in there to prevent traffic issues with people driving up to the unit as if it were a drive-thru. Sales to customers on the sidewalk language is included as it would be hard to regulate people waiting on a sidewalk to be served from the food unit.
- The language regarding the Fairgrounds was included as it is to prevent additional traffic during Fair week. Specifying that week only could be suggested.
- The 300 foot language is added because of the history of concern to allow food units to operate next to a restaurant. It is suggested the 300 feet be measured from the property line.

Commissioner Parks noted he has forwarded the letter submitted by Ms. Czeczok to the Park Board and it will be on the next Park Board agenda for discussion on allowing transient food units to operate in City parks.

City Planner Ostgarden stated an email was received today from the manager of Franklin Art Center. It stated they would like to continue to allow the Prairie Bay food truck to operate in the parking lot on various days and hours as they wish along with other vendors in the community.

City Planner Ostgarden stated this was never permitted as an interim use, it was permitted on a temporary trial basis. He stated the trial period that was approved it will now being submitted to the City Council for approval to become a permanent part of the Zoning Ordinance. He stated a license will be required every year.

Discussion was held regarding the following:

- Locations where the transient food units will be allowed to operate and the overlay districts and whether or not there will be an expansion of the areas from the trial period.
- Condition fifteen regarding sales to individuals parked or stopped in a public street or alley. Should it be allowed to have cars drive up on private property to the units?
- Concerns with not allowing units within 300 feet of a restaurant or bar and where the measurement comes from.
- How units can be allowed in City parks.

Discussion was held regarding how the Commission would like to proceed. Commissioners Norwood and Hayden Shaw feel the ordinance language is too restrictive and will not bring additional units to the City.

MOTION AND SECONDED BY COMMISSIONER PRITSCHET AND PARKS TO RECOMMEND APPROVAL OF THE ZONING MAP AMENDMENTS TO ESTABLISH TRANSIENT FOOD UNITS OVERLAY DISTRICTS AND THE ZONING ORDINANCE AMENDMENT TO ADD SECTION 515-66 TFU (TRANSIENT FOOD UNIT) DISTRICT. COMMISSIONER COLE VOTED NAY.

Commissioner Hayden Shaw stated this began as a trial period and when a trial period is successful you move forward and make it permanent. She stated she does not feel the trial period was successful as it didn't bring food trucks into the City therefore she does not feel we should move forward. She stated there should be more effort and balance to help bring more food units into the City, but if it's less restrictive it should be done as another trial period first before making it permanent.

Commissioner Pritschet stated he does not feel the purpose was to attract food trucks into the City, but to allow a specific food truck to operate in the City.

Commissioner Norwood stated he would like to move forward with the motion as it is something to start with and can be amended in the future.

Commissioner Pritschet stated this is not bringing revenue into the City.

Commissioner Hayden Shaw suggested tabling this item until next month for additional discussion.

MOTION BY COMMISSIONER STRAW TO TABLE THIS ITEM UNTIL THE APRIL MEETING. THE MOTION FAILED FOR LACK OF A SECOND.

Commissioner Hayden Shaw stated she would like to see something less restrictive, but at this time is willing to vote for the motion to at least have something in the ordinance.

d. Proposed MNAPA Northwest District Planning and Zoning Workshop

City Planner Ostgarden stated he was contact regarding putting together workshops for the Northwest District of the Minnesota Chapter of the American Planning Association. He stated he asked if the Commission would be interested in having workshops put on here and would they prefer day or evening sessions.

Commissioners Pritschet and Hayden Shaw both had interest.

City Planner Ostgarden stated he will let them know there is interest and will come back to the Commission with additional information.

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

Mr. George Katcavage, 902 Thompson Ave, South St Paul, spoke about his experience in the transient food unit business and stated he was confused about what the Commission is trying to do with the transient food unit ordinance.

#6 **OLD BUSINESS**

NONE

#7 **Commissioners' Questions/Comments**

Commissioner Norwood stated Austin MN has recently banned the use of e-cigarettes in public spaces and suggested that may be something to look into.

City Planner Ostgarden stated he is part of the Community Leadership Team for Crow Wing Energized and one of the areas the team will be bringing up is whether or not they want to get involved in making a recommendation with things like that.

Commissioner Hayden Shaw stated the South 6th Street zoning was to be part of the workshop and asked to adjourn the April meeting to a workshop to discuss this zoning. She suggested options to be considered for the zoning and asked for the City Planner to research options and provide it to the Commission.

Commissioner Hayden Shaw stated there will be a meeting on Monday, March 23 for public input on the redesign of South 6th Street and encouraged Commissioners to attend.

It was noted the Mississippi Riverwalk will also be discussed at that meeting.

#8 **City Planner's Report**

City Planner Ostgarden stated there will be a Conditional Use Permit request from ISD 181 for the addition to the Riverside School on the April agenda.

City Planner Ostgarden stated the City Council approved fee changes for planning applications. He stated they also included ability to require escrow for projects.

#9 **Adjournment**

As there was no further business the meeting adjourned at 8:20 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

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