

BRAINERD PLANNING COMMISSION

Wednesday, October 19, 2016

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 held on September 21, 2016
4. NEW BUSINESS
 - a) Gordon Murphy, 704 6th St N to reconstruct detached accessory building (garage):
 - Conditional Use Permit is to allow the garage to be 1' taller than permitted
 - Variance is to allow the garage to be 6' closer to Grove Street than permitted
 - b) Art Space LLP, Conditional Use Permit (CUP) Request to operate brewery and taproom at Franklin Art Center, 1001 Kingwood 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's Report
9. Adjourn to Workshop in 2nd Floor Conference Room – Vacation Rental By Owner Ordinance Draft Discussion

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

PLANNING COMMISSION
Wednesday, September 21, 2016

City Planner Ostgarden 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 Parks, Plantenberg, Straw, Headley, Turner, Antolak and Pritschet. Also present were City Planner Ostgarden, City Administrator Thoreen, and 11 others.

#2 Approval/Amendment of Agenda

MOTIONED AND SECONDED BY COMMISSIONERS PRITSCHET AND PARKS, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

#3 Approval of minutes of the regular meeting of August 17, 2016 and the Special Meeting held on August 17, 2016

MOVED AND SECONDED BY COMMISSIONERS PARKS AND STRAW, DULY CARRIED, TO APPROVE THE MINUTES OF THE AUGUST 17, 2016 REGULAR PLANNING COMMISSION MEETING AS PRESENTED AND TO APPROVE THE MINUTES OF THE AUGUST 17, 2016 SPECIAL PLANNING COMMISSION MEETING WITH COMMISSIONER ANGIE PLANTENBERG BEING ADDED TO THE ROLL CALL.

#4 NEW BUSINESS

- a) **Essentia Health – St. Joseph’s Medical Center, 523 N 3rd Street, Brainerd, MN 56401, has applied for a variance to modify the screening requirements for the parking lot it owns at 501 N. 4th Street**

City Planner Ostgarden reviewed the process leading to this petition which was also included in the Staff Report of the Packet. He stated that when the parking lot was built the hospital installed landscaping which provided a significant barrier between the lot and the neighborhood residents; however, earlier this year the hospital removed all the existing landscaping which required them to meet current screening requirement for new landscaping. He reviewed a timeline in which the hospital installed new landscaping which does not meet screening requirements followed by neighborhood concerns received by the City. He reported that these events have led to meetings between City and hospital staff and eventually the request for a Variance received by the hospital. Illustrations of the past and current landscaping were shown and the height and opacity requirements were reviewed.

The Chair opened the Public Hearing at 6:12 P.M.

City Planner Ostgarden stated that he had forwarded to the Commission 2 emails received earlier in the week from two separate properties on North 4th Street.

The Chair recognized Kevin Yaeger, 325 Bluff Avenue, Brainerd, 2 blocks from the hospital, who expressed his opposition to the variance,. He referred to a documented strong opposition to the original parking lots in 1984. To illustrate his disagreement with the hospital using “safety” as a reason to be allowed this variance he compared police reports for the hospital parking lot and the Gregory Park location showing very little reported for the hospital vs. a significant number of calls for Gregory Park.

He stated that his concern is that the hospital's solution to this safety problem which "they created by installing a parking lot in a residential urban environment" is that the onus is now on the people in the neighborhood to provide security for their lot. He asked the Commission to consider that this request may be fiscally related and asked them to deny the variance request, stating that the ordinance only works if it is upheld and that allowing it could create a slippery slope toward allowing further variances by other properties in Brainerd in the same situation.

The Chair recognized Mike Larson, Chief Operating Officer for Essentia Health, who apologized to the City and neighborhood for making the mistake of changing the landscape of the parking lot without following proper procedure. He stated that 1 out of 3 people he's talked to has had issues with the changes. They are interested in mitigating what they've done to come within the ordinance requirements with the goal of safety for their staff and visitors as well as the safety and concerns of neighbors such as light and sound disturbance. He stated that security staff has been increased at the hospital.

The Chair recognized Kurtis Busman, Essentia Health Facilities Director, who presented pictures of the current and proposed landscaping. He stated that the hospital is trying to address safety, security and light/noise concerns rather than getting toward an "overgrowth" of fill-ins. He answered questions of the Commission about security cameras, height of bushes, shrubs and plants and perceptions of safety.

Mr. Larson stated that the hospital would like to focus on preventing incidents and that cameras are a tool for investigation rather than prevention.

The Chair recognized Steve Frasl, 524 N. 4th Street, Brainerd, who stated that his main concerns as a neighbor are the lights from the hospital and cars in the lot as well as noise. He stated that another concern is the type of barrier used based on plants and trees being bare 7 months out of the year.

The Chair recognized Anne Nelson Fisher, 517 N 5th Street, Brainerd, speaking against the variance. She stated that she is disappointed that the hospital did not address light and noise pollution issues when made aware of the violation of the ordinance in June. She discussed her concern with excessive water use for sprinkling natural berms and recommended further security options such as escort-to-parking lot availability and cameras.

The Chair recognized Melissa Yaeger, 325 Bluff, Brainerd, who feels the changes by the hospital have made the parking lot a very visible part of the landscape, whereas prior to the changes it was not as noticeable. She stated that although the flowers and shrubs are attractive they do not do the job of a proper barrier.

Mr. Busman stated that there has been an increase in security staff and that security staff recently assisted in the arrest of a neighborhood home intruder.

The Chair closed the Public Hearing at 6:45 P.M.

The following Findings-of-Fact were read into the record:

1. The property is located in an (R-1) Single Family Residential District.
2. The parking lot is the block bounded by bounded by N. 3rd Street, Holly Street, N. 4th Street and Ivy Street.
3. There are residential uses across Holly Street, N. 4th Street and Ivy Street,

4. The parking lot was constructed in 1984.
5. As of May 1, 2016, and for an indefinite but multi-year period prior, the parking lot for St. Joseph's hospital conformed to the Brainerd City Code. Specifically:
515-20-9: Parking Lots.
A. 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.
B. 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.
6. Based on the Zoning Ordinance definition the properties across the streets are not adjacent properties.
7. As of May 1, 2016, the screening in place for the parking met the obscuration and opacity requirements of 5.A. above.
8. In June 2016, the required screening was completely removed. Currently the screening does not meet the City's Zoning Code. A permit is not required to landscape non-residential property.
9. New landscaping was installed consisting of perennials and deciduous shrubs which do not meet the obscuration and opacity requirements of 5.A. above.
10. Zoning Ordinance Section 515-15-3 A. 2: Non-Conforming Uses. reads:
A lawful, nonconforming use of a structure, building or parcel of land may be changed to lessen the nonconformity of the use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.
11. Two representatives from Essentia Health were present and spoke in favor.
12. Four Citizens were present and spoke in opposition.
13. Two letters were received from citizens in opposition.

MOVED AND SECONDED BY COMMISSIONERS PARKS AND PRITSCHET, DULY CARRIED, TO ACCEPT THE FINDINGS-OF-FACT.

MOVED AND SECONDED BY COMMISSIONERS PRITSCHET AND STRAW, DULY CARRIED, TO RECOMMEND THE DENIAL OF THE REQUEST FOR A VARIANCE AS APPLIED FOR BY ESSENTIA HEALTH

Commissioner Pritschet stated that he feels the variance might provide further safety but the concern lies in the relation to the neighborhood, particularly the issues of light and noise, and is not congruent with compatible land use.

The relation to the City's Comprehensive Plan and Practical Difficulties were discussed. Commissioners expressed concern over setting precedence and upholding the City Zoning Ordinance.

The Chair recognized City Administrator Thoreen who stated that hospitals these days are usually far removed from local neighborhoods; whereas the Essentia Health building is a long-established facility that happens to be "in a neighborhood" so he wants all parties to consider being neighborly and consider the challenges faced by the hospital including financial.

b) Joe Hess, 310 N 6th Street, Brainerd, MN 56401, has applied to rezone the property from R-1 (Single Family) Residential to R3 (High Density Residential)

City Planner Ostgarden reported that the lot is part of an R-1 District in a generally single family existing area. He stated that the dwelling is a grandfathered duplex which had a 3rd unit added. A recent rental

inspection identified that the 3rd unit was added without permit. History is that in 2011 the property was removed from the R-3 zoning that fronts on Kingwood Street and placed into the R-1 District. The petitioner is seeking a rezoning to zone it back to the R-3 to permit the 3rd unit.

As a separate but related concern, City Planner Ostgarden stated that another factor to consider in this case is whether the City erred in changing the zoning line. Did it have insufficient information when the property was removed? Information that would have changed the decision if they'd had it in 2011? It was known that the property was a duplex and if the zoning changed it was going to be able to continue as a duplex meaning the rezoning was not going to adversely affect the ability of the legal known use at the time to continue. Arguably the R-3 zoning along Kingwood Street is appropriate; however, the change was made to limit multi-family use to Kingwood Street frontage on this block.

The Chair opened the Public Hearing at 7:12 P.M.

The Chair recognized Joe Hess, 310 ½ N 6th Street; who stated that if he wouldn't have made a mistake on some paperwork this wouldn't even be an issue. He was out of town for six years and came back to town to find out the home is being used as three apartments even though it's been zoned as a duplex for years. He completed the paperwork last year for the first time and staff told him he should choose duplex because it's homesteaded but he stated he lived in the basement and that started a very big issue. He stated that he can't afford to kick out a renter.

The Chair recognized John Erickson, 230 Chippewa Street, Brainerd, who owns the property at 323 N 7th Street which is single family and presently empty. He stated that he does not understand where the only issue being addressed is that the property is/was zoned improperly; he stated that there are many other issues which he relayed in a letter to the City. He stated that Mr. Hess is requesting to rezone a home to R-3 in a single family zoning district; a change that would possibly lead to other uses for the property and brings up the fear of "zoning creep" in the area. Stating that the definition of an R-1 is single family, he remarked that this is ad hoc attempt to rezone; an illegal use which has in this case been going on for several years and can be prosecuted. He stated that what is being requested is to use the police power to award a benefit that is an expansion of a previously existing non-conforming use and that it is perverse, illogical and irrational.

The Chair closed the Public Hearing at 7:32 P.M.

The following Findings-of-Fact were read into the record:

1. The property is a 50' x 150' lot on which is located a 3 unit dwelling, with the property owner living in the basement unit.
2. The area is predominantly single family dwellings.
3. The Future Land use Map identifies the area as low density residential land use.
4. Adding another unit will not have effect on city streets, city utilities, or services such as parks or schools.
5. Prior to 2011 the property was zoned R-3 (High Density Residential) District but was zoned R-1 (Single Family Residential District as part of the 2011 City wide Zoning Map review.
6. The petitioner was present and spoke in favor.
7. One property owner was present and spoke in opposition.
8. Two letters and 1 e-mail were received from citizens in opposition.

MOTIONED AND SECONDED BY COMMISSIONERS PRITSCHET AND ANTOLAK, DULY CARRIED, TO ACCEPT THE FINDINGS-OF-FACT.

Commissioner Plantenberg asked why the rental inspection did not reveal the multiple family use both 3 years ago and 6 years ago if this has been used for rental for over six years.

Commissioner Pritschet asked why this was not rezoned to R-3 when it was grandfathered in and suggested alternative options.

In a response to a statement by Mr. Erickson about why the application is being considered, City Planner Ostgarden stated that every property owner has the option to apply for a variance when found in non-compliance.

MOVED AND SECONDED BY COMMISSIONERS ANTOLAK AND PARKS TO RECOMMEND THE DENIAL OF THE REZONING APPLIED FOR BY MR. JOE HESS FOR HIS PROPERTY AT 310 N 6th STREET, BRAINERD, MN 56401, FROM R-1 (SINGLE FAMILY) RESIDENTIAL TO R-3 (HIGH DENSITY RESIDENTIAL).

Chair Plantenberg stated that City Planner Ostgarden has questioned whether there was an error made in the 2011 city-wide rezoning. She stated that this may a chance to correct it rather than it being considered “spot zoning.”

Commissioner Headley asked if the property might have been zoned R-3 during the 2011 rezone if the City had been made aware that it was being used as a triplex.

Reasons for denial included illegal use as a triplex and justification of the current zoning as determined by the Planning Commission during the rezoning of 2011.

Commissioners Parks, Headley and Antolak voted “aye.” Commissioners Pritschet, Turner, Straw and Plantenberg voted “nay.” The Chair declared the motion failed.

No further action was made by the Commission.

#5 PUBLIC FORUM – None

#6 OLD BUSINESS

City Planner Ostgarden listed the changes to the draft Zoning Ordinance language for VRBOs as requested at the August 17, 2016 Planning Commission Special Meeting.

Chair Plantenberg requested that item #5 have “carbon monoxide detectors” listed as a requirement.

City Planner Ostgarden stated that the Commission would need to determine what zoning district this should apply to.

The Commission discussed the information included in the Packet and determined to call for a Public Hearing to discuss the Vacation Rentals By Owner (VRBO) Draft Zoning Ordinance Language at their October Planning Commission Meeting.

#7 COMMISSIONERS' QUESTIONS/COMMENTS - None

#8 CITY PLANNER'S REPORT

City Planner Ostgarden stated that he would be at a Conference next week.

#9 ADJOURN

As there was no further business the meeting adjourned at 8:04pm.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

STAFF REPORT TO THE PLANNING COMMISSION

October 12, 2016

CONDITIONAL USE PERMIT

APPLICANT/LOCATION: Gordon Murphy, 704 6th Street N.

PROPOSED USE: Increase Garage Height to Match Dwelling Roof Slope

LOT AREA: 50' x 140' (7,000 sq. ft.)

CURRENT ZONING: R-1 (Single Family Residential) District

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

ADJACENT ZONING: North: R-1 (Single Family Residential) District
East: R-1 (Single Family Residential) District
South: R-1 (Single Family Residential) District
West: R-1 (Single Family Residential) District

REPORT

The detached garage on the property was destroyed by fire in April, 2016. Mr. Murphy desires to reconstruct the garage in the same location, however he desires to increase the size and increase the roof height with a 6/12 slope to match the dwelling slope. The increase in size will require a setback Variance and a Conditional Use Permit will allow the garage height to be increased above the maximum allowed by right.

Please see the Variance review for the applicant's information for the Conditional Use Permit.

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.***

Zoning Ordinance Section 515-17-8 B. c. 3. Accessory Buildings, Uses and Equipment. reads:

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.

As stated, a setback Variance is requested to increase the size of the garage. The garage fronts on Grove Street and is required to have a 20' setback. A 6' addition towards Grove Street is proposed creating a 14' setback and a 6' setback Variance request.

The other district, Conditional Use provisions or general regulations that apply are side and rear yard setbacks, maximum garage size and maximum lot coverage. The proposed garage size will meet setback requirements, not exceed the maximum size allowed and will cause the maximum lot coverage to be exceeded.

2. *The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.*
There are no special standards that apply to this application.
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.*
The proposed garage height will not create dangerous, injurious or noxious conditions for other property or persons in the neighborhood.
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 new garage will be in the same location and oriented in the same direction as the old one.
5. *The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.*
The garage size, height, roof pitch and location is consistent with the character of the neighborhood.
6. *The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.*
This request has no impact on traffic congestion.
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.*

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

Strategies

- 1. *Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost effective provision of city services.*
- 2. *Encourage housing rehabilitation and redevelopment in appropriate areas.*

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

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.*

DEPARTMENT INFORMATION

Engineering
No Issues

Utilities
No Issues

Fire
No issues

Police
No Issues

Building
No Issues

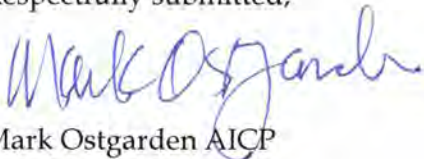
Planning Department

In reviewing the roof design with the Building Department, it has been determined that the proposed 6/12 roof slope with the 10' tall wall and 1 block course will cause the garage height to increase 1' above the 15' roof midpoint height maximum.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation at its meeting on October 19, 2016 and the City Council has scheduled a special meeting on October TBD, 2016 to consider the request.

Respectfully submitted,



Mark Ostgarden AICP
City Planner

STAFF REPORT TO THE PLANNING COMMISSION

October 12, 2016

VARIANCE

APPLICANT/LOCATION: Gordon Murphy, 704 6th Street N.

PROPOSED USE: Street Side Yard Setback Variance

LOT AREA: 50' x 140' (7,000 sf)

CURRENT ZONING: R-1 (Single Family Residential) District

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

ADJACENT ZONING: North: R-1 (Single Family Residential) District
East: R-1 (Single Family Residential) District
South: R-1 (Single Family Residential) District
West: R-1 (Single Family Residential) District

REPORT

The detached garage on the property was destroyed by fire in April, 2016. Mr. Murphy desires to reconstruct the garage in the same location, however he desires to increase the size and increase the roof height with a 6/12 slope to match the dwelling slope. The increase in size will require a setback Variance and a Conditional Use Permit is requested to permit the garage height to be increased to 1' above the maximum allowed by right.

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.*

Construction of the accessory building is in harmony with the above highlighted general purposes and intent of the Zoning Ordinance.

When the Variance is consistent with the Comprehensive Plan.

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

Strategies

- 1. *Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost effective provision of city services.*

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

- 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.

Is it reasonable to allow a 14' driveway on private property which will cause vehicles to be partly parked on the public right of way?

The Walkable Bikeable City Committee (WBCC) has recommended a Non-Motorized Transportation Plan to the City Council. This neighborhood known as the North Side, was part of the original Brainerd plat dating back to the 1870's, has an established sidewalk network, however over the decades, gaps have developed or sidewalk may have never been constructed in some locations. This portion of the Grove Street right of way is one with a sidewalk gap.

The WBCC has recommended in the Plan that the North Side sidewalk gaps be filled. It has recommended improvements in 3-3 year tiers and filling the gaps is in the 3rd tier, meaning that if the Plan is approved by the City Council and unless road improvements to Grove Street are needed sooner (which is very unlikely) filling the sidewalk gaps would not occur until 2022 at the earliest.

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

The property is part of the original plat of Brainerd going back to the 1870's. It is a typical lot in length/width/area. There are no unusual lot characteristics like steep slopes, poor soils, woodlands, wetland etc.

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

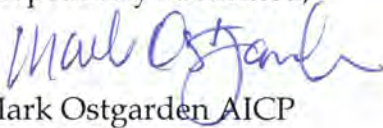
There appear to be very few 6/12 garage (accessory building) roof slopes in the neighborhood. However the 6/12 slope is permitted and not the issue for the variance. The roof height that is 1' taller than permitted will not be a noticeable change that will affect the neighborhood.

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

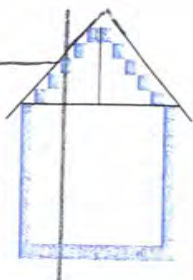
The Planning Commission may consider a recommendation at its meeting on October 19, 2016 and the City Council has scheduled a special meeting on October TBD, 2016 to consider the request.

Respectfully submitted,

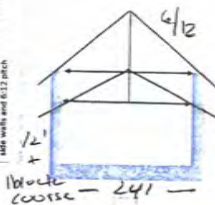


Mark Ostgarden AICP
City Planner

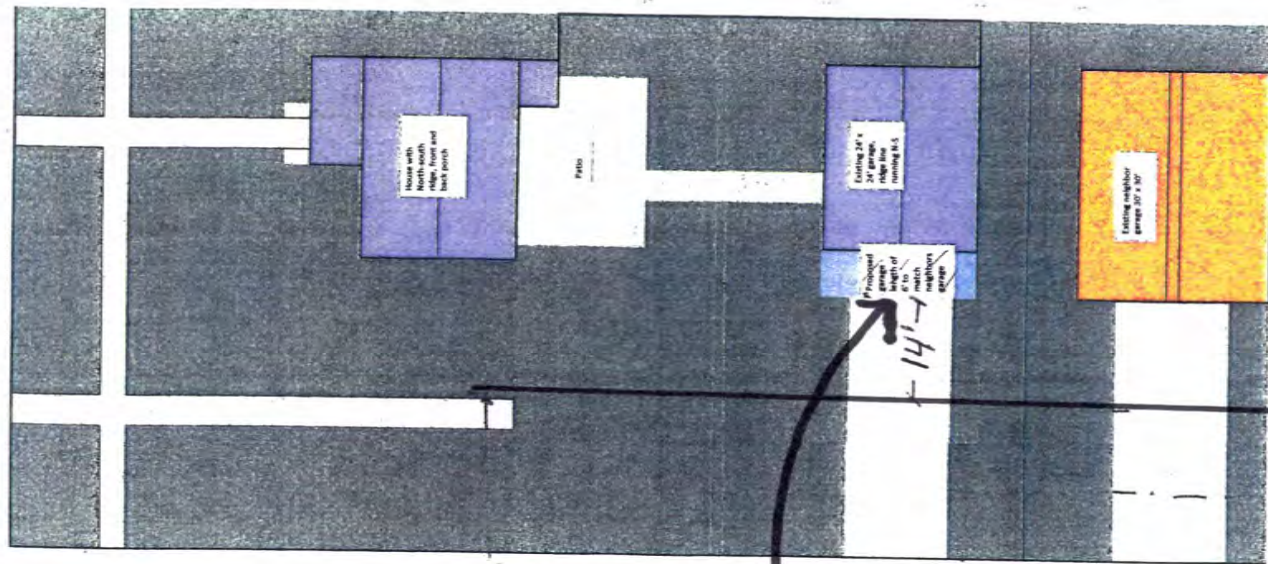
16' tall at
midpoint. 15'
is permitted



Former garage was one course of block with 8' side walls and 4.12 pitch.
Proposed garage is one course of block with 12' side walls and 6.12 pitch.



Block course - 24" -



property
line

Setback is 14' where 20'
is permitted



Looking at the front of my house, you can see my neighbor's garage, my proposal is to match the depth of their garage.



From my garage slab, looking at my two story house



From my house, looking at where my garage slab is, seeing my neighbor's garage and house roof top



NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Gordon Murphy, 704 6th St. N., Brainerd, MN 56401 has applied for a Variance and Conditional Use Permit to reconstruct the detached accessory building (garage) at the property. The property is zoned R-1 (Single Family Residential) District.

The Variance request is from City of Brainerd Zoning Ordinance Section 515.54 C.3 (Single Family Residential) District Minimum Lot Area and Setback Requirements. The garage is proposed to be 14' from the Grove Street property line and 20' is required. The Conditional Use Permit request is from City of Brainerd Zoning Ordinance Section 515.17 8 B.3.c. General Building, Use and Design Provisions – Accessory Buildings, Uses and Equipment. The garage is proposed to be 16' tall (at the roof slope midpoint) to match the dwelling roof slope. The Zoning Ordinance requirement is that accessory buildings shall not exceed the height of the principal building or 15' whichever is less. The accessory building will be 1' taller than permitted.

Notice is further given that the City of Brainerd Planning Commission will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., Wednesday, October 19, 2016 to consider the request for the Variance and Conditional Use Permit.

A copy of the application is on file for review at the City Planning Department, 501 Laurel Street.

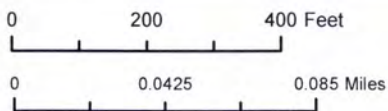
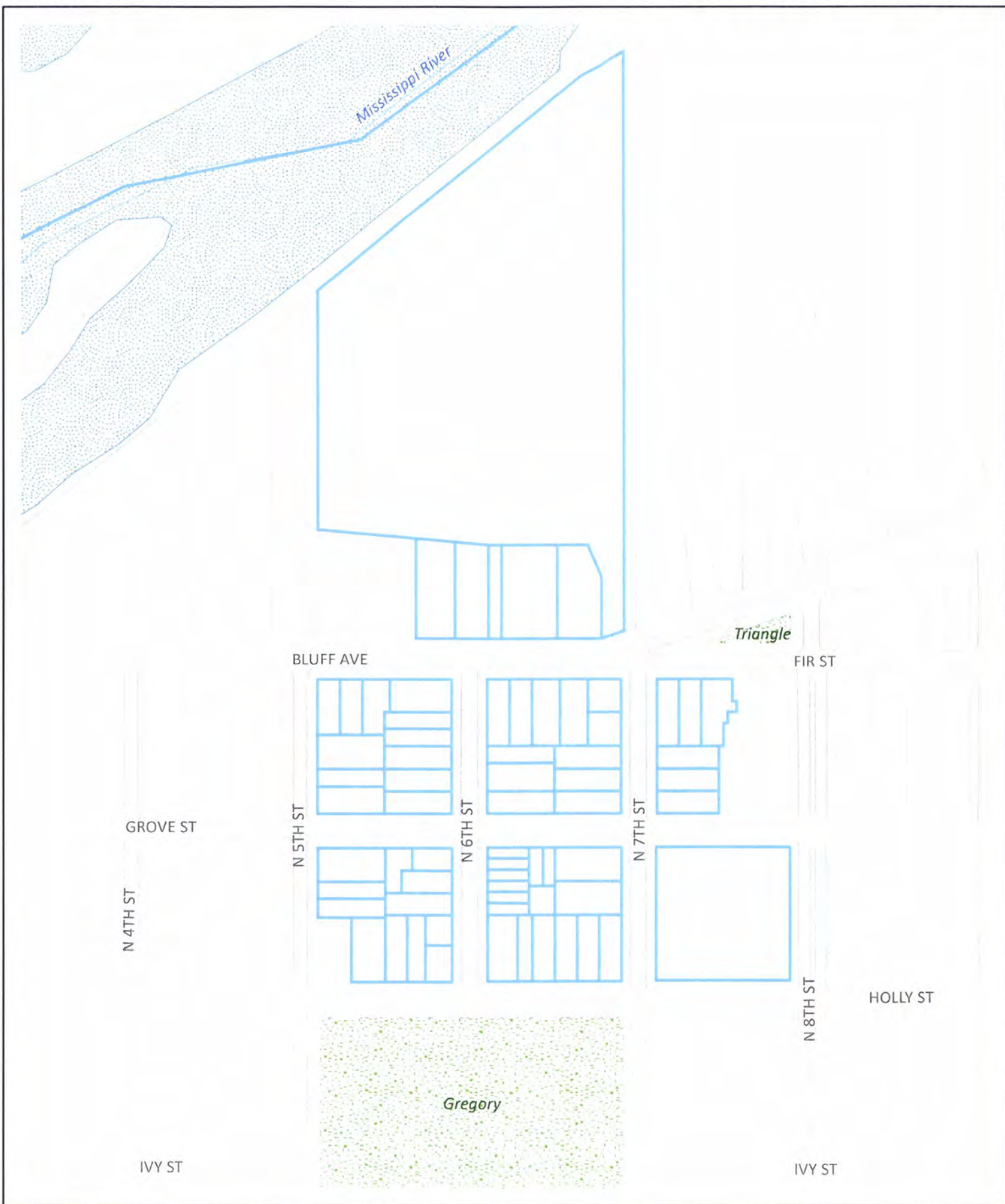
Any individual needing special accommodations please call (218) 828-2309.

Dated this 6th day of October, 2016.



Mark Ostgarden AICP
City Planner

See reverse side for site plan and accessory building information.





City Planning Department

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

2016-00071
Receipt # 2016-00072
Check # 7563
Date Paid: 9-30-16

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

	RESIDENTIAL	COMMERCIAL
CONDITIONAL USE PERMIT	☒ (\$250.00)	☐ (\$400.00 + \$500.00 escrow deposit)
REZONING	☐ (\$300.00)	☐ (\$500.00)
VARIANCE	☒ (\$250.00)	☐ (\$400.00 + \$500.00 escrow deposit)

PROPERTY ADDRESS: 704 N 6th St Brainerd MN.

LEGAL DESCRIPTION: Lot(s): 23/24 Block: 196 Addition: First Addition to Brainerd
(attach description if lengthy)

Property Owner Name: Gordy & Laurie Murphy

Street Address: 704 N 6th St City: Brainerd State: MN Zip Code 56401

Phone Number: (218) 330-0491 Fax: E-mail: gordy@Lindarcorp.com

Applicant Name: (If different than Property Owner)

Street Address: City: State: Zip Code:

Phone Number: Fax: E-mail:

Description of Request: GARAGE BURNED DOWN. REPLACE 24'x24' WITH NEW 24'x30'
TO MATCH NEIGHBOR'S GARAGE DEPTH. 12' side wall INSTEAD OF 8'

Gordy Murphy
Property Owner Signature

9-26-16
Date

Gordy Murphy
(Please print name)

Gordy Murphy
Applicant Signature

9-30-16
Date

Gordy Murphy
(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: Fire Chief; 23 Laurel St; Brainerd, MN 56401; 218-828-2312; fire@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

CUP/Variance - Gordon Murphy

APPRCL	TXNAME	TXADR1	TXADR2	PHYSADDR
09196194001Z009	523 GROVE STREET LLC	11171 TOWN HALL ST	BRAINERD, MN 56401	523 GROVE ST
09196194021Z009	ANDERSON, ANNA B	708 5TH ST N	BRAINERD, MN 56401	708 5TH ST N
09196168003Z009	BAILEY, CAROL R	619 N 6TH ST	BRAINERD MN 56401	619 6TH ST N
09196168023Z009	BEVANS, KELLY J & SUSAN M	523 HOLLY ST	BRAINERD MN 56401	523 HOLLY ST
09196194013Z009	BOILEAU, JAMES E & CONNIE	712 5TH ST N	BRAINERD MN 56401	712 5TH ST N
09149001005Z009	BRAINERD, LANDON D & EMILY J	609 BLUFF AVE	BRAINERD, MN 56401	609 BLUFF AVE
09196168005Z009	BRAUSEN, KAY	514 GROVE ST	BRAINERD MN 56401	514 GROVE ST
09196194013Y009	BUNDY, RANDALL E & PAMELA J	1027 SUMMIT AVE	ST PAUL, MN 55105	510 BLUFF AVE
09196194017Z009	BURKEY, WILLIAM & JACQUELINE T	502 BLUFF AVE	BRAINERD, MN 56401	502 BLUFF AVE
09166001004Z009	CARLSON, KEVIN A & LEANELLA M	519 BLUFF AVE	BRAINERD MN 56401	519 BLUFF AVE
091050000110009	CITY OF BRAINERD	501 LAUREL ST	BRAINERD, MN 56401	
09196196020Z009	CRISCO TREE NEW YORK LLC	9292 EDGEWATER CIR S	BREEZY POINT, MN 56472	708 6TH ST N
09196166021Z009	DANZL, LAVONNE M REV TRUST	619 HOLLY ST	BRAINERD, MN 56401	619 HOLLY ST
09196194003Z009	DEGEN, MICHAEL	10935 GULL RIVER RD	EAST GULL LAKE, MN 56401	705 6TH ST N
091350000010009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401	614 6TH ST N
091350000020009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401	616 6TH ST N
091350000030009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401	618 6TH ST N
091350000040009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401	620 6TH ST N
091350000050009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401	622 6TH ST N
091350000060009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401	624 6TH ST N
091350000070009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401	610 GROVE ST
091350000080009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401	612 GROVE ST
091350000090009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401	
09196168011Z009	EFTERFIELD, KRYSTAL	614 5TH ST N	BRAINERD, MN 56401	614 5TH ST N
09196168001Z009	ELLZEY, REBECCA SUE	615 N 6TH ST	BRAINERD, MN 56401	615 6TH ST N
09196166013Z009	FILKINS, MARK B & PATIENCE J	603 HOLLY ST	BRAINERD MN 56401	603 HOLLY ST
09196196023Z009	GORDON JR & LAURIE MURPHY	704 6TH ST N	BRAINERD, MN 56401	704 6TH ST N
09196196017Z009	HOFIUS, THOMAS & AMY & STEPHEN	722 6TH ST N	BRAINERD, MN 56401	722 6TH ST N
09196166004Z009	HOLLOWAY, RONNIE L & KRISTI M	623 7TH ST N	BRAINERD MN 56401	623 7TH ST N
09196166001Z009	HUMMEL, JERRY K & REBECCA S	24803 COUNTY ROAD 19	MERRIFIELD, MN 56465	617 7TH ST N
09196196005Z009	JOHNSON, CLIFTON E & LU VERNE	711 N 7TH ST	BRAINERD MN 56401	711 7TH ST N
091490010100009	JOHNSON, DANNY L & BARBARA L	611 HOLLY	BRAINERD MN 56401	
09166001001Y009	JOHNSON, DANNY L & BARBARA L	611 HOLLY	BRAINERD MN 56401	

09196166019Z009	JOHNSON, DANNY L & BARBARA L	611 HOLLY	BRAINERD MN 56401	611 HOLLY ST
09196194005Z009	KARELS, STEVEN C	707 6TH ST N	BRAINERD, MN 56401	707 6TH ST N
09196198023Z009	LARSON, DIANE M	704 N 7TH ST	BRAINERD, MN 56401	704 7TH ST N
09196194007X009	LOTHSPEICH, DENNIS M & PATRICIA A GIMBEI	723 N 6TH ST	BRAINERD, MN 56401	723 6TH ST N
09149001001Z009	MANDELL, JOSEPH G & KATHLEEN A	615 BLUFF AVE	BRAINERD, MN 56401	615 BLUFF AVE
09196196012Z009	MCDONALD, JOHN E & EILEEN	612 BLUFF	BRAINERD MN 56401	612 BLUFF AVE
09196168005Y009	MORAN, SANDRA L	621 N 6TH ST	BRAINERD MN 56401	621 6TH ST N
09196198011X009	MOSER, SANDRA JEAN	PO BOX 702	BRAINERD, MN 56401	712 FIR ST
09196194007Z009	NEWSTROM, REBECCA S	709 N 6TH ST	BRAINERD MN 56401	709 6TH ST N
09196166015Z009	NICK & JOE'S MOW AND SNOW LLC	2200 PRINCETON AVE	ST PAUL, MN 55105	605 HOLLY ST
09196196007Z009	NORWOOD, JAMES A & RACHEL C	719 N 7TH ST	BRAINERD, MN 56401	719 7TH ST N
09196168010Z009	ORTON, MARC A	618 5TH ST N	BRAINERD, MN 56401	618 5TH ST N
09196168021Z009	POTVIN, ALLISON B	521 HOLLY ST	BRAINERD, MN 56401	521 HOLLY ST
09196168023Y009	POTVIN, NATALIE S	609 N 6TH ST	BRAINERD, MN 56401	609 6TH ST N
09196194015Y009	QUILLIN, RICHARD C & MELANIE	508 BLUFF AVE	BRAINERD MN 56401	508 BLUFF AVE
09196168007Z009	REABE, ROXANE	624 N 5TH ST	BRAINERD MN 56401	624 5TH ST N
09196168019Z009	RITCHIE, MARK A	515 HOLLY ST	BRAINERD, MN 56401	515 HOLLY ST
09196194022Z009	ROMANO, FRANCES N	702 5TH ST N	BRAINERD, MN 56401	702 5TH ST N
09196196010Z009	SAUMER, ANDREW P & LINDA M	620 BLUFF AVE N	BRAINERD MN 56401	620 BLUFF AVE
09196198021Z009	SCHOENECKER, JEANETTE F	708 7TH ST N	BRAINERD, MN 56401	708 7TH ST N
09196196015Z009	SOUKUP, KRISTA S	606 BLUFF AVE	BRAINERD, MN 56401	606 BLUFF AVE
09196196019Z009	STEEN, NANCY L	4711 REFORMA RD	WOODLAND HILLS, CA 91364	712 6TH ST N
09196194007Y009	STEIGER, PATRICIA	22969 OLD GOVERNMENT TRL	NISSWA, MN 56468	717 6TH ST N
09196198015Z009	SULLIVAN, JOYCE	708 FIR ST	BRAINERD, MN 56401	708 FIR ST
09196196001Z009	THOREEN, JAMES & BONNIE	703 N 7TH ST	BRAINERD, MN 56401	703 7TH ST N
09196166023Z009	THORNTON, DANIEL	401 HOLLY ST	BRAINERD, MN 56401	623 HOLLY ST
09196168016Z009	TIPLADY, MARGARET M REV TRUST	509 HOLLY ST	BRAINERD, MN 56401	509 HOLLY ST
09196166017Z009	WARNBERG, LORRAINE M REVC TRUST	200 BUFFALO HILLS LN APT 4	BRAINERD, MN 56401	607 HOLLY ST
09196196003Z009	WHITE PINE INVESTMENTS, LLC	4399 UPPER ROY LAKE RD	NISSWA, MN 56468	707 7TH ST N
09196164000Z009	WHITTIER CAPITAL GROUP LLC	245 W POINT RD	EXCELSIOR MN 55331	WHITTIER SCHOOL
09196196007Y009	WUNDER, SADIE & NATHAN SATHER	624 BLUFF AVE	BRAINERD, MN 56401	624 BLUFF AVE
09196198019Z009	ZIMMERMAN, CHRISTOPHER & AMY JO	704 FIR ST	BRAINERD, MN 56401	712 7TH ST N
09196198017Z009	ZIMMERMAN, CHRISTOPHER J	704 FIR ST	BRAINERD MN 56401	704 FIR ST

STAFF REPORT TO THE PLANNING COMMISSION

October 12, 2016

CONDITIONAL USE PERMIT

APPLICANT: Art Space LLP, 250 3rd Ave. N., Minneapolis, MN 55401 on behalf of Jesse Bleichner, 19419 Spencer Road, Brainerd, MN 56401

LOCATION: Franklin Art Center, 1001 Kingwood Street, Brainerd, MN 56401

PROPOSED USE: "Nano" Brewery and Taproom

LOT AREA: N/A

CURRENT ZONING: B-2 (Neighborhood Business) District

ADJACENT USES: East: Residential
South: Residential/Off Street Parking
West: Residential
North: Residential

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

REPORT

A Conditional Use Permit application for the Local Artisan Brewery (and taproom) at the Franklin Art Center (FAC) has been submitted. Jesse and Jessica Bleichner are proposing to repurpose a 24' x 66' (1,580 sq. ft.) - 1st floor suite in the building's west wing. The Bleichner's have submitted the attached information describing the use and its operation.

- 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.***

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

Brewery with Taproom On-Sale. A brewer with an on-sale brewery taproom license for the "On-Sale" of malt liquor produced on the licensed premises subject to the provisions of Minnesota Statutes 340A and the following:

- 1. No outdoor storage.*
- 2. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.*
- 3. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.*

Brewery with Taproom Off-Sale. A brewer with an off-sale brewery taproom license for the "off-sale" of malt liquor produced on the licensed premises subject to the provisions of Minnesota Statutes 340A and the following:

- 1. No outdoor storage.*
- 2. A taproom for malt liquor "off-sale" produced on-site shall require an "on-sale" taproom room license from the City of Brainerd, according to the City Code Section XII.*
- 3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.*
- 4. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.*

Above are the 2 sections from Zoning Ordinance that permit the brewery/taproom to operate at the Franklin Art Center. The property owner and brewery/taproom owners will be required to follow the conditions.

An existing space within the Franklin Art Center will be repurposed for the brewery/taproom business. The district, Conditional Use Permit and general regulation that will need to be addressed is the off street parking for the use.

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

The special standards are listed above. There are no special standards that will require a physical change to the building (other than the studio repurposing) or the site. The special conditions listed above will need to be addressed prior to opening and when the business is in operation.

2. ***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.***

Because the brewery is located entirely within the building and the amount of brewing is small, the process should not create dangerous, injurious or noxious conditions for property or people in the area.

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

The brewery and taproom will be located entirely within the Franklin Art Center and will have no adverse relationship to adjacent buildings and properties.

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

The brewery and taproom will be located entirely within the Franklin Art Center and will not produce a *visual impression* and environment which is not consistent with the environment of the neighborhood.

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

The brewery and taproom is located in the west wing of the Franklin Art Center and with its most convenient access on N. 10th Street. N. 10th Street has residential land uses along the west side of the street. The parking lot for the Franklin Art Center is located south of the building between Kingwood Street and Washington Street. The 90+/- space lot is intended to meet the day to day parking needs of the facility.

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.

Comprehensive Plan

The following Comprehensive Plan Goals and Strategies support the proposal:

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 aesthetically pleasing development and redevelopment in the city.

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

Strategy: Support the redevelopment of vacant ... 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.*

DEPARTMENT INFORMATION

Engineering

"Don't see a whole lot from the Engineering end unless sewer and water taps/changes are made outside of the building. BPU may want to chime in on the water and how that has been handled for businesses inside of larger buildings, but whomever owns Franklin Arts may want them to have a separate tap for the water for brewing or sprinkling, if need be?"

Utilities

"Currently they have one 4" meter for the entire place. We will need to see what they are discharging to the sewer system like we did with Roundhouse."

Fire

No issues

Police

"....based on our experience with the existing business like these, we don't have any concerns at this time."

Building

"I have spoken with the owner several times, but have not received a plan of any type yet. I believe the building is sprinkled, not seeing any major red flags."

Planning Department Review

It is understood when special events, like Geritol Frolics, a play, or art exhibit are occurring, the supply of available off street parking at the FAC will not meet the demand for many occasions. It is anticipated that taproom patrons will desire to park along N. 10th Street. Should residents of N 10th Street begin to complain about not being

able to park in front of their property, the brewery and taproom will need to instruct patrons to park in the provided off street parking on Kingwood Street. The Planning Commission may want to consider requiring signs be posted on 10th Street that read – ***“LAB Parking Prohibited - Use Kingwood Street Lot.”***

The Planning Commission may want to have a discussion about hours of operation? Is it appropriate that the business be open until 1 p.m.?

Another discussion the Planning Commission may want to have is limiting beer consumption to the brewery/taproom leased space. Occasionally there are plays, shows, art showings, etc. Should visitors for these events be able to purchase a beer from the taproom and walk around the facility?

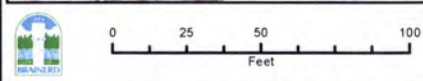
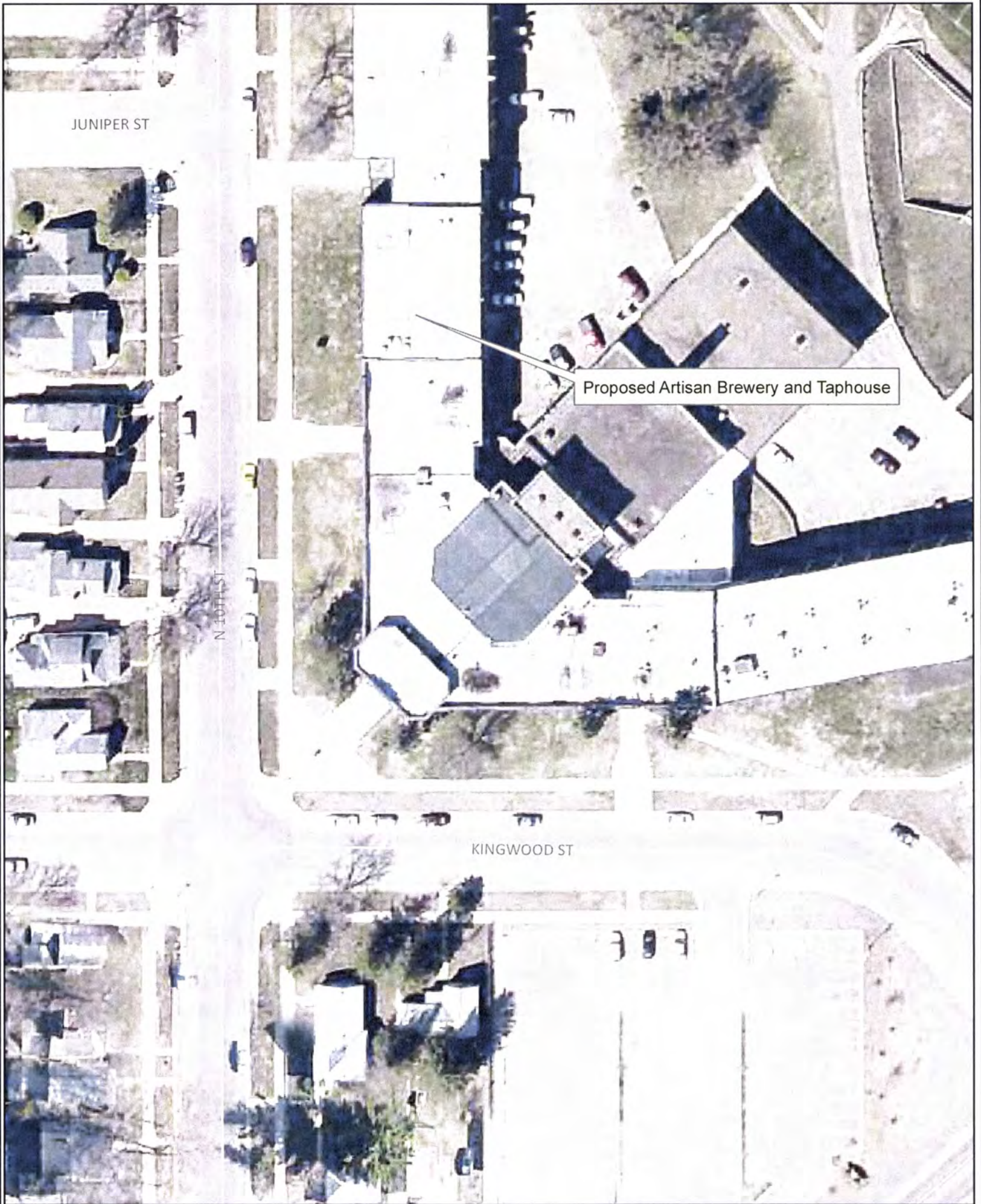
PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation on this request at its Wednesday, October 19, 2016 meeting. City Council consideration may occur at its Monday, November 7, 2016 meeting.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Ostgarden", with a stylized flourish at the end.

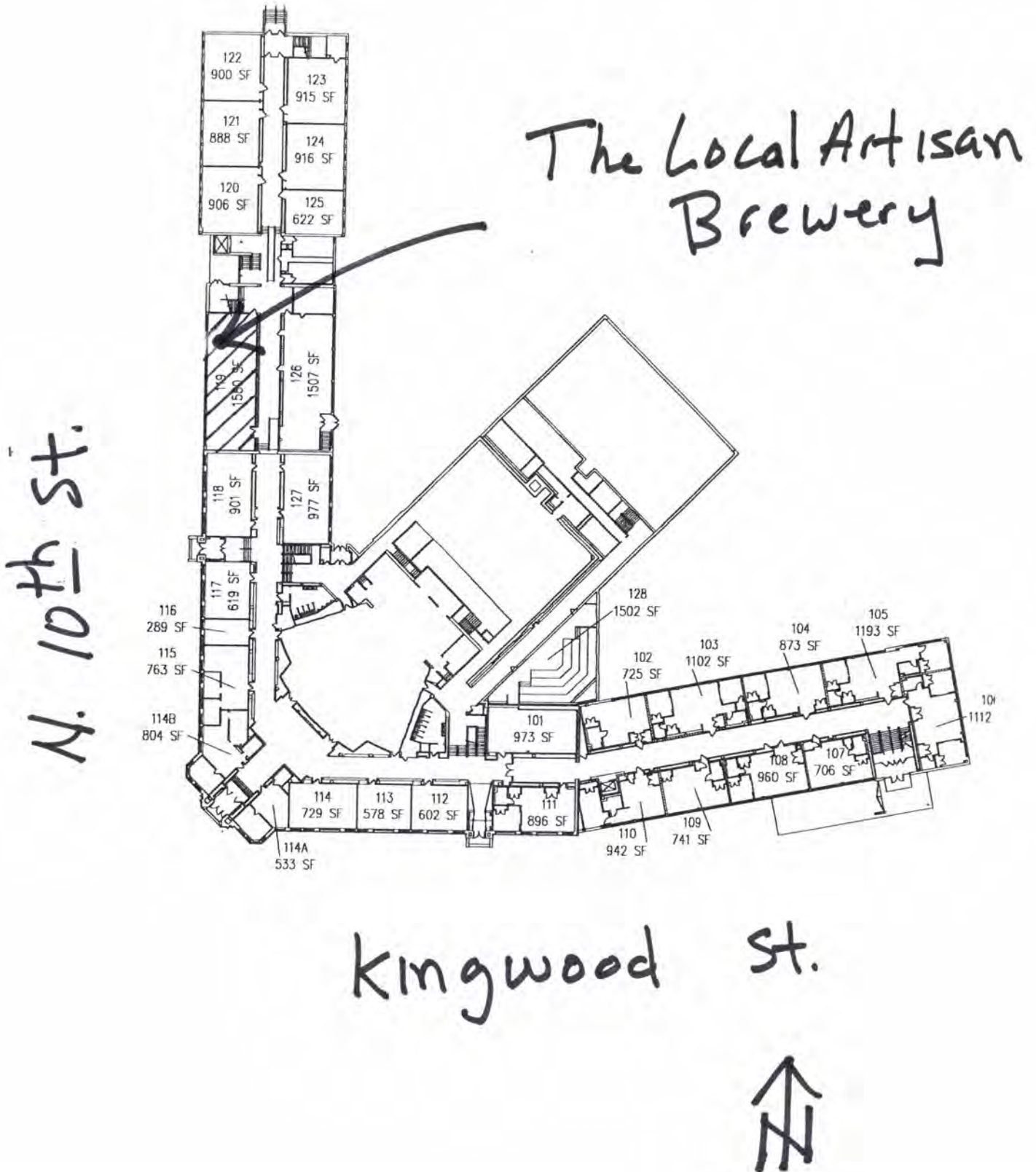
Mark Ostgarden AICP
City Planner



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.



FRANKLIN FIRST FLOOR PLAN



The Local Artisan Brewery, aka The Lab
Attn: Jessica Bleichner
1001 Kingwood St, Suite 119
Brainerd, MN 56401

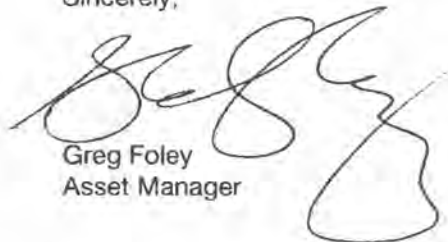
September 15, 2016

Hi Jessica,

Artspace Brainerd Limited Partnership, doing business as Franklin Arts Center, at 1001 Kingwood Street, Brainerd, is entering into a lease agreement with The Local Artisan Brewery, also known as the LAB. We understand that the LAB will be conducting business as a brewpub, and according to the terms of the lease and its renewals, you will be conducting business at the Franklin Arts Center at least until August 31, 2027.

Artspace Brainerd Limited Partnership consents and grants The Local Artisan Brewery permission to conduct and operate its business as agreed upon within the lease.

Sincerely,



Greg Foley
Asset Manager

The Local Artisan Brewery
Franklin Arts Center
1001 Kingwood St, Suite 119
Brainerd, MN 56401

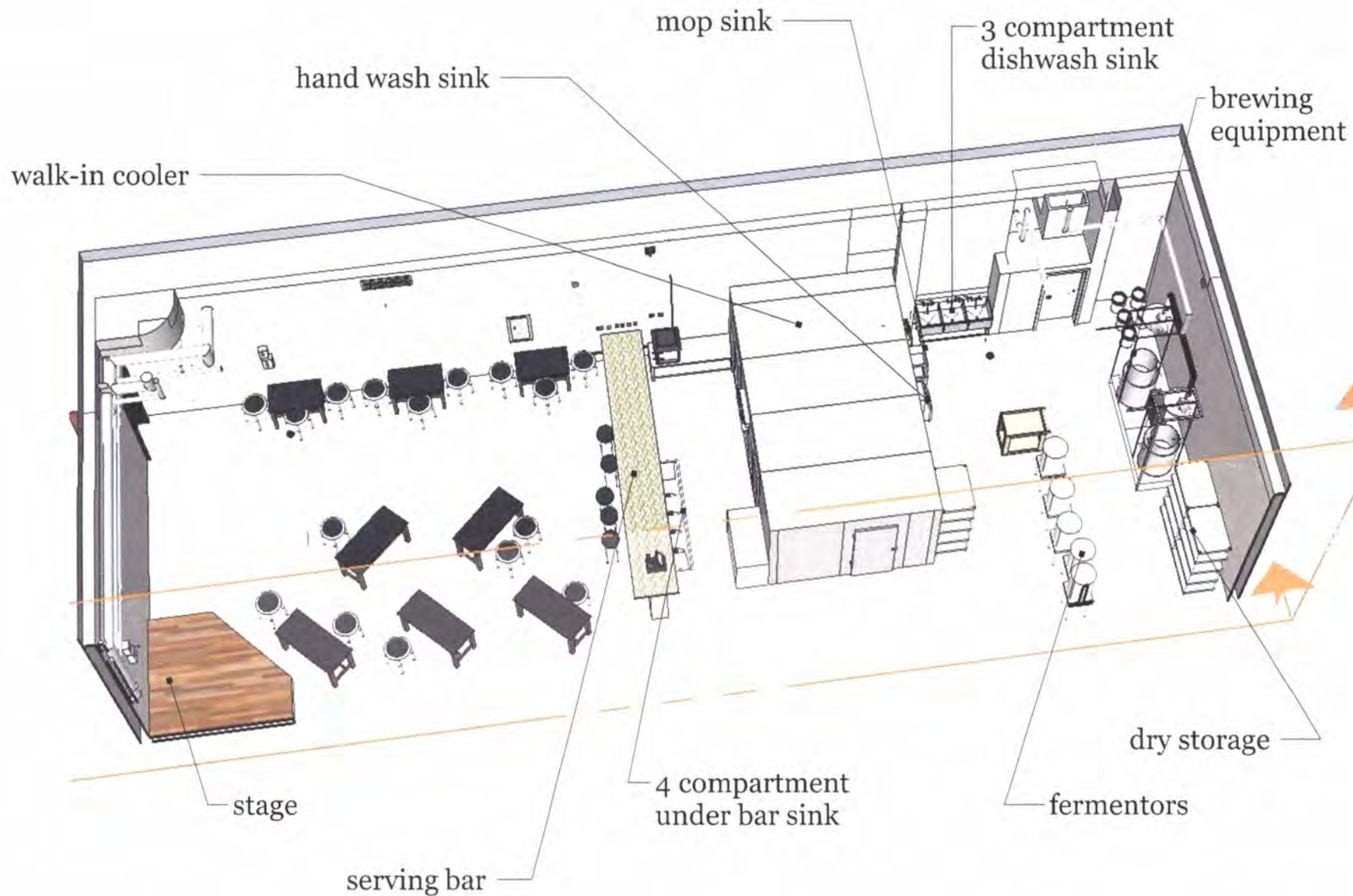
Business Description

The LAB will be a new, arts themed small batch brewery & taproom located in the Franklin Arts Center (FAC). There will be opportunities to watch various performing arts & music, view the evolving gallery, and create your own art in a former pottery room turned into a taproom. Craft beer, kombucha, & made from scratch soda and teas will be available for on sale consumption. Growlers will be available for Off Sale.

We shall strive to be as eco-friendly as possible. We will facilitate this by minimizing the amount of plastic & paper products we use, recycling or repurposing everything possible, repurposing the spent grains and yeasts from our production process, using minimal chemical cleansers, sourcing locally made furniture & decor, and operating our brewing days in the most efficient way possible to conserve electricity and water. Most ingredients will be locally sourced, reducing food miles and allowing energy savings on fuel for transportation. Our snacks will be locally made from our spent grains, along with offering MN Grown Popcorn.

The narrow entrances to the building will require a smaller sized, 2BBL electric brewhouse to be installed. An electric brewhouse will allow for the potential of running on solar power in the future. Our goal is to produce an evolving variety of beers and fermented beverages, utilizing as many locally sourced ingredients as possible. We will utilize base malts from the following companies Rahr (MN) and Briess (WI) to make this model financially possible.

The ongoing events hosted in the FAC, affordable rent (with a reduced rent clause for the first 6 months of startup), existing infrastructure, tourism, and local neighborhood will be integral to our success. As we grow, there is room for expansion within the FAC. There is currently room for additional storage capacity throughout the building. There are other industrial areas nearby if we choose to expand production in the future.



FRANKLIN ART CENTER
BRainerd, MN
concept floor plan
RM# 119



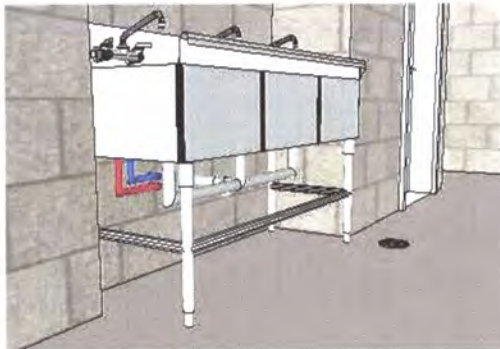
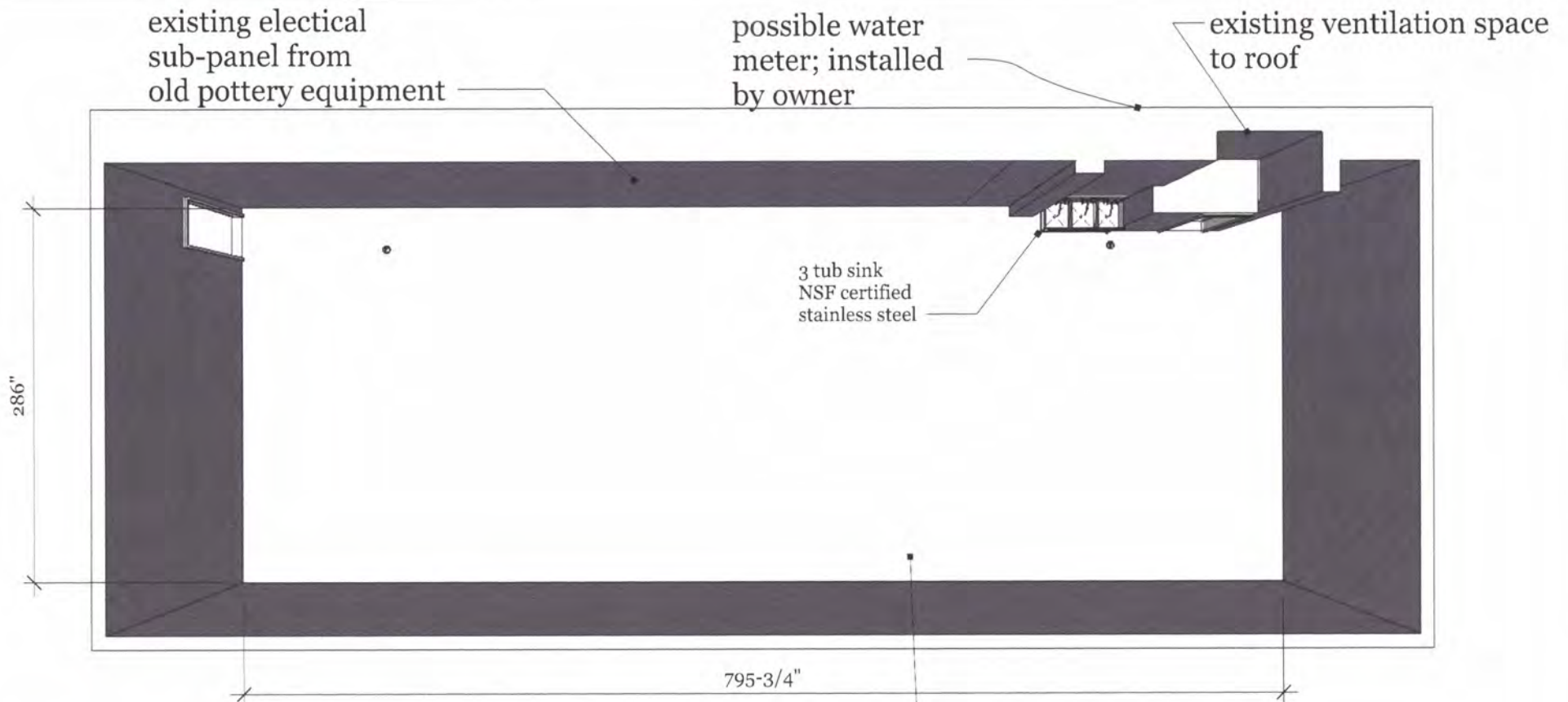
The Local Artisan Brewery

REVISIONS

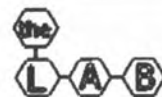
	MM/DD/YY	REMARKS
1	--/--/--	...
2	--/--/--	...
3	--/--/--	...
4	--/--/--	...
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04

A



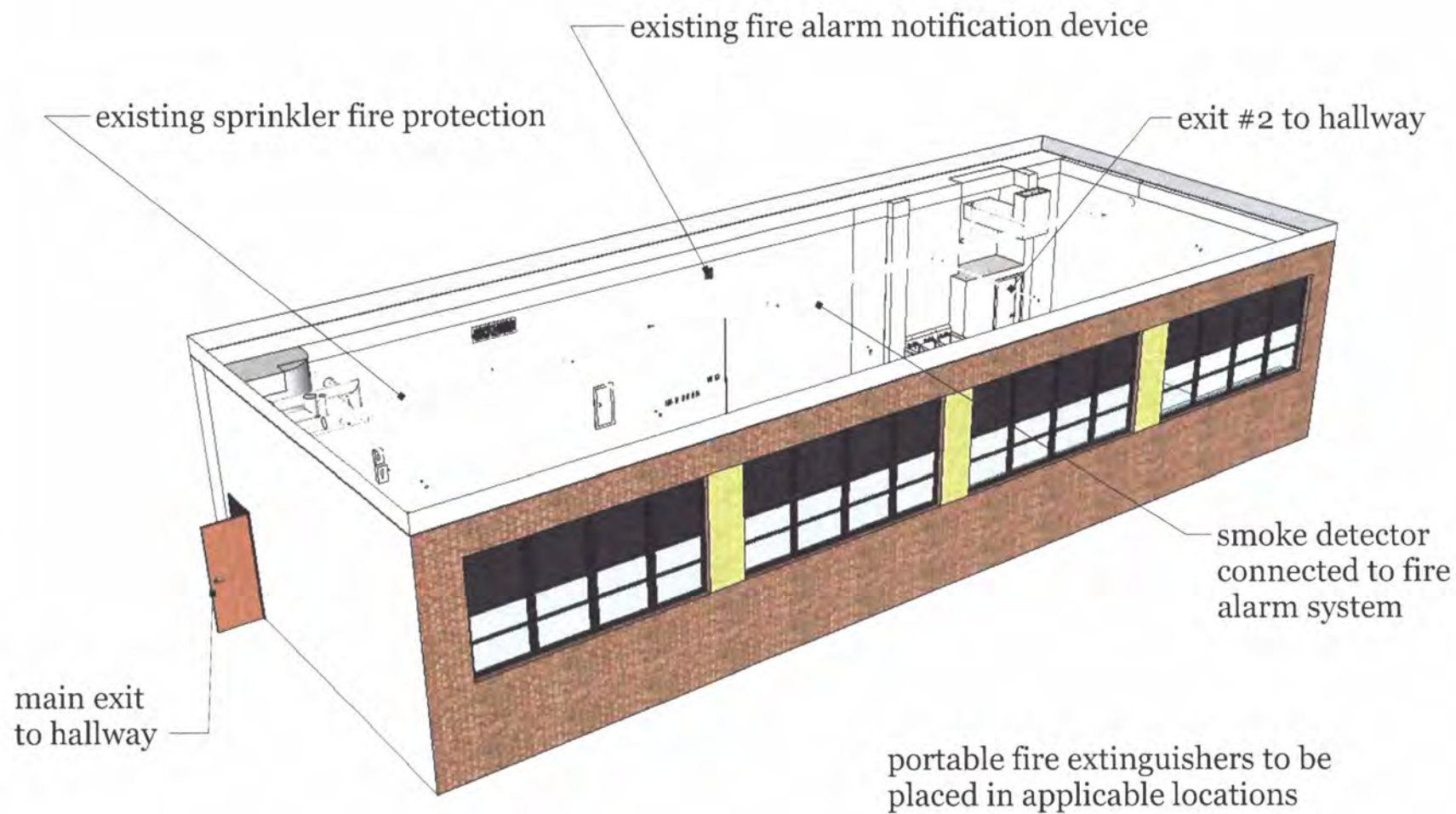
FRANKLIN ART CENTER
BRAINERD, MN
Existing mechanical/electrical
RM #119



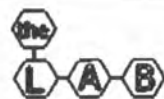
The Local Artisan Brewery

REVISIONS		
	MM/DD/YY	REMARKS
1	--/--/--	...
2	--/--/--	...
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A 01



FRANKLIN ART CENTER
BRAINERD, MN
Fire Protection Systems
RM# 119



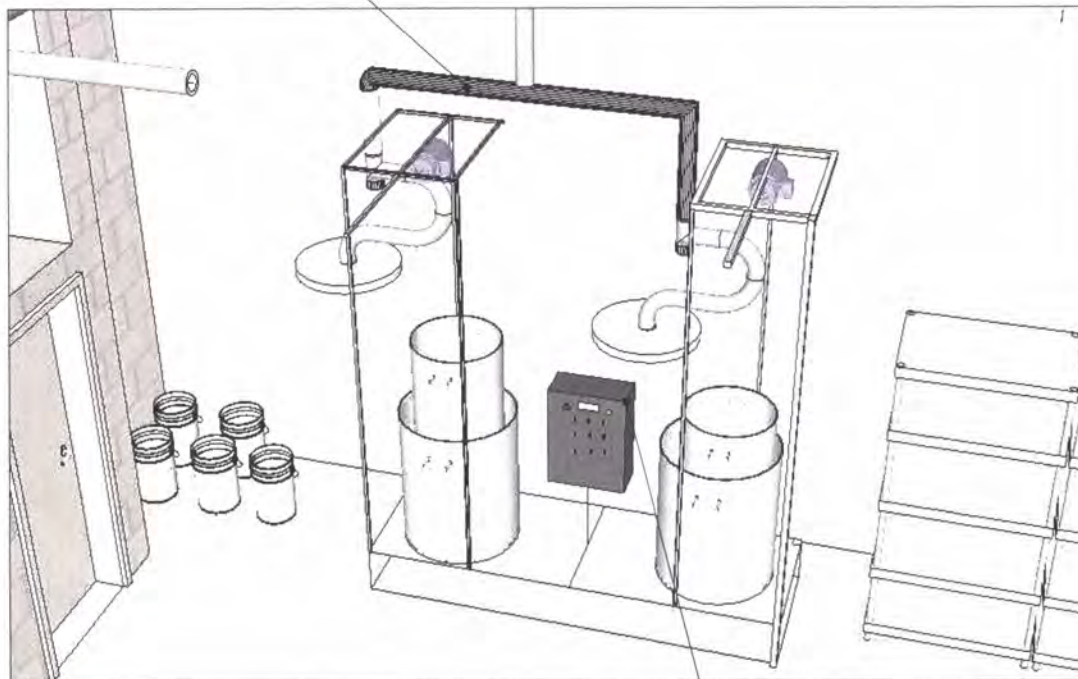
The Local Artisan Brewery

REVISIONS

	MM/DD/YY	REMARKS
1	--/--/--	...
2	--/--/--	...
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4	--/--/--	...
5	--/--/--	...

A 02

stainless steel vent to roof, to
vent steam and odors



electrically controlled and
heated brewing system

stainless steel
fermenting tanks



FRANKLIN ART CENTER
BRAINERD, MN
Brewhouse equipment
RM# 119



The Local Artisan Brewery

REVISIONS

	MM/DD/YY	REMARKS
1	--/--/--	...
2	--/--/--	...
3	--/--/--	...
4	--/--/--	...
5	--/--/--	...

A 03

Mark Ostgarden

From: davidpueringer@gmail.com on behalf of David Pueringer
<davep@pueringerinvestments.com>
Sent: Wednesday, October 12, 2016 12:32 PM
To: Gary Scheeler; Mark Ostgarden; Mary Koep; elmenk@brainerd.net
Subject: Brewery and bar in the Franklin Arts Center

Please be sure the other members of the Brainerd City Council receive this letter prior to the meeting on Wednesday Oct 19 to consider a Special Use Permit.

Dear Sirs:

I wish to express my opposition to a proposed Special Use Permit allowing a brewery and bar in the non taxpaying government center in the middle of a residential neighborhood i.e. the Franklin Art Center.

This is a residential neighborhood. I have several homes with children across the street, and within three blocks of this building. This endangers these children, and it is entirely counter and opposed to the current zoning ordinance. I don't want a bar in the residential community. It harms the real estate values, and is not intelligent planning. It also endangers our neighborhoods by promoting drunk driving in a residential area. There are children everywhere. Young people also use this art center, and exposure to drunken or impaired adults is not a proper mix,

A bar is not in any way promoting art, and is not in conjunction with what this building was given to this non profit group to promote. **ALCOHOL IS NOT ART!**

There are apartments in this building, as it is residential itself.

We have several commercial buildings in the downtown area within the liquor zone, that are empty, and are zoned for this type of business. Almost 50% of downtown stores are now empty, and to put this bar into a tax free government supported entity is totally counter productive to helping revitalize the downtown. Downtown pays the taxes to support the Franklin Art Center. It is also easier to police.

It is not fair to the other bars that pay taxes on the buildings they own or rent. **Our government should not be in the business of competing with taxpayers or endangering our residential neighborhoods.**

Please vote no on this.

Sincerely,

David Pueringer



CUP - Artspace LLP for Microbrewery at 1001 Kingwood St

APPRCL	TXNAME	TXADR1	TXADR2	TXADR3	PHYSADDR
09196096019Z009	ANDERSON, DANIEL J & AMY M	410 10TH ST N	BRAINERD, MN 56401		410 10TH ST N
09196098008Z009	ARNOLD, AMANDA	419 10TH ST N	BRAINERD, MN 56401		419 10TH ST N
060251100AA0009	ARTSPACE BRAINERD LIMITED PARTNERSH	250 THIRD AVE N SUITE 500	MINNEAPOLIS, MN 55401		
09196036019X009	ARTSPACE BRAINERD LIMITED PARTNERSH	250 THIRD AVE N SUITE 500	MINNEAPOLIS, MN 55401		
09196082000A009	ARTSPACE BRAINERD LIMITED PARTNERSH	250 THIRD AVE N SUITE 500	MINNEAPOLIS, MN 55401		
09196096021Z009	ARTSPACE BRAINERD LIMITED PARTNERSH	250 THIRD AVE N SUITE 500	MINNEAPOLIS, MN 55401		
09196080021Z009	BERG, GUY E	306 9TH ST N	BRAINERD, MN 56401		306 9TH ST N
09196080001Y009	COLVIN, FRANK L & BETTY	301 10TH ST N	BRAINERD MN 56401		301 10TH ST N
091960380070009	CURRENT PROPERTIES LLC	19275 EAGLEWOOD RD	PO BOX 247	CLEARWATER, MN 55320	923 WASHINGTON ST
09196038008Z009	CURRENT PROPERTIES LLC	19275 EAGLEWOOD RD	PO BOX 247	CLEARWATER, MN 55320	919 WASHINGTON ST
09196096017Y009	DEGEN, MICHAEL	10935 GULL LAKE RD	EAST GULL LAKE, MN 56401		414 10TH ST N
091960380040009	DEGEN, MICHAEL S & JULIE L	10935 GULL RIVER RD	EAST GULL LAKE, MN 56401		217 10TH ST N
09196038019Z009	DK INVESTMENTS LLC	1107 6TH ST S	BRAINERD, MN 56401		214 9TH ST N
09196038005Z009	DOOLEY INVESTMENTS LLC	12950 KNOLLWOOD DR	BAXTER MN 56425		215 10TH ST N
09196080008Z009	FREYNET, CHANTAL L	315 N 10TH ST	BRAINERD, MN 56401		315 10TH ST N
09196080003Z009	GARDING, DEBORAH ANN	305 N 10TH ST	BRAINERD MN 56401		305 10TH ST N
09196080009Z009	GOEDSCHE, JANES LIVING TRUST	11846 PINE BEACH DR	BRAINERD MN 56401		317 10TH ST N
09196038002Z009	GOTTWALT, MATT	407 8TH ST SW	LITTLE FALLS, MN 56345-1614		219 10TH ST N
09196080004Z009	GUIN, JAMES W & JANET M	309 10TH ST N	BRAINERD MN 56401		309 10TH ST N
09196096007Z009	HILL, DAVID	15798 JORDAN RD	BRAINERD, MN 56401		1020 IVY ST
060251100A00009	IND SCHOOL DIST, # 181	804 OAK ST	BRAINERD, MN 56401		
091050000040009	IND SCHOOL DIST, # 181	804 OAK ST	BRAINERD, MN 56401		
09196036001Z009	IND SCHOOL DIST, # 181	804 OAK ST	BRAINERD, MN 56401		
09196082000Z009	IND SCHOOL DIST, # 181	804 OAK ST	BRAINERD, MN 56401		1001 KINGWOOD ST
09196096001Z009	IND SCHOOL DIST, # 181	804 OAK ST	BRAINERD, MN 56401		
091960980100009	JOHNSON, SABRINA D	421 10TH ST N	BRAINERD, MN 56401		421 10TH ST N
09196096013Y009	KELLER, JOEL L	420 10TH ST N	BRAINERD, MN 56401		420 10TH ST N
09196080011Z009	KIRSCH, MARIE	323 10TH ST N	BRAINERD, MN 56401		323 10TH ST N
091960380210009	LAWRENCE, WARREN J	30827 PEQUOT BLVD	PEQUOT LAKES, MN 56472-3043		218 9TH ST N
09196036019Y009	MATTSON, JOHN & DANA B	1008 KINGWOOD ST	BRAINERD MN 56401		1008 KINGWOOD ST
09196080006Z009	MCKAY, RICHARD G & MARY	21212 MAIL ROUTE RD	BRAINERD MN 56401		313 10TH ST N
09196080023Z009	MCKAY, RICHARD G & MARY	21212 MAIL ROUTE RD	BRAINERD MN 56401		302 9TH ST N
091960380220009	NEDBERG, TODD B	4265 QUINWOOD LN N	PLYMOUTH MN 55442		220 9TH ST N
09196038023Z009	O'LEARY, SUSAN & RICHARD L	224 N 9TH ST	BRAINERD MN 56401		224 9TH ST N
09196098011Z009	OLSON, CODY RYAN	918 IVY ST	BRAINERD, MN 56401		918 IVY ST
09196038015Z009	O'REILLY AUTO ENTERPRISES LLC	C/O RYAN LLC	PO BOX 06116	CHICAGO, IL 60606	901 WASHINGTON ST
09196080018Z009	PHILIPPY, MARIE A REV TRUST AGR	314 9TH ST N	BRAINERD, MN 56401		314 9TH ST N
09196038001Z009	PUERINGER, DAVID F PUERINGER INVEST	616 1/2 FRONT ST	BRAINERD, MN 56401		223 10TH ST N

09196080015Z009	RAGE HOLDINGS LLC	C/O RAYMOND L & MELISSA A GILES	16085 MCKAY RD	BRAINERD, MN 56401	320 9TH ST N
09196080019Z009	SCHULTZ, RONALD D	310 9TH ST N	BRAINERD, MN 56401		310 9TH ST N
09196080011A009	ST FRANCIS CATHOLIC CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		
09196098001X009	ST FRANCIS CATHOLIC CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		921 JUNIPER ST
09196098001Y009	ST FRANCIS CATHOLIC CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		913 JUNIPER ST
09196098001Z009	ST FRANCIS CATHOLIC CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		
09196098004Z009	ST FRANCIS CATHOLIC CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		411 10TH ST N
09196098019Z009	ST FRANCIS CATHOLIC CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		412 9TH ST N
09196098021Z009	ST FRANCIS CATHOLIC CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		
09196098007Z009	ST FRANCIS CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		415 10TH ST N
09196098016Z009	ST FRANCIS CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		418 9TH ST N
09196098017Z009	ST FRANCIS CHURCH	411 N 10TH ST	BRAINERD, MN 56401-3027		416 9TH ST N
09196080001Z009	VOSS, TIMOTHY J SR & LAUREL M	911 KINGWOOD ST #1	BRAINERD, MN 56401		911 KINGWOOD ST
09196080023Y009	VOSS, TIMOTHY J SR & LAUREL M	911 KINGWOOD ST #1	BRAINERD, MN 56401		
09196036019Z889	WEAVER, LINDSEY	218 N 10TH ST	BRAINERD, MN 56401		218 10TH ST N



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

RECEIVED

SEP 28 2016

CITY OF BRAINERD
ADMINISTRATION

Receipt # _____
Check # _____
Date Paid: _____

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

RESIDENTIAL

☐
☐
☐

(\$250.00)
(\$300.00)
(\$250.00)

COMMERCIAL

☒
☐
☐

(\$400.00 + \$500.00 escrow deposit)
(\$500.00)
(\$400.00 + \$500.00 escrow deposit)

CONDITIONAL USE PERMIT
REZONING
VARIANCE

PROPERTY ADDRESS: Franklin Art Center, 1001 Kingwood St, Suite 119, Brainerd, MN 56401

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

Property Owner Name: see attached (property is managed by Artspace)

Street Address: 250 3rd Ave N. Ste 119 **City:** Minneapolis **State:** MN **Zip Code:** 55401

Phone Number: 612-333-9012 **Fax:** _____ **E-mail:** greg.foley@artspace.org

Applicant Name: (If different than Property Owner) Jesse Bleichner

Street Address: 19419 Spencer Rd **City:** Brainerd **State:** MN **Zip Code:** 56401

Phone Number: 218-537-0768 **Fax:** _____ **E-mail:** local.artisan.brewery@gmail.com

Description of Request: My wife Jessica, and myself, are looking to renovate a small space in the Franklin Art Center to host a 'nano'-brewery, which is a smaller scale brewery than a micro-brewery. We plan to serve on-premise sale only of our craft brews, which will include beer, sodas, kombucha, coffee, teas, and snacks made with locally grown ingredients. Our brew system is capable of brewing 2 barrels (62 gallons) of beer at a time, and will require very little infrastructure change. The space is the old pottery room, so high voltage, and ventilation access is already in place. A small stage for performing art, and local arts will be a general theme.

Property Owner Signature

see attached

Date

(Please print name)
Jesse Bleichner
DN: cn=Jesse Bleichner, o=Local Artisan Brewery,
ou, email=local.artisan.brewery@gmail.com, c=US
Date: 2016.09.21 21:06:56 -05'00'

Applicant Signature

Jesse Bleichner

(Please print name)

9/21/2016

Date

MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner 

DATE: October 13, 2016

RE: Vacation Rentals by Owner (VRBOs) Zoning Ordinance Language Review

On Tuesday October 11, 2016, Chairman Plantenberg and I met with the Chamber of Commerce Governmental Affairs Committee to review the draft VRBO ordinance. The discussion brought up several suggestions to consider. Following the meeting Chairman Plantenberg thought the Planning Commission should have workshop following the regular meeting on October 19th to discuss the suggestions.

I had also mentioned that I attended a Planning Conference workshop about Duluth's VRBO experiences. Attached is a copy of its application and regulations.

DRAFT – Vacation Rental by Owner Ordinance

The following standards apply to Vacation Rental by Owner (VRBO) rented for 7 days or more:

1. The owner of a VRBO must apply for and receive an Interim Use Permit. Owner occupied dwellings that are also VRBO's do not require an Interim Use Permit.
2. The application for an Interim Use Permit shall include:
 - a. All information required for a conditional use permit
 - b. Floor plan of the structure, including the number of bedrooms with dimensions and all other sleeping accommodations
 - c. A to-scale site plan which shows locations and dimensions of property lines, the dwelling unit intended for licensing, accessory structures, parking areas and shore recreational facilities.
 - d. Plan for garbage disposal.
 - e. A pet policy.
3. Emergency contact information (police, fire, hospital) be posted in the VRBO.
4. The occupancy of a VRBO shall be limited to no more than two (2) adults (16 and older) persons per bedroom.
5. Rooms used for sleeping shall be provided with egress windows and smoke detectors in locations that comply with the Minnesota State Building Code or the requirements of the Building Department, whichever is stricter. Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of usable floor space, and every room occupied for sleeping purposes by more than one person shall contain not less than 60 square feet of usable floor space for each occupant thereof.
6. The VRBO shall be connected to city sewer and water.
7. A VRBO shall have a full bathroom (sink, toilet and tub or shower).
8. On-site parking shall be provided which is sufficient to accommodate the occupants of the vacation/private home rental. Public streets may not be used for calculating parking by renters or guests.
9. Attempting to obtain additional occupancy by use of recreational vehicles, tents, accessory structures or fish houses is not permitted.
10. One on premise sign is allowed in accord with Section 515-37-5 G. Signs. Permit Not Required
11. The owner shall provide a visual demarcation of the property lines.
12. The owner shall keep a report, detailing use of the home by recording the full name, address, phone number and vehicle license number of guests using the property. A copy of the report shall be provided to the Planning Department upon request.
13. No more than 1 VRBO will be allowed on a lot or parcel and there shall be no more than 1 VRBO per block (300' excluding street rights of way) and 1 per block front (300' excluding street rights of way).
14. A VRBO shall be a licensed rental unit by the City and shall meet the requirements of all statutes, rules, regulations, and ordinances including, but not limited to the City of Brainerd's Rental Housing Maintenance Code.

15. The Planning Commission may impose conditions that will reduce the impacts of the proposed use on neighboring properties, public services, and nearby water bodies as well as other concerns including, but not limited to public safety and safety of guests. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of guests.
16. VRBOs rented for less than 7 days are considered a hotel and are required to have a Minnesota Department of Health license and an Interim Use Permit.
17. All vacation/private home rentals, operating prior to the effective date of these standards, shall be in compliance with this section by _____.

Each unit will require a \$____ initial fee plus \$__ per year for annual licensure pending annual inspection.



City of Duluth
Planning and Construction Services

411 West First Street • Room 210 • Duluth, Minnesota • 55802-1194
218-730-5240 • Fax: 218-730-5901 • www.duluthmn.gov/onestop/

An Equal Opportunity Employer

Check One Box

- ☐ Accessory Home Share-**\$100**
- ☐ Appeal to Planning Commission - **\$350**
- ☐ Concurrent Use of Streets Permit - **\$700**
- ☐ District Plan Adoption or Amendment- **\$1,000**
- ☐ Environmental Review (EAW or EIS)- **\$2,500**
- ☐ Historic
 - ☐ Construction/Demolition - **\$50**
 - ☐ Resource Designation - **\$75**
- ☐ Interim Use Permit **\$650**
- ☐ Planning Review - **\$800**
- ☐ Sidewalk Use Permit
 - ☐ New Permit- **\$150**
 - ☐ Renewal Permit - **\$75**
- ☐ Special Use Permit, General - **\$800**
- ☐ Special Use Permit, Wireless Telecommunications*
 - ☐ Modifying or Co-locating - **\$2,500***
 - ☐ New Facility or Tower - **\$5,000***
 - ☐ Escrow Deposit - **\$8,500***
- ☐ Subdivision Plat Approval or Amendment:
 - ☐ Concept Plan - **\$250**
 - ☐ Preliminary Plat - **\$1000**
 - ☐ Final Plat - **\$750**
 - ☐ Minor Subdivision/RLS- **\$400**
 - ☐ Plat Amendment or Boundary Line Adjustment - **\$250**
- ☐ Temporary Use Permit - **\$150**
- ☐ UDC Zoning Map (Rezoning) Amendment - **\$800**
- ☐ Vacation of Street or Utility Easement - **\$700**
- ☐ Variance - **\$600**
- ☐ Wetland,
 - ☐ De Minimus, Delineation, or No Loss- **\$150**
 - ☐ Replacement Plan - **\$400**
- ☐ Zoning Verification Letter-**\$85**

APPLICATION COVER SHEET

CONTACT INFORMATION:

Applicant/Owner _____
Phone _____ Email _____
Address _____
City _____ State _____ Zip _____
Owner's Agent (if applicable) _____
Phone _____ Email _____
Address _____
City _____ State _____ Zip _____

APPLICATION INFORMATION:

Street Address and Zoning of Property _____
Parcel ID Number _____
Describe the Reasons for this Request (Attach Additional Pages if Necessary):

The undersigned hereby represents upon all of the penalties of law for the purpose of inducing the City of Duluth to take the action herein requested, that all statements herein and attached are true and that all work herein mentioned will be done in accordance with the Ordinances of the City of Duluth and the laws of the State of Minnesota. Undersigned also understands that all documents provided to the City may be considered public data, per Minnesota Government Data Practices Act.

Signature of Applicant _____ Date _____

Reminder: include application checklist and all supporting information, including pre-application verification (if applicable). Submit completed information to Room 210, One Stop Shop.

*Special Use Permit Checklist required to be submitted with this application coversheet and fee.

- ☐ **You are required to post a sign notice** on the property at least two weeks before the date of the public hearing. See UDC Section 50-37.1.H for information on size, placement, and content of each sign; you may want to contact a sign company or printing company to have the sign made. You must provide evidence that the signs were in place; ***submit photo(s) of the signs to the Planning Division at least two weeks before the date of the public hearing.***

3. Staff Review. Planning staff will evaluate your application and prepare a staff report. When considering a recommendation for an interim use, Planning Staff generally review the Comprehensive Plan (including the Future Land Use Map, Governing Principles, and Policies), surrounding land uses and zoning, individual factors that are unique or special to the proposal, compliance with any approved district plan for the area, any additional UDC criteria, and other related factors.

- You will receive an email with the Planning Commission agenda and a link to this staff report about 5 days prior to the meeting.

4. Planning Commission Hearing. Planning Commission meetings are scheduled at 5:00 pm on the second Tuesday of each month. **We ask that applicants or an agent attend this meeting.**

The Planning Commission will hold a public hearing and make a recommendation to adopt, adopt with modifications, or deny the application.

5. City Council Decision. The Planning Commission recommendation will be forwarded to City Council in the form of a resolution. City Council will make a decision whether to approve the permit, approve it with modifications, or deny it.

The City Clerk's office will send notice of the Council action to the applicant.

6. Development Agreement. Interim Use Permits require a development agreement, to be finalized and signed after City Council approval. Staff will discuss the format and content of the development agreement with you. Alternatively, a development agreement can be done prior to submitting your application; let Planning staff know if you would prefer this.

Note that other city codes may apply to your project. Please be aware of any applicable Building Code (Construction Services Division), Fire Code (Life Safety Division), and stormwater/engineering (Engineering Division) regulations. The zoning approval may be only the first step in a several step process.



CITY OF DULUTH

DEPARTMENT OF PLANNING & CONSTRUCTION SERVICES
Community Planning Division
411 West First Street – Room 208 - Duluth, Minnesota 55802-1197
218-730-5580 – An Equal Opportunity Employer

Vacation Rental Regulations

(Amended May 2016)

Vacation rental units are defined in the City of Duluth Legislative Code Chapter 50 (Unified Development Chapter) as Vacation Dwelling Units and Accessory Vacation Dwelling Units and are subject to the regulations described here. NOTE: Renting a portion of a dwelling while the owner is present is called an Accessory Home Share and is not covered by the regulations below. Please see Sec. 50-20.5.G and Sec. 50-37.17 for Accessory Home Share regulations.

Definitions:

Vacation Dwelling Unit – a dwelling unit, as defined by this Chapter, offered for trade or sale, whether for money or exchange of goods or services, for periods of 2 to 29 days.

Accessory Vacation Dwelling Unit – an accessory dwelling unit as defined by this Chapter that is used as a vacation dwelling unit as defined by this Chapter for periods of occupancy from 2 to 29 days.

Vacation Dwelling Units and Accessory Vacation Dwelling Units are allowed as an Interim Use in RR-1, RR-2, R-1, R-2, R-P, MU-N, and F-5 districts. All vacation rentals must obtain an Interim Use Permit. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units.

Vacation Dwelling Unit Interim Use Permit Standards:

1. The minimum rental period shall be not less than two consecutive nights.
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
3. Off-street parking shall be provided at the following rate:
 - a. 1-2 bedroom unit, 1 space
 - b. 3 bedroom unit, 2 spaces
 - c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
 - d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
5. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 2 to 29 days.
6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
7. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties.
8. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.
9. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice.

10. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.
11. Permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary. The permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.
12. Permit holder must disclose in writing to their guests the following rules and regulations:
 - a. The managing agent or local contact's name, address, and phone number;
 - b. The maximum number of guests allowed at the property;
 - c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
 - d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
 - e. Applicable sections of City ordinances governing noise, parks, parking and pets;
13. Permit holder must post their permit number on all print, poster or web advertisements;
14. Prior to rental, the building must be inspected and an Operational Permit issued by the Fire Prevention office.
15. Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax.

Accessory Vacation Dwelling Unit Interim Use Permit Standards:

An accessory vacation dwelling unit may be created within, or detached from, any one-family dwelling or vacation dwelling unit in those districts shown where allowed by Table 50-19.8, provided these standards are met:

1. Only one accessory vacation dwelling unit may be created per lot.
2. No variances shall be granted for an accessory vacation dwelling unit.
3. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling.
4. If a separate outside entrance is necessary for an accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building.
5. The minimum rental period shall be not less than two consecutive nights.
6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
7. Off-street parking shall be provided at the following rate:
 - a. 1-2 bedroom unit, 1 space
 - b. 3 bedroom unit, 2 spaces
 - c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
 - d. Accessory vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for accessory vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
8. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
9. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 2 to 29 days.
10. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
11. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties.
12. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of an accessory vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as

- amended, for the remainder of the permit term.
13. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice.
 14. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.
 15. Permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary. The permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.
 16. Permit holder must disclose in writing to their guests the following rules and regulations:
 - a. The managing agent or local contact's name, address, and phone number;
 - b. The maximum number of guests allowed at the property;
 - c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
 - d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
 - e. Applicable sections of City ordinances governing noise, parks, parking and pets;
 17. Permit holder must post their permit number on all print, poster or web advertisements;
 18. Prior to rental, the building must be inspected and an Operational Permit issued by the Fire Prevention office.
 19. Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax.

Minnesota State Building Code Requirements

The following summarizes applicable Minnesota State Building Code regulations for vacation rental units as defined in the Duluth Unified Development Chapter. Contact a Plans Examiner in the Construction Services Division at 218/730-5300 with questions about building code requirements.

One and Two Family Dwellings

Use of existing one and two family dwellings not more than three stories above grade plane in height with separate means of egress as vacation rentals is not a change of use for purposes of building code applicability.

Additions, alterations and repairs to one and two family dwellings not more than three stories above grade plane in height with separate means of egress must comply with the Minnesota State Residential Code.

The Minnesota Accessibility Code does not apply to one or two family dwellings. Owners of vacation rental properties should research federal regulations related to accessibility.

Three and More Dwelling Units

Conversion of apartments in buildings with three or more units to rentals of less than 30 days duration is a change of use from an R-2 occupancy (permanent) to an R-1 occupancy (transient.) A permit is required for a change of use and plans and a code summary prepared by a Minnesota licensed architect showing compliance with applicable provisions of the Minnesota State Building Code must be submitted for review with the permit application.

Required alterations will vary with each building. Owners should consult with a licensed architect for an evaluation of changes needed to comply with applicable building code provisions.

3.13 Checklist

Interim Use Permit

An interim use permit applies to special uses that will be authorized only for a specified period of time. See UDC Section 50-37.10 for more information.

Starting the Application Process

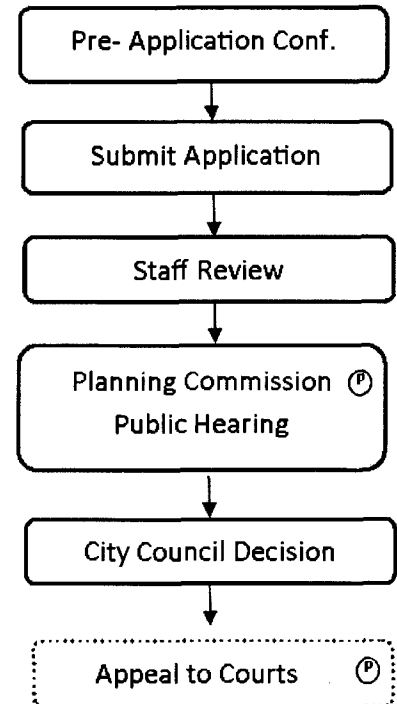
- ☐ You must discuss proposed interim use permits with Planning Staff prior to submitting an application. Call 218-730-5580 to schedule a pre-application meeting.
 - Make sure to get a Pre-App Verification at this meeting; you will need to submit this with your application.
- ☐ Submit your application materials to the One Stop Shop, Room 210 City Hall, by the Planning Commission Deadline. Your application must include the following:
 - ☐ Application Cover Sheet
 - ☐ Pre-App Verification
 - ☐ Required fee
 - ☐ Site plan
 - ☐ Other materials needed to confirm compliance with applicable standards, to be determined at the pre-application meeting:

After Submitting Your Application

- 1. Determination of Completeness.** Within 15 business days of your application, you should expect to:
- Receive an "Applicant Letter," which acknowledges a complete application, shares the date of the Planning Commission meeting and the assigned staff person, and notifies you of state-mandated deadlines for the City to make a decision, **OR**
 - Receive notification that your application is incomplete, with details on further information to submit.

2. Public Notice. A mailed notice will be sent by the City to property owners within 350 feet.

Interim Use Permit



(P) Indicates Public Hearing Required

Important Dates

Application Deadline:

Sign Notice Placed:

Planning Commission:

City Council*:

Effective*:

**Please note that these dates are approximate guidelines and may change*

Community Features

Creating community across generations

Author: Elyse Paxton

Content Sources: [Lisa Hinz](#), [Jody Horntvedt](#)

Fall 2016

Five generations of Minnesotans are now living and working together in communities and challenging each other to work across differences. "Community members of all ages can work well together, especially if they know the mindsets, expectations, and work styles of each generation," says leadership and civic engagement educator Lisa Hinz. "All too often, the differences between generations, rather than the areas of opportunity, shape how people work together."



Getting to know the generations

Each generation is marked by defining events and unique characteristics. Here's who the five generations are:¹

- *Builders (born before 1946²):* Also known as the "Greatest Generation," "Silent Generation," and "Traditionalists." Their defining events were the Great Depression and invention of automobiles. Primary characteristics include duty and honor to country, loyalty, patience, conformity, national pride, doing a good job, and equating age with seniority.
- *Baby boomers (born 1946-1964):* Also known as the "Me Generation" and "Woodstock Generation." Defining events included national prosperity and the space race. They value personal development, health and wellness, visible success, optimism, and being defined by jobs.
- *Gen Xers (born 1965-1980):* Also known as "Generations X," "Busters," and "Post-Boomers." Defining events include the Challenger disaster, the fall of the Berlin wall, and single parenting. Characteristics include independence, self-reliance, desire for stability, diversity, global thinking, and informality.
- *Millennials (born 1981-1995):* Also known as "Generation Y," "Nexters," and the "Internet Generation." Defining events include the proliferation of computers, the school shooting at Columbine, and 9/11. Characteristics include optimism, social commitment, individualism (yet group-oriented), and being digital natives (a person who was born or grew up during the age of digital technology and therefore familiar with computers and the Internet from an early age).
- *Digitals (born 1996-):* Also known as "Generation Z," "Facebook Generation," and "Google Generation." Defining event includes the technology revolution. Characteristics include being social

media savvy, wanting instant results, skill gaps, lower expectations and confidence, a global mindset, and diversity.

Beyond generalizations

While the above generalities are helpful, they can get in the way of developing real relationships across generations. “Not all millennials are crazy about digital life, and some older generations love social media,” says leadership and civic engagement educator Jody Horntvedt. To avoid stereotyping and generalities, Horntvedt suggests simply getting to know people from other generations. Going for a walk or meeting for coffee is a great way to learn where others are coming from. “We don’t incorporate that into our community work as much as we should,” she says.

Creating respectful communities

Respect is defined differently by generation, so one subject of conversation among generations might be about how different community members prefer to be treated, explains Hinz. In U.S. culture, for example, deference is given to older people when making rules, and younger people are expected to obey. This can be a source of tension in intergenerational settings. “Ask those involved what respect means to them—in communication and in feedback,” says Hinz. “Talk it over and work toward a shared understanding of agreed upon expectations.”

Horntvedt likes these 10 tips for communicating respectfully—and successfully—across generations:

1. *Match formality to the culture.* “Community members from an older generation may be more formal in their writing, while those from a younger generation may use more informal language as used in texting and tweeting,” Horntvedt says. “As a leader, it’s important to establish clear expectations for the group.”
2. *Use different communication channels.* Someone from an older generation may prefer talking on the phone, while someone from a younger generation may prefer texting. “As a community group, you need to figure out which communication channel to use to reach each group member,” says Horntvedt. “It’s important to create an environment where people can talk about their preferred method of communication so they don’t feel alienated.”
3. *Individualize your approach.* “If you notice someone stops to talk to you in person or sends an email from across the room, that may indicate their preferred method of communication,” says Horntvedt. “Try to meet people where they’re at and respond accordingly.”
4. *Understand value differences.* People of different generations may value different work styles. “Don’t put value judgments on how people think or feel; look for the positive,” explains Horntvedt. “We all have similar values. We just might express them differently.”
5. *Ask, don’t assume.* Don’t stereotype, cautions Horntvedt. “Being mindful of others is the responsibility of each community member.”
6. *Be aware of motivating factors.* What inspires someone to work or lead a certain way? What do people of different generations need to feel valued by their community? “Not considering individual motivation can cause misunderstanding and tension,” says Horntvedt.
7. *Be willing to learn.* Make a time to learn about the experiences of different generations. Be curious about how certain events have impacted their perspective on leadership and community.

8. *Be willing to teach.* Older generations can lend advice and years of knowledge. Younger generations can share information about new technology or social trends. Sharing knowledge can strengthen any community effort.
9. *Acknowledge differences.* It is okay that each generation has different communication styles and perspectives. "What's important is to talk about those differences and work out solutions so everyone feels respected and understood," Horntvedt says.
10. *Don't take it personally.* If a generational miscommunication occurs, try not to get frustrated. Instead, talk to the person to clarify what they intended to say or do. Be patient as you learn from one another.

Moving forward

While there are generational differences, the core need to feel valued and recognized is similar across generations. "Appreciating these similarities and differences makes you a better, more authentic community member," says Hinz.

Horntvedt agrees. "I really believe that when we figure how to lead and follow effectively across generations, we can be so much more effective in our communities. Each of us has so much to learn from one another, and our communities are richer for it."

References

¹Sources: Lancaster, L.C. & Stillman, D. (2002). *When Generations Collide*. New York: Harper Business; Zemke, R., Raines, C., & Filipczak, B. (2000). *Generations at Work: Managing the Clash of Veterans, Boomers, Xers, and Nexters in Your Workplace*. New York: AMACOM; Tulgan, B. (2013). *Meet Generation Z*. Retrieved from <http://rainmakerthinking.com/assets/uploads/2013/10/Gen-Z-Whitepaper.pdf>

²Years for generations vary slightly among scholars and practitioners.

More resources

- 2016 Leadership Series — [leading and following across generations](#)
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