

BRAINERD PLANNING COMMISSION

Wednesday, November 16, 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 October 19, 2016 and the Workshop on October 19, 2016
4. NEW BUSINESS
City of Brainerd, 501 Laurel Street, Brainerd, MN 56401 on behalf of Brainerd Public Utilities, 8027 Highland Scenic Road, Baxter, MN 56425 Conditional Use Permit (CUP) request to permit using rip rap to stabilize a steep slope adjacent to the City of Brainerd owned hydroelectric dam at 1801 Mill Avenue Brainerd, MN 56401
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
Short Term Rental (previously called Vacation Rental By Owner) Ordinance Draft Discussion
7. Commissioners' Questions/Comments
8. City Planner's Report
9. Adjourn to Workshop in 2nd Floor Conference Room
Discuss proposed Zoning Ordinance amendment regarding cell towers

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

PLANNING COMMISSION
Wednesday, October 19, 2016

Vice Chairman Dale Parks 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, Straw, Headley, Turner, and Pritschet. Also present were City Planner Ostgarden, City Administrator Thoreen, Planning Intern Bryan Harvey and 12 others.

#2 Approval/Amendment of Agenda

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

#3 Approval of minutes of the regular meeting held on September 21, 2016

MOVED AND SECONDED BY COMMISSIONERS PRITSCHET AND STRAW, DULY CARRIED, TO APPROVE THE MINUTES OF THE SEPTEMBER 21, 2016 REGULAR PLANNING COMMISSION MEETING AS PRESENTED.

#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**

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

City Planner Ostgarden stated the detached garage on the property was destroyed by fire in April, 2016. Mr. Murphy plans to reconstruct the garage in the same location however he desires to increase the size from 24' x 24' to 24' x 30' creating a 14' street side yard setback where 20' is required. Mr. Murphy also would like to increase the roof height with a 6/12 slope to match the dwelling slope. The steeper slope will cause the roof height to exceed the maximum height (at the roof midpoint) of 15' by 1'. 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.

He reviewed the staff reports for the Conditional Use Permit and Variance and described how the property is part of the original plat of the city dating back to the 1870's. Over the decades the neighborhood has developed with a mixture of dwelling and accessory building mixes and roof slopes. Mr. Murphy's site plan depicts the larger garage will be setback the same distance from the property line as the garage on the lot to the east.

Mr. Ostgarden inquired of the Planning Commission whether it received Mr. Murphy's letter e-mailed to them earlier in the day and each acknowledged receipt. There were no other letters or e-mail received regarding the requests.

Mr. Murphy addressed the Planning Commission and talked about the fire that destroyed the garage, the additional 6' size increase will match the setback of the garage on the adjacent lot. He also explained this was an opportunity to have a more aesthetic roof design by increasing the garage roof slope to match the

house roof slope. He stated he thought the roof slope and setback would not be out of character in the neighborhood.

The Chair closed the Public Hearing at 6:35 P.M.

Findings of Fact

1. The property is located in an (R-1 Single Family Residential) District and is a 50' x 150' (7,500 sf) lot, a typical lot size in the neighborhood.
2. The garage was destroyed by fire in April, 2016.
3. The garage will be increased in size from 24' x 24' to 24' x 30' with the additional 6' going closer to the Grove Street property line.
4. The accessory building setback from the Grove Street property line is 20' and the request is to have a 14' setback creating the request for a 6' setback variance.
5. The property owner desires to have a 6/12 roof slope creating a roof height of 16' at the midpoint. A Conditional Use Permit allows the roof of an accessory building to exceed 15' if the roof slope matches the principal building roof slope.
6. The 14' setback will match the setback of the garage located on the property to the east.
7. The new garage will meet side yard and rear yard setbacks, be less than the allowed 10% of lot area and impervious lot area will less than 60%.
8. The property is part of the Original Plat of Brainerd and the neighborhood that is part of the original plat has developed with a variety of principal building and accessory building styles and roof slopes.
9. The application meets the following Comprehensive Plan Goals and Strategies: *LAND USE GOAL #3: Plan for the orderly, efficient and fiscally responsible growth of residential development in Brainerd.*
Strategies
 - *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 service*
 - Encourage housing rehabilitation and redevelopment in appropriate areas.

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

10. The petitioner spoke on his behalf and there was no other public comment.

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

MOVED AND SECONDED BY COMMISSIONERS PRITSCHET AND STRAW, DULY CARRIED, TO RECOMMEND THE APPROVAL OF THE REQUEST FOR A CONDITIONAL USE PERMIT AND VARIANCE AS APPLIED FOR BY GORDON MURPHY AT 704 N. 6TH STREET.

b) Art Space LLP, Conditional Use Permit (CUP) Request to operate brewery and taproom at Franklin Art Center, 1001 Kingwood Street

City Planner Ostgarden reported that an application had been received from Jesse and Jessica Bleichner to open a Local Artisan Brewery (and taproom) in the west wing of the Franklin Arts Center (FAC) building. He pointed the Commission's attention to slides illustrating the floor plan for FAC depicting the exact location, size and floor plan of the proposed brewery. He stated that concerns have been raised by the school district about alcohol being served in the vicinity of school activities taking place in and around the FAC building. He recommended holding tonight's Public Hearing to hear comments of the parties present tonight and to continue the Public Hearing at the November 16, 2016 Planning Commission meeting. He stated that the process for this application is required to be completed by November 28th to meet the 60-day State requirement which leaves time to hold the Commission Public Hearing on November 16th and the consideration by the City Council on November 21st.

The Chair opened the Public Hearing at 6:28 P.M.

The Chair recognized Mr. Jesse Bleichner, Brewery CUP applicant, who stated that he is originally from Brainerd and that he and his wife have been enjoying several years of home-brewing and would like to now share the experience through a family and art-friendly local brewery. He stated that the goal is to create a safe and fun environment that he would feel comfortable bringing his own family into.

The Chair recognized Ms. Jessica Bleichner, co-applicant, who stated she and her husband feel the Franklin Arts Center has the potential to be an exciting facility for the community. She stated that based on the space being something her family can afford and it is already set up for a fairly easy transformation into a small brewery it would work perfectly. She stated that other FAC businesses/artisans are in support and that her own children will be helping with the business which will be family orientated and offer soda and snacks while enjoying the "craft beer" process in a responsible way. She stated that if they are unable to start up in the FAC they will not be able to start their business in the City of Brainerd. Ms. Bleichner clarified that the FAC is a tax-paying facility. She also shared a list of at least 140 signatures in support and letters of recommendation from local residents and businesses and shared examples of successful alcohol-serving businesses located near schools and in residential neighborhoods.

The Chair recognized Father Wroblewski, 416 N 9th Street, Brainerd, Pastor of St. Francis Church and Superintendent of St. Francis School, both located on 10th Street near the FAC. He stated that he has a lot of concerns with liquor being served directly across the street from St. Francis Church and also has concerns about limited parking as well as the parking lot being on the other side of the building as the proposed brewery. He stated that he was under the impression that there were strict guidelines for what could be allowed in the FAC so he is surprised the City has even reached this point in the application process.

The Chair recognized Ms. Nancy Williams, owner of Fancy Pants Chocolates at 704 Laurel Street Brainerd, who commented on quotes from the newspaper stating that the proposed brewery will endanger children in the area and cause drunk driving. She stated that based on these assumptions she should move her own family-orientated business located in Downtown Brainerd which houses 8 bars in a four-block area. She stated that she has witnessed many alcohol-infused activities, behavior and destruction around her store and that it is hypocrisy for the Council and those in opposition to be concerned about the FAC neighborhood children and safety and to not be concerned about the bar scene Downtown. She stated that a microbrewery will bring in locals and tourists willing to pay a higher price for specialty beer, soda and snacks which will benefit the FAC.

The Chair recognized Ms. Jennifer Decker, 12886 19th Ave SW, Pillager, who stated that she is a baker by trade and has been working with the Bleichners using the same ingredients used for craft beer to make her own crackers. She stated that allowing the brewery at FAC will promote utilizing local products based on the farmer's market and other local artisans selling products there. She feels it will bring in many families with children who will then look around the building to see other shops. She also stated that the volume of craft beer to be produced is much less than other breweries in the area.

The Chair recognized Mr. John Mattson, 1008 Kingwood Street, Brainerd, who stated that he feels neutral to the proposed brewery and agrees with comments that have been made both in favor and in opposition. He expressed concerns about parking and stated that he wishes the room available was on the other side of the building by the parking lot; however, that he feels the business would be a positive for the most part especially since they are going to be closed by 9:00 P.M.

The Chair recognized Ms. Angie Gottich, 902 Fir Street, Brainerd; St. Francis parishioner and whose kids attend FAC, who stated that she, too, is concerned about parking availability. She stated that she also has some concerns about alcohol being consumed in the building her children attend school and school activities in.

The Chair closed the Public Hearing at 6:54 P.M.

MOVED AND SECONDED BY COMMISSIONERS PRITSCHET AND STRAW, DULY CARRIED, TO CONTINUE THE PUBLIC HEARING REGARDING ART SPACE LLP, CONDITIONAL USE PERMIT (CUP) REQUEST TO OPERATE BREWERY AND TAPROOM AT FRANKLIN ART CENTER, 1001 KINGWOOD STREET, TO THE NOVEMBER 16, 2016 PLANNING COMMISSION MEETING.

City Planner Ostgarden stated for clarification that the school district owns the football field at Franklin Arts Center and leases the auditorium and cafeteria.

#5 **PUBLIC FORUM** – None

#6 **OLD BUSINESS** – None

#7 **COMMISSIONERS' QUESTIONS/COMMENTS** – None

#8 **CITY PLANNER'S REPORT** – None

#9 **ADJOURN**

AS THERE WAS NO FURTHER BUSINESS, WITH A MOTION BY PRITSCHET AND SECOND BY HEADLEY, DULY CARRIED, THE MEETING ADJOURNED AT 7:50 TO THE 2ND FLOOR CONFERENCE ROOM TO DISCUSS THE DRAFT VACATION RENTALS BY OWNER ORDINANCE.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

**Brainerd Planning Commission Workshop
October 19, 2016**

Vice Chairman Dale Parks called Brainerd Planning Commission Workshop to order at approximately 6:45 in the City Hall 2nd Floor Conference Room.

Present: Headley, Parks, Pritschet, Straw and Bob Turner

Others Present: Marissa Skuza, Rick Fargo, Planning Department Intern Bryan Harvey and City Planner Mark Ostgarden

The meeting purpose was to review the Vacation Rental by Owner Ordinance 3rd Draft. The Ordinance name is being changed to Short Term Rental Ordinance.

Standard 7 was discussed and thought given to changing the 2 adults (16 and older) per bedroom to 2 people per bedroom.

Standard 8 was discussed because it specifies a 130 sf bedroom for 2 people meaning an 8' x 10' bedroom is not permitted.

Standard 11 was discussed in that the way it is worded it begs the question of, "Does on-site parking need to be provided for all possible guests?" The language should specify off street parking is for renters.

Standard 16 was discussed on whether the distance could be used to block people from obtaining licenses; also what to do if a person wants a license for multiple times in a year but can't obtain it as their neighbor has one for a weekend.

Standard 17 discussed related to the fire marshal annual inspections.

The meeting adjourned at approximately 7:10 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

STAFF REPORT TO THE PLANNING COMMISSION

November 7, 2016

CONDITIONAL USE PERMIT

APPLICANT/LOCATION: City of Brainerd, 501 Laurel Street, Brainerd, MN 56401 on behalf of Brainerd Public Utilities, 8027 Highland Scenic Road, Baxter, MN 56425 for property at 1801 Mill Avenue

PROPOSED USE: Riprap project to prevent erosion of a steep slope adjacent to the hydroelectric dam

LOT AREA: Approximately 300' lineal feet of steep slope

CURRENT ZONING: I-2 (General Industrial) District

ADJACENT USE: North: Industrial
East: Industrial
South: Industrial
West: River

ADJACENT ZONING: East: I-2 (General Industrial) District
South: I-2 (General Industrial) District
West: I-2 (General Industrial) District
North: I-2 (General Industrial) District

REPORT

Due to increased concerns about erosion on a steep slope adjacent to the Mississippi River hydro dam, Brainerd Public Utilities is proposing to removing approximately 300' of vegetation on the slope and installing rip rap for stabilization.

In case some are not familiar with riprap and how it is used following is a definition. A photo depicting rip rap on a steep slope is also provided.

Riprap — also known as rip rap, rubble, shot rock or rock armor — is rock or other material used to armor shorelines, streambeds, bridge abutments, pilings and other shoreline structures against scour, water or ice erosion. It is made from a variety of rock types, commonly granite, limestone or occasionally concrete rubble from building and paving demolition. It is used to protect coastlines and structures from erosion by the sea, rivers, or streams. It is used on any waterways or water containment where there is potential for water erosion.



In addition to local zoning requirements all property within 300' of the Mississippi River is required to follow Shoreland Management Regulations that have been adopted by the City of Brainerd.

*Shoreland Management Regulations 530.09 Zoning and Water Supply/Sanitary Provisions Subd. 5.
Storm Water Management*

The following general and specific standards shall apply:

a) *General Standards:*

3. *When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.*

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.*

There are no district, conditional use provisions or general regulations that apply.

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.

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.*

Riprap installation should not create a situation that would be dangerous, injurious or noxious. The purpose of the project is to prevent a condition that could become dangerous and/or injurious.

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 project location is on the river behind the Brainerd Industrial Center and not visible to the general public.

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

See #4 above.

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

The proposal will have no effect on vehicular access and 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.*

The plan is consistent with the following Comprehensive Plan Goal and Strategy:

COMMERCIAL/INDUSTRIAL LAND USE

Goal: *PLAN FOR THE ORDERLY, EFFICIENT AND FISCALLY RESPONSIBLE GROWTH OF COMMERCIAL AND INDUSTRIAL DEVELOPMENT IN BRAINERD.*

Strategy

Buffer commercial and industrial developments from environmentally sensitive areas and residential areas within the community.

- 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

Attached is a memo from Scott Magnusson, Brainerd Public Utilities Director. Mr. Mangnuson is working with Barr Engineering on a rip rap plan design. It is hoped that

a preliminary plan will be available at the 16th meeting. He has met at the site with Beth Hippert, Crow Wing County Soil and Water Conservation Technician to discuss the proposed plan. Ms. Hippert will be submitting a letter supporting the proposal.

Fire

No issues.

Police

No issues.

Building

No issues.

Planning Department

No issues.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation at its meeting on November 16, 2016 and the City Council may consider the request at its November 21, 2016 meeting.

Respectfully submitted,

Mark Ostgarden AICP
City Planner



BRAINERD PUBLIC UTILITIES

8027 Highland Scenic Road • P.O. Box 373 • Brainerd, Minnesota 56401-0373

COMMISSION SECRETARY – Business Office 218.829.8726 – FAX 218.829.4703

SUPERINTENDENT OF UTILITIES – Repair Service Operations 218.829.2193 – FAX 218.829.2308

INTERNET WEB SITE – www.bpu.org

DATE: November 8, 2016

TO: Brainerd Planning Commission

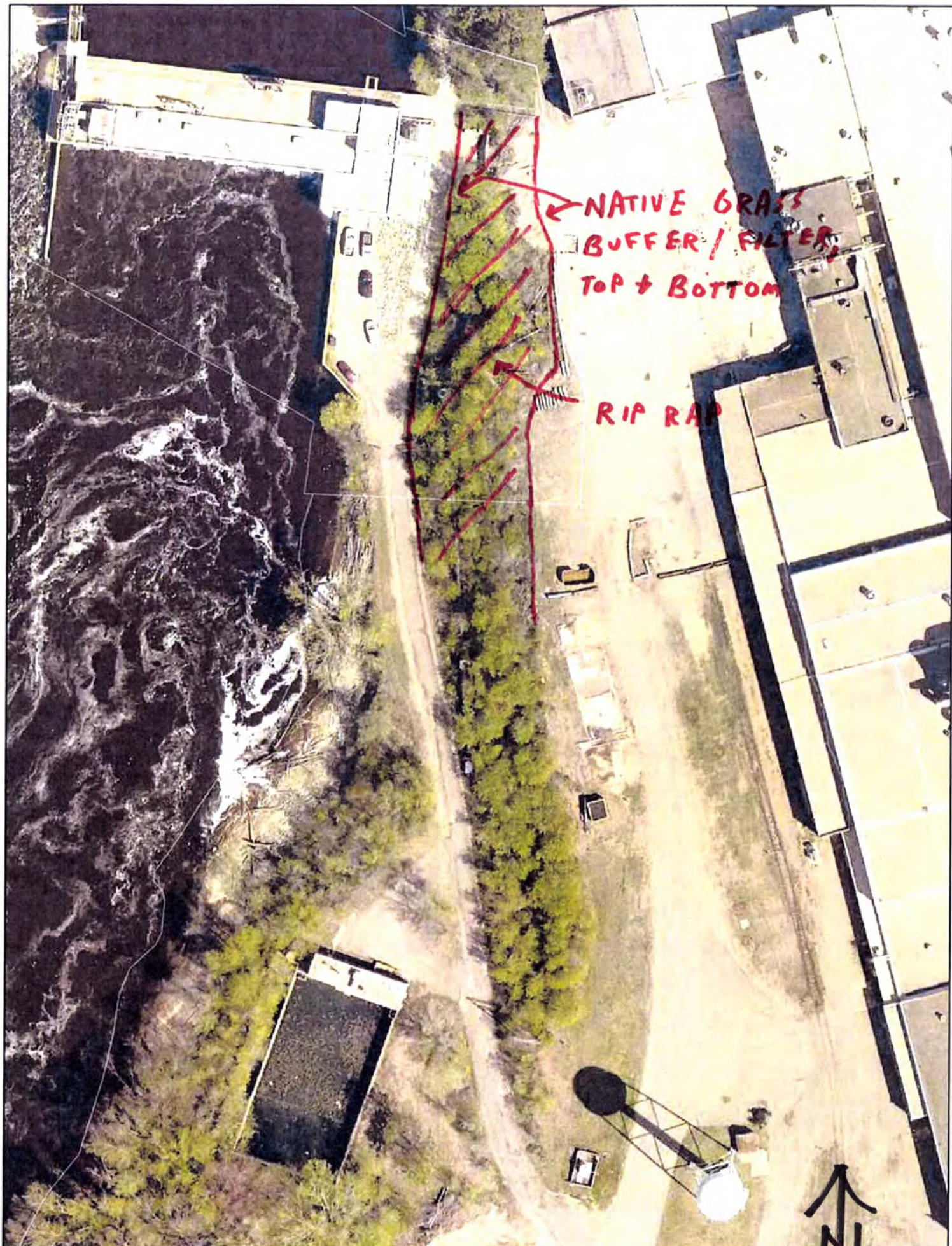
FROM: Scott Magnuson *SM*

RE: Rip rap on side hill at hydro dam

Over the past summer, we have noticed some erosion on the hill on the east side of the river at the hydro plant between our driveway and BIC property. This has also caught the attention of our regional engineer from FERC (Federal Energy Regulatory Commission) who is charge of dam safety. We have tried a few easy/quick fixes with no good results. We were contacted by the owner of BIC asking about clearing the trees on the side hill and adding fabric and rip rap, allowing BIC to do maintenance on the out fall pipe and various structures.

The pipe is above ground, with structures above and below ground. The pipe carries all of the storm water from the BIC site. The trees were cut down to the stumps a few years ago by former mill owner Wausau, and have already grown back to 20 foot heights. We have had to trim the trees as they grow over are driveway.

This project will eliminate a few problems for both parties involved. I have our hydro dam engineers looking at a design for the rip rap to make sure it is done correctly. Myself, a representative from BIC, and Crow Wing SWCD representative Beth Hippert met onsite, and all agreed that this would be the best solution for the multiple problems on the hill.



NATIVE GRASS
BUFFER / FILTER,
TOP & BOTTOM

RIP RAP



1212



NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City of Brainerd, 501 Laurel Street, Brainerd, MN 56401 is applying on behalf of Brainerd Public Utilities, 8027 Highland Scenic Road, Baxter, MN 56425 for a Conditional Use Permit to permit using rip rap to stabilize a steep slope adjacent to the City of Brainerd owned hydroelectric dam at 1801 Mill Avenue Brainerd, MN 56401.

The property is located in a I-2 (General Industry) District and is legally described as part of PT OF GL 1 SEC 34-134-28 & GL 4 SEC 18-45-30 & Bed Of Mississippi River Desc. in Crow Wing County. The PID # is 050184203EA009.

The property is located along the Mississippi River in an area regulated by the City of Brainerd Shoreland Management Regulations. Shoreland Regulations Section 530.09 Subd. 5. Zoning and Water Supply/Sanitary Provisions Storm Water Management reads:

When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

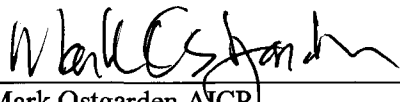
The applicant thinks that riprap on the slope is the best option in this location. An aerial map identifies the location of the proposed riprap.

The City of Brainerd Planning Commission will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., Wednesday, November 16, 2016 to consider the request for the 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 3rd day of November, 2016.



Mark Ostgarden AICP
City Planner

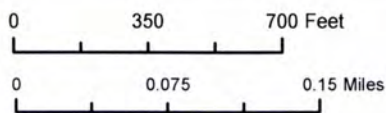
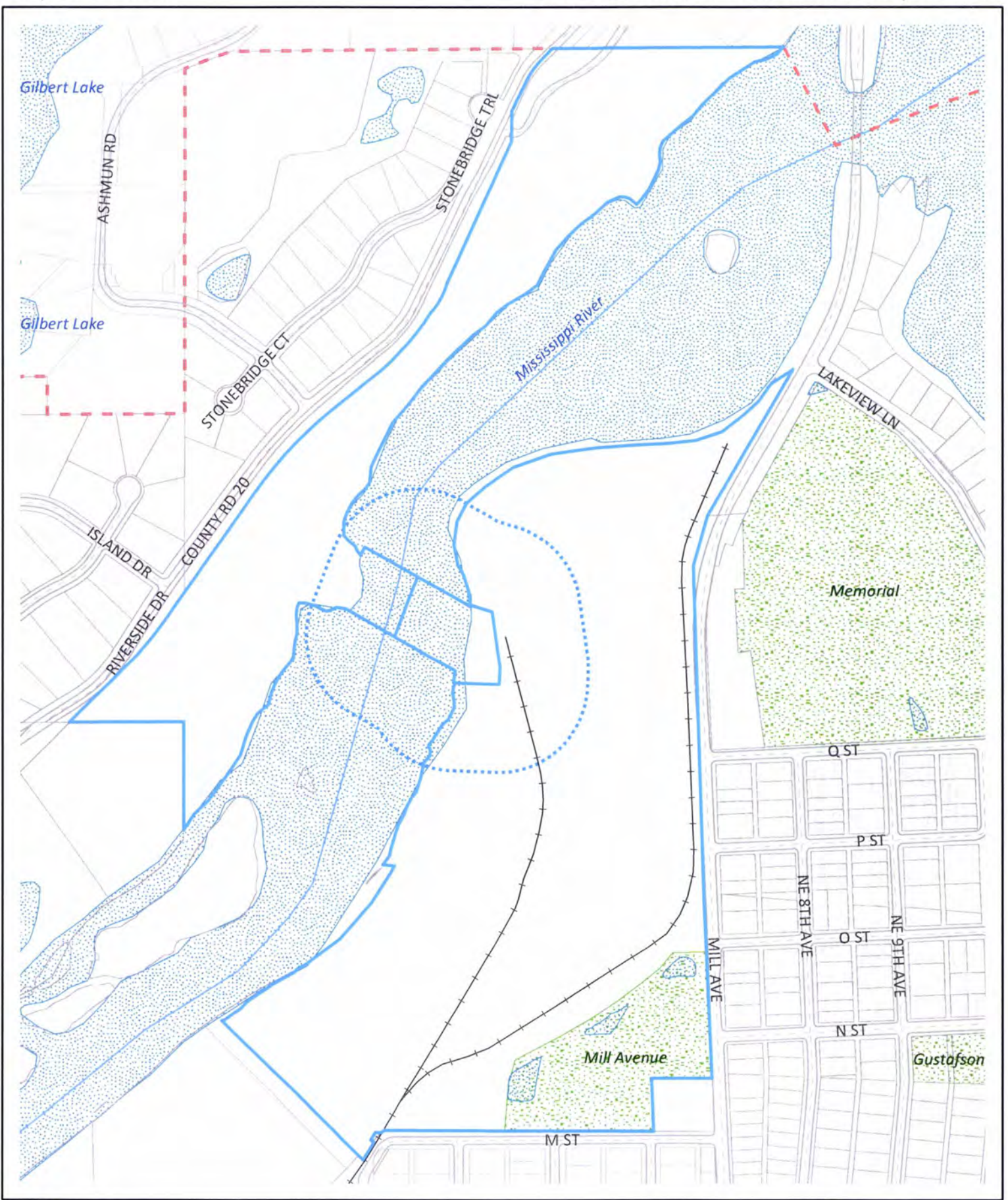
See reverse side for aerial map.



180 MILL AVE

Area to be
rip rapped.





APPRCL
050184203E00009
050184203EA0009
080341101A00009

TXNAME
BRainerd Land LLC
CITY OF BRAINERD
CITY OF BRAINERD

TXADR1
1425 SOUTH MISSION RD
501 LAUREL ST
501 LAUREL ST

TXADR2
MT PLEASANT MI 48858
BRainerd, MN 56401
BRainerd, MN 56401

PHYSADDR
1801 MILL AVE



City Planning Department

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

Receipt # _____
Check # _____
Date Paid: _____

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

	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: 1801 Mill Ave

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

SEE ATTACHED

Property Owner Name: City of Brainerd

Street Address: 501 Laurel St City: Brainerd State: MN Zip Code 56401

Phone Number: 828-2307 Fax: _____ E-mail: smagnuson@bpu.org

Applicant Name: (If different than Property Owner) Brainerd Public Utilities, Scott Magnuson

Street Address: 8027 Highland Scenic Rd City: Baxter State: MN Zip Code: 56425

Phone Number: 825-3213 Fax: _____ E-mail: smagnuson@bpu.org

Description of Request: Request CUP to remove trees and install fabric and rip-rap, to help stop erosion, allow for easier maintenance of electric facilities and clearing for driveway.

Property Owner Signature

Date

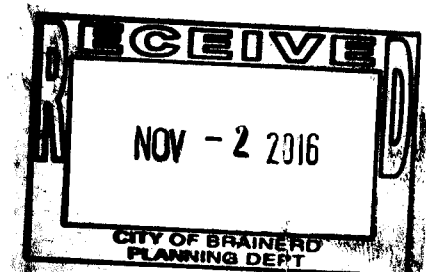
(Please print name)

Applicant Signature

Date

(Please print name)

(OVER)



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**

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

Rob Maroney

651-290-5766

MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner 

DATE: November 7, 2016

RE: Short Term Rental (previously called Vacation Rental By Owner) Zoning Ordinance Draft Revisions

Attached is draft Zoning Ordinance language for short term rentals with amendments based on consensus of the Planning Commission's October 19, 2016 workshop and changes suggested by the Planning Department. Several clarification amendments have also been made to the draft.

The maximum number of consecutive days is 29. Duluth specifies 29 days to distinguish short term rental from long-term rentals, which have a minimum rental period of 30 days. I have discussed our minimum rental period with the Building Department and was informed we do not specify a requirement. The Planning Department is recommending 29 days be the maximum number of consecutive days for short term rentals. A rental for more than 29 days would be considered a long term rental.

The substantive amendments are as follows:

1. Standard 5 specifies "The permit holder must notify neighboring properties..." "Neighboring properties" is ambiguous so it is suggested that it be changed to notification of all properties within 300'.
2. Standard 7 specifies occupancy is limited to 2 adults (16 and older) per bedroom. Following are examples of how other cities limit the number of occupants. A few cities do reference "adult."

Boulder CO.

Short term rentals of accessory units (ADUs and OAU's) are limited to members of a family* or up to two unrelated persons

Santa Fe, NM

The total number of persons that occupy the short term rental unit is twice the number of bedrooms

Nashville, TN

The maximum number of paying adult guests permitted on a STRP property at any one time shall not exceed more than twice the number of sleeping rooms plus four. Simultaneous rental to more than one party under separate contracts shall not be allowed. The occupancy maximum shall be conspicuously posted within the STRP unit.

Savanna, GA

The number of occupants shall not exceed two (2) adults per bedroom plus two (2) adults for each dwelling, subject to the verification of building code compliance by the Zoning Administrator.

Duluth, MN

For Vacation Dwelling Units (where the owner is not present at the time of rental) we limit based on the number of bedrooms – two people per bedroom plus one additional person (so a 3BR house gets 7 people).

Dana Point, CA

The maximum overnight occupancy of the short term rental shall be limited to two (2) persons per bedroom plus two (2) additional persons within the short-term rental.

Charlevoix, MI

Maximum occupancy will be based on two (2) adult people per bedroom.

South Haven, MI

Except as otherwise provided in subsection (d)(2) or (d)(3), the number of occupants in a dwelling unit during a short term rental shall not exceed the lesser of: (i) 16 total occupants; or (ii) 2 occupants per bedroom plus 2 additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code.

Saugatuck Township, MI

Except as otherwise provided in this section, the maximum occupancy load shall be 2 persons per bedroom, plus two additional persons per finished level with means of emergency egress (e.g. a functional window), up to a total of 12 persons.

Bend, OR

Occupancy is limited to two people per bedroom, plus two more people if the entire home is being permitted (e.g. a 3 bedroom home allows for 8 person occupancy).

The Planning Department recommends the following:

Two people per bedroom plus one additional person.

3. The sentence in Standard 8 that refers to bedroom sized has been removed. The minimum bedroom size was raised at the Workshop by Rick Fargo. Many other cities' short term rental ordinances were reviewed and in no case was there a reference to a bedroom size.

After further thought, do we need to be concerned about the minimum size bedroom provided it has a smoke alarm and an egress window?

4. The separation requirement specified in Standard 16 was been struck. Of the cities researched, 2 have this requirement:

Santa Fe, NM

Short term rental permits will not be issued for more than 2 short term units directly adjoining each other on a residentially zoned street.

Bend OR

For Type II applications there shall be at least 250 feet of separation between properties permitted as Short-Term Rentals.

It is the Planning Department's suggestion that a separation requirement is not needed, however, if the Planning Commission is firm in its position, perhaps we might consider a 300' separation for lots with Mississippi River and lake frontage. Should short term rentals begin to appear in areas away from the River and lake frontage, this standard can be revisited at that time.

The Planning Commission will need to determine in what zoning districts short term rentals would be allowed. Following is a list of all the districts:

Agricultural Districts:

R-A, Rural Agricultural District

Residential Districts:

1. R-R, Rural Residential District
2. R-E, Single Family Estate Residential District
3. R-1A, Single Family Residential
4. R-1, Single Family Residential
5. R-2, Medium Density Residential
6. R-3, High Density Residential
7. R-MH, Manufactured Housing District

Business Districts:

1. B-1, Residential-Office District
2. B-2, Neighborhood Business District
3. B-3, Central Business District
4. B-4, General Business District
5. B-5, Commercial Amusement District
6. B-6, Washington Street Commercial District

Mixed Use Districts

MU, Mixed Use District

Industrial Districts:

1. I-1, Light Industry District
2. I-2, General Industry District

The Planning Department suggestion for districts to allow short term rentals is:

Agricultural Districts:

R-A, Rural Agricultural District

Residential Districts:

1. R-R, Rural Residential District
2. R-E, Single Family Estate Residential District
3. R-1A, Single Family Residential
4. R-1, Single Family Residential
5. R-2, Medium Density Residential

Business Districts:

1. B-1, Residential-Office District
2. B-2, Neighborhood Business District
3. B-3, Central Business District
4. B-4, General Business District

DRAFT – Short Term Rental Ordinance

Definition:

Short Term Rental 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.

The following standards apply to Short Term Rentals:

1. The minimum rental period shall be not less than 2 consecutive nights.
2. The owner of a Short Term Rental must apply for and receive an Interim Use Permit. Owner occupied dwellings that are also Short Term Rentals do not require an Interim Use Permit.
3. 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. A Plan for garbage disposal BY THE PERMIT HOLDER.
 - e. A pet policy.
4. Emergency contact information (police, fire, hospital) shall be posted in the Short Term Rental.
5. 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.
6. Permit holder must disclose in writing to their ~~guests~~ RENTERS 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
7. The occupancy of a Short Term Rental shall be limited to no more than 2 ~~adults (16 and older) per bedroom~~ TWO PEOPLE PER BEDROOM PLUS ONE ADDITIONAL PERSON.

8. 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.~~
9. The Short Term Rental shall be connected to city sewer and water.
10. A Short Term Rental shall have a full bathroom (sink, toilet and tub or shower).
11. On-site parking shall be provided which is sufficient to accommodate the ~~occupants~~ RENTERS of the vacation/private home rental. Public streets may not be used for calculating parking by FOR renters. ~~or guests.~~
12. Additional occupancy by use of recreational vehicles, tents, accessory structures or fish houses is not permitted.
13. One on premise sign is allowed in accord with ZONING ORDINANCE Section 515-37-5 G. Signs. Permit Not Required.
14. The owner shall provide a visual demarcation of the property lines.
15. The owner shall keep a report, detailing use of the ~~home~~ SHORT TERM RENTAL by recording the full name, address, phone number and vehicle license number of guests using the ~~property.~~ RENTAL. A copy of the report shall be provided to the Planning Department upon request.
16. ~~No more than 1 Short Term Rental will be allowed on a lot or parcel and there shall be no more than 1 Short Term Rental per block (300' excluding street rights of way) and 1 per block front (300' excluding street rights of way). Short Term Rentals must be located at least 350' apart. In applying this restriction, the distance shall be measured between the main front entrances following the route of ordinary pedestrian travel.~~
17. A Short Term Rental 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. Each unit shall be inspected annually by the Rental Housing Inspector and the Fire Marshall.
18. 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.~~ RENTERS. 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.~~ RENTERS.
19. Permit holder must post their permit number on all print, poster or web advertisements;
20. Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax.

21. Short Term Rentals 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.
22. All short term 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.

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http://www.swnewsmedia.com/savage_pacer/news/local/savage-council-passes-ban-on-short-term-rentals-of-homes/article_905489eb-16e3-5442-85c4-9a2a1c303ac7.html

TOP STORY

Savage council passes ban on short-term rentals of homes

By ALEX HALL editor@savagepacer.com Dec 11, 2015



FILE PHOTO

Savage City Council members include Christine Kelly, Gene Abbott, Jane Victorey, Al McColl and Mayor Janet William

In response to complaints from residents regarding neighbors who rent out their homes for nights and weekends, the Savage City Council decided Monday night to ban rentals of homes in residential zones for any period shorter than 15 days.

The council passed the new ordinance unanimously at its Monday, Dec. 7 meeting. Several council members stated that the practice of renting out one's home for a night or weekend essentially constitutes a commercial use, which they said has no place in an area that is zoned residential.

Short-term rentals have gained in popularity in recent years, largely due to online services like Airbnb that help facilitate the rental process. The economic downturn also played a role in the practice's popularity, as more and more homeowners became willing to rent out their house in order to make some extra money.

But as the practice has become more common in the suburbs, so have complaints about issues such as noise and parking. Savage officials have recently received a number of complaints regarding short-term rentals of homes in residential neighborhoods.

So due to residents' complaints, along with the apparent commercial use of properties in residential areas, city staff began working with the city attorney's office this fall to prepare an ordinance restricting short-term home rentals.

Other communities in Minnesota have adopted short-term rental ordinances recently, including Prior Lake. Officials in that city had been receiving complaints in regards to large parties, but because they live in a lake community, they did not want to completely eliminate the ability of lakeside home owners to rent out their properties on a short-term basis. Instead, Prior Lake decided to regulate short-term rentals instead of restrict them, meaning that homeowners would need to register and have their property inspected. The Prior Lake ordinance also now limits the number of overnight guests to two times the number of bedrooms, and there also must be one off-street parking space for each bedroom the property has.

Savage City Administrator Barry Stock said that it is important to note that every community is different, and that what might work for one might not work for another. He said city staff wanted to keep the Savage ordinance simple, and Council member Gene Abbott said he thought that was the right decision.

"If you get too complex with it, then you're using quite a bit of staff time, [going] out and [counting] how many people are there per bedroom," Abbott said.

Those found in violation of the ordinance could be convicted of a gross misdemeanor.

Abbott did ask if traditional bed and breakfasts would be affected by the decision. City Attorney Ric Rosow said they would, but Stock said he was unaware of any that were located in Savage. Stock said that if a bed and breakfast did want to open in a residential area, the council could possibly amend the ordinance so that certain properties could receive a conditional use permit for their operation.

OPPOSITION

Woodhill Circle resident John Binetti — who rents his house out via Airbnb — spoke at Monday's meeting in opposition to the ordinance. Binetti said he thought the city should try to find another way to address the issue without banning the practice entirely. He also said that issues with parking and noise are not isolated to short-term rental homes, and that the people he has rented to have been well-behaved.

"I think there's something that could be done that could work on both sides," Binetti said, adding that he would be open to limiting the number of times he rents out his house each month. "I think it's taking away an opportunity to be able to stay in my home."

Binetti's next door neighbor, Julie Bernick, also spoke at the meeting. Bernick said there are often no issues with the rentals, but on occasions when the house is rented out for things like family reunions or bachelor parties, the noise and parking problems start to arise.

"That's not six or eight people in a home [when there's a family reunion], that's 10 and 12 and 15," she said.

Stock also confirmed that police have responded to complaints at Binetti's residence while it's being used as a short-term rental, and he said "most of those complaints were [for] noise."

"That's not to say that the people who were renting didn't tone it down a notch, but nonetheless there were police calls that had to be responded to in response to noise and parking," Stock said.

Andrew Maurer, another neighbor of Binetti's, said the fact that he didn't know who might be in his neighborhood on any given night made him uncomfortable with having his young daughter play outside. Airbnb does background checks on renters and homeowners, but Maurer said that didn't account for people who are simply showing up to parties.

"I'm not saying anything has happened, but who says the person that registered to rent the [house] for the weekend [doesn't] invite 10 of their buddies who didn't get a background check," Maurer said. "How do you stop something like that from happening?"

Abbott said he could see why residents would be concerned about a short-term rental property located in their neighborhood.

"I didn't move next to a hotel or a motel, I moved into a single family residential area, and if this is allowed to happen, all of a sudden that changes," Abbott said. "From my perspective, I would be upset."

City documents state that the ordinance would help "preserve the residential character of the city's residential districts," and Council member Christine Kelly agreed, saying that Savage has "extraordinary" neighborhoods, and that allowing

short-term rental properties could affect their cohesiveness. Kelly said that when people move to Savage, "the expectation is that they're going to have the neighborhoods that we have become known for, and I want to preserve that."

Council member Al McColl said short-term rentals do not belong in residential neighborhoods, and that the ordinance needed to be kept simple for enforcement purposes.

"I sympathize with someone trying to make an honest dollar, but after having dealt with the ordinances in this community for over 27 years, I know it's important to keep them simple and enforceable," McColl said. "And to go back to what I said earlier, we have zoning laws for a reason. And this is not an appropriate fit for a residential neighborhood. It's that simple to me."



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Public weighs in on short-term rentals in Spring Lake Township

2016-11-02 | GRAND HAVEN TRIBUNE

Nov. 02 -- SPRING LAKE TWP . -- Officials used a high-tech cellphone survey to kick off Tuesday night's public engagement meeting on short-term residential rental laws in Spring Lake Township , but it was old-fashioned discussion that dominated most of the two-hour meeting.

More than 100 people attended the forum at the Spring Lake Middle School auditorium. Crystal Morgan , a municipal attorney and a member of the township's Planning Commission , moderated the event.

Most audience members who spoke said they were in favor of the township restricting or banning short-term rentals.

Several local landlords spoke, saying they have had no problems with short-term vacation rentals and have heard no complaints from neighbors.

Those speaking against allowing short-term rentals for the most part focused on one property in particular -- a home on Lovell Road . Neighbors of that home said no one should have to live like they do.

The neighbors described 20 tenants converging on the home with luggage, tents, outdoor movie screens and watercraft. They complained of noise from morning into the wee hours, balls rolling into their yards, trash and late-night partying.

Those against short-term rentals said the activity doesn't belong in R-1 residential districts because rentals are primarily commercial in nature.

Ruth Collins said she started renting out a home through the Airbnb website last March. She said all of her more than 200 guests since then have been "wonderful" and she's heard no complaints from her neighbors.

"It has been the most wonderful experience and we haven't had one single problem," Collins said. "What we love about it the most is that it promotes our local area. It has been an absolutely perfect situation."

The township's "instant results" cellphone survey showed residents divided on the issue -- 40 percent said the township should allow short-term rentals; 19 percent said yes, but only if they're strictly regulated; and 41 percent said they should be banned.

Harry Dyke, who lives near the rental home on Lovell Road, said it's listed for a 20-person occupancy, eight cars and charges \$7,500 a week. He said this should not be allowed in a residential neighborhood.

"This is not in accordance with my understanding of what the regulations are," Dyke said. "I'm disappointed the township doesn't seem to be enforcing those issues."

Those in favor of allowing vacation rentals say they rent to single families, so it is in keeping with single-family residential zoning.

"We've had people from all over the United States come and visit," said Judy Volk of the vacation rental next door to her residence. "I've never heard a complaint from neighbors and I've even asked them."

Resident Tom Nolan said he loves to see people enjoying Spring Lake, but that short-term renters tend to stay up late because they're on vacation. And they're often making noise next to the homes of full-time residents who have to go to work in the morning.

"People in R-1 (zoning districts) have invested a lot of money in their homes," Nolan said. "We pay a lot of taxes. I think everyone has said a lot of good things tonight, but I want to voice my strong support that we should not have short-term rentals in R-1."

Township Manager Gordon Gallagher said he expects the Township Board to resume the discussion at its Nov. 14 meeting and to take action the following month. He said there are strong opinions on both sides.

"I think there are two basic schools of thought," Gallagher said. "If you're just renting a home every week, all summer long, that's not really a residential use, it's a commercial use, therefore it should not be allowed in residential zones at all. The other side of that, we're just

using it for residential use. It just so happens that we're renting it out. Why should one person be allowed to have four people staying in their house and I can't have four people staying in my house even though they're four different people every week."

Gallagher said he has received only two complaints regarding short-term rentals -- one on North Shore Estates Road , which was resolved by the association; and the other on Lovell Road . But he said that, with the recent popularity of vacation rental sites such as VRBO and Airbnb , the Township Board wants to get a handle on the community's feeling on short-term rentals in residential neighborhoods.

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The battle continues over overnight rentals

2016-09-15 | THE LEAVENWORTH ECHO

Those for and against overnight rentals in Leavenworth squared off once again last week. This time, it was at a meeting of the Leavenworth Planning Commission on Sept. 7. It was not a public hearing, but yet another meeting where the two sides squared off.

Daniel Eby, of the Come Stay in Our Village group, led off the discussion. While the council chamber was packed, the planning commission decided to limit each side to 15 minutes. Eby said he is also one of the founding members of the Come Stay in Our Village Coalition. He called the group a coalition of city residents, business owners and managers who are advocating short term rentals, tourism and property rights, the ability to buy, sell and rent residential property. They are asking the city to end the ban on short term rentals and work with the coalition to outline reasonable regulations. It believes short term rentals should be allowed in residential areas. "A rental is a rental. The nature of the use does not change when the duration drops from 30 to 29 to 2. We stated from the beginning the Washington State Courts have made several decisions stating the following:

Homeowners have a right to rent their homes and the rental of a home for less than a month is no different than renting for more than a month," Eby said. If a vacation rental uses a home for the purposes of eating and sleeping, the use is residential, not commercial, no matter how short the rental duration, Eby said. He said they disagree with the city attorney's position on the viability of a ban on short term rentals and his interpretation of applicable cases in Washington. "Why should the only choice be an outright ban? Outright bans are taking the property rights and forces

the practice underground. With this approach, the city loses its best practitioners and resources for careful management and oversight of short term rentals, something that does not happen with long term rentals, which have many more issues with neighbors," Eby said. Some of the companies (owned by coalition members) have had over 30 years of experience taking care of short term rental guests in Leavenworth , he said. They also took issue with the white paper authored by the legal firm representing the city.

"While stating a complete ban may be enforceable, (the attorney) alludes to the fact a real option is available in allowing short term rentals and gives multiple examples of rules and regulations that could be used. I quote, 'there has been little litigation on these types of regulations,'" Eby said, "There certainly is not the same prospect if the city sticks with an outright ban. Does it seem reasonable to open the city up to lawsuits costing possibly several hundred-thousand dollars, defending an outright ban of tourists in residential areas?" Eby believes the hotels in town cannot handle the number of people coming. He said those guests are demanding homes. They want to stay in Leavenworth and feel like a local, Eby said. He estimated the upper valley brings in \$500,000 in tax revenue from Leavenworth area short term rentals, while the city and urban growth area bring in another \$150,000 . What does a neighborhood look like? Eby said the opposition got it wrong. " Leavenworth is not our private neighborhoods. We cannot control who our neighbor is. A neighborhood is made of many parcels and therefore many different types of owners," Eby said. "Some are full time residents, some are landlords who host long term rentals and others use their home as a second home. Neighbors cannot restrict who buys the property next door to them nor should they tell their neighbor what they can and cannot do." Former Leavenworth City Councilman Carl Florea presented a passionate presentation on the views of the Leavenworth Neighbors United group. He was mainly concerned about the impact of short term rentals on the cost and availability of housing in Leavenworth . "There is an assumption in this state that if you are creating the jobs, you are creating the housing for those workers. It doesn't work. We're finding that everywhere. The idea is for you to plan for economic growth and our residential growth," Florea said. "I happen to differ with a previous speaker that Leavenworth was all about tourism. Nothing should be all about your economic engine. That's one part of it. We have another part, housing the workforce. The people keeping that economic engine going." Florea said he did not have a problem with nightly rentals. He has used them before. There is a place for that, it's called the commercial zone, he said. "We want to protect the housing that we got. We have housing in crisis. It is ownership in monthly rentals ...we need more of it. Who doubts that? If what they are talking about is converting some

of this residential to this commercial use, I would say fine, in a perfect world," Florea said. "If we had too much housing and our economic engine wasn't producing units... We have one (hotel) coming online down by the high school that will serve that economic engine. There is another one being built at Safeway to serve that economic engine." The problem is not with the code banning short term rentals, Florea said, the problem is that it is not being enforced. He said there are plenty of homes in the commercial zone. "Leavenworth is 1.36 miles, 788 acres. The residential zone is only a half-square mile. You already have places for your overnight rentals. There is a place for it, just not in the residential. Over half the city is zoned for commercial use," Florea said. "A lot of homes in that commercial zone. There are homes that can be converted. Leave the residential for residents." Florea said in May of 2016, there were only eight single family homes in Leavenworth under \$250,000 . How many of the folks working downtown can afford this? None, Florea said emphatically. In the last census, Leavenworth was the only city in Chelan County that lost residents. "We decreased because we have no affordable homes. We already competing with the west siders who want their second homes over here. They are some of the nicest people, but that is taking away units," Florea said. "We're competing with all the people with money that come over here and buy a second home. I don't resent that. These are the facts. We're competing against these people with money that can outbid our people." The adversarial relationship between city and vacation rentals is wrong, said Come Stay in Our Village member, Greg Morsoli. He felt vacation rentals are a very important part of Leavenworth's overall tourism package. That should be considered an asset to Leavenworth , Morsoli said. "I think it is important to recognize a rental property is a rental property. All the same actions take place regardless of whether the property rents for a two night period or 30 day period," Morsoli said. "Eating, bathing, reclining, sleeping are the same, no matter the length of the rental stay." Morsoli pointed out the city of Anaheim found a fair solution for vacation rentals. He said monthly rentals are often the most unkept yards in the neighborhood. "The landlord has relinquished the responsibility of maintenance to the monthly renter. The monthly renter is not vested in the property, so their maintenance is minimal," Morsoli said. "From a curb appeal, a vacation rental is excellent." He said a vote against vacation rentals is a vote against tourism. Leavenworth Neighbors United member Travis Blue took issue with the Anaheim reference. "I want to quote the Los Angeles Times , July 1, 2016 . In response to complaints by residents, the Anaheim City Council voted to ban all future short term rentals in residential areas of the city and give existing rental operators 18 months to close up shop," Blue said. Blue said the city has studied this issue before. The city's

conclusion was that short term rentals were not compatible with a thriving community. A year ago, the city wrote a letter, Blue said, referencing specifically amended city codes which eliminate transient housing from single family and multi-family zones of the city based on finding of a lack of compatibility with solitude, privacy and family oriented lifestyles city residents wish to maintain. "We're not asking for any change. It has been studied before and come to a conclusion. We agree with this. It prohibits all activities of a commercial nature to all those that would be inharmonious or injurious to the preservation of the residential environment," Blue said. "The three founders of the Come Stay in Our Village coalition do not live in our village. I think that is important to note. They want us to bring in the tourist, but they don't want their neighbors to be those tourists." The courts in Washington state have ruled there is no difference between short term and long term rentals, said Come Stay in Our Village member, Randy Sexauer. He believed fair and equitable regulations can be applied equally to both visitors and residents alike. Sexauer said the city would gain tax revenue by encouraging the lodging industry in all areas of the city. "We are willing to work with the city on these concerns to make it work for everyone. The larger lot makes it easier on some neighbors because of the natural buffer created, but is this fair and equitable to the owner of a smaller property?," Sexauer said. "To ban nightly rentals seems counter to what Leavenworth stands for, tourism. Homeowners should have the flexibility on how to use their property. Do you really want tourists to go elsewhere because we do not allow nightly rentals?" Leavenworth Neighbors United founder Zeke Reister had to rush through his presentation because the group was short on time. He said there were now 291 signatures on the petition to the city to keep the code banning overnight rentals. "We need enforcement. Penalties should be assigned for first, second and subsequent violations. They need to initiate with monetary fines and end with discontinuation of city services. Commercial entities are prohibited in the residential zone," Reister said. "Monetary fines are a normal consequence of violating established zoning laws, such as the sanctuary of a residential neighborhood." Planning Commission board member Andy Lane said there is currently not a ban on overnight rentals, as Bed and Breakfasts are allowed in residential areas. Those need a permit and must be owner-occupied, Lane noted. All other overnight rentals are not allowed. Lane said he wanted further information on the impact of overnight rentals on housing costs. "Some folks are saying affordable housing isn't a factor at all in this discussion. Certainly, there are a lot of different things that impact housing costs," Lane said. "What would be helpful in the future is to see if anybody has data or information from realtors that indicate what components overnight rentals

have on the price of housing. Some communities have looked at that question." He particularly wanted to see data from another tourist city like Leavenworth . Ian Dunn can be reached at 548-5286 or editor@leavenworthecho.com .

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MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner

DATE: November 10, 2016

RE: Zoning Ordinance Amendment Request – Cell Towers

The City of Brainerd has received the attached e-mail requesting the Zoning Ordinance be amended to permit cell towers up to 120' tall in B-4 (General Business) Districts. Zoning Ordinance Chapter 35 Antennas specifies that towers are permitted in Industrial Districts as follows:

Towers with a maximum capacity to support two (2) antennas shall not exceed one hundred forty (140) feet in height. Towers with a minimum capacity to support three (3) antennas shall not exceed one hundred sixty (160) feet in height.

Chairman Plantenberg has scheduled a workshop on November 10th following the regular meeting to discuss the request. Rick Adams who submitted the request on behalf of Verizon will be present to provide his perspective why the ordinance should be amended.

Mark Ostgarden

From: Rick Adams <rickad@uslink.net>
Sent: Tuesday, November 08, 2016 6:16 AM
To: Mark Ostgarden
Cc: Tim Holmes; Jim Thoreen; 'Jen Anderson'; 'Amy Martens'
Subject: Brainerd Zoning Ordinance Change Request

Mark

Verizon is requesting to replace the existing lattice tower at the Fire Station Verizon, and is requesting that the tower structure setback requirements be relaxed and that some type of suitable tower/pole structure be allowed to be installed in the City's B4 Commercial district. Because the allowable use in a commercial district is not something that can be dealt with in a variance; Verizon is requesting that the City of Brainerd change its zoning ordinance to allow a 130' monopole to be built in a B4 district. In addition Verizon wishes to get the required setbacks for the monopole changed to 30' from a street ROW, and 20' from a rear and side lot line. Finally Verizon would like to get the accessory structures for the monopole change to a minimum of 10' for side and rear yard.

Thank You

Rick Adams, Agent for Verizon
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