

BRAINERD PLANNING COMMISSION

Wednesday, February 15, 2017

6:00 p.m.

City Hall Council Chambers

Election of Chairman and Vice Chairman

1. Call to Order
2. Approval/ Amendment of Agenda
3. Approval of minutes of the regular meeting held on January 18, 2017 and the Workshop on January 18, 2017
4. NEW BUSINESS
 - (a) Zoning Ordinance Text Amendment - Request to Consider Boarding Schools
 - (b) Zoning Text Amendment - Sober Houses - Consider Regulations
5. PUBLIC FORUM - Time allocated for citizens to bring matters not on the agenda to the attention of the Planning Commission - Time limits may be imposed
6. OLD BUSINESS

None
7. Commissioners' Questions/Comments
8. City Planner's Report

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

PLANNING COMMISSION
Wednesday, January 18, 2017

Because a Chairman and Vice Chairman have not been appointed for 2017, and there were no action items, City Planner Ostgarden called to order and oversaw the meeting.

Noted present were Commissioners Don Gorham, Staci Headley, Chuck Marohn and Bob Turner. Also present were City Planner Ostgarden, City Administrator Thoreen, Planning Intern Bryan Harvey and 1 other person.

New Planning Commissioners Don Gorham and Chuck Marohn introduced themselves and provided information about their backgrounds.

#2 Approval/Amendment of Agenda

MOTIONED AND SECONDED BY COMMISSIONERS HEADLEY AND GORHAM, DULY CARRIED, TO APPROVE THE AGENDA AS AMENDED.

#3 Approval of minutes of the regular meeting held on December 21, 2016 and the Workshop held on December 21, 2016

MOVED AND SECONDED BY COMMISSIONERS HEADLEY AND TURNER, DULY CARRIED, TO APPROVE THE MINUTES OF THE DECEMBER 21, 2016 REGULAR PLANNING COMMISSION MEETING AND THE DECEMBER 21, 2016 PLANNING COMMISSION WORKSHOP AS PRESENTED.

#4 New Business

- a) Comprehensive Plan Update Status and Potential Review Timeline (Distributed at the Meeting)

City Planner Ostgarden informed the Planning Commission that the City Council has appropriated \$15,000 for 2017 for the Comprehensive Plan update. He said that NJPA will be submitting a proposal to work with the city on the update. He reviewed a draft timeline for the process that has been prepared by NJPA.

#5 Public Forum

Rick Adams addressed the Planning Commission and presented information on Radio Frequency health concerns that were raised at a recent Workshop. Information was passed out to the members.

#6 Old Business

None

#7 Commissioners' Questions/Comments

None

#8 City Planner's Report

None

#9 Adjourn - To 2nd Floor Conference Room for a Telecommunications Ordinance Review Workshop

AS THERE WAS NO FURTHER BUSINESS, WITH A MOTION BY GORHAM AND SECONDED BY TURNER AND DULY CARRIED, THE MEETING ADJOURNED AT APPROXIMATELY 6:30 P.M. TO THE 2ND FLOOR CONFERENCE ROOM FOR A REVIEW OF CITY ORDINANCES AND PLANNING COMMISSION PROCEDURES.

Respectfully submitted,

Mark Ostgarden AICP, City Planner

Brainerd Planning Commission Workshop
January 18, 2017

The workshop was called to order at 6:30 p.m. in the City Hall 2nd Floor Conference Room Council Chambers.

Noted present were Commissioners Don Gorham, Staci Headley, Chuck Marohn and Bob Turner.

The workshop was an opportunity for a review of procedures, statutes and ordinances that are important for the Planning Commission to know about and understand. Among the topics were a review of Minnesota Statute 462 related to planning and zoning authority in the state. The Rules of Procedure were discussed as well as the Planning Commission's latitude when considering various land use requests.

The meeting adjourned at approximately 7:30 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner

MO

DATE: February 6, 2017

RE: Zoning Ordinance Text Amendment – Boarding Schools

BACKGROUND

A request to repurpose the former hotel and conference center on S. 6th Street for a boarding school has been received. City staff and the Mayor have met with the Headley Williamson, Chairman of the Exodus Boys Academy, who explained the school's purpose, operation and why the site is ideal for the school. There are no requirements for licensing or accreditation for a private school; however, Mr. Williams plans to accredit the school with Minnesota Nonpublic Schools Accrediting Association (MNSAA) when the school opens.

Attached is a letter from Mr. Headley describing the school operations and requesting the amendment.

In developing the current Zoning Ordinance (2008/09), the Planning Commission spent many hours discussing appropriate community uses and how to include them in the Ordinance. Boarding schools was a use not anticipated; meaning to allow it will require amending the Zoning Ordinance to allow the use in an appropriate zoning district (s). The use can be permitted by right (meaning community review would not occur).

The site is currently zoned B-4 (General Commercial) District. Attached is an abbreviated version of the B-4 District allowed uses. "*Colleges and universities*" are the school uses permitted by right or by conditional use. One issue that will need to be addressed if text changes are made is addressing the restaurant described in Mr. Williamson's letter. His plan is to reestablish it for public dining and to provide meals for the school. Restaurants in B-4 Districts are uses permitted by right.

TEXT AMENDMENT PROCESS

Planning Commission has the following options in considering this request.

Option 1. Amend the current B-4 District text to allow boarding schools as a use permitted by right (permitted use). This will require a public hearing to add the use as a permitted use and a recommendation to the City Council who has the final approval on the text amendment.

Should the Zoning Ordinance text be amended to permit boarding schools as a **permitted use**, no further public review would be required.

Option 2. Amend the current B-4 District to allow boarding schools as a conditional use. This will require a public hearing to add the text as a **conditional use** and a recommendation to the City Council who has the final approval on the text amendment.

Should the text be amended to permit the use as a **conditional use**, the next step is a **conditional use** public hearing and review and recommendation by the Planning Commission to the City Council for **Conditional Use Permit (CUP)** consideration. The City Council has the final authority on approving a CUP.

Attached is an abbreviated B-4 District text identifying how the use can be added as either a use **permitted by right** or as a **conditional use**.

Option 3. Amend a residential zoning district text to allow boarding school as a use permitted by right (permitted use). The 4 residential zoning districts that seem to be the most appropriate are:

- R-1 (Single Family Residential) District
- R-1A (Single Family Residential) District
- R-2 (Low to Medium Residential) District
- R-3 (Medium Density Residential) District

Should any one or more of the above residential districts be an appropriate district for a boarding school as a **permitted use**, the process to permit the use is:

1. Draft text for the Zoning Ordinance, conduct a public hearing on the text amendment and make a recommendation to the City Council who will have final authority on whether to amend the Ordinance.
2. Should the Ordinance be amended, the site would need to be rezoned to the district that would include boarding schools.
3. Once rezoned no further public review would be required.

Option 4. Amend a residential zoning district text to allow boarding school as a conditional use. The 4 residential zoning districts that seem to be the most appropriate are:

- R-1 (Single Family Residential) District
- R-1A (Single Family Residential) District
- R-2 (Low to Medium Residential) District
- R-3 (Medium Density Residential) District

Should any 1 or more of the above residential districts be an appropriate district for a boarding school as a **conditional use**, the process to permit the use is:

1. Draft text for the Zoning Ordinance, conduct a public hearing on the text amendment and make a recommendation to the City Council who will have final authority on whether to amend the Ordinance.
2. Should the Ordinance be amended, the site would need to be rezoned to the district that would include boarding schools.
3. Once rezoned, the next step in the process is a **conditional use** public hearing and review and recommendation by the Planning Commission to the City Council for **Conditional Use Permit (CUP)** consideration. The City Council has the final authority on approving a CUP.

Attached is an abbreviated R-3 District text identifying how the use can be added as either a use **permitted by right** or as a **conditional use**. The other residential districts would be amended in the same manner should one of them be district appropriate for a boarding school.

RESTAURANT ZONING

Since the site was closed, there have been many inquiries about the property and zoning options. If a residential district(s) is approved for a boarding school, it would create a zoning issue for the restaurant which is a use not permitted in a residential district. It may be possible to exclude the restaurant area for the residential district allowing it to remain in the current B-4 District.

COMMUNICATION WITH OTHER CITIES ABOUT BOARDING SCHOOLS

According to the Minnesota Boarding School website there are 7 such schools in Minnesota. I have communicated with Faribault, Fergus Falls, Eden Prairie, Owatonna and Winona (the other 2 are in Collegeville and St. Paul) about how such schools are regulated in their community. Following are the responses I have received.

FARIBAULT

Yes, we have Shattuck-Saint Mary's School in Faribault. It is an historic and internationally recognized boarding school. The school is located in our R-4, High Density Residential Zoning District. Unfortunately, the R-4 District does not adequately address the existing and planned uses on the campus. After significant discussions, the school agreed to rezone their property to include a PUD Overlay Zoning District. While this has helped the situation, it isn't ideal. In the next few months, we are hoping to create a public/institutional zoning district that better fits uses like Shattuck-Saint Mary's School and the Academies for the Deaf and Blind (which are very similar to boarding schools).

My sense is that you will want the boarding school in Brainerd to be covered by a PUD. In our case, it was the only way to deal with multiple residences (dormitories and single-family residences) on one lot. We also needed to allow flexibility for uses like the hotel/conference center. We are currently in the process of working out a detailed Development Agreement with the school. A major challenge for us has been to have the school develop based on a master plan. It has been extremely difficult to review parking, storm water management, and the like based on the piecemeal development that was occurring. The Development Agreement will address many of our concerns. If helpful, I can send you the PUD Ordinance that we prepared for the school.

Feel free to call me anytime if it is easier to discuss this over the phone. My direct number is 507-333-0350.

EDEN PRAIRIE

The City Code includes language that allows as a permitted use in the PUBLIC zoning district the following:

Private schools and related boarding facilities which have public sanitary sewer and water service and which are located with the area described in Ordinance No. 12-87.

Additionally, there is a Development Agreement in place for the construction and operation of the school on the property legally described in Ordinance No. 12-87.

I hope this is helpful – if you have any other questions, please don't hesitate to contact me.

WINONA,

In our case, we have a couple of local businessmen who purchased a portion of a former Catholic college site for a private Catholic High School-a couple of decades ago now. Following establishment of the school, an abandoned college dorm was also purchased to facilitate transient students desiring to attend. In short both the school and dorm site were considered part of the schools "campus".

The campus is located within our R-2 (1-4 Family) residential district that permits public/private educational facilities. Given the establishment of the school as a "principal use", we viewed the dorm as a reasonable accessory use- no different than the relationship of a dorm to a university use.

To my knowledge, the dorm currently houses about 30 students with oversight by 2 teachers who are paid to live there, and manage the place. We have had

absolutely no problems with the use. But, again, some of that is attributable to the fact that the campus is housed on the site of a former college campus.

Hope this helps.

Mark

FERGUS FALLS

I checked in with our City Planner, Gordon Hydukovich, who is copied in this reply. Our boarding school is treated like any other public school in regards to zoning.

Hillcrest Lutheran Academy is located in an R-2 (One and Two-Family Residence District.) Permitted uses in an R-2 zone include any use permitted in an R-1 (One-Family Residence District) such as:

(3) Public schools, elementary, secondary, and colleges and universities, or private schools having a curriculum equivalent to a public elementary, secondary school, college or university;

Hillcrest has also been located where it is since the 1930's and its uses would be grandfathered in regardless of any zoning changes.

See attached Zoning Code. R-2 is discussed on page 20. Refer page to pages 16 and 17 for R-1 permitted uses.

There are also a number of boarding schools in Minnesota for troubled youth.

ZONING ORDINANCE DEFINITION

Associated with amending the Zoning Ordinance text to allow boarding schools is adding a definition of the use to Section 2 DEFINITIONS. So far my research found the following definitions:

"a school at which the pupils receive board and lodging during the school term."

"a school that provides meals and lodging."

"a school where students reside during the semester."

CONCLUSION

Procedurally, should the Planning Commission recommend adding boarding schools, the most expedient process is to amend the B-4 District text. However, is a B-4 District the appropriate zone for a boarding school? New residential uses are not allowed in B-4 Districts. Because the boarding school will use the entire site, and the surrounding area is developed, retaining the B-4 District should not create compatibility issues for the school and future commercial uses.

It is highly unlikely that another boarding school would locate in Brainerd, however if one did, the use is allowed in any B-4 District in the community.

Is a boarding school an appropriate use in a residential district? Because the boarding school will use the entire site and the surrounding area is developed, a residential zone should not create compatibility issues for the school and future commercial uses.

Mark Ostgarden
City Planner
City of Brainerd
501 Laurel Street
Brainerd, Minnesota 55401

RE: Zoning Text Amendment
Former Brainerd Hotel and Conference Center
2115 S 6th Street
Brainerd, Minnesota 56401

Dear Mark:

This letter is to request a Zoning Ordinance Amendment (text amendment) for the above-referenced property (the Site). Currently the Site is zoned B-4 General Business District, which allows for hospitality, restaurants, and business or trade school. We request a text amendment to allow for the building to be used as a boarding school (Exodus Boys Academy) and a restaurant.

Exodus Boys Academy

Exodus Boys Academy prepares men of character to be contributing citizens within their urban communities through a rigorous college preparatory and STEM education. Our program provides the framework for personal responsibility, integrity, and leadership. We are committed to their mental and physical fitness while teaching young men to be followers of Christ. We plan on starting with 6th grade students and adding another grade each academic year.

The strategy for our mission is the growth of the whole student:

- **Academic**— College prep and Science Technology Engineering and Math (STEM) courses
- **Spiritual**—Bible, prayer, and moral fortitude studies
- **Physical** — Daily exercise, sports, nutritious meals, regular sleep schedule
- **Social** — Activities to foster community: sports, art, music, debate, and science club
- **Emotional**— Individual Mentoring and counseling as needed
- **Mental**— Critical Thinking, Leadership, and Life Skills training.

Our core values:

- **Christ** — Love God, Love your Neighbors
- **Character** — Work ethic, integrity, and moral fortitude
- **Leadership** — Entrepreneurs and leaders of the next generation
- **Community** — Build, engage, respect and serve community
- **Perseverance** — Mental and Physical fitness
- **STEM** — Preparation for careers in advance technology

The students will live at the Site along with 11 adults. We plan on hiring 18 teachers in addition to 14 other staff (administrators, councilors, etc) over 7 years.

Proposed Use of the Site

The building is currently set up as a hotel, conference center, and restaurant. We are currently in negotiation for the purchase of the Site, but need to ensure that we could get the zoning and other permits that we need before we complete the purchase.

At this point, we plan on leasing the restaurant portion out and catering the food for our staff and students from the restaurant. The restaurant would operate as a separate entity.

We plan on converting the conference center portion to be our dining area and larger classrooms. Guest rooms on the first floor of the west wing, which is closest to the restaurant and conference center portion, would be converted into classrooms, a library, and study areas. The north and south wings would be utilized for student and staff housing. In the beginning, it is likely that we would close off one of those wings until our student body has grown to need the area.

This Site is attractive to us for many reasons. One of the main reasons is that it is already set up with living quarters, and includes furniture, laundry facilities, and other amenities (pool, tennis court) that we can use. This means we will have minimal renovation with some of the things that we will need, such as beds, dressers, laundry, towels, sheets, already present. As a non-profit, finding ways to make our budget go farther are very important to us. The restaurant provides an excellent way for us to get the food for our staff and students, while continuing to provide restaurant services to the neighborhood.

Just as importantly, Brainerd is a great city with an educated workforce that we can hire for the positions that we will need. We will need teachers, building maintenance, councilors, and on-site resident directors. Being in a city the size of Brainerd gives us access to the workforce that is already present. Brainerd itself is a draw for the educated staff that we would need.

Finally, there are wonderful recreational amenities in the city – lakes, bike trails, and parks. Specific to this Site, there is a bike trail on the east side of the Site and parks within walking distance. We want our students to enjoy the outdoors, and Brainerd is a perfect place to do that.

Zoning Text Amendment

Boarding schools are a combination of multi-tenant residential and school/education facilities. This is a definition that does not easily fit into the current zoning definitions. The closest definition is General Business District or Central Business District, both of which allow for a variety of public and private uses. The Site is currently zoned as General Business District, which allows hospitality (with stays limited to 90 days), public uses, restaurants, and business or trade schools. The school portion of the building could fit within the business or trade school definition. However, in order to be able to use the Site building for the boarding portion of the school, we would need a text amendment to allow students and staff to live at the facility.

While this would be a change from the current use and the current definitions, it is not out of character for the area. The restaurant would remain in place, and the first floor of the building closest to the restaurant would be utilized as a school. Therefore, the portion of the building closest to the road and other commercial buildings would be used for commercial purposes. The portion of the building farthest from the road would be the residential portion, which would be in keeping with the properties to the north-northeast of the Site, which are multi-family.

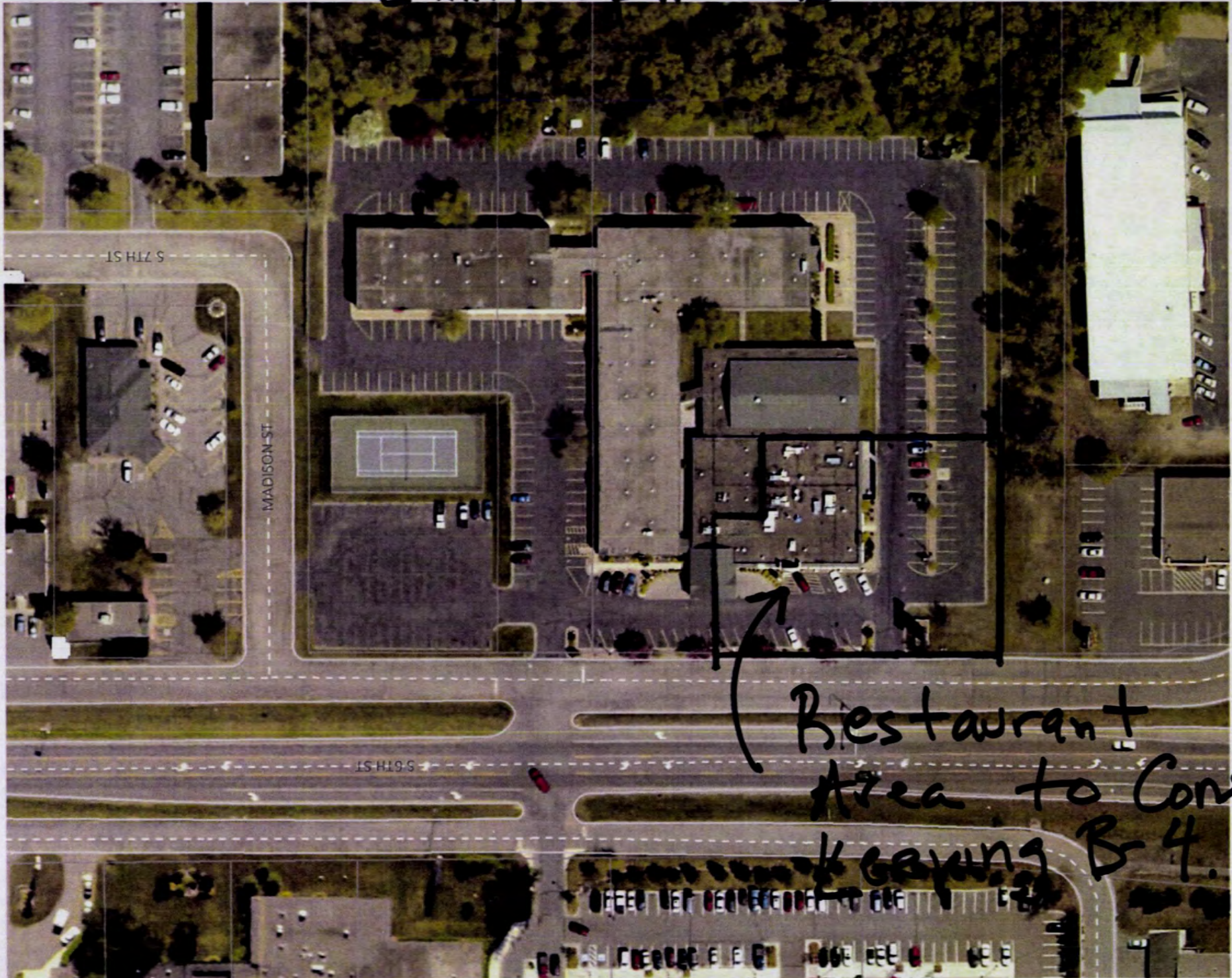
We respectfully request a text amendment to allow the use of the Site as a boarding school with restaurant.

Sincerely,

**Headley Williamson
Chairman
Exodus Boys Academy**

Zoning Option B

5/13

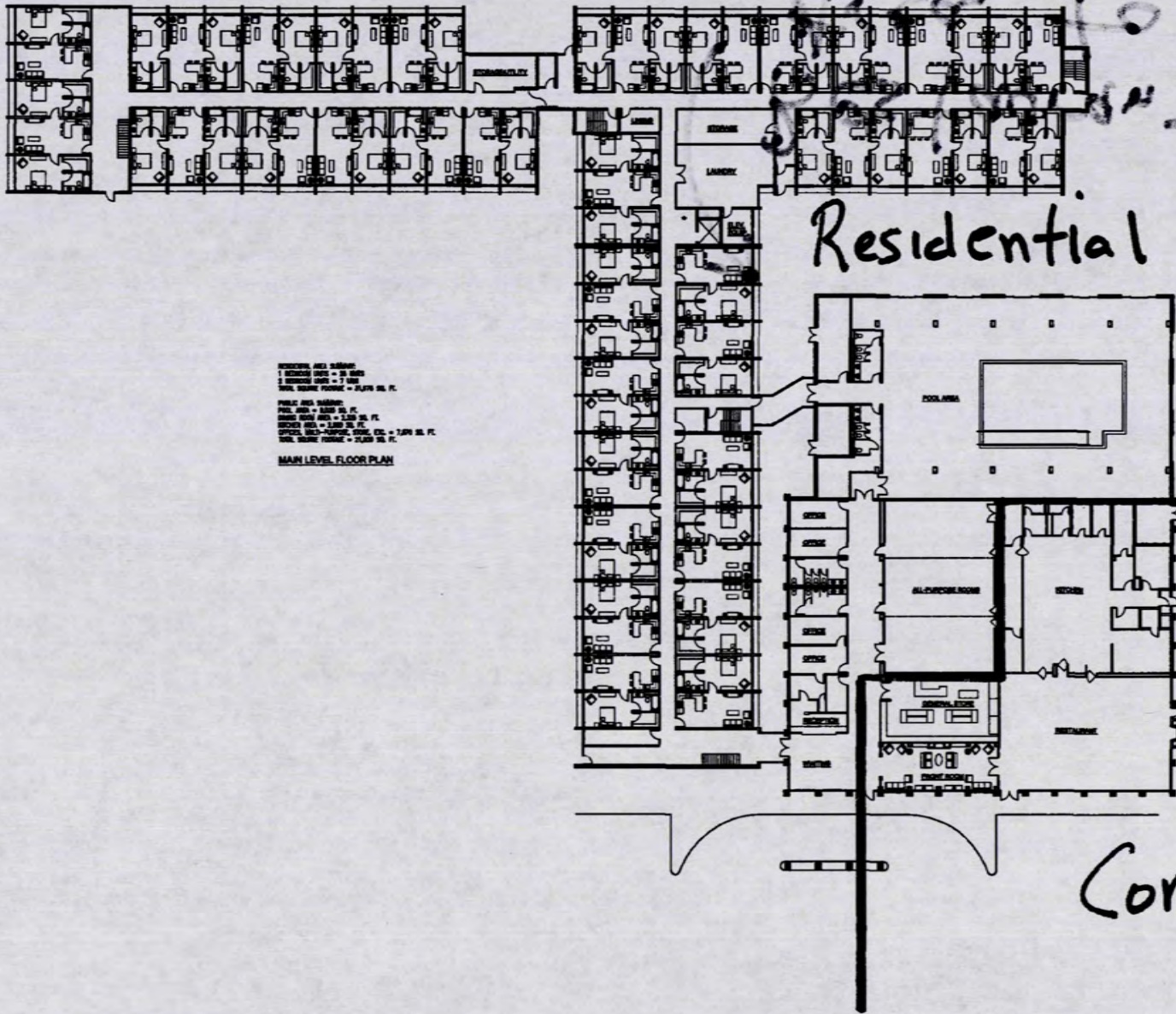


Restaurant
Area to Consider
Keeping B-4.

Option B

5/13

Looking B.A. ← N
to Courtyard
+
Residential



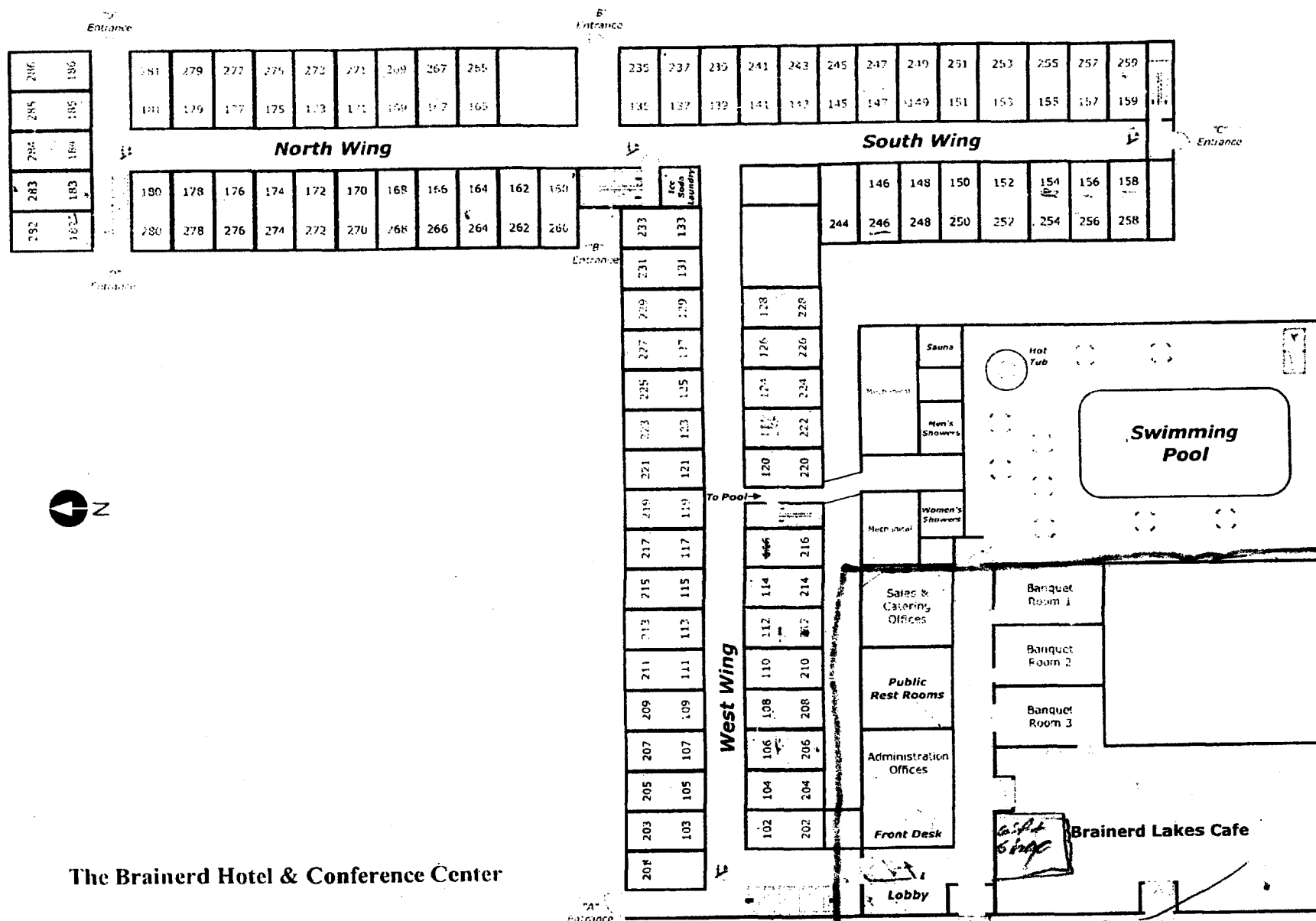
RESIDENTIAL AREA SUMMARY
1 BEDROOM SUITE = 38 SQ. FT.
2 BEDROOM SUITE = 70 SQ. FT.
TOTAL SUITE FLOORING = 4,576 SQ. FT.

PUBLIC AREA SUMMARY
POOL AREA = 1,200 SQ. FT.
PARKING GARAGE = 1,200 SQ. FT.
RECEPTION AREA = 1,200 SQ. FT.
OFFICE, MEETING, CONFERENCE, ETC. = 1,200 SQ. FT.
TOTAL SUITE FLOORING = 2,100 SQ. FT.

MAIN LEVEL FLOOR PLAN

Commercial

The Brainerd Hotel & Conference Center



SECTION 63

B-4, GENERAL BUSINESS DISTRICT

515-63-1: Purpose and Intent. The purpose of the General Business District is to allow more intensive commercial uses that require extensive highway access for customer contact.

515-63-2: Permitted Uses.

- A. Government and public buildings, utilities and/or structures.
- B. Financial institutions such as banks and credit unions.
- C. Hospitality businesses limited to hotels, motels, conference/convention/reception facilities. Extended stay hotels and motels provided that:
- D. Liquor sales, on and off sale.
- E. Office business – clinic such as general medical clinics, medical labs, mental health providers, chiropractors, dentists, orthodontia, oral surgeons, opticians, physical therapy and other out-patient treatment.
- F. Office business – general such as professional administrative or clerical service operations such as attorneys, financial advisors, insurance, travel and real estate.
- G. Personal services such as barber shops, beauty salons, nail salons, tanning salons, therapeutic massage and tattooing.
- H. Recreational businesses - indoor.
- I. Restaurants – sit down, take out or delivery (Drive-up window requirements are listed in Accessory Uses).
- J. Retail businesses contained within a principal building.
- K. Business or trade school when conducted entirely within a building.
- L. Places of worship and related buildings.
- M. Theaters – except drive-in.
- N. Cultural facilities such as museums, art centers, or art institute.
- O. Repair services limited to jewelry and radio and television/household appliance repair shops.

- P. On-site service businesses limited to tailoring/alterations, dry cleaners, self-service laundry and copy centers.
- Q. Pawn shops.
- R. Music, art, decorating, photography and dance studios.
- S. Taxi or bus dispatch sites.
- T. Adult Uses as regulated by Section 33 of this Ordinance.
- U. Essential services as regulated by Section 36 of this Ordinance.
- V. Equipment rental (indoor).

W. BOARDING SCHOOLS (IF RECOMMENDED AS USE BY RIGHT)

515-63-3: Accessory Uses.

- A. Uses incidental to the principal uses such as off-street parking as regulated by Section 17 of this Ordinance.
- B. Loading and unloading areas subject to the provisions of Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Commercial accessory buildings shall not exceed thirty (30) percent of the gross floor space of the principal building.
- F. Drive-up service facilities provided that:
- G. Outside services, sales, and equipment rental accessory...
- H. Radio and television receiving antennas, satellite dishes,...

515-63-4: Uses by Administrative Permit.

- A. Temporary outdoor promotional events and sales...
- B. Seasonal Non-Agricultural Merchandise Sales

C. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-63-5: Interim Uses.

None.

515-63-6: Conditional Uses.

- A. Armories provided that:
- B. Automobile and truck repair - major and minor (including body shops) provided that:
- C. Commercial car washes (drive-up, mechanical and self-service) provided that:
- D. Hospitals provided that:
- E. Motor vehicle fuel sales provided that:
- F. Outdoor sales and/or rental lot limited to lumber yards, motor vehicle and boat sales/rental, construction and landscaping sales/rental and farm implement sales/rental provided that:
- G. Planned Unit Development (PUD) (including shopping centers) as regulated by Section 11 of this Ordinance.
- H. Outdoor dining facilities accessory to a restaurant provided that:
- I. Small engine and boat repair provided that:
- J. Animal hospital or clinic and kennels provided that:
- K. Light manufacturing.
- L. Radio and television studios.
- M. Outdoor storage as an accessory use provided that:
- N. Colleges and universities provided that:
- O. Auto dealership provided that:
- P. Commercial day care facilities are regulated by Section 29 of this Ordinance.
- Q. Department of Human Services (DHS) licensed Drug and Alcohol Treatment and Recovery Facilities and Unlicensed Drug and Alcohol Treatment and Recovery

Facilities that are substantially the same in character as a DHS licensed program of longer duration but not to exceed eighteen (18) months.

R. BOARDING SCHOOLS (IF RECOMMENDED AS A CONDITIONAL USE)

MEMO

TO: Mayor and City Council

FROM: Mark Ostgarden, City Planner 

DATE: February 2, 2017

RE: Sober Houses – Consider Regulations

At the February 6, 2017 City Council meeting, the Planning Department inquired whether regulations should be considered for sober houses. It is requesting the Planning Commission review the issue and establishes what, if any, regulations it thinks might be needed for neighborhood compatibility. Following is the memo sent to the City Council rearing this issue.

The Planning Department is seeking City Council guidance about whether zoning regulations for sober houses should be considered. If so, the recommendation is to refer the issue to the Planning Commission for review. The Planning Department is aware of a sober house that will be opening within a few weeks and Central Minnesota Adult and Teen Challenge has stated there is a huge need in the area for sober houses.

A sober house has commonly been referred to as a private residence for individuals in chemical dependency recovery. People recovering from chemical dependency are considered “disabled” by the Federal Fair Housing Act (FFHA), a federal law that prohibits discrimination against individuals on a basis of race, color, religion, sex, national origin, familial status and disability. The Supreme Court has ruled that individuals in recovery from chemical dependency living in congregate facilities cannot be excluded from zoning districts under family composition rules, which limit the number of unrelated persons living in a single family dwelling.

The FFHA prohibits a municipality from refusing to “*make reasonable accommodations in rules, policies, practices or services*” when they are necessary to permit handicapped persons “*to use and enjoy a dwelling.*” An example might be accommodations allowing a higher number of unrelated residents to live in a single family house than normally allowed by a municipal definition of “*family*” or the single family zoning. In the City of Brainerd, the “*family*” definition for zoning purposes includes up to 4 unrelated individuals.

However municipalities still have the authority to protect safety and health as long as applicable regulations (building/fire/zoning) do not restrict the ability of disabled individuals to live in communities.

There are 2 alternative approaches for regulating sober houses:

1. **Reasonable Accommodation without Clear Standards.** This is our current status and we would continue with no special regulations for sober houses because they are

protected by the FFHA. Regulations could include a land use definition and zoning standards such as parking, occupancy limits and separation requirements.

2. **Reasonable Accommodations with Clear Standards.** With this approach, a sober house definition and zoning standards that allow sober houses in Brainerd would be developed, being mindful that legal precedents show that the range within a municipality can regulate sober houses is relatively narrow.

There is a 3rd option which is to be more restrictive and treat sober houses no differently than a traditional single family residence. This is not recommended as it would put the city in a tenuous legal position.

In researching this topic it is interesting to learn the state's 2 largest cities address sober houses differently. Minneapolis has chosen not to regulate the use, while St. Paul has done extensive research and has adopted regulations which include a separation requirement.

Following is language from the St. Paul Zoning Ordinance:

Sec. 65.160. - Sober house.

A dwelling unit occupied by more than four (4) persons, all of whom are in recovery from chemical dependency and considered handicapped under the Federal Fair Housing Act Amendments of 1988, that provides a non-institutional residential environment in which the residents willingly subject themselves to written rules and conditions, including prohibition of alcohol and drug use (except for prescription medications obtained and used under medical supervision), intended to encourage and sustain their recovery. The residents of a sober house are similar to a family unit, and share kitchen and bathroom facilities and other common areas of the unit. Sober houses are financially self-supporting. This definition does not include facilities that receive operating revenue from governmental sources. Sober houses do not provide on-site supportive services to residents, including the following: mental health services; clinical rehabilitation services; social services; medical, dental, nutritional and other health care services; financial management services; legal services; vocational services; and other similar supportive services.

Standards and conditions:

A request for reasonable accommodation for this use as required under the Federal Fair Housing Act Amendments of 1988 by providing an exception to the maximum number of unrelated persons living together in a dwelling unit shall automatically be granted if the following standards and conditions are met. This does not limit the city from granting additional reasonable accommodation for this use under the general provisions of this code.

- (a) The operator shall submit a request for reasonable accommodation to the zoning administrator on a form provided by the city, specify the number of residents, and provide information necessary to assure the use meets applicable zoning standards. The maximum total number of residents permitted in the sober house shall be specified by the fire certificate of occupancy.
- (b) For a sober house that does not meet the parking requirement in section 63.207, the operator shall submit a written parking plan that demonstrates sufficient parking for the use.
- (c) In RL-R4 Residential Districts, the sober house shall serve ten (10) or fewer residents.
- (d) For a structure serving seventeen (17) or more sober house residents, a conditional use permit is required. This use shall be exempt from section 61.501 conditional use permit general standards (a), (c), and (d).

- (e) Property containing one (1) or more sober house units shall be a minimum distance of three hundred thirty (330) feet from any other property containing a sober house.
(C.F. No. 08-640, § 1, 7-9-08; Ord 16-5, § 1, 4-13-16)

In a discussion with the Police Chief, he stated he was not aware of any sober houses operating in the city. Neither the Building Department nor the Planning Department have received complaints about a sober house operation.

From Chuck Marohn

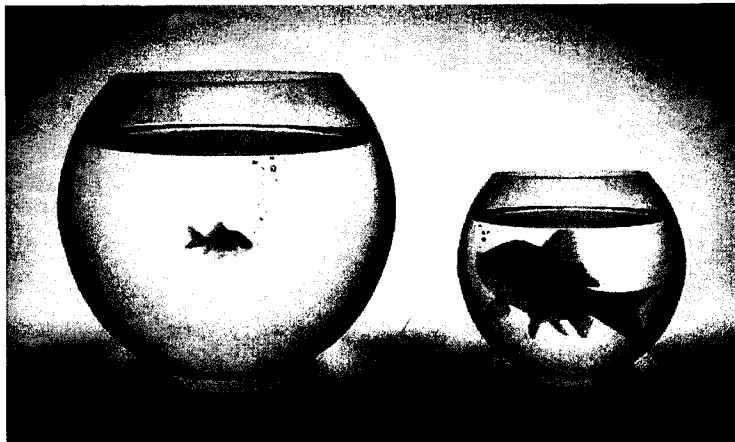
Smart City Memphis

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Size Matters: Refusing To Shrink From The Big Question

by [Smart City Memphis](#) (RSS) | February 6th, 2017 12:52am CST



It's really not a negotiation when one side has a gun pointed at its head.

That's the situation City of Memphis found itself in as it considered if it was willing to shrink the size of the city. Considering that the state legislature made sure Memphis never had a level playing field for the deannexation discussion, city government seems to have found the sweet spot likely to satisfy state legislators who have been pandering on this issue for years.

After all, there was no question that absent the recommendation by the special deannexation committee, the Tennessee Legislature would pass legislation to make it happen.

Yes, City of Memphis had the Strategic Footprint Review Task Force chaired by a thoughtful, politically astute chairman, City Councilman Bill Morrison, with commitment from members of the Strickland Administration led by Chief Operating Officer Doug McGowen, and financial analysis by PFM (Public Financial Management), the respected national public finance advisory firm. There were also committee members from Shelby County Government and the Tennessee Legislature.

Tale of the Tape

But the fact was that everyone in the room knew that a Tennessee Legislature that engages in regular overreach into local government affairs would not hesitate to force deannexation if city government wasn't willing to do it.

As a result, the committee's job wasn't ever really to come up with anything short of deannexation, and in that regard, the city committee members seem to have overachieved in that they created a rational context for making a reasoned evaluation.

So, the good news is that City of Memphis has navigated the political shoals, but the best news is that the process could continue with the careful policy analysis that has been missing in urban policy here for decades. Meanwhile, the size of Memphis grew by 55% while its population only grew by 5%, driving density to about half of what it was before the 27 annexations of 100 square miles that have taken place since 1970.

Here's the tale of the tape: in 1970 Memphis, the population was 619,757, and today, within those same city limits, the population is 449,930. In other words, the equivalent of the population of Chattanooga has moved out, and they did it while the land area of Memphis grew to be twice as large as Atlanta, four times larger than Baltimore, five times larger than St. Louis, and 10% larger than New York City. Meanwhile, the densities of these cities are on average more than two times higher than Memphis.

Mismatches

The mismatch between size and density drove up the costs of services in many neighborhoods where more than half the people who used to live there were gone. In the inner city, poverty rates were as high as 60 percent in some census tracts, accompanied by dramatic declines in revenues at a time when services were being spread more thinly over an expanding area.

The impact of that imbalance and the policies that created it ripple throughout the City of Memphis budget, increasing the cost of services, pitting quality of life investments like libraries and parks in a losing battle against climbing police costs, and requiring core city taxpayers to pay for a larger and larger Memphis while their own neighborhoods declined.

It is inarguable in hindsight that aggressive annexation by the city was not a race to prosperity as much as it set in motion dynamics that temporarily stalled but ultimately deepened Memphis's serious budget challenges. While it is easy today to see the pitfalls of increasing the size of Memphis by almost 60 percent while cutting its density in half, it is not as easy to dismiss city government's rationale of chasing people and revenues through annexation, which was widely considered enlightened public policy by urbanists at the time.

As more and more people moved to sprawling areas where county government promised urban level services at a lower tax rate and to municipalities where Shelby County was subsidizing their lower tax rates with county tax money (which came largely from Memphians) for their services and roads, the City of Memphis felt under siege and with no choice but to chase people and tax revenues by annexing them into Memphis.

Density Matters Most

For these reasons, annexation decisions were never treated as the choices they were — between paying for extending existing services to a larger area or making investments in core city neighborhoods. Even if Memphis had decided against future annexations in 1970, without major changes in county policies, it is hard to imagine that city government would not have been just as financially stressed (not taking into account the impact of equally aggressive PILOT tax abatement program that waived about \$750 million in city taxes over 10 years).

In the first few months of this blog, in November 3, 2005, we wrote about the importance of increasing Memphis' density and why it should be a priority for local public policy. In the ensuing 11 years, the mantra about density became more and more widespread, culminating in the recommendations in the deannexation committee report.

If there is one overriding theme for the report, it is density – the value of increasing it and the impact on city government.

It was our focus on increased density that led us to be the first people to write in 2008 (and often afterwards) about Memphis joining the shrinking city movement that began in Germany and was adopted as a theory for future planning in American cities, which in getting smaller had opportunities to reinvent themselves.

Answering The Big Question

The title slide for the recommendations by the deannexation committee likely answers the political question but the fundamental question remains: "Rightsizing Memphis." Other sides said: "Rightsizing our city is the right thing to do" and "by limiting new suburban-type growth in our annexation reserve, we will advance our opportunity to grow the urban core."

Those are the right objectives, and we don't know the answer to achieving them.

Because of it, the deannexation report should not be treated as the final step in resolving the political dilemma but as the first step toward resolving the "rightsizing" question.

That is a seminal question facing Memphis. The methodical, data-driven process of the deannexation committee points a way to reach the answer.

Mr. McGowen, in his role at the helm of the Mayor's Innovation Delivery Team (MIDT), was an advocate for increased density, less car-centric development, and calculating life-cycle costs of capital projects rather than their initial construction prices. That and the other principles shaped at MIDT by Mr. McGowen and Tommy Pacello, now president of the Memphis Medical District Collaborative, make for a strong construct for continuing the rightsizing discussion.

Getting To The Answer That Matters

Now that Memphis has moved beyond the saber-rattling for the Tennessee Legislature, there is now the opportunity for the calm debate and definitive research that could spark a citywide conversation about the right size of Memphis and create a factual framework for making the smartest decision.

It may be that after the deannexations that will result from the committee's recommendations, the conclusion may be that the footprint that is left is the optimal one, but it would be helpful to determine that once and for all. Or if it makes more sense to increase Memphis' density beyond the 2,037 people per square mile that will result if all seven areas ask to be deannexed and the city's land area will be 8% smaller at 312 square miles.

The city will forego just under \$9.6 million a year in revenues (net \$7.6 million), which is a long way from the \$79 million lost revenue projection from city government about a year ago. Perhaps, this is evidence that the city's footprint can be reduced without the massive loss of revenues. After all, it's the area within the 1970 city limits that produces the most tax revenue.

Getting Smaller Can Be Getting Better

On May 7, 2009, we wrote: "A friend of ours offered a lesson for us. Faced with similar scenarios, he made his shopping center smaller. He consolidated the stores that are still successful and ran a smaller, more efficient and more profitable operation. So, here's the question: if businesses can downsize, if nonprofit agencies and private institutions can downsize, if the military can downsize, why can't cities like ours?"

"We're not saying that shrinking Memphis would be the magic answer to solving our city's problems, but it would allow us to target our energy, our efforts and our resources to an area that allows for more efficient deployment of city services. It's unlikely that Memphis will ever see a return to the population within the beltway that it once had, but a smaller area just may be our best chance of stabilizing things long enough to triage our problems."

On December 9, 2009, we wrote: “Memphis is a shrinking city... We’ve masked the fact by annexations that prop up our population numbers and grant us a false sense of security. As a result, we’ve side-stepped the serious discussion that is needed about whether annexation today is actually a boon to the budgets of Memphis city government and whether stretching already faltering public services over a larger area is the sound public policy for our city.

“No amount of annexation is cosmetic enough to prevent the inescapable conclusion that in pursuit of new taxes, Memphis may actually have escalated the decline of the urban center. Operating on the theory that annexation areas are the sources of much-needed new property taxes, city government has taken a decidedly optimistic viewpoint of the overall net fiscal effect. Perhaps, it’s not enough to calculate the costs of the new services to the new area. More to the point, the analysis needs to evaluate carefully and thoroughly what the impact is on services and neighborhoods in the former city limits.”

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