

BRAINERD PLANNING COMMISSION

Wednesday, March 15, 2017
Workshop - 5:30 p.m. | Regular Meeting - 6:00 p.m.
City Hall Council Chambers

1. Call To Order
2. Approval/Amendment Of Agenda
3. Approval Of Minutes Of The Workshop And Regular Meeting Held On March 15, 2017

Documents:

[20170315_M.PDF](#)

4. New Business - NONE
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
- 6.a. Review Draft Sober House Language

Documents:

[SOBER HOUSES.PDF](#)

7. Commissioners' Questions/Comments
8. City Planner's Report
- 8.a. Articles

Documents:

[ARTICLES.PDF](#)

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

Brainerd Planning Commission Workshop
March 15, 2017

The workshop was called to order at 5:00 p.m. in the City Hall 2nd Floor Conference Room.

Noted present were Commissioners Justin Burslie, Don Gorham, Staci Headley and Jan Lambert. Others present were John Davis from MNATC, Nathan Bertram from Midland County Health and Ben Davis from the Brainerd Police Department and City Planner Mark Ostgarden.

Those in attendance discussed the differences between a sober house and a half way house. MNATC and the County representatives acknowledged the need for sober hissing living. The police has not had reports about problems so if any do exist they are not a problem. The Burgstallers have an apartment building that operates like a sober house and Sheila Haverkamp is operates a sober house. Teen Challenge currently has had graduates transition to sober house living operated by the Haverkamps.

The meeting adjourned at approximately 5:45 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

PLANNING COMMISSION
Wednesday, March 15, 2017

#1 Call to Order

Planning Commission Chair Headley called the meeting of the Brainerd Planning Commission to order at 6:07 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Headley, Gorham, Burslie, and Lambert. Noted absent were Commissioner Antolak, Marohn and Turner. Also present were City Planner Ostgarden, City Administrator Thoreen and 1 other.

#2 Approval/Amendment of Agenda

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND BURSLIE, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

#3 Approval of minutes of the regular meeting and workshop held on February 15, 2017

MOTION AND SECONDED BY COMMISSIONERS BURSLIE AND LAMBERT, DULY CARRIED, TO APPROVE THE MINUTES OF THE FEBRUARY 15, 2017 REGULAR PLANNING COMMISSION MEETING.

#4 NEW BUSINESS

a) Public Hearing - Amend Zoning Ordinance to add the term "Boarding School" to Section 515-2 Definitions and Amend Section 63-2 or 63-6 General Commercial (B-4) District to add Boarding Schools as a Permitted Use or as a Conditional Use in the District.

City Planner Ostgarden reviewed the Zoning Ordinance changes being considered. One change is to add the following boarding school definition:

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

The other change is to consider adding boarding schools as a permitted use or a conditional use in B-4 (General Commercial) Districts.

Headley Williamson spoke about the proposed boarding school and answered questions related to its operation.

No one else spoke during the public hearing.

MOTION BY LAMBERT, SECOND BY BURSLIE DULY CARRIED, TO ADD "BOARDING SCHOOL – A SCHOOL AT WHICH THE PUPILS RECEIVE BOARD AND LODGING DURING THE SCHOOL YEAR" TO ZONING ORDINANCE SECTION 2: DEFINITIONS.

MOTION BY BURSLIE, SECOND BY LAMBERT DULY CARRIED, TO ADD BOARDING SCHOOLS AS A CONDITIONAL USE IN B-4 (GENERAL COMMERCIAL) DISTRICTS.

Commissioner Lambert preferred the conditional use permit option because she thought the community should have an opportunity to learn about the use and offer public input. She also thought that rather than rezone the Holiday Inn property, where a boarding school is proposed, to a residential zone, in the event the boarding school does not occur, the B-4 zoning would remain in place and could continue to be marketed as commercial property.

Commissioner Burslie stated that should the former Holiday Inn property become a boarding school, it would not be subject to property tax and would be unfortunate to lose the property tax revenue.

#5 PUBLIC FORUM - None

#6 OLD BUSINESS

a) Sober Houses

The Planning Commission reviewed the sober house workshop discussion. It thinks language should be drafted that permits the use in the residential areas of the community. Some of the discussion was about including language that would allow the use as a permitted use for a reasonable number of residents. Should a sober house desire to have more than the number of residents for a permitted use, it could be permitted by conditional use. There was also a decision regarding a separation requirement. The Planning Commission thought there was merit to this requirement.

The consensus was that language should be drafted for review at the April 19th meeting, which includes the use as permitted and conscionable in residential districts. It should also include language related to a separation requirement.

b) Bee Keeping in the City

City Planner Ostgarden reviewed the 2 options to amend the City Code to allow bee keeping in the community. One is to amend City Code Section 515 Zoning Ordinance. This process includes the Planning Commission who would review draft language; conduct a public hearing to consider adding the use to the Zoning Ordinance and make recommendation to the City Council on adding it to the Zoning Ordinance.

The other option is to amend City Code Section 900 Animals to add bee keeping to this section. This would be a City Council process to amend the City Code. The Planning Commission would be part of the process should the City Council desire a recommendation from the Planning Commission on possible language, which it has done with bee keeping.

City Planner Ostgarden reviewed draft language to permit bee keeping highlighting key elements of the draft. He reviewed:

- Districts in which bee keeping would be permitted
- Number of allowed hives based on lot size
- Sale of honey
- Hive location on a property
- Bee keeping education verification
- Permit to operate.

MOTION BY BURLIE, SECOND BY GORHAM, DULY CARRIED, TO RECOMMEND “BEE KEEPING” BE ADDED TO THE ANIMAL SECTION OF THE CITY CODE AND THAT THE DRAFT LANGUAGE, IN THE MARCH 8 STAFF REPORT, BE CONSIDERED FOR ADOPTION.

Commissure Gorham suggested that this is similar to allowing chickens. He thought the regulations should be included in that section of the City code. He supports the opportunity for residents to provide for themselves and also having small home businesses.

c) Community Survey

City Planner Ostgarden provided a PowerPoint presentation of the response findings from the 1st Community Survey Panel Survey.

#7 COMMISSIONERS’ QUESTIONS/COMMENTS

Commission Gorham inquired about what occurred at the March 6th City Council meeting related to the request to reconsider the S. 6th Street design. Councilwoman Lambert informed the Planning Commission the request was not reconsidered and MNDOT is moving forward with the design approved by City Council.

#8 CITY PLANNER’S REPORT

City Planner Ostgarden updated the Planning Commission on the Comprehensive Plan status. A draft timeline was distributed that identifies key steps in the process along with key milestones. The timeline was prorated by Ashley Kaisershot who would be the NJPA staff member working with city staff on the plan update.

#9 ADJOURN

A MOTION BY GORHAM, SECONDED BY BURLIE, DULY CARRIED, TO ADJOURN AT APPROXIMATELY 7 P.M.

Respectfully submitted,

Mark Ostgarden AICP, City Planner

MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner

DATE: April 13, 2017

RE: Sober Houses – Draft Zoning Ordinance Text Amendment Language

Attached for Planning Commission consideration, is draft language to add “sober house” to the Zoning Ordinance as a permitted and a conditional use. Also listed are suggested zoning districts in which to allow the use. Not listed is a separation requirement. Should the Planning Commission conclude to regulate the use, a discussion about these criteria and whether to include it in the Zoning Ordinance.

Attached is the February 2, 2017 memo to the Planning Commission. It is provided to refresh everyone about the issues associated with sober house regulations.

Draft Sober House Zoning Ordinance Language – April 13, 2017

Amend Section 2 Definitions by adding:

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.

Amend Section: 54-2 R-1, 55-2 R-1A, 56-2 R-2, 57-2 R-3, 60-2 B-1 and 61-2 B2 Permitted Uses by adding:

Sober House up to 10 occupants. 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 City of Brainerd 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 22-8 the operator shall submit a written parking plan that demonstrates sufficient parking for the use.

Amend Section: 54-4 R-1, 55-5 R-1A, 56-5 R-2, 57-5 R-3, 60-6 B-1 and 61-6 B2 Conditional Uses by adding:

Sober houses more than 10 occupants.

For a sober house that does not meet the parking requirement in Section 22-8 the operator shall submit a written parking plan that demonstrates sufficient parking for the use.

Amend Section 22-8 Number of Spaces Required by adding:

Sober House. 2 spaces per every 4 residents

The highlighted districts are the districts within which sober houses are proposed as a permitted use or a conditional use.

A. Agricultural Districts:

1. R-A, Rural Agricultural District

B. 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

C. 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

MEMO

TO: Planning Commission

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 regarding 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.

The San Gabriel Valley Tribune (<http://www.sgvtribune.com>)

Study says millions could switch from personal vehicles to driverless, ride-hailing services in 15 years

By Steve Scauzillo, San Gabriel Valley Tribune

Monday, March 13, 2017



A future when most commuters stop driving their personal cars and instead take Uber or another ride-sharing service to work would result in massive changes to the U.S. economy and the real estate needs of American cities. According to a study released Monday, that future could be here in about 15 to 20 years.

The study, authored by a trio of transportation consulting, engineering and real estate development firms, posited that the shift from a car-friendly culture to one where car ownership isn't nearly ubiquitous would bring disruptions in the way of life for Los

Angeles-area residents, as well as residents of other cities.

Car sales would take a blow. There would be less need for garages or street parking. But pollution and traffic congestion could still increase.

The switch to autonomous vehicles would only accelerate that change, according to the groups behind the study — urban planning firm Sam Schwartz Transportation Consultants, engineering firm Arcadis and economic development firm HR&A Advisors.

“It is a major modal shift,” said Joe Iacobucci, director of transit for Sam Schwartz in Chicago.

In the Los Angeles region, the study predicted up to 44 percent of weekday commuters could end up using a ride-share service such as Uber or Lyft, whose driverless cars could pick them up with a tap on their smart phone.

The cost to hail a ride-sharing service could plummet when those companies go completely driverless, the study said, enough to potentially coax 2.2 million commuters to no longer drive their own cars.

The study also looked at two other cities. In the Dallas-Ft. Worth area, the researchers predicted 1 million cars, or about 31 percent of drivers, would make the switch.

In New York City, autonomous ride-share vehicles would make up 3.6 million cars, or about 60 percent of all commuters, for a cumulative impact of 7 million drivers in three U.S. cities.

Such a shift would have a significant impact on the way city streets are laid out. If 60 percent of commuters don't drive a car to work, then parking lots, garages and parking spaces may be reduced, opening up areas for

bike lanes and parklets.

Not all of the changes would be beneficial, however.

More autonomous cars circling residential neighborhoods and city centers could add to traffic congestion, reduce ridership on trains and buses and increase air pollution, the study warned.

“Left unregulated, the popularity and affordability of driverless cars may have the opposite effect for cities by increasing congestion, encouraging sprawl and exacerbating growing inequalities,” said Peter Glus, Arcadis North American cities director in a statement.

“It could be a repeat of where we are today — being stuck in traffic,” Iacobucci said.

The ease of ride-sharing services is already having an effect on public policy for transportation.

Many have criticized the Los Angeles County Metropolitan Transportation Authority (Metro) for planning for more fixed-route train projects, while failing to account for the effects of the accelerating shared economy and future driverless cars.

Smart-phone apps for ride-share services such as Uber and Lyft have already disrupted the taxi industry. Google is working on a similar service using self-driving cars.

Lyft President John Zimmer predicts a majority of his company’s rides will be driverless by 2021.

Glus added that public transit agencies could face lower transit ridership and lost revenues from ticket sales and parking fees.

One solution is to work with cities, counties and states to regulate autonomous vehicles, especially those used in ride-share services, Iacobucci said.

The goal is to get commuters to take a service such as Lyft for the first and last miles of their trip, while still using the train or bus for most of the length of a 15- to 20-mile trip.

“Then (driverless cars) would be used in a smart way,” Iacobucci said.

URL: <http://www.sgvtribune.com/general-news/20170313/study-says-millions-could-switch-from-personal-vehicles-to-driverless-ride-hailing-services-in-15-years>

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[Article](#)

Winona rejects downtown zoning requests

(2/22/2017)

by CHRIS ROGERS

The Winona Planning Commission stuck to its guns and turned down requests from property owners to tweak the city's proposed new zoning map, citing the city's aesthetic vision for downtown.

Winona City Planner Carlos Espinosa relayed a series of requests from property owners at the Planning Commission's January meeting. The owner of the former Severson's gas station at Huff Street and Riverview Drive is interested in rebuilding a new gas station and asked the city to change the proposed new zoning for the site to allow that, according to Espinosa. If the city wants a second gas station downtown, this might be one of the best places for it, he told the Planning Commission. Planning Commission members were initially sympathetic to the request, given that the former gas station was seized for the Winona bridge project, but after raising concerns about the aesthetic appeal of a gas station, the group voted unanimously to reject it. "There's this perceived need or alleged need for more gas stations in this town. I just don't buy that," Planning Commission member Ed Hahn stated.

Espinosa said he received a second request that would apply to all of downtown. Under both the current and proposed new zoning rules, the front half of the ground floor of downtown buildings must be "non-residential." Generally that means downtown buildings have storefronts and offices facing the street, but light manufacturing would be allowed, too. Several developers asked that the city eliminate that rule in the new zoning code, allowing for the first-floor of downtown buildings to be used for apartments and other residential uses, Espinosa told the Planning Commission. They said it is too hard to fill commercial spaces in downtown buildings, Espinosa summarized.

Planning Commission members considered exempting large portions of downtown from that rule, but ultimately voted to keep it in place. Planning Commission member Mandi Olson said that eliminating the commercial storefront requirement would raise aesthetic concerns, and she and others said that it would be counterproductive to the city's goal of creating a revitalized downtown where people go to shop. "This concept, if it's applied, changes the character of downtown," City Planner Mark Moeller stated.

In a third request, the owner of the hardware store at Second and Riverview Drive asked the city to change the proposed new zoning of his property. Under the property's current zoning rules, a six-story building would be allowed at the site. Under a proposed new zoning rules, it would not

be. Espinosa supported the request, and again, the Planning Commission considered approving it before voting unanimously against it. Several members expressed concerns about going out of their way to redraw zoning district lines to include a particular property. “One of the things we were setting out to do was simplify [the zoning map] and now we see this jigsaw effect again,” Hahn said.

Planning Commission member Peter Shortridge also pushed to strike lap siding and fiber cement siding from a list of acceptable building materials for downtown buildings. The new zoning code includes a series of aesthetic rules for new buildings, including requirements that building’s front facade be primarily brick, stone, or textured concrete masonry units. Fiber cement siding, which is sometimes used to create faux brick finishes, was on the list. Even then, some City Council members raised concerns that the cost of the acceptable building materials might limit development during meetings last year. Espinosa argued that fiber cement can look like real brick at a lower cost. Shortridge said, “It looks like fake brick.”

While the Planning Commission supported limiting the use of fiber cement and lap siding, they proposed adding EIFS, sometimes called synthetic stucco, to the list of acceptable materials.

At a meeting this month, Espinosa asked the Planning Commission to reconsider a rule in the proposed new ordinance that requires downtown buildings to take up a certain portion of the lot’s street frontage — as opposed to leaving open spaces. The goal of the rule is to require new buildings in historic downtown blocks to mimic the way the historic buildings were built — with their walls touching the neighboring building — so that there is not a “gap tooth” effect in the lineup of storefronts. However, that rule might be unrealistic for parcels like the former Severson’s gas station or the current YMCA site, Espinosa said. Under those rules, new buildings at those sites would have to be huge and awkwardly shaped, he said. After seeing visual examples, the Planning Commission largely agreed. The group did not make a formal decision, but it will consider scaling back that rule so that more open space would be allowed, and so that for properties with frontages on three streets, like the YMCA, the rule only applies to two of those street frontages.

Writing the new zoning code is taking longer than initially expected. City officials hope to begin the final approval process for the new ordinance this spring. Until it is passed, the old rules apply to any new development proposals.