

BRAINERD PLANNING COMMISSION

Wednesday, June 21, 2017
6:00 p.m.
City Hall Council Chambers

1. Call To Order
2. Approval/Amendment Of Agenda
3. Approval Of Minutes
 1. Regular Meeting held May 17, 2017
 2. Workshop Meeting held May 17, 2017

Documents:

[MINUTES20170517.PDF](#)
[MINUTES20170517W.PDF](#)

4. New Business

4.a. Public Hearing - Conditional Use Permit

Documents:

[CUP EXODUS BOYS ACADEMY.PDF](#)
[WSN MAPS.PDF](#)
[EXODUS ACADEMY HANDBOOK.PDF](#)
[STATEMENT OF FAITH.PDF](#)
[BUILDING ASSESSMENT.PDF](#)
[NOTICE OF HEARING - CUP EXODUS BOYS ACADEMY 2017-06-08.PDF](#)
[CUP-2115 S 6TH ST.PDF](#)

4.b. Public Hearing Variance Request

Documents:

[VARIANCE BERGER.PDF](#)
[FENCE PHOTO.PDF](#)
[102 RIDGE DR.PDF](#)
[NOTICE OF HEARING -.PDF](#)

4.c. Public Hearing Floodplain District

Documents:

[FLOODPLAIN.PDF](#)

4.d. Comprehensive Plan Update Presentation

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
9. Adjourn

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

PLANNING COMMISSION
Wednesday, May 17, 2017

#1 Call to Order

Planning Commission Chair Headley called the meeting of the Brainerd Planning Commission to order at 6:06 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Burslie, Gorham, Headley and Lambert. Noted absent were Commissioners Antolak and Marohn. Also present was City Planner Ostgarden and 4 others.

#2 Approval/Amendment of Agenda

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

#3 Approval/Amendment of minutes of the regular meeting held on April 19, 2017

MOTION AND SECONDED BY COMMISSIONERS GORHAM AND LAMBERT, DULY CARRIED, TO AMEND THE MINUTES OF THE APRIL 19, 2017 PLANNING COMMISSION MEETING REGARDING THE SOBER HOUSE REGULATIONS.

#4 NEW BUSINESS

Nor-Son Inc., 7900 Hastings Road, Baxter, MN 56425 has applied for a variance on behalf of DH Holdings, 915 Blair Circle, Brainerd, MN 56401 to not require exterior wall changes at 1924 10th Street S., Brainerd, MN 56401. Nathan Norton, Project Manager from Nor-Son Inc., and Chris Schucker from DH Holdings LLC were in attendance and presented their case for a variance on the building.

City Planner Ostgarden reviewed the staff report and explained that to be granted, the request would need to meet the practical difficulty “tests” which include:

- Is the request in harmony with the purpose and intent of the Zoning Ordinance?
- Is the request consistent with the Comprehensive Plan?
- What is unique about the property that prevents following the Zoning Ordinance requirements?
- Will the request alter the essential character of the neighborhood?

Chairman Headley opened the Public Hearing at approximately 6:15 p.m.

Representatives of Nor-Son and DH Holdings addressed the Planning Commission. They emphasized what was in the letter about the request which stated the other buildings in the area all had metal walls. The property owner explained the 2 buildings on the site have been combined and they do plan on remodeling the north part of the easterly wall (as shown in the elevation drawing in the packet). The property owner did not see any added value to having an alternate material on the wall.

The Public Hearing was closed at approximately 6:35 p.m.

The following findings of fact were read into the record:

1. The building is located in an I-1 District and was vacant from 11/12 to 10/28/15.
2. It is a non-conforming building and Zoning Ordinance Section 17-3 E. 2. reads:
Exterior Building Materials
Within the I-1 and I-2 Zoning Districts, all exterior walls may be a combination of materials including brick, dimensioned stone, rock faced block, decorative concrete panels, architectural concrete block, cast in place concrete, stone, wood, glass, EFIS, or metal panels. Metal panels shall not encompass more than an average of fifty (50) percent of street side building elevations combined.
3. Zoning Ordinance Section 515-15-A.1. reads:
The nonconforming use or occupancy is discontinued for a period of more than one (1) year any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
4. The building was occupied from 10/29/15 -5/9/16 without City knowledge.
5. When the building was again occupied, at that time it was required to comply with #2 above.
6. The building was vacant again from 5/20/16 to 8/16; sold and now has been occupied since 8/16. The city learned about the occupancy when the new owners inquired about remodeling.
7. The remodeling will include improvements to the east façade of the north building on the site.
8. Based on 15-A.1.the street side building elevation is required to comply with #2 above.
9. A review of the Comprehensive Plan Goals and Strategies specifies that:
ECONOMIC DEVELOPMENT
GOAL: *Support the development of a strong, diversified, and growing economic base and create a favorable climate for economic development and ongoing business activities.*
Strategy: Promote aesthetically pleasing development and redevelopment in the city.
10. Representatives of Nor-Son and DH Holdings spoke in support of the request.
11. There was no other testimony regarding the request.

When asked whether the entire east wall of the two buildings now combined would need to have the alternate material, City Planner Ostgarden stated that yes the entire east wall would need an alternate material.

Commissioner Gorham stated that it is good that the intentions of the city are to raise the overall aesthetics, but it is something we need to work towards. Either we amend the ordinance or we follow the ordinance. He is inclined to deny the request based on the fact that it seems more like a want than a need.

Council Liaison Lambert agreed with the others. She added that we may need to look at the ordinance to possibly revise. Commissioner Chair Headley stated that while it is maybe not keeping with

the other buildings in the area, what we have in the ordinance is what it is and if there is no practical difficulties in following the ordinance, we should not approve the variance. The requirements are clearly stated.

Commissioner Burslie asked if the ordinance could be discussed in more detail at a later commission meeting i.e. when it was created, why it was created, and how it was created. Typically in industrial areas of a city, they do not have architectural design standards that we do here so he would like to have more background for us to discuss going forward.

City Planner Ostgarden cautioned the Planning Commission not to give any false hopes to the petitioners here if the variance is denied that they can just wait for an amendment or a change to the ordinance.

MOTION AND SECONDED BY COMMISSIONERS GORHAM AND BURSLIE, DULY CARRIED, TO RECOMMEND DENIAL BASED ON THE FINDINGS OF FACT AND THE REQUEST IS PRIMARILY BASED ON PRATICAL DIFFICULTIES. THE RECOMMENDATION WILL GO TO THE COUNCIL ON MONDAY, JUNE 5, 2017.

#5 **PUBLIC FORUM**

None

#6 **OLD BUSINESS**

None

#7 **COMMISSIONERS' QUESTIONS/COMMENTS**

Commissioner Burslie asked staff when the ordinance that applied to the previous variance request was created and to what zones does it apply to. City Planner Ostgarden stated it has been a part of Brainerd's Zoning Ordinances since approximately 2004 when that ordinance was written and may have been an amendment after that. It would apply to I-1 and I-2 Districts. At the time and hopefully still, the community was concerned about the aesthetics and what our developments look like. At that time, they did not think that all metal siding was the appropriate look in the community even in industrial areas. This particular are is more in the "industrial park" area. I think at the time, this visual look is what the community desired.

Commissioner Burslie inquired about allowing them to paint or amending the ordinance to maybe allow an earth tone paint option instead.

Council Liaison Lambert stated that at the time this came out, a lot of metal buildings were being constructed in the community and other communities. Many commissioners did not care for that look and so they wanted to break it up a bit. City Planner Ostgarden indicated we do want to encourage small businesses and can be sympathetic to their needs, however, he thinks that once we start referencing affordability into the discussion, we may not want to go in that direction.

Commissioner Gorham questioned if the Baxter Industrial Park has a similar design standard in place as he has noticed that there is an effort made to encourage many different appealing aesthetics. City Planner Ostgarden thinks they do have a design review board. He believes they have gone further into this than we have.

#8 CITY PLANNER'S REPORT

City Planner Ostgarden brought up something that will be occurring in the month of June. FEMA has issued flood plain maps for the City of Brainerd that go into effect on August 15th, 2017. We currently have 3 chapters dealing with flood plains in the zoning ordinance. We are required to update our flood plain ordinance requirements by August 15th or risk suspension from the National Flood Insurance Program. We need to go through a process of holding a public hearing to amend the zoning ordinance to adopt new flood plain regulations. The State of Minnesota has released a "sample" flood plain ordinance for review. The City Engineer and City Planner Ostgarden will research the maps, and sample and we may be going forward with the state provided sample with the public hearing to follow next month. If we hold the hearing in June, and incur no issues, we can be approved by the end of July. Our flood plain ordinance language was drafted in 2009 and we are reviewing with the state to determine what is in our current ordinance that is no longer in compliance.

City Planner Ostgarden asked if anyone on the Planning Commission is able to or wants to attend any of the training workshops taking place this summer.

#9 ADJOURN TO WORKSHOP IN COUNCIL CHAMBERS AT 6:42 P.M

Respectfully submitted,

Mark Ostgarden AICP
City Planner

Brainerd Planning Commission Workshop May 17, 2017

The workshop was called to order at 6:42 p.m. in the Council Chambers.

Noted present were Commissioners Burslie, Gorham, Headley and Lambert. Noted absent were Commissioners Antolak and Marohn. Also present was Coty Council President Pritschet and City Planner Ostgarden.

Council President Pritschet joined the Planning Commission for the workshop and Council member Lambert were in attendance to discuss the strategic initiatives that the council has adopted from the Council & Department Heads Retreat they attended in February this year. It was suggested that this would be a good place to start in some of the discussions that the Planning Commission would like to address in the coming year. Council President Pritschet provided copies of the information from the retreat to all members present.

- Groups were formed and discussions started about things that have been happening:
 - o Positive
 - o Less than Positive
 - o Intended
 - o Unintended
- Completed a Beliefs Worksheet
 - o How you should treat each other
 - o How you should do your work
- Discussed Visions and Priorities
 - o In five years what we want to be recognized for
 - Improving housing quality – number one goal
 - Identify what Brainerd is – Parks, neighborhoods, schools, history, young, family friendly
 - Preserving the character and history of Brainerd
 - Sights and recreation
 - o What are our priorities to get there
 - Better Branding of Brainerd – one voice and visuals from all
 - IT Investments
 - Comprehensive Plan
 - o Most of the new council have a unified vision that we want to move forward – we are tired of putting plans in place and not following through to the end i.e. Riverwalk

Council member Gorham commented we need to look at the past Comprehensive Plan that was put in place in 2004 before we create a new one. How much was the plan used? What was good or bad about the plan? The first step is to look at the existing plan. Council member Lambert stated the plan was a good road map – something to go back to as to what the thinking was at that time. We may need to deviate from it if necessary but at least there is a starting point rather than creating something brand new.

Council President Pritschet added that maybe a joint meeting between City Council and the Planning Commission would be beneficial to obtain the opinions of the full City Council. Planning Commission Chair Headley asked about the general roll of the Planning Commission – what are the goals and visions as a group? President Pritschet talked about defining the Planning Commission role.

Council members Lambert and Burslie suggested the Commissioners think about a list of topics they would like to explore and talk about at the next meeting to bring to the City Council.

Council member Gorham referred back to the Comprehensive Plan and asked where we are in the process. City Planner Ostgarden replied that he is waiting for City Administrator Thoreen's approval on the draft of the contract. There will then be a joint meeting with the City Council to review the contract. Council member Gorham inquired about the need for a "template" to follow. City Planner Ostgarden replied that one of the core pieces of the contract that will be created is the committee that will be established. They will have the Planning Commissions representation, but they would be the drivers of the process; i.e. reports back to the Planning Commission, checks in with them, making sure they are on the right page. But ultimately it is the Planning Commission's plan to modify and to own in the end. Some examples:

- Sustainability
- The aging population
- Future land use plan

Council member Marohn could not make it to tonight's meeting due to travel issues. This information will be shared with him.

Council member Lambert asked about the timeframe that this project would take. City Planner Ostgarden stated approximately 18 months. It is important to keep moving forward. The City Council will be asked to appoint a committee member as part of the core group along with other's to get a varied cross section of people.

MOTION BY BURSLIE AND SECOND BY LAMBERT, DULY CARRIED

The meeting adjourned at approximately 7:15 p.m.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

STAFF REPORT TO THE PLANNING COMMISSION

JUNE 21, 2017

CONDITIONAL USE PERMIT

APPLICANT/LOCATION: Kevin Donnay of Widseth Smith Nolting, 7804 Industrial Park Road; Baxter, MN on behalf of Headley Williamson, 4630 Summit Pass, Eagan, MN for property at 2115 S. 6th Street, Brainerd, MN 56401

PROPOSED USE: Boarding School on an 8+ Acre Site

CURRENT ZONING: B-4 (General Commercial) District

ADJACENT USES: East: Trail and Commercial
South: Methadone Center
West: S. 6th Street and Medical Clinic Across S. 6th St.
North: Office

ADJACENT ZONING: North: B-4 (General Commercial) District and R-3 (High Density Residential)
East: B-2 (Neighborhood Commercial) District
South: B-2 (Neighborhood Business) District
West: R-3 (Multifamily) Residential and B-4 (General Commercial) District

REPORT

Following is information submitted by Headley Williamson the Academy's Board Chairman:

Exodus Boys Academy will open fall 2018 at 2115 South 6th Street, Brainerd, MN 56401. The school will start with no more than 60 students grades 6th-8th and will add a grade and 20+ students every year until it is 6th-12th grade and a maximum of 200 students.

Please see the staff chart below. The live-in staff and resident director will be staying overnight at the school. A staff chart is provided at the end of this report. The staff chart below, the live in staff and resident director will be staying overnight at the school.

The school will be accredited through the Association of Christian Schools International (ACSI) and will be a member of the Association of Christian Schools of Minnesota. Initially for sports such as football and basketball, the school will utilize community education sports for the boys until the school's athletic capability is realized (participants and standard home playing gym/field).

The property will be modified to be appropriate for a boarding school. Please see attached diagrams for landscape changes, parking changes, and building modification. Some highlights are:

- Changing the pool area into a gym. This will include modifications to the floor for a gym floor surface, removal of exterior wall windows and sliding glass doors and HVAC modifications.
- Changing the upstairs west wing into classrooms by removing walls between bedrooms and adding HVAC to the classrooms.
- Moving the restaurant bathrooms closer to the restaurant to ensure that there is no public access to the school through the restaurant.
- Removing the exterior doors from the ground level bedrooms and replacing them with wall and windows.
- Utilize the conference area as a permanent student cafeteria, Commons/Multi-Use space.
- Fire Sprinkler system will be added throughout.
- Refresh and replace interior finishes.
- Total roof replacement.
- Elevator addition.

Exterior Improvements to include:

- Remove the parking pavement and outside tennis court of the northwest corner of the lot and convert into a playing field.
- Parking stalls will be made larger to new standards. Parking count is included on the Proposed Site Plan.
- Addition of a fire hydrant at the southeast corner of the lot.
- Widseth Smith Nolting has been retained for Architectural and Engineering services. As such, the building modifications will adhere to the state building code.

There will be a total of 10 classrooms, which include math, science, English/religion, art, choir/band, music recording, dance, studio, computer lab, and robotics lab. There will also be a large recreation room.

All security measures have not been addressed at this point, but besides live-in staff, there will be a number of door sensors and internet based cameras with flood lights and motion detectors. This would ensure kids stay safe from outside intruders and for staff to know when students leave the campus.

Although there was talk about phases, we have decided that all of the school will be renovated at once. Unused student rooms will be locked and used as needed, every part of the school will be operational. During the winter months unused rooms will remain at a minimum temperature above freezing.

The restaurant will be contracted out or sold to a restaurateur who will manage the restaurant and cater breakfast, lunch and dinner for the students. The restaurant will

serve the public and either be a consistent source of income to the school through a lease, or sold to a restaurateur.

To provide adequate site access two of the existing access points along the Frontage Road to S. 6th Street have been maintained and the Madison Street access is planned to be closed. Since vehicle traffic is expected to be far less than under its previous use, we are comfortable eliminating the existing access to Madison Street.

The proposed site plan provides 176 parking stalls to meet City ordinance. We expect that the number of stalls provided will exceed the actual number used on a daily basis.

Additional City Zoning Ordinance Standards to be addressed include:

- Impervious surface coverage will be reduced from the current 53.6% to 39.6% with the proposed changes. This will be under the 50% requirement. See the information included on the site plans provided.
- Green space will exceed the 15% minimum included in the Standards.
- Parking areas requiring screening will be addressed to meet the Zoning Standards.
- The existing exterior building materials, which consists mostly of stucco meets Ordinances Standards.
- Ground mounted equipment either has or will have the required screening.
- Screening for rooftop equipment will be addressed with the existing parapet or with design elements.

A landscaping plan has not been included because the existing landscape features are to be preserved and maintained with little modification. There will also be green space added to the Northwest lot area when converted to a playing field.

It is our hope to begin work immediately after the closing on the building.

Everything above will depend on our fundraising efforts. We hired Non-profit 360 Consulting LLC to create our donor development program. Following is an outline of the strategy:

- Phase 1 (May, June, July). Ask each of our friends, family, and concerned citizens to donate from \$100 to \$1000. This will raise \$40,000-\$70,000.
- Phase 2 (July, August, September). Use funds from phase 1 to hire a grant writer and create a new video and presentation materials. This will allow us raise \$1 million from government grants, corporate, and family foundations.
- Phase 3 (September -- ?). Use funds from phase 2 to buy the building and solicit national foundations to raise \$20 million.

Depending on where Exodus Academy fundraising is at in August, it may have to finance the building.

NON-CONFORMING USE STATUS

State statute reads as follows relating to non-conforming uses:

- (a) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
 - (1) The nonconformity or occupancy is discontinued for a period of more than one year;
 - b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

The non-conforming use or occupation of land or premises has been discontinued for more than 1 year meaning the use or occupation of land or premises must be brought into compliance with current applicable Zoning Ordinance standards.

ZONING ORDINANCE REVIEW

Based on B.1. above, the following are the Conditional Use Permit criteria:

- 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.**

515-17-3: Building Design Standards.

Exterior Building Materials - B-1, B-2, B-4, B-5 and B-6 Zoning Districts. All exterior wall surfaces shall be a combination of materials including brick, dimensioned stone, or their replicas, rock face block, decorative concrete panels, stone, stucco, wood, glass, or Exterior Finish Installation (EFIS). Material such as metal panels, window trim, flashing, accent features and the like that make up the exterior of a building shall not exceed twenty-five (25) percent.

As stated by the petitioner the building exterior is primarily stucco. Metal does not exceed 25%.

515-17-5: Screening Rooftop Equipment.

As viewed from ground levels within one hundred (100) feet of street side view, all mechanical equipment located on the roof or around the perimeter of a structure shall be screened by a raised parapet.

A raised parapet or other architectural feature that is an integral part(s) of the building shall be required as screening for rooftop mechanical equipment or to soften rooftop views.

Screening for rooftop mechanical equipment shall incorporate similar architectural features of the building and/or constructed of a material and color compatible with other elements of the building.

Should any existing or planned rooftop equipment is visible as described above, screening will be required. The petitioner states it will be addressed.

515-20-4: Green Space.

Non-Residential Site Development and Non-Residential Site Redevelopment.

New developments shall designate a minimum of fifteen (15) percent of the total site area for green space.

The wooded area east of the building well exceeds the minimum percentage.

A minimum of fifty (50) percent of the required green space shall be located along the street frontage with the most traffic and visibility. The fifty (50) percent requirement shall be located across the street from or adjacent to residentially zoned or used property.

The east side of the building has a large wooded area that helps the site exceed the 50% green space requirement. Current language requires that the green space be located as highlighted above.

Non-Residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area unless otherwise allowed by a grading and drainage plan approved by the City Engineer.

The petitioner has stated site changes we reduce the amount if impervious are to be less than the 50% maximum area allowed.

515-20-8: Non-Residential Uses in All Zoning Districts.

General Site Landscaping. All developed portions of the site shall conform to the general landscaping requirements in Section 515-20-3 except where screening is required.

Required Tree Planting. Except for single family and two family lots and parcels developed prior to the adoption of this Ordinance, new development shall have a mixture of evergreen and deciduous trees planted at the rate of one (1) tree per three thousand (3,000) square feet or portion thereof of any unpaved open area remaining after development for which specific landscaping requirements do not appear in this Section. Required trees may be planted at uniform intervals, at random, or in groupings. Newly planted trees shall comply with the requirements of this Ordinance. Trees retained on site following development can be reduced from the total required plantings.

The site's east side is a wooded area. Will the wooded area satisfy this requirement? Or, is the intent that trees should be planted in the developed site area. If so, calculations will be required to determine how many trees are required and if the existing trees in the developed area meet this requirement.

515-20-3 Screening.

A six (6) foot high fence or landscaped screen, providing eighty (80) percent year around opacity, shall be required wherever a non-residential use abuts directly upon land zoned or used for residential purposes or is across an alley from land used or zoned for residential purposes.

There is an area on the north side of the site that abuts directly onto a residential use. Does this requirement apply to that situation?

515-20-9: Parking Lots.

All exposed parking areas of ten (10) or more required spaces in a front and side street yard shall be screened with landscaping not less than three (3) feet or more than four (4) feet in height. The landscaping shall maintain a year round fifty (50) percent opacity.

There are parking spaces along Madison Street and along the S. 6th Street frontage road that will require screening.

515-20-10: Screening of Equipment.

Ground mounted mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, air conditioners, and similar equipment shall be screened on all sides except those facing a building. An eighty (80) percent opacity visual screen shall exceed the vertical height of the equipment being screened by at least six (6) inches. A three (3) foot open area shall be maintained around such equipment to facilitate repairs.

Existing or planned equipment will be required to be screened as above. The petitioner states that equipment either has or will have required screening.

Shoreland Management Zone Requirements

All property within 300' of the Mississippi River and 1,000' of a lake is subject to the land use regulations of the Shoreland Regulations.

The proposed additions are not within the area and not subject to those requirements.

- 2. The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.**

The boarding school use and the restaurant reuse should not cause conditions that may be dangerous, injurious, or noxious to any other property or persons.

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

The tennis court at the northwest corner of the property will be removed and used for a play area. No other property changes are anticipated.

A landscaping plan has not yet been submitted. Other than the screening requirements green space minimum and impervious area maximum there are no minimum standards for landscaping.

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

The only exterior change to the building will be the exterior doors from the ground level bedrooms, which will be removed and replaced with a wall and windows.

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

The boarding school and restaurant use will generate less traffic than previous hotel and restaurant uses. The site has 2 access drives on S. 6th Street and is served by a frontage road which helps to channel vehicles to the Madison Street intersection or the Industrial Park Road intersection.

The neighborhood should not be impacted by traffic movements associated with the boarding school. The site parking areas remain from previous uses (due to lack of maintenance, the parking lot asphalt has deteriorated over time) will remain. Parking stalls and drive isles will be striped in accord to current Zoning Ordinance standards.

6. **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.

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.

Reuse of the site for a boarding school should not create issues contrary to the purposes of the Zoning Ordinance.

Comprehensive Plan

Is the proposed use consistent with the following:

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

Strategies

- Support development that enhances community character and identity.
- Work to strengthen and maintain the appearance of the Business Highway 371...

- A. **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.
8. **Water Pollution.** Water pollution shall be subject to the standards established by the Minnesota Pollution Control Agency.

The addition conversion should have no adverse effect on any of these issues. Should any arise they will be dealt with on a case by case basis.

DEPARTMENT INFORMATION

Utilities

No issues.

Fire

We have no concerns with the proposed use of the site.

We will certainly have to sit down and talk more about hydrants on the back side of the building and possibly the south side. They will also have to put a large turn around on the back dead end area or a better option is to leave the access around the north side of the building.

The only other thing would be automatic sprinkler system and I think they are addressing those needs.

Building

No concerns about the use, looking forward to seeing a plan, one issue that needs addressing is the maintenance garage in the East rear of the property needs attention (paint, shingles etc.)

Engineering

No Issues.

PLANNING DEPARTMENT REVIEW

Because the site is already developed many of the issues with development are known quantities. Also, the reuse of the site does not include significant building exterior changes or nor are there significant site changes.

Affected city departments have stated they have no concerns about the use proposed for the site. The Fire Department has identified a need to discuss hydrants and the need for access. The Building Department has identified a need to improve an accessory building on the site.

In addition to the information about the site and relevant information about the operation, Mr. Williamson has provided a lot of information about the school policy, and day-to-day operational information. The policy and day to day operational information is useful to understand more about the school. However, the school policies and day to day operation information is not relevant to the Conditional Use Permit approval process.

Children and staff will be on premises 365 days a year. An issue the Planning Commission may want to have a discussion about is the safety of the children and staff during a weather event. Is there an area of the building that will provide safe shelter in the event of a strong storm, high winds and/or tornados. If not should one be required?

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation on this request at its June 21, 2017, meeting and City Council may consider the recommendation at its July 3, 2017 meeting.

Respectfully submitted,

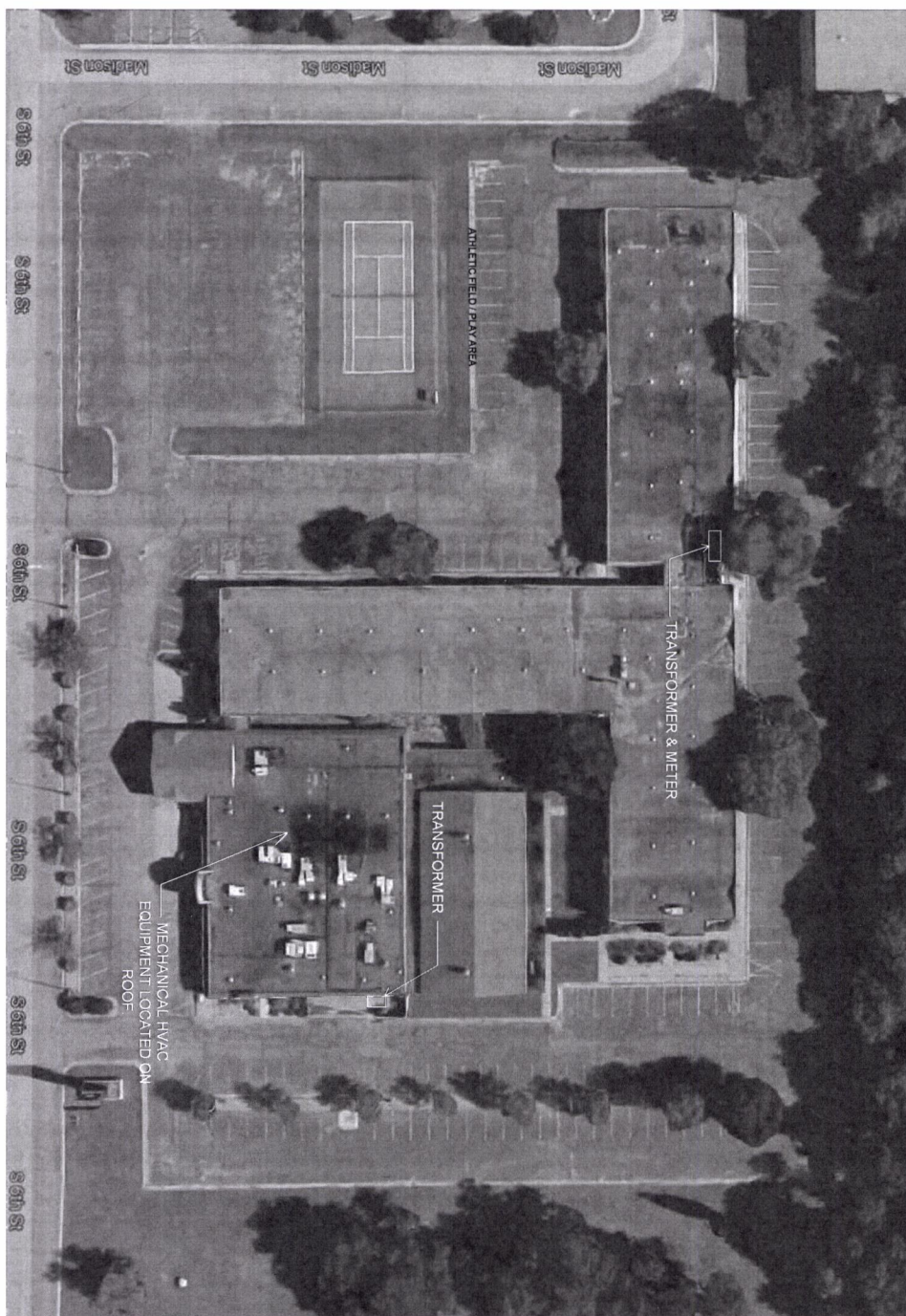
Mark Ostgarden AICP
City Planner

H/Mark/Planning/Conditional Use Permit

Exodus Academy Staffing Chart

Year	2018	2019	2020	2021	2022	2023	2024
Operation year	1	2	3	4	5	6	7
Students	60	80	100	120	140	160	180
Director	1	1	1	1	1	1	1
Teachers	6	8	10	12	14	16	18
Resident Director	1	1	1	1	1	1	1
Resident Staff	3	4	5	6	7	8	9
Counselor	1	2	2	2	2	3	3
Custodian	1	2	2	2	2	3	4
Fundraisers	2	2	2	2	2	2	2
Admin Assist	2	3	4	4	4	5	5
Community Liaison/Student Recruiter	1	1	1	1	1	1	1
Admission Staff	1	1	1	1	1	1	1

* The live in staff and resident director will be staying overnight at the school.



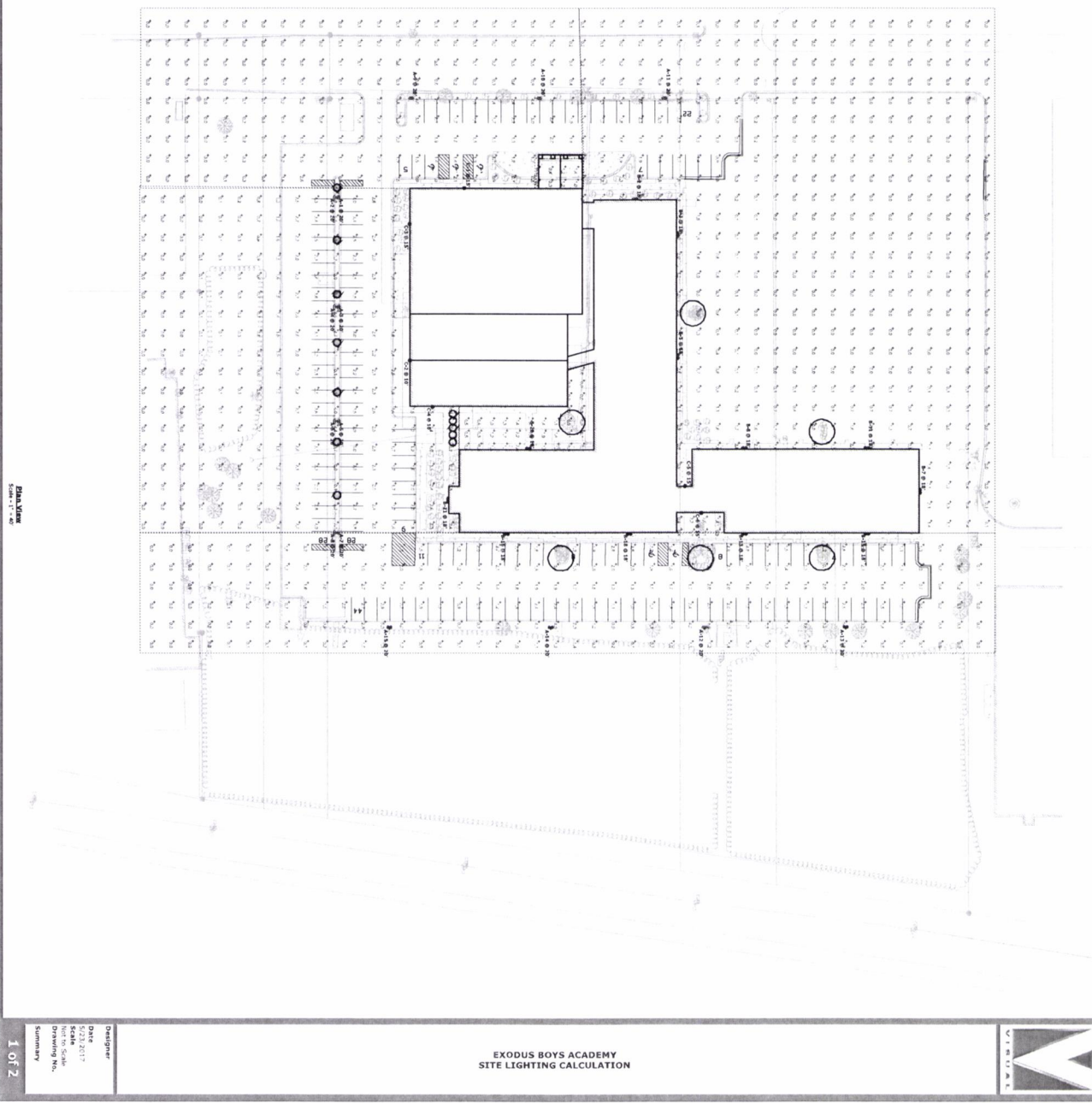
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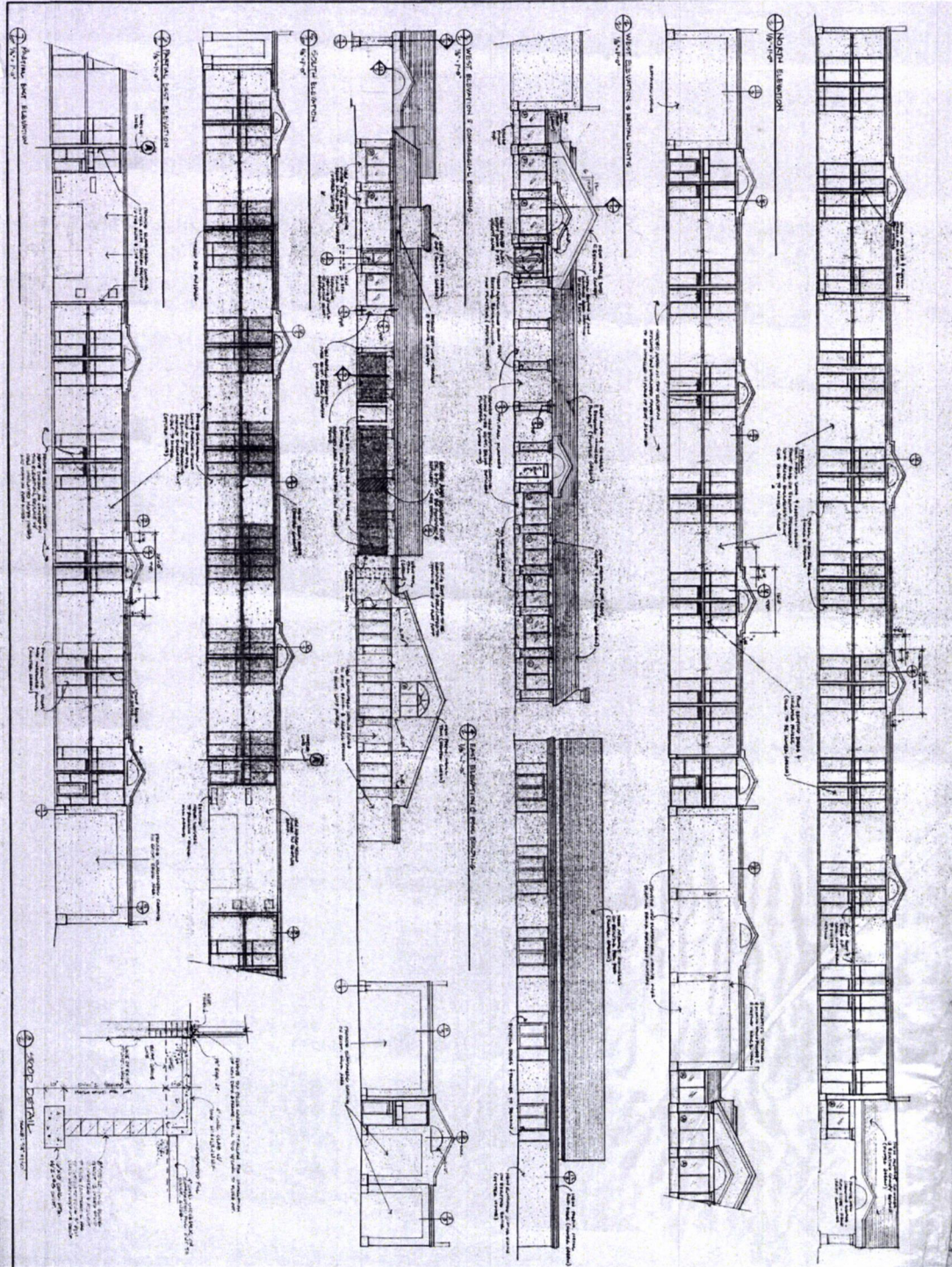
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Schedule									
Symbol	Light	Quantity	Manufacturer	Model	Power (W)	Beam Angle	Height (m)	Number of Fixtures	Notes
A	Lighting	12	Lighting	Lighting	100W	120°	1.5	12	12 x 100W
B	Lighting	12	Lighting	Lighting	100W	120°	1.5	12	12 x 100W
C	Lighting	12	Lighting	Lighting	100W	120°	1.5	12	12 x 100W

Light	Power (W)	Beam Angle	Height (m)	Number of Fixtures	Notes
1	100W	120°	1.5	12	12 x 100W
2	100W	120°	1.5	12	12 x 100W
3	100W	120°	1.5	12	12 x 100W
4	100W	120°	1.5	12	12 x 100W
5	100W	120°	1.5	12	12 x 100W
6	100W	120°	1.5	12	12 x 100W
7	100W	120°	1.5	12	12 x 100W
8	100W	120°	1.5	12	12 x 100W
9	100W	120°	1.5	12	12 x 100W
10	100W	120°	1.5	12	12 x 100W
11	100W	120°	1.5	12	12 x 100W
12	100W	120°	1.5	12	12 x 100W
13	100W	120°	1.5	12	12 x 100W
14	100W	120°	1.5	12	12 x 100W
15	100W	120°	1.5	12	12 x 100W
16	100W	120°	1.5	12	12 x 100W
17	100W	120°	1.5	12	12 x 100W
18	100W	120°	1.5	12	12 x 100W
19	100W	120°	1.5	12	12 x 100W
20	100W	120°	1.5	12	12 x 100W
21	100W	120°	1.5	12	12 x 100W
22	100W	120°	1.5	12	12 x 100W
23	100W	120°	1.5	12	12 x 100W
24	100W	120°	1.5	12	12 x 100W
25	100W	120°	1.5	12	12 x 100W
26	100W	120°	1.5	12	12 x 100W
27	100W	120°	1.5	12	12 x 100W
28	100W	120°	1.5	12	12 x 100W
29	100W	120°	1.5	12	12 x 100W
30	100W	120°	1.5	12	12 x 100W
31	100W	120°	1.5	12	12 x 100W
32	100W	120°	1.5	12	12 x 100W
33	100W	120°	1.5	12	12 x 100W
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90	100W	120°	1.5	12	12 x 100W
91	100W	120°	1.5	12	12 x 100W
92	100W	120°	1.5	12	12 x 100W
93	100W	120°	1.5	12	12 x 100W
94	100W	120°	1.5	12	12 x 100W
95	100W	120°	1.5	12	12 x 100W
96	100W	120°	1.5	12	12 x 100W
97	100W	120°	1.5	12	12 x 100W
98	100W	120°	1.5	12	12 x 100W
99	100W	120°	1.5	12	12 x 100W
100	100W	120°	1.5	12	12 x 100W





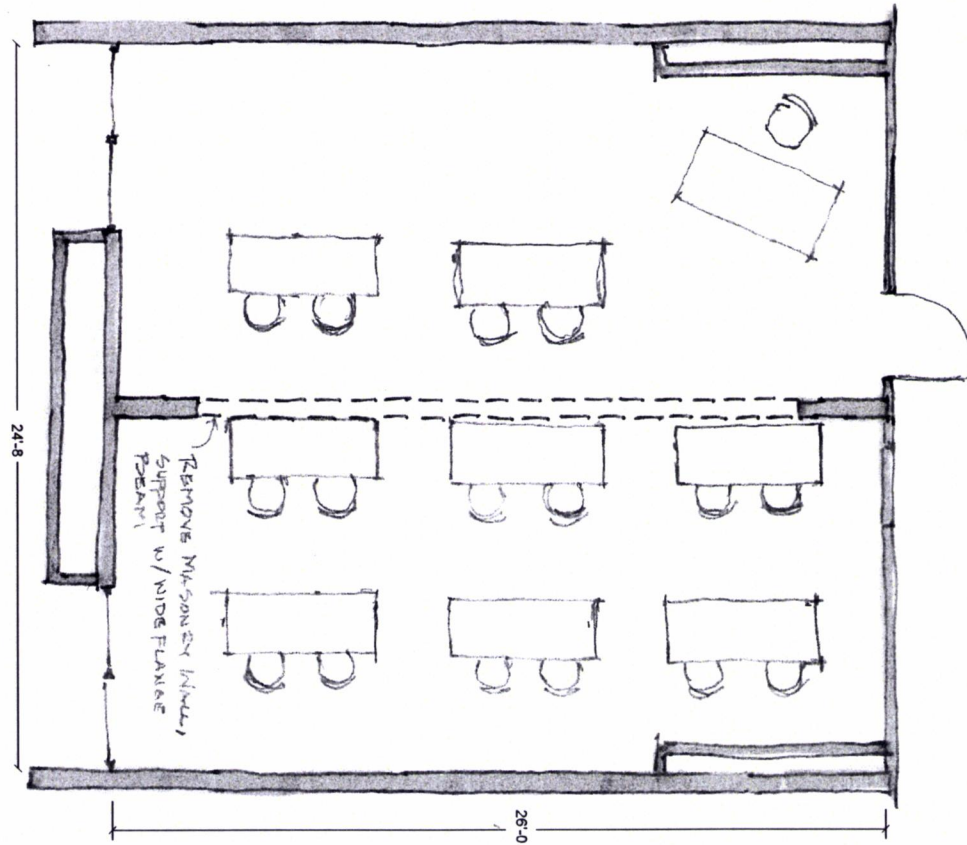
PRELIMINARY CONCEPT

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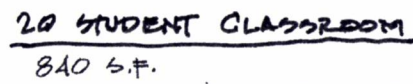
WIDETH SMITH NOLTING
Engineering | Architecture | Surveying | Environmental

16 STUDENT CLASSROOM
617 S.F.



PRELIMINARY CONCEPT

PROJECT NO. A5.0	EXODUS BOYS ACADEMY	DATE: MAY 16, 2017	DATE: 05/16	REVISIONS DESCRIPTION	BY	I HEREBY CERTIFY THAT THIS IS AN SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MN.		WIDSETH SMITH NOLTING Engineering Architecture Surveying Environmental
	EXODUS BOYS ACADEMY	SCALE: AS NOTED						
	BRainerd, MN	DRAWN BY: JS						
		CHECKED BY: Chabon						
	ENLARGED 16 STUDENT CLASSROOM	FOR NUMBER: 030800 295.00						



SHEET NO.
A6.0

I HEREBY CERTIFY THAT THIS PLAN SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF _____

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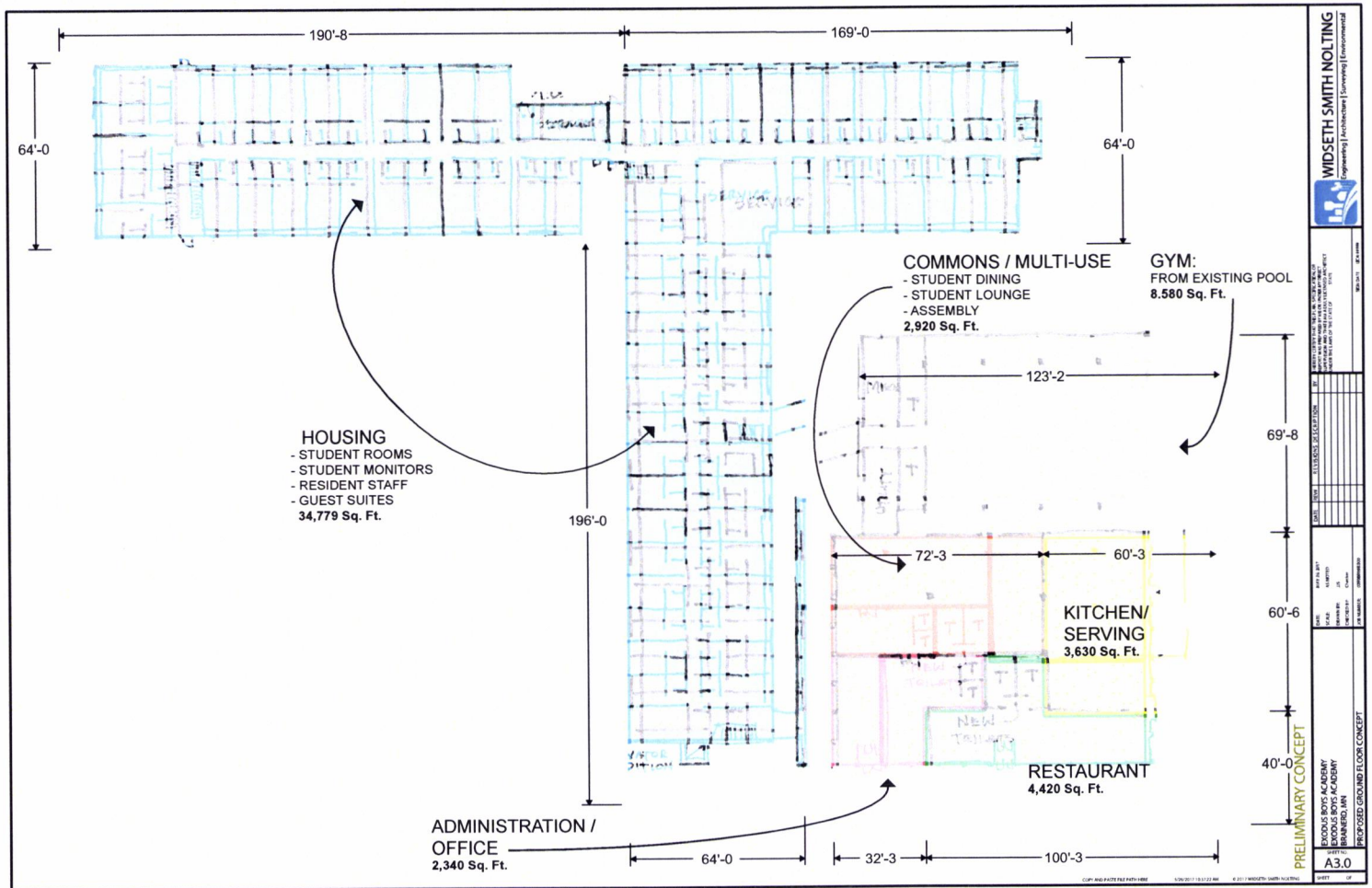
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SCALE: AS NOTED
DRAWN BY: JIS
CHECKED BY: *Quacken*

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EXODUS BOYS ACADEMY
EXODUS BOYS ACADEMY
BRAINERD, MN

SHEET NO.
A6.0

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May 30, 2017

Re: **Exodus Boys Academy**

Student Handbook Introduction

The Student Handbook draft that is included as part of the Conditional Use Permit Application is a 'work in progress' as Exodus Boys Academy (EBA) establishes their education program. While each individual section may not be relevant for the CUP application and approval process, please pay particular attention to the Table of Contents. The section headings contained therein demonstrate the organization and rigor of the boarding school's program. If a certain section is of interest of course feel free to review it at your discretion.

The Student Handbook document is a template from other similar schools. Exodus board members continue to develop the specifics for the Brainerd site. An example is the School Contact Information page. As faculty and staff are put into their key positions this page will be finalized. Obviously, this will be an important reference page for students, families, staff and the community.

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JUN - 2 2017

**CITY OF BRAINERD
ADMINISTRATION**



EXODUS
BOYS ACADEMY

Student- Parent Handbook

2016-17 School Year

(Name) Head of School

(Address)

(Phone)

Mission Statement

Exodus Boys Academy prepares men of character to be contributing citizens with in 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.

WELCOME

Dear Exodus Families,

Written by Head of School – see example from SEED school

Welcome to the 20XX school year! Whether you are a new or returning student/parent(s), we are excited to kick off another successful year and have you with us on this journey. As the Head of School, I am eager to meet all of you in the coming weeks and share my enthusiasm for leading this unique school community.

Our leadership team and faculty have spent time making important updates and listing policies and procedures to fulfill our mission. Please spend the necessary time to review this Student-Parent Handbook carefully to obtain a clear understanding of the expectations we have set for all students and families of Exodus Academy.

The policies, expectations, and agreements contained in this Handbook will guide the actions and behavior of not only your child (our student), but also our staff and the school as a whole. This Handbook is considered a living document and changes/modifications will be made as necessary throughout the year in the best interest of our students and the school.

Like all good partnerships, Exodus students and staff should both know what is acceptable, necessary, and appropriate. Everything from our attendance policy to graduation requirements, are included in this Handbook. We hope this handbook will answer any questions you have regarding our policies and procedures.

We ask that you sit with your son, whether a new or returning student, and review this Handbook from cover-to-cover to ensure that we are all on the same page. And, once you have done so, we need you and your son's signature on the perforated Student-Parent-School Agreement sheet located in the back of the Handbook.

Please take the time to review and refresh your understanding of our policies, procedures and expectations. There is a wealth of information in this Handbook, and it should be something that you come back to again and again, if you need clarification about any of our expectations.

Thank you in advance for your support and cooperation.

(Name) Head of School

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SCHOOL CONTACT INFORMATION

Exodus Boy's Academy

(Address)

Main School Number

Main School Email

School Website

FAX NUMBERS

Head of School's Office

Office of Community Engagement

Health Department

DEPARTMENT NUMBERS

Office of the Head of School

Middle & High School Programs

Middle School Director

High School Director

Director of Student Life

Administrative Assistant to the Director of Student Life

College & Career Services

Director of Family & Community Engagement

Family Engagement Specialist

Director of Student Support Services

Special Education Coordinator

Director of Athletics

Building Support Assistants Brown and Marshall Halls

Example from Minnehaha's handbook

Karen Balmer – Principal (ext. 2141)

Questions about Middle School policies, curriculum, teachers, calendar, and general Middle School questions

Steve Engdahl – Counselor (ext. 2245)

Questions about student academic issues, learning needs, social-emotional issues, tutoring

Kari Fields – Dean of Students (ext. 2145)

Questions about student discipline, peer issues, dress code, student schedule changes

Chantal Ulferts – Student Activities Coordinator (ext. 2239)

Questions about student clubs, special event days, student council, school parties

Josh Thurow – Athletic Director (ext. 1231)

Christian Zimmerman – Assistant Athletic Director (ext. 2222)

Questions about Middle School athletic schedules, gym and field schedules, coaches

Bruce Peterson – Transportation and Ice Arena (ext. 2314)

Questions about bus schedules and routes, bus driver issues, ice arena scheduling

Reverend Greg Bestland – Chaplain (ext. 2202)

Questions about chapel, speakers, spiritual counseling

Paul Slininger – Nurse (ext. 2150)

Questions about student health records, vaccinations, screenings, health issues

Kristin Kishaba – Director of After School Programming and Summer Programs (ext. 2013)

Carmen Coffman Johnson – Admin. Support for After School/Summer Programs (ext. 2014)

Questions about the Yellow Lounge (Middle School after school program)

May 25, 2017

Re: **Exodus Boys Academy**

From: Headley Williamson

1. Funding Strategy:

We hired Non-profit 360 Consulting LLC to create our donor development program... Here is an outline of the strategy:

Phase 1 (May, June, July). Ask each of our friends, family, and concerned citizens to donate from \$100 to \$1000.

This will raise \$40,000-\$70,000

Phase 2 (July, August, September). Use funds from phase 1 to hire a grant writer and create a new video and presentation materials. This will allow us raise \$1 million from government grants, corporate, and family foundations.

Phase 3 (September--). Use funds from phase 2 to solicit national foundations to raise \$20 million.

2. Here is how the Board will interface with the school:

The Board of Directors will hire the director of academics and director of residence. Board will acquire a facility and financing needed to run the school for 5 years prior to opening the school. Board will set the standard for hiring teachers, staff, and academics. Board will lay the ground work for student acquisition and student extracurricular activities. Board will also ensure the success of the school, through financial and advisory support.

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JUL -1 2017

**CITY OF BRAINERD
ADMINISTRATION**

Our Statement of Faith:

Exodus Boys Academy is an interdenominational, evangelical Christian boarding school focused on giving young men a holistic education with a God-centered perspective. We exist to prepare a new generation of servant leaders who will return to serve their communities and reflect the Christian values taught at EBA. This information is prepared to help you become an integral part of Exodus Academy.

Our Understanding of God

We believe that there is one living and true God, eternally existing and unchanging throughout all time. We believe that God exists in three Persons, known throughout Christian history as God the Father and Creator, God the Son who is Jesus Christ, and God the Holy Spirit who indwells and empowers every believer in Christ. We believe in the deity of Jesus Christ, in His virgin birth, in His sinless life, in His atoning death through His shed blood, in His bodily resurrection and His ascension to the right hand of the Father. At Exodus Academy, we believe that a relationship with God is personal and we strive to make Him central in the daily life of EBA students and staff.

Humanity's need for God

We believe that all men and women are created in God's image and therefore are of infinite worth. We also believe that all of humanity is sinful by nature, are under condemnation, and that there are no good deeds that a person can do to free himself from condemnation. All mankind is in need of reconciliation with God and we believe that need has been met through the life, death and resurrection of Jesus Christ. We believe that those who trust in Jesus Christ by faith as the only way to salvation are regenerated by the Holy Spirit. We believe in the bodily resurrection of both the believers to eternal life with God, and the lost to eternal suffering and damnation.

Our Understanding of Scripture

We believe that the Old and New Testaments of the Bible are the inspired and infallible Word of God. We believe the Holy Scriptures were revealed by the Holy Spirit and are to be our final authority and the ultimate standard for determining what we believe and how we conduct our lives. Therefore at EBA, we strive to daily integrate its teachings into our instruction and community life.

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JUN -2 2017

**CITY OF BRAINERD
ADMINISTRATION**

Doctrinal Statements

Statement on Gender, Marriage, and Sexuality

We believe that marriage means the uniting of one man and one woman. We believe that God intends sexual intimacy to occur only between a man and a woman who are married to each other. We believe that God condemns intimate sexual activity outside of a marriage between a man and woman. We believe that God considers all forms of sexuality outside of marriage to be sinful.

Statement on the Sanctity of Human Life

We believe that the life of every human being has been created uniquely by God in His image and each person is given specific abilities by design. We believe that all human life begins at conception and is of inestimable worth until natural death. We are called to defend, protect and value all human life including pre-born babies, the physically or mentally challenged, the aged and all stages and conditions of life. Every child of God must be treated with respect and dignity. Hateful and harassing behavior toward any individual is not in accord with Scripture nor the doctrines of Exodus Boys Academy.

Statement on our Educational Ministry

We believe that in order to maintain the integrity of Exodus Boy Academy as a Christian boarding school and to provide a biblical model to EBA students, families, and community, it is imperative that all persons employed by EBA in all capacities agree to and abide by these doctrinal statements on marriage, gender, sexuality and human life. All staff members serve as role models regardless of their duties and it is imperative that each staff member is in agreement with our Statement of Faith, our philosophy and purpose and that it reflects in their lifestyle as well.

Statement on Final Authority

While we believe the Bible to be the final authority concerning truth, morality and proper conduct, our Board of Directors is Exodus Boys Academy's final interpretive authority on the Bible's application into school life.

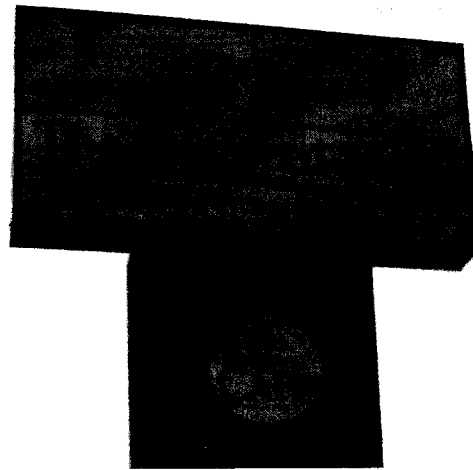
Brainerd Hotel and Conference Center

Brainerd, Minnesota

Building Assessment

PRELIMINARY DRAFT

May 23, 2017



Executive Summary

The material presented in this written report has been formulated for use by The Exodus Boys Academy in assessing the improvement needs and extent of renovation of The Brainerd Hotel and Conference Center in order to convert the building into a boy's academy. The contents of this report include descriptive information using text and graphics to describe the building complex, identify areas of deficiencies, make recommendations for improvements, and provide associated probable costs.

Complex and Building Description

Building and Complex Description:

The Brainerd Hotel and Conference Center was constructed in 1970 as a Holiday Inn and consisted of three areas of use: The first, which was labeled as the "Commercial" area includes a main lobby, office area, an attached restaurant/kitchen, meeting rooms and public toilets. The next area is an attached enclosed swimming pool which includes the open swimming area, toilets with showers, a sauna and pool equipment & mechanical rooms. The third area included 100 guest rooms in a two story, L-shaped connected structure. This area also includes a laundry room and utility rooms for mechanical and electrical. 50 guest rooms were added around 1972 with a two-story addition to the north side of the guest structure.

Parking for the guest rooms, employees and restaurant patrons surrounds the building.

There have been renovations to the building with the most notable being an exterior renovation in 1996 which resulted in the complex's current look and in 1997 when the restaurant was converted into a Green Mill.

Overall Assessment and Evaluation

Existing Conditions and Recommendations:

Early in its existence the Brainerd Holiday Inn was a premier location. The building was constructed using sound construction materials and methods. It appears to have been well maintained while it was the areas prime hotel. However, over time and the rerouting of highway 371, occupancy has dwindled and the building has not been as well maintained and kept up-to-date as it could have. Ownership and the franchise name has changed over the years until the hotel and restaurant was closed and the building locked up. With the building shut down for nearly three years it has gone through extreme temperature change resulting in wear and tear of many elements not intended to be exposed to such extremes. Maintenance has been minimal and items that could have been taken care of have been left and become worse over time. Overall the building is structurally sound but in general disrepair and in need of repair, maintenance and updating.

General Construction Evaluation

Building Exterior:

Item 1) Roofing: The roofing over the one-story portion of the complex is a mix of the original pitch and gravel over 2" rigid insulation at flat areas and asphalt shingles that cover the entrance canopy, the sloped roof over the pool and the mansard canopy around the perimeter of the "commercial" building.

The original pitch and gravel roofing is well past its expected life and failure is evident with leaks at many locations within the building. The shingle roofing areas were replaced as part of the 1996 exterior renovation. Though the amount of wear of the shingles is not extreme the condition of the roofing is poor due to recent back to back years when storms with extreme winds had blown away portions of the roofing requiring patching that appears to have been done with haste and at minimum cost.

The roofing over the guest room portion of the building was replaced with a single ply (EPDM) membrane with rock ballast along with additional insulation. Based on dates printed on the membrane, it is assumed it was replaced around 1997. The membrane appears to be in fair condition, however, the membrane has shrunk and has pulled and stretched tight from the edge parapet. Areas of the roof have been problematic with leaking, according to Russ Carew, the building caretaker. These leaks have been more prevalent at areas where flashed penetrations occur.

Recommendation: It is highly recommended that the entire building be re-roofed.

Item 2) Exterior Walls and Siding: All three areas of the complex have exterior wall of concrete block and/or brick. The exterior renovation in 1997 covered all the areas with an "Acrylic Stucco" finish system to achieve the current look. There are numerous areas that have cracked and in some cases pulled away from the wall. There are also places where the roof edge flashing is damaged or missing.

Recommendation: The exterior stucco finish should be repaired and the roof edge flashing should be repaired and/or replaced.

Item 3) Exterior Windows and Doors: The exterior doors and windows appear to be original to the building. They vary in degree of condition from broken and missing glass & panels to being intact and in good condition. All the window units will have very poor energy efficiency. Another element of consideration is that many of the ground floor guest rooms include a door with direct access to the outside which may be undesirable. The pool currently has windows along the south wall and sliding glass doors along the east wall. These will be inappropriate for the intended conversion of the space into a gym.

Recommendation: It is recommended that the windows of the guest rooms area be replaced. This would greatly increase the buildings energy efficiency and would provide the rooms with the appropriate venting options. The windows of the converted gym should be removed and the wall area filled in. Smaller window with protection from balls and other objects could be installed.

Building Interior:

Item 4) Doors, Frames and Hardware: The interior doors, frames and hardware are in overall good shape. However, the doors and frames to the guest rooms are not fire rated and rated doors will be required. Other doors that separate the “commercial” area from the pool and guest rooms do not appear to have the proper fire rating.

Recommendation: A thorough code analysis will be required to determine the extent of replacement that will be required. At this stage, it is our recommendation to assume that all doors to the corridors in the guest room area will be replaced as well as the doors that separate the “commercial” area from the pool and guest rooms.

Item 5) Interior Walls, Ceilings and Finishes: The interior walls and ceilings vary greatly in condition while the finishes are typical for the buildings use but are outdated and should be replaced with material appropriate to the intended use. The exterior walls were built with furring strips and 1” of Styrofoam insulation and are not energy efficient.

- Numerous guest rooms are in good condition with little or no need of repair while a few will require patching and/or replacement of finishes and a couple that have a great deal of damage that will require a near gutting and rebuilding of the rooms.
- The “commercial” portion of the building has areas that will require patching and repair due to roof leaks. At the link to the guest rooms there is ceramic floor tile that has loosened from the extreme cold and in need of repair. The restaurant appears to need only minor repair. Water leaks have damaged some ceiling tile and the carpet has staining. Other minor wall repair will be required. The kitchen will require repair of areas where the wall and floor tile are in disrepair.
- The pool area has a support structure of wood glu-lam beams and wood decking. All the wood surfaces are in need of refinishing. The concrete block walls will also require new paint. The area has a pool, whirlpool and a floor that is sloped to numerous floor drains.

Recommendation: Once the roof leaks have been stopped with the roofing replacement, repair of the areas damaged from the leaks should occur. Replacement of finishes can be based on if they are salvageable or as a matter of choice. Some may be replaced to provide finishes appropriate for the intended use.

- In most of the student rooms it will not be required to repair the walls but it is recommended that the drywall be removed from the exterior walls, additional insulation be provided and the wall be refinished. This will make the building more energy efficient and will make the rooms more comfortable.
- The restaurant will require minor repair while in the kitchen the floor and walls will be required to be repaired to meet health department requirements.
- Converting the existing floor to a gym floor will require a design to support and provide a level and structurally sound system.

Item 6) Building Code Compliance: It is a requirement of the Building code that when an existing building changes use and occupancy the building is to meet current code requirements. To convert the building from its current use and occupancy of a hotel and conference center into the Boys Academy will require that the building be brought up to the current building code requirements.

A thorough and extensive code research will be necessary to determine the full extent of the changes that will be required. The building presents several complex challenges that will have to be examined in order to fully understand what will be required and the extent of the alterations.

The following are items that we know will have to be addressed:

- The building will be required to have a fire sprinkler system.
- A fire rated corridor with rated openings will be required in the sleeping room areas.
- Walls and openings between certain areas will require fire rated construction.
- An elevator will be necessary for access to the second level.
- Public toilet rooms will have to meet accessibility requirements.

Recommendation: When it becomes time to work on the renovation of the facility there will be factors that will come into play and there will be a certain amount of flexibility in design decisions. However, when it comes to code related items there will be very little to no flexibility. The building code will be required to be adhered to and costs of those items will have to be incurred.

Site Evaluation

Existing Conditions and Recommendations:

Overall the site is in fair condition with some repairs and corrections necessary prior to occupancy. Please refer to the following:

Item 1) Parking Lot Layout: The parking facilities provided were sized for the building's prior use as a restaurant and hotel facility. For the proposed use, the provided parking is likely far in excess of needs.

Parking stall sizes in the existing parking areas are undersized to the requirements of present City ordinances.

Recommendation: The parking facilities should be "right-sized" to the proposed application, including future expansions. Parking surfaces excess to these needs should be removed, with the resulting additional space dedicated to other desired uses.

Item 2) Parking Lot Pavement: Pavement of the existing parking areas is nearing failure in most locations. There are many open thermal cracks, and the surface has deteriorated greatly from lack of maintenance.

Recommendation: For those pavement surfaces to remain, it is recommended to mill two inches deep and inlay a two-inch lift of new bituminous pavement to maintain existing grades. Parking stalls should be striped to meet existing City standards for size and applicable standards for accessibility.

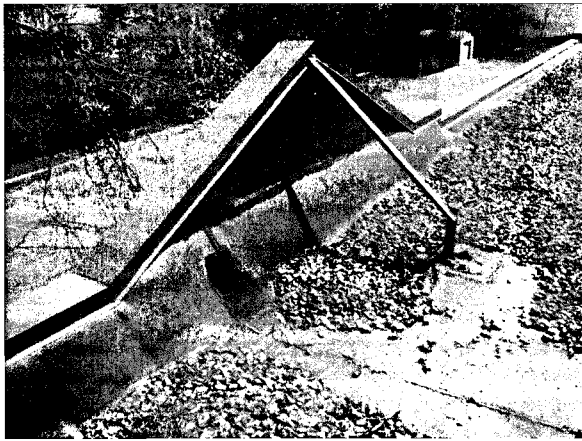
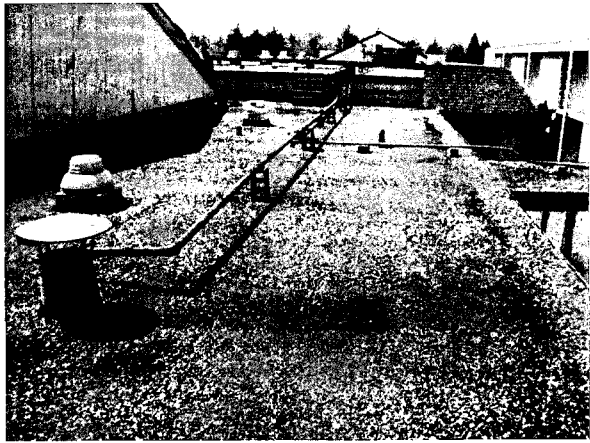
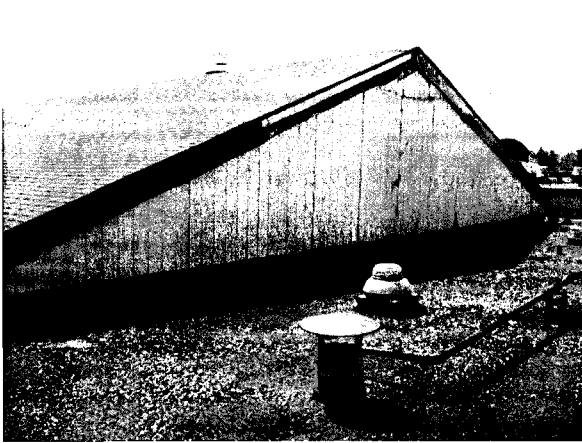
Item 3) Parking Lot Accessibility: Current accessible parking areas do not contain enough parking spaces and do not meet present accessibility standards.

Recommendation: After resurfacing parking areas that remain, five total accessible parking spaces should be provided. Sidewalk and curb modifications will be required to provide ramps meeting present standards.

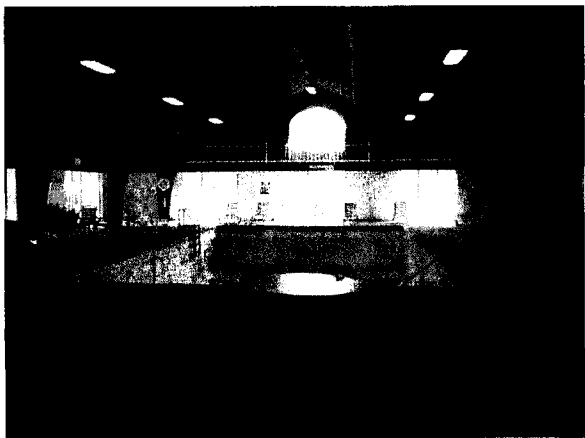
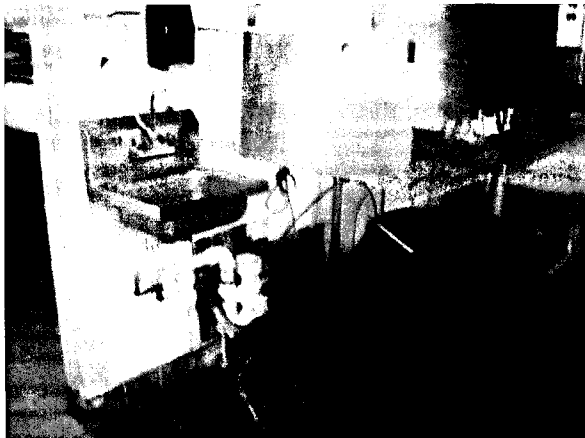
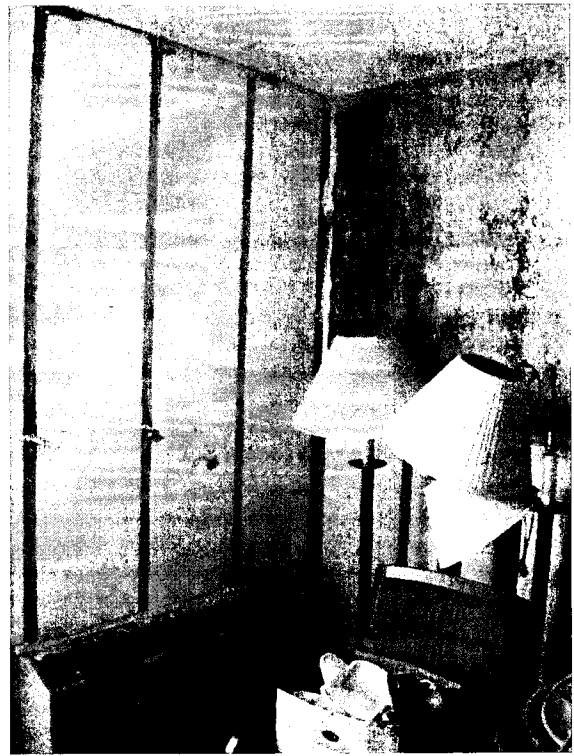
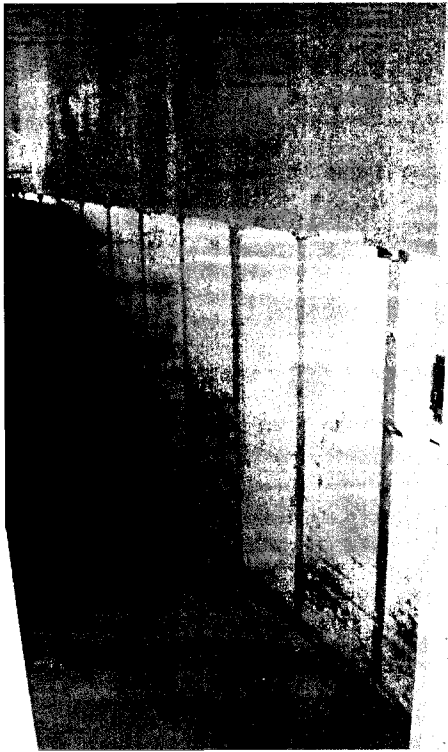
Item 4) Concrete Curbs and Walks: Throughout the site, there are sidewalks with offset joints and cracks that represent possible tripping hazards. Curbing is damaged in a number of locations; most likely from past plowing activities.

Recommendation: While wholesale replacement is not strictly necessary, as many areas are still serviceable, it will be necessary to remove and replace sections of both sidewalks and curb for both safety and functional reasons.









Mechanical Observations and Evaluation

Mechanical Systems Existing Conditions and Recommendations:

Item 1) "Commercial Area": The "Commercial" area is served by packaged rooftop units (RTU) with gas-fired heating and direct expansion (DX) cooling. The kitchen is served by gas-fired makeup air units and exhaust fans. Most the RTUs appear to be in poor condition and several have exceeded their estimated useful service life (15 years, according to ASHRAE Applications Handbook).

Recommendation: The existing RTUs and associated ductwork and controls should be replaced with new packaged RTUs – zoned and sized for their new intended use. The RTUs must provide code required ventilation which is dependent on square footage and space occupancy. The units will also need to have economizers and be capable of Demand Control Ventilation (DCV – a method of varying the outside air with room occupancy as determined by carbon dioxide levels) depending on size and application. The fans and makeup air units serving the kitchen appear to be in fair shape and have been installed in the last ten years. Depending on changes to the kitchen functionality, these units could be serviced and reused.

Item 2) Swimming Pool Area: The swimming pool area is served a ventilation/dehumidification unit specifically designed for swimming pools. Adjacent mechanical rooms contain pool and hot tub filtration and heating systems.

Recommendation: The equipment is in fair condition, however, changing this space into a gym will require a new HVAC system. This space could be served by a ground-mounted RTU and new exposed ductwork.

Item 3) Guest Room Area: The guest rooms are heated and cooled with Packaged Terminal Air Conditioner (PTAC) units most of which have exceeded their estimated useful life (10 years). Roof-mounted fans exhaust air from the bathrooms.

Recommendation: The PTAC units should be replaced – the new units should be heat pumps with auxiliary electric heat. The PTAC units must have the capability of providing code required ventilation rates to the sleeping quarters. The exhaust fans should be replaced and the exhaust system rebalanced.

The area to be converted to classrooms should be provided with a new HVAC system consisting of RTUs capable of providing ventilation to these densely occupied spaces. To increase the comfort level of the classrooms, the rooftop units could further zoned by utilizing Variable Air Volume (VAV) boxes with terminal electric reheat coils.

Item 4) Plumbing: Most of the plumbing fixtures appear to be in good condition – given their disuse in recent years, however, they may require refurbishing. Freezing has caused some pipes to burst in the mechanical room where the water enters the building – these appear to have been repaired. The water softening system was also damaged by freezing and has not been replaced.

The existing water service is not adequate to provide fire protection to the building.

Recommendation: The entire domestic water system should be pressure tested for leaks and thoroughly flushed. The waste and vent system should be pressure tested to identify possible leaks. Piping systems will need to be modified as required by building upgrades and a new 6" water service will need to be installed to provide fire protection.

Electrical Evaluation

The electrical distribution system in the facility consists of a 480/277 volt, 3-phase, 4-wire system. The system is fed by a 1500 KVA transformer. The main Switchboard, which is located in the electrical room right off of the main lobby has a 1600 amp bus. The main switchboard feeds four main distribution panelboards and two step down transformers which are located throughout the first floor of the facility. These main distribution panelboards and step down transformers then feed numerous 480/277 volt and 208/120 volt branch panelboards which are located on both floors of the facility. Overall, the current state of the distribution system is adequate, but in order to ensure reliability, certain maintenance procedures should be performed. There are some issues, however, that need to be corrected to bring the facility up to the current National Electric Code (NEC).

Item 1) Electrical Panels: The facility was constructed in 1969 and most of the panels appear to be the original panels that were installed. The panels appear to be in good condition but several procedures should be performed.

Recommendation: All Circuit Breakers should be checked for proper operation. Any dust and dirt that has accumulated in the panels should be cleaned out. It is also recommended that preventative maintenance procedures be performed to discover any potential problems that are not readily visible. These procedures would include, but not be limited to, an Infrared thermographic inspection to determine if there are hot spots in the panels (may be an indication of loose or defective wiring) and an Ultrasonic inspection to determine if there are corona emissions present which could indicate a potential arc flash incident. Also, energized and de-energized testing and analysis should be performed to check out all panel components for viability.

Item 2) Fire Alarm and Detection System: The Fire Alarm and Detection System is an addressable system and the main fire alarm panel has the capacity to monitor 198 points. The system appears to be several years old and the panel is on the verge of obsolescence. The field devices (sensors, pull stations, etc.) also appear to be several years old.

Recommendation: Consideration should be given to replacing the Fire Alarm Control panel and the field devices. The existing system is several years old and at the very least the system should be thoroughly tested by ensure operability. The system also has to conform to the latest versions of the International Building Code and NFPA 101 and as such, number and type of field devices will be needed to be

modified. These modifications need to be coordinated with the possible addition of a sprinkler system, as the requirements for a sprinkled or a non-sprinkled facility vary.

Item 3) Receptacles: The electrical receptacles in the facility do not meet the requirements of the latest version of the National Electrical Code (NEC). Some examples are:

All receptacles in the Kitchen Areas are required to be GFCI protected (NEC article 210.8 (B) (2).

All receptacles in Locker rooms with associated showering facilities are required to be GFCI protected (NEC article 210.8 (B) (8).

All receptacles that are within 6 feet of the outside of a sink are required to be GFCI protected (NEC article 210.8 (B) (5).

Recommendation: Replace receptacles with GFCI receptacles or GFCI circuit protection in all the required areas (Refer to NEC article 210.8 for requirements). Test all existing GFCI receptacles for proper operation.

Item 4) Arc-Fault Circuit-Interrupter Protection: The NEC requires Arc-Fault Circuit Interrupter Protection in certain areas of non-dwelling units (NEC article 210.12 (B) & (C). The age of the facility indicates that this protection is not provided.

Recommendation: Install Arc Fault Circuit-Interrupter Protection in all the required areas as per the NEC.

Item 5) Lighting: The facility has mainly fluorescent and incandescent lighting. The facility has no occupancy sensors or daylighting sensors.

Recommendation: To save money on the energy bill, replace all existing lighting with LED lighting. To further save money and conform to the latest version of the energy code, install occupancy sensors and daylighting sensors.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Kevin Donnay of Widseth Smith Nolting, Inc. 7804 Industrial Park Road, Brainerd, MN 56401 has applied on behalf of Headey Williamson, 4630 Summit Pass, Eagan, MN 55122, for a Conditional Use Permit to operate Exodus Boys Academy boarding school at 2115 S. 6th Street (the former Holiday Inn site). The property is zoned B-4 (General Commercial) District and Zoning Ordinance Section 515-63-6 list "Boarding Schools" as a Conditional Use in a B-4 District.

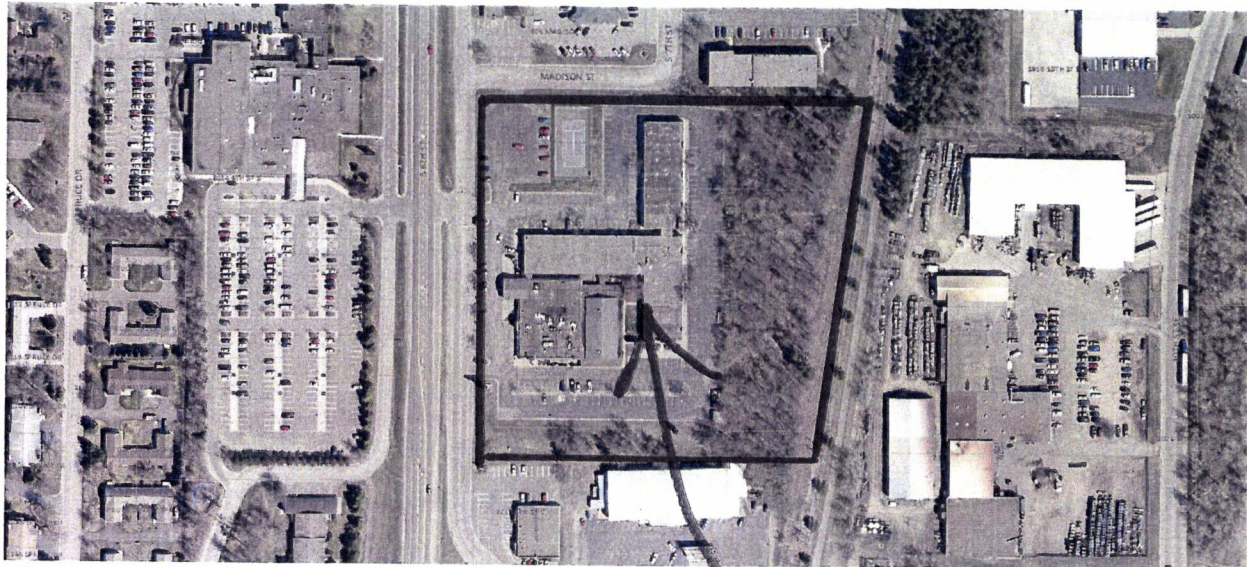
The Planning Commission of the City of Brainerd will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., June 21, 2017, to consider the request for the Conditional Use Permit.

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 7th day of June, 2017


Mark Ostgarden AICP
City Planner

Publication date: June 9, 2017



Subject
Property

**City Planning Department**

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



Receipt # 2017-00039
Check # 1015
Date Paid: 6/5/17

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: 2115 South 6th Street, Brainerd, MN 56401

LEGAL DESCRIPTION: Lot(s): 1 Block: 1 Addition: Second Holiday Inn Addition
(attach description if lengthy)

Property Owner Name: Exodus Boys Academy; Headley Williamson, Chairman of the Board

Street Address: 4630 Summit Pass City: Eagan State: MN Zip Code: 55122

Phone Number: (952) 820-5931 Fax: _____ E-mail: headley@exodusboysacademy.org

Applicant Name: (If different than Property Owner) Widseth Smith Nolting; Kevin Donnay

Street Address: 7804 Industrial Park Road City: Baxter State: MN Zip Code: 56425

Phone Number: (218) 316-3618 Fax: _____ E-mail: kevin.donnay@wsn.us.com

Description of Request:

Exodus Boys Academy (EBA) prepares men of character to be contributing citizens with in their urban communities through a rigorous college preparatory and STEM education. Our program provides the framework for personal responsibility, integrity, and leadership.

EBA is planning to remodel the former Holiday Inn Hotel in south Brainerd into a boarding school to establish this program. The plan is to begin with an initial enrollment of 60 boys expanding to a maximum of 200 as financial and staffing resources become available. We have included in this application the Exodus Handbook (draft version) and Statement of Faith to better describe the program. Applicant is seeking a Conditional Use Permit (CUP) for development of a boarding school in a B-4 zoning district.

Headley Williamson
Property Owner Signature

Headley Williamson
(Please print name)

5/31/17
Date

Kevin Donnay
Applicant Signature

KEVIN T. DONNAY
(Please print name)

6.1.17
Date

(OVER)

RECEIVED

JUN - 2 2017

CITY OF BRAINERD
ADMINISTRATION

PIN	TXNAME	TXADR1	TXADR2	TXADR3	Physical Address
09185003007B889	2020 PROPERTIES	2020 S 6TH ST ✓	BRAINERD MN 56401		2020 6TH ST S
09185003008B889	BRAINERD LAKES INTEGRATED HEALTH SYSTEM DBA ESSENTIAL HEALTH CENTRAL	2024 SOUTH 6TH ST ✓	BRAINERD, MN 56401		
09185003008C009	BRAINERD LAKES INTEGRATED HEALTH SYSTEM DBA ESSENTIAL HEALTH CENTRAL	2024 SOUTH 6TH ST	BRAINERD, MN 56401		2022 6TH ST S
091850030090889	BRAINERD LAKES INTEGRATED HEALTH SYSTEM DBA ESSENTIAL HEALTH CENTRAL	2024 SOUTH 6TH ST	BRAINERD, MN 56401		2024 6TH ST S
09185003010A009	BRAINERD LAKES INTEGRATED HEALTH SYSTEM DBA ESSENTIAL HEALTH CENTRAL	2024 SOUTH 6TH ST	BRAINERD, MN 56401		
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091420040020889	BRAINERD SOUTH HOUSING GROUP INC	C/O BRAINERD HRA ✓	324 EAST RIVER RD	BRAINERD, MN 56401	1969 7TH ST S
09111004004C009	BROWN, RON ETAL	C/O NORTH STAR PLATING ✓	PO BOX 204	BRAINERD MN 56401	
09111004003B009	BX PROPERTIES, LIMITED LIABILITY PA	3621 NE MARSHALL ST ✓	MINNEAPOLIS MN 55418		
09111004004A009	BX PROPERTIES, LIMITED LIABILITY PA	3621 NE MARSHALL ST	MINNEAPOLIS MN 55418		
09111004003A009	CARLSON & LYTER DISTRIBUTING INC	1020 INDUSTRIAL DR S ✓	PO BOX 457	SAUK RAPIDS, MN 56379	1916 10TH ST S
060360000A00009	CITY OF BRAINERD	501 LAUREL ST ✓	BRAINERD, MN 56401		
09111004004D009	CITY OF BRAINERD	501 LAUREL ST	BRAINERD, MN 56401		
09185003012F009	CITY OF BRAINERD	501 LAUREL ST	BRAINERD, MN 56401		
09216001001B009	CITY OF BRAINERD	501 LAUREL ST	BRAINERD, MN 56401		
060363400A00009	COVENANT HOSPITALITY LLC	1515 STOUT RD SUITE B ✓	PO BOX 636	MENOMONIE, WI 54751-0636	
060363400B00009	COVENANT HOSPITALITY LLC	1515 STOUT RD SUITE B	PO BOX 636	MENOMONIE, WI 54751-0636	
091420040030889	COVENANT HOSPITALITY LLC	1515 STOUT RD SUITE B	PO BOX 636	MENOMONIE, WI 54751-0636	
091780010010009	COVENANT HOSPITALITY LLC	1515 STOUT RD SUITE B	PO BOX 636	MENOMONIE, WI 54751-0636	
09111004002B009	DH HOLDINGS LLC	915 BLAIR CIR ✓	BRAINERD, MN 56401		1924 10TH ST S
09185003012D009	EDMUNDS, MICHAEL A & KATHLEEN	517 BUFFALO HILLS LN E ✓	BRAINERD, MN 56401		517 BUFFALO HILLS LN E
091420040010009	EVANGELICAL LUTHERAN GOOD SAMARITAN	804 WRIGHT ST ✓	BRAINERD, MN 56401		1953 7TH ST S
92230010010009	H BROTHERS REALTY	PO BOX 230 ✓	WADENA MN 56482		
091420030090889	LAKES AREA RESOURCES, LLC	2019 S 6TH ST ✓	BRAINERD, MN 56401		2019 6TH ST S
09216001001A009	MADISON, STEVE	1914 S 7TH ST ✓	BRAINERD, MN 56401		2215 6TH ST S
09185003007A889	OAK RIDGE PROFESSIONAL BLDG LLP	2014 S 6TH ST ✓	BRAINERD MN 56401		2014 6TH ST S
091420030100009	POTTS PROPERTIES LLC	27643 N 113TH PL ✓	SCOTTSDALE, AZ 85262		2029 6TH ST S
091420030110009	RENNEKE, DEAN	6151 PARIS RD ✓	BAXTER MN 56425		601 MADISON ST
040012100G00009	THOMPSON, ROXANNE D	12701 NORTH PELICAN LN ✓	MERRIFIELD, MN 56465		
040011202B00009	VANWYNGEEREN, RICHARD D & MARSHA L	714 INDUSTRIAL PARK RD SW ✓	BRAINERD, MN 56401		

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

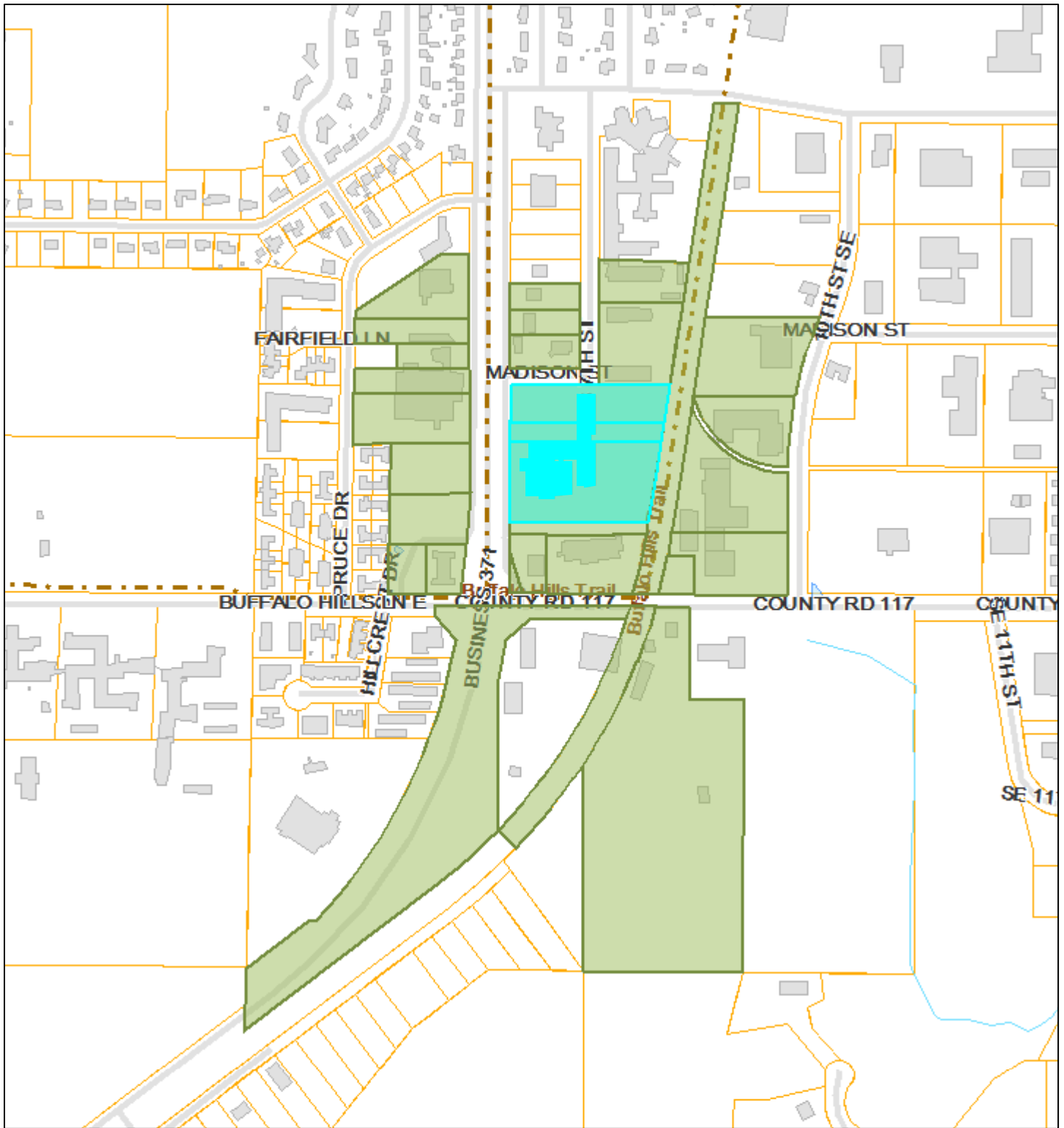
Attn: Reed Larson; 7678 College Rd-Ste. 105; Baxter, MN 56425; 218-828-2492/FAX 828-2594
Reed.Larson@state.mn.us

U.S. ARMY CORPS OF ENGINEERS

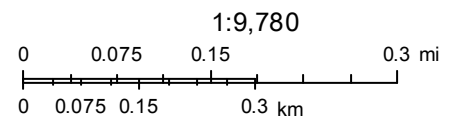
Attn: Jeff Koshak; 8896 E. Gull Lake Dr.; Brainerd, MN 56401; 218-829-8402

5

CUP 2115 S 6th St



June 5, 2017



Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community

STAFF REPORT TO THE PLANNING COMMISSION

June 21, 2017

VARIANCE

APPLICANT/LOCATION: Terry W. Berger, 102 Ridge Drive

PROPOSED USE: Six foot tall fence where a 4' tall fence is permitted

LOT AREA: 20,000 sq. ft. (200' x 100')

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

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

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

REPORT

The Berger's recently completed the house at the property and installed the 6' tall privacy fence along Buffalo Hills Lane where a 4' tall fence is permitted. A 6' tall fence can be constructed, but not any closer to the street than the house. Zoning Ordinance Section 515-19-7: Fence Height reads:

- A. Fences may be located in any yard up to a height of four (4) feet.
- B. Except as prohibited by Section 515-19-7.E a fence up to six and one half (6½) feet high may be erected from a line extended from the front façade of the principal building to the side lot lines, and then along the side lot lines and the rear lot line.

Criteria for Granting Variances

- A. Variances shall only be permitted:

When they are in harmony with the general purposes and intent of the Ordinance. Following is the Intent and Purpose section of the Zoning Ordinance:

- A. *Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
- B. *This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.*
- C. *Protect neighborhoods.*
- D. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
- E. *Provide adequate light, air, and convenience of access to property.*
- F. *Prevent congestion in the public right-of-way.*
- G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. *Protect and preserve the natural environment of the City.*
- I. *Encourage the protection of historic and aesthetic resources in the City.*
- J. *Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. *Provide for compatibility of different land uses.*
- L. *Provide for administration of this Ordinance.*
- M. *Provide for amendments.*
- N. *Prescribe penalties for violation of such regulations.*
- O. *To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

Is the variance in harmony with the general purposes and intent of the Ordinance?

When the Variance is consistent with the Comprehensive Plan.

The Comprehensive Plan Goal and Strategy that may apply is:

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

Strategy

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

- B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.

Subdivision 4. "Practical Difficulties", as used in connection with the granting of a variance means that:

- I. *The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.*

Attached is a photo of the street side yard where the fence has been constructed. The question is, why can't the property owner construct the fence at the dwelling setback and have reasonable use of the property?

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

When looking at the neighborhood, what is unique about the property? Lot shape? Size? Width? Topography? Large Trees? Building locations?

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

Does having a 6' tall fence along Buffalo Hills Lane property line affect the neighborhood's character?

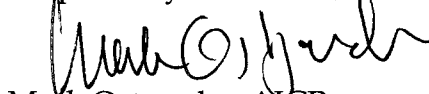
Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

The Planning Department has received 1 call opposing the variance. The caller said they should install pine trees not build a fence. We don't need a fence blocking the view on the street. If the owners need privacy they should have built in the country.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation at its meeting on June 21, 2017 and the City Council may consider the Planning Commission's recommendation at its July 3, 2017 meeting.

Respectfully submitted,



Mark Ostgarden AICP
City Planner

Fence in street side yard





City Planning Department

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

RECEIVED

MAY 24 2017

CITY OF BRAINERD
ADMINISTRATION

Receipt # 2017-00033
Check # 502
Date Paid: 5/26/17

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: 102 Ridge Drive

LEGAL DESCRIPTION: Lot(s): 1 Block: 1 Addition: Buffalo Hills
(attach description if lengthy)

Property Owner Name: Terry W. Berger

Street Address: 102 Ridge Drive City: Brainerd State: MN Zip Code 56401

Phone Number: 303-548-6386 Fax: _____ E-mail: fbprecise60@gmail.com

Applicant Name: (If different than Property Owner) _____

Street Address: _____ City: _____ State: _____ Zip Code: _____

Phone Number: _____ Fax: _____ E-mail: _____

Description of Request: to keep fence at the current height and location.
This fence is for privacy and noise control from vehicles.

Terry W. Berger
Property Owner Signature

Terry W. Berger
(Please print name)

5.24.2017
Date

Applicant Signature

(Please print name)

Date

(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: robert.q.maroney@usace.army.mil

Attn: Rob Maroney, 8896 E. Gull Lake Dr.; Brainerd, MN 56401; 651-290-5766



City Planning Department

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

RECEIVED

MAY 24 2017

CITY OF BRAINERD
ADMINISTRATION

Fee Collected	_____
Permit #	_____
Check #	_____
Date Paid:	_____

FENCE PERMIT APPLICATION (\$35.00)

PROPERTY ADDRESS: 102 Ridge Drive

Legal Description: Lots(s): 1 Block: 1 Addition: Buffalo Hills
(attach description if lengthy)

Property Owner's Name: Terry Berger Phone Number: 303-548-6386

Street Address: _____ City: Brainerd State: Mn Zip Code: 56401
(if different than Property Address)

Applicant's Name: (if different than above) _____ Phone Number: _____

Applicant's Company Name: (if applicable) _____

Street Address: _____ City: _____ State: _____ Zip Code: _____

Who will install the fence: owner

PROJECT DESCRIPTION

Specify the height and type of fence to be constructed (chain link, wood, vinyl, etc.)

48' Long - 6' High - wood picket fence
Noise and privacy fence

PROPERTY TYPE



Residential

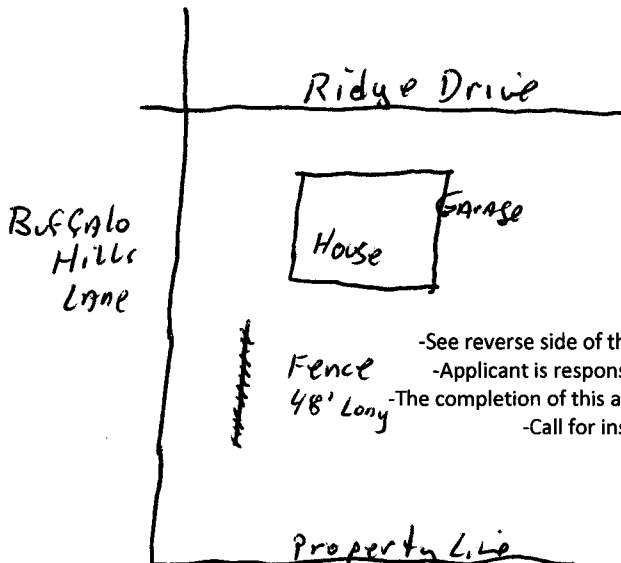


Commercial



Industrial

Please include a SCALED drawing of the lot and the location of the proposed fence. Include the property lines; existing buildings, structures, or fences on the lot; location of proposed fence; distance between the fence and each property line; adjacent streets



-See reverse side of this form for Fence Placement Requirements -

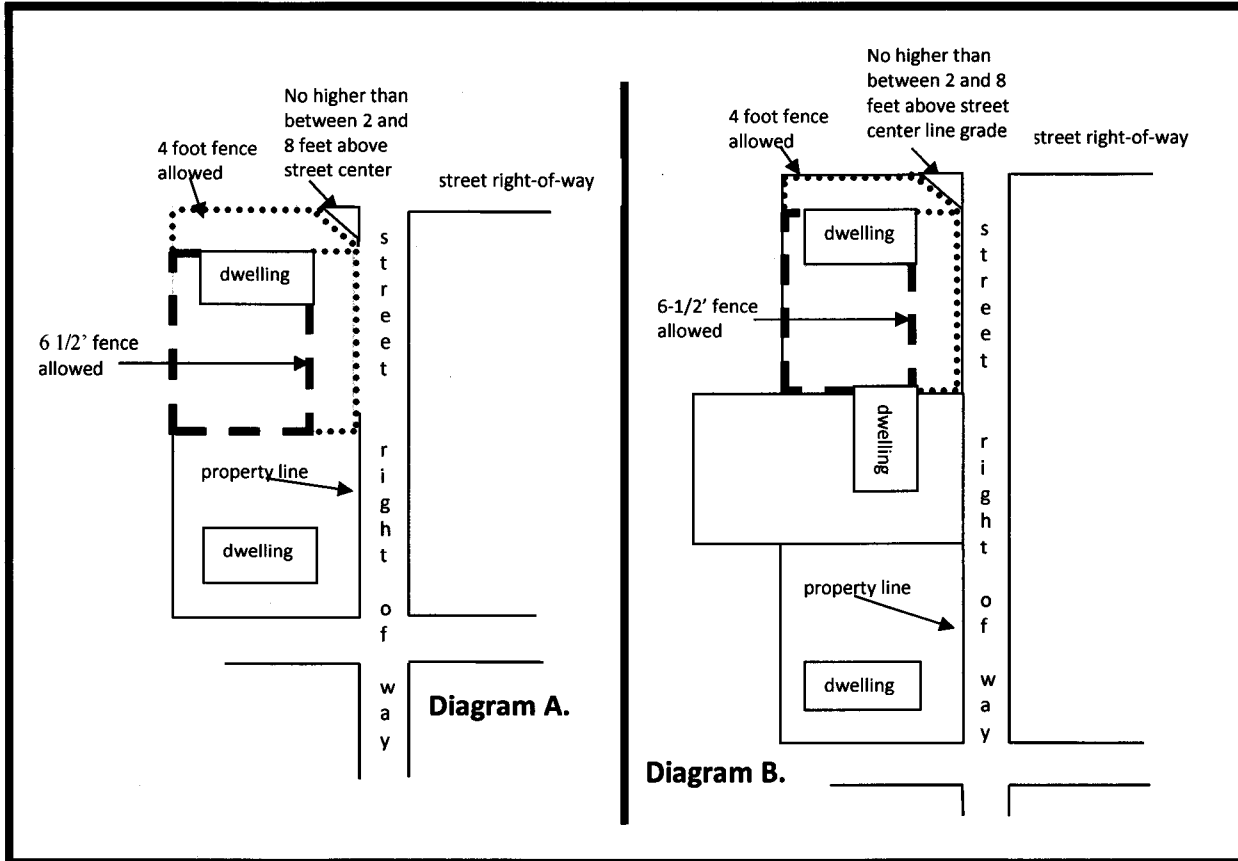
-Applicant is responsible for checking all utilities before digging-

-The completion of this application does not constitute a Building Permit-

-Call for inspection when work is completed-

FENCE PLACEMENT REQUIREMENTS

1. It is important that a fence is placed on the property so as not to encroach on the neighbor or public property.
2. No fence shall be permitted on public rights-of-way. (SEE ATTACHED "INFORMATION ABOUT LOCATING PROPERTY LINE")
3. Traffic visibility requirements: on corner lots in all districts, no structure or planting between 2 and 8 feet above the street center line grade shall be permitted within a traffic visibility triangle. The traffic-visibility triangle shall be formed by the intersection of 2 property lines at the street corner and a third line intersecting these 2 lines 20 feet from the corner intersection.
4. No fence shall obstruct natural drainage or extend within a wetland, drainage ditch, stream, or river.
5. Fences may be constructed within utility and drainage easements with the written permission of City staff.
6. Wire fences other than chain link are not permitted within 5 feet of the property line.
7. All fences shall be located at least four (4) feet from an alley property line.
8. All posts (lateral supports) or similar supporting devices used in construction of fences shall face inward toward the property being fenced (good side of fence must face out).
9. Swimming pool over 24 inches shall have a fence constructed in accord with the Minnesota Building Code.
10. All measurements shall be from the property line.
11. A fence placed in a right-of-way shall be removed.



CERTIFICATION

I HAVE READ THIS APPLICATION AND CERTIFY THAT THE INFORMATION PROVIDED IS TRUE AND ACCURATE AND I UNDERSTAND AND AGREE TO CONFORM TO THE CITY OF BRAINERD FENCE REQUIREMENTS.

OWNER/APPLICANT SIGNATURE: Terry W. Berger DATE: MAY 24, 2017

PRINT NAME: Terry W. Berger

PLANNING DEPARTMENT APPROVAL

DATE

COMMENTS:

INFORMATION ABOUT LOCATING PROPERTY LINES

In most cases the only accurate way to locate a street property line, a side property line and rear property line is to find the corner property pipes that are usually buried in the ground.

The curb line in almost all situations is not a street property line. A "rule of thumb" is a street property line is 33' or 40' from the center of street pavement.

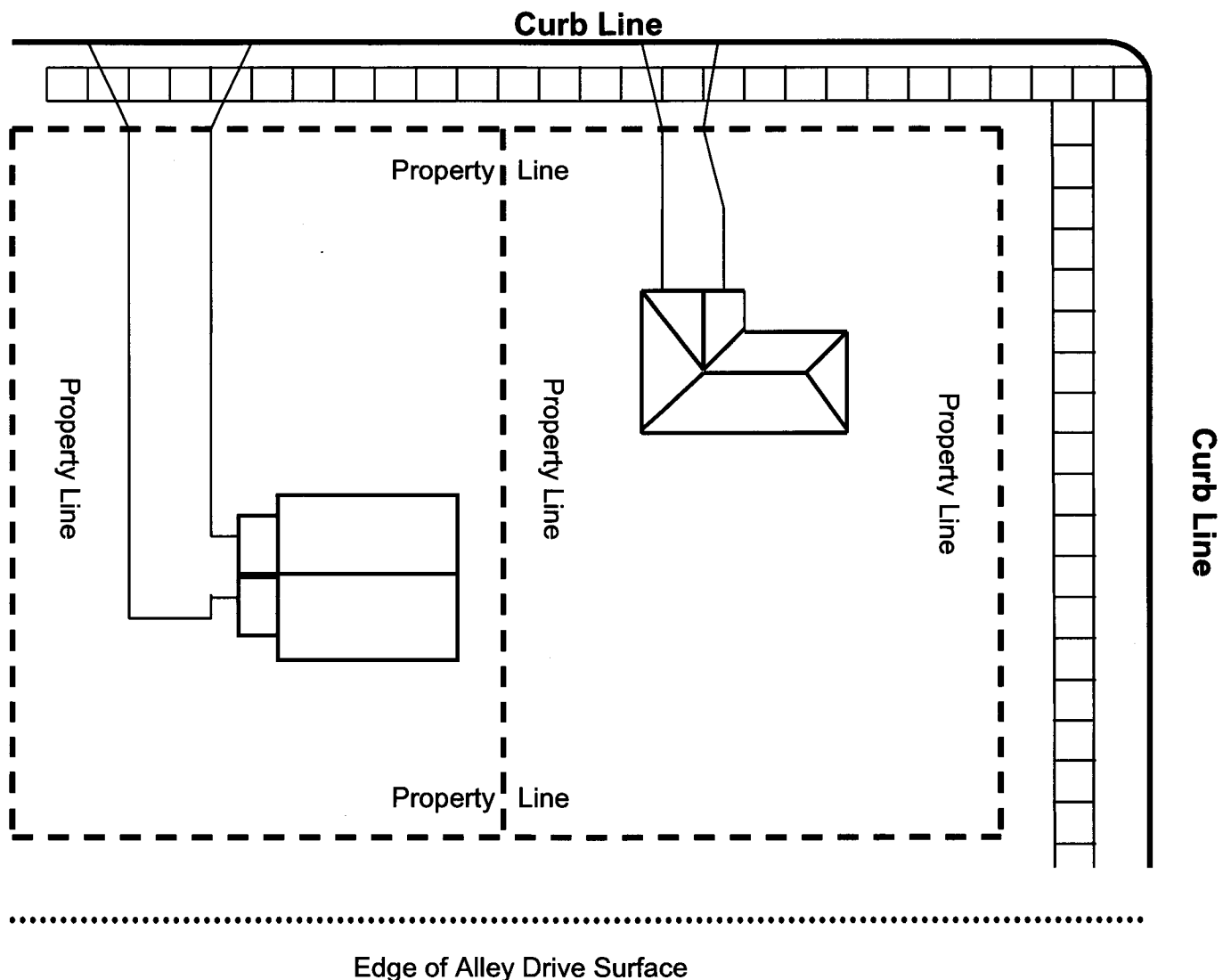
A rear property line is usually not the edge of the alley driving surface. An alley property line is typically located several feet from the alley driving surface.

If you do not know where your property lines are located, do not do any work until you have contacted the City of Brainerd to obtain information to help you locate the lines. If you cannot prove the certainty of a property line location, it may be necessary to have a boundary survey prepared by a registered land surveyor.

It is the **property owner's** responsibility to know where property lines are located. **When measuring all dimensions need to be from a property line.**

Sidewalk may or may not be built. If it is, it will be located on the public right-of-way not on your property.

Below is an illustration that depicts a typical lot with all lot lines identified and a lot line relationship to the a curb line and an alley.



RECEIVED

May 25, 2017

MAY 25 2017

CITY OF BRAINERD
ADMINISTRATION

Mayor Ed Menk and City Council Members;

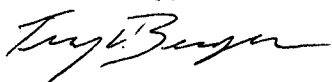
My name is Terry Berger and I live at 102 Ridge Drive in Brainerd Minnesota. I recently moved here from Colorado to enjoy my retirement years with my wife Kathy. We purchased a new home on the corner of Buffalo Hills Lane and Ridge Drive. This is our first new built home after 43 years of marriage. The overall experience was terrifying but yet exciting. Dealing with the contractor who was building our dream retirement home in the fall and winter to imagining the finished outside appearance. We pride ourselves on a well-manicured landscaped yard. After clearing a lot of the dead trees on the south and east side of the property we discovered we were pretty much on display in our corner lot, not to mention the road noise from passing vehicles. We decided to install a 6' high fence to eliminate the noise factor and help to establish some privacy from car lights, traffic and pedestrians.

My neglect to inquire about a permit in building this fence is an oversight on my part. Not ever owning a property like this, I did not realize what the procedures were. I do apologize for this.

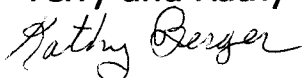
Please understand that I just want some privacy and do not intend to do any further building on my lot. By lowering the fence 2', I would not get the privacy or noise reduction that I was hoping for, car lights would still shine in our bedroom. I should add that I have received many compliments on the appearance of the fence from the neighborhood residence.

Thank you all for understanding and I hope you will let me keep my fence.

Sincerely,



Terry and Kathy Berger



NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

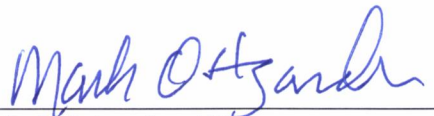
Notice is hereby given that Terry W. Berger, 102 Ridge Drive, Brainerd, MN 56401, has applied for a variance from Zoning Ordinance Section 515 -17 Fences to construct a 6' tall fence in a street side yard where a 4' tall fence is permitted. The property is located in an R-1 (Single Family Residential) District.

The Planning Commission of the City of Brainerd will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., June 21, 2017, to consider the request for the Variance.

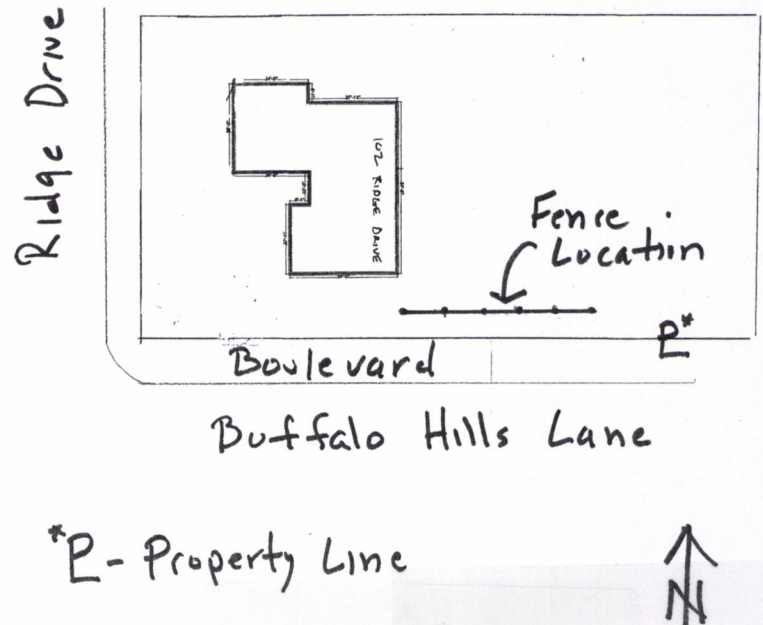
A copy of the application is on file for review at the City Planning Department, 501 Laurel Street.

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

Dated this 7th day of June, 2017


Mark Ostgarden AICP
City Planner

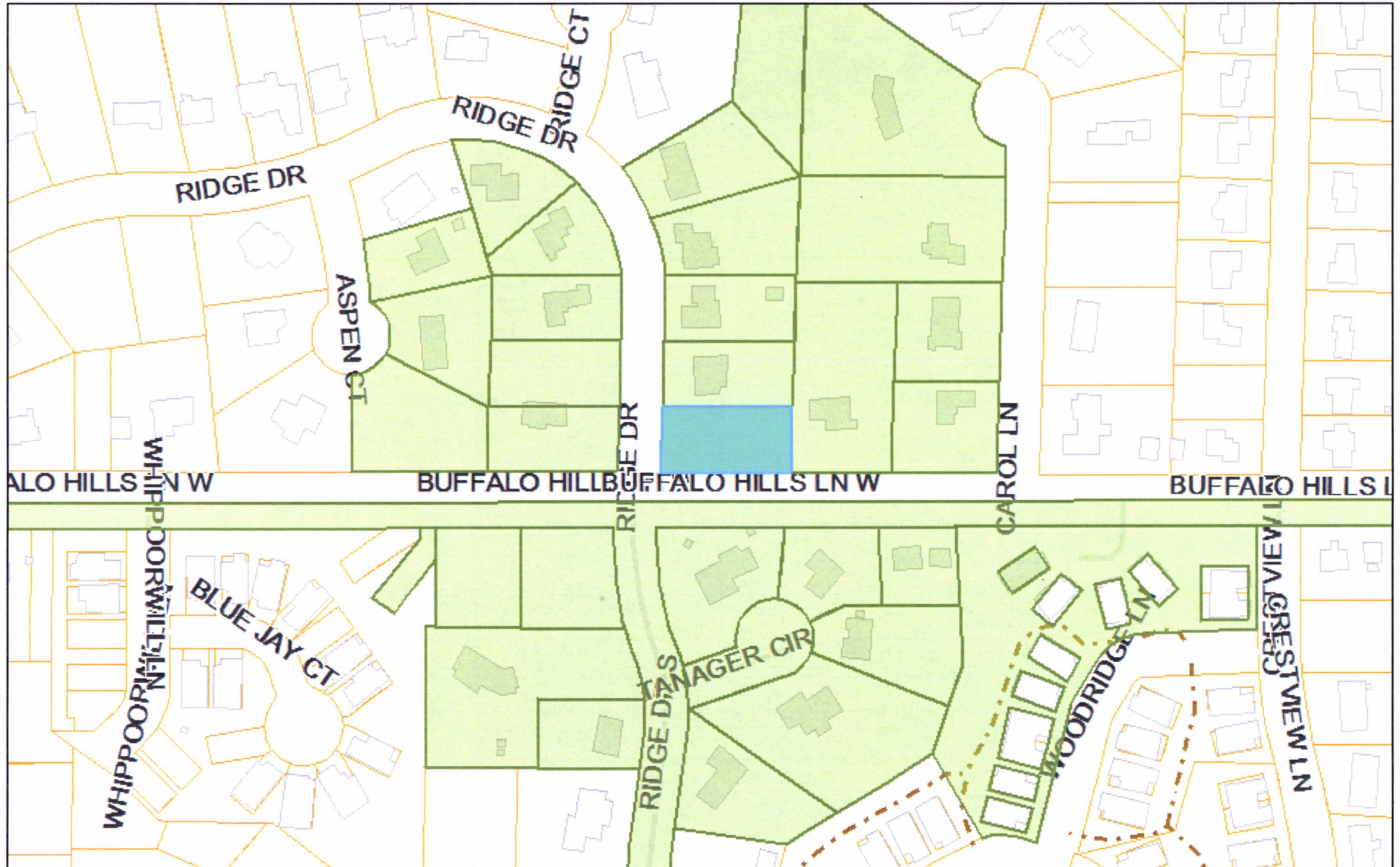
Publication date: June 9, 2017



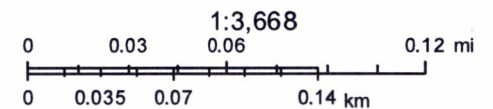
* Sent 6/8/17 

PIN	TXNAME	TXADR1	TXADR2	TXADR3	Physical Address
092030010120009	ABRAHAMSON, FAYE A	308 BUFFALO HILLS LN W	BRAINERD, MN 56401		308 BUFFALO HILLS LN
092100020080009	ANDERSON, DAVID R & ANNETTE M	323 ASPEN CT	BRAINERD MN 56401		323 ASPEN CT
092100010010009	BERGER, TERRY W & KATHLEEN P	102 RIDGE DR	BRAINERD, MN 56401		
092360010030009	BREZINKA, CAROLINE M & DAVID BIORN	301 TANAGER CIR	BRAINERD, MN 56401		301 TANAGER CRT
092030010100009	COOK, VINCE	123 CAROL LN	BRAINERD, MN 56401		123 CAROL LN
092680020010009	CRESCENT HILLS ESTATES OF BRD LLC	PO BOX 7	AVON, MN 56310		
092480020040009	CRUST, CAROL	2531 RIDGE DR S	BRAINERD, MN 56401		
092480020050009	CRUST, CAROL	2531 RIDGE DR S	BRAINERD, MN 56401		
092100010020009	DEHNING, KURT & KELLY	106 RIDGE DR	BRAINERD, MN 56401		106 RIDGE DR
092480020020009	DESHAW, ADAM L & JESSICA A ISEBRAND	2402 S RIDGE DR	BRAINERD, MN 56401		2402 RIDGE DR S
09236001002A009	DITON, ALEXIS	321 BUFFALO HILLS LN	BRAINERD, MN 56401		321 BUFFALO HILLS LN
092100010030009	EATON, BRYCE R & MARY JEAN	110 RIDGE DR	BRAINERD MN 56401		110 RIDGE DR
092100010040009	EMBRETSON, LORRAINE E	114 RIDGE DR	BRAINERD, MN 56401		114 RIDGE DR
092100020050009	ERICKSON, NICHOLAS E & TRINA M	123 RIDGE DR	BRAINERD, MN 56401		123 RIDGE DR
092360010010009	HAYES, RICHARD L & BETTY J	322 TANAGER CIR	BRAINERD, MN 5640133		322 TANAGER CRT
092100020070009	HIGHUM, THOMAS M & DOROTHY M	313 ASPEN CT	BRAINERD MN 56401		313 ASPEN CT
092360010020009	HUBERT, SCOTT	302 TANAGER CIRCLE	BRAINERD, MN 56401		302 TANAGER CIR
092100020040009	KIMBALL, JOHN L & JANE L	27653 W TWIN LAKE DR	PEQUOT LAKES MN 56472		115 RIDGE DR
092100020090009	LAKES AREA HABITAT FOR HUMANITY INC	P O BOX 234	1110 WRIGHT STREET	BRAINERD, MN 56401	
092100020010009	LANCELLO, JOHN P & JENNIFER R	402 BUFFALO HILLS LANE	BRAINERD, MN 56401		402 BUFFALO HILLS LN
092100020020009	LANCELLO, JOHN P & JENNIFER R	402 BUFFALO HILLS LANE	BRAINERD, MN 56401		
092360010040009	LANGE, GREGORY J & MARY	323 TANAGER CIR	BRAINERD MN 56401		323 TANAGER CIR
092030010080009	MAXA, VERNON & MARILYN J	143 CAROL LN	BRAINERD MN 56401		143 CAROL LN
0921000090C0009	MAXA, VERNON & MARILYN J	143 CAROL LN	BRAINERD MN 56401		
092100020030009	MIKKELSON, STEVEN & LYNN	111 RIDGE DR	BRAINERD, MN 56401		111 RIDGE DR
092420020060009	PATRICK, JANE	219 BUFFALO HILLS LN W	BRAINERD, MN 56401		219 BUFFALO HILLS LN W
092030010090009	PELICAN PLACE LLC	5906 PINE BEACH RD	BRAINERD, MN 56401		133 CAROL LN
092100010050009	PLOOF, CHAD L & KIMBERLY J	118 RIDGE RD	BRAINERD, MN 56401		118 RIDGE DR
092420020130009	SOUTHVIEW COURT, PATIO HOME ASSN	1511 NORTHERN PACIFIC RD #101	BRAINERD, MN 56401		
092500010010009	THESING, PETER W & LAVONNE	2308 RIDGE DR S	BRAINERD MN 56401		2308 RIDGE DR S
092030010110009	THOMPSON, BRUCE C & CYNTHIA	113 CAROL LN	BRAINERD MN 56401		113 CAROL LN

Variance 102 Ridge Dr



June 5, 2017



Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community

MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner

DATE: June 12, 2017

RE: Zoning Ordinance Floodplain Regulations Update

BACKGROUND

A June 21, 2017 public hearing has been scheduled to consider testimony on revising Sections

- 76 - Floodplain District
- 77 - FW, Floodway District
- 78 - FF, Flood Fringe District

and replacing them with a new Section 76 entitled Floodplain Districts.

Our current Zoning Ordinance Sections 76, 77, and 78 do not have standards needed to meet National Flood Insurance Program (NFIP) requirements. The Minnesota Department of Natural Resources (DNR) has provided a sample Ordinance (copy attached) that if followed, will include standards necessary to meet NFIP requirements.

Following is background about why the updates are required.

The City of Brainerd has been part of the NFIP since 1981. Being part of the program carries 2 major administration responsibilities:

1. The Department of Homeland Security's Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) that identifies Special Flood hazard Areas (SFHA).
2. Adoption and Administration of floodplain management regulations that meet the standards of the NFIP.

The City of Brainerd has been administering these responsibilities since we started our participation in the program. FIRMs have been administered by city staff and the Zoning Ordinance has included floodplain use regulations.

In June 2011, FEMA issued a new City of Brainerd Flood Insurance Study (FIS) that identifies existing flood hazard areas. City of Brainerd Base Flood Elevations (BFE) for the flood hazard areas were published in the Federal Register on September 15, 2015

and a 90 day appeal period for those elevations was initiated. That 90 day period passed without any appeals meaning the BFEs are now final and the FIRM maps that have that data will become effective August 15, 2017.

Since the FIS and BFEs have been completed, we are responsible as a condition of continued participation in the NFIP, to adopt or show evidence of adopting floodplain regulations that meet NFIP regulations by August 15, 2017, the effective date of the FIRMs.

ORDINANCE DEFICIENCIES

Following are deficiencies in our current Floodplain Sections:

- Amendments to Zoning Ordinance Section 2 - Definitions are needed.
- There are a number of required items related to regulating A-zones that aren't in the current ordinance. Sections 2.1, 3, and 7 of the sample ordinance identify those items. We do not identify how the floodway/flood fringe boundaries will be established? Our current Ordinance does not have a procedure for designating the regulatory floodway?
- It is unclear what types of structures are allowed to be built in floodplain. Current Sections 77 and 78 appear to be in conflict with the subdivision section of Section 76. For new structures and expansions that are allowed, we do not specify fill requirements?
- Variances in floodplain areas need to meet the exceptional hardship criteria (not the practical difficulty test used for other area/dimension type variances). See section 11.3 of the model ordinance for this language
- There are a number of provisions related to nonconformities that are not included in our current ordinances. Most notably, there aren't provisions related to substantial improvement/damage. See section 12 of the model ordinance for required language.
- Procedures are needed for watercourse alterations and considerations related to maintaining capacity.
- We currently make no provisions for RVs.

NFIP PARTICIPATION

Due to current development patterns, topography, and access limitations, there is little likelihood of any residential, commercial, or industrial building in the floodplain. The Planning Department has inquired of the DNR about the number of structures in the floodplain. Its records show only 2 in the City of Brainerd. There are currently 2 flood insurance policies in or near the City of Brainerd. One is in the A zone where flood insurance is mandatory when you have a federally backed loan (though one is outside the city). The other is in a lower risk area and is choosing to carry something called a discounted Preferred Risk Policy.

A question that may be asked is that based on the unlikelihood of development, very few structures in the flood plain and only 1 property having flood insurance (done at the request of the owner and the property not even being in a flood hazed area) whether it is necessary that Brainerd be part of the NFIP.

IMPACTS OF NOT PARTICIPATING IN THE NFIP

If the City of Brainerd was to withdraw from the NFIP, a few of the impacts would be:

- Those who would like to get flood insurance would not be able to purchase it through the NFIP. While only 2 currently have policies, everyone has the option to purchase a policy. Those with a federally backed loan on a structure that is in the FEMA mapped floodplain are required to have flood insurance.
- In recent years the Small Business Association (SBA) has started to only give loans in NFIP communities. Several communities have joined the NFIP so a small business in town could be eligible for the loans, including in cities that had no mapped high flood risk areas.
- If there is a disaster, some of the types of assistance are not available in non-participating communities.
- Non-participating communities currently get Public Assistance (for debris removal, damaged roads, bridges, public buildings, etc.) if there is a presidential disaster declaration. There is growing concern at the national level with increasing post disaster costs for taxpayers, and as a result there is growing interest in tying eligibility for that public assistance to participation.
- Many of those impacted by flooding nationally and in Minnesota have been outside of the mapped FEMA floodplain. There have been storms all over the state that have had bigger floods than those shown on the Flood Insurance Rate Maps due to rainfalls in the 12-14 inch range. And there are many areas that have flooding damage due to overwhelmed storm water systems in areas that are not included on the maps.

RECOMMENDATION

Although floodplain development is unlikely, there are very few structures in the floodplain and only 2 properties have flood insurance, for the reasons listed above, updating our Zoning Ordinance floodplain regulations to meet state standards should be done.



Minnesota Sample Floodplain Ordinance Three District Ordinance

This sample ordinance includes the three primary types of floodplain districts: Floodway, Flood Fringe, and General Floodplain. It can be used in a variety of situations, where all three districts or only some of them are present.

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SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

- 1.1 **Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Brainerd, Minnesota, does ordain as follows.
- 1.2 **Purpose:**
- 1.21 This ordinance regulates development in the flood hazard areas of Brainerd. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
 - 1.22 National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 - 78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
 - 1.23 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

SECTION 2.0 GENERAL PROVISIONS

- 2.1 **Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of Brainerd within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map, or as modified in accordance with 2.12 below.
- 2.11 The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.
 - 2.12 Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.
 - 2.13 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the **(Planning Commission/Board of Adjustment)** and to submit technical evidence.
- 2.2 **Incorporation of Maps by Reference:** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Crow Wing County, Minnesota, and Incorporated Areas, dated August 15, 2017 and the Flood Insurance Rate Map panels enumerated below, dated August 15, 2017, all prepared by the Federal Emergency Management Agency. These materials are on file in the **(list location where maps will be filed – i.e., City Clerk's office)**.
- | | |
|-------------|-------------|
| 27035C0414C | 27035C0528C |
| 27035C0418C | 27035C0529C |
| 27035C0419C | 27035C0531C |
| 27035C0425C | 27035C0550C |
| 27035C0526C | |
- 2.3 **Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater

restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

- 2.4 **Warning and Disclaimer of Liability:** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of Brainerd or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 2.5 **Severability:** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.
- 2.6 **Definitions:** Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.
- 2.611 Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- 2.612 Base Flood – the flood having a one percent chance of being equaled or exceeded in any given year.
- 2.613 Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.
- 2.614 Basement – any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- 2.615 Conditional Use – a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
- (a) Certain conditions as detailed in the zoning ordinance exist.
 - (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- 2.616 Critical Facilities – facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.
- 2.617 Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 2.618 Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- 2.619 Farm Fence – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.
- 2.620 Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- 2.621 Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

- 2.622 Flood Fringe – the portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Crow Wing County, Minnesota.
- 2.623 Flood Insurance Rate Map – An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- 2.624 Flood Prone Area – any land susceptible to being inundated by water from any source.
- 2.625 Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- 2.626 Floodproofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.627 Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- 2.628 Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.
- 2.629 Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”
- 2.630 New Construction - Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.
- 2.631 Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- 2.632 One Hundred Year Floodplain – lands inundated by the “Regional Flood” (see definition).
- 2.633 Principal Use or Structure – all uses or structures that are not accessory uses or structures.
- 2.634 Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 2.635 Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
- 2.636 Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in a flood insurance study.
- 2.637 Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

- 2.638 Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
- 2.639 Special Flood Hazard Area – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”
- 2.640 Start of Construction – includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 2.641 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 10.22 of this ordinance and other similar items.
- 2.642 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 2.643 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
 - (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.
- 2.7 **Annexations:** The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above may include floodplain areas that lie outside of the corporate boundaries of Brainerd at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into Brainerd after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.
- ~~2.8 **Detachments.** The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this ordinance. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of Brainerd after the date of adoption of this ordinance, the newly detached floodplain lands will be subject to the provisions of this ordinance immediately upon the date of detachment.~~

SECTION 3.0 ESTABLISHMENT OF FLOODPLAIN DISTRICTS

3.1 Districts:

- 3.11 Floodway District. The Floodway District includes those riverine areas within Zones AE (that have a floodway delineated) as shown on the Flood Insurance Rate Map adopted in Section 2.3. For lakes, wetlands and other basins within Zones A or AE that do not have a floodway delineated, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- 3.12 Flood Fringe District. The Flood Fringe District includes those riverine areas within Zones AE (that have a floodway delineated) as shown on the Flood Insurance Rate Map adopted in Section 2.3, but located outside of the floodway. For lakes, wetlands and other basins within Zones A or AE that do not have a floodway delineated, the Flood Fringe District also includes those areas below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- 3.13 General Floodplain District. The General Floodplain District includes those riverine areas within Zone A as shown on the Flood Insurance Rate Map adopted in Section 2.2.

- 3.2 **Applicability:** Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 5 or 6 will apply, depending on the location of a property. Locations where Floodway and Flood Fringe districts are not delineated within riverine areas on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 5 apply unless the floodway boundary is determined, according to the process outlined in Section 7.2.

SECTION 4.0 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

- 4.1 Permit Required. A permit must be obtained from the Zoning Administrator to verify a development meets the standards outlined in this ordinance prior to conducting the following activities:
 - 4.11 The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.
 - 4.12 The use or change of use of a building, structure, or land.
 - 4.13 The construction of a dam, on-site septic system, or fence, although a permit is not required for a farm fence as defined in this ordinance.
 - 4.14 The change or extension of a nonconforming use.
 - 4.15 The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - 4.16 The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - 4.17 Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
 - 4.18 Any other type of "development" as defined in this ordinance.
- 4.2 Building Sites. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:
 - 4.21 Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 4.22 Constructed with materials and utility equipment resistant to flood damage;
 - 4.23 Constructed by methods and practices that minimize flood damage; and

- 4.24 Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 4.3 Flood Capacity. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.
- 4.4 The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- 4.5 Critical Facilities, as defined in Section 2.616, are prohibited in all floodplain districts.

SECTION 5.0 FLOODWAY DISTRICT (FW)

- 5.1 **Permitted Uses:** The following uses, subject to the standards set forth in Section 5.2, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
 - 5.11 General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
 - 5.12 Industrial-commercial loading areas, parking areas, and airport landing strips.
 - 5.13 Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
 - 5.14 Residential yards, lawns, gardens, parking areas, and play areas.
 - 5.15 Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.
- 5.2 **Standards for Floodway Permitted Uses:**
 - 5.21 The use must have a low flood damage potential.
 - 5.22 The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.
 - 5.23 Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
- 5.3 **Conditional Uses:** The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 11.4 of this ordinance and further subject to the standards set forth in Section 5.4, if otherwise allowed in the underlying zoning district or any applicable overlay district.
 - 5.31 Structures accessory to the uses listed in 5.11 – 5.13 above and the uses listed in 5.32 - 5.33 below.
 - 5.32 Extraction, fill and storage of soil, sand, gravel, and other materials.
 - 5.33 Marinas, boat rentals, permanent docks, piers, wharves, and water control structures.
 - 5.34 Storage yards for equipment, machinery, or materials.
 - 5.35 Construction of fences that obstruct flood flows. Farm fences, as defined in section 2.619, are permitted uses.
 - 5.36 Travel-ready recreational vehicles meeting the exception standards in Section 10.22.

- 5.37 Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

5.4 Standards for Floodway Conditional Uses:

- 5.41 All Uses. A conditional use must not cause any increase in the regional flood elevations or cause an increase in flood damages in the reach or reaches affected.
- 5.42 Fill; Storage of Materials and Equipment:
- (a) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - (b) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the **(Governing Body)** has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
- 5.43 Accessory Structures. Accessory structures, as identified in Section 5.31, may be permitted, provided that:
- (a) Structures are not intended for human habitation;
 - (b) Structures will have a low flood damage potential;
 - (c) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
 - (d) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;
 - (e) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.
 - (f) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
 - (1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- 5.44 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
- 5.45 A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- 5.46 Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

SECTION 6.0 FLOOD FRINGE DISTRICT (FF)

- 6.1 **Permitted Uses:** Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 6.2. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.
- 6.2 **Standards for Flood Fringe Permitted Uses:**
- 6.211 All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
- 6.212 Accessory Structures. As an alternative to the fill requirements of section 6.211, structures accessory to the uses identified in Section 6.1 may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:
- (a) The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.
 - (b) All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls, (ii) be constructed with materials resistant to flood damage, and (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation
 - (c) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
 - (1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- 6.213 The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 6.211 of this ordinance, or if allowed as a conditional use under Section 6.33 below.
- 6.214 The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
- 6.215 All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
- 6.216 All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- 6.217 All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the **(Governing Body)**.
- 6.218 Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

6.219 Manufactured homes and recreational vehicles must meet the standards of Section 10 of this ordinance.

6.3 **Conditional Uses:** The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 11.4 of this ordinance.

6.31 Storage of any material or equipment below the regulatory flood protection elevation.

6.32 The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 6.211 of this ordinance.

6.33 **(OPTIONAL)** The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in Section 6.46.

6.4 **Standards for Flood Fringe Conditional Uses:**

6.41 The standards listed in Sections 6.214 through 6.219 apply to all conditional uses.

6.42 Residential basements, as defined by Section 2.614 of this ordinance, are not allowed below the regulatory flood protection elevation.

6.43 All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, meeting the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

6.44 The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

(a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

(b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the **(Governing Body)**.

(c) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

6.45 Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

6.46 **(OPTIONAL)** Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(a) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding. Structure shall be subject to a nonconversion agreement with upon the issuance of any permit.

(b) Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

- (1) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and
- (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

SECTION 7.0 GENERAL FLOODPLAIN DISTRICT (GF)

7.1 Permitted Uses:

- 7.11 The uses listed in Section 5.1 of this ordinance, Floodway District Permitted Uses, are permitted uses.
- 7.12 All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 7.2 below. Section 5.0 applies if the proposed use is determined to be in the Floodway District. Section 6.0 applies if the proposed use is determined to be in the Flood Fringe District.

7.2 Procedures for Determining Floodway and Flood Fringe Boundaries and Regional Flood Elevations:

- 7.21 Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
- 7.22 If regional flood elevation and floodway data are not readily available, or the application involves a project exceeding the lesser of five acres or 50 lots, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in 7.23 below.
- 7.23 The determination of floodway and flood fringe must include the following components, as applicable:
 - (a) Estimate the peak discharge of the regional (1% chance) flood.
 - (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - (c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
- 7.24 The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

- 7.25 Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 5.0 and 6.0 of this ordinance.

SECTION 8.0 SUBDIVISION STANDARDS

- 8.1 **Subdivisions:** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
- 8.11 All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
- 8.12 All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the **(Governing Body)**. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
- 8.13 For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
- 8.14 In the General Floodplain District, applicants must provide the information required in Section 7.2 of this ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
- 8.15 Subdivision proposals must be reviewed to assure that:
- (a) All such proposals are consistent with the need to minimize flood damage within the flood prone area,
 - (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
 - (c) Adequate drainage is provided to reduce exposure of flood hazard.

SECTION 9.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

- 9.1 **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- 9.2 **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 4.0 and 5.0 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- 9.3 **On-site Water Supply and Sewage Treatment Systems:** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

SECTION 10.0 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

10.1 Manufactured Homes: New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

10.11 Placement or replacement of manufactured home units is prohibited in the Floodway District.

10.12 Placement or replacement of manufactured home units in the Flood Fringe District is subject to the requirements of Section 6 of this ordinance and the following standards.

(a) New and replacement manufactured homes must be elevated in compliance with Section 5 of this ordinance and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(b) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 8.12 of this ordinance.

10.2 Recreational Vehicles: New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the requirements below.

10.21 Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the following areas and meet the criteria listed in Section 10.22:

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium-type associations.

10.22 Criteria for Exempt Recreational Vehicles:

(a) The vehicle must have a current license required for highway use.

(b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

(c) No permanent structural type additions may be attached to the vehicle.

(d) Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 4.2 and 6.212.

SECTION 11.0 ADMINISTRATION

11.1 Duties: A Zoning Administrator or other official designated by the **(Governing Body)** must administer and enforce this ordinance.

11.2 Permit Application Requirements:

11.21 Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

(a) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

(b) Location of fill or storage of materials in relation to the stream channel.

(c) Copies of any required municipal, county, state or federal permits or approvals.

- (d) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
- 11.22 Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect. Accessory structures designed in accordance with Section 6.212 of this ordinance are exempt from certification, provided sufficient documentation is provided.
- 11.23 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.
- 11.24 Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- 11.25 Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- 11.26 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

11.3 Variances:

- 11.31 Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable State Statutes and Section(s) _____ of the zoning ordinance/code.
- 11.32 Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- 11.33 Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- (a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (b) Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 11.34 Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such

construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

- 11.35 General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
- (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
 - (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - (e) The importance of the services to be provided by the proposed use to the community;
 - (f) The requirements of the facility for a waterfront location;
 - (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - (i) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
 - (j) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- 11.36 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The **(designated body/community official)** must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- 11.37 Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- 11.38 Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

11.4 Conditional Uses:

- 11.41 Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section(s) _____ of the zoning ordinance/code.
- 11.42 Factors Used in Decision-Making. In passing upon conditional use applications, the **(Governing Body)** must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 10.35 of this ordinance.
- 11.43 Conditions Attached to Conditional Use Permits. The **(Governing Body)** may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

- (a) Modification of waste treatment and water supply facilities.
- (b) Limitations on period of use, occupancy, and operation.
- (c) Imposition of operational controls, sureties, and deed restrictions.
- (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (e) Floodproofing measures, in accordance with the State Building Code and this ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

11.44 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The **(designated body/community official)** must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

11.45 Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

SECTION 12.0 NONCONFORMITIES

12.1 **Continuance of Nonconformities:** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.643(b) of this ordinance, are subject to the provisions of Sections 12.11 – 12.16 of this ordinance.

12.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 12.12 below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

12.12 Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 12.14 below.

12.13 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.

12.14 If any structure experiences a substantial improvement as defined in this ordinance, then the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50 percent of the market value of any nonconforming structure, the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance.

12.15 If any nonconformity is substantially damaged, as defined in this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

12.16 If any nonconforming use or structure experiences a repetitive loss, as defined in Section 2.638 of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.

SECTION 13.0 VIOLATIONS AND PENALTIES

- 13.1 **Violation Constitutes a Misdemeanor:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.
- 13.2 **Other Lawful Action:** Nothing in this ordinance restricts the City of Brainerd from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.
- 13.3 **Enforcement:** Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Section(s) _____ of the zoning ordinance/code. In responding to a suspected ordinance violation, the Zoning Administrator and **(Governing Body)** may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of Brainerd must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

SECTION 14.0 AMENDMENTS

- 14.1 **Floodplain Designation – Restrictions on Removal:** The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
- 14.2 **Amendments Require DNR Approval:** All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.
- 14.3 **Map Revisions Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 2.2 of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

Adopted by the Brainerd City Council

This _____ of _____, _____
(Day) (Month) (Year)

Attest: _____, Mayor
(Name of Elected Official)

Attest: _____, City Clerk
(Name of Community Official)

Stamp with Community Seal:

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Page 1 of 1

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June 9, 2017, 1t.)

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that a public
hearing to consider replacing Zoning
Ordinance Sections:

76 - Floodplain District

77 - FW, Floodway District

78 - FF, Flood Fringe District

with a new Section 76 entitled FP -

Floodplain Districts, that will have

floodplain regulations based on the

new Minnesota Department of Natu-

ral Restoration Sample Floodplain

Ordinance language. A copy of the

Sample Ordinance is available for

review on the City of Brainerd web-

site at <http://www.ci.brainerd.mn.us/DocumentCenter/View/4519> or a copy is on file for

review at the City Planning Depart-

ment, 501 Laurel Street.

The Planning Commission of the

City of Brainerd will meet in the Brai-

nerd City Hall Council Chambers,

501 Laurel Street, at 6:00 p.m.,

June 21, 2017, to consider the re-

quest for the Variance.

A copy of the application is on file

for review at the City Planning De-

partment, 501 Laurel Street.

Any individual needing special ac-

commodations please call

(218) 828-2309.

Dated this 7th day of June, 2017

Mark Ostgarden AICP

City Planner