

BRAINERD PLANNING COMMISSION

Wednesday, July 19, 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 June 21, 2017

Documents:

[MINUTES 062117.PDF](#)

4. New Business
 - 4.a. Public Hearing - Variance Request - 8299 Wise Rd, Brainerd

Documents:

[VARIANCE REQUEST STAFF REPORT.PDF](#)
 - 4.b. Review Draft Zoning Ordinance Chapter 35 - Antennas And Towers

Documents:

[ZONING ORD. SECT 35 ANTENNAS TOWERS.PDF](#)
 - 4.c. Discuss Comprehensive Plan Process And Schedule
 - 4.d. Article - Urban Design

Documents:

[URBAN DESIGN ARTICLE.PDF](#)
- 4.e. Article - Bozeman MT

Documents:

[BOZEMAN.PDF](#)

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, June 21, 2017

#1 Call to Order

Planning Commission Chair Headley called the meeting of the Brainerd Planning Commission to order at 6:00 p.m. in the City Hall Council Chambers.

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

#2 Approval of Agenda

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

#3 Approval of minutes of the Regular Meeting and Workshop held on May 17, 2017

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND GORHAM, DULY CARRIED, TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON MAY 17, 2017.

#4 New Business

A. Public Hearing - Conditional Use Permit Application – Exodus Boys Academy / Boarding School at 2115 S. 6th Street, Brainerd (old Holiday Inn building)

City Planner Ostgarden started with a Power Point Presentation. The following information will be discussed.

1. The Site and the Area.
2. Building Interior Changes.
3. Building Exterior Changes and Site Changes.
4. Loss of Non-Conforming Use of Land rights.
5. Conditional Use Permit criteria – this is the criteria reviewed by the Planning Commission to make a recommendation.
6. Staff Review Comments.
7. List of Options for the Planning Commission.

City Planner Ostgarden provided an area review using an aerial of S. 6th Street. He pointed out that to the west is the Essentia Health Clinic. The site goes to the Buffalo Hills Trail to the east. East of the trail is a grocery store and to the south is a methadone clinic. To the north on Madison Street, there is an apartment building which because of the relationship of the building to the site is of consequence to the owner.

A sketch of the property was shown depicting the site is a lot of asphalt which was the parking lot for the hotel and restaurant.

The petitioner has offered some facts about the school for the permit application as follows:

1. The Exodus Boys Academy will open in the Fall of 2018.
2. They will initially start with up to 60 students in grades 6th through 8th.

3. Each year an additional grade and another 20+ students will be added until the school has up to 200 students in grades 6th through 12th.
4. The school will be accredited through the ACSI (Association of Christian Schools International)
5. There will be 24/7 overnight stays by Resident Director and Staff to insure safety and security, as the school will be operational 365 days a year.

Initially, Mr. Headley Williamson, the Academy's Board Chairman was thinking about project phasing but has decided to do all the work at once. He has retained WSN for architectural services and they have done a complete building assessment. Because the site is already built up, it is served by all needed public utilities which will be more than sufficient to handle the activities that will take place at the school. The restaurant is being planned to be operational. An issue that may be of concern is security of the site.

A floor plan of the existing building was presented and the various interior areas were identified.

City Planner Ostgarden explained some details about the interior modifications. It needs to be clear as far as the Conditional Use Permit goes, there are a few things we should know about the interior work that needs to be included to issue the permit. However, a lot of the work that needs to be done is not germane to the Conditional Use Permit. It will be important in the redesign of the facility for building code regulations, but we do not need to get into depth on those areas in order to issue the Conditional Use Permit. Some of the interior modifications are follows:

1. The pool will be changed into a gymnasium.
2. The upstairs west wing will be modified into classrooms. A total of 10 classrooms will be created.
3. Restaurant operation will be contracted out or sold to a restaurateur. The idea is to keep the restaurant open to the public with the ability to cater food for the school as well.
4. Relocating of the restaurant restrooms to ensure that there is no public access to the school through the restaurant.
5. There is currently a conference area that will be converted into a cafeteria and Commons/Multi use area.
6. Fire Sprinkler system will be added throughout.
7. Refresh and replace interior finishes.
8. An elevator will be added.

A tentative plan was shown with the proposed layout along with diagrams of what typical classrooms would look like.

Some of the exterior and site modifications are as follows:

1. Total roof replacement.
2. Removing the exterior doors from the ground level bedrooms and replacing them with walls and windows.
3. The plan for security details is still being worked on, but there will be flood lights and motion detectors installed.
4. A photometric plan was prepared and light trespass is in compliance with the requirements.
5. The tennis court will be removed and a play area will be created.
6. The parking area will be restriped to meet the current standards and 176 spaces will be retained.
7. A new fire hydrant is planned at the SE lot corner.
8. The road access on Madison Street will be closed.

The property has been vacant since 2013 and it has the non-conforming status. According to state statute non-conformities that have been discontinued for more than one year must be brought into compliance with current Zoning Ordinance requirements before being used again. There are several Zoning Ordinance requirements that will need to be addressed because of losing the non-conforming rights.

City Planner Ostgarden explained the Zoning Ordinance Conditional Use Permit review criteria that will need to be addressed as follows:

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

a. Building Design Standards

- Exterior surfaces shall be a combination of brick, dimensioned stone, rock face block, decorative concrete panels, stone, stucco, wood, glass, or EFIS. Metal panels, shall not exceed twenty-five (25) percent.*
- The exterior is primarily stucco.*

b. Screening Rooftop Equipment

- Screening is required when any existing or planned rooftop equipment is visible within 100' of the street side view.*
- The petitioner states this will be addressed.*

c. Green Space

- 15% of the site area shall be greenspace and 50% of that area shall be located across the street with the most traffic and most visibility.*
- Site is 8 acres +/- meaning 1.2 acres of greenspace and .6 acres along S. 6th Street*
- Revised site plan will provide at least 1.4 acres +/- along S. 6th Street.*

d. Non Residential Use Impervious coverage

- Cannot exceed 50% of site area without drainage and grading plan approved by the City Engineer.*
- Revised site will reduce impervious coverage to about 39% of the site.*

e. Non Residential Use General Landscaping

- 1 tree is required for each 3,000 sq. ft. of unpaved open area.*
- 18 trees are required on the site.*

f. Screening Between Different Land Uses

- There is an area on the north side of the site that abuts directly onto a residential use.*

g. Parking Lot Screening

- Parking lots with 10 or more spaces in a front or side street yard shall have a 50% - 3' to 4' tall screen.*
- Parking spaces along S. 6th Street frontage road will require screening.*

h. Equipment Screening

- Ground located mechanical equipment, transformers, a/c units require and 80% opaque screen.*
- The petitioner states that equipment either has or will have required screening.*

i. Shoreland Zone

- The site is not within the area and not subject to those requirements.*

Items b, c, d, e, g and h each need to be addressed as the site and building were nonconformities and because the site had been discontinued for more than 1 year, these items need to be brought into conformity with current standards.

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 site is already developed and is being repurposed.*
 - *The tennis court at the northwest corner of the property will be removed and used for a play area.*
 - *A landscaping plan has not been included because the existing landscape features are to be preserved and maintained with little modification.*
4. *The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood*
 - *No change in the size of the building.*
 - *Exterior doors from the ground level bedrooms, which will be removed and replaced with a wall and windows.*
 - *Parking area removed and replaced with green space. Site will require additional tree planting.*
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.*
 - *Site has 1 access drive on S. 6th Street and 2 drives that provide access to the S. 6th Street frontage road.*
 - *With traffic channeled to S. 6th Street and Industrial Park Road, the neighborhood should not be impacted by traffic movements.*
 - *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.*
 - *Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
 - *Protect neighborhoods.*
 - *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*

With regard to the Comprehensive Plan the City Planner inquired whether the use is consistent with Comprehensive Plan, Use Goal #5:

To support development that enhances community character and identity as well as encouraging the reuse of vacant sites.

A proposed layout map was shown indicating the new green space, reduced amount of asphalt and the Madison Street access closed.

City Planner Ostgarden went through the Staff Review comments from the Utilities, Fire, Building and Engineering Departments. The Planning Department indicated that because the site is already developed many review issues do not apply, that affected city departments have no concerns about the

proposed use, and that outside agencies that receive a hearing notice had no comments. The Planning Commission options are to recommend denial, approval, approval with conditions or postpone a recommendation if more information needed.

City Planner Ostgarden urged that the Planning Commission stay focused on what it can address regarding the Conditional Use Permit and what it needs to follow in the Zoning Ordinance. Personal and emotional issues should not be brought into the decision of the Conditional Use Permit application.

The Chair opened the public hearing at 6:31 P.M.

Betty Loonsey, 1987 S. 7th St. Apt 309 Brainerd, addressed the commission as a resident of south Brainerd. She lives in the closest residential area near the proposed site. She expressed concerns about the open door policy and the school curfew and security issues. She questioned the location of where the students will be coming from to attend the school. City Planner Ostgarden indicated this has no bearing on the Conditional Use Permit approval. Mr. Williamson will have the opportunity to speak and it will be up to him to determine whether he desires to respond to the questions.

Mr. Kevin Donnay, the architect representing Widseth Smith Nolting along with Mr. Headley Williamson approached the podium to speak about the project. Mr. Williamson introduced the other 4 members of the Exodus Academy that were in attendance. He highlighted the purpose of the school is to provide a christian based curriculum for fatherless boys in order to raise good men and fathers for the future. A STEM program is included in the curriculum along with the basic educational schedule. There will be 24 hour staff to ensure safety for the students and the community. Mr. Donnay introduced Doug Archer from WSN as he did a lot of the work for the submittal of the plan. It was a very challenging project for WSN as designers and planners to work on to get the information to the board without too much detail on the design. The permit is very important to be able to proceed to the next step. Mr. Donnay indicated the structure is a well constructed building built about 40 years ago. It consists of concrete masonry walls between the units with cast in place concrete floors. The green space being constructed will be a very pleasant sight to the property and for the community to enjoy.

Mr. Williamson addressed the question presented by Commissioner Marohn about the restaurant on site. The restaurant will be open to the public and not to the students. It will possibly be sold or rented out to a restaurateur. It is the hope that the food for students will be prepared in the restaurant and catered to them under a contract to the school.

The Chair closed the public hearing at 6:52 P.M.

Commissioner Lambert read the Findings of Fact as follows:

1. The site is approximately 8 acres and has not been in use since October 2013.
2. The property is located in a General Business (B-4 District).
3. The site will be used as a boarding school for 6th grade through 12th grade with students living on site year around. Boarding schools are a Conditional Use in the B-4 District.
4. The site abuts nonresidential uses, except for the NE corner of the site which abuts a high density residential area.
5. The site is across the street from a medical clinic.
6. The site is served by frontage road that accesses B371 (S. 6th Street) a major arterial in the city.
7. The site has been discontinued for more than 1 year and the Zoning Ordinance 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.

8. The school will be accredited through the Association of Christian Schools International (ACSI).
9. Interior remodeling is required to accommodate the use.
10. The site has a restaurant that will continue to operate. Security measures are being taken to separate the school and the restaurant.
11. A revised site plan removes a tennis court and parking to create additional green space/play area.
12. Site will retain 179 parking spaces. The B-4 District has no specific minimum parking requirements.
13. Building exterior work will include removing 1st level doors and replacing them with walls and windows.
14. Some additional information to verify screening requirements, required trees, and greenspace distribution is needed.
15. A revised site plans identifies that Madison Street access will be closed.
16. Staff and a resident Director will provide 24 hour oversight for the facility.
17. One person from the public had questions about the use.
18. The petitioner and potential owner spoke.

Commissioner Burslie indicated the Findings of Fact and Zoning Ordinance criteria should be included in the Staff Report. Burlisle suggested we strike the question shown in ordinance 515-20-3 "Does this requirement apply to that situation?" and add "Additional screening will be installed in accordance with the Zoning Provisions."

The following Findings of Fact were added:

19. The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.
 - a. Building Design Standards
 - Exterior surfaces shall be a combination of brick, dimensioned stone, rock face block, decorative concrete panels, stone, stucco, wood, glass, or EFIS. Metal panels, shall not exceed twenty-five (25) percent.
 - The exterior is primarily stucco.
 - b. Screening Rooftop Equipment
 - Screening is required when any existing or planned rooftop equipment is visible within 100' of the street side view.
 - The petitioner states this will be addressed.
 - c. Green Space
 - 15% of the site area shall be greenspace and 50% of that area shall be located across the street with the most traffic and most visibility.
 - Site is 8 acres +/- meaning 1.2 acres of greenspace and .6 acres along S. 6th Street.
 - Revised site plan will provide at least 1.4 acres +/- along S. 6th Street.
 - d. Non Residential Use Impervious coverage
 - Cannot exceed 50% of site area without drainage and grading plan approved by the City Engineer.
 - Revised site will reduce impervious coverage to about 39% of the site.
 - e. Non Residential Use General Landscaping
 - 1 tree is required for each 3,000 sq. ft. of unpaved open area.

- 18 trees are required on the site.
- f. Screening Between Different Land Uses
 - There is an area on the north side of the site that abuts directly onto a residential use that requires screening.
- g. Parking Lot Screening
 - Parking lots with 10 or more spaces in a front or side street yard shall have a 50% - 3' to 4' tall screen.
 - Parking spaces along S. 6th Street frontage road will require screening.
- h. Equipment Screening
 - Ground located mechanical equipment, transformers, a/c units require and 80% opaque screen.
 - The petitioner states that equipment either has or will have required screening.
- i. 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
 - The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
 - The site is already developed and is being repurposed.
 - The tennis court at the northwest corner of the property will be removed and used for a play area.
 - A landscaping plan has not been included because the existing landscape features are to be preserved and maintained with little modification.
- j. The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
 - No change in the size of the building.
 - Exterior doors from the ground level bedrooms, which will be removed and replaced with a wall and windows.
 - Parking area removed and replaced with green space. Site will require additional tree planting.
- k. 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.
 - Site has 1 access drive on S. 6th Street and 2 drives that provide access to the S. 6th Street frontage road.
 - With traffic channeled to S. 6th Street and Industrial Park Road, the neighborhood should not be impacted by traffic movements.
 - Parking stalls and drive isles will be striped in accord to current Zoning Ordinance standards.
- l. The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.
 - Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.
 - Protect neighborhoods.

- Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.

Commissioner Marohn stated that the proposed reuse of the site is a good use of the property. The Commission concurred.

MOTION AND SECONDED BY COMMISSIONERS BURSLIE AND LAMBERT, DULY CARRIED, TO APPROVE THE CONDITIONAL USE PERMIT BASED ON THE FINDINGS OF FACT AND THE FOLLOWING CONDITIONS:

1. SCREENING ALONG THE NORTH PROPERTY LINE ADJACENT TO THE R-3 DISTRICT WILL BE INSTALLED IN ACCORDANCE WITH THE ZONING ORDINANCE REQUIREMENTS.
2. A FIRE HYDRANT INSTALLED AT SE CORNER OF THE SITE.
3. A SCREENING PLAN SUBMITTED AND APPROVED BY STAFF.
4. EIGHTEEN ADDITIONAL TREES BE PLANTED ON SITE.
5. EXTERIOR OF THE MAINTENANCE BUILDING BE UPGRADED ACCORDING TO THE BUILDING OFFICIAL.

B. Public Hearing - Variance Request – 102 Ridge Drive, Brainerd to allow the 6' high fence where a 4' high fence is permitted

City Planner Ostgarden explained the criteria for granting a variance. Two phone calls have been received from nearby residents who oppose the variance. Terry Berger, the property owner, was unaware of the need for a permit when he built the fence. He has since submitted the application and filed for a variance. He has submitted a letter with the reasons why he thinks a 6' fence is more practical than a 4' fence.

Commissioner Lambert wanted to know if the reason that it was opposed by the callers was due to the height or the location by the street. City Planner Ostgarden indicated that it was because of the location in relation to the street. Commissioner Gorham asked how common are variances of this nature? City Planner Ostgarden replied that they are not a common request, as most residents seem to know a permit is now required since being implemented since 2009.

The Chair opened the public hearing at 7:06 P.M.

Mr. Berger, 102 Ridge Drive, Brainerd spoke to the Planning Commission regarding the need of the fence for privacy and also to block headlights coming down Buffalo Hills Drive. They shine directly into the home and are quite obtrusive. The fence would also act as a buffer to help block a car from hitting the house in case of an accident or deer running across the road. It helps the noise level from traffic as well. Mr. Berger has talked to neighbors and obtained signatures of those that are not opposed to the fence.

Commission discussion took place and questions answered.

The Chair closed the public hearing at 7:11 P.M.

Commissioner Antolak read aloud the Findings of Fact as follows:

1. The property is located in an R-1A (Single Family Residential) Zoning District on a 100' x 200' (20,000 sq. ft.) corner lot.
2. The property owner has constructed a 6' tall privacy fence along the north side of Buffalo Hills Lane.

3. Buffalo Hills Lane is considered the lot's side street yard. A 4 ft. tall fence is permitted between the house and the side street yard property line.
4. Buffalo Hills Drive is a collector street for parts of south Brainerd and will be a major connection to undeveloped land to the south.
5. A dwelling was constructed on the lot during 2016 with occupancy granted in December 2016.
6. A permit was not issued for the fence construction.
7. Two neighborhood residents voiced their concern about have a privacy fence so close to the road.
8. The property owner spoke in support and there was no other public testimony.

City Planner Ostgarden explained for consistency purposes on a corner lot, the narrow portion of the lot is the front - the other is the side street yard. It does not matter where the front of the house is located.

Variances may be granted when the applicant establishes that there are practical difficulties in complying with the Zoning Ordinance as follows:

1. *The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.*
2. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*
3. *The variance, if granted, will not alter the essential character of the locality.*

The Planning Commission concluded there was nothing unique about the site that would warrant allowing a 6' tall fence in a street side yard.

MOTIONED AND SECONDED BY COMMISSIONERS ANTOLAK AND GORHAM, DULY CARRIED, TO DENY THE VARIANCE REQUEST BASED ON THERE ARE NO PRACTICAL DIFFICULTIES AND ASK THE PETITIONER TO MOVE THE FENCE TO BE IN LINE WITH THE HOUSE.

C. Public Hearing – Zoning Ordinance Floodplain Regulations Update

City Planner Ostgarden described the revisions that need to be made to the following sections:

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

They would be replaced with a new Section 76 entitled Floodplain Districts. Our current Zoning Ordinance does not have standards needed to meet National Flood Insurance Program (NFIP) requirements. Updated regulations need to be in place by August 15, 2017 or the City of Brainerd could face suspension from the NFIP. The Minnesota DNR has provided a sample ordinance that if followed would include all of the standards needed to comply with NFIP requirements.

City Planner Ostgarden explained that there is very little participation in the NFIP. However, according to information from the DNR there are several reasons why participation is encouraged. The recommendation is to update the Zoning Ordinance floodplain regulations by adopting the sample DNR standards.

The Chair opened the public hearing at 7:33 P.M.

No one came forward.

The Chair closed the public hearing at 7:34 P.M.

MOTIONED AND SECONDED BY COMMISSIONERS BURSLIE AND ANTOLAK, DULY CARRIED, TO APPROVE UPDATING THE FLOODPLAIN REGULATIONS BY ADOPTING THE SAMPLE DNR STANDARDS.

D. Comprehensive Plan Update - Informational

City Planner Ostgarden introduced Ashley Kaisershot with the NJPA who will be assisting with the Comprehensive Plan. The update will occur in two parts as follows:

Part I - Community Engagement and Existing Conditions

- Data Collection and analysis, public outreach
- Community Engagement
- Education
- Meeting facilitation with internal and external stakeholders
- All comments, feedback and opinions gathered will form the foundation of goal and policy language for the Plan elements

Part II - Document Development

- Vision, goals and policies will be developed
- Planning priorities will be identified and document development will occur
- Implementation strategies will be identified
- Consideration of Plan adoption will occur in this phase

One of the most important parts in updating the Comprehensive Plan is having the City Council appoint an 11 member Steering Committee who would represent the local public and private sectors, citizens at large, City Council representative and Planning Commission Representative. Each Council member would be asked to seek a member for the committee to work with consultant and staff, and provide recommendations to the Planning Commission on the Plan update.

City Planner Ostgarden went through the steps of the update. The Scope of Services will be mailed to the members.

Ms. Kaisershot talked about what the role is of the Planning Commission with the update of the Comprehensive Plan. She explained that it was up to each Commissioner to choose how involved they want to be in the process. She presented a proposed schedule of the process.

#5. Public Forum

None

#6 Old Business

None

#7 Commissioners' Questions/Comments

Commissioner Burslie inquired about the variance (alternate exterior material) request that the Planning Commission denied last week and approved by the City Council. Was the variance criteria reviewed with the City Council? He asked why the decision was overturned. City Planner Ostgarden explained that it was what he heard was the City Council did not like the requirement, we want to be businesses friendly and the requirement does not convey that and it indicated that they wanted the ordinance language reviewed and possibly revised.

#8 City Planner's Report

City Planner Ostgarden informed the group that Stephanie Bestul, Administrative Specialist is attending a Planning and Zoning Workshop on June 22, 2017 in Little Falls to become more knowledgeable in the Planning and Zoning field. Emma Anderson was introduced as the summer Planning Department Intern.

#9 Adjourn at 7:56 P.M.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

STAFF REPORT TO THE PLANNING COMMISSION
July 12, 2017

VARIANCE REQUEST

APPLICANT/LOCATION: Michael Rodahl, 16270 Miles Circle, Brainerd MN has applied on behalf of Swan Ventures LLC, 682 39th Avenue NE, Columbia Heights, MN 55421 for variance to construct a 60' x 100' steel sided building on property it owns at 8299 Wise Road, Brainerd, MN 56401.

REQUESTED VARIANCE: To permit a steel sided building without an alternate material

LOT AREA: 7 acres

CURRENT ZONING: B-4 (General Commercial) District

ADJACENT USES: North: Undeveloped
East: Undeveloped
South: A residence and undeveloped residential plat
West: Undeveloped

ADJACENT ZONING: North: Unorganized Territory
East: Unorganized Territory
South: R-1A (Single family)
West: R-R (Rural Residential District) and Unorganized Territory

REPORT

The property owner is proposing a new steel sided and steel roofed pole style construction building. There is a similar building on the site. The B-4 District zoning requires that:

Exterior Building Materials - B-1, B-2, B-4, B-5 and B-6 Zoning Districts.

- a. 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.*

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.*

If the variance is to be approved or denied, how is it /is it not in harmony with the above statements of Zoning Ordinance Purpose and Intent.

When the variance is consistent with the Comprehensive Plan.

In review of the Comprehensive Plan, the following Goal and Strategy appears to be the one that most closely aligns with this request:

LAND USE GOAL #4: *Plan land uses and implement standards to minimize land use conflicts.*

STRATEGY

Encourage the location of commercial and industrial development in areas that avoid adverse impacts, such as truck traffic, through residential areas.

GOAL: *Plan for the orderly, efficient and fiscally responsible growth of commercial and industrial development in Brainerd.*

STRATEGY

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

Will granting the Variance be consistent with these Goals and Strategies?

- 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.

The property location of this property relative to the rest of the community should be considered in considering this criterion. The area is rural character and because of wetlands has limited development potential.

Is it reasonable to permit a steel sided building in this area?

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

Is the uniqueness based on the rural character of the area?

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

The building will be over 400' (over a block) from Wise Road and 60' x 100' in size about the size of the existing building. At this distance can the type of exterior building material be readily identified?

The new building will be constructed north of the existing building. The site is buffered on the north and west by wetlands which will preclude development. Residential development is occurring to the south and east. The adjacent plat appears to have an outlot area that is not planned for development. Will this area buffer the site as development continues in this area?

Enclosed are 2 aerials that depict the wetlands and the platted outlet area.

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

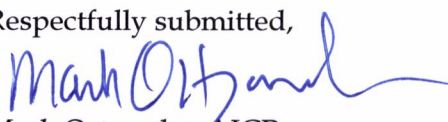
PLANNING DEPARTMENT COMMENTS

This is the 2nd variance request of this nature in the last 3 meetings. Since the Zoning Ordinance was adopted in 2009, these are the only 2 variance requests of this kind.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation at its meeting on Wednesday, July 19, 2017 and the City Council may receive the recommendation for consideration at its meeting on August 7, 2017.

Respectfully submitted,


Mark Ostgarden AICP
City Planner

6-21-2017

RECEIVED

JUN 23 2017

**CITY OF BRAINERD
ADMINISTRATION**

To: City of Brainerd Planning Department

We are submitting this application to the City of Brainerd to request permission to build another pole building warehouse on our commercial property located at 8299 Wise Rd in Brainerd, MN. As our business continues to grow we find that we have run out of room for storing our inventory and equipment inside where it can be safe and protected from the elements and lessen the risk of theft or damage sitting outside. We are proposing to build a 60'x100' pole building with side walls of 16'. (6,000 sq. feet) The floor would be poured concrete. Outside of the building we would have some concrete aprons by the overhead doors. The exterior walls and roof would be covered with pole barn steel. The color of steel would be an attractive two tone to compliment the area. There one would be a couple of overhead doors and two man doors. This would be a non heated warehouse. No plumbing necessary for storing our inventory and equipment.

About us: we have been doing business in the Brainerd Lakes Area since 1971. We have had previous locations in Brainerd and Baxter. We are in the Sales, Service and Installation business of fueling systems. We have built most of the Gas Stations in Brainerd and Baxter. We have built many other Commercial and Industrial fueling systems in this area. We do not build anything at our shop or place of business. Our products and equipment are delivered to our place of business and then we build or service our customer at there location.

Sincerely,



Orris A Rodahl

VP and Branch Manager of IPS

Swan Ventures LLC (DBA MN Independent Petroleum Services)

218-820-1416 cell phone

Email: orodahl@mnpetro.com

Plot Plan For 8299 Wise Road Brainerd

Interactive Map

Crow Wing County



Scale 1: 2500

Plot Plan by: Mike Rodahl 218-839-7296

X: 561033.0129

Y: 185025.6053



Similar
building in
size, wall
height,
length and
width



Example
of the
steel
siding
look



Site



Wetlands



WISE RD

SUGARBERRY CREEK

COUNTY RD 79

SERENE PINES CT





These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied. Including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.



NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

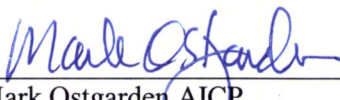
Notice is hereby given that Michael Rodahl, 16270 Miles Circle, Brainerd MN has applied on behalf of Swan Ventures LLC, 682 39th Avenue NE, Columbia Heights, MN 55421 for variance to construct a 60' x 100' steel sided building on property it owns at 8299 Wise Road, Brainerd, MN 56401. The property is located in a B-4 (General Commercial) District. The Brainerd Zoning Ordinance specifies that material such as metal panels, window trim, flashing, accent features and the like that make up the exterior of a building shall not exceed 25% of all exterior wall area.

The City of Brainerd Planning Commission will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., Wednesday, July 19, 2017 to consider the Variance request.

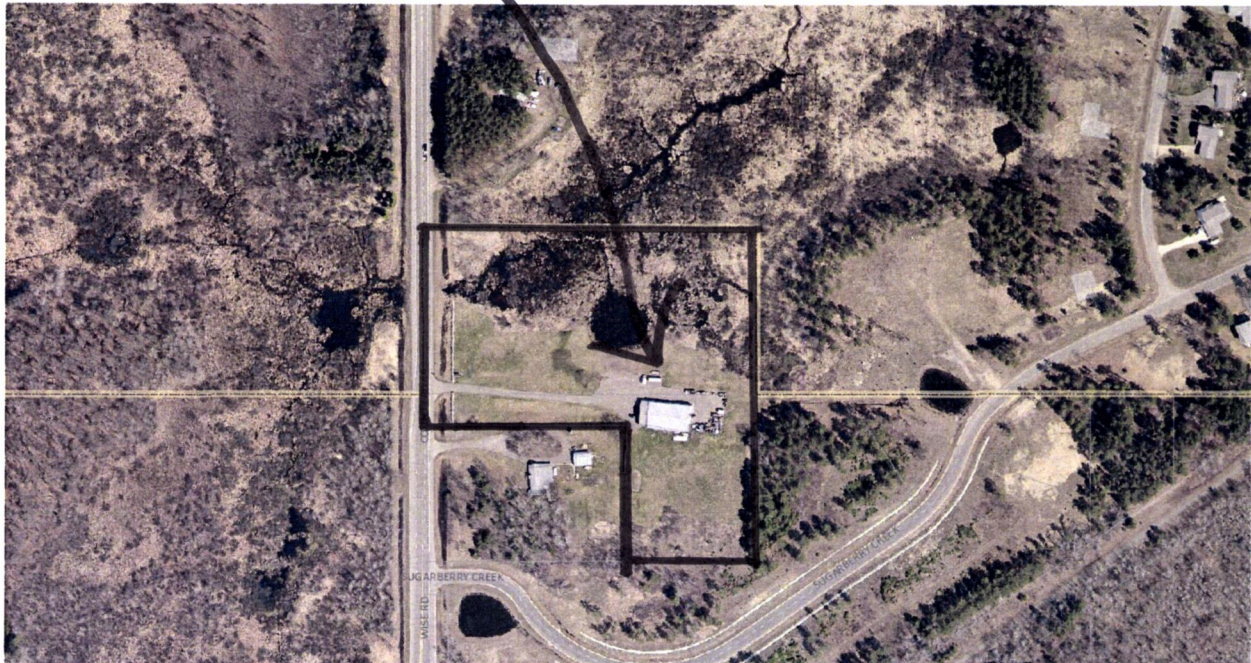
A copy of the application is on file for review at the City Planning Department, 501 Laurel Street.

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

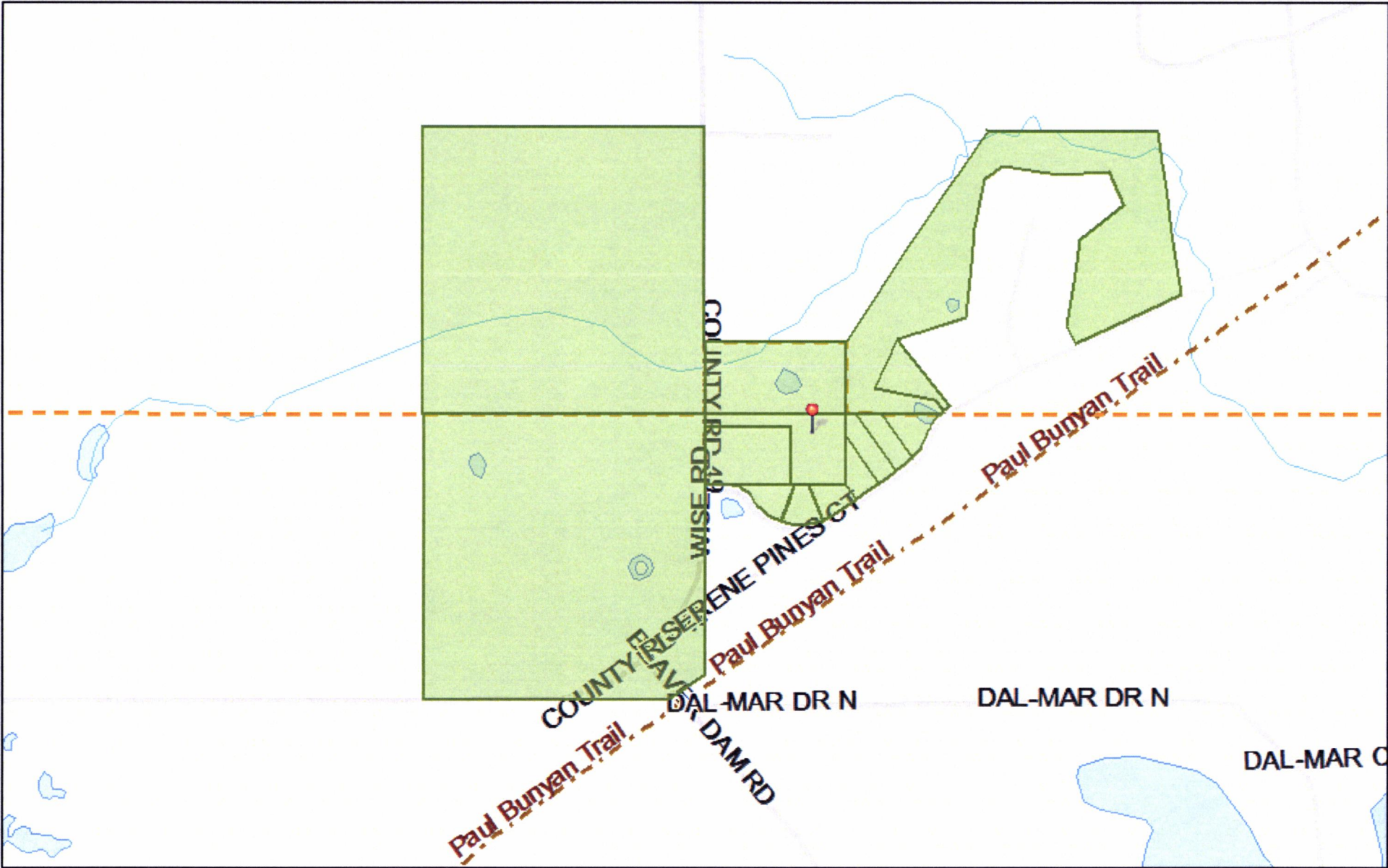
Dated this 6th day of July, 2017


Mark Ostgarden AICP
City Planner

Site

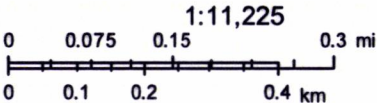


City of Brainerd



July 5, 2017

- Select Parcels _Query result
- City Limits
- Trails
- Roads
- Streams
- Water



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

PIN	TXNAME	TXADR1	TXADR2	TXADR3	Physical Address
080283200A00889	✓ SWAN VENTURES LLC	682 39TH AVE NE	COLUMBIA HEIGHTS, MN 55421		
080283300AA0009	✓ SWAN VENTURES LLC	682 39TH AVE NE	COLUMBIA HEIGHTS, MN 55421		8299 WISE RD
080283300B00009	✓ DECHEINE, JAMES M & ADELLE M TRUST	C/O CHERYL A ZIGAN	8285 WISE RD	BRAINERD, MN 56401	8285 WISE RD
080294400000009	✓ MINNESOTA NORTH DISTRICT, LCMS	P O BOX 604	BRAINERD, MN 56401		
092820010010009	HOUSING & REDEVELOPMENT AUTHORITY	IN AND FOR THE COUNTY OF CROW WING	324 EAST RIVER ROAD	BRAINERD, MN 56401	8550 SUGARBERRY CRK
092820010020009	HOUSING & REDEVELOPMENT AUTHORITY	IN AND FOR THE COUNTY OF CROW WING	324 EAST RIVER ROAD	BRAINERD, MN 56401	8586 SUGARBERRY CRK
092820010030009	HOUSING & REDEVELOPMENT AUTHORITY	IN AND FOR THE COUNTY OF CROW WING	324 EAST RIVER ROAD	BRAINERD, MN 56401	8613 SUGARBERRY CRK
092820010040009	✓ HOUSING & REDEVELOPMENT AUTHORITY	IN AND FOR THE COUNTY OF CROW WING	324 EAST RIVER ROAD	BRAINERD, MN 56401	8640 SUGARBERRY CRK
092820010050009	✓ HOUSING & REDEVELOPMENT AUTHORITY	IN AND FOR THE COUNTY OF CROW WING	324 EAST RIVER ROAD	BRAINERD, MN 56401	8656 SUGARBERRY CRK
092820010060009	✓ HOUSING & REDEVELOPMENT AUTHORITY	IN AND FOR THE COUNTY OF CROW WING	324 EAST RIVER ROAD	BRAINERD, MN 56401	8670 SUGARBERRY CRK
092820010070009	✓ HOUSING & REDEVELOPMENT AUTHORITY	IN AND FOR THE COUNTY OF CROW WING	324 EAST RIVER ROAD	BRAINERD, MN 56401	8698 SUGARBERRY CRK
970294100000009	✓ MINNESOTA NORTH DISTRICT, LCMS	P O BOX 604	BRAINERD, MN 56401		
9925300090A0009	✓ FOREST PLATS INC	11076 SORSENSEN LAKE LN	MERRIFIELD, MN 56465		
992530010010009	✓ FORESTPLATS, INC	11076 SORENSON LAKE LN	MERRIFIELD, MN 56465		

7/5 sent notice




City Planning Department

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

RECEIVED

JUN 30 2017

CITY OF BRAINERD
ADMINISTRATION

Receipt # 2017-00044
Check # 8486
Date Paid: 6/21/17

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

RESIDENTIAL

CONDITIONAL USE PERMIT
REZONING
VARIANCE

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

COMMERCIAL

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

PROPERTY ADDRESS: 8299 WISE Road Brainerd MN 56401

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

Property Owner Name: SWAN Ventures LLC

Street Address: 682 39th AVE NE City: Columbia Heights State: MN Zip Code 55421

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

Applicant Name: (If different than Property Owner) Michael Rodahl

Street Address: 16270 Miles Circle City: Brainerd State: MN Zip Code: 56401

Phone Number: 218-839-7296 Fax: N/A E-mail: Stenengeproperties@live.com

Description of Request: To Construct a 60'x 100' pole Building
behind the existing shop. Building would be finished on
outside walls with pole Barn Steel. For this reason
we would be requesting a variance from the local
ordinance.

Property Owner Signature

Date

(Please print name)

Michael O. Rodahl

Applicant Signature

Michael O. Rodahl

(Please print name)

3-30-2017

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:

 Sent 9/5/17
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

MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner



DATE: July 13, 2017

RE: Zoning Ordinance Section 35 Antennas and Towers DRAFT Revisions

Issue

Last fall, the City of Brainerd received an e-mail requesting the Zoning Ordinance be amended to permit cell towers up to 120' tall in B-4 (General Business) Districts. Last fall, Central Lakes College, located in an R-3 (Multifamily Residential) District proposed converting light poles in its parking lots into wireless towers approximately 35' tall with an antenna and a parking lot light. Neither installation was permitted as the Zoning Ordinance limits new towers to industrial districts. Zoning Ordinance Chapter 35 Antennas and Towers specifies that towers are permitted in industrial districts as follows:

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

The above proposals have initiated a review of Zoning Ordinance Section 35 to consider amendments to the chapter. The attached draft, if adopted, will permit the installation of antennas and towers and will not limit them to industrial districts. Also, if adopted, it will include limitations and requirements that should maintain acceptable aesthetics of the City's streetscape and neighborhoods.

Background

Our current regulations were drafted at a time when the industry had bulky antennas bolted to tops of guyed or lattice towers up to 180' tall. While that kind of "macrocell" deployment still exists, and will continue to exist, there are now a variety of complementary and alternative technologies that are much smaller in size. The wireless telecommunications industry is dynamic, with ever-changing technologies. Distributed antenna systems or "DAS" networks and other small cell systems now use components that are a fraction of the size of macrocell deployments and can be installed on light poles, buildings and smaller structures. Attached are some photos of this type of technology.

General oversight of this industry is through the federal government. The Federal Communications Commission (FCC) administers federal regulations of telecommunications infrastructure, including rule making for consistency with federal requirements. The principal law regarding regulation of personal wireless services is the Telecommunications Act of 1996, which among other things set forth the policy of the United States Government to promote the deployment of personal wireless services. To date, local authority regarding the siting of new wireless facilities has been preserved when a local government does not act as a barrier to providing wireless service consistent with the intent and provisions of the 1996 Telecommunications Act.

In 2012, Congress passed legislation known as the Middle-Class Tax Relief and Job Creation Act. Section 6409(a) of this legislation mandates that local governments approve collocation of eligible wireless facilities when there is no substantial change in the facility. On October 17, 2014, the FCC adopted new rules and definitions regarding cellular infrastructure deployment related to Section 6409(a). These rules pertain to the regulatory process for collocation of wireless equipment of towers and base stations. The FCC has created rules preempting local governments from regulating certain aspects of cellular installations in support of the goal for rapid siting and buildout of cellular infrastructure. Notably, failure of a local government to act in manner consistent with the FCC rules for Section 6409(a) results in a "Deemed Approved" status of an application after 60 days.

The new rules particularly affect commonly seen wireless towers, but are also now applicable to all types of antenna systems, including distributed antenna systems (DAS) and small-cell systems. These types of infrastructure involve the use of many small antennas that are mounted on utility poles or in/on buildings. Clusters of these antennas help offload traffic from the traditional larger cellular antennas. The effect of the new FCC rules is to apply the same federal mandates for larger cellular installations to these smaller antennas. The rules are applicable to sites on both private property and within the right-of-way. It does not affect terms of lease that may have been agreed upon by affected parties.

The wireless industry has been installing single antenna ("small cell") in community rights of way and private property to provide faster data coverage and capacity for mobile phone and device users.

State Legislation and Local Authority to Regulate Antennas and Towers

Following is a June 19, 2017 e-mail from Rick Adams, owner of Community Wireless Consultants. He has written telecommunications ordinances for other cities and has been interested in our process as a consultant working with Verizon. He will receive a copy of the draft and will most likely be at the July 19th meeting to address the Planning Commission.

With the State Legislation passing the Small Cell Legislation it did, the choices the City will have now is to allow the zoning ordinance to be changed so Verizon could build a 100' monopole that will support a macro site about 20' from the lot line at the Fire Station, or having carriers build six 50' monopoles that would support small cell sites in the ROW's in the commercial district by the Fire Station. I would think both the City and Verizon would rather the 100' monopole be built if they had a choice.

Following is an excerpt from a League of Minnesota Cities memo with some background on the legislation:

Negotiations on Bill Lead to League's Neutral Position

In the final weeks of the 2017 legislative session, Rep. Marion O'Neill (R-Buffalo) convened several meetings between cities, municipal utilities, wireless providers (AT&T, Verizon, Sprint) and cable representatives to negotiate HF 739, a bill that would allow small cell wireless equipment to be placed on city-owned infrastructure in the public right of way. Similar meetings were conducted earlier in session by the Senate author, Sen. Osmek (R-Mound) and by the original House author, Rep. Joe Hoppe (R-Chaska). Through these negotiations and feedback from stakeholders, including city engineers, administrators, telecommunications municipal attorneys, and others, on amendments to the bill, almost all the concerns the League has raised with the legislation were addressed. While the League still does not believe legislation is necessary, the League is now neutral on the bill as passed by the legislature. The League was originally opposed to the bill.

Changes in Minnesota Law Affecting Municipalities

Legislation that has just been enacted has significant consequences for municipalities and will require municipalities to address a looming land use issue because of the legislation.

The good news is that the legislation preserves the integrity of local control.

Municipalities retain the right to regulate towers and antennas through zoning. The draft ordinance, while permitting towers in other parts of the city has limits and conditions intended to maintain acceptable community aesthetics.

The news that that will create a land sue issue for municipalities is that the legislation grants wireless companies the ability to install towers up to 50' tall virtually any place desired in a public right of way.

The unrestricted use of the right will require municipalities to ask the question

"What is the better land use decision, unrestricted right of way use or zoning controls that allow wireless companies to construct towers on private and public property."

The answer to this question will need to be a part of the decision process for the revised Ordinance.

July 19th Meeting

Pleased acquaint yourself with the draft ordinance. There are many additions (in all caps.) and deletions (strikethroughs) in the draft. The Planning Department will provide an overview of the draft and the approved legislation. The draft has been reviewed by the City Attorney and includes his comments.

In addition to revising Zoning Ordinance Chapter 35, should towers (and antennas) be permitted in districts other than industrial, those districts chapters will also need to be amended.

SECTION 35 ANTENNAS AND TOWERS

Section:

- 515-35-1 Purpose and Intent
- 515-35-2 DEFINITIONS
- 515-35-23 General Standards
- ~~515-35-3 Certification, Inspection and Maintenance~~
- 515-35-34 **APPLICABILITY AND EXEMPTIONS**
- ~~515-35-4 Tower Design~~
- 515-35-5 LOCATION STANDARDS**
- 515-35-6 Certification, Inspection and Maintenance
- 515-35-57 Co-Location **DESIGN** Requirement
- 515-35-68 Accessory Antennas
- ~~515-35-7 Personal Wireless Service Antennas~~
- 515-35-9 NEW TOWERS DESIGN REQUIREMENTS**
- ~~515-35-8 Commercial and Public Radio and Television Transmitting Antennas, and
Public Utility Microwave Antennas~~
- 515-35-10 NEW TOWERS**
- 515-35-911 New **ANTENNAE**
- 515-35-1012 Temporary Mobile Towers
- 515-35-1013** Commercial and Public Radio and Television Transmitting Antennas, and
Public Utility Microwave Antennas

515-35-1: Purpose and Intent. The purpose of this Section is to establish predictable and balanced regulations for the location and screening of wireless communications equipment in order to accommodate the growth of wireless communication systems within the City of Brainerd while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. The provisions of the Section are intended to maximize the use of existing towers, structures, and buildings to accommodate new wireless telecommunication antennas in order to minimize the number of towers needed to serve the community.

515-35-2 Definitions. For the purposes of this ~~article~~Section 35, the following definitions apply:

Abandonment means cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this ~~article~~Section.

Accessory equipment means any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

Antenna means communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Base station means the equipment and non-tower supporting structure at a specific site authorized to communicate between user equipment and a communications network, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

Close mount shall mean and refer to mounting of the antenna array and or any part of the wireless facility with mounting techniques where the components do not protrude from the face of the structure by more than 18 inches.

Co-location shall mean and refer to the mounting or installation of transmission equipment for multiple telecommunication providers on one eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Concealed/stealth wireless facility means any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.

Eligible facilities request means a request for modification of an existing wireless tower or base station that involves co-location of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment but does not include a substantial modification.

Engineered fall zone means the area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Equipment compound means an area surrounding or near the base of a wireless support structure within which are located wireless facilities.

Existing structure means an existing wireless support structure, that is capable of supporting the attachment of wireless facilities. The term includes, but is not limited to, electrical transmission towers, buildings, and water towers.

FCC shall mean and refer to the Federal Communications Commission or its successor.

Lattice type towers refers to the type of tower that has three or more legs that are spread at the bottom to transfer the lateral loads of the tower to the ground without the use of guy wires. The legs are connected to each other through a series of diagonal cross members that create a lattice work of steel.

Monopole means a single, freestanding pole-type structure supporting one or more antennas. For the purposes of this article, a monopole is not a tower or a utility pole.

Ordinary maintenance means ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color, and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include adding additional antennas or transmitter/receivers, nor making substantial modifications to existing wireless facilities.

Replacement pole means a pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.

Roof top or exterior façade mounted facilities means the placement of the whole or part of a wireless facility on an existing building roof or exterior face.

Self-supporting tower means typically a tower that is supported without the use of guy wires. Includes lattice and monopole type towers.

Site means for towers, monopoles, or concealment type structures, other than structures in public right-of-way, referring to the current boundaries of the leased or owned property surrounding the tower, monopole, any access, or utility easements currently related to the site, and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Substantial modification means the mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure or existing wireless facilities as defined by the FCC.

Tower means a lattice-type structure, guyed or freestanding, that supports one or more antennas.

Utility pole means a structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Wireless facility or wireless facilities means the set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

Wireless support structure means a freestanding structure, such as a monopole or tower, designed to support wireless facilities. This definition does not include utility or light poles.

Wireless transmission equipment means any equipment that facilitates transmission for any authorized wireless communication service including backup power.

515-35-3: General Standards. The following standards shall apply to all personal wireless service telephone, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and short-wave radio transmitting and receiving antenna.

- A. All obsolete and unused antennas and towers shall be removed within twelve (12) months of cessation of operation at the site by the antenna or tower owner, unless an exemption is granted by City staff. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associate facilities when they are abandoned, unused or become hazardous shall be submitted to the City.
- B. All antennas and towers shall be in compliance with all State Building and Electrical Code requirements and as applicable shall require related permits. Applications to erect new antennas and/or towers shall be accompanied by any required Federal, State, or local agency licenses.
- C. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and as may be necessary, as determined by the City Engineer, shall be verified and approved by a professional engineer.
- D. When applicable, written authorization for antenna and/or tower erection shall be provided by the property owner.
- E. No message shall be affixed to the antenna and/or tower structure.
- F. Antennas and/or towers shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
- ~~G. If a new tower of seventy five (75) feet or greater in height is to be constructed, it shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and antennas for at least one (1) additional use, including but not limited to other personal wireless service communication companies, local police, fire and ambulance companies. Towers shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.~~
- H G. Towers shall be painted a non-contrasting color consistent with the surrounding area such as blue, gray, brown, or silver or have a galvanized finish to reduce visual impact, unless otherwise required by a governmental agency.
- I H. All antennas and towers shall be reasonably posted and secured to protect against trespass, including appropriate measures to prevent unauthorized persons from climbing any tower.

- J I. Towers shall comply with all applicable Federal Aviation Administration (FAA) regulations.
- K J. Amateur radio towers shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
- L K. Except as may be applicable in a case where a Conditional Use Permit is required, antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service shall be exempt from the following: Section 515-35-2.H., Section 515-35-5 and Section 515-35-7.

515-35-3: ~~Certification, Inspection and Maintenance.~~

- A. ~~All towers, antenna support structures, and related equipment or structures shall be kept and maintained in good condition, order, and repair so as not to menace or endanger the life or property of any person.~~
- B. ~~All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the State Building Code and Federal and State law.~~
- C. ~~The City shall have authority to enter onto the property upon which a tower is located to inspect the tower for the purpose of determining whether it complies with the State Building Code and all other construction standards provided by the City's Code, Federal and State law. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the owner. All expenses related to such inspecting by the City shall be borne by the owner.~~

SEC. 515-35-4: APPLICABILITY AND EXEMPTIONS

- A. ALL LEGALLY PERMITTED WIRELESS TELECOMMUNICATIONS FACILITIES, CONSTRUCTED AS PERMITTED USES, EXISTING ON OR BEFORE _____ 2017, SHALL BE ALLOWED TO CONTINUE AS THEY PRESENTLY EXIST; ~~PROVIDED HOWEVER, THAT ANY VISIBLE MODIFICATION OF AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY WILL REQUIRE THE COMPLETE FACILITY AND ANY NEW INSTALLATION TO COMPLY WITH THIS SECTION. ANY REPAIR, MAINTENANCE, OR REPLACEMENT OF A WIRELESS TELECOMMUNICATION FACILITY THAT DOES NOT SUBSTANTIALLY CHANGE THE FACILITY DOES NOT REQUIRE AN APPLICATION FOR A CONDITIONAL USE PERMIT, BUT DOES REQUIRE ZONING APPROVAL.~~
- B. THE FOLLOWING SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS SECTION:

1. OVER-THE-AIR RECEPTION DEVICES INCLUDING THE RECEPTION ANTENNAS FOR DIRECT BROADCAST SATELLITES (DBS), MULTICHANNEL MULTIPOINT DISTRIBUTION (WIRELESS CABLE) PROVIDERS (MMDS), TELEVISION BROADCAST STATIONS (TVBS) AND OTHER CUSTOMER-END ANTENNAS THAT RECEIVE AND TRANSMIT FIXED WIRELESS SIGNALS THAT ARE PRIMARILY USED FOR RECEPTION.
2. FACILITIES EXCLUSIVELY FOR PRIVATE, NON-COMMERCIAL RADIO AND TELEVISION RECEPTION AND PRIVATE CITIZEN'S BANDS, LICENSED AMATEUR RADIO AND OTHER SIMILAR NON-COMMERCIAL TELECOMMUNICATIONS.
3. FACILITIES EXCLUSIVELY FOR PROVIDING UNLICENSED SPREAD SPECTRUM TECHNOLOGIES (SUCH AS IEEE 802.11A, B, G (WI-FI) AND BLUETOOTH) WHERE THE FACILITY DOES NOT REQUIRE A NEW WIRELESS SUPPORT STRUCTURE.

SEC. 515-35-5: LOCATION STANDARDS

- A. WIRELESS TELECOMMUNICATIONS FACILITIES SHALL BE LOCATED, SITED AND ERECTED IN ACCORDANCE WITH THE FOLLOWING PRIORITIES, 1 BEING THE HIGHEST PRIORITY AND 9 BEING THE LOWEST PRIORITY:
1. ON EXISTING TOWERS, MONOPOLES, BUILDINGS OR STRUCTURES ON CITY OWNED PROPERTY, IF ALLOWED.
 2. ON EXISTING TOWERS, MONOPOLES, BUILDINGS OR OTHER STRUCTURES ON OTHER PROPERTY IN THE CITY.
 3. A NEW CONCEALMENT/STEALTH WIRELESS SUPPORT STRUCTURE ON CITY OWNED PROPERTY.
 4. A NEW WIRELESS SUPPORT STRUCTURE ON CITY OWNED PROPERTY.
 5. A NEW CONCEALMENT/STEALTH WIRELESS SUPPORT STRUCTURE ON PROPERTY IN ANY DISTRICT.
 6. A NEW WIRELESS SUPPORT STRUCTURE ON PROPERTY IN INDUSTRIAL DISTRICTS.
 7. A NEW WIRELESS SUPPORT STRUCTURE ON PROPERTY IN MIXED USE OR BUSINESS DISTRICTS.

8. A NEW WIRELESS SUPPORT STRUCTURE ON PROPERTY IN AGRICULTURE DISTRICTS.
 9. A NEW WIRELESS SUPPORT STRUCTURE ON PROPERTY IN RESIDENTIAL DISTRICTS.
- B. IF THE LOCATION PROPOSED IS NOT THE HIGHEST PRIORITY LOCATION LISTED IN A. ABOVE, THE LOCATION PROPOSED SHALL NOT BE APPROVED UNLESS THE APPLICANT ESTABLISHES THAT THERE ARE NO SITES AVAILABLE IN A HIGHER PRIORITY LOCATION THAT MEET THE REQUIREMENTS OF THIS SECTION AND THE TECHNICAL REQUIREMENTS FOR THE PROPOSED WIRELESS TELECOMMUNICATIONS FACILITY. ECONOMIC CONSIDERATIONS SHALL NOT BE A FACTOR IN DETERMINING WHETHER A HIGHER PRIORITY LOCATION IS AVAILABLE.
 - C. AN APPLICANT MAY NOT BY-PASS SITES OF HIGHER PRIORITY BY STATING THE SITE PROPOSED IS THE ONLY SITE LEASED OR SELECTED. AGREEMENTS BETWEEN PROVIDERS LIMITING OR PROHIBITING CO-LOCATION SHALL NOT BE A VALID BASIS FOR ANY CLAIM OF COMMERCIAL PRACTICAL DIFFICULTY.
 - D. THE APPLICANT SHALL SUBMIT A WRITTEN REPORT DEMONSTRATING THE APPLICANT'S REVIEW OF THE ABOVE LOCATIONS IN ORDER OF PRIORITY, DEMONSTRATING THE TECHNOLOGICAL REASON FOR THE SITE SELECTION. IF APPROPRIATE, BASED ON SELECTING A SITE OF LOWER PRIORITY, A DETAILED WRITTEN EXPLANATION AS TO WHY SITES OF A HIGHER PRIORITY WERE NOT SELECTED SHALL BE INCLUDED WITH THE APPLICATION.
 - E. THE CITY MAY APPROVE ANY SITE LOCATED WITHIN AN AREA IN THE ABOVE LIST OF PRIORITIES, PROVIDED THAT THE CITY FINDS THAT THE PROPOSED SITE IS IN THE BEST INTEREST OF THE HEALTH, SAFETY AND WELFARE OF THE CITY AND ITS INHABITANTS AND WILL NOT HAVE A DELETERIOUS EFFECT ON THE NATURE AND CHARACTER OF THE COMMUNITY AND NEIGHBORHOOD.

515-35-6: Certification, Inspection and Maintenance

- A. All towers, antenna support structures, and related equipment or structures shall be kept and maintained in good condition, order, and repair so as not to menace or endanger the life or property of any person.
- B. All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the State Building Code and Federal and State law.

- C. The City shall have authority to enter onto the property upon which a tower is located to inspect the tower for the purpose of determining whether it complies with the State Building Code and all other construction standards provided by the City's Code, Federal and State law. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the owner. All expenses related to such inspecting by the City shall be borne by the owner.

~~515-35-6: **Tower Design.** Where allowed, wireless communication towers shall be of a monopole design unless the City Council determines that an alternative design requested by the applicant would better blend into the surrounding environment.~~

515-35-7: Co-Location DESIGN Requirement. AN APPLICATION FOR A NEW TOWER FIFTY (50) FEET IN HEIGHT OR LESS SHALL NOT BE APPROVED UNLESS THE APPLICANT DEMONSTRATES THAT THE ANTENNAS CANNOT BE CONSTRUCTED ON AN EXISTING TOWER, BUILDING OR STRUCTURE WITHIN A ONE HALF (1/2) MILE RADIUS OF ~~A~~ THE PROPOSED TOWER SITE.

ANY TOWER MORE THAN FIFTY (50) FEET IN HEIGHT SHALL NOT BE APPROVED UNLESS THE APPLICANT DEMONSTRATES THAT THE ANTENNAS CANNOT BE CONSTRUCTED ON AN EXISTING TOWER, BUILDING, OR STRUCTURE WITHIN A TWO (2) MILE RADIUS OF THE PROPOSED TOWER SITE DUE TO ONE (1) OR MORE OF THE FOLLOWING REASONS:

- A. THE PLANNED EQUIPMENT WOULD EXCEED THE STRUCTURAL CAPACITY OF THE EXISTING TOWER, BUILDING, OR STRUCTURE AS DOCUMENTED BY A QUALIFIED AND LICENSED PROFESSIONAL ENGINEER, AND THE EXISTING TOWER, BUILDING OR STRUCTURE CANNOT BE REINFORCED, MODIFIED, OR REPLACED TO ACCOMMODATE PLANNED OR EQUIVALENT EQUIPMENT AT A REASONABLE COST OR THE OWNER OF THE STRUCTURE OR BUILDING REFUSES TO AGREE TO THE NECESSARY REINFORCEMENT OR MODIFICATIONS.
- B. THE PLANNED EQUIPMENT WOULD CAUSE INTERFERENCE MATERIALLY IMPACTING THE USABILITY OF OTHER EXISTING OR PLANNED EQUIPMENT AT THE TOWER OR BUILDING AS DOCUMENTED BY A QUALIFIED ENGINEER AND INTERFERENCE CANNOT BE PREVENTED AT A REASONABLE COST.
- C. OTHER UNFORESEEN REASONS THAT MAKE IT NOT FEASIBLE TO LOCATE THE ANTENNAS UPON AN EXISTING OR APPROVED TOWER OR STRUCTURE.
- D. EXISTING OR APPROVED TOWERS, BUILDINGS, OR OTHER STRUCTURES DO NOT EXIST IN THE SEARCH AREA OR DO NOT MEET THE NEEDS OF THE USER. DOCUMENTATION SHALL BE PROVIDED AT THE TIME OF

APPLICATION CLEARLY DEMONSTRATING WHY EXISTING STRUCTURES DO NOT MEET THE NEEDS OF THE USERS.

- E. THE APPLICANT SHALL DEMONSTRATE THAT COMPLIANCE WITH SUBPARAGRAPHS A THROUGH D ABOVE WAS ATTEMPTED, BUT AN AGREEMENT COULD NOT BE REACHED.

515-35 8: Accessory Antennas. The following standards shall apply to all accessory antennas including radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers.

- A. Accessory antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines.
- B. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of one (1) foot from all lot lines.
- C. Accessory antennas and necessary support structures, monopoles or towers may extend a maximum of fifteen (15) feet above the normal height restriction for the affected zoning district, except support structures and antennas used in the amateur radio service may extend a maximum of two (2) times the normal height restriction for the affected zoning district.

~~515-35 9: Personal Wireless Service Antennas.~~

~~A. Residential and Commercial District Standards.~~

- ~~1. Antennas Located Upon an Existing Tower or Structure. Personal wireless service antennas as a permitted secondary use may be located upon existing towers or structures shall require the processing of an Administrative Permit and shall comply with the following standards:~~
- ~~a. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable accessory building setback requirements, and shall be screened from view by landscaping where appropriate.~~
- ~~b. An Administrative Permit is issued by City staff, subject to the following conditions:~~

- 1) ~~Antennas mounted on buildings or structures shall not extend more than fifteen (15) feet above the structural height of the building or structure to which they are attached.~~
 - 2) ~~Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and shall be constructed of a material or color which matches the exterior of the building.~~
 - e. ~~In no case shall a personal wireless service antenna be located upon or affixed to a detached single family residential dwelling.~~
2. ~~New Towers. The erection of new personal wireless service antenna towers within Residential and Commercial Zoning Districts of the City is prohibited.~~

515-35-9: NEW TOWER DESIGN REQUIREMENTS

- A. ALL NEW TOWERS IN EXCESS OF 120' IN HEIGHT SHALL BE STRUCTURALLY DESIGNED TO ACCOMMODATE AT LEAST 3 ADDITIONAL ANTENNA ARRAYS.
- B. ALL NEW TOWERS BETWEEN 80' ~~TO AND~~ 120' IN HEIGHT SHALL BE STRUCTURALLY DESIGNED TO ACCOMMODATE AT LEAST 2 ADDITIONAL ANTENNA ARRAYS.
- C. ALL NEW TOWERS ~~BETWEEN 40' UP~~ TO 79' SHALL BE STRUCTURALLY DESIGNED TO ACCOMMODATE 1 ADDITIONAL ANTENNA ARRAY.
- D. EACH FUTURE ANTENNA ARRAY LOCATION SHALL BE OF SUFFICIENT DESIGN TO ACCOMMODATE AN ANTENNA ARRAY EQUAL TO THOSE OF A TYPICAL FULLY DEVELOPED WIRELESS CARRIER SITE AND AT LEAST EQUAL TO THE SIZE OF ARRAY THE APPLICANT IS INSTALLING. FUTURE ARRAYS SHOULD BE PLANNED TO BE LOCATED AS CLOSE TO THE APPLICANT'S ANTENNA AS POSSIBLE WITHOUT CAUSING INTERFERENCE.
- E. EACH NEW TOWER SHALL BE DESIGNED TO EXTEND AN ADDITIONAL 20' IN HEIGHT BUT NOT EXCEEDING THE HEIGHT LIMITATIONS OF SECTION 515-35-__. DESIGN SHALL INCLUDE A FOUNDATION SUFFICIENT IN SIZE TO ACCOMMODATE THE ADDITIONAL HEIGHT AND WEIGHT AND A MECHANICAL CONNECTION TO FASTEN THE EXTRA LENGTH OF TOWER STRUCTURE. THIS EXTENSION CAN BE UTILIZED TO PLAN FOR THE ADDITION OF ONE (1) OF THE FUTURE ANTENNA ARRAYS REQUIRED IN SECTION __ ABOVE.
- F. THESE ~~CO-LOCATION~~ DESIGN REQUIREMENTS MAY BE WAIVED, PROVIDED THAT THE APPLICANT, IN WRITING, DEMONSTRATES THAT THE PROVISIONS OF FUTURE SHARED USAGE OF THE TOWER IS NOT

TECHNOLOGICALLY FEASIBLE, IS COMMERCIALY NOT PRACTICABLE OR WOULD COMPROMISE THE STEALTH CHARACTERISTICS OF THE TOWER STRUCTURE.

515-35-10: NEW TOWERS

A. NEW GUYED TOWERS ARE PROHIBITED IN ALL ZONING DISTRICTS.

B. INDUSTRIAL ZONING DISTRICTS

1. ALL SELF-SUPPORTING AND CONCEALMENT/STEALTH TYPE TOWERS ARE ALLOWED AS A PERMITTED USE.

2. MAXIMUM ~~BUILD~~ HEIGHT OF 179'.

3. TOWER SETBACK SHALL BE AT LEAST THE DISTANCE OF THE ENGINEERED FALL ZONE PLUS 20' OR THE HEIGHT OF THE TOWER PLUS 20' IF NO ACCEPTABLE ENGINEERED FALL ZONE DOCUMENTATION IS PRESENTED.

4. ANY ACCESSORY STRUCTURE ASSOCIATED WITH THESE STRUCTURES SHALL BE LOCATED ~~SO AS TO~~ TO COMPLY WITH THE APPLICABLE MINIMUM SETBACK REQUIREMENTS FOR THE ZONING DISTRICT WITHIN WHICH IT IS LOCATED.

5. ~~PERSONAL WIRELESS SERVICE~~ SUPPORT STRUCTURES ~~TELEPHONE ANTENNAS AS A PERMITTED SECONDARY ACCESSORY~~ USE MAY BE LOCATED UPON AN EXISTING STRUCTURE OR CO-LOCATED ON AN EXISTING TOWER, REQUIRE ZONING APPROVAL AND MUST COMPLY WITH THE FOLLOWING STANDARDS:

A. ANTENNAS MOUNTED ON BUILDINGS OR STRUCTURES SHALL NOT EXTEND MORE THAN FIFTEEN (15) FEET ABOVE THE STRUCTURAL HEIGHT OF THE BUILDING OR STRUCTURE TO WHICH THEY ARE ATTACHED.

B. WALL OR FAÇADE MOUNTED ANTENNAS MAY NOT EXTEND MORE THAN FIVE (5) FEET ABOVE THE CORNICE LINE AND MUST BE CONSTRUCTED OF A MATERIAL OR COLOR WHICH MATCHES THE EXTERIOR OF THE BUILDING.

6. AT THE DISCRETION OF THE CITY, A SECURITY FENCE NOT GREATER THAN EIGHT (8) FEET IN HEIGHT WITH A MAXIMUM OPACITY OF FIFTY (50) PERCENT SHALL BE PROVIDED AROUND THE SUPPORT STRUCTURE, AND NO-CLIMBING SECURITY MEASURES SHALL BE PROVIDED ON THE TOWER OR SUPPORT STRUCTURE.

C. BUSINESS, MIXED USE, AND RURAL ESTATE DISTRICTS

1. CLOSE MOUNT ANTENNA ON MONOPOLES OR CONCEALMENT/STEALTH TYPES OF TOWERS ARE ALLOWED WITH A CONDITIONAL USE PERMIT.
2. MAXIMUM ~~BUILD~~ HEIGHT OF 50'.
3. TOWER SETBACK SHALL BE AT LEAST THE DISTANCE OF THE ENGINEERED FALL ZONE PLUS 20' OR THE HEIGHT OF THE TOWER PLUS 20' IF NO ACCEPTABLE ENGINEERED FALL ZONE DOCUMENTATION IS PRESENTED.
4. ~~ANY ASSOCIATED ACCESSORY STRUCTURES ASSOCIATED WITH THESE STRUCTURES~~ SHALL BE LOCATED SO AS TO COMPLY WITH THE APPLICABLE MINIMUM SETBACK REQUIREMENTS FOR THE ZONING DISTRICT IN WHICH IT IS LOCATED.
5. ~~PERSONAL WIRELESS SUPPORT STRUCTURES SERVICE TELEPHONE ANTENNAS AS A PERMITTED SECONDARY ACCESSORY~~ USE MAY BE LOCATED UPON AN EXISTING STRUCTURE OR COLOCATED ON AN EXISTING TOWER, REQUIRE ZONING APPROVAL AND COMPLY WITH THE FOLLOWING STANDARDS:

C. ANTENNAS MOUNTED ON BUILDINGS OR STRUCTURES SHALL NOT EXTEND MORE THAN FIFTEEN (15) FEET ABOVE THE STRUCTURAL HEIGHT OF THE BUILDING OR STRUCTURE TO WHICH THEY ARE ATTACHED.

D. WALL OR FAÇADE MOUNTED ANTENNAS MAY NOT EXTEND MORE THAN FIVE (5) FEET ABOVE THE CORNICE LINE AND MUST BE CONSTRUCTED OF A MATERIAL OR COLOR WHICH MATCHES THE EXTERIOR OF THE BUILDING.

6. AT THE DISCRETION OF THE CITY, A SECURITY FENCE NOT GREATER THAN EIGHT (8) FEET IN HEIGHT WITH A MAXIMUM OPACITY OF FIFTY (50) PERCENT SHALL BE PROVIDED AROUND THE SUPPORT STRUCTURE, AND NO-CLIMBING SECURITY MEASURES SHALL BE PROVIDED ON THE TOWER OR SUPPORT STRUCTURE

D. AGRICULTURE DISTRICTS

1. MONOPOLES AND CONCEALMENT/STEALTH TYPE OF TOWERS ARE ALLOWED WITH A CONDITIONAL USE PERMIT.

2. MAXIMUM BUILD HEIGHT OF 179'.
 3. TOWER SETBACK SHALL BE AT LEAST THE DISTANCE OF THE ENGINEERED FALL ZONE OR THE HEIGHT OF THE TOWER PLUS 20' IF NO ACCEPTABLE ENGINEERED FALL ZONE DOCUMENTATION IS PRESENTED.
 4. ~~ANY ASSOCIATED ACCESSORY STRUCTURES~~ ASSOCIATED WITH THESE STRUCTURES SHALL BE LOCATED ~~SO AS TO~~ COMPLY WITH THE APPLICABLE MINIMUM SETBACK REQUIREMENTS FOR THE ZONING DISTRICT IN WHICH IT IS LOCATED.
 5. ~~PERSONAL WIRELESS SERVICE TELEPHONE ANTENNAS SUPPORT STRUCTURES~~ AS A PERMITTED SECONDARY USE MAY BE LOCATED UPON AN EXISTING STRUCTURE OR COLOCATED ON AN EXISTING TOWER, REQUIRE ZONING APPROVAL AND COMPLY WITH THE FOLLOWING STANDARDS:
 - E. ANTENNAS MOUNTED ON BUILDINGS OR STRUCTURES SHALL NOT EXTEND MORE THAN FIFTEEN (15) FEET ABOVE THE STRUCTURAL HEIGHT OF THE BUILDING OR STRUCTURE TO WHICH THEY ARE ATTACHED.
 - F. WALL OR FAÇADE MOUNTED ANTENNAS MAY NOT EXTEND MORE THAN FIVE (5) FEET ABOVE THE CORNICE LINE AND MUST BE CONSTRUCTED OF A MATERIAL OR COLOR WHICH MATCHES THE EXTERIOR OF THE BUILDING.
 6. AT THE DISCRETION OF THE CITY, A SECURITY FENCE NOT GREATER THAN EIGHT (8) FEET IN HEIGHT WITH A MAXIMUM OPACITY OF FIFTY (50) PERCENT SHALL BE PROVIDED AROUND THE SUPPORT STRUCTURE, AND NO-CLIMBING SECURITY MEASURES SHALL BE PROVIDED ON THE TOWER OR SUPPORT STRUCTURE.
 7. MINIMUM SIZE OF ~~PARENT PROPERTY PARCEL~~ FOR A NEW WIRELESS SUPPORT STRUCTURE TO BE LOCATED IN IS ACRES.
- E. RESIDENTIAL, RESIDENTIAL OFFICE -AND PLANNED UNIT DEVELOPMENT DISTRICTS
1. ~~ELIGIBLE PROPERTIES TO BUILD NEW WIRELESS SUPPORT STRUCTURES~~ ARE RESTRICTED TO INSTITUTIONAL AND PUBLIC PROPERTIES WITHIN THOSE DISTRICTS.
 2. CONCEALMENT/STEALTH TYPES OF TOWERS ARE ALLOWED WITH A CONDITIONAL USE PERMIT.

3. MAXIMUM ~~BUILD~~ HEIGHT OF 40'.
4. TOWER SETBACK SHALL BE AT LEAST THE DISTANCE OF THE ENGINEERED FALL ZONE PLUS 20' OR THE HEIGHT OF THE TOWER PLUS 20' IF NO ACCEPTABLE ENGINEERED FALL ZONE DOCUMENTATION IS PRESENTED.
5. ANY ACCESSORY STRUCTURE ASSOCIATED WITH THESE STRUCTURES SHALL BE LOCATED TO COMPLY WITH THE APPLICABLE MINIMUM SETBACK REQUIREMENTS FOR THE ZONING DISTRICT IN WHICH IT IS LOCATED.

~~B. Industrial District Standards.~~

- ~~1. Antennas Located Upon an Existing Structure or Existing Tower. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower shall require the processing of an Administrative Permit and shall comply with the following standards:~~
 - ~~a. An Administrative Permit is issued by City staff.~~
 - ~~b. Antennas mounted on buildings or structures shall not extend more than fifteen (15) feet above the structural height of the building or structure to which they are attached.~~
 - ~~c. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.~~

515-35-9-11: New ANTENNAE. Towers.

- A. New ~~towers~~ ANTENNAE as a permitted ~~secondary~~ accessory use shall require ZONING approval ~~of an Administrative Permit~~ and shall comply with the following standards:
 1. The applicant shall demonstrate to the satisfaction of the City that location of the antennas as proposed is necessary to provide adequate portable personal wireless service telephone coverage and capacity to areas which cannot be adequately served by locating the antennas on an existing tower or support structure.
 2. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a monopole tower provided that:

- a. Towers with a maximum capacity to support two (2) antennas shall not exceed ~~one hundred forty (140)~~ seventy-nine (79) feet in height. Towers with a minimum capacity to support three (3) antennas shall not exceed one hundred ~~sixty twenty (160)~~ twenty (120) feet in height.
 - b. Tower setback shall be at least the distance of the engineered fall zone plus 20' or the height of the tower plus 20' if no acceptable engineered fall zone documentation is presented~~The setback of the tower from the nearest property line is not less than the height of the antenna. Exceptions to such setback may be granted in such cases when a qualified structural engineer specifies in writing that any failure of the pole will occur within a lesser distance under all foreseeable circumstances. The setback shall not be reduced in cases where the subject site abuts a residential zoning district. The setback requirements shall not be reduced below the minimum accessory building setback requirements of the base zoning district or the failure area of the tower, whichever is greater.~~
 - c. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.
 - d. ~~At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.~~
- 1) ~~Towers with a maximum capacity to support two (2) antennas shall not exceed one hundred forty (140) feet in height. Towers with a minimum capacity to support three (3) antennas shall not exceed one hundred sixty (160) feet in height.~~
 - 2) ~~The setback of the tower from the nearest property line is not less than the height of the antenna. Exceptions to such setback may be granted in such cases when a qualified structural engineer specifies in writing that any failure of the pole will occur within a lesser distance under all foreseeable circumstances. The setback shall not be reduced in cases where the subject site abuts a residential zoning district. The setback requirements shall not be reduced below the minimum accessory building setback requirements of the base zoning district or the failure area of the tower, whichever is greater.~~

3. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.
4. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.

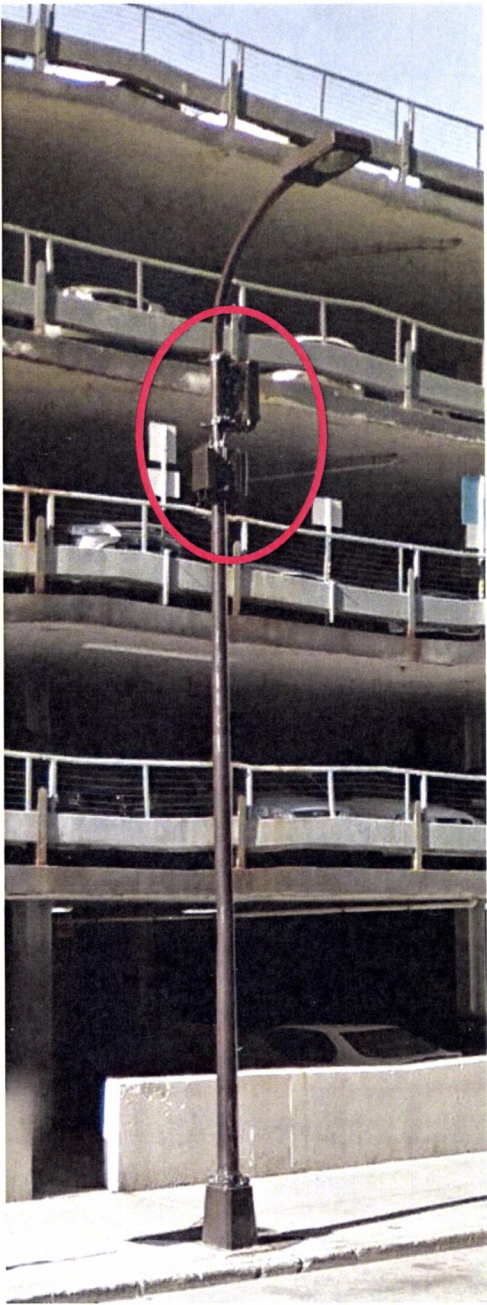
515-35-10 12: Temporary Mobile Towers.

- A. Personal wireless service antennas located upon a temporary mobile tower as a permitted secondary use may be used on an interim basis until a permanent site is constructed shall require ZONING ~~the approval of an Administrative Permit~~ and shall comply with the following standards:
 1. Temporary mobile towers are exempt from co-location and permanent tower structure design standards provided for in the following sections: Section 515-2. H. and 515-35-2.I, Section 515-35-4 and Section 515-35-5.
 2. The termination date of the permit shall not exceed one hundred twenty (120) days. Temporary mobile towers located on a site longer than one hundred twenty (120) days shall require the processing of an Interim Use Permit subject to the standards contained in Section 6.
 3. Guyed towers are prohibited.
 4. Mobile units shall have a minimum tower design wind load of eighty (80) miles per hour, or be set back from all structures a distance equal to the height of the tower.
 5. All towers shall be protected against unauthorized climbing.
 6. The height of the tower shall not exceed one hundred (100) feet.

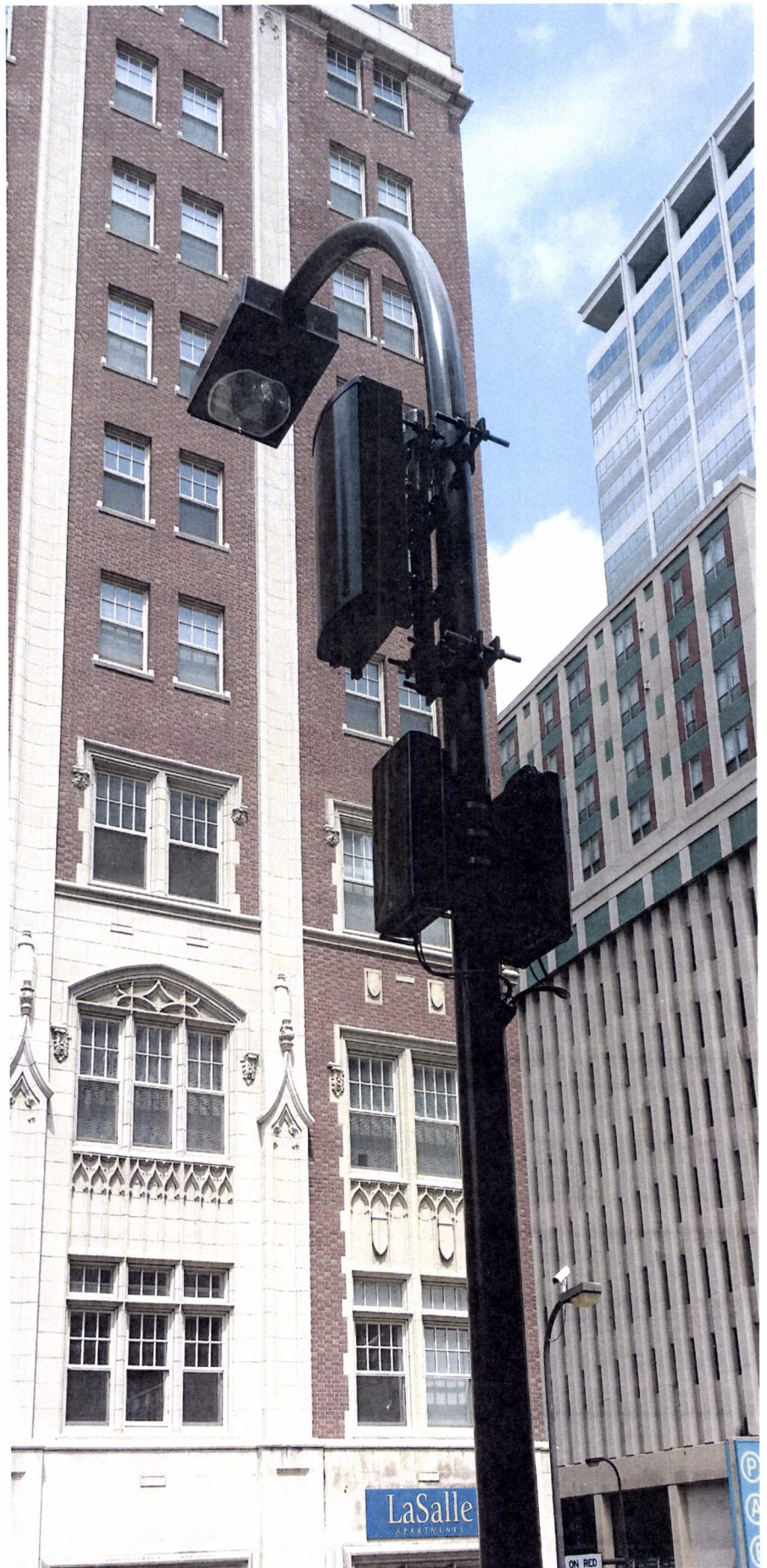
515-35-10 13: Commercial and Public Radio and Television Transmitting Antennas, and Public Utility Microwave Antennas.

- A. Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:
 1. Such antenna shall be considered an allowed conditional use within all industrial districts of the City and shall be subject to the regulations and requirements of Section 5 of this Ordinance.

2. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
3. Unless the antenna is mounted on an existing structure, at the discretion of the City, a fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure and other equipment, as well as no climb security measures shall be provided on the tower or structure.

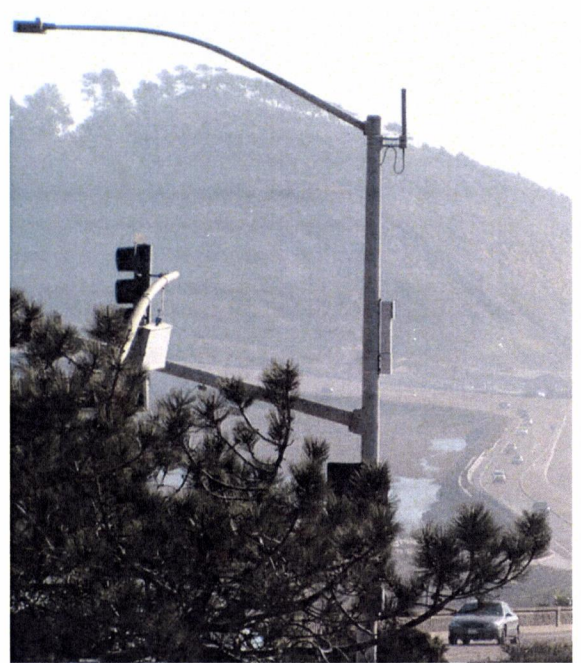


Currently at corner of 9th
St S and Lasalle Ave in
downtown Minneapolis





DAS and small cell antennas in other settings



BY RACHEL DOVEY | JUNE 28, 2017

Figure 1 consists of three photographs at the top, each showing a different state of a vacant lot. Below the photos is a line graph with three data series: '... CARE ABOUT THE COMMUNITY' (blue), '... TRUST THE POLICE' (orange), and '... TRUST THE GOVERNMENT TO DO WHAT'S RIGHT' (green). The x-axis represents the level of lot maintenance, with three points labeled 'PHOTO 1' (Unmaintained Lot), 'PHOTO 2' (Somewhat Maintained Lot), and 'PHOTO 3' (Well-Maintained Lot). The y-axis represents the percentage of respondents who agree with the statement. A green callout box highlights that even moderate upkeep can boost civic trust.

Lot Condition	Sample Size (n)	Care About Community (%)	Trust Police (%)	Trust Government (%)
Unmaintained Lot (Photo 1)	1,007	11%	11%	9%
Somewhat Maintained Lot (Photo 2)	1,008	24%	21%	16%
Well-Maintained Lot (Photo 3)	1,007	55%	40%	29%

Even moderate upkeep of a vacant lot can boost civic trust. Respondents shown Photo 2 expressed 10% greater trust in police compared to those shown Photo 1.

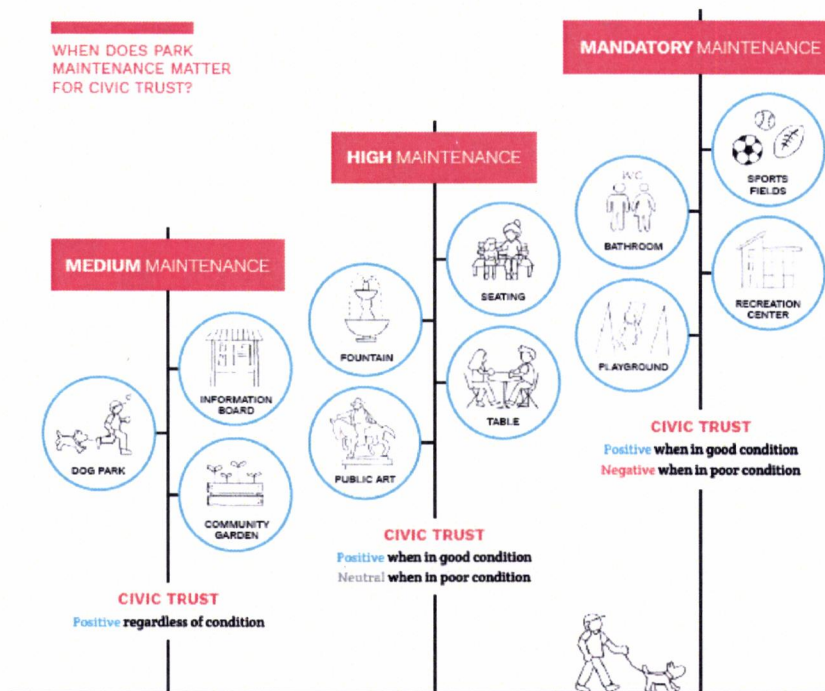
(Credit: Center for Active Design)

Park benches, well-maintained lots, planters full of bright flowers, lamp posts — these are public space design features that we often think of as perks, and maybe even beneficial to our physical and psychological well-being, but not as essential city services in the vein of safe drinking water or reliable public transportation.

But a new survey from the Center for Active Design (CfAD) indicates that such features can have far-reaching benefits for civic life beyond the often-touted (but deeply generalized) morale boost. Billed as “the first study to examine specific community design features that influence civic life, using large-sample survey methods and visual experiments,” the survey examined things like trust in local government and police, community engagement, and stewardship associated with those seemingly humble design elements. As Fast Company reports, it’s “a step forward in establishing urban design as essential — and not merely ‘nice to have.’”

The Assembly Civic Engagement Survey (ACES), as it's called, was fielded as an online survey to a "sample of 5,188 respondents from 26 communities across the United States," in 2016, according to CfAD. Communities surveyed varied in economic conditions, racial composition and density.

The organization wanted to capture associations, but also causation, which tends to be lacking in conversations about civic empowerment and the built environment. For example, the ACES found an association between park access and civic trust and stewardship — but that doesn't necessarily prove that living close to a park ups your civic trust. There could be other factors at play that would make you more likely to trust your local government.



(Credit: Center for Active Design)

From the survey:

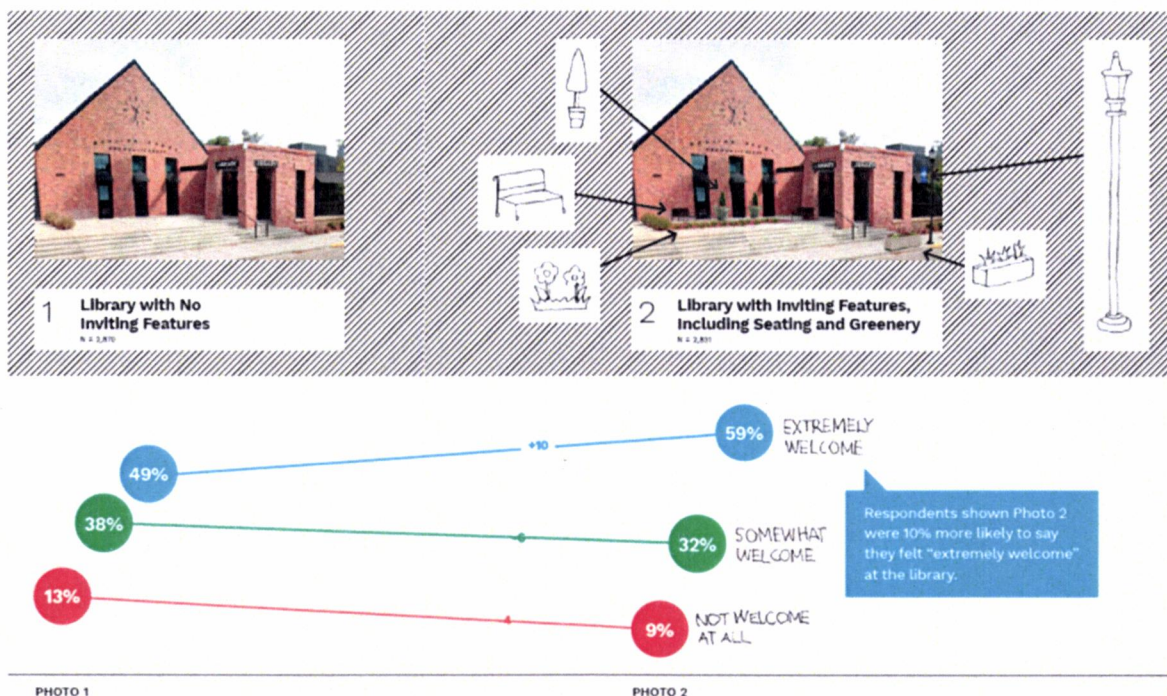
While associations are very helpful, they cannot be used to infer whether changes in one variable directly cause changes in another variable. To address this gap, ACES incorporated a series of photo experiments ... that explore the causal impacts of design. For each photo experiment,

CfAD developed two to three images that were identical save for minor differences in a particular design element. Respondents were then randomly assigned just one of these images, and all respondents were asked the same questions about their civic engagement intentions. Because the photo treatments were randomly assigned, any difference in the civic engagement measures can be directly attributed to the differences in design.

One photo experiment showed two flyers for an annual community meeting, for example. The flyers were largely identical, with a call to “come be part of this important meeting and see your Community Board at work!” The only difference: One flyer showed a picture of the meeting inside, the other showed it outside. The ACES question: “How interested would you be in attending this meeting?” The response: Twenty-four percent said “very interested” for the indoor photo, but 45 percent said that for the outdoor image.

Another showed two images of a public library. The building was identical in both, but the second featured subtle landscaping upgrades, like benches, flowery borders, potted plants and a lamp post. For the question “How welcome would you feel attending an event in the library?” respondents were 10 percent more likely to answer “extremely welcome” to the second.

“How welcome would you feel attending an event in the library?”



(Credit: Center for Active Design)

Signage was another area where a few extra features went a long way. Respondents were more likely to see a building as “welcoming” and “inclusive” with touches like a bilingual welcome sign and a message inviting questions.

One of the key takeaways from the survey is that design improvements don’t have to be expensive. Putting some potted plants and a bench in front of the library isn’t going to have the same impact on municipal coffers as drafting the next High Line. And of course those subtle elements aren’t going to make residents trust the police in the same way as comprehensive transparency measures or de-escalation training overseen by an independent third party. But it still seems like those little changes send strong messages of investment and valuation to the surrounding community.

“Communities that incorporate additional public seating, plantings, and signs with positive messaging can help residents and visitors feel more welcome, and enhance civic trust,” the survey concludes.

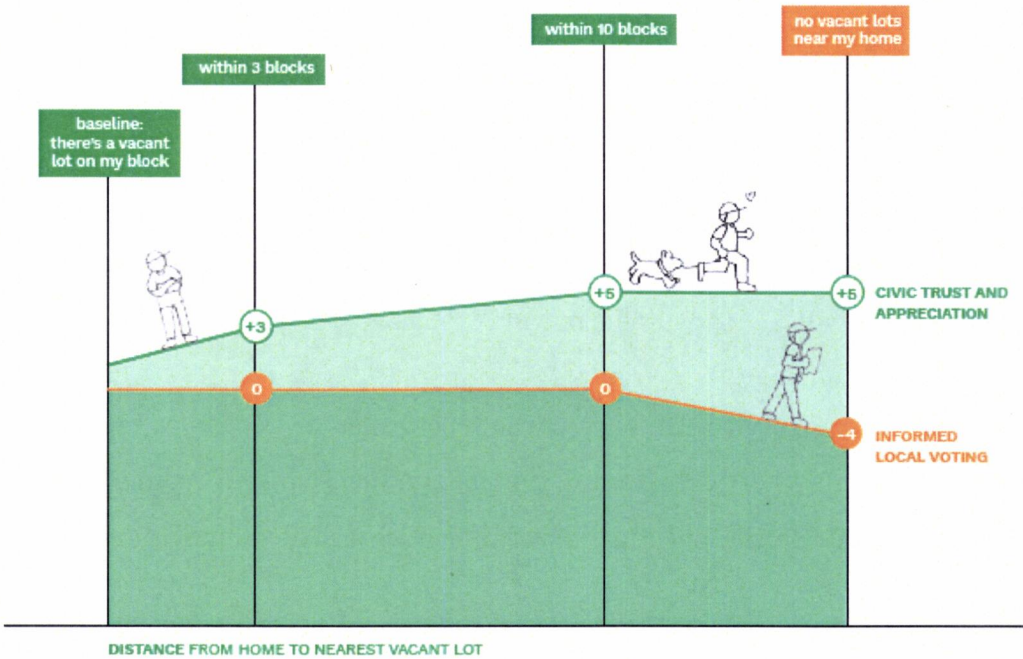
Several other takeaways:

- People living near popular parks report greater community connection and greater satisfaction with local government. They are 14 percent more likely to report satisfaction with police and 13 percent more likely to report satisfaction with the mayor.

- Litter is associated with depleted civic trust. People who report litter to be “very common” in their neighborhood exhibit reduced civic trust across a number of measures, including 10 percent lower community pride and 10 percent lower likelihood of believing that community members care about one another.

- Vacant lots present a challenge, and an opportunity. A photo experiment indicates that even moderate clean-up of a vacant lot can significantly enhance measures of civic trust — including a 13 percent increase in the belief that people care about their community.

PROXIMITY TO VACANT LOTS:
RELATIONSHIP TO CIVIC TRUST
AND VOTING



(Credit: Center for Active Design)

See the full survey [here](#).



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Architects Are Worried About Urban Design in Bozeman

BY RACHEL DOVEY | JULY 11, 2017



Downtown Bozeman (Photo by Chris06)

“The city has a long history of using solid materials,” city planner Tom Rogers recently told the Bozeman Daily Chronicle, referring to the city’s effort to update its unified development code, which has recently come under fire from a group of local architects.

Instead of Quonset huts, which Rogers specifically calls as an example of what planners do *not* want to see, the city may “require most new commercial buildings to have their first-floor facade use brick or another masonry material unless designers get a special ‘departure’ from city planners,” according to the paper.

That's one of several items that the architects — including Rob Pertzborn of Intrinsik Architecture, Ben Lloyd of Comma-Q Architecture and Brian Caldwell and Erik Nelson of the firm ThinkTank, among many others — have a particular problem with. According to the paper, brick tends to cost more than twice as much as wood or metal, which could force developers to cut costs elsewhere or decide not to develop in Bozeman. The city, like so many others, has a **gentrifying housing market**, and some claim it already has a shortage of affordable units.

Beyond their financial concerns, though, the architects are worried about design constraints, writing in a letter that the new code could create “a recipe for postmodern style which is often characterized by over-exaggerated and quasi-historic looking architecture.”

Rogers told the Chronicle that the document is still in draft form and that the city is considering the architects' input. “I don't think they will find their creativity hampered or hindered with the standards that are being proposed here,” he said.

The local clash between modern and postmodern sensibilities appears to echo national culture wars — in which architecture has suddenly taken an uneasy spotlight. But that's purely speculation. Perhaps the local dust-up is just about Quonset huts.