

BRAINERD PLANNING COMMISSION

Wednesday, October 18, 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 September 20, 2017
2. Special Meeting held October 11, 2017

Documents:

[MINUTES OF MEETING SEPT 20 DRAFT.PDF](#)
[MINUTES OF MEETING OCT 11 DRAFT.PDF](#)

4. New Business

- 4.a. Rezoning - Adventure Properties, 110 NW 3rd St., Brainerd - Rezone Property From A B-2 To An R-3

Documents:

[ADVENTURE PROPERTIES REZONING REQUEST.PDF](#)

- 4.b. Brainerd Zoning Ordinance Text Amendment - Microdistilleries And Cocktail Rooms

Documents:

[MEMO - PUBLIC HEARING - ZONING ORDINANCE TEXT AMENDMENTS PERMITTING MICRODISTILLERIES AND TAPROOMS.PDF](#)

- 4.c. Independent School District 181 Presentation - District Facilities Planning Status

5. Public Forum

Time allocated for citizens to bring matters not on the agenda to the attention of the Planning Commission - time limits may be imposed

6. Old Business

- 6.a. Report On Steering Committee Appointment Process And Upcoming Ward Meetings

7. Commissioners' Questions/Comments

8. City Planner's Report

9. Adjourn

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

PLANNING COMMISSION
Wednesday, September 20, 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, Marohn and Wussow; and Council Liaison Lambert. Also present were City Planner Ostgarden and Administrative Specialist Bestul.

#2 Approval of Agenda

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

#3 Approval of minutes of the regular meeting held on August 16, 2017

MOTION AND SECONDED BY COMMISSIONERS GORHAM AND LAMBERT, DULY CARRIED, TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 16, 2017.

#4 NEW BUSINESS

A. Public Hearing - Variance Request - 113 Carol Lane - (Held Over until October 2017 Meeting)

City Planner Ostgarden indicated the petitioner was unable to attend the meeting tonight due to a prior commitment. There are a number of issues related to this request in terms of the impact the location of the accessory building will have on a storm water utility line that runs through the property as well as other options the property owner has in the location of the building. It has been determined the petitioner needs to be present for discussion and questions before proceeding. Commission discussion took place whether a special meeting should be called or if this request is to be held over to the next Planning Commission meeting October 18th.

Commissioner Marohn asked if staff could work with the applicant on other options prior to the October meeting to avoid the delay in construction of the garage.

City Planner Ostgarden replied that it is the intention for the City Engineer and the City Planner to meet with the petitioner to discuss other options.

MOTION AND SECONDED BY COMMISSIONERS GORHAM AND LAMBERT, DULY CARRIED, TO POSTPONE THE VARIANCE REQUEST TO THE OCTOBER 18, 2017 MEETING.

City Planner Ostgarden explained that a public hearing is scheduled; that those in attendance should be provided the opportunity to provide comment on the request.

The Chair opened the Public Hearing at 6:12 p.m.

The Chair welcomed Ms. Alexis Diton, 321 Buffalo Hills Lane, Brainerd. The site of the building is directly across from her home's front porch. Ms. Diton has no objection to the construction of the

garage however; it is the request for the variance that she disagrees with. In the event that Buffalo Hills Lane may be expanded in the future, Ms. Diton is concerned if that 5' variance Mr. Thompson is requesting will inflict on her property. Ms. Diton has spoken with Mr. Thompson on the issue, and she is certain it would look very nice, but it is the possible infliction on her property that she is concerned about as well as possible negative environmental impact.

The Chair continued the Public Hearing to October 18, 2017.

B. Request to Consider a Zoning Ordinance Text Amendment to consider adding Microdistilleries and Cocktail Rooms as uses allowed in the B-3 (Central Business) District

City Planner Ostgarden stated about a year ago, there were some amendments to the Zoning Ordinance to allow microbreweries and taprooms to be a permitted and conditional use in several zoning districts. At that time, only that segment of this type of industry was focused on. There now is a request to expand this type of craft industry to allow microdistilleries and cocktail rooms in the community. The Planning Commission needs to discuss and decide if this use should be allowed in the community. In addition to the B-3 District, the use seems appropriate in the following districts:

- 515-61 – B-2 (Neighborhood Business) District by Conditional Use Permit
- 515-62 – B-3 (Central Business) District by Conditional Use Permit
- 515-63 – B-4 (General Business) District as a Permitted Use
- 515-64 – B-5 (Commercial Amusement) District by Conditional Use Permit
- 515-65 – B-6 (Washington Street Commercial) District as a Permitted Use
- 515-70 – I-1 (Light Industry) District as a Permitted Use which by reference it is a permitted use in the MU (Mixed Use) District

There are state liquor laws that apply to be adhered to when considering this amendment. If this is approved as a use in the community, the City Council will need to perform another step in creating a license and a licensing fee. From the land use perspective, it is the Planning Commission's duty to evaluate whether or not it is a use that is appropriate in the community and in what districts would be allowed.

Commissioner Marohn questioned the use difference of the current B-3 allowed breweries and taprooms versus a microdistillery. City Planner Ostgarden explained in terms of Zoning Ordinances, there is a difference between brewing beer and distilling spirits partly because of the by-product that is created from a distillery and how it is handled and taken care of; brewing beer is a different process that arguably may not have the same type of impact as a distillery would have. State Statute specifies the alcohol section of the statute as separate uses. If the Planning Commission chooses to allow this as a Permitted Use, we should go back to the craft beer industry and evaluate whether or not it is appropriate for that to be a Conditional Use while producing spirits is a Permitted Use. The City does not yet have a form based code that would treat all our uses differently and until we get to that point, we are still using the same methods we currently use.

Commissioner Burslie asked what the B-5 Commercial Amusement District is. City Planner Ostgarden stated that district was established when the Zoning Ordinance was written to allow for an amusement park, a go-cart track or miniature golf course. We have not yet created a B-5 District in the community.

Commissioner Gorham questioned the request in the past from the Franklin Arts Center to allow a brewery to be established there; what were the reasons it was not approved? City Planner

Ostgarden explained they would have been permitted as a Conditional Use, however the school district policy states zero tolerance for alcohol where there are students.

Commissioner Wussow agreed with B-2 staying as a Conditional Use, but as Permitted Use in all the other districts. The conditions as identified from the City of Duluth should be amended for the City of Brainerd by removing or revising the following:

REMOVE:

- (g) Craft breweries / craft distilleries shall maintain at least ten percent of the gross floor area of the facility for retail purpose;
- (h) No more than 500 proof gallons may be stored at a craft distillery premises at any one time;
- (i) Service trucks for the purpose of loading and unloading materials, equipment and product shall be restricted to between the hours of 8:00 a.m. and 8:00 p.m. Monday through Saturday and between 11:00 a.m. and 7:00 p.m. on Sundays and national holidays;
- (j) Service trucks for the purpose of loading and unloading materials, equipment and product shall be restricted to 30 feet in total length;

REVISE:

L. MICRODISTILLERIES WITH COCKTAIL ROOM. MICRODISTILLERIES WITH A COCKTAIL ROOM subject to the provisions of Minnesota Statutes 340A and the following:

1. No outdoor storage.
2. A cocktail room shall require an “on-sale” license from the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.
4. No odors from the brewery shall be perceptible beyond the property line. ~~When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.~~

Zoning Ordinance Section 2 Definitions would be amended to add:

Microdistillery. A facility for distilling spirits not to exceed 40,000 proof gallons the state statute allowed amount in a calendar year. It may include a cocktail room and retail space to sell spirits to patrons on the site.

Microdistilleries will be added to the following zoning districts:

- 515-61 – B-2 (Neighborhood Business) District as a Conditional Use Permit
- 515-62 – B-3 (Central Business) District as a ~~Conditional Use Permit~~ Permitted Use
- 515-63 – B-4 (General Business) District as a Permitted Use

- 515-64 – B-5 (Commercial Amusement) District as a Conditional Use Permit Permitted Use
- 515-65 – B-6 (Washington Street Commercial) District as a Permitted Use
- 515-70 – I-1 (Light Industry) District as a Permitted Use which by reference it is a permitted use in the MU (Mixed Use) District

MOTION AND SECONDED BY COMMISSIONERS WUSSOW AND BURLIE, DULY CARRIED, TO APPROVE THE ZONING ORDINANCE TEXT AMENDMENT DRAFT BY ADDING MICRODISTILLERIES IN THE B-3 (CENTRAL BUSINESS) DISTRICT AS A PERMITTED USE, AMENDING B-5 (COMMERCIAL AMUSEMENT) DISTRICT AS A PERMITTED USE AND TO ELIMINATE THE FOUR IDENTIFIED CONDITIONS G – J AND MODIFY THE ADDITION TO THE ZONING ORDINANCE ABOVE.

#5 PUBLIC FORUM

None

#6 OLD BUSINESS

Comprehensive Plan – Report on Commissioner Marohn’s Fiscal Analysis Presentation for the Comprehensive Plan Process

City Planner Ostgarden explained it was discussed previously of how to include the fiscal analysis process and procedures in our Comprehensive Plan process. Commissioner Marohn stated he had compiled data which was distributed to the commission members to discuss. He suggested we take time in the data collection process to ask questions relating to our land use and the fiscal impacts of our land use as part of the comprehensive planning process. Since the plan was last updated, there has been a lot of improved understanding in the planning profession of the impact of certain development patterns on the financial health of a city. The understanding is that certain types of development generate costs and revenues that are different than other types of development and understanding that as it applies to our city. We need to understand how our city fits into the overall economics of the county and the region and the school district. When we are talking about issues such as Harrison School being moved out of town and looking at the tax base being contributed by the neighborhood that Harrison School is in and how important the school is to that tax base. All of our arguments and understandings of the city are going to be enhanced by having a real rigorous set of economic analyses. A meeting took place with Mr. Marohn, City Planner Ostgarden, and Commission Chair Headley and they compiled a list of items that are hopefully going to be a part of the ongoing conversation. It is also the recommendation that focus is on a comprehensive plan that is shorter as opposed to longer, but would include a number of appendices’ or collected data that has been analyzed to put a set of principles and goals together for the community. A real coherent document is one that has policy distinctions. The commission discussed some of the topics on the list.

Report on Steering Committee Appointment Process and Upcoming Ward Meetings

City Planner Ostgarden updated the commission on the status of the appointments to the steering committee. The City Council has various candidates for the positions but some of them have yet to finalize the appointments. As this point, we have Mr. Mike Larson, Chief Financial Officer at Essentia Health; Ms. Pam O’Rourke, former member of BLAEDC; Commissioner Marohn, Commission Chair Headley and Council Liaison Lambert. We are hoping the remaining six members are appointed at the October 2nd council meeting. There is no update as yet on the ward meetings.

#7 COMMISSIONERS' QUESTIONS/COMMENTS

Commissioner Marohn stated he read an article in the Brainerd Daily Dispatch regarding the parking concerns at Harrison Elementary School and the consideration to move the school out of the area. Commission discussion took place on the issue and it was determined for Planning Department staff to contact ISD181 School Board to meet and talk about the concerns.

#8 CITY PLANNER'S REPORT

City Planner updated the commission on the Variance Request from the last meeting for 15073 Riverside Drive. It was determined by City Attorney that a 1975 MN Supreme Court decision that there is a difference in a continuation of a non-conforming use and an expansion of a non-conforming use. If the owner chooses to install the garage attached to the apartment building, this would be considered an expansion of a non-conforming use. If the owner chooses to build a separate building, the Supreme Court ruled this as a continuation of a non-conforming use. Based on that decision, the owner does not need to rezone in order to build a garage. The non-conformity is on the structure itself. Since there is no expansion to the building, it is not considered an expansion of the non-conformity. However, other rules do apply regarding parking lot paving, striping etc. that need to be adhered to.

#9 ADJOURNED AT 7:18 P.M

Respectfully submitted,

Mark Ostgarden AICP
City Planner

PLANNING COMMISSION
Special Meeting – Wednesday, October 11, 2017
City Hall Council Chambers

Committee Chair Headley called the meeting of the Brainerd Planning Commission to order at 5:00 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Gorham, Headley, Antolak, Lambert Wussow, Also present were City Planner Ostgarden and 2 others.

Public Hearing – Request from Bruce and Cynthia Thompson for a variance to construct an accessory building (garage) at 113 Carol Lane, Brainerd

City Planner Ostgarden explained the property consists of 140' on Carol Lane and 160' on Buffalo Hills Lane. For building setback purposes, Carol Lane is considered the front yard and Buffalo Hills Lane is the street side yard. The petitioner has applied for a variance to construct a 28' x 24' garage in the southwest corner of his property where a creek with a significant ravine runs northwest / southeast across the property. There is not sufficient room to construct the garage in the southwest corner of the lot to meet minimum setbacks and to not have a concern on encroaching on the ravine stability. It is being proposed to encroach 5' into the 20' street side yard setback and a 3' encroachment in the 10' rear yard setback.

The concern that we need to discuss is not whether a garage is permitted to be built on the property in the area desired; the issue is the desire to encroach into the street side yard setback and the rear yard setback to move the structure away from the ravine. There is currently an accessory building on the property which will be removed for the new structure. Photos of the property were discussed. It was pointed out the concern of the location of the underground storm sewer line. It was initially believed that the storm sewer line extends to the south extended at an angle northwest to southeast from the ravine to Buffalo Hills Lane. However, after further research with the engineering department, the alignment of the storm sewer line runs north, angles to the west and north again across the Thompson's property. There is not an easement that has been granted for that sewer line to be in place. In conversations with City Engineer Sandy, there will have to be special precautions taken regardless of the placement of the building if there is ever the need to dig up the line.

City Planner Ostgarden stressed the importance to the commission of keeping in mind the Criteria for Granting Variances and the Comprehensive Plan shown as:

- 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 regarding 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 using alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. *Provide for compatibility of different land uses.*
- L. *Provide for administration of this Ordinance.*
- M. *Provide for amendments.*
- N. *Prescribe penalties for violation of such regulations.*
- O. *To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

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

The Comprehensive Plan Goal and Strategy that may apply is:

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

Strategy

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

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"

Does the ravine pose enough to be considered a "Practical Difficulties" to warrant granting the variance? Is it reasonable to permit the garage to be 5' closer to the Buffalo Hills Lane property line and 3' closer to the rear property line?

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

Will a garage 5' closer to Buffalo Hills Lane property line and 3' closer to the rear property line for a 28' x 24' garage affect the neighborhood's character?

The Public Hearing was opened at 5:14pm.

The Chair recognized the petitioner Mr. Bruce Thompson, 113 Carol Lane. Mr. Thompson has pointed out the area in question is the only logical place to construct the garage. Mr. Thompson indicated he believes there are some serious issues with the storm sewer and the ravine regarding erosion. If the garage was constructed in the allowed setback, it would be within 10' to 12' of the storm sewer line into the ravine. Because there is no easement, this garage could be built right from the west property line east which would be pretty close to the storm sewer line and it would be very difficult to trench or dig to make repairs. The variance would allow him to build away from the ravine in order to maintain stability in the structure and crews could access the storm sewer line. The building will match the house and existing garage and the roof will have the same 6' x 12' pitch. Other locations for the placement of the garage were discussed; however they are not logical places to build.

Commissioner Wussow explained that a variance is something that needs to meet all criteria as they are not intended to be issued to every request. Mr. Thompson indicated the ravine issue and where the storm sewer line is located would qualify as meeting subdivision 4 "Practical Difficulties".

Commissioner Wussow stated when the property was purchased, these issues were already there; every lot has certain limitations. Mr. Thompson agreed but it is unknown what future needs or wants will be. The driveway would be located off of Buffalo Hills Lane and it will be paved.

Commissioner Gorham referred to the letter from Crow Wing Soil and Water Conservation District and the concerns and recommendations they had. Mr. Thompson indicated there is tremendous erosion along the ravine; trees are falling in and down in the area. The neighbors that are affected have all talked with the county and Mr. Thompson feels surprised that his garage would affect any erosion issues more than what is taking place.

Chair Headley asked why Mr. Thompson feels there a "Practical Difficulty" in the placement of the garage in the allowed setbacks. Mr. Thompson provided a photo of the area staked out, and the corner of the garage would be approximately 24" into the ravine, which is very unstable ground. A significant pour of concrete could be done to try and stabilize the area. However, if a variance was granted due to the storm sewer line location and the ravine concerns, it would be more practical for both parties. The garage would be in a favorable location and the storm sewer line would be more accessible to city workers for repairs if the need arises. If the variance is not granted, the garage will still be built in that area and the city does not have an easement. If something were to happen to affect the storm sewer line, there will be some serious issues to get to the line.

The Chair recognized Ms. Alexis Diton, 321 Buffalo Hills Lane. Ms. Diton is concerned if the variance is granted and with the proposed road expansion, if 5' comes off the petitioners side, if will it affect her property. City Planner Ostgarden stated if the variance is granted and it is 5' closer to the street, it is permitted. It is still located on Mr. Thompson's property-it does not encroach into the right-of-way for Buffalo Hills Lane. If Mr. Thompson is granted a 5' variance, the city will not take 5' from any other property owner.

City Planner Ostgarden indicated any future plans of work on Buffalo Hills Lane will be within the existing right-of way that the city has. There still will be room for a potential bike lane.

The Public Hearing was closed at 5:37 pm.

The following findings-of-fact were read into the record as follows:

1. The property is in an R-1A (Single Family Residential) District and the owner desires to construct a 28' x 24' garage in the required street side yard and required rear yard setback areas.
2. The property is 140' x 160' with the narrow frontage on Carol Lane.
3. For zoning setback purposes, the narrower street frontage on a corner lot is considered the front yard.
4. The required street side yard setback is 20' and a 5' encroachment is proposed. The required rear yard setback is 10' and a 3' encroachment is proposed.
5. There is an attached garage located 30' from the front property line. R1-A zoning requires a 30' front yard setback leaving no room to add onto the attached garage.

6. The area of the existing garage and proposed garage will not exceed the maximum area permitted for accessory buildings on the lot.
7. The property is permitted 1 detached accessory building in addition to the attached garage. The garage is permitted; it's the location that is the issue.
8. The site has a ravine and a creek that limits the setback from the side street property line and in the southwest corner of the lot.
9. The Crow Wing Soil and Water Conservation District has submitted a letter with recommendations on how to protect the ravine should the garage be constructed.
10. Letters have been received from the property owners to the west and to the south opposed to the variance.
11. The storm water pipe location identified on the petitioner's diagram, is not accurate. The City Engineering Department has identified it runs directly north and south 10' east of the proposed garage.
12. The City Engineer has stated that the pipe is approximately 15' deep, so from an engineering judgement standpoint, placement of a garage in this location would make it extremely difficult to replace the storm sewer pipe.
13. The request is not consistent with the following Comprehensive Plan Goals and Strategy:
LAND USE GOAL #4: *Plan land uses and implement standards to minimize land use conflicts.*
Strategies
Prepare and adopt a land use plan that designates land use areas and guides development to appropriate areas to ensure desirable land use patterns and minimize conflicts.

Commissioner Antolak sees difficulty in allowing a 5' encroachment on Buffalo Hills Lane as it will push it closer when more room is actually needed. Mr. Thompson has informed us about the erosion and if the storm sewer line needs to be enlarged, would this pose a problem in the future?

Commissioner Gorham questioned the four provisions indicated on the letter from the Crow Wing Soil and Water Conservation District which are as follows:

- Install stormwater landscaping practices
- Locate at least 20 feet away from the crest of the ravine and 10 feet from the foundations
- Basin less than 9" deep
- Size for a minimum 1.1" rain event

The location of the garage as proposed would not be 20 feet away from the ravine. The other suggestions would refer to a raingarden being created for overflow.

Commissioner Lambert would suggest denial due to the instability of the ground and other alternatives are available.

Committee Chair Headley argued the practical difficulty criteria is not met as there are other options for the garage location.

MOTIONED AND SECONDED BY COMMISSIONERS LAMBERT AND WUSSOW, DULY CARRIED, TO RECOMMEND DENIAL BASED ON THE DISCUSSION; REASONS SITED INCLUDING LAND USE GOAL #4.

Adjourn at 5:55 p.m.

Respectfully submitted,

Mark Ostgarden AICP, City Planner

STAFF REPORT TO THE PLANNING COMMISSION

October 9, 2017

REZONING

APPLICANT/LOCATION:	Adventure Properties, 110 NW 3 rd St, Brainerd, MN
REQUESTED ACTION:	Rezone property from an B-2 (Neighborhood Commercial) District to an R-3 (High Density Residential) District
AREA:	1.5 acres
ADJACENT USES:	North: Elementary School East: Mississippi River South: Railroad/Vacant/Office West: Vacant/Elementary School
ADJACENT ZONING:	North: R-3 (High Density Residential) District East: B-4 (General Commercial) District South: B-2 (Neighborhood Commercial) District West: B-2 (Neighborhood Commercial) District

PETITION BACKGROUND

ISD 181 has a purchase agreement with Adventure Properties for property (subject parcel) at 110 NW 3rd Street. It has 2 existing buildings, one being a century old house, which at one time was a Port Group Home facility and is currently the home for Adventure Advertising. The firm also has offices in St. Cloud and Minneapolis.

The subject parcel is zoned B-2, which is a zoning district that does not permit school uses. The Riverside Elementary School site area is in an R-3 zone, which is a zone that does permit school uses by Conditional Use Permit. The ISD is interested in the subject parcel should future improvements to /expansion of the school be needed.

In a report to the ISD 181 Board, ISD Director of Business Services Steve Lund describes the near term and long-term interest in the subject parcel as follows:

As part of the acquisition by the current owners in 2009, the school district granted an easement for ingress/egress along the south portion of the vacated Williams Street.

Without the easement, the property would have been landlocked.

This acquisition is strategic from several aspects:

- 1. Controlling the use of this property that has a very unique proximity to our school with no other similar properties surrounding it.*

2. *Providing immediate flexibility for the possibility of expanding staff parking to alleviate parking and circulation congestion that exists in the present parking area.*
3. *Serves as a cornerstone piece to the possibility of further expansion of the site through the possible acquisition of adjacent property presently owned by BNSF.*

Should the R-3 rezoning occur, it will permit the following uses of the subject parcel:

Permitted Uses.

- A. Multiple family dwellings.
- B. Two family attached dwellings.
- C. Public recreation areas and related accessory buildings and structures.
- D. Residential care facilities serving six (6) or fewer persons.
- E. Essential services as regulated by Section 36 of this Ordinance.

Accessory Uses.

- A. Accessory buildings including garages, tool sheds and similar buildings ...
- B. Fences as regulated by Section 19 of this Ordinance.
- C. Storage of recreational vehicles and equipment ...
- D. Private recreational facilities ...

Interim Uses.

- A. None

Conditional Uses.

- A. Public or semi-public recreational buildings and neighborhood or community centers;
- B. Nursing homes and similar group housing, not including hospitals, provided that: ...
- C. Senior housing provided that:
- D. Residential Planned Unit Developments: townhomes and quadrominiums
- E. Government and public regulated utility buildings and structures ...
- F. Personal wireless service towers and antennas...
- G. Places of Worship and related buildings provided that: ...
- H. State Licensed Residential Care Facilities serving 7 to 16 persons provided that: ...
- I. Public and private schools provided that:
- J. Senior center provided that:

The zoning process is independent of the potential purchase by the ISD. The process is a municipal legislative action and conditions on such an action cannot be included as part of that action. Meaning, the rezoning cannot be conditioned upon the subject parcel being purchased by the ISD.

Evaluation of the petition involves 2 scenarios:

1. The property is rezoned and the ISD purchases the subject parcel.
2. The property is rezoned and, for whatever reason, the ISD does not purchase the subject parcel.

Should the rezoning occur and the purchase does not occur, Adventure Advertising would become a non-conforming use. It and similar businesses can operate at the subject property; the limitation is the ability to expand those uses in the R-3 district.

Should the subject parcel become vacant for any reason for more than 1 year, it would lose its non-conforming status. After the 1-year period, future uses would be limited to those listed above as Permitted Uses, Accessory Uses and Conditional Uses.

The current B-2 zoning does permit the site to be used for multifamily development.

PETITION EVALUATION

In compliance with Section 515.09 of the Brainerd Zoning Ordinance, the Planning Commission shall conduct a Public Hearing regarding this request. To assist the Planning Commission in evaluating the suitability of this requested change, the following are guidelines and a staff review of issues associated with the application to consider in the review process.

1. The proposed action's consistency with the specific policies and provisions of the official City Comprehensive Plan.

Attached are the Comprehensive Plan Land Use Goals and Strategies by which this proposal should be reviewed.

2. The proposed use's compatibility with present and future land uses of the area.

The attached section of the Comprehensive Plan Future Land Use Map identifies this property as Public/Semi Public land use. Attached are the current Zoning Map and Existing Land Use Map of the area.

3. The proposed use's effect upon the area in which it is proposed.

The proposed use already exists with the elementary school. Mr. Lund's report to the ISD Board describes how acquisition of the subject parcel can benefit the elementary school site and the area.

The ISD 181 school facilities planning process has identified preliminary concepts that show added space to Riverside Elementary School and preliminary concepts that do not show added space. The conclusion about

any additional space needs to Riverside Elementary School, to some degree, are connected to a final plan for Harrison Elementary School.

The subject parcel has Mississippi River frontage, subjecting it to the City's Shoreland Regulations. In addition to zoning requirements for lot sizes, setbacks, etc., the Shoreland Regulations specify that all lands within 300' of the river have an additional set of land use requirements to meet. The most significant being impervious coverage, within the 300' setback, is limited to 25% of the property.

The Shoreland Regulations requirements will reduce the buildable area of the subject parcel to approximately 135' x 168' or 22,140 +/- sq. ft. or about ½ acre. The depth and width of the buildable area would be large enough for additional off-street parking.

Should rezoning occur and ISD 181 not purchase the subject parcel, the R-3 zoning would permit duplex or multifamily uses. Based on the R-3 zoning standards of 3,000 sq. ft./unit for duplex use, and 2,000 sq. ft./unit for multifamily use, in the approximate ½ acre buildable area could accommodate 3 - 4 duplex buildings (6-8 units) or approximately 10 multifamily units (apartments).

4. Traffic generation of the proposed use in relation to capabilities of streets serving the property.

In 2013, Riverside Elementary School off street parking and traffic circulation improvements were made for bus and vehicle parking and for student drop off and pick up. Those changes have improved conditions on SW 4th Street, added parking for visitors and staff, separated bus traffic from other vehicle traffic, and most importantly improved safety for children and users of the facility.

While the parking and circulation for the site is greatly improved, the ISD has commented that if it were ever feasible, it would look at ways to further improve those conditions. Mr. Lund states the following in his report to the ISD Board:

As you can see, there is a small parcel of property that lies directly to the west of the subject property. This parcel, along with another parcel directly to the west (across from an un-vacated portion of 3rd St. from Williams to the railroad right-of-way) is owned by Burlington Northern Santa Fe (BNSF) railroad.

The school district is presently exploring the purchase potential of these two parcels. Acquiring the subject property along with the two tracts of BNSF

property would provide the school district the option of requesting the City of Brainerd to vacate Williams Street and the remaining portion of NW 3rd Street, which would create a nearly 14-acre elementary school campus in the heart of our community.

Should rezoning occur and ISD 181 not purchase the property and based on the sites ability to accommodate approximately 10 apartment units, it can be expected the units to generate about 70 vehicle trips/day. Peak time travel would be vehicles leaving in the morning and returning in the afternoon. Morning trips would encounter school traffic backups using Williams Street for drop off access. There would be additional trips in the afternoon, however most return trips should occur after the student pick up hours.

Williams Street is the only access to the subject property. Its intersection with SW 4th Street can be a congested intersection at times and days. Should the site develop with multifamily units, traffic associated with that development will cause additional SW 4th Street congestion. To what degree cannot be determined without a more thorough traffic analysis.

Another traffic generation/land use scenario that could occur is ISD 181 not purchasing any property and the subject parcel and the 2 BNSF parcels zoned B-2 are developed with higher density residential uses (duplexes or multifamily) or commercial uses. This would have the potential for significant traffic circulation issues for ISD 181 and traffic movement issues on SW 4th Street.

5. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and its potential to overburden the City's service capacity.

Aside from the elementary school play area, there is no parkland in the area. Public utilities, sewer water and electricity can accommodate an expanded school site or multifamily use should it require utilities.

PLANNING DEPARTMENT REVIEW

Attached for consideration is a Draft Findings of Fact.

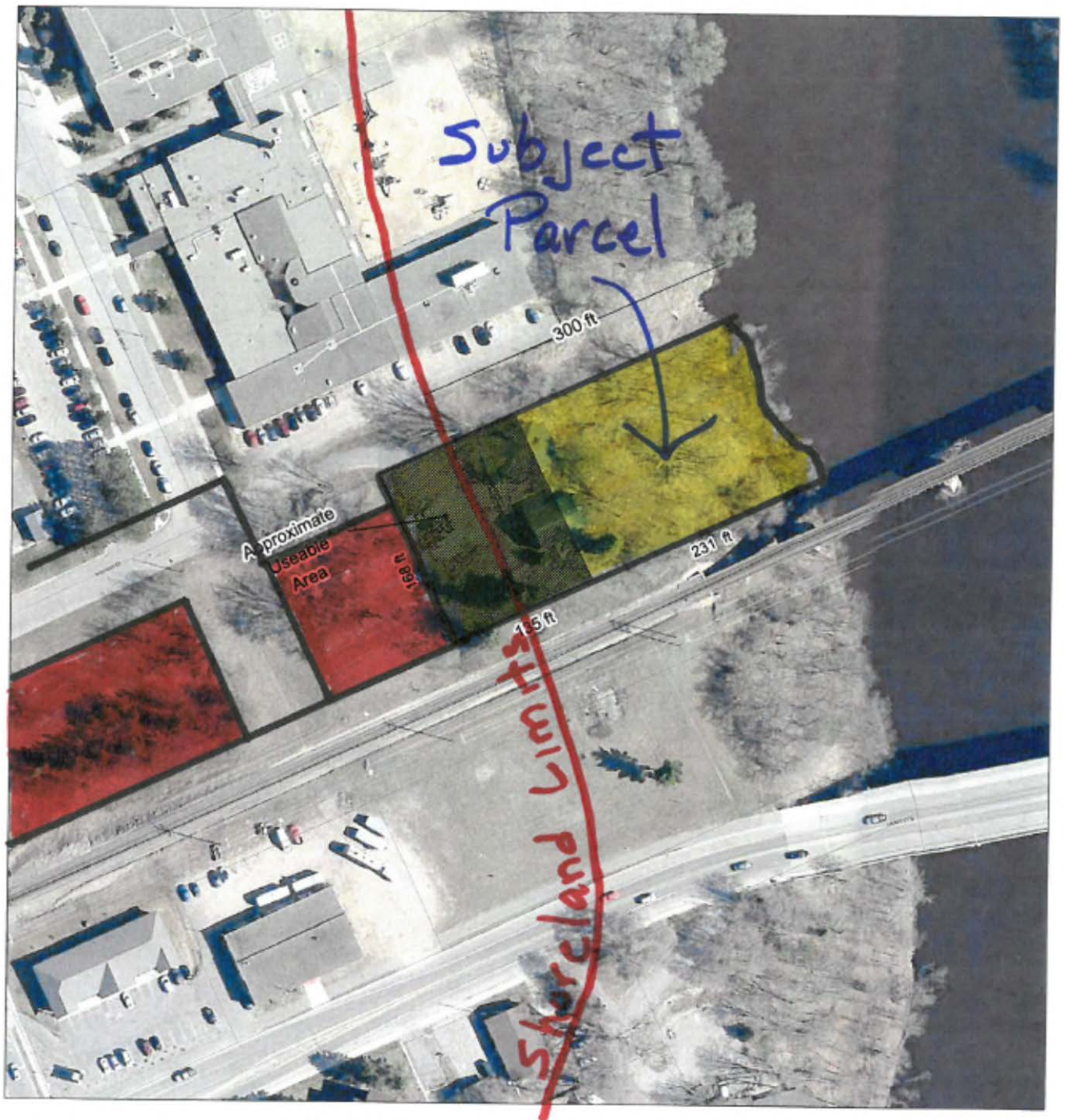
Question #4 above describes how acquisition (or not) could impact the Riverside Elementary school site and area. The best-case scenario for development of the area, access and traffic circulation is ISDs ability to assemble the described parcels for a school campus. Should that not occur, should (when) development occur on the parcels, Riverside Elementary School and traffic circulation on NW 4th Street will both be impacted.

PLANNING COMMISSION AND CITY COUNCIL ACTION

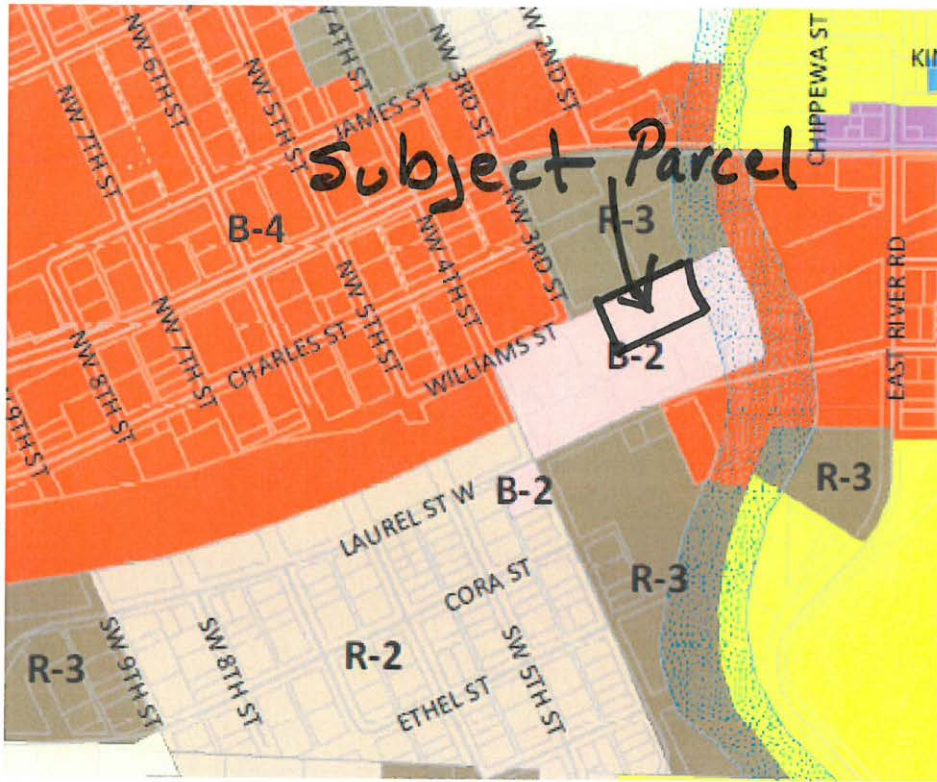
The Planning Commission can consider a recommendation on this request at its October 18, 2017 meeting. The City Council can receive the Planning Commission recommendation and consider an Ordinance First Reading on October 23, 2017 and an Ordinance Second/Final Reading on November 6, 2017.

Respectfully submitted,

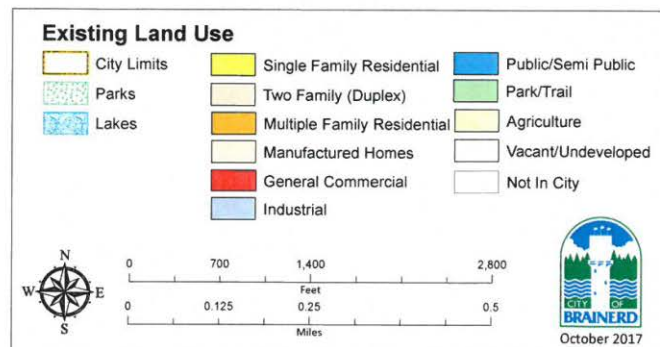
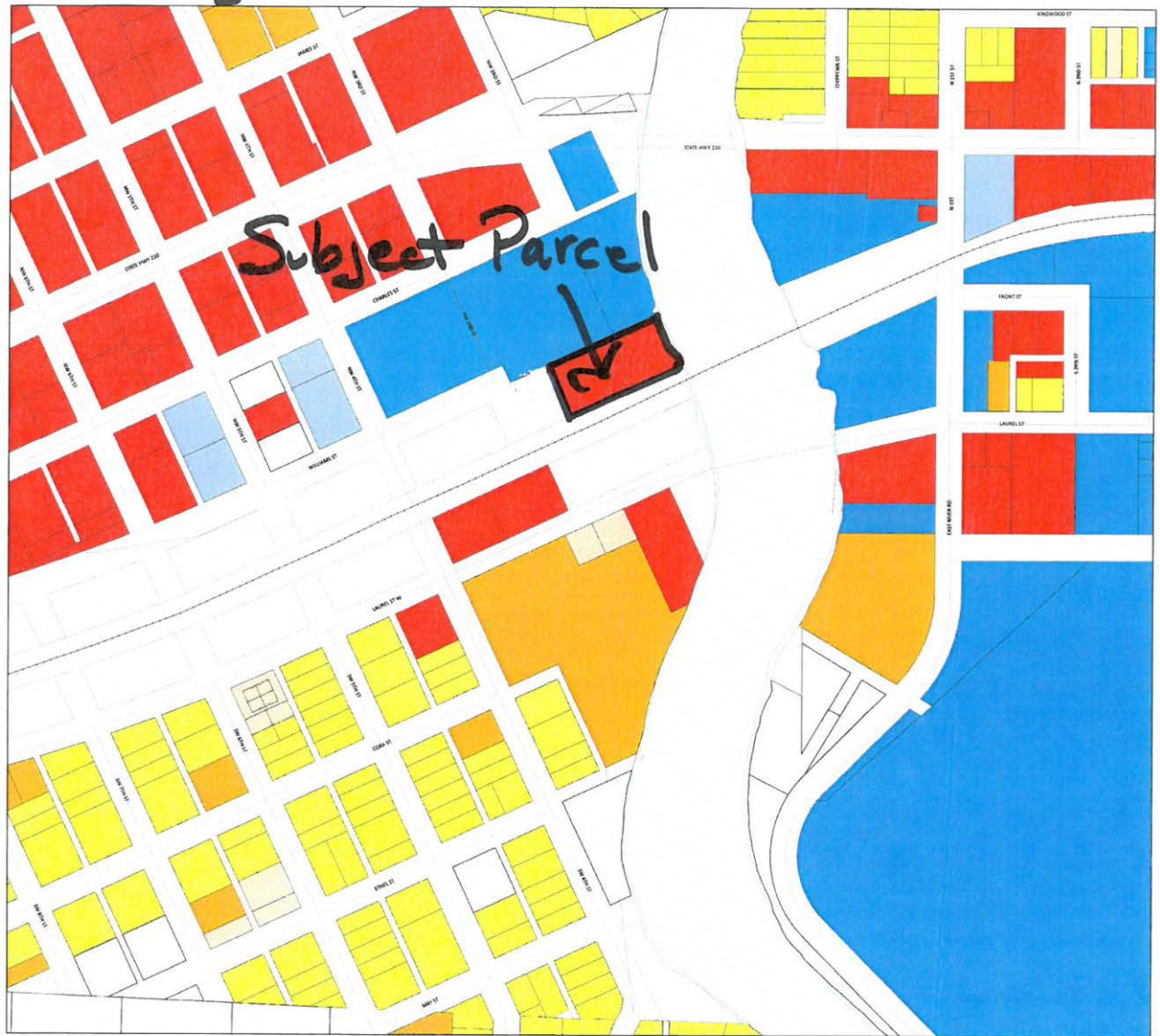
Mark Ostgarden AICP
City Planner



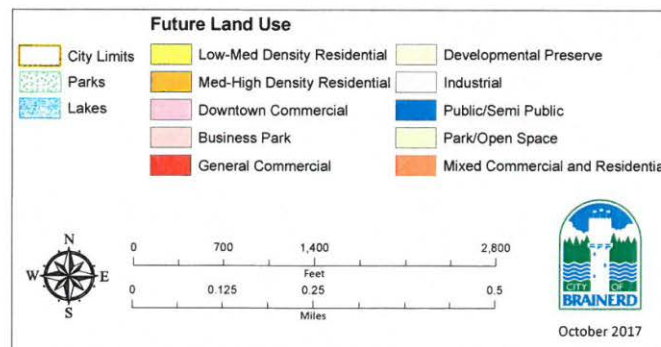
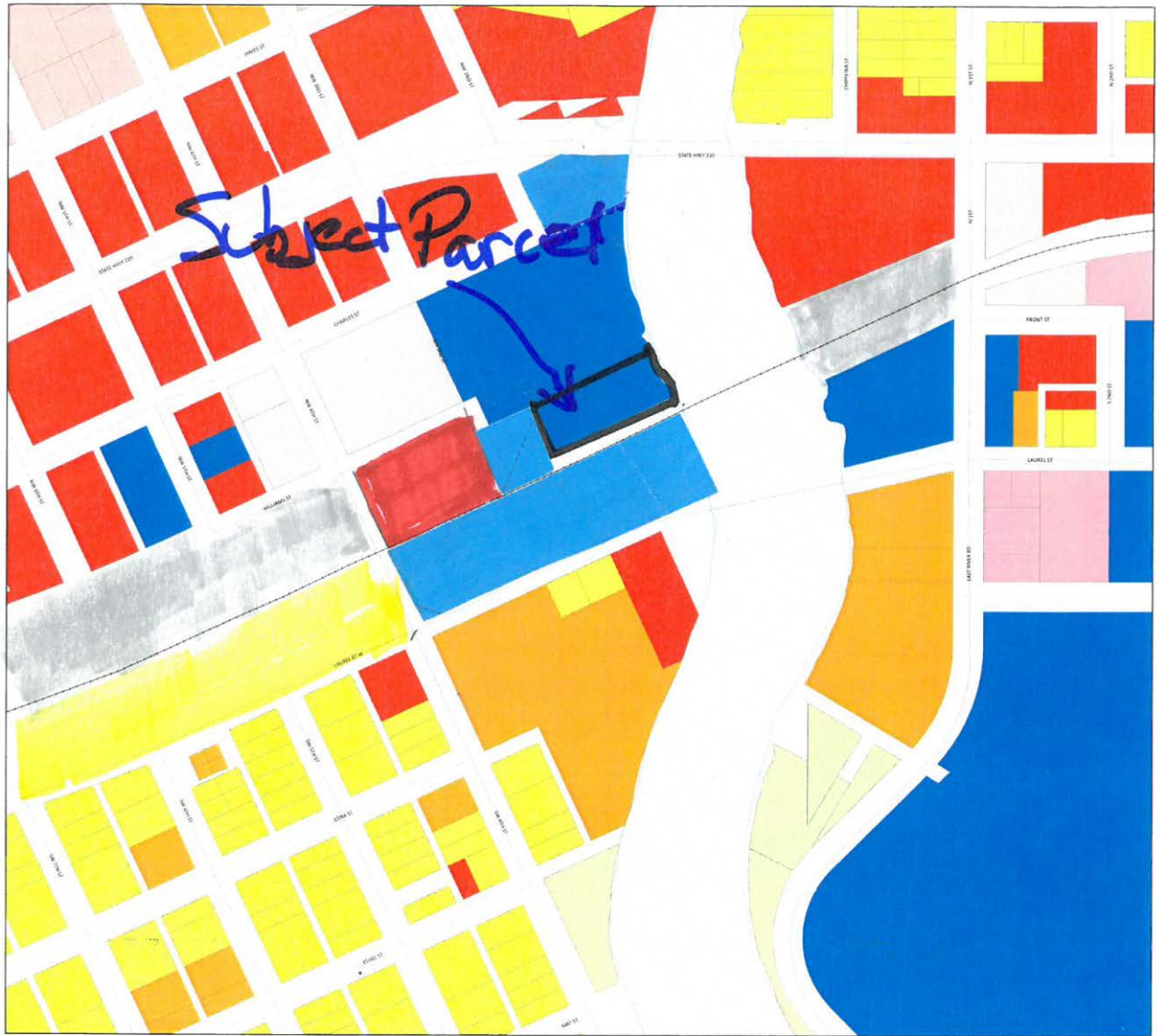
Current Zoning



Existing Land Use *City of Brainerd*



Future Land Use City of Brainerd



COMPREHENSIVE PLAN GOALS AND STRATEGIES

GENERAL GOAL #1: *Maximize Brainerd's potential as a thriving center for business, health care, industry, education and recreation, while maintaining and enhancing its livability.*

Strategies

1. Promote the development and implementation of a Comprehensive Plan that effectively and efficiently plans for land use, community facilities, transportation, housing, economic development and environmental protection for Brainerd and the immediate surrounding area.
2. Review and amend the Comprehensive Plan as necessary to ensure its usefulness as a practical guide for current and future development. Adhere to this Plan, which shall guide all zoning changes, as closely as possible to ensure consistent development policy.
3. Formulate and enforce city ordinances to ensure development in accordance with the Comprehensive Plan, including downtown development guidelines, and general commercial development requirements.
4. Continue to plan for land uses to support and enhance Brainerd's ability to attract quality development, by providing adequate quality areas for new business development.
5. Participate in the state legislative, Crow Wing County, and surrounding townships' governmental processes regarding issues important to the city.
6. Protect both the general welfare and the individual choices of Brainerd residents. Insure that decisions that are made by the community reflect the needs of current residents and business owners.

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

Strategies

1. Continue to guide residential growth in an orderly and compact manner so that new developments can be effectively served by public improvements and that the character and quality of the city's existing neighborhoods can be maintained and enhanced.
2. Encourage well-designed residential subdivisions at urban densities in the designated growth areas of the city. Locate higher density residential

developments in areas adjacent to higher density development and major transportation systems to efficiently address traffic volumes.

3. Only place high-density developments in areas with adequate transportation infrastructure.
4. Encourage development of low density and high-density family housing units in those areas designated on the adopted Land Use Plan.
5. Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost-effective provision of city services.
6. Require all residential developments to be connected to public sewer and water where feasible.
7. Encourage the development of trail systems and open spaces in new residential developments with “points of interest” destinations.
8. Encourage housing rehabilitation and redevelopment in appropriate areas.

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

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

1. Work to strengthen and maintain the appearance of the Business Highway 371, Highway 210/Washington Street, Oak Street (former Highway 18), Highway 25 and County Road 3 corridors through design standards, trails, lighting, sidewalks, signage and other tools.
2. Develop and enforce architectural/site-planning standards in both the downtown and general commercial areas that support and promote community aesthetic standards.
3. Support and enhance Brainerd’s ability to attract new development by identifying quality building sites that provide efficient infrastructure, specifically in growth areas.
4. Support the redevelopment of vacant and abandoned sites within the urban core.
5. Ensure that high quality developments are well planned and connected to existing development through the efficient use of streets, utilities and infrastructure.

6. Develop a “Community Resources Master Plan” that identifies unique environmental, cultural and architectural sites within the community. Establish preservation guidelines that allow for adaptive re-use, or redevelopment.
7. Work with property owners to encourage the development of attractive entrances and gateways to the community.

Findings of Fact

Adventure Properties, 110 NW 3rd St, Brainerd, MN
Rezoning

1. The property is located at the east end of Williams Street. Site access is via Williams Street from the west and an easement from ISD 181.
2. The BNSF Railroad tracks about the subject parcel to the west and BNSF owns vacant property to the west along the south side of Williams Street.
3. The property is approximately 1.5 acres with 2 buildings and the site is currently used for business purposes.
4. The property is along the Mississippi River and is subject to development restrictions of the City of Brainerd Shoreland Regulations.
5. The property is zoned B-2 (Neighborhood Commercial) District zoning allows the following uses:
Permitted Uses.
 - A. Commercial establishments offering merchandise or services to the general public ...
 1. Retail establishments...
 2. Personal services ...
 3. Office Businesses-Clinic.
 4. Repair services....
 5. Office Businesses-General.
 6. On-site service businesses...
 7. Decorating and photography studios.
 - B. Government and public buildings, utilities, and/or structures.
 - C. Essential services as regulated by Section 36 of this Ordinance.
 - D. One family, two family and multifamily dwellings

Accessory Uses.

- A. Off-street parking as regulated by Section 22 of this Ordinance.
- B. Off-street loading as regulated by Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Radio and television receiving antennas....

Uses by Administrative Permit.

- A. Temporary/seasonal outdoor promotional events and sales provided that:

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

Interim Uses.

None.

Conditional Uses.

- A. Private clubs and lodges provided that: ...
- B. Restaurants without drive-up windows.
- C. On-sale liquor establishments.
- D. Places of worship and related buildings provided that: ...
- E. Commercial day care facilities as regulated by Section 29 of this Ordinance.
- F. Outdoor dining facilities accessory to a restaurant provided that: ...
- G. Planned Unit Development (including shopping centers) as regulated by Section 11 ...
- H. Motor vehicle fuel sales provided that:
- I. Funeral homes and mortuaries provided that: ...
- J. Specialty Food Shops...
- K. Microdistilleries and Cocktail Rooms

- 6. The proposed R-3 (High Density Residential) District zoning allows the following uses:

Permitted Uses.

- A. Multiple family dwellings.
- B. Two family attached dwellings.
- C. Public recreation areas and related accessory buildings and structures.
- D. Residential care facilities serving six (6) or fewer persons.
- E. Essential services as regulated by Section 36 of this Ordinance.

Accessory Uses.

- A. Accessory buildings including garages, tool sheds and similar buildings ...
- B. Fences as regulated by Section 19 of this Ordinance.
- C. Storage of recreational vehicles and equipment ...
- D. Private recreational facilities ...

Interim Uses.

None.

Conditional Uses.

- A. Public or semi-public recreational buildings and neighborhood or community centers;
 - B. Nursing homes and similar group housing, not including hospitals, provided that: ...
 - C. Senior housing provided that:
 - D. Residential Planned Unit Developments: townhomes and quadrominiums ...
 - E. Government and public regulated utility buildings and structures ...
 - F. Personal wireless service towers and antennas...
 - G. Places of Worship and related buildings provided that: ...
 - H. State Licensed Residential Care Facilities serving 7 to 16 persons provided that:
 - I. Public and private schools provided that:
 - J. Senior center provided that:
9. ISD 181 owns the property to the north and west which is developed as an elementary school.
10. ISD 181 is currently studying its district facility needs which includes Riverside Elementary School.
11. ISD 181 thinks the subject parcel can provide immediate flexibility for expanding staff parking and to alleviate parking and circulation congestion that exists in the present parking area. It can serve as a cornerstone piece to further expansion of the (elementary school) site through the possible acquisition of adjacent property presently owned by BNSF.
12. The Future Land Use for the parcel is identified in the 2004 Comprehensive Plan as Public/Semi Public Land Use.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Adventure Properties has submitted a request to rezone their property at 110 NW 3rd St, Brainerd, MN 56401 from a B-2 (Neighborhood Business) District to R-3 (High Density Residential) District. The area considered for rezoning are lands described as that portion of the Burlington Northern Santa Fe Railway Company's (formerly Northern Pacific Railway Company) 400 foot wide Charter Right of Way, granted under Section 2 of the Act of Congress approved July 2, 1864, situated in Government Lot 7 of Section 4, Township 133 North, Range 28 West of the 5th p.m. Crow Wing County, Minnesota..... The PID is 0919980020010009.

Following is a list of uses permitted in the B-2 and R-3 District:

B-2 Permitted Uses.

- A. Commercial buildings shall be limited to 5,000 square feet of floor area or less ...
- B. Retail establishments...
- C. Personal services ...
- D. Office Businesses-Clinic ...
- E. Repair services ...
- F. Office Businesses-General ...
- G. On-site service businesses ...
- H. Decorating and photography studios.
- I. Government and public buildings, utilities, and/or structures.
- J. Essential services as regulated by Section 36 of this Ordinance.

B-2 Accessory Uses.

- A. Off-street parking as regulated by Section 22 of this Ordinance.
- B. Off-street loading as regulated by Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Radio and television receiving antennas,... .

B-2 Uses by Administrative Permit.

- A. Temporary/seasonal outdoor promotional events and sales provided that:
- B. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

B-2 Interim Uses.

- A. None.

B-2 Conditional Uses.

- A. Private clubs and lodges provided that:
- B. Restaurants without drive-up windows.
- C. On-sale liquor establishments.
- D. Places of worship and related buildings provided that: ...
- E. Commercial day care facilities as regulated by Section 29 of this Ordinance.
- F. Outdoor dining facilities accessory to a restaurant provided that: ...
- G. Planned Unit Development (including shopping centers) ...
- H. Motor vehicle fuel sales provided that:
- I. Funeral homes and mortuaries provided that: ...
- J. Specialty Food Shops...

R-3 Permitted Uses.

- A. Multiple family dwellings.
- B. Two family attached dwellings.
- C. Public recreation areas and related accessory buildings and structures.
- D. Residential care facilities serving six (6) or fewer persons.
- E. Essential services as regulated by Section 36 of this Ordinance.

R-3 Accessory Uses.

- A. Accessory buildings including garages, tool sheds and similar buildings ...
- B. Fences as regulated by Section 19 of this Ordinance.
- C. Storage of recreational vehicles and equipment ...
- D. Private recreational facilities ...

R-3 Interim Uses.

- A. None

R-3 Conditional Uses.

- A. Public or semi-public recreational buildings and neighborhood or community centers;
- B. Nursing homes and similar group housing, not including hospitals, provided that: ...
- C. Senior housing provided that:
- D. Residential Planned Unit Developments: townhomes and quadraminiums ...
- E. Government and public regulated utility buildings and structures ...
- F. Personal wireless service towers and antennas...
- G. Places of Worship and related buildings provided that: ...
- H. State Licensed Residential Care Facilities serving 7 to 16 persons provided that: ...
- I. Public and private schools provided that:
- J. Senior center provided that:

R-3 Uses by Administrative Permit.

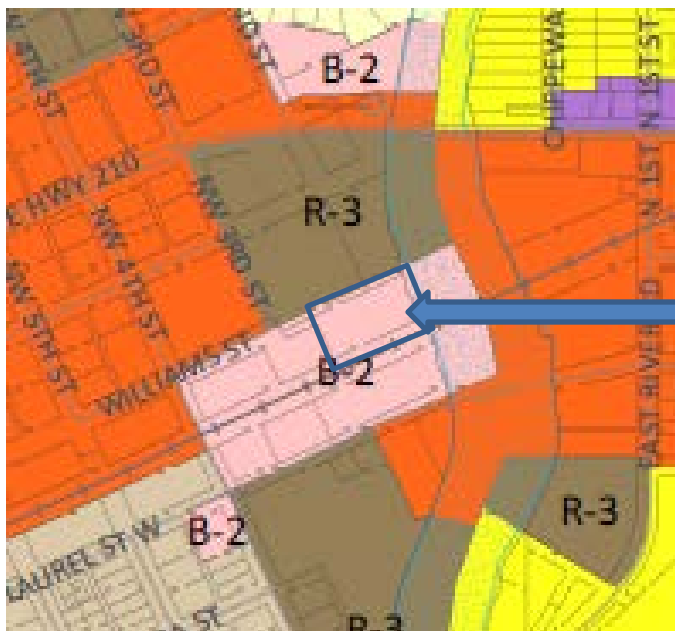
- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

A Public Hearing will be conducted by the Brainerd Planning Commission at 6:00 p.m. Wednesday, October 18, 2017 in the Brainerd City Hall Council Chambers, 501 Laurel Street, to consider rezoning the property.

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

Dated this 5th day of October 2017

Mark Ostgarden AICP
City Planner



Rezone from B-2 to R-3

**City Planning Department**

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

RECEIVED

SEP 29 2017

CITY OF BRAINERD
ADMINISTRATION

Receipt # 2017-00067
Check # 151479
Date Paid: 9/29/17

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

	RESIDENTIAL	COMMERCIAL
CONDITIONAL USE PERMIT	☐ (\$250.00)	☐ (\$400.00 + \$500.00 escrow deposit)
REZONING	☐ (\$300.00)	☒ (\$500.00)
VARIANCE	☐ (\$250.00)	☐ (\$400.00 + \$500.00 escrow deposit)

PROPERTY ADDRESS: 110 NW 3rd St.

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

Property Owner Name: Adventure Properties, LLC

Street Address: 110 NW 3rd St City: Brainerd State: MN Zip Code 56401

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

Applicant Name: (If different than Property Owner) Brainerd Public Schools
Scott Mitchell

Street Address: 804 Oak Street City: Brainerd State: MN Zip Code: 56401

Phone Number: 218-454-6905 Fax: 218-454-6901 E-mail: steven.lund@isd181.org

Description of Request: School District has entered into a purchase agreement for the above mentioned property and is requesting a change in zoning to allow schools as an allowed use of the property. While the school district has no immediate or definitive plans, the District is requesting an extension of the same zoning classification as the existing, adjacent Riverside school property, allowing for school use.

John Linn *Scott Mitchell*
9/28/2017 7:21:34 AM CDT Property Owner Signature

09/28/2017

Date

*John Linn**Scott Mitchell*

(Please print name)

Applicant Signature

9/28/17

Date

Steve Lund, Director of Business Services

(Please print name)

(OVER)

MEMO

TO: Planning Commission

CC: Mark Ostgarden, City Planner

DATE: October 10, 2017

RE: Public Hearing - Zoning Ordinance Text Amendments Permitting
Microdistilleries and Cocktail Rooms

The October 18, 2017 Planning Commission meeting will include the public hearing to consider amending the Zoning Ordinance to permit microdistilleries.

Following is the amendment to include microdistilleries in Section 515 – 2 Definitions and the zoning districts the use is recommended as a permitted use or as a conditional use.

MICRODISTILLERIES: A FACILITY FOR DISTILLING SPIRITS NOT TO EXCEED THE STATE STATUTE ALLOWED AMOUNT IN A CALENDAR YEAR. IT MAY INCLUDE A COCKTAIL ROOM AND RETAIL SPACE TO SELL SPIRITS TO PATRONS ON THE SITE.

- 515-61 – B-2 (Neighborhood Business) District as a Conditional Use Permit
- 515-62 – B-3 (Central Business) District as a Permitted Use
- 515-63 – B-4 (General Business) District as a Permitted Use
- 515-64 – B-5 (Commercial Amusement) District as a Permitted Use
- 515-65 – B-6 (Washington Street Commercial) District as a Permitted Use
- 515-70 – I-1 (Light Industry) District which includes the MU (Mixed Use) District by reference as a Permitted Use

Each district will have the following minimum standards:

1. NO OUTDOOR STORAGE.
2. A COCKTAIL ROOM SHALL REQUIRE AN “ON-SALE” LICENSE FROM THE CITY OF BRAINERD, ACCORDING TO THE CITY CODE SECTION XII.
3. COMPLY WITH THE REQUIREMENTS OF BRAINERD CITY CODE 515-62-6B FOR OUTDOOR SERVING, IF APPLICABLE.
4. NO ODORS FROM THE BREWERY SHALL BE PERCEPTIBLE BEYOND THE PROPERTY LINE.

At the September Planning Commission meeting during which the draft microdisitlleries language was presented, there was discussion about odor and it was thought the PCA would have standards to apply. The Planning Department contacted the Baxter PCA office and learned that:

“...unfortunately, the MPCA does not regulate odors. It’s too subjective to regulate. In most cases, the city or county will have that within their nuisance ordinance.”

City Code Section 2010.04 – Nuisances/Junk/Blight Permitting Unhealthful Conditions. reads as follows:

No person shall permit, suffer, or maintain or fail to remove any offensive, **nauseous**, hurtful, dangerous, or unhealthful condition to or for the neighborhood resulting from the failure to properly dispose of sick or unsound flesh, meat, fish, carcass, or garbage, sewage, waste, debris, or any other unwholesome or offensive substance, liquid, or thing whatsoever upon his premises or land, or premises or land occupied or used by or under his control, or drop, discharge, pass, deposit, or otherwise deliver the same upon any ground, private or public.

There is no reference in the City Code specifically related to odor.

SECTION 2 RULES AND DEFINITIONS

Section:

515-2-1: Rules

515-2-2: Definitions

515-2-1: Rules. The language contained in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural and the plural the singular.
- B. The present tense includes the past and future tenses, and the future to the present.
- C. The word "shall" is mandatory, and the word "may" is permissive.
- D. The masculine gender includes the feminine and neuter genders.
- E. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition.
- F. All measured distances expressed in feet shall be to the nearest tenth of a foot.
- G. In the event of conflicting provisions, the more restrictive provisions shall apply.
- H. For terminology not defined in this Section, the most current Merriam Webster's dictionary shall be used to define such terms.

515-2-2: Definitions. The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

Accessory Building, Structure or Use. A subordinate building, structure or use which is located on the same lot as the main building or use and which is reasonably necessary and incidental to the conduct of the primary use of such principal building or use.

Addition. A physical enlargement of an existing structure.

Adjacent. Having a common border.

Agricultural Building or Structure. Any building or structure, existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.

Lot Line. The property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the lot line shall be deemed to be the boundary of said public right-of-way.

Lot Line Front. That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the City.

Lot Line Rear. That boundary of a lot which is opposite of the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot Line Side. Any boundary of a lot which is not at the lot line or a rear lot line.

Lot Through. A lot which has a pair of opposite lot lines abutting two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lines for applying this Ordinance.

Lot, Unit. Lots created from the subdivisions of a two-family dwelling or townhome having different minimum lot size requirements than the conventional base lots within the zoning district.

Lot Width. The maximum horizontal distance between the side lot lines of a lot measured at the front setback line.

Manufacturing, Light. The manufacturing or assembly of a product whether in its final version or not. All materials and products must be stored within the structure. Examples of the types of use are electronic assembly, dental laboratories, etc.

Micro-Brewery – A facility for brewing beer that produces less than 3,500 barrels per year. It may include a tap room and retail space to sell beer to patrons on the site.

MICRODISTILLERY - A FACILITY FOR DISTILLING SPRITS NOT TO EXCEED THE STATE STATUTE ALLOWED AMOUNT IN A CALENDAR YEAR. IT MAY INCLUDE A COCKTAIL ROOM AND RETAIL SPACE TO SELL SPIRITS TO PATRONS ON THE SITE.

Mini (Self) Storage. An enclosed storage facility containing independent, fully enclosed bays that are leased to individuals exclusively for the storage of household or commercial goods or personal belongings.

Mining. The extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand (1,000) cubic yards or more and the removing thereof from the site. The only exclusion from this definition shall be removal of materials associated with

SECTION 61
B-2, NEIGHBORHOOD BUSINESS DISTRICT

Section:

- 515-61-1: Purpose and Intent
- 515-61-2: Permitted Uses
- 515-61-3: Accessory Uses
- 515-61-4: Uses by Administrative Permit
- 515-61-5: Interim Uses
- 515-61-6: Conditional Uses
- 515-61-7: Lot Area and Setback Requirements – Non-Residential
- 515-61-8: Minimum Lot Area and Setback Requirements – Residential
- 515-61-9: Building Performance Standards – Residential
- 515-61-10: Exterior Building Standards – Non-Residential
- 515-61-11: Building Height

515-61-1: Purpose and Intent. The purpose of the B-2 District is to provide for areas that are a mix of residential uses and limited, convenient, office and retail businesses that serve nearby residential neighborhoods.

515-61-2: Permitted Uses.

- A. Commercial establishments offering merchandise or services to the general public in return for compensation. Commercial buildings shall be limited to five thousand (5,000) square feet of floor area or less and include the following uses:
 - 1. Retail establishments such as groceries, hardware, pharmacy, clothing and furniture stores, liquor stores (off-sale only), florists, pharmacies, books, cards and gifts. Off-sale liquor stores are not permitted.
 - 2. Personal services such as barber/beauty shop, nail salon, tanning salon, therapeutic massage and spas.
 - 3. Office Businesses-Clinic. Out-patient health services limited to general medical clinics, mental health providers, physical therapy, chiropractors, dentists, orthodontia, oral surgeons, and opticians.
 - 4. Repair services such as jewelry and radio and television/appliance repair shops, household items, electronics, shoe repair, upholstery and locksmith.
 - 5. Office Businesses-General. Professional administrative or clerical service operations limited to attorneys, financial advisors, insurance, travel and real estate.

2. A taproom for malt liquor “off-sale” produced on-site shall require an “on-sale” taproom room license from the City of Brainerd, according to the City Code Section XII.
 3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.
 4. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and follow any applicable Minnesota Pollution Control standards
- O. MICRODISTILLERIES AND COCKTAIL ROOMS SUBJECT TO THE PROVISIONS OF MINNESOTA STATUTES 340A AND THE FOLLOWING:
1. NO OUTDOOR STORAGE.
 2. A COCKTAIL ROOM SHALL REQUIRE AN “ON-SALE” LICENSE FROM THE CITY OF BRAINERD, ACCORDING TO THE CITY CODE SECTION XII.
 3. COMPLY WITH THE REQUIREMENTS OF BRAINERD CITY CODE 515-62-6B FOR OUTDOOR SERVING, IF APPLICABLE.
 4. NO ODORS FROM THE BREWERY SHALL BE PERCEPTIBLE BEYOND THE PROPERTY LINE.

515-61-7: Minimum Lot Area and Setback Requirements – Non-Residential

Lot Area	10,000 square feet
Lot Width	75 feet
Front Yard Setback	20 feet
Side Yard Setback, internal lot	5 feet
Side Yard Setback, corner lot	20 feet
Rear Yard Setback	10 feet
Setback from adjacent residential zoning	30 feet
Adjacent to alley	10 feet

515-56-8: Minimum Lot Area and Setback Requirements – Residential

A. Lot Area Per Unit:

1. Single Family: Six thousand (6,000) square feet
2. Two-Family: Three thousand five hundred (3,500) square feet
3. Multiple Family: Two thousand two hundred (2,200) square feet

SECTION 62
B-3, CENTRAL BUSINESS DISTRICT

Section:

- 515-62-1: Purpose and Intent
- 515-62-2: Permitted Uses
- 515-62-3: Accessory Uses
- 515-62-4: Uses by Administrative Permit
- 515-62-5: Interim Uses
- 515-62-6: Conditional Uses
- 515-62-7: Lot Area and Setback Requirements
- 515-62-8: Building Height
- 515-62-9: Exterior Building Standards
- 515-62-10: Residential Restriction

515-62-1: Purpose and Intent. The purpose of this district is to encourage the continuation of a viable, traditional downtown area by allowing retail, service, office and entertainment facilities and public and semi-public uses as well as the allowance of second-story dwelling units located above such uses.

515-62-2: Permitted Uses.

- A. Government and public buildings, utilities and/or structures.
- B. Financial institutions such as banks and credit unions.
- C. Hospitality businesses limited to hotels, motels, conference/convention/reception facilities. Extended stay hotels and motels provided that:
 - a. The City of Brainerd will be notified prior to becoming an extended stay facility.
 - b. Stays are limited to 90 consecutive days.
 - c. All guest rooms which have facilities for both storage and food preparation less than 300 square feet of floor area are limited to a maximum of two (2) persons per room; however, for all such guest rooms greater than 300 square feet, one additional person shall be allowed per each 75 square feet of floor area up to a maximum of four (4) persons.
 - d. Kitchen facilities including a stove and oven are provided.
 - e. Each hotel and motel shall maintain daily written records reflecting the renting, letting, or other provisions of any of its rooms including check in and check out dates of each person over 18 years of age that rents, lets or is otherwise provided a room or occupies a room on an overnight basis. Such records shall be made available to the City of Brainerd upon request
- D. Liquor sales, on and off sale.

- E. Office business – clinic such as general medical clinics, medical labs, mental health providers, chiropractors, dentists, orthodontia, oral surgeons, opticians, physical therapy and other out-patient treatment.
- F. Office business – general such as professional administrative or clerical service operations such as attorneys, financial advisors, insurance, travel and real estate.
- G. Personal services limited to barber shops, beauty salons, nail salons, tanning salons, therapeutic massage, spas, tattooing, tailoring/alterations, and schools/training centers for such uses.
- H. Recreational businesses - indoor.
- I. Restaurants – sit down, take out or delivery.
- J. Retail businesses contained within a principal building.
- K. Decorating and photography studios.
- L. Business, vocational, colleges, and universities located above first floor.
- M. Business when conducted entirely within a building.
- N. Theaters – except drive-in.
- O. Cultural facilities such as museums, art centers or art institutes.
- P. Repair services limited to jewelry and radio and television/small appliance repair shops, household items, electronics, shoe repair, upholstery or locksmith.
- Q. On-site service businesses limited to tailoring, dry cleaners, self-service laundry and copy centers.
- R. Music, art, decorating, photography and dance studios.
- S. Health clubs.
- T. Essential services as regulated by Section 36 of this Ordinance.
- U. Self-service Laundromat with dry cleaning pick up and drop off.
- V. MICRODISTILLERIES AND COCKTAIL ROOMS SUBJECT TO THE PROVISIONS OF MINNESOTA STATUTES 340A AND THE FOLLOWING:
 - 1. NO OUTDOOR STORAGE.

2. A COCKTAIL ROOM SHALL REQUIRE AN “ON-SALE” LICENSE FROM THE CITY OF BRAINERD, ACCORDING TO THE CITY CODE SECTION XII.
3. COMPLY WITH THE REQUIREMENTS OF BRAINERD CITY CODE 515-62-6B FOR OUTDOOR SERVING, IF APPLICABLE.
4. NO ODORS FROM THE BREWERY SHALL BE PERCEPTIBLE BEYOND THE PROPERTY LINE.

515-62-3: Accessory Uses.

- A. Uses incidental to the principal uses such as off-street parking as regulated by Section 17 of this Ordinance.
- B. Loading and unloading areas subject to the provisions of Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. 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 as regulated by Section 35 of this Ordinance.

515-62-4: Uses by Administrative Permit.

- A. Temporary/seasonal outdoor promotional events and sales provided that:
 1. Such activity is targeted toward the general public and includes grand openings, warehouse sales, sidewalk sales, inventory reduction and liquidation sales, and seasonal merchandise sales.
 2. The maximum term of the event shall not exceed fourteen (14) consecutive days, with a maximum of four (4) permits per calendar year for each use. Consecutive permits may be issued.
 3. Parking and display areas associated with the use shall not distract or interfere with existing business operations or traffic circulation patterns.
 4. The site shall be kept in a neat and orderly manner and display of items shall be as compact as possible so as to not interfere with existing business, parking or driveway operations.

SECTION 63
B-4, GENERAL BUSINESS DISTRICT

Section:

- 515-63-1: Purpose and Intent
- 515-63-2: Permitted Uses
- 515-63-3: Accessory Uses
- 515-63-4: Uses by Administrative Permit
- 515-63-5: Interim Uses
- 515-63-6: Conditional Uses
- 515-63-7: Lot Area and Setback Requirements
- 515-63-8: Building Height
- 515-63-9: Exterior Building Standards

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

515-63-2: Permitted Uses.

- A. Government and public buildings, utilities and/or structures.
- B. Financial institutions such as banks and credit unions.
- C. Hospitality businesses limited to hotels, motels, conference/convention/reception facilities. Extended stay hotels and motels provided that:
 - a. The City of Brainerd will be notified prior to becoming an extended stay facility.
 - b. Stays are limited to 90 consecutive days.
 - c. All guest rooms which have facilities for both storage and food preparation less than 300 square feet of floor area are limited to a maximum of two (2) persons per room; however, for all such guest rooms greater than 300 square feet, one additional person shall be allowed per each 75 square feet of floor area up to a maximum of four (4) persons.
 - d. Kitchen facilities including a stove and oven are provided.
 - e. Each hotel and motel shall maintain daily written records reflecting the renting, letting, or other provisions of any of its rooms including check in and check out dates of each person over 18 years of age that rents, lets or is otherwise provided a room or occupies a room on an overnight basis. Such records shall be made available to the City of Brainerd upon request
- C. Liquor sales, on and off sale.

2. A taproom for malt liquor “off-sale” produced on-site shall require an “on-sale” taproom room license from the City of Brainerd, according to the City Code Section XII.
 3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.
 4. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
- AA. MICRODISTILLERIES AND COCKTAIL ROOMS SUBJECT TO THE PROVISIONS OF MINNESOTA STATUTES 340A AND THE FOLLOWING:
1. NO OUTDOOR STORAGE.
 2. A COCKTAIL ROOM SHALL REQUIRE AN “ON-SALE” LICENSE FROM THE CITY OF BRAINERD, ACCORDING TO THE CITY CODE SECTION XII.
 3. COMPLY WITH THE REQUIREMENTS OF BRAINERD CITY CODE 515-62-6B FOR OUTDOOR SERVING, IF APPLICABLE.
 4. NO ODORS FROM THE BREWERY SHALL BE PERCEPTIBLE BEYOND THE PROPERTY LINE.

515-63-3: Accessory Uses.

- A. Uses incidental to the principal uses such as off-street parking as regulated by Section 17 of this Ordinance.
- B. Loading and unloading areas subject to the provisions of Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Commercial accessory buildings shall not exceed thirty (30) percent of the gross floor space of the principal building.
- F. Drive-up service facilities provided that:
 1. Not less than one hundred twenty (120) feet of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are

SECTION 64
B-5, COMMERCIAL AMUSEMENT DISTRICT

Section:

- 515-64-1: Purpose and Intent
- 515-64-2: Permitted Uses
- 515-64-3: Accessory Uses
- 515-64-4: Interim Uses
- 515-64-5: Conditional Uses
- 515-64-6: Lot Area and Setback Requirements
- 515-64-7: Building Height
- 515-64-8: Exterior Building Standards

515-64-1: Purpose and Intent. The purpose of the Commercial Amusement District is to provide locations for outdoor recreation and entertainment uses which have a regional draw in a district which is isolated from residential uses and other sensitive uses. It is the intent of the B-5 District to protect existing natural features, to preserve open space and to sensitively integrate development with the existing natural landscape.

515-64-2: Permitted Uses.

- A. Public parks and playgrounds.
- B. Recreational businesses – indoor.
- C. Private and public swimming pools and water parks.
- D. Theaters.
- E. Restaurants and on-sale liquor establishments.
- F. Hospitality businesses limited to hotels, motels, conference/convention/reception facilities. Extended stay hotels and motels provided that:
 - a. The City of Brainerd will be notified prior to becoming an extended stay facility.
 - b. Stays are limited to 90 consecutive days.
 - c. All guest rooms which have facilities for both storage and food preparation less than 300 square feet of floor area are limited to a maximum of two (2) persons per room; however, for all such guest rooms greater than 300 square feet, one additional person shall be allowed per each 75 square feet of floor area up to a maximum of four (4) persons.
 - d. Kitchen facilities including a stove and oven are provided.
 - e. Each hotel and motel shall maintain daily written records reflecting the renting, letting, or other provisions of any of its rooms including check in and check out

- B. Aggregate mining of more than fifty (50) cubic yards not related to an approved subdivision or site plan, provided that:
1. The use will be in compliance with Section 30 of this Ordinance and all related provisions of the City Code.
 2. The Interim Use Permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
 - a. The quantity of material to be removed and the plan of operation.
 - b. Compatibility of present and future land uses.
 - c. Compliance with the requirements of the Zoning Ordinance, Comprehensive Plan and conditions specific to the Interim Use Permit approval.

MICRODISTILLERIES AND COCKTAIL ROOMS SUBJECT TO THE PROVISIONS OF MINNESOTA STATUTES 340A AND THE FOLLOWING:

1. NO OUTDOOR STORAGE.
2. A COCKTAIL ROOM SHALL REQUIRE AN “ON-SALE” LICENSE FROM THE CITY OF BRAINERD, ACCORDING TO THE CITY CODE SECTION XII.
3. COMPLY WITH THE REQUIREMENTS OF BRAINERD CITY CODE 515-62-6B FOR OUTDOOR SERVING, IF APPLICABLE.
4. NO ODORS FROM THE BREWERY SHALL BE PERCEPTIBLE BEYOND THE PROPERTY LINE.

515-64-5: Conditional Uses.

- A. Commercial recreational businesses with keeping of animals limited to commercial riding stables, rodeo facilities, zoos and zoological facilities provided that:
1. All buildings and areas containing animals are at least three hundred (300) feet from a residentially zoned property.
 2. Animal wastes shall be flushed down an existing sanitary sewer system or enclosed in a container of sufficient construction to eliminate odors and organisms and shall be properly disposed of at least once a day.

SECTION 65
B-6, WASHINGTON STREET COMMERCIAL DISTRICT

Section:

- 515-65-1: Purpose and Intent
- 515-65-2: Permitted Uses
- 515-65-3: Accessory Uses
- 515-65-4: Uses by Administrative Permit
- 515-65-5: Interim Uses
- 515-65-6: Conditional Uses
- 515-65-7: Minimum Lot Area Requirements
- 515-65-8: Minimum Yards and Setbacks
- 515-65-9: Maximum Lot Coverage
- 515-65-10: Maximum Building Height
- 515-65-11: Building Design and Construction
- 515-65-12: Off-Street Parking and Loading

515-65-1: Purpose and Intent. The purpose and intent of the district is to provide zoning regulation flexibility to permit development consistent with land use patterns along the Washington Street corridor from the Mississippi River to Gillis Street. The purpose of the District is also to ensure compatibility between land uses and transportation and to minimize negative effects of development on the Washington Street corridor.

515-65-2: Permitted Uses.

- A. Decorating and photography studios.
- B. Financial institutions.
- C. Liquor sales, on and off sale.
- D. Offices.
- E. Pawn shops.
- F. Personal services limited to barber shops, beauty salons, nail salons, tanning salons, therapeutic massage and tattooing.
- G. Recreation businesses – indoor.
- H. Restaurants – sit down, takeout and delivery.
- I. Retail businesses within a principal building.

2. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.
 3. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
- S. Brewery with Taproom Off-Sale. A brewer with an off-sale brewery taproom license for the “off-sale” of malt liquor produced on the licensed premises subject to the provisions of Minnesota Statutes 340A and the following:
1. No outdoor storage.
 2. A taproom for malt liquor “off-sale” produced on-site shall require an “on-sale” taproom room license form the City of Brainerd, according to the City Code Section XII.
 3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.
 4. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards
- T. MICRODISTILLERIES AND COCKTAIL ROOMS SUBJECT TO THE PROVISIONS OF MINNESOTA STATUTES 340A AND THE FOLLOWING:
1. NO OUTDOOR STORAGE.
 2. A COCKTAIL ROOM SHALL REQUIRE AN “ON-SALE” LICENSE FROM THE CITY OF BRAINERD, ACCORDING TO THE CITY CODE SECTION XII.
 3. COMPLY WITH THE REQUIREMENTS OF BRAINERD CITY CODE 515-62-6B FOR OUTDOOR SERVING, IF APPLICABLE.
 4. NO ODORS FROM THE BREWERY SHALL BE PERCEPTIBLE BEYOND THE PROPERTY LINE.

515-65-3: Accessory Uses.

- A. Accessory uses customarily incidental to permitted uses.

SECTION 70
I-1, LIGHT INDUSTRY DISTRICT

Section:

- 515-70-1: Purpose and Intent
- 515-70-2: Permitted Uses
- 515-70-3: Accessory Uses
- 515-70-4: Interim Uses
- 515-70-5: Conditional Uses
- 515-70-6: Uses by Administrative Permit
- 515-70-7: Lot Area and Setback Requirements
- 515-70-8: Building Height
- 515-70-9: Building Requirements

515-70-1: Purpose and Intent. To provide for the establishment of warehousing and light industrial development, particularly in the form of industrial parks. The overall character of the I-1 District is intended to have low impact character. Industrial uses allowed in this district shall be limited to those which can compatibly exist adjacent to both lower intensity business uses and high intensity manufacturing uses but which require isolation from residential uses. This district may also incorporate general office and commercial uses.

515-70-2: Permitted Uses.

- A. Conducting a process, fabrication, wholesale operation, manufacturing or providing a service, including any of the following or similar uses meeting the performance standards applicable to the I-1 District, provided that all development uses in the I-1 District are conducted wholly within a building:
 - 1. Machine shops.
 - 2. Paper products from previously processed paper.
 - 3. Electronics assembly and testing.
 - 4. Commercial printing and publishing establishments.
 - 5. Laundry, dry cleaning or dyeing plants.
 - 6. Food/beverage processing.
 - 7. Cosmetics/toiletries
 - 8. Drugs and pharmaceuticals.
 - 9. Beverage bottling.
 - 10. Recycling center.
 - 11. Woodworking.
 - 12. Retail sales operated by non-profit organizations to benefit said non-profit organizations by selling items primarily related to the building industry.
- B. Radio and television studios.

1. No outdoor storage.
2. A taproom for malt liquor “off-sale” produced on-site shall require an “on-sale” taproom room license form the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.
4. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards

Y. MICRODISTILLERIES AND COCKTAIL ROOMS SUBJECT TO THE PROVISIONS OF MINNESOTA STATUTES 340A AND THE FOLLOWING:

1. NO OUTDOOR STORAGE.
2. A COCKTAIL ROOM SHALL REQUIRE AN “ON-SALE” LICENSE FROM THE CITY OF BRAINERD, ACCORDING TO THE CITY CODE SECTION XII.
3. COMPLY WITH THE REQUIREMENTS OF BRAINERD CITY CODE 515-62-6B FOR OUTDOOR SERVING, IF APPLICABLE.
4. NO ODORS FROM THE BREWERY SHALL BE PERCEPTIBLE BEYOND THE PROPERTY LINE.

515-70-3: Accessory Uses.

- A. Off-street parking as regulated in Section 22 of this Ordinance.
- B. Off-street loading as regulated in Section 23 of this Ordinance.
- C. Signs as regulated in Section 37 of this Ordinance.
- D. Residence for night watchman or other security personnel.
- E. Commercial or business buildings not to exceed thirty (30) percent of the gross floor space of the principal building and shall be of the same material and design as the principal use.
- F. Fences as regulated in Section 19 of this Ordinance.