

PLANNING COMMISSION
Wednesday, January 17, 2018

#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.

City Planner Ostgarden announced the need to elect the Commission Chair and Vice Chair positions for 2018.

MOTION AND SECONDED BY COMMISSIONERS GORHAM AND WUSSOW, DULY CARRIED, TO RE-ELECT MS. STACI HEADLEY AS COMMISSION CHAIR AND MR. CHUCK MAROHN AS COMMISSION VICE CHAIR FOR 2018.

Noted present were Commissioners Burslie, Gorham, Headley, Marohn, Wussow; and Council Liaison Lambert. Noted absent was Commissioner Antolak. Also present was City Planner Ostgarden, Planning Intern Matthew Kallroos and Administrative Specialist Bestul.

#2 Approval of Agenda

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

#3 Approval of Minutes of the Regular Meeting held on December 20, 2017

MOTION AND SECONDED BY COMMISSIONERS GORHAM AND WUSSOW, DULY CARRIED, TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 20, 2017.

#4 New Business

A. Public Hearing – Rezone Property from a B-1 (Residential Office) District to a B-6 (Washington Street Commercial) District

City Planner Ostgarden stated the rezoning request is for the southeast corner of Kingwood Street and N. 2nd Street. The area considered for rezoning is north of the alley which runs parallel to Washington Street and Kingwood Street. The property south of the alley would be developed into a pharmacy with a drive-up window and off-street parking. To the north of the alley, if rezoned, would be used for additional off-street parking. The area to the north is prominently residential. The developers have submitted a site plan identifying the area proposed for rezoning. The intended use is for off-street parking to serve the needs of the pharmacy. The break in the zoning is the alley – everything north of the alley is zoned B-1 (Residential Office) and everything south is zoned B-6 (Washington Street Commercial).

City Planner Ostgarden discussed the current and future land use maps along with the proposed site plan which access would be from the alley on north 2nd Street. The building would be located on the southeast corner of the development, which provides 17 off-street parking spaces. If the site north of the alley is rezoned as proposed, it would provide an additional 24 parking spaces. The commercial land use along Washington Street has trickled over into the B-1 District in the area on north 4th Street which Hardee's is located. The history of the property at Hardee's is unknown as no formal records were found regarding the zoning. It is hard to say what happened in that situation of Hardee's parking lot in a B-1

district. A parking lot as a permitted use in the B-1 District as a primary use must be for the use that exists in that B-1 District. A use that is allowed in a B-6 District but not in a B-1 District cannot use B-1 zoned property for its operation. Thrifty White submitted a letter explaining their position on why the number of parking spaces identified are needed. The company has its own standards for what they think they need for off-street parking.

City Planner Ostgarden explained the purpose of the B-1 District allows single family uses and office uses. The district serves as a transitional district between residential neighborhoods and commercial uses in areas that redevelopment is anticipated. The purpose of a B-6 District is to provide zoning regulation flexibility to permit development consistent with land use patterns along Washington Street.

There are five (5) criteria to follow in evaluating an application such as this.

1. Consistency with the Comprehensive Plan
2. Compatibility with present and future land uses of the area
3. The effect upon the area in which it is proposed
4. Traffic generation in relation to capabilities of streets serving the property
5. The impact upon existing public services and facilities and the potential to overburden the City's service capacity

City Planner Ostgarden stressed the purpose is not to focus on the site plan, but rather the overall picture of what could happen if the property is zoned B-6. The neighborhood residents in a 350' radius were sent a notice of hearing along with the details proposed. The property has not yet been purchased by Thrifty White, and the potential is there for other uses if it is rezoned to B-6 and they choose not to proceed with their plans. If the rezoning does occur, there are requirements in place that are intended to provide that land use transition between residential and non-residential. Some of these are buffering, screening and exterior building material requirements.

Commissioner Marohn had emailed some questions regarding zoning that City Planner Ostgarden read and answered. Mr. Marohn asked additional questions regarding parking which were discussed by the Commissioners.

City Planner Ostgarden stated the decision regarding this property is the potential for eliminating blight, as the residential dwelling is beyond the ability to repair. The situation on the dwelling north of the alley is not going to improve, however the five-unit apartment building does meet the rental housing requirements. Here is an opportunity to develop this corner on Washington Street along with possibly new jobs.

Commissioner Burslie questioned if the zoning ordinance could be amended to allow pharmacies in the B-1 residential office district. They would then be able to build a parking lot if needed. City Planner Ostgarden indicated that could possibly be done.

The Chair opened the public hearing at 6:42 p.m.

The Chair recognized Mr. John Fahning, Shingobee Builders representing Thrifty White and serving as the developer, general contractor and ultimately the owner of the building. Mr. Fahling indicated there are well over 20 locations where a Thrifty White pharmacy have been developed in the upper Midwest; Iowa, Minnesota and North Dakota. Typically, the facility is a 3,500-square foot building on a lot approximately ½ acre in size with a drive-thru window with half of the building serving as a pharmacy with a standard footprint at most locations. Mr. Fahling explained the reason this property is being considered is the ability to construct a drive-thru and location is very critical for success in their customer base. The parking requirement is based on the customers that the company serves. The on-street parking option

was investigated but the challenge is if they use all the available spaces, this may present a challenge to other people in the area and is not conducive for business. The further the customer needs to walk to get to the business, the less likely they will choose to go there. Mr. Fahling stated this proposal supports what Brainerd is trying to accomplish on a developmental standpoint and it is an opportunity to progress in the redevelopment of Washington Street. The lot would be next to impossible to develop as a separate property due to the required setbacks. Mr. Fahling explained that almost half of the pharmacies constructed in other cities have been adjacent to a residential district and they have went through these procedures before.

Commissioner Marohn asked how a Thrifty store would compare to a Walgreen's store. Mr. Fahling indicated Thrifty is based as a pharmacy and over the counter medication related items and not a retail store. Commissioner Marohn asked several other questions of the petitioner regarding the building plans and land design which discussion took place and questions were answered.

Commissioner Wussow stated that some of the questions being asked by Commissioner Marohn are not zoning related. The topic before the commission is regarding the zoning issues not the building design or business questions. Commissioner Marohn responded as these details were provided with the application and should be able to be discussed.

The Chair recognized Mr. Dirk Van Derwerker, 604 N. 5th Street, who resides in the neighborhood. Mr. Van Derwerker stated the proposal in the B-6 District is favorable, however is opposed to the rezoning of the B-1 property to a B-6. The purpose of that zone is to create a transition between commercial and residential properties. Mr. Van Derwerker stated the major reason for having zoning districts defined is to protect the least intensive uses from the more intensive uses. Mr. Van Derwerker said there have already been too many homes removed for parking lots in the area such as the Essentia Health hospital.

The Chair recognized Ms. Kathleen Maloney Hermerding, 116 Juniper Street, who is close to the property. Ms. Maloney Hermerding has resided at her residence for 24 years and spoke in opposition of the rezoning. Ms. Maloney Hermerding brought up the following concerns: 1) Hardee's parking lot is always vacant – recommend Thrifty lease a portion of Hardee's lot. 2) If this proposed site is the same size as Walgreen's, there will be a lot of empty spaces. 3) School bus stop is at 2nd Street and Kingwood Street – safety concern 4) It is an ambulance pathway, as well as police. 5) Audio noise concerns, as she can hear the Hardee's intercom when in her yard. Ms. Maloney Hermerding questioned the dedicated employee parking that is proposed, as Essentia Health hospital has dedicated employee parking that is not being used and that lot is never full. Ms. Maloney Hermerding also questioned that Thrifty wants to be located close to where long term facilities are. However, she stated there are no long-term facilities in north Brainerd, as they are all in south Brainerd. Ms. Maloney Hermerding explained she is not opposed to the business; she is opposed to rezoning for parking. Ms. Maloney Hermerding's high school aged daughter submitted a letter in opposition as well.

The Chair recognized Ms. Jessamyn Foley, 201 Kingwood Street which is directly across the street from the proposed site. Ms. Foley indicates her residence is one of the first homes built in 1914 and they are very proud of that historical fact. Ms. Foley indicated that rezoning may create some issues with the transition with having a parking lot right across the street. Ms. Foley questioned the proposed hours that Thrifty would have. Ms. Foley is also concerned if it is rezoned, another business could potentially locate in this area and operate 24 hours. This would open up new issues of headlights, parking lot lights and slamming car doors. Ms. Foley is also concerned about affordable housing and removing the apartment building located on the property. Ms. Foley indicated there are already several empty business buildings in Brainerd that could be renovated for use. Ms. Foley suggested the tiny house option for that size lot as well as having more trees planted in the area. Ms. Foley also requested that the two white pine trees that are currently on the property remain.

The Chair recognized Mr. Chris Foley, 201 Kingwood Street. Mr. Foley did not speak for or against the proposed rezoning. Mr. Foley stated if the plans proceed, there will be the need for a residential buffer – mature trees, shrubs and higher fencing. Mr. Foley is concerned about the proposed lighting plan for the parking lot, so it would not impose on his residence.

The Chair recognized Ms. Jan Burton, 1017 Terrace Avenue who has been a resident since 1974 and spoke in favor of the proposal. Ms. Burton clarified the statement made about no one parking in the Hardee's parking lot. Ms. Burton stated there are buses at various times, semi-trucks loading and unloading as well as highway department equipment. Ms. Burton explained the Sawmill Inn restaurant has parking on Kingwood Street as well as the old clinic. Ms. Burton stated she did not feel that changing this zoning would make any difference to what is already taking place. There are also boats, trailers and trucks at different times parking on 2nd Street. The corner at Washington Street needs to be developed and improved which would be an asset to the neighborhood.

The Chair recognized Ms. Melissa Kmett, owner of the property at 215 N. 3rd Street spoke in favor of the rezoning. Ms. Kmett stated she would like to see the property redeveloped to remove the blighted structures. It would also help the tax base in the City. Ms. Kmett understands the comments from the other residents against the rezoning, but there are already properties that have parking along Kingwood Street.

The Chair recognized Mr. Brian Weber, 17 Kingwood Street who spoke against the rezoning. Mr. Weber questioned other ways to proceed with the planning, so the buffer could have more green space and/or setbacks further than required. This would eliminate a few parking spaces but would transition better into the residential district. Mr. Weber is also concerned about the traffic flow upon leaving the business with the possibility of more traffic along Kingwood Street.

The Chair welcomed the petitioner, Mr. John Fahning to address the questions from the citizens. Mr. Fahning stated the hours for the pharmacy would be 8:00 a.m. to 6:00 p.m. – Monday through Saturday and closed on Sunday. Mr. Fahning said if the opportunity was available to allow the pharmacy in the smaller lot and rezone the front lot from a B-6 to a B-1, it would not matter for Thrifty White. This is all driven around the need for parking. One of the challenges with Brainerd is there is no parking requirement. If dedicated on-street parking could be created, that may be another solution, as Thrifty White wants to balance the needs of the neighborhood as well as the business. Mr. Fahning addressed the issue of having a buffer between a residential and commercial district. In other communities, sometimes the parking lot acts as the buffer. Mr. Fahning stated the drive thru would be located on the east side of the building with the exit onto the alley, which is a public access and poses a good solution because it is for public use. Mr. Fahning also clarified there will be parking lot lighting as this is security driven, but there are solutions of installing low glaring fixtures for example. The drive up window is also adjacent to the building with no audio speakers located at a distance so there should be no issues with noise. Mr. Fahning also stated in this region, a parking lot is crucial for snow plowing, accessibility to remove snow and snow storage. Snow also leads to inefficiency in the parking lot with the inability to see the lines for parking spaces.

City Planner Ostgarden clarified the alley is defined as platted and when this area of Brainerd was laid out, the block arrangement assigned each block one or two alleys. Those alleys are dedicated for public purpose and could create difficulties for traffic movement and access to other properties if vacated. This would also pose problems for fire and rescue accessibility.

City Planner Ostgarden addressed several of the questions being asked are in relation to site design. This is a perfect example of what happens when a site plan is provided with a rezoning request – we lose sight of the topic at hand and what decision needs to be made. The commission is not here to

design this site; the commission is here to decide the merits of whether the property should be rezoned to a B-6 District. There are a series of site design standards that must be met prior to obtaining a permit to build. For example, the lighting must be cut off box lights with the amount of light spilling off the site following certain criteria as to not adversely affect the neighboring properties. There are minimum landscaping standards and screening requirements the property owner needs to follow.

The Chair closed the public hearing at 7:51 p.m.

City Planner Ostgarden stated the Findings of Fact were provided to the commission, and a support or denial motion should be made without going into these in detail but highlighting the ones crucial to the motion.

Commissioner Wussow asked if it would be appropriate to request a text amendment to the zoning code to add a pharmacy to a B-1 District. City Planner Ostgarden stated this cannot be done tonight as it requires a completely different process and set of circumstances.

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND WUSSOW TO APPROVE THE PROPOSED REZONING REQUEST FROM A B-1 TO A B-6 DISTRICT BASED ON THE EIGHT (8) FINDINGS OF FACT AND THE FOLLOWING STATEMENTS:

- The limited 140' depth limits site design and makes (re) development of the frontage difficult.
- The residential uses across Kingwood Street and on the adjacent lot would be buffered by screening requirements in the Zoning Ordinance.
- There are Zoning Ordinance site development requirements for screening of off-street parking, dumpsters and mechanical equipment.
- The Zoning Ordinance includes requirements for commercial building design standards.
- These standards are intended and designed to assure compatibility of uses and to enhance the health, safety and general welfare of the residents of the City of Brainerd.
- The rezoning will permit infill development which is an efficient use of the land and a goal of the Comprehensive Plan.
- The proposed rezoning area has alley access avoiding Kingwood Street as an access, which means traffic does not need to be routed through a residential neighborhood.
- Rezoning the property will create a larger site for (re)development which will provide an opportunity to attract livable wage jobs to the community.
- Rezoning will create a larger parcel enhancing Brainerd's ability to attract new development and it will support the redevelopment of a vacant site and remove deteriorating residential property.

Commissioner Burslie asked for discussion regarding compatibility with the neighborhood and to understand that if the property is rezoned to a B-6, the following could be allowed: On and off sale liquor sales, brew pubs, pawn shops and adult uses as a permitted use. Commissioner Burslie stated none of these uses are compatible in the neighborhood. The future land use map identifies the property as residential.

Commission Chair Headley indicated it was mentioned earlier of this being approval based on the condition of the sale. Commissioner Burslie asked if a condition can be placed on the property when it is sold.

City Planner Ostgarden replied that cannot be done – rezoning's cannot be conditioned as they must stand on their own merit.

Commissioner Marohn stated he will be voting against the rezoning as it is worded. Commissioner Marohn disputes the Findings of Fact as presented and states although many areas along Washington Street are only 140' deep, it is not true that this limits the site design as there is an entire street zoned the same with existing development. Commissioner Marohn indicated the B-1 zone is defined as *"a buffer zone between B-6 commercial and a residential neighborhood"* and by removing that buffer zone, it essentially violates the intent of the comprehensive plan and the intent of both zoning classifications.

Commissioner Marohn went on to suggest building designs of Thrifty White stores in other cities and why Washington Street does not justify a higher investment. This poses a challenge on Brainerd as to how we can make it a great corridor coming into town.

Commissioner Gorham indicated the good points from both approval and denial of the rezoning. As Washington Street needs to be redeveloped with attractive properties to remove the blight and to assist in the tax rolls, the integrity of the neighborhood needs to be protected.

Commission Chair Headley agrees with the comments of Commissioner Gorham.

Commissioner Burslie wanted to inquire on the option of amending the B-1 District zoning ordinance by allowing a pharmacy.

City Planner Ostgarden indicated that could possibly be done, although it is a completely separate process.

Members Lambert and Wussow voted "aye". Members Burslie, Gorham, Headley and Marohn voted "nay". The Chair declared the motion failed.

MOTION AND SECONDED BY COMMISSIONERS BURSLIE AND GORHAM TO TABLE THIS REQUEST TO THE FEBRUARY MEETING AND INITIATE THE PROCESS TO AMEND THE B-1 DISTRICT ZONING ORDINANCE TO ALLOW PHARMACIES AS A PERMITTED USE WHICH WOULD INCLUDE HOLDING A PUBLIC HEARING.

Members Burslie, Gorham, Headley, Lambert and Wussow voted "aye". Member Marohn voted "nay". The Chair declared the motion carried.

Commissioner Marohn suggested staff research the quantity of parallel and diagonal on-street parking that would be available based on the applicant's proposal.

B. Public Hearing – Amending City Zoning Ordinance Section 17-8 C. Accessory Buildings

City Planner Ostgarden explained the recommendations made to allow fabric material buildings in commercial and industrial areas.

The Chair opened the public hearing at 8:17 p.m.

No one came forward.

The Chair closed the public hearing at 8:17 p.m.

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND BURSLIE, DULY CARRIED, TO APPROVE THE ZONING ORDINANCE TEXT AMENDMENT SECTION 17-8 C. ACCESSORY

BUILDINGS TO ALLOW FABRIC CONSTRUCTION MATERIAL FOR COMMERCIAL AND INDUSTRIAL ACCESSORY BUILDINGS.

#5 Public Forum

The Chair opened the public forum at 8:19 p.m.

City Planner Ostgarden introduced the new planning intern, Matthew Kallroos.

The Chair closed the public forum at 8:20 p.m.

#6 Old Business

A. Report on Steering Committee Meeting

City Planner Ostgarden updated the commission that a member of the Steering Committee needed to resign. There has been a new member appointed, P.J. Severson. The next meeting is scheduled for February 15, 2018 at 4:00 p.m. location to be determined. City Planner Ostgarden indicated meetings are being held one on one with the members of the Steering Committee

City Planner Ostgarden announced Ms. Ashley Kaisershot has started working in City Hall on the Comprehensive Plan update and the Riverfront Committee.

#7 Commissioners' Questions/Comments

Commissioner Wussow indicated the realtor sign located at the corner of Washington and 2nd Street does not fall in the guidelines of our sign requirements.

Commissioner Marohn stated he would like to have discussions regarding the roles of the Planning Commission and possible other areas of the City that could be worked on in the future. City Planner Ostgarden explained there are by-laws to follow but the Chair and any commission member could have discussions regarding topics for future agendas.

#8 City Planner's Report

City Planner Ostgarden provided an interesting news article for the commission to read regarding the City of Grand Forks, ND.

#9 Adjourned at 8:26 P.M.

Respectfully submitted,

City Planner Mark Ostgarden AICP