

PLANNING COMMISSION
Wednesday, November 20, 2019

#1 Call to Order

Planning Commission Chair Gorham called the meeting of the Brainerd Planning Commission to order at 6:00 p.m. in the Crow Wing County Board Room.

Noted present were Commissioners Burslie, Gorham, Duval, Woodward and Foley; and Council Liaison Lambert. Commissioner Marohn was noted as absent. Community Development Director Chanski was also noted as present.

#2 Approval/Amendment of Agenda

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

#3 Approval of Minutes

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND WOODWARD, DULY CARRIED, TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 16, 2019 AND THE WORKSHOP HELD ON NOVEMBER 14, 2019.

New Business

4a. Rezoning Application – 7757 Wise Rd, Brainerd – From an R-A (Rural Agriculture) to an R-1A (Single-Family Residential) District

Community Development Director Chanski explained the purpose of the rezoning is to reduce the required lot size in order to split the lot to less than 20 acres. He said the intent is to construct an additional home on the property for a family member. He stated surrounding properties are zoned R-A (Rural Agriculture) and R-R (Rural Residential) districts. He said the reason not to rezone to an R-R district is due to the applicant's desire to make another lot split in the future for another family member.

The Chair opened the public hearing at 6:04 p.m.

The Chair recognized Ms. Erin Weberg, 7757 Wise Rd., who stated the intention of the property rezoning is to be able to build a home for her mother and plans to build a separate home for her mother-in-law in the future.

The Chair closed the hearing at 6:05 p.m.

MOTION AND SECONDED BY COMMISSIONERS DUVAL AND LAMBERT, DULY CARRIED, TO RECOMMEND APPROVAL OF THE REZONING OF 7757 WISE ROAD FROM AN R-A (RURAL AGRICULTURE) DISTRICT TO AN R-1A (SINGLE-FAMILY RESIDENTIAL) DISTRICT BASED ON STAFF FINDINGS OF FACT.

4b. Rezoning Application – 317 N 4th St, Brainerd – From an R-1 (Single-Family Residential) to an R-2 (Medium-Density Residential) District

Community Development Director Chanski stated the applicant originally applied for a variance that was tabled by the Planning Commission at the October 16th meeting. He said after further research was done, an alternative was to apply to rezone the property to allow the single-family home to be converted into a duplex. He reviewed the details of the application and indicated several neighborhood residents have contacted him in opposition. He noted if the rezoning is approved, it is not assuming the structure itself will meet the building code; this would be determined at the time a building permit is submitted.

Commissioner Lambert asked about the setbacks for the proposed two car garage. Community Development Director Chanski stated this is not part of the rezoning application and may be addressed in the future.

Commissioner Woodward asked if there is or will be more than one driveway, and the space available for additional residents to park. It was determined there is only one driveway and there would be ample space as it meets the requirements.

Commissioner Duval stated based on the photos and input received from the neighbors, it appears to need some attention in maintenance and asked if the property has any nuisance or code violations. Community Development Director Chanski stated the property has a history of issues from the former owner, but there are no recent citations or violations.

Commissioner Woodward questioned if the property is currently a licensed rental, which was determined it is not due to a family member residing in the home. Community Development Director Chanski stated if immediate family continues to reside on the property, a rental license is not required.

The Chair opened the public hearing at 6:19 p.m.

The Chair recognized Mr. Jeff Kramer, 505 Rosewood St., who has applied for the rezoning on behalf of his brother who currently owns the property. He said he would comply to the licensing requirements, even for family members. He said he has intentions of doing some extensive improvements on the property and the rental ability would allow to recoup some of the costs. He added that his brother purchased the property in 2012 and his daughter has occupied the home since then.

The Chair recognized Ms. Sue Beck, 312 Juniper St., who lives nearby and spoke against the cleanliness of the property and is opposed to the rezoning. She stated in the past several years, it has been collecting junk and no one has tried to clean it up. She said the intention is to have a quiet neighborhood with single-family homes and feels the property will only be worse if made into a duplex.

The Chair recognized Mr. Carter Kuehn, 302 Juniper St., who questioned the noted *"staff cannot determine whether the structure itself will meet the building code requirements for a two-family dwelling."* He said shouldn't that question be asked prior to the rezoning. He is opposed to the rezoning and feels doing so would change the face of the neighborhood.

The Chair recognized Mr. Fred Kaune, 324 Juniper St., who lives in the neighborhood and is against the rezoning due to whether the house can structurally handle a second family, the current property is a disaster and he has provided the photos to prove it.

The Chair closed the public hearing at 6:28 p.m.

Commissioner Burslie said based on these recent photos, there should be current violations and asked if the process is complaint driven. Community Development Director Chanski reviewed the code compliance procedures and that this time of year, the majority are based on complaints received.

Commissioner Lambert stated if it was rezoned and licensed for a duplex, then the rental ordinance would alleviate some of the neighbor's concerns.

Commissioner Duval indicated goal number one in the Land Use section of the Comprehensive Plan states *"Support mixed-use development that is focused on integration instead of the separation of land uses."* He said the rezoning request is compatible with this section of the new comprehensive plan.

Commissioner discussion took place.

MOVED AND SECONDED BY COMMISSIONERS LAMBERT AND BURLIE TO DENY THE REZONING APPLICATION AT 317 N. 4TH STREET AS IT IS NOT CONSISTENT WITH FUTURE LAND USE MAP AND THE PROPOSED R-2 CLASSIFICATION IS NOT ADJACENT TO ANY OTHER R-2 ZONED PROPERTIES.

Commissioners Burslie, Lambert, Gorham, Woodward and Foley voted "aye". Commissioner Duval voted "nay". The Chair declared the motion carried.

4c. Conditional Use Permit Application – Lowell Elementary – 704 3rd Ave. NE, Brainerd

Community Development Director Chanski reviewed the details of the conditional use permit application for Lowell Elementary. He stated the addition to the school includes but is not limited to new classrooms, kitchen, gymnasium and parking lot.

The Chair opened the public hearing at 6:46 p.m.

The Chair recognized Mr. Tim Ramerth, architect from WSN and staff from ICS Consulting who reviewed the proposed addition details from the blueprints displayed. Mr. Reid Thiesse, director of buildings and grounds with ISD181 answered questions on the proposed parking lot lighting.

Commissioner questions were asked and answered.

The Chair closed the public hearing at 7:06 p.m.

Findings of Fact

1. Lowell Elementary School is located in an R-1 (Single Family Residential) District.
2. The operation of a school in an R-1 District is considered a conditional use per [Section 515-54-5.F](#) of the Code of Ordinances.
3. The proposed addition must meet the following criteria as required by the aforementioned section of the Code:
 - a. The site accesses a major collector.
 - b. The site is landscaped in accordance with [Section 20](#) of the Zoning Code.
 - c. Off-street parking is provided in accordance with [Section 22](#) of the Zoning Code

- d. Off-street loading and service entrances are provided as regulated by [Section 23](#) of the Zoning Code.
- e. Emergency vehicle access is provided to and within the site.
- 4. ISD #181 has submitted a photometric plan, incorporating lighting standards previously discussed with the Harrison Elementary and Brainerd High School projects.
- 5. ISD #181 has submitted a request to the City Engineer to designate the section of G Street between 3rd Ave NE and 4th Ave NE as a one-way street flowing east to west.
- 6. ISD #181 has received approval for the City Engineer to strip the east curb line on 3rd Ave NE between H Street and G Street as bus parking/drop-off.
- 7. ISD #181 owns all the properties associated with this project.

MOVED AND SECONDED BY COMMISSIONERS LAMBERT AND DUVAL, DULY CARRIED, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT (CUP) FOR LOWELL ELEMENTARY SCHOOL AT 704 3RD AVENUE NE BASED ON STAFF FINDINGS OF FACT.

4d. Conditional Use Permit Application – Garfield Elementary – 1120 10th Ave. NE, Brainerd

Community Development Director Chanski reviewed the details of the conditional use permit application for Garfield Elementary. He stated the addition to the school includes but is not limited to new classrooms, kitchen, office space and parking lot.

The Chair opened the public hearing at 7:09 p.m.

The Chair recognized Mr. Tim Ramerth, architect from WSN and staff from ICS Consulting, Wold Architects and ISD181 who reviewed the proposed addition details, lighting, parking and landscaping from the blueprints displayed. Ms. Jodi Kennedy, principal at Garfield explained the details of the bus and parent drop off and pick up process.

Commissioner questions were asked and answered.

The Chair closed the public hearing at 7:26 p.m.

Findings of Fact

- 1. Garfield Elementary School is located in an R-1 (Single Family Residential) District.
- 2. The operation of a school in an R-1 District is considered a conditional use per [Section 515-54-5.F](#) of the Code of Ordinances.
- 3. The proposed addition must meet the following criteria as required by the aforementioned section of the Code:
 - a. The site accesses a major collector.
 - b. The site is landscaped in accordance with [Section 20](#) of the Zoning Code.
 - c. Off-street parking is provided in accordance with [Section 22](#) of the Zoning Code
 - d. Off-street loading and service entrances are provided as regulated by [Section 23](#) of the Zoning Code.
 - e. Emergency vehicle access is provided to and within the site.
- 4. ISD #181 has submitted a photometric plan, incorporating lighting standards previously discussed with the Harrison Elementary and Brainerd High School projects.

5. ISD #181 has submitted a request to the City Engineer to designate four on-street handicap parking spots along the south curb line of L Street between 10th Ave NE and 11th Ave NE to reduce the necessary parking spots in the proposed parking lot.
6. ISD #181 owns all the properties associated with this project.

MOTION AND SECONDED BY COMMISSIONERS LAMBERT AND BURSLIE, DULY CARRIED, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT (CUP) FOR GARFIELD ELEMENTARY SCHOOL AT 1120 10TH AVENUE NE BASED ON THE STAFF FINDINGS OF FACT.

4e. Conditional Use Permit Application – Riverside Elementary – 205 W Washington St. Brainerd

Community Development Director Chanski reviewed the details of the conditional use permit application for Riverside Elementary. He stated the addition to the school includes but is not limited to gymnasium, finishes and service entry updates. He explained all the shoreland regulations have been met.

The Chair opened the public hearing at 7:30 p.m.

The Chair recognized Mr. Tim Ramerth, architect from WSN and staff from ICS Consulting who reviewed the proposed addition details from the blueprints displayed.

The Chair closed the public hearing at 7:37 p.m.

Findings of Fact

1. Riverside Elementary School is located in an R-3 (High Density Residential) District.
2. The operation of a school in an R-3 District is considered a conditional use per [Section 515-57-5.1](#) of the Code of Ordinances.
3. The proposed addition must meet the following criteria as required by the aforementioned section of the Code:
 - a. The site accesses a major collector.
 - b. The site is landscaped in accordance with [Section 20](#) of the Zoning Code.
 - c. Off-street parking is provided in accordance with [Section 22](#) of the Zoning Code
 - d. Off-street loading and service entrances are provided as regulated by [Section 23](#) of the Zoning Code.
 - e. Emergency vehicle access is provided to and within the site.
4. All proposed additions and renovations appear to meet the shoreland management regulations set forth in [Section 530](#) of the Code of Ordinances.
5. ISD #181 owns all the properties associated with this project.

MOTION AND SECONDED BY COMMISSIONERS BURSLIE AND LAMBERT, DULY CARRIED, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT (CUP) FOR RIVERSIDE ELEMENTARY SCHOOL AT 205 W WASHINGTON STREET BASED ON THE STAFF FINDINGS OF FACT.

#5 Public Forum

The Chair opened public forum at 7:38 p.m.

No one came forward.

The Chair closed the public forum at 7:39 p.m.

#6 Old Business

6a. Public Hearing – Proposed Lighting Ordinance Revision

Community Development Director Chanski explained the revisions that staff and the Commission have done to the ordinance based on feedback from the community. He indicated those suggested changes are shown below.

Added to Section 515-18-2: Exemptions

*off E. Outdoor athletic facilities, except that lighting for such facilities, shall be shut
within sixty (minutes) of final activity.*

Amended in Section 515-18-5: Performance Standards

*A.2. The maximum height of the fixture, pole and base above the ground grade
permitted for light sources is thirteen (13) feet. A light source mounted on a structure shall
not exceed the height of the structure.*

*observer a. If the bulb/light source is fully recessed and/or shielded from view by an
light source at five (5) feet above grade at the nearest property line, an increase in
height to a maximum of twenty (20) feet may be allowed.*

*A.3. The luminaire shall contain a full cut off fixture which directs and cuts off light at an
angle of ninety (90) degrees or less.*

*A.4. In B-1 and B-2 districts, the maximum height of the fixture, pole and base above the
ground grade permitted for light sources is thirteen (13) feet. A light source mounted on
a structure shall not exceed the height of the structure.*

*observer a. If the bulb/light source is fully recessed and/or shielded from view by an
light source at five (5) feet above grade at the nearest property line, an increase in
height to a maximum of twenty (20) feet may be allowed.*

*A.5. In B-3, B-4, B-5 and B-6 districts, the maximum height of the fixture, pole and base
above ground grade permitted for light sources if fifteen (15) feet. A light source
mounted on a structure shall not exceed the height of the structure.*

*observer a. If the bulb/light source is fully recessed and/or shielded from view by an
light source at five (5) feet above grade at the nearest property line, an increase in
height to a maximum of twenty five (25) feet may be allowed.*

*A.6. In I-1 and I-2 districts, the maximum height of the fixture, pole and base above the
ground grade permitted for light sources is twenty-five (25) feet. A light source mounted on a
structure shall not exceed the height of the structure.*

*observer a. If the bulb/light source is fully recessed and/or shielded from view by an
light source at five (5) feet above grade at the nearest property line, an increase in
height to a maximum of thirty (30) feet may be allowed.*

A.7. Light sources in parking lots shall be shut off within sixty (60) minutes of final activity.

Commission discussion took place.

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

The Chair recognized Mr. Reid Thiesse, ISD181 director of buildings and grounds, who brought up the concern of *"lights must be shut off within sixty minutes of final activity"*. He said there may be times that there are multiple events ending at multiple times, or the potential delays of busses returning. He said the lighting would be on timers and would be near impossible to program with many different times. He also indicated they are concerned of having the lights completely shut off as dark parking lots are not secure for people or school property.

The Chair recognized Ms. Laine Larson, superintendent of ISD181 who stated concern for the timeframe for the lights to be shut off. She said she also said there is staff that comes early for weather issues.

The Chair recognized Mr. Tim Ramerth, who spoke on behalf of the Chamber of Commerce Government Affairs Committee and ISD181. He said he would like to review this revision with the government affairs group. He stated he is concerned if future changes to this ordinance would affect the conditional use permit for the high school that was previously approved. Staff determined that permit would be valid at the requirements it was approved for.

The Chair closed the public hearing at 8:08 p.m.

Commission discussion took place.

Staff has been directed to review and research other options for alternate wording regarding the concerns brought forth tonight.

6b. Nonconforming Rentals

Community Development Director Chanski announced that at the October 21st meeting, the City Council did not approve the amendment to the nonconforming rental ordinance as recommended by the Commission. He would like to get input from the Commission on how they would like to move forward.

Commissioner Lambert suggested to wait until the ordinance revision and the rental housing ordinance process is complete.

The Chair recognized Mr. Rick Fargo, property rental owner, who stated the concern is not only in an R-1 district; unlicensed rental individual units could be located within a triplex, or fourplex for example. He said the owner of the building may be living in that unit, where there is no requirement to license. He indicated the concern appears when or if that owner moves out and that unit cannot be licensed over the one-year timeframe. He said the goal of this revision would be to bring all rentals into code and to be acknowledged by the City.

Commission discussion took place. It was determined to direct staff to do further research and provide clarification of what the overall goal is by pursuing a revision.

#7 Commissioner's Questions/Comments

Community Development Director Chanski stated the next Planning Commission meeting is scheduled for December 18th. He will advise the Commission if anything changes.

#8 Community Development Director's Report

Community Development Director Chanski announced the City Council selected Ms. Jennifer Bergman as the new City Administrator.

#9 Adjourn

The Chair adjourned at 8:30 p.m.

Don Gorham, Planning Commission Chair