BRAINERD PLANNING COMMISSION

Wednesday, May 19, 2021
6:00 p.m.
City Council Chambers
501 Laurel St.

Members of the public may attend the meeting in-person or monitor the meeting via phone.
Meeting Number: 1-844-992-4726
Access Code: 187 572 5958

1. Call To Order

2. Roll Call

3. Pledge Of Allegiance

4. Approval/Amendment Of Agenda

5. Approval Of Minutes
    1. Regular Meeting Held on April 21, 2021
    2. Workshop Held on April 28, 2021

    Documents:

    2021-04-21 DRAFT.PDF
    2021-04-28 WORKSHOP.PDF

6. Old Business

6.a. Final Plat - Lot 1, Block 1 Myrha Addition To Brainerd Oaks

Documents:

FINAL PLAT - LOT 1, BLOCK 1 MYRHA ADDITION TO BRAINERD OAKS - FINDINGS OF FACT.PDF

6.b. Text Amendment - Section 515-66: Transient Food Unit Overlay District

Documents:

TEXT AMENDMENT - SECTION 515-66 TRANSIENT FOOD UNIT OVERLAY DISTRICT.PDF

6.c. Zoning Code Update - Traditional Neighborhood & Downtown Character Areas

Documents:

ZONING CODE UPDATE - TRADITIONAL NEIGHBORHOOD AND DOWNTOWN CHARACTER AREAS.PDF

6.c.i. (Added) PowerPoint Presentation By Swanson Haskamp

Documents:

SHC PRESENTATION - PC MEETING 19MAY2021.PDF

7. New Business

7.a. Discussion - Sober Homes

Documents:

DISCUSSION - SOBER HOMES.PDF

8. 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

9. Community Development Director's Report

10. Commissioner Questions/Comments

11. Adjourn To Special Meeting On Wednesday, May 26 @ 7pm

PLANNING COMMISSION
Wednesday, April 21, 2021

#1 Call to Order

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

#2 Roll Call

Noted present were Commissioners Yeager, Erickson, Gorham, and Duval. Member Kallroos attended the meeting remotely. Member Foley joined the meeting at 6:04 p.m. Member Woodward joined the meeting at 6:06 p.m. Community Development Director Chanski and Assistant Planner Kramvik were also noted as present.

Due to a member participating remotely, all motions will be made by roll call vote for accuracy.

#3 Pledge of Allegiance

Commissioner Yeager opened the meeting with the Pledge of Allegiance to the flag.

#4 Approval/Change of Agenda

MOVED AND SECONDED BY COMMISSIONERS YEAGER AND GORHAM TO AMEND THE AGENDA BY CLARIFYING THE ADDRESS FOR CC'S BAR IS 121 WASHINGTON STREET **NE**.

Upon roll call, members Kallroos, Foley, Yeager, Erickson, Gorham, and Duval voted "aye". No member voted "nay". The Chair declared the motion carried.

#5 Approval of Minutes

MOTION AND SECONDED BY COMMISSIONERS GORHAM AND YEAGER TO APPROVE THE MINUTES FROM THE MARCH 17, 2021 MEETING.

Upon roll call, members Kallroos, Foley, Yeager, Erickson, Gorham, and Duval voted "aye". No member voted "nay". The Chair declared the motion carried.

#6 Old Business

6a. Comprehensive Plan Amendment

Community Development Director Chanski updated the Commission of the process for approving the Comprehensive Plan Amendment. The amendment was to include the future land use map and additional language in the land use section.

The Chair opened the public hearing at 6:07 p.m.

No one came forward.

DRAFT

The Chair closed the public hearing at 6:08 p.m.

MOVED AND SECONDED BY COMMISSIONERS ERICKSON AND YEAGER TO RECOMMEND APPROVAL OF THE AMENDMENTS TO THE COMPREHENSIVE PLAN TO THE CITY COUNCIL FOR ADOPTION.

Upon roll call, members Woodward, Kallroos, Foley, Yeager, Erickson, Gorham, and Duval voted “aye”. No member voted “nay”. The Chair declared the motion carried.

#7 New Business

7a. Preliminary Plat – Lots 24 - 40 and Outlot C, Northtown

Community Development Director Chanski gave an update of the request from the property owner, Mr. Tom Dehn, to allow a variance for a reduced front yard setback from thirty (30) feet to twenty-five (25) feet. He stated this application also includes the request to consolidate outlot C into lots 24 through 40, Block 9 in Northtown. He explained the replat of these lots is consistent with the Comprehensive Plan.

The Chair opened the public hearing at 6:13 p.m.

The Chair recognized Tom Dehn, owner of the property, 3 Dehns LLC and Thomas Allen Homes, who spoke about the request to replat outlot C to be combined into Lots 24 – 40.

The Chair recognized Michael Brodeur, 9338 Viking Street, who brought in a petition signed by several residents that are opposing the five (5) foot front yard setback due to the uncertainty of the type of homes Mr. Dehn is constructing. He indicated since they are not a part of a housing association, there is a concern about following property ordinances regarding the parking of vehicles.

The Chair closed the public hearing at 6:26 p.m.

Mr. Dehn stated the types of homes that are being proposed are a combination of one-level and two-story houses to accommodate the need for single family housing. He stated he would prefer to not put these properties in a housing association.

Commission discussion took place and questions were asked of the applicant.

Commissioner Yeager indicated since the topography is different per lot, he did not think the five-foot front yard setback reduction would be appropriate for all lots.

MOVED AND SECONDED BY COMMISSIONERS ERICKSON AND FOLEY TO RECOMMEND APPROVAL OF THE VARIANCE REQUEST FOR LOTS 24 THROUGH 40, BLOCK 9 NORTHTOWN FOR A REDUCED FRONT YARD SETBACK FROM THIRTY (30) FEET TO TWENTY-FIVE (25) FEET WITH NO ALTERATIONS OR CONDITIONS.

Upon roll call, members Woodward, Kallroos, Foley, Erickson, and Duval voted “aye”. Members Yeager and Gorham voted “nay”. The Chair declared the motion carried.

DRAFT

Community Development Director Chanski explained the details of this request for a preliminary plat to consolidate outlot C into lots 24 through 40. He said one of the benefits to include outlot C into these lots is it will increase the lots' taxable value.

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

The Chair recognized Tom Dehn, who explained it was already platted when he purchased the properties, and did not understand the reasoning for the creation of outlot C. He said his intention is to dedicate outlot C to remain conservation property.

Commission discussion took place regarding stormwater and conservation purposes.

The Chair closed the public hearing at 7:21p.m.

MOVED AND SECONDED BY COMMISSIONERS GORHAM AND YEAGER TO APPROVE THE PRELIMINARY PLAT REQUEST TO SPLIT OUTLOT C INTO EACH LOT 24 THROUGH 40 BASED ON THE FINDINGS OF FACT, INCLUDE A DRAINAGE AND UTILITY EASEMENT AND TO INCLUDE A CONSERVATION EASEMENT AS PLATTED.

Upon roll call, members Woodward, Kallroos, Foley, Yeager, Erickson, Gorham, and Duval voted "aye". No member voted "nay". The Chair declared the motion carried.

7b. Preliminary Plat – Outlot B, Brainerd Oaks

Community Development Director Chanski gave a review of the request to replat the property to allow the property owner to build a single-level dwelling on the property.

Commissioner Foley clarified the plat would be labeled Lot 1, Block 1 of a newly named plat rather than Lot 32, Block 5 as stated in the packet.

The Chair opened the public hearing at 7:40 p.m.

The Chair recognized Eric Myhra, 26734 Highway 210 Aitkin, who bought the tax forfeited property from Crow Wing County and stated he is interested in building their retirement home on this parcel.

The Chair recognized Ms. Jessica Dewey, 842 Holton Ave, who said she is curious why they would want to build a home on that section of property, which would essentially be in everyone's backyards.

The Chair closed the public hearing at 7:49 p.m.

MOVED AND SECONDED BY COMMISSIONERS YEAGER AND ERICKSON TO RECOMMEND APPROVAL OF THE REQUEST TO REPLAT PARCEL ID 41290607 AS PRESENTED WITH NO ALTERATIONS OR CONDITIONS.

Upon roll call, members Woodward, Kallroos, Foley, Yeager, Erickson, Gorham, and Duval voted "aye". No member voted "nay". The Chair declared the motion carried.

7c. Patio Resolution

DRAFT

Community Development Director Chanski indicated due to the restrictions of COVID and the changes in dining options, there has been an increase of interest in permanent outdoor patios. He explained the current ordinance restricts the size allowed, and only available by Conditional Use.

MOVED AND SECONDED BY COMMISSIONERS GORHAM AND WOODWARD TO RECOMMEND THE CITY COUNCIL ADOPTS THE RESOLUTION TO AMEND SECTION 515 OF THE CITY CODE TO LIFT OUTDOOR PATIO SIZE RESTRICTIONS THROUGH DECEMBER 31, 2021.

Upon roll call, members Woodward, Kallroos, Foley, Yeager, Erickson, Gorham, and Duval voted "aye". No member voted "nay". The Chair declared the motion carried.

7d. Conditional Use Permit – CC's Bar – 121 Washington Street NE

Assistant Planner Kramvik gave an update and details of the proposed Conditional Use permit request to construct an outdoor patio at 121 Washington Street NE.

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

No one came forward.

The Chair closed the public hearing at 8:09 p.m.

MOVED AND SECONDED BY COMMISSIONERS ERICKSON AND YEAGER TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT FOR 121 WASHINGTON ST NE CONTINGENT UPON THE COUNCIL ADOPTING THE RESOLUTION. IF NOT APPROVED, STAFF WILL WORK WITH THE APPLICANT.

Upon roll call, members Woodward, Kallroos, Foley, Yeager, Erickson, Gorham, and Duval voted "aye". No member voted "nay". The Chair declared the motion carried.

7e. Conditional Use Permit – O'Neary's Irish Pub

Assistant Planner Kramvik gave the details of the application for a Conditional Use Permit for O'Neary's Irish Pub at 305 South 7th Street for an outdoor patio.

The Chair opened the public hearing at 8:15 p.m.

No one came forward.

The Chair closed the public hearing at 8:15 p.m.

MOVED AND SECONDED BY COMMISSIONERS FOLEY AND WOODWARD TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT FOR O'NEARY'S IRISH PUB LOCATED AT 305 7TH STREET CONTINGENT UPON THE COUNCIL ADOPTING THE RESOLUTION. IF NOT APPROVED, STAFF WILL WORK WITH THE APPLICANT.

Upon roll call, members Woodward, Kallroos, Foley, Yeager, Erickson, Gorham, and Duval voted "aye". No member voted "nay". The Chair declared the motion carried.

DRAFT

7f. Text Amendment Request – Section 900

Community Development Director Chanski indicated Ms. Cheryl Strand at 1518 Quince Street submitted a text amendment request to Section 900. He stated the Planning Commission needs to decide whether to pursue a change to Section 900. If the Commission would like to seek a change, discussion would take place of desired language to come back to the commission as a draft ordinance.

MOVED AND SECONDED BY COMMISSIONERS ERICKSON AND YEAGER TO RECOMMEND THAT SECTION 900 REMAIN AS IT EXISTS CURRENTLY.

Upon roll call, members Woodward, Kallroos, Foley, Yeager, Erickson, Gorham, and Duval voted "aye". No member voted "nay". The Chair declared the motion carried.

#8 Public Forum

The Chair opened the public forum at 8:45 p.m.

No one came forward.

The Chair closed the public forum at 8:45 p.m.

#9 Community Development Director's Report

Community Development Director Chanski gave updates to the Commission on the following items:

- Sign Ordinance amendments were approved by the City Council
- Garfield School Conditional Use Permit and Variance requests were approved by the City Council

He stated there may be a need to call for a Special Planning Commission meeting in May to consider Planned Unit Development (PUD) request for an assisted living facility. No applications have been submitted yet.

He said the workshop scheduled for April 28th will include the Swanson Haskamp team will present their annotated outline to the Commission. Also being discussed at the workshop is the Transient Food Truck ordinance and asked what time would staff like the workshop to start.

#10 Commissioner's Questions/Comments

None

#11 Adjourn to the Planning Commission Workshop April 28th at 6:30 pm in the Fire Department Training Room – 8:55 p.m.

_____

Michael Duval, Planning Commission Chair

DRAFT

PLANNING COMMISSION WORKSHOP
Wednesday, April 28, 2021
6:30 p.m.

#1 Call to Order

Planning Commission Chair Duval called the Planning Commission Workshop to order at 6:30 p.m. in the Fire Department training room.

#2 Roll Call

Noted present were Commissioners Gorham, Kallroos, Foley, Woodward, Yeager, Duval, and Council Liaison Erickson. Community Development Director Chanski, and Assistant Planner Kramvik were also noted as present along with Jennifer Haskamp, and Michael Lamb from Swanson Haskamp Consulting.

#3 Approval/Amendment of Agenda

MOVED AND SECONDED BY COMMISSIONER YEAGER AND GORHAM, DULY CARRIED, TO APPROVE THE AGENDA.

#4 Zoning Code Update

Jennifer Haskamp stated over the past six weeks, they have conducted three Technical Advisory Group (TAG) meetings with various representative of City Staff and City Commissions. They have established a set of recommendations to incorporate into the Annotated Outline for the Zoning Code update. Ms. Haskamp and Mr. Lamb gave a presentation of the discussion highlights from each TAG meeting of existing conditions and the recommendations in moving forward. Commissioners discussed ideas and thoughts with the recommendations presented.

#5 Transient Food Unit Ordinance

Community Development Director Chanski gave a brief update of the current regulations under Section 515-66 for Transient Food Units. He stated there are three (3) sections that need to be discussed tonight for potential revisions to the code. Commissioners discussed each topic and made recommendations as follows:

- Operating Times – Currently, there are limits to the operating times in the Transient Food Unit Overlay Districts. The determination was to revise the operating times to 7:00 a.m. to 11:00 p.m.

- Operating Areas – Currently, the ordinance defines eight (8) zones that allow transient food trucks to operate. This restricts many of the food truck vendors that may be interested in locating in Brainerd. The determination is to allow operation of transient food units in all commercial and industrial districts except B-1 (Residential Office) Districts.

- Distance from Restaurants and Bars – Currently, there is a requirement that transient food units must be at least 300 feet from the property line of a restaurant of bar that serves food. The determination is to eliminate the requirement.

DRAFT

#6 Adjourn

The Chair adjourned at 9:00 p.m.

_____

Michael Duval, Planning Commission Chair

DRAFT

M E M O

TO: Planning Commission

FROM: David Chanski, Community Development Director

DATE: May 19, 2021

RE: Final Plat – Lot 1, Block 1 Myrha Addition to Brainerd Oaks

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Eric & Dawn Myhra have submitted a request for a Final Plat for Outlot B in the Brainerd Oaks addition to Brainerd. The purpose of this final plat request is to replat Outlot B to Lot 1, Block 1, Myrha Addition to Brainerd Oaks. This would allow the applicant to build a single-family dwelling on the property.

Findings of Fact

1. The Preliminary Plat for Outlot B was considered by the Planning Commission on April 21, 2021 and approved by the City Council on May 3, 2021.
2. Per Section 500-5-2.C, consideration of a Final Plat shall be made upon the following requirements being met:
    a. The final plat shall substantially conform to the approved preliminary plat and phasing plan.
        i. The proposed final plat does conform with the approved preliminary plat.
    b. Completed development contract including all required financial securities and time frame for final plat and final grading.
        i. No development contract is being required for this replat.
    c. Conditions attached to approval of the preliminary plat shall be fulfilled or secured by the development agreement, as appropriate.
        i. The new legal description for Outlot B has been properly redrafted as Lot 1, Block 1 Myrha Addition to Brainerd Oaks.
    d. All fees, charges, and escrow related to the preliminary or final plat be paid in full.
        i. The applicant has paid all fees in full.
3. The plat for Outlot B was originally recorded with Crow Wing County on December 2nd, 2003.
4. Outlot B is zoned R-1 (Single Family Residential) District.
5. Outlot B does not serve as any kind of easement or for stormwater retention. This was verified by the City Engineer.
6. Outlot B has a lot size of approximately 65'x150'.
7. Outlot B entered tax forfeiture status in 2008 as the developer for the Brainerd Oaks addition filed for bankruptcy.
    a. The lot was originally going to be a city park for the Brainerd Oaks addition.

    b. The idea of a park in Brainerd Oaks was abandoned by the Parks Board.
8. Outlot B was certified by the City Council for sale by Crow Wing County as non-conservancy in January 2009.
9. Outlot B was purchased through a tax forfeiture sale by the applicant on June 9th, 2017 from the State of Minnesota.
    a. The Brainerd HRA did not purchase this lot as part of the development agreement with the City of Brainerd because it is an outlot.
    b. The City Engineer and City Planner reviewed the potential use of this lot before the Crow Wing County tax forfeiture land sale, and the City Council approved this land for sale to the public.
    c. No assessments were paid as part of the purchase of this property because it is an Outlot.
    d. All assessments were waived by City Council, in the Brainerd Oaks addition, through an agreement with the HRA to encourage development.
10. All utilities, including water, sewer, and electric are available to this site.
    a. Sewer and water stub-in lines were not installed to the curb of this property because it is an Outlot.
        i. The property owner will be responsible for connecting sewer and water to the utilities located in the street.
11. There should be no increased stormwater impacts not accounted for upon the development of this lot with the requested plat change.
12. For property tax pay year 2021, Outlot B has an assessment of $114.56.
    a. It is staff's opinion that replating Outlot B will increase the lot's taxable value at a higher rate than if it would remain in its current configuration.

No public hearing is required for this final plat review.

<u>Staff Opinion</u>

Staff recommends approval of the Final Plat for Lot 1, Block 1 Myrha Addition to Brainerd Oaks.

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

Receipt #_____
Check # _____
Date Paid: _____

PRELIMINARY PLAT/FINAL PLAT APPLICATION

☐ **PRELIMINARY PLAT ($500.00 + $30.00/lot residential + $1,000.00 escrow deposit)**
($600.00 + $50.00/lot commercial + $1,000.00 escrow deposit)

☒ **FINAL PLAT (fee included with Preliminary Plat)**

PROPERTY ADDRESS: PROPERTY OUTLOT B – YORK COURT

LEGAL DESCRIPTION: Lot(s): OUTLOT B Block: ____ Addition: BRAINERD OAKS
(attach description if lengthy)

Property Owner Name: ERIC J. MYHRA / DAWN A. MYHRA

Street Address: OUTLOT B **City:** BRAINERD **State:** MN **Zip Code:** 56461

Phone Number: 218-820-2838 **Fax:** _____ **E-mail:** ericmyhra@gmail.com

Applicant Name: (if different than Property Owner) _____

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

Phone Number: _____ **Fax:** _____ **E-Mail:** _____

Description of Request: FINAL PLAT
LOT 1 BLOCK 1 MYHRA EDITION BRAINERD OAKS

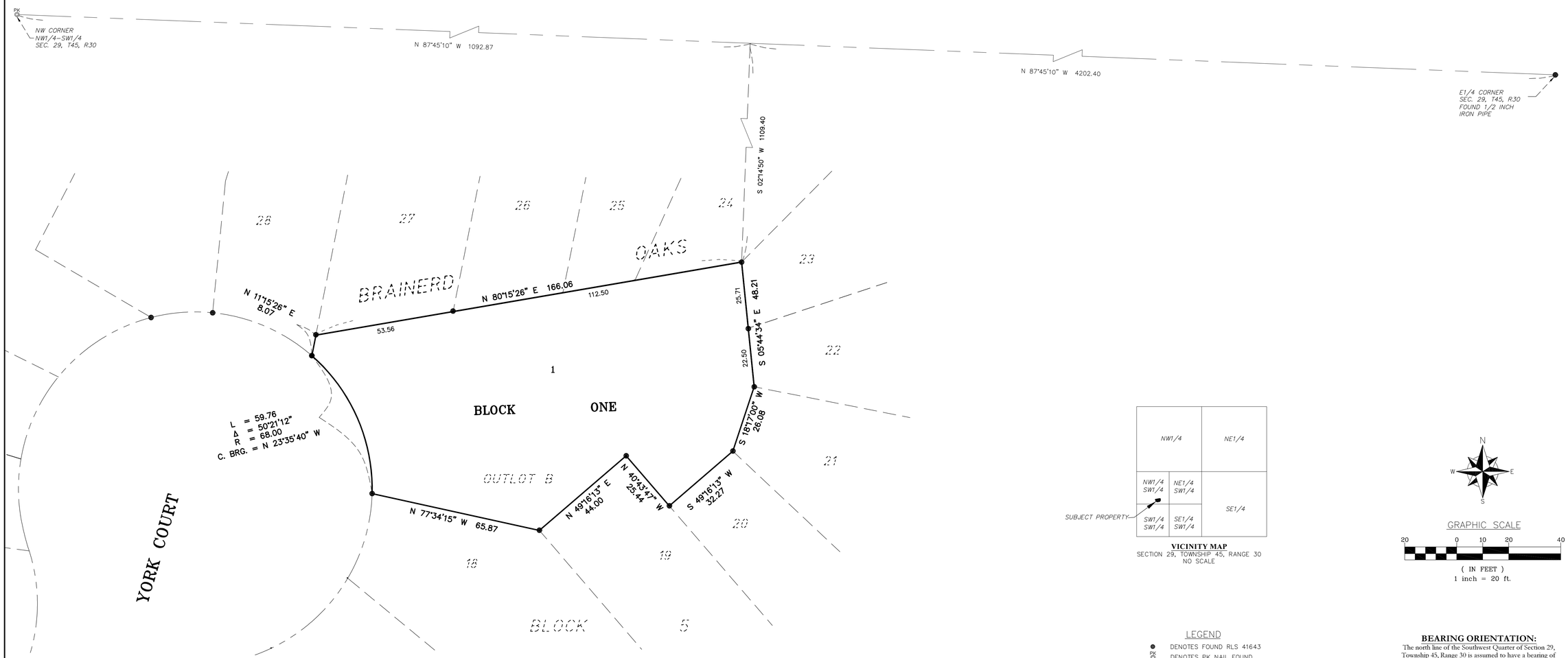
Property Owner Signature — 5/5/21 Date

ERIC J. MYHRA Dawn Myhra
(Please print name)

Applicant Signature — 5/5/21 Date

ERIC J. MYHRA Dawn Myhra
(Please print name)

MYHRA ADDITION TO BRAINERD OAKS



AREA
LOT 1, BLOCK ONE:
11804± sq ft
0.27± ac.

VICINITY MAP
SECTION 29, TOWNSHIP 45, RANGE 30
NO SCALE

GRAPHIC SCALE

20 0 10 20 40

(IN FEET)
1 inch = 20 ft.

LEGEND

- DENOTES FOUND RLS 41643
- PK DENOTES PK NAIL FOUND

BEARING ORIENTATION:
The north line of the Southwest Quarter of Section 29, Township 45, Range 30 is assumed to have a bearing of North 87 degrees 45 minutes 10 seconds West.

KNOW ALL PERSONS BY THESE PRESENTS: That Eric Myhra and Dawn Myrha, joint tenants and not tenants in common, owners, of the following property to be described:

Outlot B of BRAINERD OAKS, according to the recorded plat thereof, Crow Wing County, Minnesota.

Has caused the same to be surveyed and platted as MYHRA ADDITION TO BRAINERD OAKS.

In witness whereof said Eric Myhra and Dawn Mhyra, joint tenants and not tenants in common, have hereunto set their hands this _____day of _____, 20_____.

_____
Eric Myhra

_____
Dawn Myhra

STATE OF MINNESOTA
COUNTY OF _____

This instrument was acknowledged before me this _____day of _____, 20_____, by Eric Myhra and Dawn Myhra.

_____ _____
(Notary Signature) (Notary Printed Name)

NOTARY PUBLIC, _____ COUNTY, STATE OF MINNESOTA

MY COMMISSION EXPIRES: _____

SURVEYOR'S CERTIFICATION
I Mark T. Downing, do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been correctly set; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Dated this _____ day of _____, 20_____.

_____
Mark T. Downing, Professional Land Surveyor
Minnesota Registration No. 46165

STATE OF MINNESOTA
COUNTY OF _____
This instrument was acknowledged before me this _____day of _____, 20_____, by Mark T. Downing, Professional Land Surveyor, Minnesota Registration No. 46165.

_____ _____
(Notary Signature) (Notary Printed Name)

NOTARY PUBLIC, _____ COUNTY, STATE OF MINNESOTA

MY COMMISSION EXPIRES: _____

City of Brainerd

Approved by the Council of the City of Brainerd

This_____ day of _____, 20___.

Signed _____ (Mayor)

Attest _____ (City Administrator)

County Surveyor

I hereby certify that this plat has been checked and approved as to compliance with Chapter 505, Minnesota Statutes this _____day of _____, 20_____.

_____
Crow Wing County Surveyor

County Auditor/Treasurer

I hereby certify taxes payable in the year _____ on lands herein described are paid in full, and there are no delinquent taxes, and that transfer was entered this _____day of _____, 20_____.

_____
Crow Wing County Auditor/Treasurer

County Recorder

I hereby certify that this instrument was filed in the Office of the County Recorder for record on this _____day of _____, 20_____, at _____ o'clock _____.M., and was duly recorded as Document No._____

_____
Crow Wing County Recorder

ARRO
Land Surveying
of Brainerd, INC.
217 1st Ave. N.
Waite Park, MN 56387
(320)241-6247 OFFICE

CERTIFICATE OF SURVEY

LEGEND

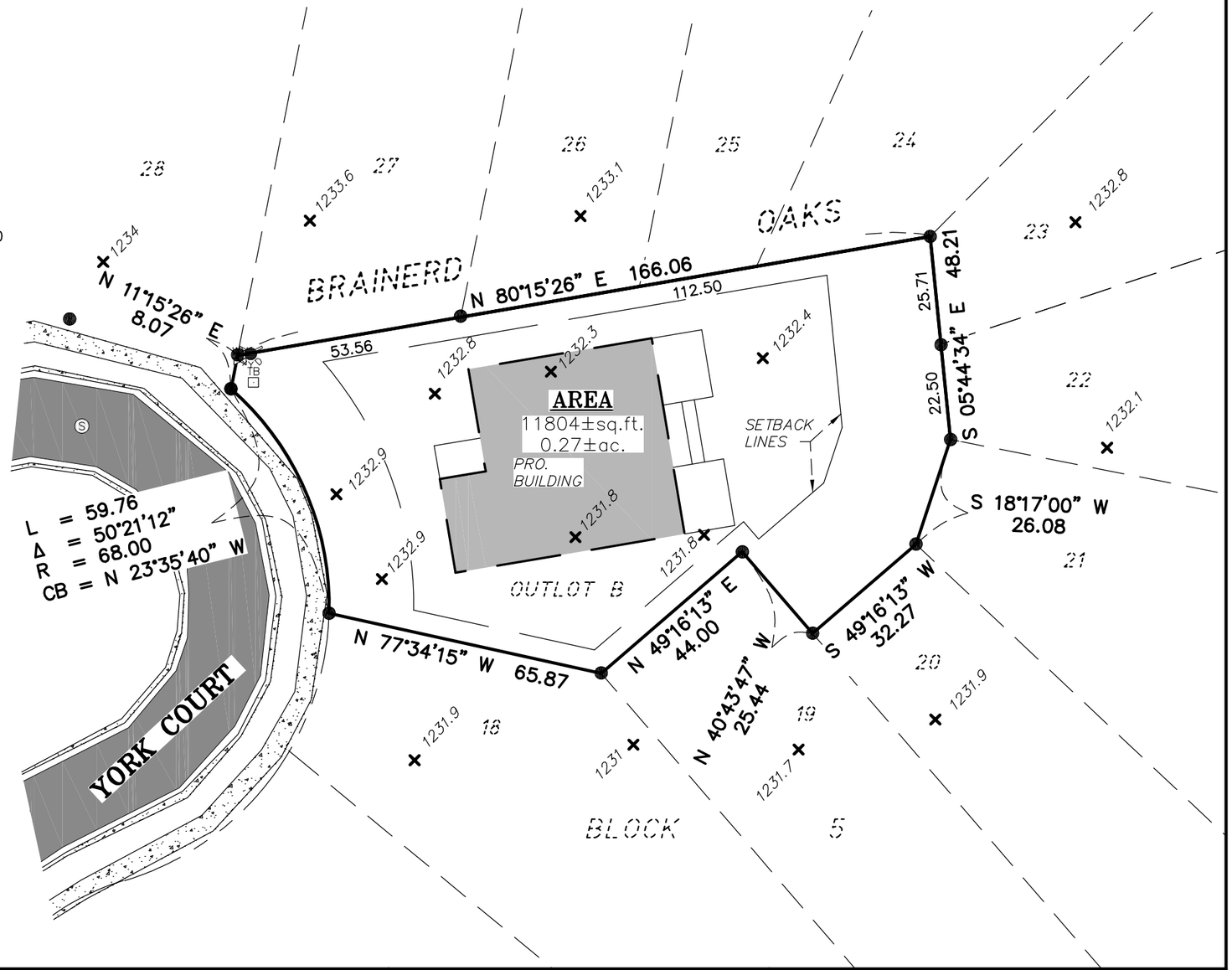
- DENOTES FOUND SURVEY MONUMENT
- DENOTES HYDRANT
- WV DENOTES WATER VALVE
- Ⓢ DENOTES SEPTIC MANHOLE
- TB DENOTES TELEPHONE PEDESTAL
- 1233.6 DENOTES SPOT ELEVATION (NAVD 88)
- DENOTES BITUMINOUS SURFACE
- DENOTES CONCRETE SURFACE

N / W / E / S

GRAPHIC SCALE

30 0 15 30

(IN FEET)
1 inch = 30 ft.



DESCRIPTION – (Parcel No.: 41290607)

Outlot B, BRAINERD OAKS, according to the recorded plat thereof, Crow Wing County, Minnesota

SURVEYOR'S NOTES:

1. *Bearing Orientation: The North line of Outlot B, Block 5 of BRAINERD OAKS, is assumed to have a bearing of North 80 degrees 15 minutes 26 seconds East.*

2. *The field survey was completed on March 17, 2021.*

3. *Arro Land Surveying of Brainerd, INC. has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.*

4. *There was no evidence of visible wetlands across the property being surveyed.*

5. *The utilities as shown on this survey were developed from the visible utilities across your property and is not implied nor intended to be the complete inventory of utilities in this area. It is the client's responsibility to verify the location of all utilities prior to construction or improving your property.*

6. *Property Zoning: Single Family Residential (R1)*

7. *Setback Requirements: Front Yard = 20 feet Side Yard = 5 feet Rear Yard = 25 feet*

8. *It is the client's responsibility to verify zoning and setback requirements prior to construction or improving your property.*

DRAWN BY: JAS CHECKED BY: MTD

APPROVED BY: MTD JOB NUMBER: 21-034B

NO.	DATE	BY	REVISION DESCRIPTION

CLIENT:

Eric Myhra

BOUNDARY SURVEY
Outlot B
BRAINERD OAKS
Sec. 29, T45, R30
Crow Wing County, MN

20396 Division Rd.
Brainerd, MN 56401
(218)820-4437

217 1st Ave. N.
Waite Park, MN 56387
(320)241-6247

ARRO
Land Surveying
of Brainerd, INC.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the state of Minnesota.

Dated this 30th day of March, 2021

By: _____

Mark T. Downing, Minnesota License No. 46165

M E M O

TO: Planning Commission

FROM: David Chanski, Community Development Director

DATE: May 19, 2021

RE: Text Amendment – Section 515-66: Transient Food Unit Overlay District

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Introduction

Section 515-66 of the Code of Ordinances regulates the operations of transient food units, which include trucks, trailers, wagons, carts, seasonal temporary food stands, etc. In the last few years, the Community Development Department has seen an increase in interest from transient food units who consider operating in Brainerd either consistently or sporadically. Unfortunately, many transient food units choose not to operate in Brainerd due to the City's rather restrictive transient food unit ordinance or operate unlicensed on weekends when staff is not in the office.

During the Planning Commission workshop on April 28th, staff lead the Commission through a discussion on three areas of the ordinance that staff requested the Commission consider revising. In the end, the Commission had consensus on the following revisions.

Operating Times

Currently allowed hours of operation for transient food units are listed as follows:

- West Brainerd 11:00am to 7:00pm
- County Government Center 11:00am to 7:00pm
- Downtown 11:00am to 2:00am
- Northern Pacific Center 11:00am to 2:00am
- Intersection of Hwys 18 and 25 11:00am to 7:00pm
- Brainerd Industrial Park 11:00am to 7:00pm
- Central Lakes College 11:00am to 7:00pm
- Franklin Arts Center Parking Lot 11:00am to 7:00pm

Upon staff's recommendation, the Planning Commission agreed to consider a uniform operation time across all operational areas of 7:00am to 11:00pm. This would allow for transient food units to serve breakfast if they so choose as well as operate later into the dinner hour.

Operating Areas

Currently there are only eight allowed areas within the community that transient food units are allowed to operate. They are the same as listed above, and a map showing the boundaries of each district is attached. All properties along Washington St including the East Brainerd Mall property are not included as operational areas. Additionally, the strip mall that contains Ace Hardware and the Chamber of Commerce is also oddly excluded as

an operational area while the vast majority of properties in the commercial area of West Brainerd are included.

Upon staff's recommendation, the Planning Commission agreed to consider allowing transient food units to operate in any commercial district, except for B-1 (Neighborhood Office) Districts, and industrial district as well as Central Lakes College and the Franklin Arts Center. Most notably, this would expand operational areas to include properties along Washington Street, the East Brainerd Mall, the Ace Hardware strip, the South 6th St commercial area, the industrial/commercial area in between Hwys 210 and 25, and the entirety of the Hwy 25 and Oak St. intersection.

Distance from Restaurants and Bars

Section 515-66-4.16 currently prohibits transient food units from locating within 300 feet of the property line of any restaurant or bar that serves food. This restriction effectively negates the majority of currently allowed operational areas as there is at least one restaurant or bar the serves food within 300 feet of almost every private parking lot that would be suitable for the operation of a transient food unit.

Upon staff's recommendation, the Planning Commission agreed to consider eliminating this restriction.

Recommended Action

Staff recommends two actions:

1. Conduct the noticed public hearing on the attached proposed ordinance, amending Section 515-66 with the changes listed above.

2. Vote to recommend approval of the attached proposed ordinance to the City Council.

O R D I N A N C E
NO. XXXX

AN ORDINANCE AMENDING SECTION 515-66: TRANSIENT FOOD UNIT OVERALY DISTRICT

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: The title of Section 515-66 of the City Code is hereby amended by removing the following:

TFU – Transient Food Unit ~~**Overlay District**~~

SECTION TWO: Section 515-66-2 of the City Code is hereby amended by adding the following:

515-37-1: Established Boundaries and Permitted Hours of Operation. ~~**The boundaries of the TFU – Transient Food Unit Overlay Districts are shown on the Transient Food Unit Loveraly Map attached to this Ordinance as Appendix 1.**~~ **Transient Food Units are permitted to operate on any industrially zoned property or commercially zoned property within the City except those zoned B-1 (Residential Office) District. Transient Food units are also permitted to operate on property owned by Central Lakes College, the Lincoln Arts Center, and Independent School District 181 regardless of zoning district.**

~~**Transient food unit hours of operation are identified as follow:**~~

~~**1. West Brainerd**~~	~~**11:00am to 7:00pm**~~
~~**2. County Government Center**~~	~~**11:00am to 7:00pm**~~
~~**3. Downtown**~~	~~**11:00am to 2:00am**~~
~~**4. Northern Pacific Center**~~	~~**11:00am to 2:00am**~~
~~**5. Intersection of Hwys 18 and 25**~~	~~**11:00am to 7:00pm**~~
~~**6. Brainerd Industrial Park**~~	~~**11:00am to 7:00pm**~~
~~**7. Central Lakes College**~~	~~**11:00am to 7:00pm**~~
~~**8. Franklin Art Center Parking Lot**~~	~~**11:00am to 7:00pm**~~

Transient food unit hours of operation shall be limited to 7:00am to 11:00pm.

SECTION THREE: Section 515-66-4 of the City Code is hereby amended by removing the following:

~~**16. Units cannot locate within 300' of the property line of a restaurant or bar that serves food.**~~

SECTION FOUR: All other provisions of Section 515-66 shall remain in full force and effect.

SECTION FIVE: This ordinance shall take effect and be in full force one week from and after its publication.

Adopted this _____day of _____, 2021

_____
KELLY BEVANS
President of the Council

Approved this _____day of _____, 2021

_____
DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

Published: One Time – _____

SECTION 66
TFU – TRANSIENT FOOD UNIT OVERLAY DISTRICT

Section:

515-66-1: Purpose and Intent
515-66-2: Establishment Boundaries and Permitted Hours of Operation
515-66-3: Relationship to other Applicable Regulations
515-66-4: Permitted Uses
515-66-5: Uses by Administrative Permit
515-66-6: Interim Uses
515-66-7: Conditional Uses
515-66-8: Lot Area and Setback Requirements
515-66-9: Building Height
515-66-10: Exterior Building Standards

515-66-1: Purpose and Intent. The Purpose of the TFU Overlay District is to provide areas within the community where mobile food units can operate.

515-66-2: Established Boundaries and Permitted Hours of Operation. The boundaries of the TFU – Transient Food Unit Overlay Districts are shown on the Transient Food Unit Overlay Map attached to this Ordinance as Appendix 1.

Transient food unit hours of operation are identified as follow:

1.	West Brainerd	11:00am to 7:00pm
2.	County Government Center	11:00am to 7:00pm
3.	Downtown	11:00pm to 2:00 am
4.	Northern Pacific Center	11:00am to 2:00 am
5.	Intersection of Hwys 18 and 25	11:00am to 7:00pm
6.	Brainerd Industrial Park	11:00am to 7:00pm
7.	Central Lakes College	11:00am to 7:00pm
8.	Franklin Art Center Parking Lot	11:00am to 7:00pm

515-66-3: Relationship to other Applicable Regulations. Property located within a redevelopment overlay district shall be subject to the provisions of the primary zoning district.

515-66-4: Permitted Uses. Transient food units including trucks, trailers, wagons, carts, seasonal temporary food stands, etc. are allowed on public and private property subject to the following:

1. Only food and non-alcoholic beverages can be sold.
2. At least one (1) trash receptacle with a tight fitting lid shall be provided.
3. Operators must clean around their unit at the end of each day.
4. Operator cannot call attention to themselves by crying out, blowing a horn, ringing a bell, and playing music or other noise discernable beyond the unit.
5. Units must be kept in good repair and order and have a neat appearance.
6. Electrical cords and hookups to public utilities are not permitted.
7. Liquids from a food unit cannot be drained onto public property.

8. Generators must be self-contained and fully screened from view and not exceed 70 dbs.
9. Exterior lighting that will call attention to the setup is not permitted.
10. Follow applicable Department of Health regulations.
11. Copies of all required state licenses and insurance coverage.
12. One "A" frame sign not exceeding twelve (12) square feet per side is permitted during operation.
13. Property owner written approval is required.
14. Units cannot be left unattended nor remain at an authorized operating location outside allowed hours of operation.
15. Sales cannot be made to individuals parked or stopped in a public street or alley. Sales to customers on a sidewalk are not allowed.
16. Units cannot locate within 300' of the property line of a restaurant or bar that serves food.
17. Units cannot locate within 300' from the property perimeter of any festival (including the Crow Wing County Fairgrounds), sporting event and civic event unless a license is issued to be a part of the festival or event.
18. Proof of liability insurance is provided in accordance with City of Brainerd requirements.
19. Transient food units are permitted to operate during festivals and community events provided it is approved by City of Brainerd as part of a festival and community events permit.
20. Sales are permitted in a City park when approved by City of Brainerd Parks and Recreation Board.
21. Maximum number of units per property:
    - Two (2) food trucks on lots of one-half acre or less.
    - Three (3) food trucks on lots between one-half acre and 1 acre.
    - Four (4) food trucks on lots greater than 1 acre.
22. A primary use must be operating on the property in order for food unit operations to be allowed.

515-66-5: Uses by Administrative Permit. None

515-66-6: Interim Uses. None

515-66-7: Conditional Uses. None

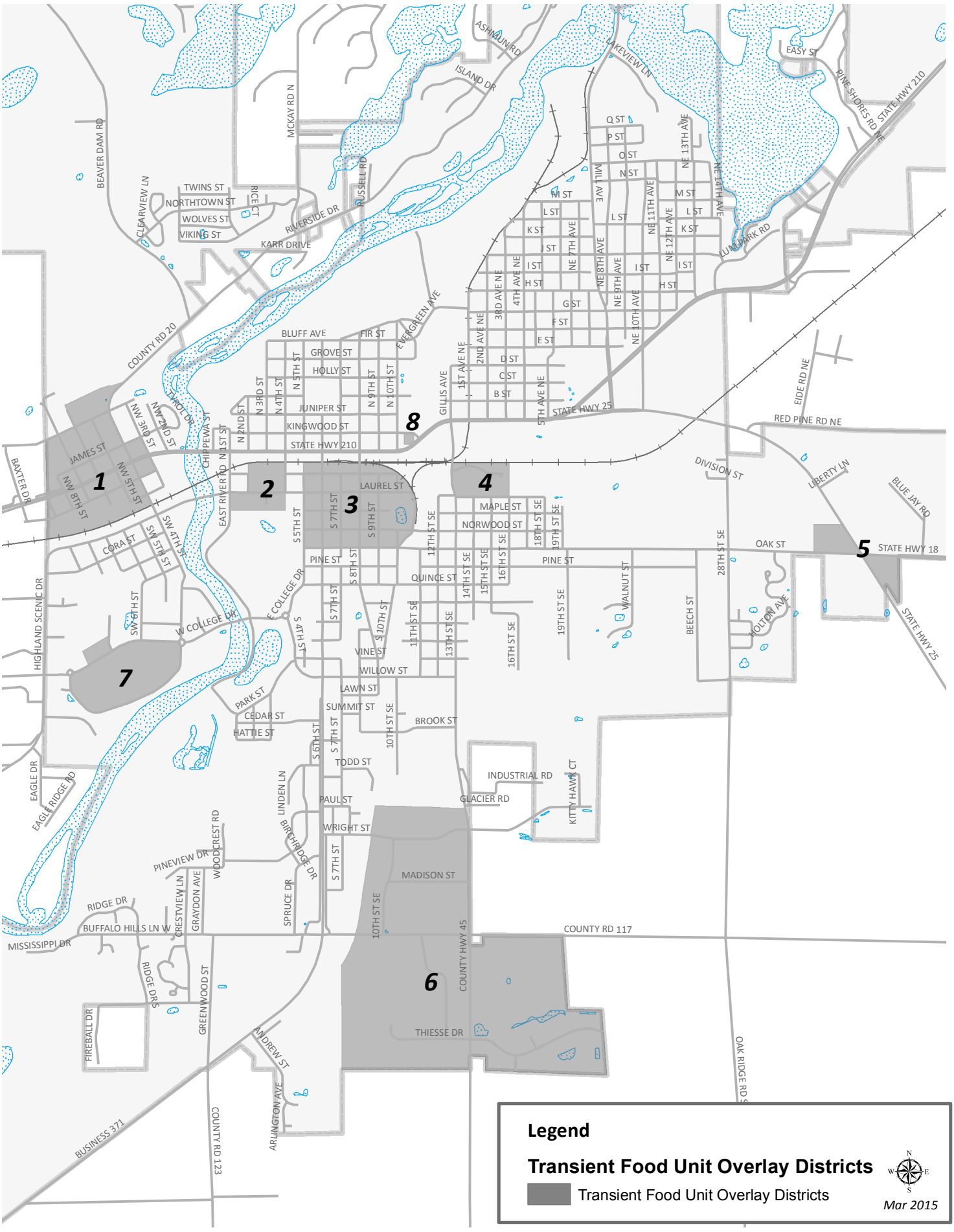
515-66-8: Lot Area and Setback Requirements. Not Applicable

515-66-9: Building Height. Not Applicable

515-66-10: Exterior Building Standards. Not Applicable

City of Brainerd

Transient Food Unit Overlay Districts



MEMO

TO: Planning Commission

FROM: David Chanski, Community Development Director

DATE: May 19, 2021

RE: Zoning Code Update – Traditional Neighborhood & Downtown Character Areas

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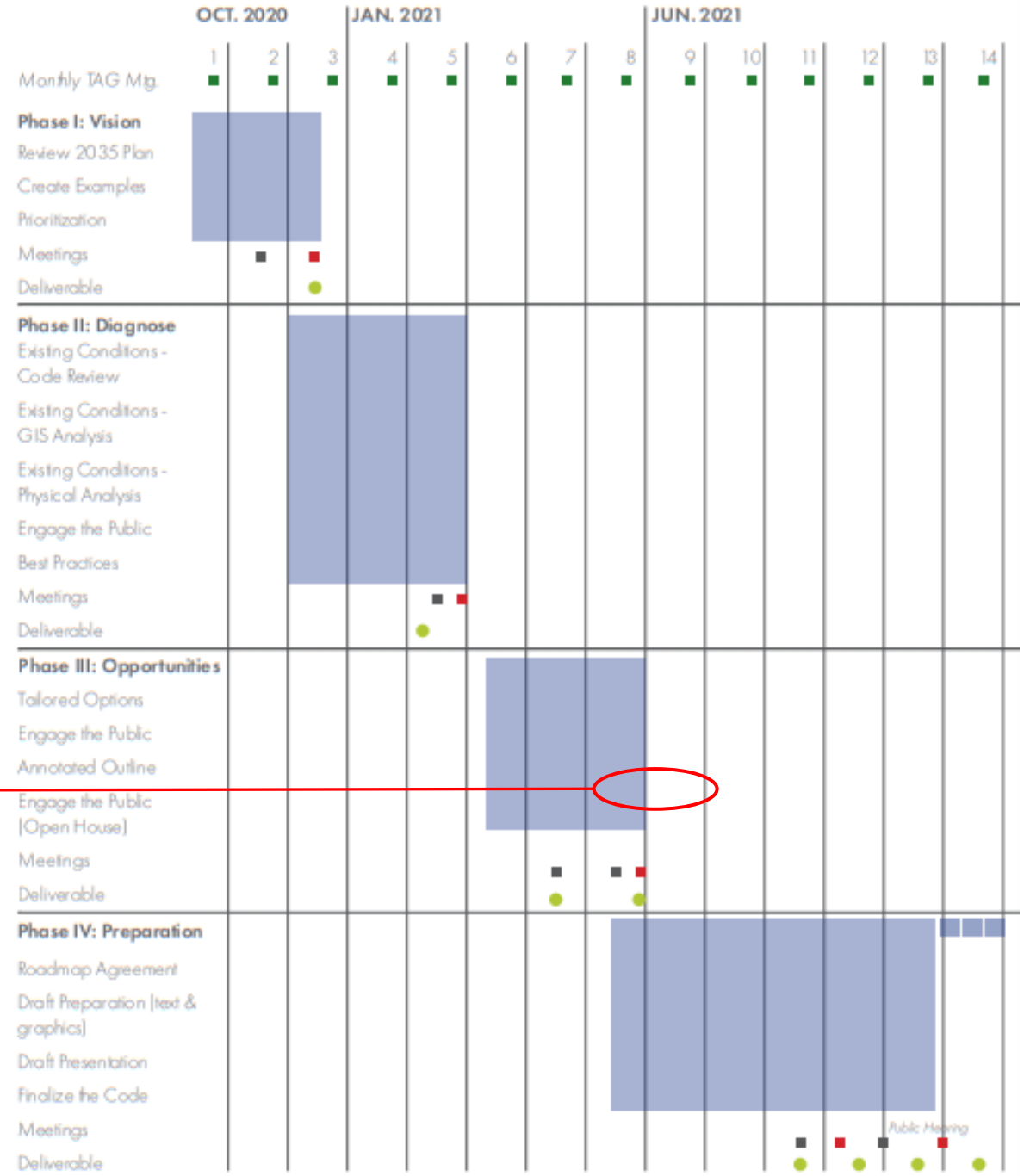
Mike Lamb and Jennifer Haskamp will be present to have further discussion with the Planning Commission regarding the Traditional Neighborhood and Downtown character areas for the new zoning code. They desire to have further discussion with the Commission to help them better refine the areas as they put the finishing touches on the Annotated Outline for the new zoning code.

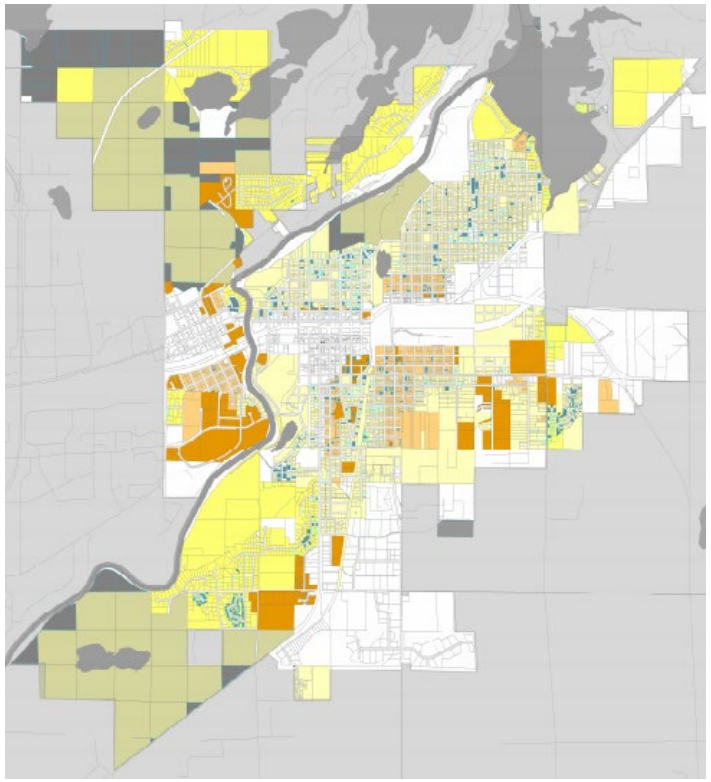
May 19 | Planning Commission

City of Brainerd

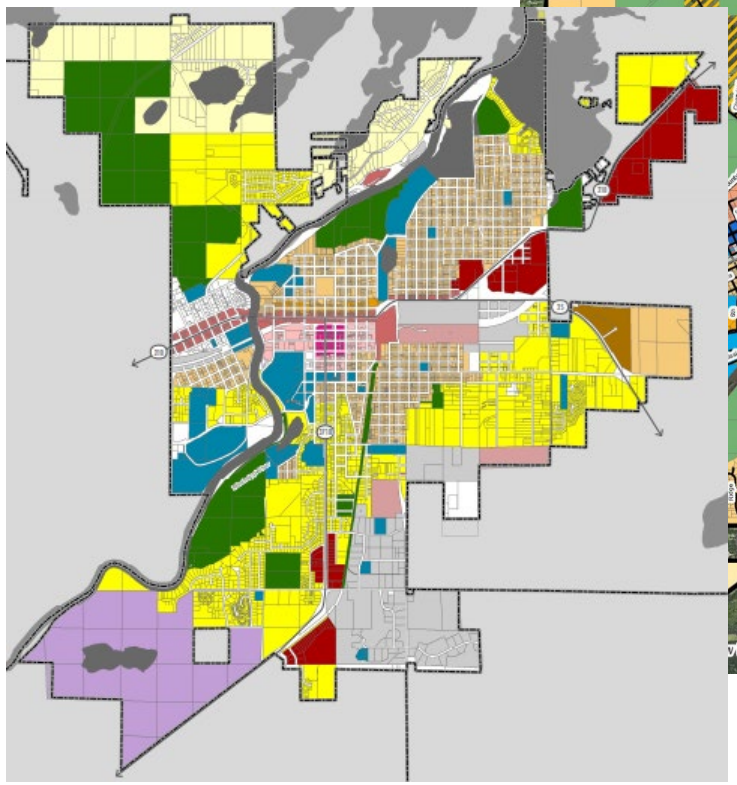
Schedule Update

Annotated Outline

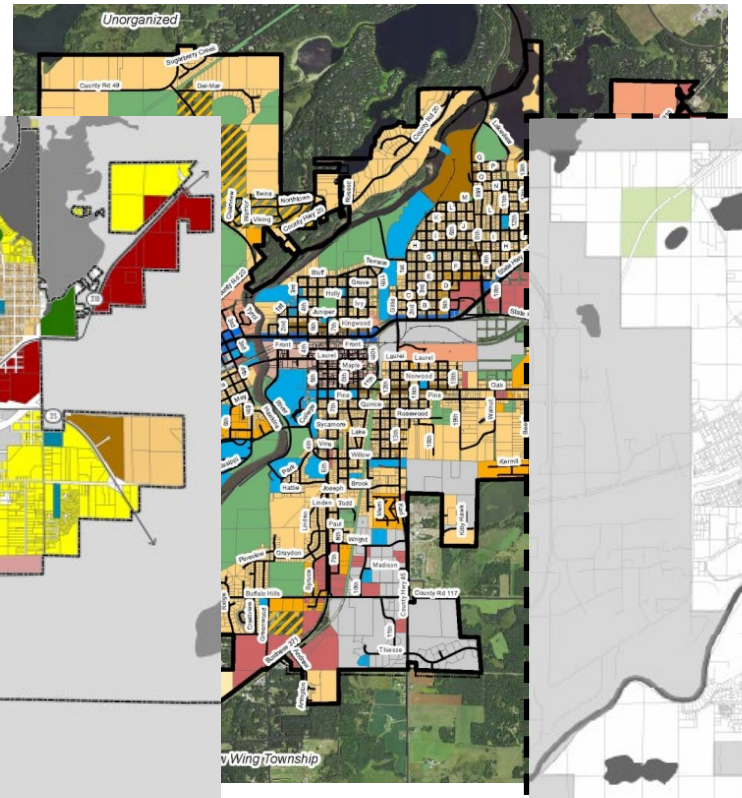




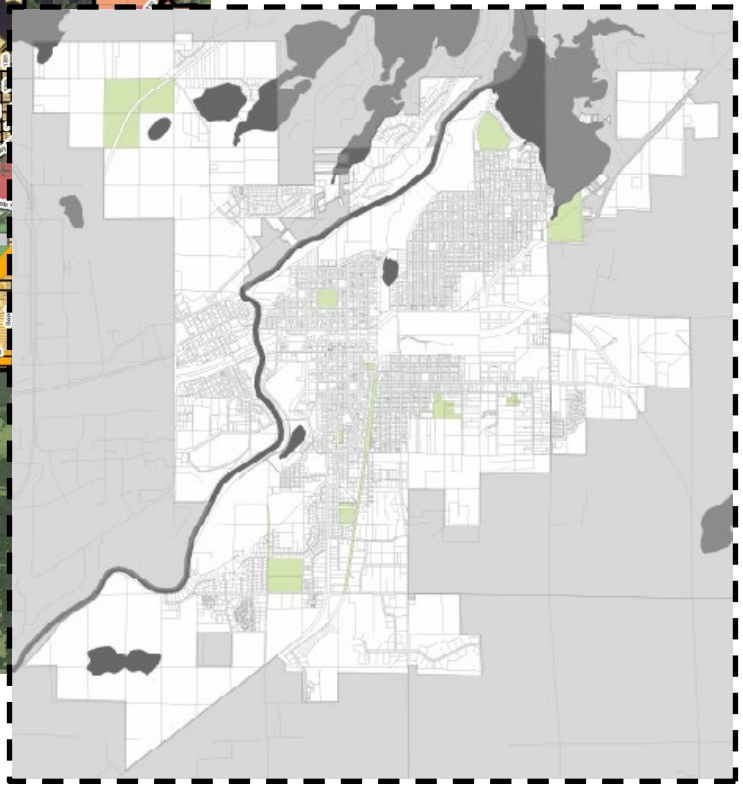
Non Conforming Analysis



Character Areas



Future Land Use



Character-based Zoning Districts

Existing Outline

Existing Table of Contents

SECTION 1 – TITLE AND APPLICATION 515-1-1: Title and
SECTION 2 – RULES AND DEFINITIONS 515-2-1:
SECTION 3 – ADMINISTRATION – ENFORCEMENT AND APPEALS 515-3-1: Enforcing
SECTION 4 – ADMINISTRATION – AMENDMENTS (TEXT AND MAP)
SECTION 5 – ADMINISTRATION – CONDITIONAL USE PERMITS
SECTION 6 – ADMINISTRATION – INTERIM USES 515-6-1: Purpose and
SECTION 7 – ADMINISTRATION – VARIANCES 515-7-1: Purpose and
SECTION 8 – ADMINISTRATION – PERMITS AND CERTIFICATES OF OCCUPANCY
SECTION 9 – ADMINISTRATION – ADMINISTRATIVE PERMITS
SECTION 10 – ADMINISTRATION – SITE AND BUILDING PLAN
SECTION 11 – ADMINISTRATION – PLANNED UNIT DEVELOPMENT (PUD)
SECTIONS 12-14 RESERVED
SECTION 15 - NON-CONFORMING LOTS, BUILDINGS, STRUCTURES AND USES 515-15-1:
SECTION 16 – LOT AND YARD PROVISIONS
SECTION 17 – GENERAL BUILDING, USE, AND DESIGN PROVISIONS
SECTION 18 – OUTDOOR LIGHTING
SECTION 19 - FENCES
SECTION 20 – LANDSCAPING, GREEN SPACE AND SCREENING REQUIREMENTS
SECTION 21 – RESERVED
SECTION 22 – PARKING
SECTION 24 – OUTDOOR STORAGE
SECTION 25 – RESERVED
SECTION 26 – HOME BUSINESSES AND HOME EXTENDED BUSINESSES
SECTION 27 – MODEL HOMES
SECTION 28 – RESERVED
SECTION 29 – COMMERCIAL DAY CARE FACILITIES
SECTION 30 – MINING AND EXTRACTION
SECTION 31 – BED AND BREAKFASTS
SECTION 32 – RESERVED
SECTION 33 – ADULT ESTABLISHMENTS
SECTION 34 – WIND ENERGY CONVERSION SYSTEMS (WECS)
SECTION 35 – ANTENNAS AND TOWERS
SECTION 36 – ESSENTIAL SERVICES
SECTION 37 - SIGNS
SECTIONS 38-49 – RESERVED
SECTION 50 – ZONING DISTRICTS AND DISTRICT PROVISIONS
SECTION 51 – R-A, RURAL AGRICULTURAL DISTRICT
SECTION 52 – R-R, RURAL RESIDENTIAL DISTRICT
SECTION 53 – R-E, SINGLE FAMILY ESTATE RESIDENTIAL DISTRICT
SECTION 54 – R-1, SINGLE FAMILY RESIDENTIAL DISTRICT
SECTION 55 – R-1A, SINGLE FAMILY RESIDENTIAL DISTRICT
SECTION 56 – R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT
SECTION 57 – R-3, HIGH DENSITY RESIDENTIAL DISTRICT
SECTION 58 – R-MH, MANUFACTURED HOUSING DISTRICT
SECTION 59 – RESERVED
SECTION 60 – B-1, RESIDENTIAL OFFICE DISTRICT
SECTION 61 – B-2, NEIGHBORHOOD BUSINESS DISTRICT
SECTION 62 – B-3, CENTRAL BUSINESS DISTRICT
SECTION 63 – B-4, GENERAL BUSINESS DISTRICT
SECTION 64 – B-5, COMMERCIAL AMUSEMENT DISTRICT
SECTION 65 – B-6, WASHINGTON STREET COMMERCIAL DISTRICT
SECTIONS 66 – TFU – TRANSIENT FOOD UNIT OVERLAY DISTRICT
SECTIONS 67-59 – RESERVED
SECTION 70 – I-1, LIGHT INDUSTRY DISTRICT
SECTION 71 – I-2, GENERAL INDUSTRY DISTRICT
SECTION 72 – MU, MIXED USE DISTRICT
SECTIONS 73-74 - RESERVED
SECTION 75 – PLANNED UNIT DEVELOPMENT (PUD) DISTRICT
SECTION 76 – FLOODPLAIN DISTRICTS
SECTION 77 – FW, FLOODWAY DISTRICT
SECTION 78 – FF, FLOOD FRINGE DISTRICT
SECTION 79 – INTERPRETATIONS 79-1
SECTION 80 – AMENDMENTS 80-1

Proposed Outline

Title

- Section 1

Districts

- Sections 50-80
- Residential R-A thru R-MH
- Commercial: B-1 thru B-6
- Industrial & Mixed Use
- Overlays, Mixed Use & PUD
- Environmental

General Building, Use & Design Provisions

- Sections 17- 37
- Incorporate use table in the Districts

Administration

- Sections 2 - 14

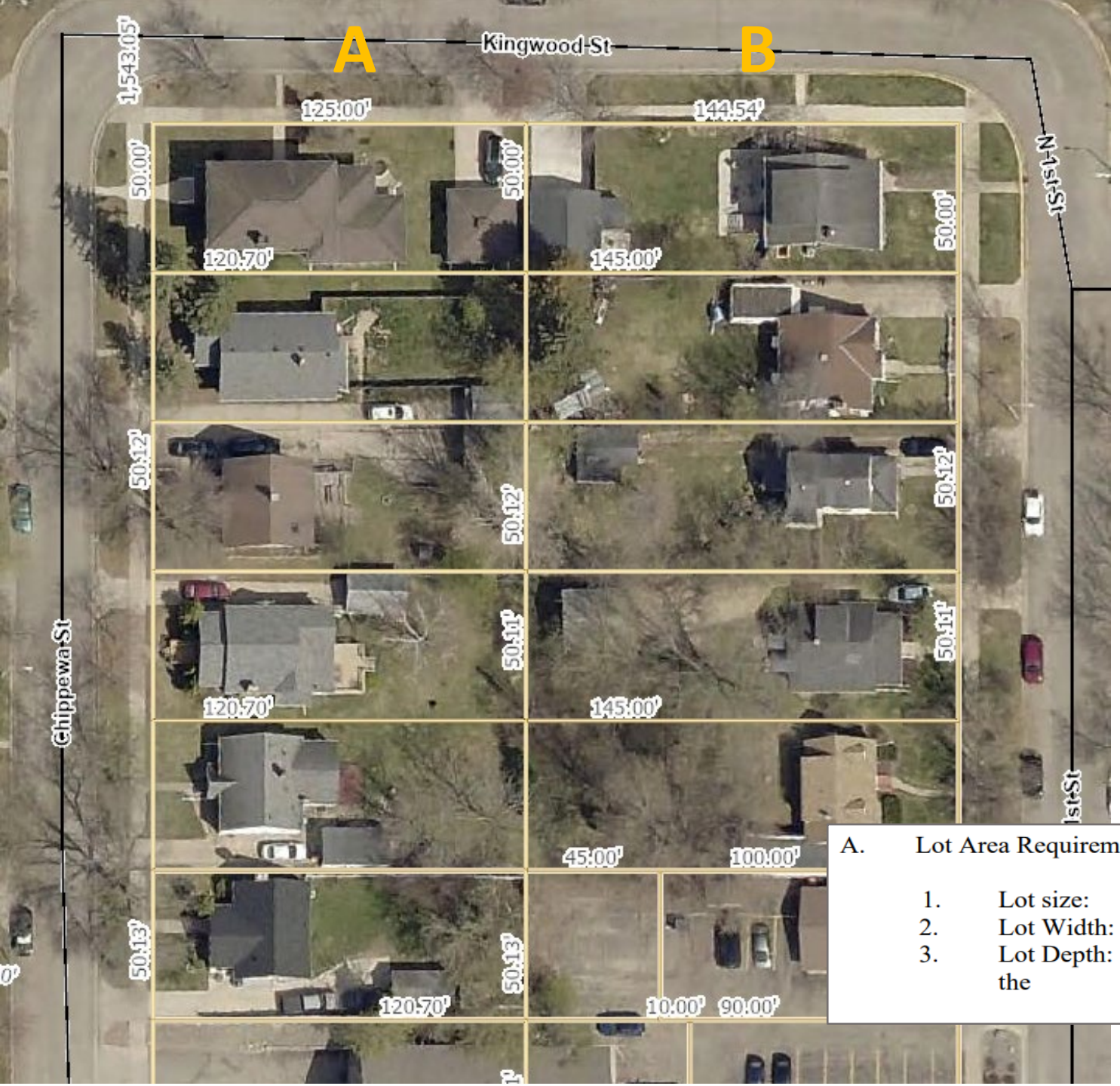
Non-conforming Lots & Lot/Yard Provisions

- Sections 15 & 16
- Incorporate into Districts

Traditional Residential Districts

Downtown Business Districts

SECTION 50 – ZONING DISTRICTS AND DISTRICT PROVISIONS	
	Proposed District Title
SECTION 51 – R-A, RURAL AGRICULTURAL DISTRICT	Rural Living
SECTION 52 – R-R, RURAL RESIDENTIAL DISTRICT	Combine RR/RE to Garden District
SECTION 53 – R-E, SINGLE FAMILY ESTATE RESIDENTIAL DISTRICT	Garden District
SECTION 54 – R-1, SINGLE FAMILY RESIDENTIAL DISTRICT	Traditional Neighborhood 1 Traditional Neighborhood 2 Traditional Neighborhood 3 (?)
SECTION 55 – R-1A, SINGLE FAMILY RESIDENTIAL DISTRICT	Contemporary Neighborhood 1
SECTION 56 – R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT	Include in TND 1?
SECTION 57 – R-3, HIGH DENSITY RESIDENTIAL DISTRICT	Include in TND 2?
SECTION 58 – R-MH, MANUFACTURED HOUSING DISTRICT	
SECTION 59 – RESERVED	
SECTION 60 – B-1, RESIDENTIAL OFFICE DISTRICT	Include in TND 2?
SECTION 61 – B-2, NEIGHBORHOOD BUSINESS DISTRICT	Include in TND 2?
SECTION 62 – B-3, CENTRAL BUSINESS DISTRICT	Town Center & Town Core
SECTION 63 – B-4, GENERAL BUSINESS DISTRICT	Town Center & General Commercial
SECTION 64 – B-5, COMMERCIAL AMUSEMENT DISTRICT	
SECTION 65 – B-6, WASHINGTON STREET COMMERCIAL DISTRICT	Corridor Commercial (Gateway)
SECTIONS 66 – TFU – TRANSIENT FOOD UNIT OVERLAY DISTRICT	
SECTIONS 67-59 – RESERVED	
SECTION 70 – I-1, LIGHT INDUSTRY DISTRICT	Light industrial
SECTION 71 – I-2, GENERAL INDUSTRY DISTRICT	Industrial
SECTION 72 – MU, MIXED USE DISTRICT	Rename?
SECTIONS 73-74 - RESERVED	
SECTION 75 – PLANNED UNIT DEVELOPMENT (PUD) DISTRICT	
SECTION 76 – FLOODPLAIN DISTRICTS	
SECTION 77 – FW, FLOODWAY DISTRICT	
SECTION 78 – FF, FLOOD FRINGE DISTRICT	



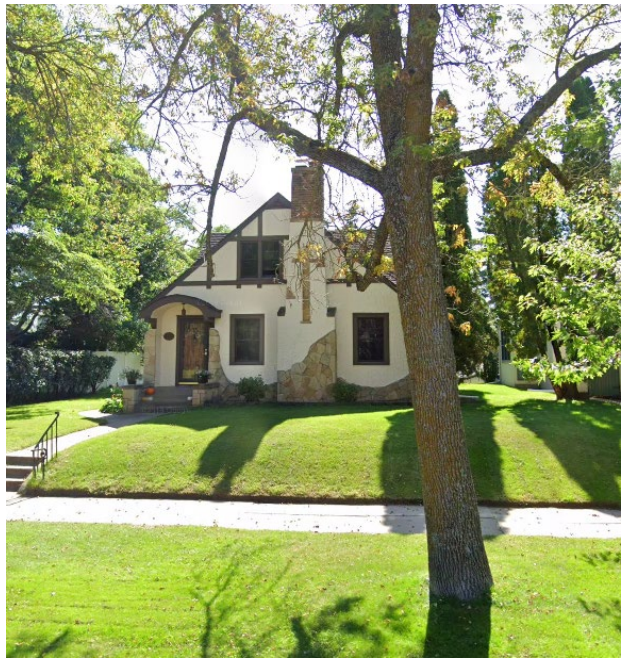
R1 standards:
50’ width and 7,000 SF area

Lot dimensions:
A): 50 x 125 = 6,250 SF
B): 50 x 145 = 7,250

Common Character:
- Street boulevard
- Building setback
- Lot width
- Building type/height

A. Lot Area Requirements:

1.	Lot size:	Seven thousand (7,000) square feet
2.	Lot Width:	Fifty (50) feet
3.	Lot Depth: the	Lot depth shall not exceed three (3) times the lot width for buildable area of the lot



50 x 100 = 5000 SF

50 x 80 = 4,000 SF

37’ x 90’ = 3330 SF

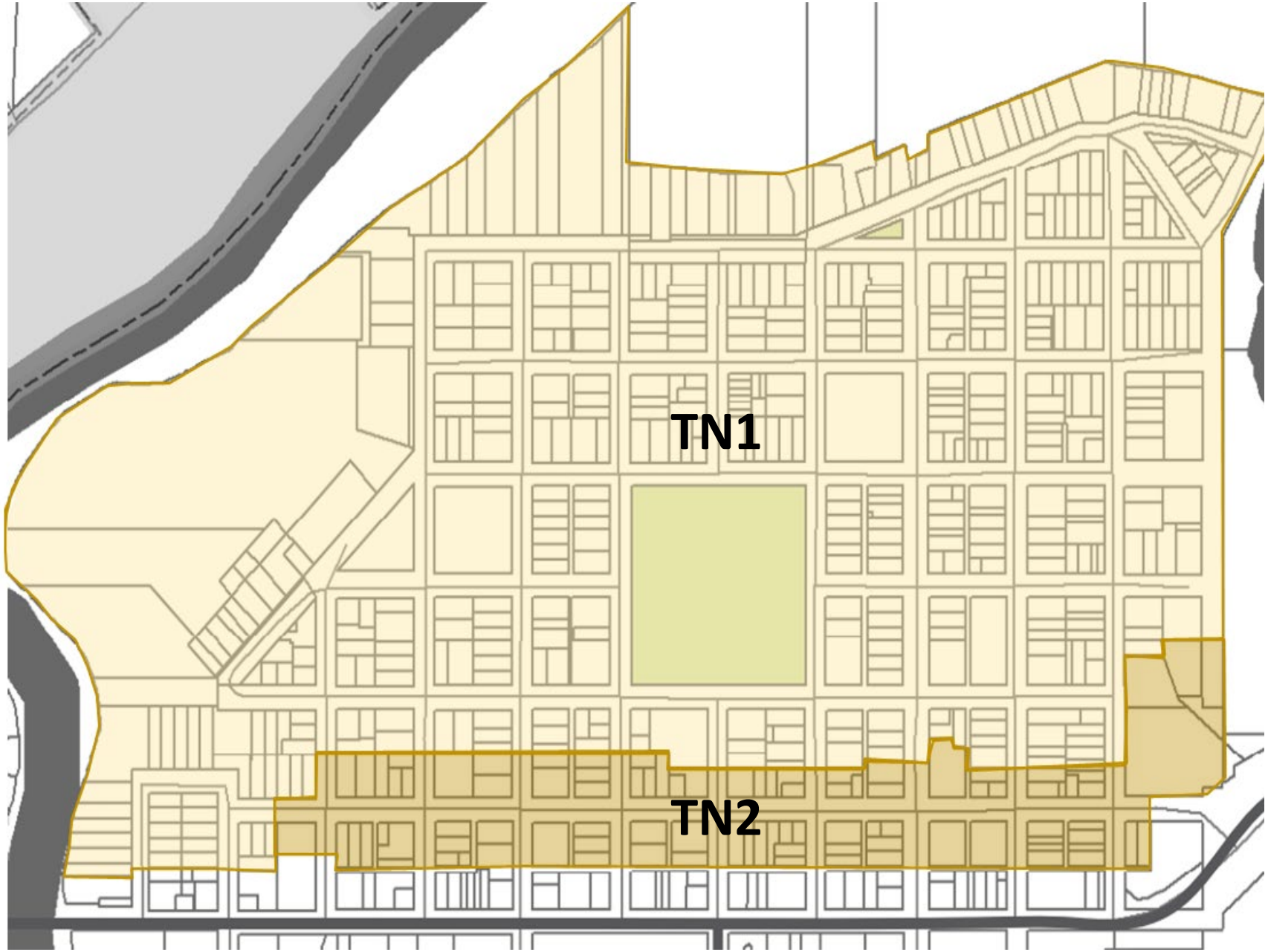
37’ x 143’ = 5291 SF
42’ x 143’ = 6006 SF

TN1: Traditional Neighborhood 1
(ref R1 & R2 Districts & Low -Medium Residential land use category)
TN1 traditional neighborhood district is intended to provide for compact, pedestrian-oriented mix of residential uses that primarily support the existing pattern of small, connected lots, blocks and streets.

Uses: single family, two family, and multi-family up to 9 units/acre
Accessory dwelling unit: by right on corner lots; conditional use otherwise
ADU size: maximum of 650 SF
Lot size range: 4,000 – 7500 SF
Lot Width: max 50’ (?)
Lot depth: max 150’
Yards: front 20’; side 5’; rear 10’
Front yard encroachment: 8’ (porch, overhang, balcony…)
Parking: to be determined

North Brainerd

Traditional Neighborhood TN1



Traditional Neighborhood 2

(ref Neighborhood Mix and Mixed Residential land use categories)

TN2 traditional neighborhood district is intended to provide for compact, pedestrian-oriented mix of residential and neighborhood serving commercial uses that respond to the existing pattern of small, connected lots, blocks and streets.

Uses: single family/detached, single family/attached, and multi-family up to 20 units/acre

Lot Width: max 75’

Lot depth: max 150’

Yards: front 20’; side 5’; rear 10’

Front yard encroachment: 8’ (porch, overhang, balcony…)

Accessory dwelling unit: by right on corner lots; conditional use otherwise;

ADU size: maximum of 650 SF

Non residential uses: allowed up to .45 FAR

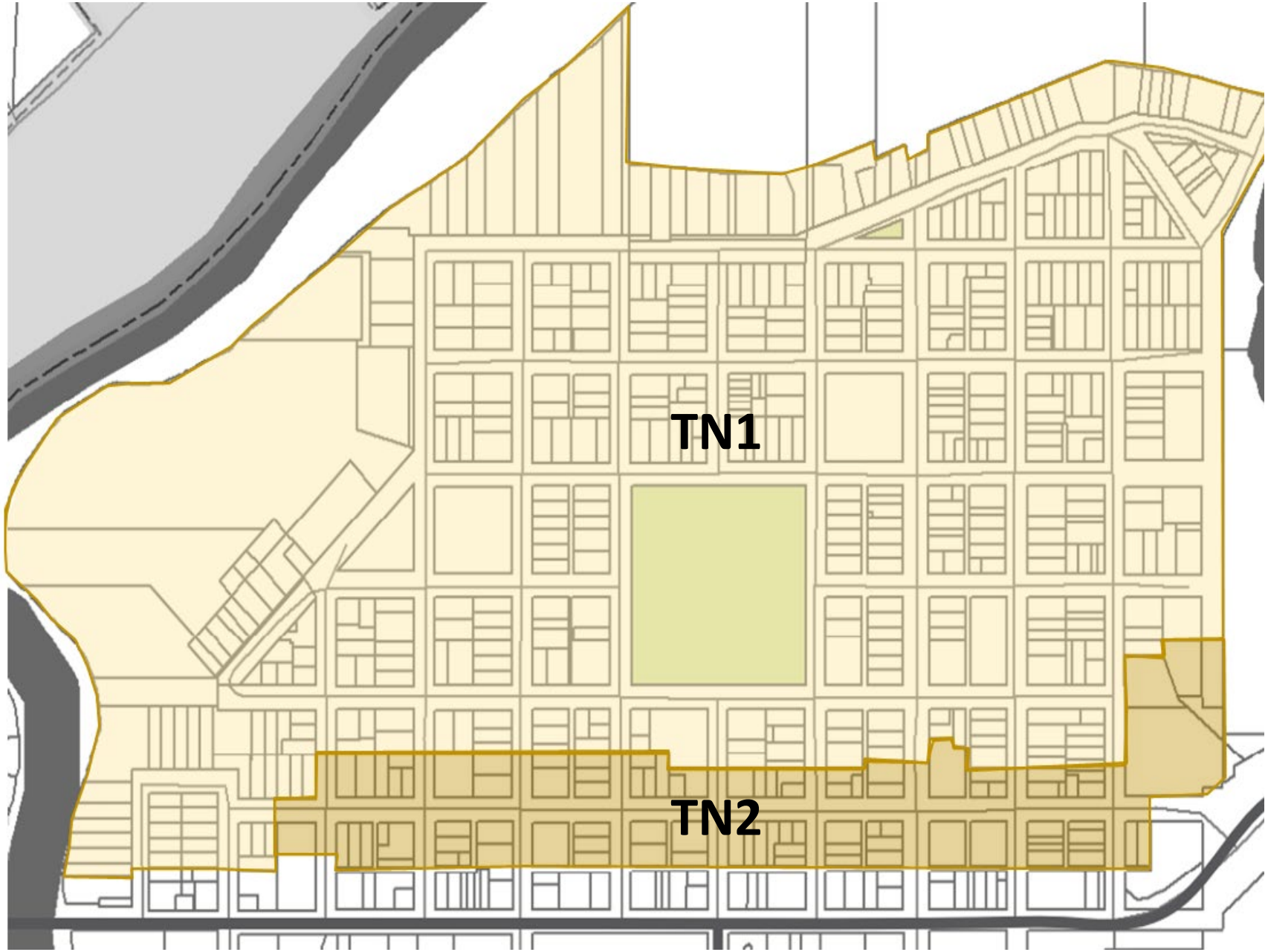
Non-residential Lot size: not applicable/TBD

Yards: front 0-10’; side 5’; rear 10’

Parking: parking spaces required in TN2 TBD

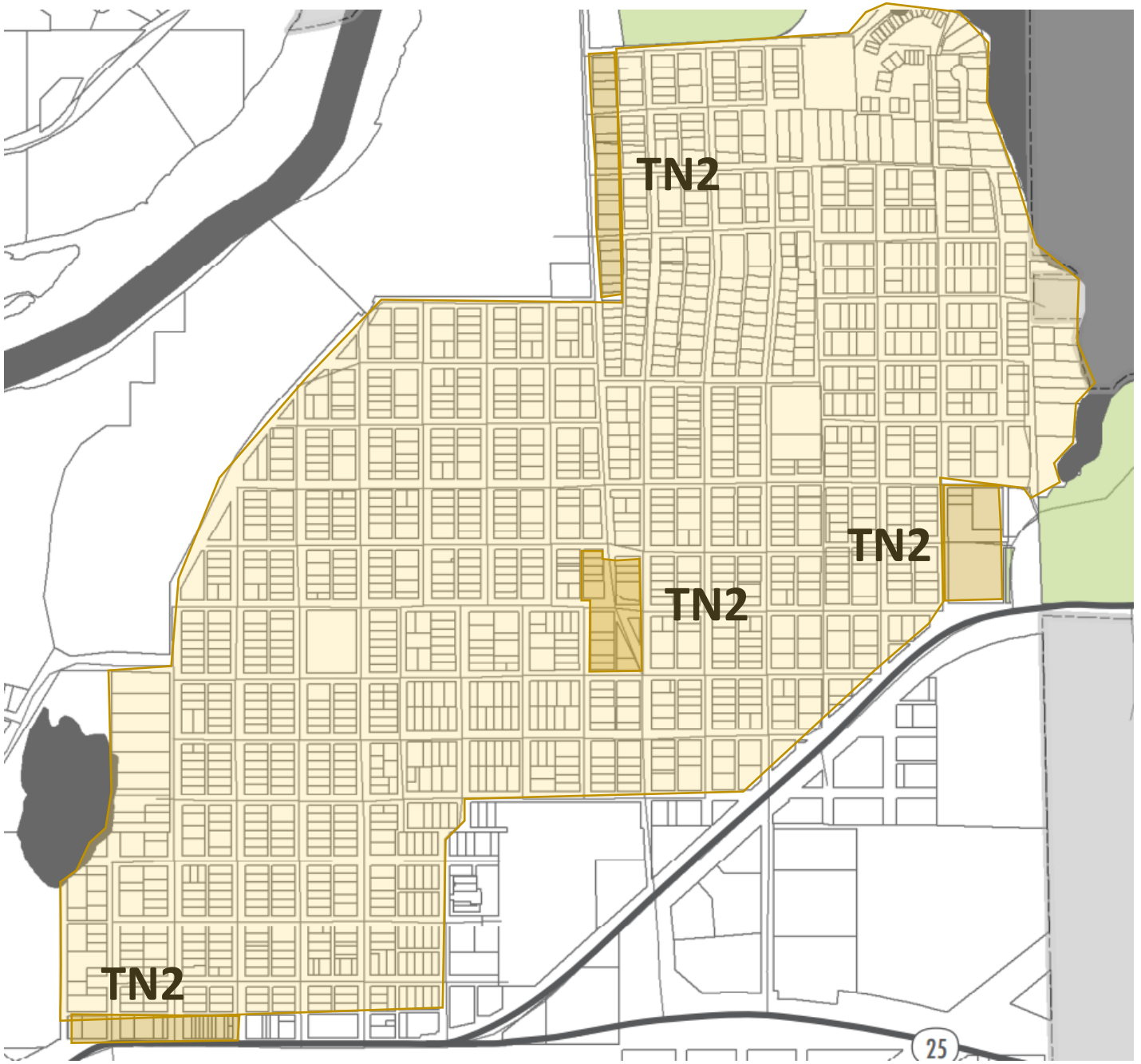
Kingwood St

Traditional Neighborhood TN2



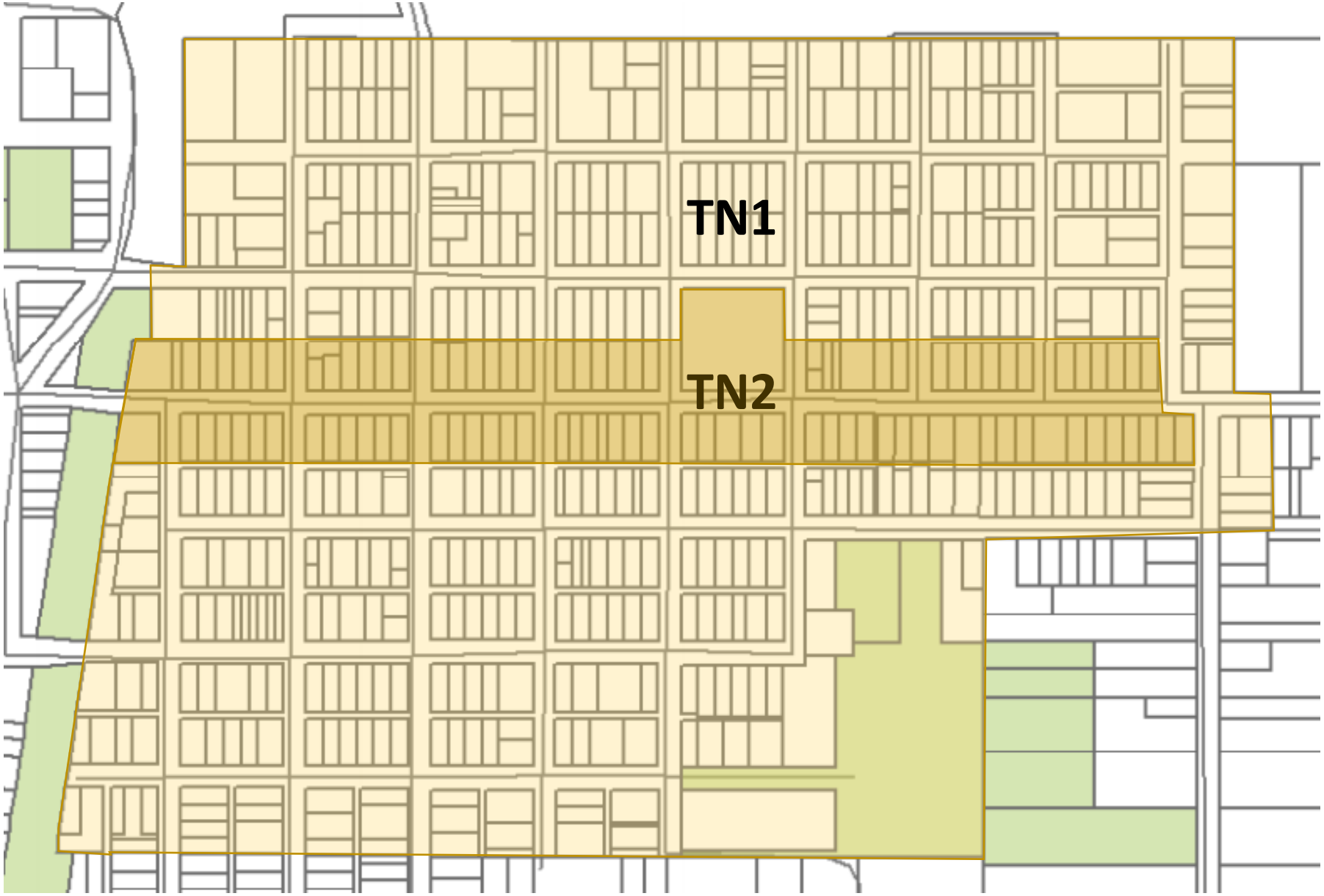
Northeast Brainerd

Traditional Neighborhood TN1 & 2



Oak St

Traditional Neighborhood: TN1 & TN2



Rural Living > 5 acres

Garden Living 20,000 SF to 5 Acres

Contemporary Residential
7,500 – 20,000 SF

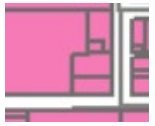
Traditional Neighborhood
50’ x 150’ typ.

Town Center & Town Core

Sanborn Fire Insurance Maps - 1917

Downtown: Town Center & Town Core Districts

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 in the Core District and a broader and more flexible range of uses including attached single family and multi-family residential in the Center District.



Town Core

Town Center

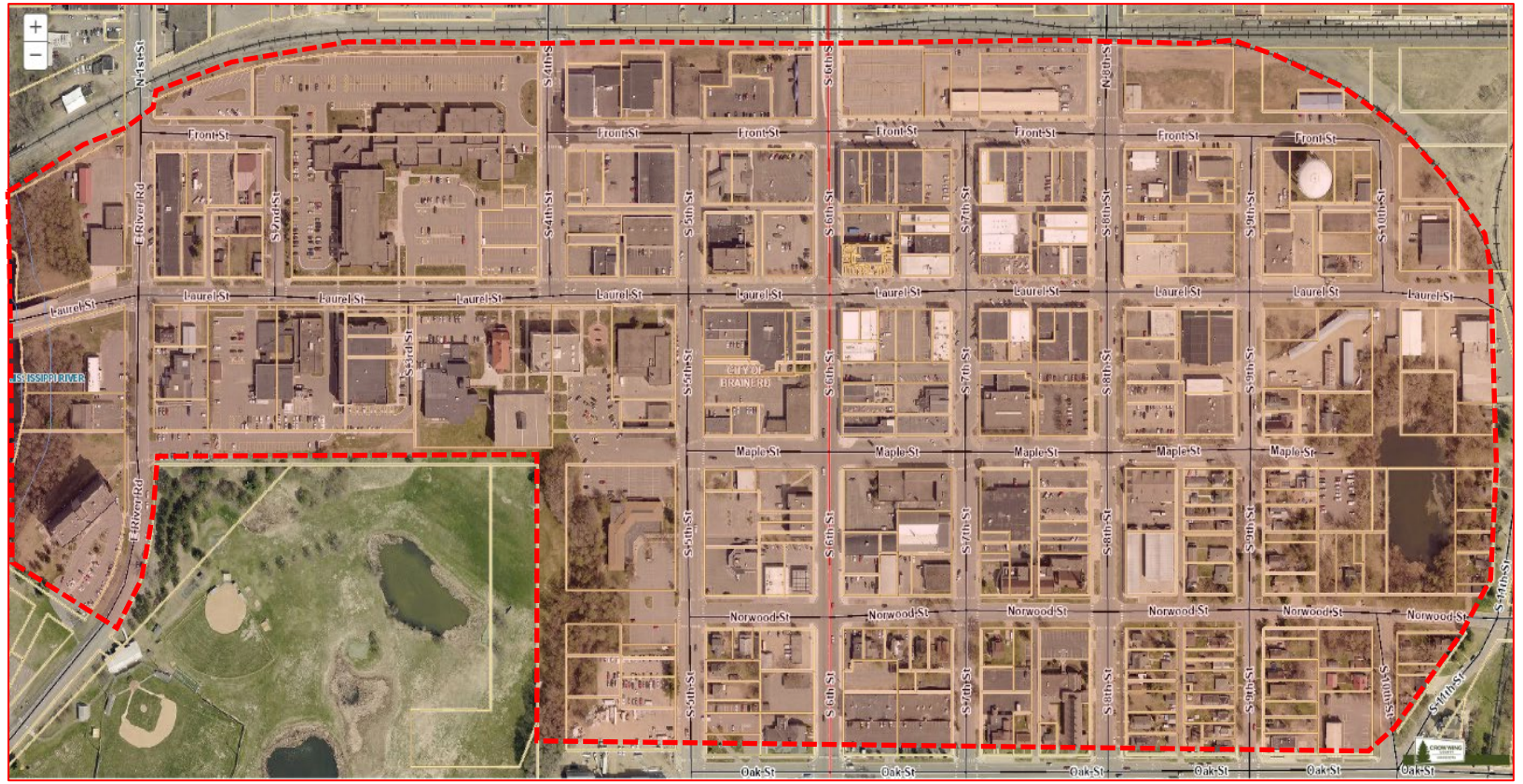
Town Center (TC1) (ref B-3 CBD)

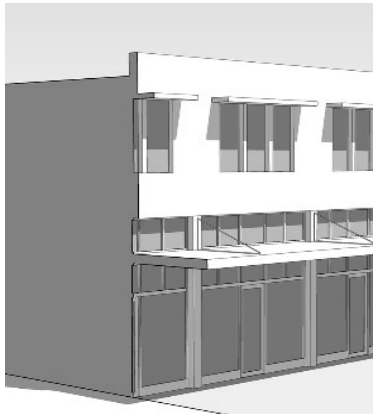
Allowable uses: commercial, retail, office, attached residential, multi-family residential with less emphasis on “light” industrial uses

Yards: similar to Core but get the frontage right

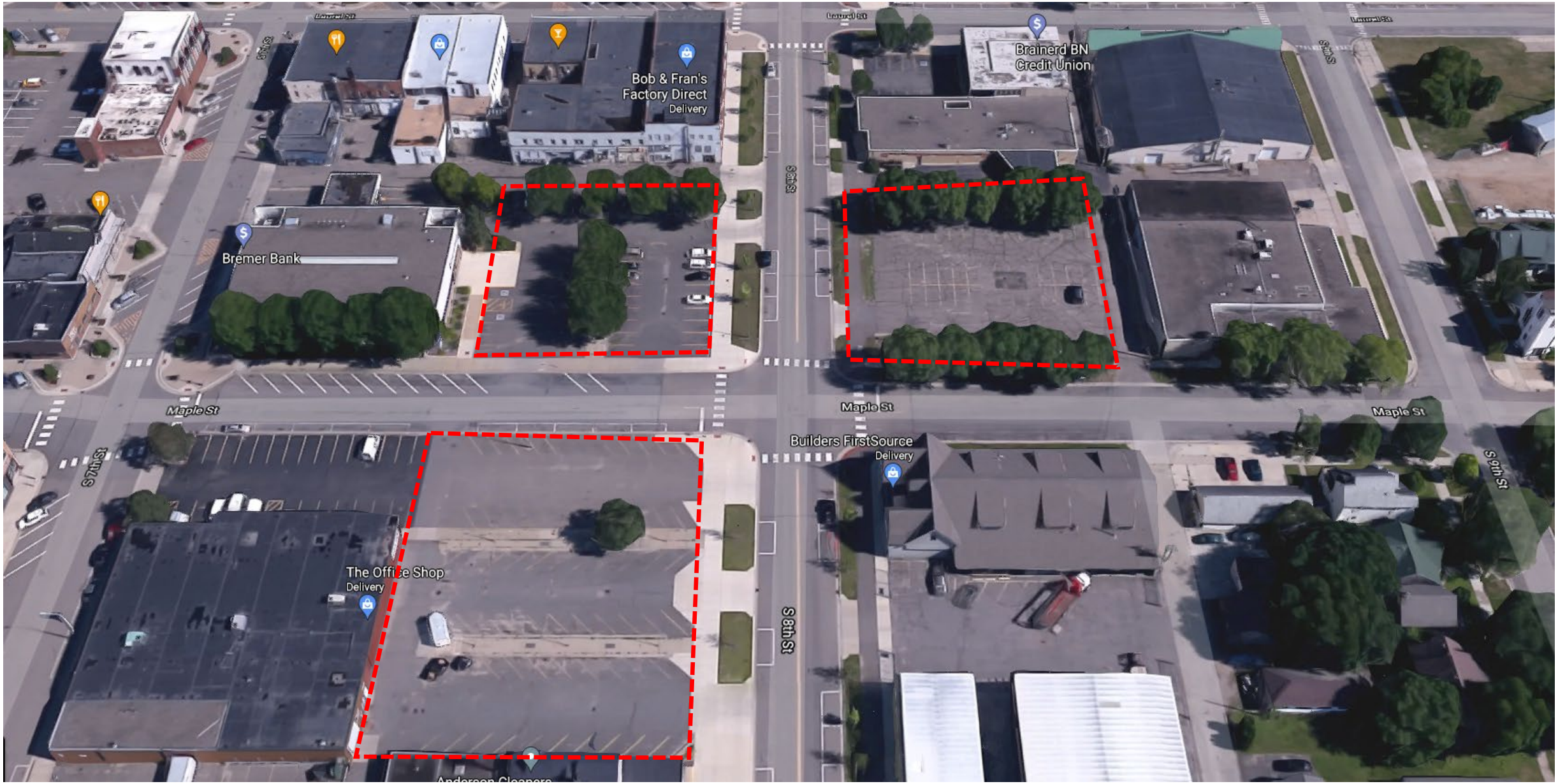
Frontage types: common entry, shopfront, stoop

Frontage standards: surface parking front a public street limited to 60’ dimension and must be screened





Building frontage types: shopfront and common entry


Bob & Fran's
Factory Direct
Delivery
Brainerd BN
Credit Union
Bremer Bank
Maple St
Maple St
Maple St
Builders FirstSource
Delivery
S 7th St
S 8th St
S 9th St
The Office Shop
Delivery

Town Core District (TC2) (ref B-4 and B-3)

Lot area, width, setback and height are not regulated

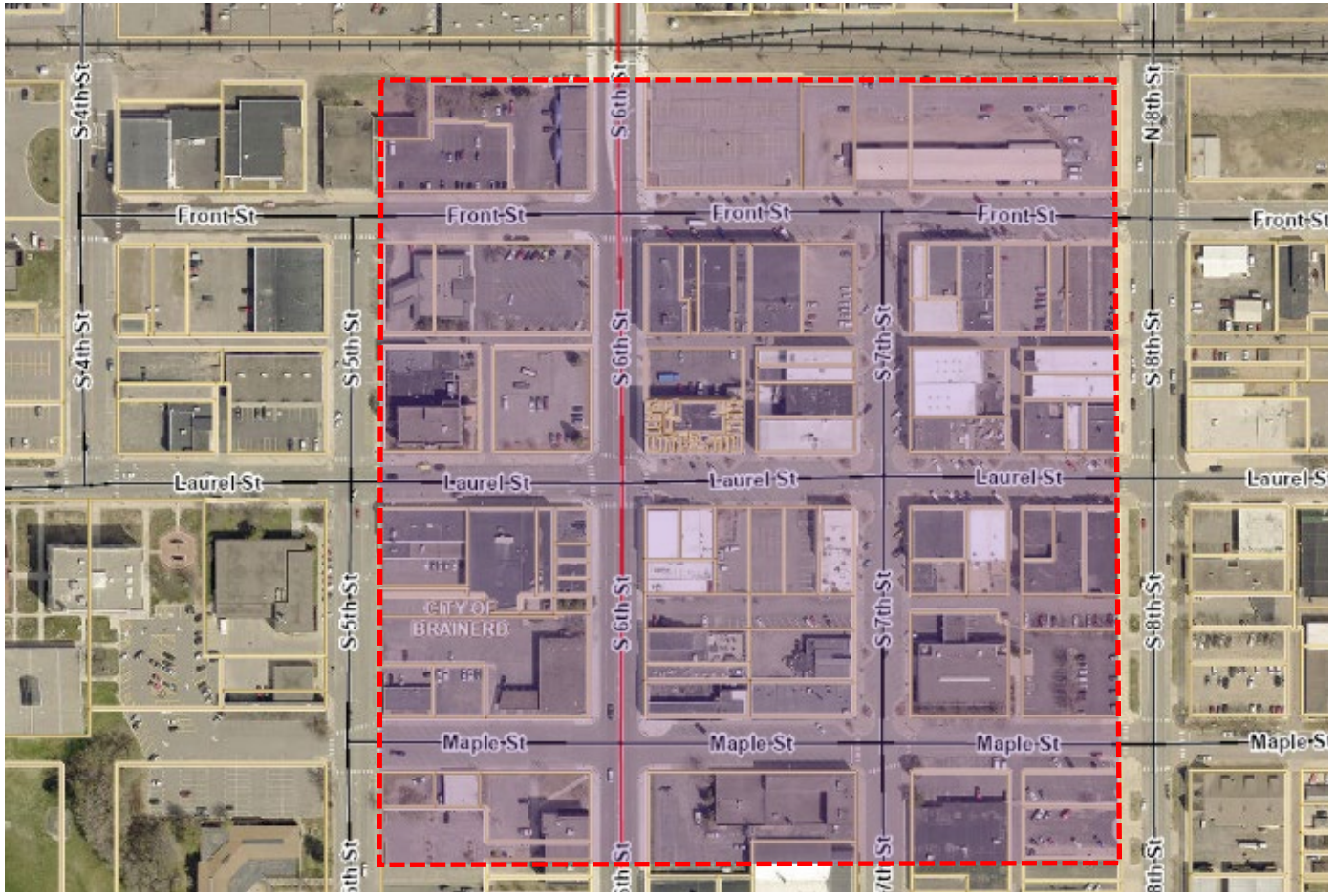
Allowable uses: commercial, retail, office, residential on second floor; mixed use buildings allowed 50% ground floor residential

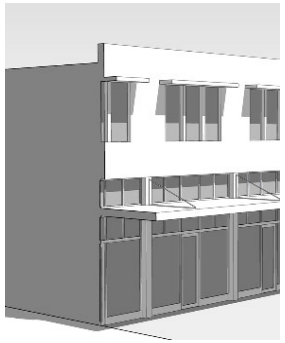
Yards: not applicable

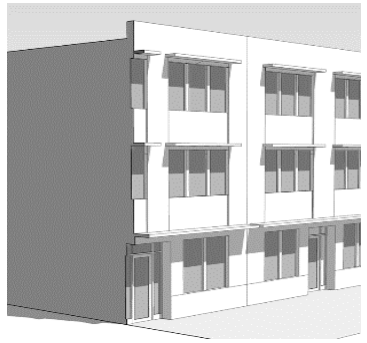
Frontage types: shopfront, common entry, other?

Frontage standards:

- surface parking front a public street limited to 60’ dimension and must be screened
- transparency at street level min. 60%







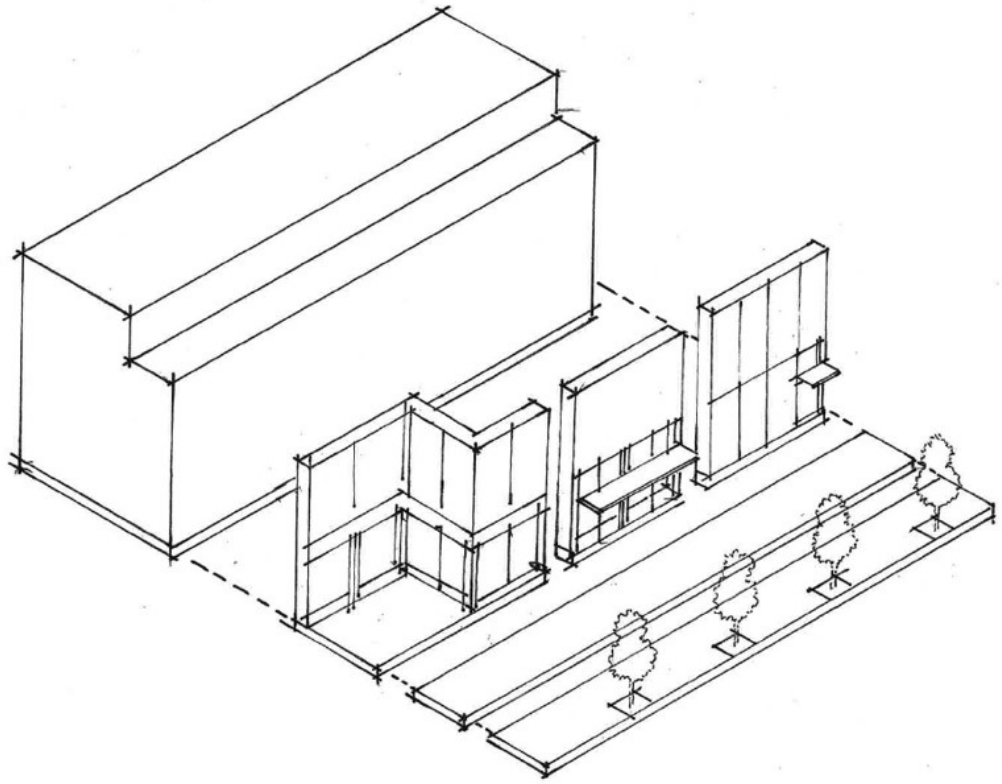
Building frontage types: shopfront, and common entry

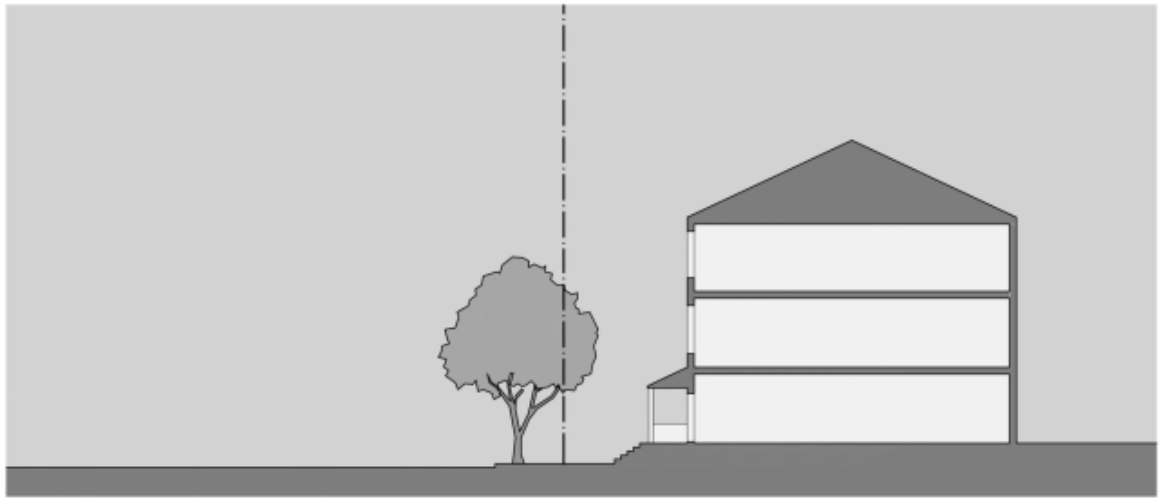
Town Core

Zoning Based on:

- Height
- Transparency
- Materials
- Building Frontage
- Public Realm

Sample Graphic Standards Format





BUILDING HEIGHT

3 stories or 40 feet max.

USES

	RESIDENTIAL		COMMERCIAL
P	Single-family, two-family	R	Retail and service
P	Townhouse	P	Restaurants, not to exceed 40 seats
P	Multiple dwelling	P	Brewpubs, not to exceed 40 seats
P	Care facility, convalescent home	P	Office, not to exceed 5,000 sq. ft.
		P	Lodging, not to exceed 12 rooms
	INSTITUTIONAL	P	Child care
NP	Religious assembly	C	Medical clinic, not to exceed 5,000 sq. ft.
NP	Schools	C	Adult day care
R	Libraries	NP	Parking as primary use
R	Museums	NP	Gasoline sales
	OTHER	NP	Breweries and micro-distilleries
C	Wireless communication facilities	NP	Taprooms and cocktail rooms
		NP	Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales

Category	Overview	Density
Development Reserve	This district takes an active step in preserving land from rapid development. This land use is the lowest density allowed within the community and at the time of annexation or development has limited street connection and on-site septic.	3-4 du/acre *Joint Board approved*
Low- to Medium-Density Residential	This category contains a blend of low- to medium-density with a mixture of larger to smaller lots to facilitate a variety of housing needs and development. Traditional neighborhoods have grid-like streets, whereas more suburban style residential developments have many layouts and located at the fringe of the community.	4-9 du/acre
Medium- to High-Density Residential	Contains a mixture of medium to high-density residential that are meant to accommodate a variety of housing types and create walkable neighborhoods.	10-20+ du/acre
Mixed Residential	The intent is to promote neighborhoods with a variety of housing types and densities within a single development; not dominated by any singular type.	4-12 du/acre
Mixed Commercial Residential	Designed to foster a blend of commercial and residential uses to meet the daily needs of people, focusing on both the neighborhood and district level. Development is appropriately scaled and offers transitions between various use intensities. This land use is within close proximity of large thoroughfares.	9-20+ du/acre
Neighborhood Mix	This category includes a mix of low intensity business uses and a range of residential densities. Development is comprised of small areas with a mix of uses that are located adjacent to or within residential neighborhoods to provide such amenities in a walkable context.	9-20+ du/acre

M E M O

TO: Planning Commission

FROM: David Chanski, Community Development Director

DATE: May 19, 2021

RE: Discussion – Sober Homes

Introduction

On February 6, 2017, then City Planner Mark Ostgarden presented a request to the City Council to consider whether sober home zoning regulations should be established. In his presentation, Mr. Ostgarden presented two alternatives: 1) do nothing which will allow sober homes of any size to operate in the city; provided building code and fire code regulations are followed, or 2) the City Council determined that some regulatory oversight is in the best interest of the city for health and welfare purposes and refers the issues to the Planning Commission to review and develop appropriate Zoning Ordinance language. The City Council voted to refer the sober home regulation issue to the Planning Commission for its recommendation.

During its April 19, 2017 meeting, the Planning Commission considered the issue and made the recommendation to the City Council to not regulate sober homes based on the following reasons:

- Nuisance activities would be regulated under the rental housing code.
- This use cannot be singled out in a way that is significantly different than other uses that would go on legally because of Supreme Court divisions.
- If issues arise in the future, the Commission reserves the right to look at this use as a use similar to group homes but at this time there is no evidence that this activity will be anywhere near as intense as a group home.

During its regular meeting on May 15, 2017, the City Council upheld the Planning Commissions recommendation to reject the regulation of sober homes because sufficient oversight of the use can occur under City Code.

Sober Homes Today

Since the City Council's determination on May 15, 2017 to reject the regulation of sober homes, Ms. Sheila Haverkamp has opened two sober homes at 215 N. 10th St. and 460 Tyrol Dr. Additionally, Ms. Haverkamp has purchased and is in the process of renovating 470 Tyrol Dr to be a 3rd sober home. The N. 10th St. property is zoned B-1 (Neighborhood Office) District, which allows single-family dwellings as a permitted use, and the Tyrol Dr. properties are zoned R-1A (Single Family Residential), which likewise allow single-family dwellings as a permitted use.

Ms. Haverkamp's properties are licensed single-family rentals by the City of Brainerd as well as registered as "Housing with Services Establishment" by the Minnesota Department of Health. Ms. Haverkamp also operates a similarly licensed and registered sober house in Little Falls.

Ms. Haverkamp's sober homes exclusively house men in recovery from chemical dependency. She works closely with Crow Wing County in serving those recovering from chemical dependency, and she has told staff that the County has even requested that she next open a home to serve women.

Since Ms. Haverkamp opened her first sober home at 215 N. 10th St, the Community Development Department has never issued an ordinance violation to any of her properties.

Police Chief Mike Bestul has stated that, in speaking with is officers, neither of Ms. Haverkamp's sober homes have been nor do they anticipate them to be of concern from a law enforcement perspective.

Issue at Hand

Since Ms. Haverkamp purchased her newest property at 470 Tyrol Dr., concerns from the Tyrol Hills neighborhood have been brought forward to the Community Development Department and some members of the City Council. It should be noted that none of the concerns have been in regard to violations of the City Code. Most of the concerns related to the number of people taking residence in these Sober Homes as well as concerns due to the fact that these men are recovering substance abusers.

It should be noted that the Federal Fair Housing Act (FFHA) prohibits a municipality from refusing to "make reasonable accommodations in rules, policies, practices or services" when they are necessary to permit handicapped persons "to use and enjoy a dwelling." People recovering from chemical dependency are also considered "disabled" by the FFHA and, therefore, prohibits discrimination against individuals on a basis of race, color, religion, sex, national origin, familial status and disability. Further, the Supreme Court has ruled that individuals in recovery from chemical dependency living in congregate facilities cannot be excluded from zoning districts under family composition rules, which limit the number of unrelated persons living in the single-family dwelling.

In response to these concerns, Chairman Duval has requested that the issue of sober homes be brought before the Planning Commission for discussion. Staff does anticipate that members of the Tyrol Hills neighborhood will be present, and Ms. Haverkamp also intends to be present.

At this time, staff does not recommend making any changes to the process by which sober homes are regulated in the City of Brainerd.

Brainerd City Council
Agenda Request

SPW
7
Agenda Item #

Requested Meeting Date: February 6, 2017

Title of Item: Sober Houses - Consider Regulations

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☑ SPW COMMITTEE ☐ MAIN AGENDA	**Action Requested:** ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☑ Direction Requested ☑ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1st Reading **provide copy of published hearing notice*
Submitted by: Mark Ostgarden, City Planner	**Department:** Planning
Presenter (Name & Title): Same	**Estimated Time Needed:** 10 minutes

Summary of Issue:

The Planning Department is seeking City Council direction on whether sober house zoning regulations should be established.

The attached memo provides background on a municipality's ability to regulate sober houses.

Alternatives, Options, Effects on Others/Comments:

There are 2 alternatives. One is do nothing which will allow sober houses of any size to operate in the city; provided building code and fire code regulations are followed. The other is the City Council determines that some regulatory oversight is in the best interest of the city for health and welfare purposes and refers the issue to the Planning Commission to review and develop appropriate Zoning Ordinance language.

Recommended Action/Motion:

Motion by _____, and seconded by _____ that there has been no demonstrated need to establish zoning regulations for sober houses.

Motion by _____, second by _____ that the City Council determines that some regulatory oversight is in the best interest of the city for health and welfare purposes and refers the issue to the Planning Commission to review and develop appropriate Zoning Ordinance language.

Financial Impact:

Is there a cost associated with this request: ☐ Yes ☑ No

What is the total cost, with tax and shipping $_____

Is this budgeted? ☐ Yes ☑ No

Please Explain:

MEMO

TO: Mayor and City Council

FROM: Mark Ostgarden, City Planner MO

DATE: February 2, 2017

RE: Sober Houses – Consider Regulations

The Planning Department is seeking City Council guidance about whether zoning regulations for sober houses should be considered. If so, the recommendation is to refer the issue to the Planning Commission for review. The Planning Department is aware of a sober house that will be opening within a few weeks and Central Minnesota Adult and Teen Challenge has stated there is a huge need in the area for sober houses.

A sober house has commonly been referred to as a private residence for individuals in chemical dependency recovery. People recovering from chemical dependency are considered "disabled" by the Federal Fair Housing Act (FFHA), a federal law that prohibits discrimination against individuals on a basis of race, color, religion, sex, national origin, familial status and disability. The Supreme Court has ruled that individuals in recovery from chemical dependency living in congregate facilities cannot be excluded from zoning districts under family composition rules, which limit the number of unrelated persons living in a single family dwelling.

The FFHA prohibits a municipality from refusing to *"make reasonable accommodations in rules, policies, practices or services"* when they are necessary to permit handicapped persons *"to use and enjoy a dwelling."* An example might be accommodations allowing a higher number of unrelated residents to live in a single family house than normally allowed by a municipal definition of *"family"* or the single family zoning. In the City of Brainerd, the *"family"* definition for zoning purposes includes up to 4 unrelated individuals.

However municipalities still have the authority to protect safety and health as long as applicable regulations (building/fire/zoning) do not restrict the ability of disabled individuals to live in communities.

There are 2 alternative approaches for regulating sober houses:

1. **Reasonable Accommodation without Clear Standards.** This is our current status and we would continue with no special regulations for sober houses because they are protected by the FFHA. Regulations could include a land use definition and zoning standards such as parking, occupancy limits and separation requirements.

2. **Reasonable Accommodations with Clear Standards.** With this approach, a sober house definition and zoning standards that allow sober houses in Brainerd would be developed, being mindful that legal precedents show that the range within a municipality can regulate sober houses is relatively narrow.

There is a 3rd option which is to be more restrictive and treat sober houses no differently than a traditional single family residence. This is not recommended as it would put the city in a tenuous legal position.

In researching this topic it is interesting to learn the state's 2 largest cities address sober houses differently. Minneapolis has chosen not to regulate the use, while St. Paul has done extensive research and has adopted regulations which include a separation requirement.

Following is language from the St. Paul Zoning Ordinance:

Sec. 65.160. - Sober house.

A dwelling unit occupied by more than four (4) persons, all of whom are in recovery from chemical dependency and considered handicapped under the Federal Fair Housing Act Amendments of 1988, that provides a non-institutional residential environment in which the residents willingly subject themselves to written rules and conditions, including prohibition of alcohol and drug use (except for prescription medications obtained and used under medical supervision), intended to encourage and sustain their recovery. The residents of a sober house are similar to a family unit, and share kitchen and bathroom facilities and other common areas of the unit. Sober houses are financially self-supporting. This definition does not include facilities that receive operating revenue from governmental sources. Sober houses do not provide on-site supportive services to residents, including the following: mental health services; clinical rehabilitation services; social services; medical, dental, nutritional and other health care services; financial management services; legal services; vocational services; and other similar supportive services.

Standards and conditions:

A request for reasonable accommodation for this use as required under the Federal Fair Housing Act Amendments of 1988 by providing an exception to the maximum number of unrelated persons living together in a dwelling unit shall automatically be granted if the following standards and conditions are met. This does not limit the city from granting additional reasonable accommodation for this use under the general provisions of this code.

(a) The operator shall submit a request for reasonable accommodation to the zoning administrator on a form provided by the city, specify the number of residents, and provide information necessary to assure the use meets applicable zoning standards. The maximum total number of residents permitted in the sober house shall be specified by the fire certificate of occupancy.
(b) For a sober house that does not meet the parking requirement in section 63.207, the operator shall submit a written parking plan that demonstrates sufficient parking for the use.
(c) In RL-R4 Residential Districts, the sober house shall serve ten (10) or fewer residents.
(d) For a structure serving seventeen (17) or more sober house residents, a conditional use permit is required. This use shall be exempt from section 61.501 conditional use permit general standards (a), (c), and (d).
(e) Property containing one (1) or more sober house units shall be a minimum distance of three hundred thirty (330) feet from any other property containing a sober house.

(C.F. No. 08-640, § 1, 7-9-08; Ord 16-5, § 1, 4-13-16)

PLANNING COMMISSION
Wednesday, April 19, 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 Headley, Gorham, Marohn, Burslie, and Lambert. Noted absent were Commissioner Antolak and Turner. Also present was City Planner Ostgarden.

#2 **Approval/Amendment 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 and workshop held on March 15, 2017**

MOTION AND SECONDED BY COMMISSIONERS GORHAM AND LAMBERT, DULY CARRIED, TO APPROVE THE MINUTES OF THE MARCH 15, 2017 WORKSHOP AND REGULAR PLANNING COMMISSION MEETING.

#4 **NEW BUSINESS**

None

#5 **PUBLIC FORUM**

None

#6 **OLD BUSINESS**

a. **Review Draft Sober House Language**

The Commission discussed the draft language to add sober houses to the Zoning Ordinance. This discussion included the following:

- Zoning districts in which to allow the use
- Permitted or conditional use
- Separation requirements
- Regulation of the use

Questions were asked about the difference between a sober house and a group home and whether a sober house could be defined the same as a group home since the regulations for group homes is already in the code.

Additional discussion was held regarding the possibility of imposing regulations through the rental housing license process.

MOTION AND SECONDED BY COMMISSIONERS MAROHN AND BURSLIE TO MAKE A RECOMMENDATION TO THE CITY COUNCIL TO **NOT** REGULATE SOBER HOUSES.

Commissioner Marohn requested a straw poll of the Commission regarding their position on this issue. City Planner Ostgarden stated the motion should be withdrawn before the poll is taken and then can be made again after the poll.

Commissioner Marohn withdrew his motion.

Commissioner Burslie stated he is comfortable without imposing regulations at this time as long as it will be regulated through the rental housing code. He noted if there are problems, regulations can be imposed in the future.

Commissioner Gorham stated he is leaning toward favoring no regulations, but doesn't feel very strongly about it.

Commissioner Headley stated she is in favor of no regulations as she feels it's in the owners, residents, and neighborhoods best interest to be good neighbors.

Commissioner Lambert stated she can support this as long as it can be regulated under the rental housing code and issues or complaints can be resolved.

MOTION AND SECONDED BY COMMISSIONERS MAROHN AND BURSLIE, DULY CARRIED, TO MAKE A RECOMMENDATION TO THE CITY COUNCIL TO **NOT** REGULATE SOBER HOUSES BASED ON THE FOLLOWING REASONS:

- Nuisance activities would be regulated under the rental housing code
- This use cannot be singled out in a way that is significantly different than other uses that would go on legally because of Supreme Court decisions
- If issues arise in the future, the Commission reserves the right to look at this use as a use similar to group homes but at this time there is no evidence that this activity will be anywhere near as intense as a group home

#7 COMMISSIONERS' QUESTIONS/COMMENTS

Chairman Headley opened the Commissioners' questions/comments section explaining that due to a short agenda this would be a good time to have some discussion about issues the Planning Commission would like to address in the coming year.

The Commission brought up the following issues they would like to discuss in the future:

- Future land use between Lum Park and the airport. Create a plan for the corridor and discuss the City's plan or no plan for development.
- The Commissions relationship/involvement in the Comprehensive Plan process and the NJPA and what goes into a comprehensive plan. Also, what the vision will be for public involvement and the

Brainerd City Council Agenda Request

9A

Agenda Item #

Requested Meeting Date: May 15, 2017

Title of Item: Sober House Report - Planning Commission Recommendation

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☑ MAIN AGENDA	**Action Requested:** ☑ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☑ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1st Reading **provide copy of published hearing notice*
Submitted by: Mark Ostgarden, City Planner	**Department:** Planning
Presenter (Name & Title): Same	**Estimated Time Needed:** 10 minutes

Summary of Issue:

At its February 6, 2017 meeting, the City Council referred the sober house regulation issue to the Planning Commission for its recommendation. At its April 19, 2017 meeting, the Planning Commission unanimously agreed that based on our ability to oversee the use by licensing the use in the rental housing program, the Planning Commission did not think additional regulation is needed. The attached April 19th minutes explains its recommendation.

To refresh the City Council on this issue, attached is a memo included in the February 6th agenda packet that reviews the ability to regulate sober houses.

Alternatives, Options, Effects on Others/Comments:

There are 2 alternatives. One is to agree with the Planning Commission's recommendation. It is the City Council's decision on how to record its position. It can be done by general voice agreement (no motion) or by motion to agree with the recommendation.

Should the City Council think the use should have additional regulation, it can refer the issue back to the Planning Commission to initiate the amendment process to regulate the use in the Zoning Ordinance.

Recommended Action/Motion:

If a motion to agree is desired it could read: Motion by _____, second by____ that the City Council agrees with Planning Commission's recommendation to not regulate sober houses at this time because sufficient oversight of the use can occur through the rental housing program.

Should referring the issue to the Planning Commission be desired a motion to do so would be appropriate that could read: Motion by _____, second by _____ to refer the sober house issue to the Planning Commission to initiate the amendment process to regulate the use in the Zoning Ordiance Ordinance.

Financial Impact:

Is there a cost associated with this request: ☐ Yes ☑ No

What is the total cost, with tax and shipping $_____

Is this budgeted? ☐ Yes ☑ No

Please Explain:

MOVED AND SECONDED BY ALDERMAN BEVANS AND LAMBERT, DULY CARRIED, TO DIRECT STAFF TO ASK THE PETITIONERS OF THE REQUEST IF THEY WOULD PREFER A 2 A.M. CLOSE RATHER THAN 10 P.M.

Joint Meeting with the City of Baxter – Discuss potential meeting date Informational

City Administrator Thoreen discussed the date of Monday, June 12th or Tuesday, June 13th to meet with the City of Baxter to discuss the demographics of southern Crow Wing County along with other mutual beneficial topics. A complete agenda with a precise date will follow.

Council discussion was held on dates and agenda items.

Discussion of Notification to Citizens- Informational

Council Member Johnson brought up the May 7th, 2017 water boil alert from Brainerd Public Utilities due to the lack of water pressure. BPU did post this on their Facebook page, but there was no communication from the City of Brainerd to the residents. It was ISD #181 that alerted most residents through the school alert system. We need to identify a means of notification to alert residents of water issues, snow concerns, etc. Our website does offer the email notification system and it has been suggested to update our website with the alerts.

Council discussion was held regarding additional technology and what other entities use. City Administrator Thoreen shared that staff will work through how we notify the public in a timely manner.

Planning Commission

Sober House Report – Recommendation to not Regulate Sober Houses – Approved

City Planner Ostgarden shared the Planning Commissions' recommendation and the reasons for the recommendation.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO REJECT THE REGULATION OF SOBER HOUSES AT THIS TIME BECAUSE SUFFICIENT OVERSIGHT OF THE USE CAN OCCUR UNDER CITY CODE.

Public Forum

The Chair Opened the public forum at 8:36 P.M.

No one came forward.

The Chair Closed the public forum at 8:36 P.M.

Staff Reports