PLANNING COMMISSION AGENDA

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Wednesday, November 15, 2023 @ 6:00 PM

The public is invited to attend these meetings in person
Attend by phone: 1-844-992-4726 Meeting Access Code: 2496 782 7085
Meetings are broadcast on CTC ch 8, Charter ch 181, YouTube, AppleTV, Roku, and Amazon FireTV

1. **Call To Order**

2. **Roll Call**

   ___M. Duval ___D. Gorham ___J. Grunenwald ___C. Marohn
   ___J. Norwood ___T. Stenglein ___K. Yeager

3. **Pledge of Allegiance**

4. **Approval Of Agenda - Voice Vote**

5. **Approval Of Minutes**

   A. **Draft minutes from the October 18, 2023 meeting**

6. **Unfinished Business**

   A. **Consider Short-Term Rental Ordinance and Hold Public Hearing**

7. **New Business**

   A. **Consider Variance and Conditional Use Permit Amendment at 1202 S 6th St.**

   B. **Planning Commission Itinerary Update**

8. **Public Forum**
   Time allocated for citizens to bring matters not on the agenda to the attention of the Commission - Time limits may be imposed

9. **Staff Reports**
   (Verbal: Any Updates since Packet)

10. **Commission Member Reports**

11. **Adjourn**

Visit the City's Website at www.ci.brainerd.mn.us

MISSION

"Provide high quality, cost effective public services and leadership in creating a sustainable city"

PLANNING COMMISSION
Wednesday, October 18, 2023
6:00 pm

#1 Call to Order

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

#2 Roll Call

Noted present were Commissioners Gorham, Grunenwald, Stenglein, and Yeager. Also noted as present were Community Development Director Kramvik and Assistant Planner Edwards. Commissioners Duval, Norwood, and Marohn were noted as absent.

#3 Pledge of Allegiance

Commission Chair Yeager opened the meeting with the Pledge of Allegiance to the flag.

#4 Approval of Agenda

MOVED AND SECONDED BY COMMISSIONERS GRUNENWALD AND STENGLEIN, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

#5 Approval of Minutes

MOVED AND SECONDED BY COMMISSIONERS STENGLEIN AND GORHAM, DULY CARRIED, TO APPROVE THE MINUTES FROM THE SEPTEMBER 20, 2023 MEETING.

#6 Unfinished Business

6a. Review Draft Ordinance for Short-Term Rentals

Community Development Director Kramvik indicated the suggestions from the September meeting were added to the draft ordinance as requested. Discussion took place on the changes and questions provided in the staff memo. He said he has distributed a copy of the Conduct on Premises portion of the City Code to all members.

Ater further discussion, the following items of the draft ordinance were noted:

- Do not require the property owner or contact agent to reside in the city limits of Brainerd.
- Leave the requirement that a local contact must reside within 50 miles, as this is consistent with the current Rental Housing License code.
- Accessory Vacation Dwelling Units, Limited (AVDUL) short-term rentals to remain at no more than 21 rental days per calendar year and must be homesteaded.
- Current short-term rentals have until December 31, 2024 to comply with regulations.
- Create a table to insert under D. Ownership, Limitations, and Municipal Caps.

DRAFT

Staff will make these changes and present an ordinance at the next Planning Commission meeting in November.

#7 New Business

7a. Interim Use Permit for Short-Term Rental – 701 SW 4th St. *(postponed)*

#8 Public Forum

The Chair opened the public forum at 6:32 pm.

No one came forward.

The Chair closed the public forum at 6:32 pm.

#9 Staff Reports

Assistant Planner Edwards announced he attended a three-day MN American Planning Conference in St. Cloud last week.

Community Development Director Kramvik stated the next Planning Commission meeting will include an updated itinerary of items staff are currently working on.

#11 Commission Member Report

Commission member Stenglein thanked CDD Kramvik for the expanded summary of Planning Commission items for the City Council.

Commission member Gorham mentioned a mailing he received from the Brainerd HRA regarding housing incentive programs. He indicated a conversation with John Schoemmer from the Brainerd HRA informed him that there are very few residents that want to go through an incentive program, with the belief that it is a scam. He stated there is a gap between the residents and government program staff.

#12 Adjournment

MOVED AND SECONDED BY COMMISSIONERS GORHAM AND STENGLEIN, DULY CARRIED, TO ADJORN AT 6:36 PM.

_____

Kevin Yeager, Planning Commission Chair

DRAFT

M E M O

TO: The Planning Commission

FROM: James Kramvik, Community Development Director
Dylan Edwards, Assistant Planner

DATE: November 15, 2023

RE: Short-Term Rental Ordinance

INTRODUCTION

Upon discovering several Short-Term Rental properties in the City of Brainerd operating without a valid Interim-Use Permit, staff worked with those constituents to bring their properties into compliance with the Zoning Code. In addition to working with property owners to bring their short-term rentals into compliance, staff received direction from the Planning Commission to discuss further regulations or capping the number of short-term rentals allowed in the City. The concern with short-term rentals is the potential loss of long-term workforce housing, in which the City is experiencing a shortage. The subtraction of long-term housing is a concern in relation to Brainerd's Comprehensive Plan and has an impact on future economic development of the community. The proposed ordinance is the product of a final draft review on October 18th in which changes are highlighted in yellow.

PROPOSED ORDINANCE SUMMARY

1) Defines 3 types of Short-Term Rentals.
    - Accessory Home Share (AHS) – Renting a room in an owner-occupied dwelling.
    - Accessory Vacation Dwelling Units, Limited (AVDUL) – Renting an owner-occupied dwelling while the owner is not on premises.
    - Vacation Dwelling Unit (VDU) – Renting a non-owner-occupied dwelling.
2) Allows for property owner-occupied residence to be used as an AHS or AVDUL upon receipt of a rental certification and Interim Use Permit for their personal residence.
    - Does not limit AHS's or AVDUL's as they do not affect housing stock.
3) Limits the total number of VDU Short-Term Rentals in the City of Brainerd to 20.
    - Limits applicants to ownership of one VDU in the City of Brainerd.
    - Caps the number of VDUs allowed in the Traditional Neighborhood Zoning Districts at 10.
    - Caps the number of VDUs allowed in the Contemporary Neighborhood Zoning Districts at 10.
    - Caps the number of VDUs in any multifamily-dwelling building to one unit.

STAFF RECOMMENDATION

Recommend approval of the proposed short-term rental ordinance as presented.

ORDINANCE
NO. XXXX

AN ORDINANCE AMENDING SECTION 515 ZONING

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: Section 515-3-34 is hereby amended by adding and striking the following:

515-3-34 Short-Term Rentals

A. Definitions: For the purposes of this article, the following definitions apply:

1. Accessory Home Share (AHS): A rental where the property owner is a permanent resident of the homesteaded unit and is present on the premises during the rental period.
2. Accessory Vacation Dwelling Units, Limited (ADVUL): A rental where the property owner permanently resides at the homesteaded unit but does not need to be present during the rental period.
3. Vacation Dwelling Unit (VDU): A rental where the property owner is not a permanent resident of the unit, and the entire unit is rented without the property owner present during the rental period.

B. Short-term rentals are subject to the following length of stay and total number of annual rental days:

1. Accessory Home Share (AHS): May allow a maximum of four (4) guests to stay on the premises a total of one (1) to twenty-eight (28) days.
2. Accessory Vacation Dwelling Units, Limited (ADVUL): May allow a maximum number of guests as determined by Section 515-3-34-C.4 to stay on the premises a total of two (2) to seven (7) consecutive nights. ADVUL's may not be operated more than twenty-one (21) rental days per calendar year.
3. Vacation Dwelling Units (VDU): May allow a maximum number of guests as determined by Section 515-3-34-C.4 to stay on the premises a total of one (1) to twenty-eight (28) days.

C. Regulations: Any short-term rental must comply with the following minimum standards:

~~A.~~

~~1. The maximum rental period shall not be more than 28 consecutive nights~~.

1. The permit holder (owner) of a short-term rental must apply for and receive an Interim Use Permit.

a. The duration of the first Interim Use Permit granted to an applicant for a short-term rental at a premises shall be twelve (12) months.

~~2.~~ b. Renewal for an Interim Use Permit for an existing short-term rental at a premises shall be granted for a duration not to exceed twenty-four (24) months.

~~3.~~ 2. The application for an Interim Use Permit shall include:

a. The number of bedrooms with dimensions and all other sleeping accommodations.

b. The number of off-street parking spaces available to guests.

c. All accessory structures and outdoor recreational features available for guest use.

d. A pet, garbage, noise, and parking policy.

e. The permit holder shall post emergency contact information (police, fire, hospital) and show renters the location of fire extinguishers in the short-term rental unit.

~~4.~~3. A permit holder must disclose in writing to their renters the following information regarding property policies and City codes:

a. **Contact Information**. The managing agent or local contact's name, address, and phone number. The agent shall be available 24 hours a day, seven days a week, whenever the property is being rented. Property contact information will be accessible to the public at all times on the City of Brainerd website.

b. **Occupancy**. The maximum number of guests allowed on the property.

c. **Vehicles**. The maximum number of vehicles, recreational vehicles, and trailers allowed on the property and where they are to be parked. Parking in a yard that fronts a street as well as along an interior side of a house is required to be on an improved surface. Recreational vehicles shall not be parked in any right-of-way or utility easement. No vehicle or trailer shall be parked on a street for a period of time in excess of forty-eight (48) continuous hours.

d. **Garbage**. Garbage and refuse containers shall be placed out for collection no earlier than 6:00 P.M. the day before collection and removed by the end of the day of collection. Garbage shall be placed in fly tight containers sufficient to receive all garbage which may accumulate between times of collection.

e. **Noise**. No person shall, between the hours of 10:00 P.M. and 7:00 A.M. congregate at, or participate in the any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person.

f. **Pets**. No person shall keep, maintain, or otherwise house more than a total of four cats or dogs within any household in the City of Brainerd. In shall be unlawful for any person to allow a dog or cat to run at large and to keep or harbor a dog that habitually barks, yelps, howls, cries, or whimpers so as to unreasonably disturb the peace and quiet of any person in the vicinity. The owner of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner.

~~5.~~4. The occupancy of a short-term rental shall be limited to not more than 3 people per bedroom or the occupancy set by the Building Official, whichever is less.

~~6.~~5. Rooms used for sleeping shall be provided with egress windows and smoke detectors in locations that comply with the Minnesota State Building Code or the requirements of the building department, whichever is stricter.

~~7.~~6. The short-term rental shall be connected to city sewer and water or an approved septic system. A valid septic system certificate of compliance is required at the time of rental license issuance and annual renewal. A short-term rental shall have a full bathroom (sink, toilet, and tub or shower).

~~8.~~7. Additional occupancy by use of recreational vehicles, tents, accessory structures, or fish houses is not permitted.

~~9.~~8. The permit holder shall keep a report, detailing use of the short-term rental by recording the full name, address, phone number and vehicle license number of the guest

reserving the rental. A copy of the report shall be provided to the Zoning Administrator upon request.

9. A short-term rental shall be a licensed rental unit by the city and shall meet the requirements of all statutes, rules, regulations, and ordinances including, but not limited to the City of Brainerd's rental housing maintenance code. Each unit shall be inspected annually by the rental housing inspector and the Fire Marshal.

10. The owner or property manager shall reside within 50 miles of the property. An emergency contact does not constitute a property manager. A property manager shall be a relative or compensated individual or company.

~~10.~~11. The Planning Commission may impose conditions that will reduce the impacts of the proposed use on neighboring properties, public services, nearby water bodies, public safety, and safety of renters. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of renters.

~~11.~~12. A permit holder must post their rental license permit number on all print, poster, or web advertisements.

13. It is the owner's responsibility to apply for state and local sales tax numbers, including hotel and motel use sales tax. It is the owner's responsibility to contact the Minnesota Department of Health about lodging license requirements.

14. All short-term rentals operating prior to the effective date of these standards shall be compliant with this section by December 31, 2024. All previously issued Interim Use Permits for short-term rentals shall expire December 31, 2024.

D. Ownership, Limitations, and Municipal Caps:

1. Any property owner may utilize their permanent residence as an AHS or ADVUL upon the receipt of a rental housing license and the approval of an Interim Use Permit.
2. Property owners or companies are limited to the operation of one (1) VDU upon approval of an Interim Use Permit in the City at any given time.
3. There are to be no more than twenty (20) operational VDU's at any given time in the City and is granted on a first-come first-serve basis.
   a. There shall be no more than ten (10) total VDU's permitted in the Traditional Neighborhood Zoning Districts.
      I. Only one (1) VDU may be located on any platted block and shall not abut another property approved for a short-term rental.
   b. There shall be no more than ten (10) total VDU's permitted in the Contemporary Neighborhood Zoning Districts.
      I. Only one (1) VDU may be located on an platted block and shall not abut another property approved for a short-term rental.
   c. A designated city official shall create a waiting list which will be posted on the City of Brainerd website with a recorded date and time of an interested applicant if the City has approved the maximum allotment of VDU's in the City or a zoning district.
      I. Applicants on the waiting list shall be contacted and given ten (10) days to submit a complete application and provide payment for their Interim Use Permit.
   d. All short-term rentals applying for renewal will be given preference over new applicants and must have an approved Interim Use Permit by City Council prior to expiration of their existing permit.

l. Upon expiration of the Interim Use Permit, the property owner can no longer operate a short-term rental at the premises and will be required to reapply as a new applicant.

~~12.~~4. No multi-family dwelling unit may contain more than one (1) short-term rental of any type at any given time.

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

Adopted this _____day of _____, 2023

_____
KELLY BEVANS
President of the Council

Approved this _____day of _____, 2023

_____
DAVE BADEAUX
Mayor

ATTEST: _____
PATRICK WUSSOW
Interim City Administrator

Published: One Time – _____

NOTICE OF HEARING

Notice is hereby given that the City of Brainerd Planning Commission will be conducting a public hearing to consider a proposed ordinance amending Section 515-3-34 of the Brainerd Zoning Code relating to short-term rentals. The proposed ordinance would define short term rentals into three different classifications, Accessory Home Share, Accessory Vacation Dwelling Units, Limited, and Vacation Dwelling Units and regulate the rental duration of each category. Additionally, the proposed ordinance will set the expiration of interim use permits issued for short term rentals and institute limitations on the number allowed in the City of Brainerd to 20 total units. As proposed, individuals and companies cannot own more than one short-term rental and no more than one short-term rental unit can be in a multifamily building.

A Public Hearing will be conducted by the Planning Commission at 6:00 p.m. Wednesday, November 15, 2023, in City Hall Council Chambers, 501 Laurel Street, Brainerd.

The public is invited to attend the hearing to offer input regarding the proposed ordinance. Any individuals needing special accommodations please call (218) 828-2307.

Dated this 1st day of November 2023

Publication Date: November 4th, 2023

James L. Kramvik
Community Development Director

Rick Badeaux
19868 159th St. NW
Elk River, MN
763-607-1523
November 13, 2023

Brainerd City Planning Commission
501 Laurel Street
Brainerd, MN 56401

Subject: Petition to Allow Continuation of Three Airbnb Properties in Brainerd

Dear Members of the Brainerd City Planning Commission,

I hope this letter finds you well. I am writing to express our sincere appreciation for the work the City Planning Commission does to ensure the prosperity and development of our community. I am also writing to petition for the allowance of three Airbnb properties currently owned and managed by us in the Brainerd area.

We are proud property owners who have diligently worked towards the improvement and revitalization of our properties in Brainerd. Our business model involves acquiring properties in need of attention, using revenue generated through Airbnb to fund renovations and enhancements, and providing affordable and stable housing for long-term tenants.

Currently, we have three long-term renters in our properties, each with unique circumstances that make them vulnerable to potential rent increases. One of our tenants is a 75-year-old retiree from Central Lakes College, and another is a 60-year-old individual whose rent we have not raised in six years. The Airbnb platform allows us to subsidize the long-term rents, providing our tenants with stability and a comfortable living environment.

The proposed regulation of one Airbnb per owner would have an immediate impact on our ability to maintain the current rental rates for our long-term tenants. The additional revenue generated from Airbnb not only allows us to keep rents affordable but also contributes to ongoing property improvements and maintenance.

Since acquiring these properties, we have made significant investments in renovating our units, addressing long-standing issues such as a faulty furnace, replacing water heaters, pouring new concrete, updating appliances, and enhancing security measures around the buildings. These improvements have not only increased the overall quality of our properties but have also positively contributed to the aesthetics and safety of the community. This level of improvement would not have been possible without using our current business model, which includes using Airbnb revenue.

We acknowledge the importance of implementing a well-thought-out regulation program to ensure the responsible management of short-term rentals. However, we believe that a collaborative approach can be taken to find a solution that meets the needs of both property owners and the city. We are open to working closely with the committee to develop guidelines that preserve the interests of our long-term tenants while allowing us to continue contributing to the improvement of the Brainerd community.

We understand the challenges faced by the Planning Commission in striking a balance between growth and regulation. We are hopeful that, through open dialogue and cooperation, we can collectively influence a decision that not only benefits property owners like us but also contributes to the overall well-being of the city and its residents.

Thank you for your time and consideration of our petition. We look forward to the opportunity to discuss this matter further and work towards a mutually beneficial solution for all parties involved.

Sincerely,

Rick Badeaux

M E M O

TO: Planning Commission

FROM: Dylan Edwards, Assistant Planner
James Kramvik Community Development Director

DATE: November 15, 2023

RE: Variance Request for a Structure Utilizing All Metal Siding at 1202 6th St S and Amendment of the Conditional Use Permit.

REQUEST

PUBLIC HEARING. Variance at 1202 6th St S. for a principal structure in the TN-2 district to exceed the maximum allowable percental of metal siding.

Todd Sutton, 8415 Bent Creek Island Rd, Bismarck, ND 58503, has submitted a variance request to exceed the twenty-five percent (25%) maximum allowance for metal siding on the structure at 1202 6th St S. The structure, which is an automated ice and water vending machine, would be one hundred percent (100%) metal sided. Further, the applicant has proposed an amendment to the conditional use permit present at the property for the alteration of the site and landscape plan. The structure is currently in operation with an escrow that has been deposited at the city for the completion of the siding and landscaping.

CONTEXT

Parcel Number(s): 41040736

Zoning District: TN-2 (Traditional Neighborhood Two) District

Property Area: 15,055 SQFT

Adjacent Uses: North: Residential
East: Motor vehicle fuel sales/ Retail Establishment
South: Residential
West: Residential

Adjacent Zoning: North: TN-2 (Traditional Neighborhood 2) District
East: TN-2 (Traditional Neighborhood 2) District
South: TN-2 (Traditional Neighborhood 2) District
West: TN-1 (Traditional Neighborhood 1) District

AERIAL MAP

FINDINGS OF FACT: Variance

1. **1202 6th St S.** is located in a TN-2 (Traditional Neighborhood 2) District.

2. Section 515-4-2-D.4.a states that for structures in the TN-2 Zoning District "Material such as metal panels, window trim, flashing, accent features and the like that make up the exterior of a building shall not exceed twenty-five (25) percent."
    a. *The applicant is proposing the structure constructed under the conditional use permit PZ22-17 remain 100% metal sided.*
    b. *The applicant was aware at the time of initial application that this would be a requirement for the building and believed there would be no issues with compliance of the ordinance. After speaking with the manufacturer, the applicant became aware that screwing into the structure would void the warranty.*

3. Section 515-5-4.B.3, General Provisions and Evaluation Criteria. – Variances shall only be permitted:
    a. When they are in harmony with the general purposes and intent of the ordinance and:

i. The stated purpose of the ordinance Section 515-4-2-D.4.a. is that newly constructed buildings in the TN-2 District among other zoning districts reflect the character of surrounding structures.
    1. *The surrounding structures to this building are sided in brick, vinyl, and other allowed materials under the cited ordinance. There are no buildings with fully metal facades in the vicinity of the structure.*
    2. *The metal siding on the structure is different from the metal paneling traditionally used for industrial buildings and pole sheds as there are no visible fasteners or ridges.*

b. When the variances are consistent with the Comprehensive Plan.
    i. Economic Development: Goal 1: "Support infill and redevelopment throughout Brainerd as a strategic component of growth." Policy 1: "Drive infill development and redevelopment towards areas where current infrastructure is present, or places where high levels of blight or disinvestment exists."
        1. *This redevelopment project removed a blighted structure that was nearing condemnation as well as the removal of a blighted parking lot. The utility infrastructure present at the property allowed for the installation of the ice and water vending machine.*
    ii. Land Use: Goal 3: "Support and invest in the incremental enhancements of quality of life." Policy 2: "Encourage and attract stores and services for the daily needs of our community."
        1. *Ice distribution in the City of Brainerd has been an issue over the past year as one of the major suppliers stopped distributing in Brainerd. This project may attract more activity on the weekends in and around downtown Brainerd.*

c. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.
    i. *The process of siding this structure built for the purposes of creating and distributing ice could cause damage to the internal workings of the machine. This is not a cost-based practical difficulty, but a difficulty in complying with the current design standards for a pre-manufactured building.*

4. Section 515-5-4.B.4, Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.;

    a. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
        i. *The circumstance is not unique to the property but unique to the equipment allowed to be utilized at the property. This is not created by the landowner as this is the design of a patented ice machine operated by his business.*

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

i. *This variance, if granted, will not substantially alter the character of the locality as this building has a small footprint and low visibility from the right-of-way. Also, the existing metal paneling is not the type of paneling consistent with industrial uses.*

c. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
    i. *In this case, the practical difficulties are related to the construction of the ice machine and its internal workings and have nothing to do with additional costs.*

5. Section 515-5-4. B.5, The Commission may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
    a. *Staff recommends imposing additional conditions that will help the structure blend in with the characteristics of the local.*
    b. *The newly proposed area for landscaping shall require one (1) shrub or two (2) perennials be planted for every five (5) lineal feet and shall be two (2) feet to four (4) feet in height.*
    c. *The property shall be required to plant three (3) deciduous overstory trees in the newly proposed landscape area.*
    d. *Staff must approve a final landscape plan before installation.*
    e. *All advertisement signs shall be removed from the side metal paneling of the structure. Direction signs can remain.*

At the time of this writing, no party had contacted the Community Development Department with questions regarding the proposed variance.

Findings of Fact: Amendment to Conditional Use Permit

1. Section 515-5-2.B.8: Amendments, details the process and procedure for amending a conditional use permit as follows: "Amendments. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the Conditional Use Permit issued shall require an amended Conditional Use Permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, and conditions imposed by the City Council, time limits, review dates, and such other information as may be appropriate."
    i. *The change as proposed by the applicant is the removal of a portion of the existing parking lot and the addition of landscaping to provide an aesthetic enhancement to the site and integration of the property into the surrounding neighborhood. This differs from the submitted plans which included pavement over most of the premises. This amended plan would reduce the intensity of use at the property and add additional green space.*

b. An amended Conditional Use Permit application shall be administered in a manner similar to that required for a new Conditional Use Permit, amended Conditional Use Permits shall include requests for changes in conditions, and as otherwise described in this Ordinance.
    i. *Staff have attached the original findings of fact for reference that were approved by City Council. Staff detailed the amendment to the conditional use permit in the above paragraph and the applicant has provided a new site plan.*

STAFF RECOMMENDATION

- The Community Development Department recommends approval of this variance request to allow the structure to be comprised of 100% metal siding which exceeds the 25% maximum allowance for metal siding per Section 515-4-2-D.4.a at 1202 6th St S.
- Staff recommends the following conditions be applied to the variance:
    - The newly proposed area for landscaping shall require one (1) shrub or two (2) perennials be planted for every five (5) lineal feet and shall be two (2) feet to four (4) feet in height.
    - The property shall be required to plant three (3) deciduous overstory trees in the newly proposed landscape area.
    - Staff must approve a final landscape plan before installation.
    - All advertisement signs shall be removed from the side metal paneling of the structure. Direction signs can remain.

- The Community Development Department recommends the approval of the amendment to the Conditional Use Permit at 1202 6th St S.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Todd Sutton, has submitted a variance request to exceed the twenty-five percent maximum allowance for metal siding for structures in the TN-2 (Traditional Neighborhood Two) zoning district for the structure located at 1202 6th St S, Brainerd, MN 56401. Further Mr. Sutton requests an amendment to the conditional use permit for this parcel to amend the submitted site plan. The property included in this application is described as:

LOTS 11 & 12 BLK 317
LOTS 9 & 10 BLK 317
TOWN OF BRAINERD & FIRST ADDITION TO BRAINERD
P.I.N. 41240562
P.I.N. 41240563
Section 24, Township 45, Range 31

The property is zoned TN-2 (Traditional Neighborhood two) District. According to Section 515-4-2-D.4.a, for structures in the TN-2 Zoning District "Material such as metal panels, window trim, flashing, accent features and the like that make up the exterior of a building shall not exceed twenty-five (25) percent." The variance proposed would allow one-hundred (100) percent of the structure to be metal sided. In addition to this, a copy of the proposed site plan amendment is on file for review at the Community Development Department.

A Public Hearing will be conducted by the Brainerd Planning Commission at 6:00 p.m. Wednesday, November 15, 2023, in the Brainerd City Hall Council Chambers, 501 Laurel Street, to consider the variance request and amendment to the conditional use permit.

Any individual needing special accommodation or requiring more information about this request, please call (218) 828-2307.

Dated this 1st day of November 2023

James L. Kramvik
Community Development Director

Publication Date: November 4th, 2023

Community Development Department
City Hall – 501 Laurel Street Brainerd, MN 56401
218-828-2307
www.ci.brainerd.mn.us

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

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

PROPERTY ADDRESS: 1202 South 6th St.

LEGAL DESCRIPTION: Lot(s): 9-12 Block: 317 Addition: To the Town of Brainerd
(attach description if lengthy)

Property Owner Name: Todd + Gabrielle Sutton

Street Address: 8415 Burnt Creek Island Rd City: Bismarck State: ND Zip Code 58503

Phone Number: 701-580-5462 Fax: _____ E-mail: TSutton17@gmail.com

Applicant Name: (If different than Property Owner) _____

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

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

Description of Request: Filling for a Variance do to Penetrating the other Shell of the Ice-Machine with Screws Into the Sides + the Front area. This Building was Built to be water Tight and have no water Penetrate Through the other shell. I Tried to get a wood shell Built, But That no Longer is Available Due to not Being Air/water Tight.

Property Owner Signature _____ Date 10/27/2023

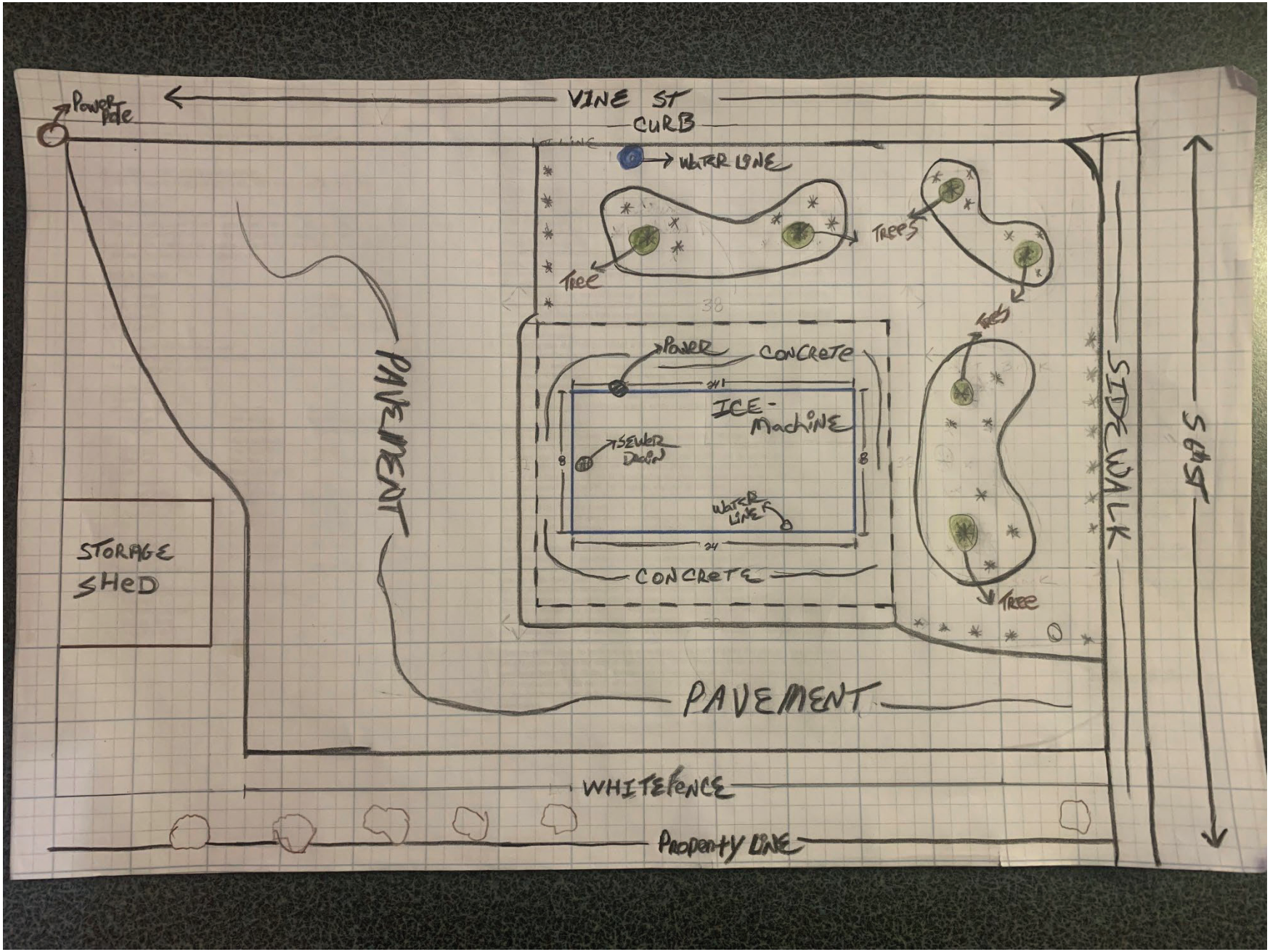
[signature] / Todd L. Sutton
(Please print name)

Applicant Signature _____ Date 10/27/23

Todd Sutton
(Please print name)

(OVER)

RECEIVED
NOV 03 2023
CITY OF BRAINERD
ADMINISTRATION


VINE ST
CURB
Power Pole
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Machine
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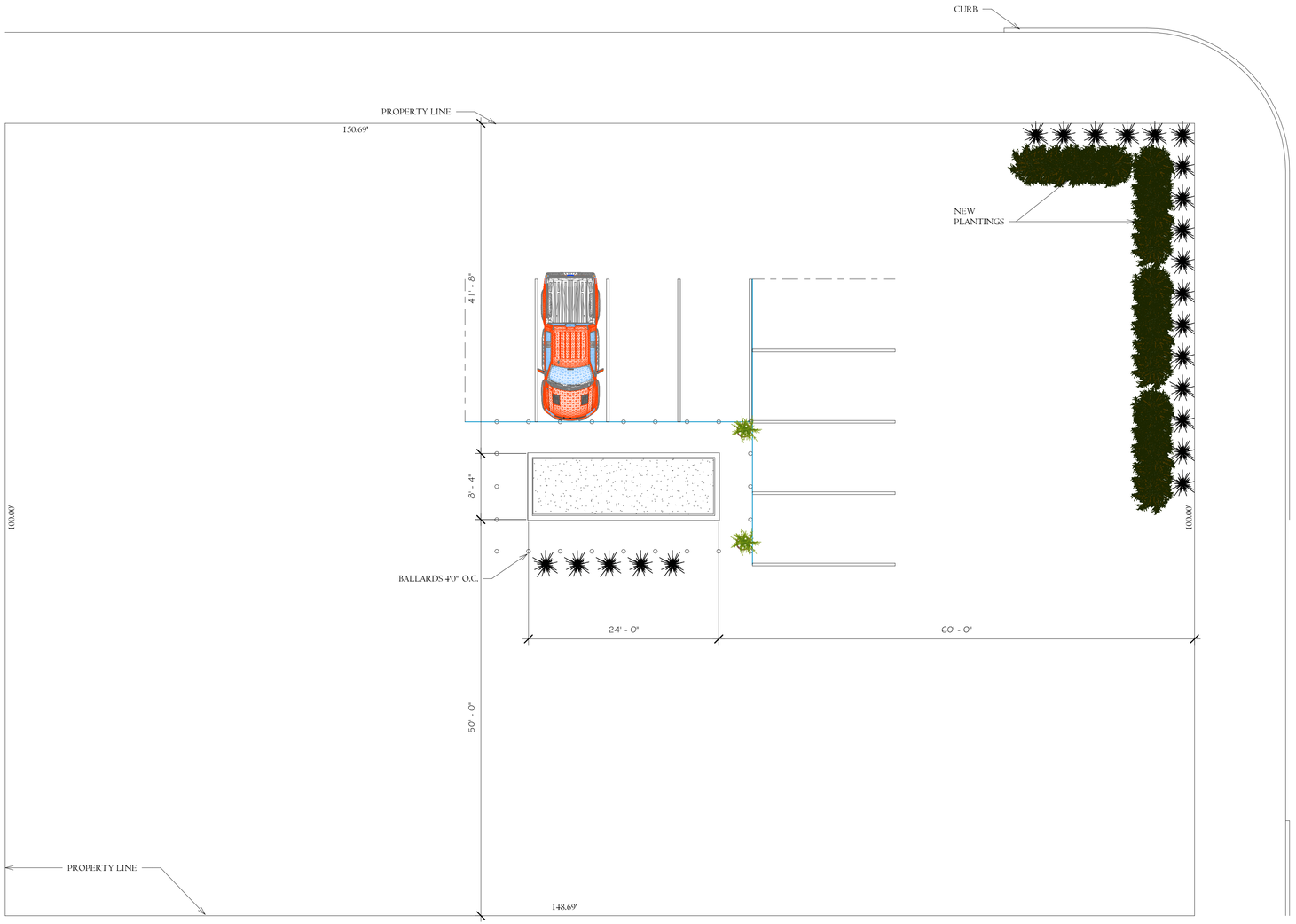
Property LINE

VINE STREET



S 6TH STREET

1 Site
1/8" = 1'-0"

•RESIDENTIAL •URBAN •INTERIORS •PROJECT MANAGEMENT
R.L ZIMMERMAN
architectural DESIGN
36830 lake knoll drive waseca, minnesota
rcde@hickorytech.net
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Drawn by: RLZ

Todd Sutton
Ice Vendor

address

client name

Document Date:
July 15th, 2022

rev. date remark

Site Plan

A1.1

CERTIFICATION OF CONDITIONAL USE PERMIT

STATE OF MINNESOTA)
COUNTY OF CROW WING) ss.
CITY OF BRAINERD)

A meeting of the City Council of the City of Brainerd, Minnesota, was duly held at the Brainerd City Hall Chambers on the 6th day of September, 2022.

Upon roll call, the following members were noted present: Stunek, Johnson, Bieser, Stenglein, Erickson, O'Day and Bevans. Mayor Badeaux was also noted as present.

Conditional Use Permit – Request from Todd Sutton, 8415 Bent Creek Island Rd., Bismarck, ND 58503 to Operate a Self-Service Ice/Water Vending Machine at 1202 6th Street South. The property is described as the following:

PID: 41240562
Town of Brainerd & First Addition to BRA Lots 11 & 12 BLK 317

Findings of Fact

1. **1202 6th St S.** is located in a TN-2 (Traditional Neighborhood 2) District. Zoning Ordinance Section 515-3 (Allowed Uses) Appendix A: Table of Uses permits the operation of commercial/retail establishments in the TN-2 District as a permitted use.
2. Commercial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a Conditional Use Permit as regulated by Section 515-4-2.D Building Design Standards.
    a. *The proposed structure is 8.33' x 24' which totals approximately 200 SQFT of floor space. The interior space is for maintenance purposes only.*
3. Table 515-2-9.1. TN-2 Dimensional Standards – Density, Lot Size, Coverage and Height Standards
    a. Lot Size (minimum) – 4,000 SQFT
    b. Front Yard Setback – 0' – 20' if Commercial
    c. Side Yard Setback – 5'/10' corner
    d. Rear Yard Setback – 10'
        i. *The proposed structure will meet rear and side yard setbacks. The applicant proposes construction of the ice and water vending machine within the footprint of the existing building approximately 60' from the front property line. The existing building meets the current front yard setback requirement in the TN-2 District. The proposed structure should not exceed the 20' front yard setback maximum.*
4. 515-4-12.K Off-Street Parking (Number of Required Spaces) Retail Stores and Service Establishments. At least one (1) off-street parking space per 200 square feet of floor area.
    a. *The structure size is approximately 200 SQFT which requires (1) off-street parking space. The applicant is proposing (7) off-street parking spaces in the site plan.*
5. Criteria for Granting Conditional Use Permits. In granting a Conditional Use Permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants or surrounding lands. Among other things, the City Council shall make the following findings where applicable.
    a. The proposed use conforms to the Zoning District and is a permitted Conditional Use identified on the Appendix A: Table of Uses.
        i. *Commercial/ retail establishments are a permitted use in the TN-2 District. The TN-2 Zoning District is intended to provide for compact, pedestrion-oriented mix of residential and neighborhood-serving commercial uses.*
    b. The proposed use meets the regulations and standards established in this Ordinance.
        i. *There are no special standards associated with this use. This structure will be required to adhere to Zoning Code Section 515-4-2.D the commerciol use design standards which limit metal panels to twenty-five percent of the exterior building. The applicant indicated that there is an exterior option that will meet the ordinance.*
    c. The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.
        i. *The structure will not be dangerous, injurious, or noxious to the surrounding properties. The opplicant stoted that the mechanical processes are housed internolly in the machine and would not create noise issues to surrounding properties.*
    d. The proposed use shall be sited, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
        i. *The applicant proposes to demolish the existing building and repair the parking lot. The site plan depicts a landscape buffer between curb cuts along South 6th Street and Vine St.*
        ii. *Per Section 515-4-10.3c A six (6) foot high fence or landscaped screen, providing eighty (80) percent yeor around opacity, shall be required wherever a non-residential use abuts directly upon land zoned for residential purposes. Staff recommends installation of the required screening along the south property line. The west property line has an existing privacy fence.*

e. The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
    i. *The praposed use is consistent with the environment and the neighborhood as it is across the street from a motor vehicle fuel station and convenience store. South 6th St is a mix of commercial and residential uses.*
f. The proposed use shall organize vehicular access and parking to minimize traffic congestion in a residential neighborhood.
    i. *The site plan provides abundant off-street parking for the proposed vending machine.*
g. The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.
    i. **Economic Development Goal 1**: Support infill and redevelopment throughout Brainerd as a strategic component of growth.
        1. **Policy 1**: Drive infill development and redevelopment towards areas where current infrastructure is present, or places where high levels of blight or disinvestment exists.

6. Conditions. In reviewing applications for conditional use permits, the City may attach whatever reasonable conditions are deemed necessary to mitigate anticipated adverse impacts associated with the proposed use, to protect the value of property within the Zoning District, and to achieve the goals of the City's Comprehensive Plan. In determining such conditions, special consideration shall be given to protecting nearby properties from objectionable views, noise, traffic, and other characteristics associated with such uses.

Conditions of Approval

The applicant must submit to staff the lighting (2700K lighting color or warmer) and fencing/screening plans that meet current residential standards.

Members Stunek, Johnson, Bieser, Stenglein, Erickson, O'Day and Bevans voted "aye". No member voted "nay". The Chair declared the motion carried.

(S E A L)

JENNIFER BERGMAN
City Administrator

M E M O

TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: November 15, 2023

RE: Planning Commission Itinerary Update

INTRODUCTION

This itinerary is meant to provide an organization of topics and ordinances for the Planning Commission and the Community Development Department to review in the next year. The new City of Brainerd Zoning Code was adopted in July of 2022 and there were sections of the new Zoning Code that were planned for future review from the Planning Commission after adoption.

CODE SECTIONS TO REVIEW

1) ~~**Off Street Parking: 515-4-12** Off Street Parking was not reviewed by staff or Swanson Haskamp Consulting. Off Street Parking space requirements were exempted in commercial zoning districts in the previous code and the new code. In previous Planning Commission meetings, it was determined that the Parking Commission would review this topic and bring a recommendation back to Planning Commission. Last year, the Community Development Intern researched parking space requirements and compared them to existing businesses in Brainerd. This research will aid in revising parking space requirements in the Zoning Code.~~ **(COMPLETE)**
2) **Section 515-3-34 Short Term Rentals** – Staff would like Planning Commission to review the complete short-term rental ordinance and recommend any changes. Updates to the short-term rental ordinance were made as part of the Zoning Code update in 2022. Short-term rentals remain interim use permits and were expanded to multi-family and downtown districts. Previously homeowner occupied dwelling units/ buildings did not require interim use permits. Staff would like Planning Commission to specifically review ordinances from other cities that have implemented regulations on numbers and usage. **(In Progress)**
3) **Section 500-6 Administrative Subdivisions** – Staff would like Planning Commission to review existing language and create new language that is easier to interpret for developers and land surveyors. Currently staff are administratively allowed to sub-divide properties from one to two parcels if they meet the zoning district requirements.
4) **Section 515-4-2 Building Design Standards** – Staff recommends review of the building design standards for all residential construction in the City of Brainerd. New language is needed for better conformity of building materials and design in existing neighborhoods.

5) **Mixed Use Development in the CC District** – Staff recommends review of the allowed use section of the Commercial Corridor District with the potential of allowing mixed-use buildings similar to the requirements in the Main Street District in which residential units are prohibited on the first floor.
6) **Cannabis Dispensaries** – In August of 2023, the State of Minnesota enacted legalization of cannabis and cannabinoid substances in the state. The Statute allows for local controls over cannabis in Subsection 342.13 which is limited to the time, place, and manner of operation of a cannabis business. Additionally, municipalities will be responsible for licensing. The State's new cannabis regulatory agency is not expecting to release any state licenses until January 1, 2025. By 2025, Brainerd will need to establish zoning regulations and use conditions related to cannabis or cannabinoid products.
7) **Solar Arrays** – Brainerd Public Utilities have installed a solar array at Brainerd Airport and are currently working on construction of another solar array behind the BPU wastewater facility in Baxter. BPU is interested in adding additional solar arrays and has been looking at property in the City of Limits of Brainerd. Staff consider individual solar panels as accessory structures. However, code and an addition to the use table would be needed for the construction of a solar array in Brainerd.
8) **Manufactured Home Overlay District: Section 515-2-20** Manufactured Home Overlay District (MH-O) was partially reviewed and amended by Swanson Haskamp Consulting but will still need additional review by staff and the Planning Commission.