

CITY COUNCIL AGENDA

Brainerd, Minnesota
November 20, 2017
7:30 P.M.
Brainerd City Hall
Council Chambers

1. **Call To Order - 7:30 PM**

2. **Roll Call**

___ K. Stunek ___ K. Bevans ___ D. Badeaux ___ G. Johnson
___ S. Hilgart ___ J. Lambert ___ D. Pritschet ___ Mayor Menk

3. **Pledge Of Allegiance**

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

5. **Consent Calendar**

NOTICE TO PUBLIC - all matters listed are considered routine by the Council and will all be enacted by one (1) motion. There will be no separate discussion of these items unless good cause is shown prior to the time the Council votes on the motion to be ADOPTED BY ROLL CALL

A. **Approval Of Minutes**

1. Regular Meeting Held on November 6, 2017
2. City Administrator Interviews Held on November 15, 2017

Documents:

[20171106_CC draft.pdf](#)

[20171115_CC - Adj City Administrator Interviews draft.pdf](#)

B. **Approval Of Licenses**

None

C. **Department Activity Reports**

1. Police Chief
2. Finance Director

Documents:

[PD Report.pdf](#)

D. **Minnesota Lawful Gambling Premises Permit Application - Adopt Resolution To Allow Lawful Gambling By Heartland Animal Rescue Team (HART) At Sage On Laurel, 606 Laurel St., Brainerd, MN**

E. Minnesota Lawful Gambling Application For Exempt Permit - Submitted By Central Lakes College Foundation, 501 West College Dr., Brainerd For An Event To Be Held On January 27, 2018

6. Council Committee Reports

A. Safety And Public Works Committee

Documents:

SPW Agenda.pdf

1. Sage On Laurel - Shaw Parking Lot Agreement Proposal Discussion

Documents:

Shaw Parking Lot Agreement Proposal.pdf

2. Proposal For Sanitary Sewer Repair - Visu-Sewer - Gravity Sewer Line Near Walnut Street

Documents:

Proposal for Sewer Repair - Gravity Sanitary Sewer Line near Walnut St..pdf

3. S 6th Street Sidewalk Extension Project - MnDOT Proposal

Documents:

MnDOT Sidewalk Extension Proposal.pdf

4. Event/Street Closure Application - Gnome For The Holidays

Documents:

Event Application - Gnome for the Holidays.pdf

5. Event/Street Closure Application - Homeless Heroes 5K

Documents:

Event Application - Homeless Heroes 5K.pdf

B. Personnel And Finance Committee

Documents:

PF Agenda.pdf

1. Approval Of Bills, Transfer Of Funds & Payments To Contractors

Contractor	Imp #	Project	Amount Paid	Amount Retained
Bolton & Menk	16-14	Traffic Study	\$7,279	\$0
S.E.H.	14-15	Airport Util Ext thru 10/28	\$10,902	\$0

S.E.H.	17-08	2019 SRTS Sidewalks thru 10/28	\$2,606	\$0
Anderson Brothers	15-12	S. 6th St. Frontage thru 11/16	\$37,905	\$1,995

From Parking Lot Fund to Street and Sewer Fund 2016-2017 Downtown
Snow Removal \$10,844
From Parking Lot Fund to Construction Fund for Downtown Special
Services \$1,905

2. City Administrator Employment Agreement

Documents:

City Adm Emp Agreement Cassandra Torstenson.pdf

3. 2018 Budget And Levy Discussion

Documents:

2018 Budget and Levy.pdf

4. 2017 Audit Services - Engagement Letter

Documents:

Audit Engagement Letter.pdf

5. Authorize Agreement For Utility Rate Study

Documents:

Rate Study.pdf

6. Discussion Of Fuel Cards

Documents:

Fuel Cards.pdf

7. **Unfinished Business**

- A. **Call For Applicants - Informational**
(Application Information at the City's Website
<http://www.ci.brainerd.mn.us>)

Mayor Recommended: (all terms expire on 12/31 of said year)
Charter Commission - 1 term (Expire 2020)
Transportation Advisory Committee - 2 term (Expire 2018)

8. **New Business**

9. **Planning Commission**

- A. **Public Hearing - Final Reading Of Proposed Ordinance No. 1474 - An**

Ordinance Amending Ordinance No. 812 Pertaining To Zoning - 110 NW 3rd St.

- a. Hold Public Hearing
- b. Consider Testimony and Alternatives
- c. Hold Final Reading of Ordinance (Voice Vote)
- d. Adopt Ordinance (Roll Call)

Documents:

[PH - 2nd Reading Zoning Ord. 1474 Rezoning Adventure Properties.pdf](#)

B. Public Hearing - Final Reading Of Proposed Ordinance No. 1475 - An Ordinance Amending Zoning Ordinance Section 515-2 Definitions And Sections 61, 62, 63, 64, 65 And 70

- a. Hold Public Hearing
- b. Consider Testimony and Alternatives
- c. Hold Final Reading of Ordinance (Voice Vote)
- d. Adopt Ordinance (Roll Call)

Documents:

[PH - 2nd Reading Zoning Ord Amendment Permitting Microdistilleries.pdf](#)

C. Variance Request - 1501 South 8th Street, Brainerd - Construct A Non-Conforming Building (Garage)

Documents:

[Variance Request - Laestadian Lutheran Church .pdf](#)

D. Variance Request - 523 Holly Street, Brainerd - Expand A Non-Conforming Building (Garage Portion) By Adding A Deck Onto The Garage Roof

Documents:

[Variance Request - 523 Holly Street.pdf](#)

E. Planning Commission Partial Draft Minutes From Meeting Held On November 15, 2017

Documents:

[PC Draft Minutes 11-15-17 Meeting.pdf](#)

10. Public Forum

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

11. Staff Reports

(Verbal: Any Updates since Packet)

12. Council Member Reports

13. **Adjourn To Closed Session Pursuant To MN Statutes, 13D.05, Subd. 3(B)
For Attorney-Client Privilege To Discuss The Pending Annexation
Proceeding And The Lawsuit By The City Of Baxter Concerning Franchise
Fees**

NOTE: Safety and Public Works Committee will meet at 6:30 P.M.
Personnel and Finance Committee will meet at 7:00 P.M.

ANY INDIVIDUAL NEEDING SPECIAL ACCOMMODATIONS,
PLEASE CALL 828-2307
Visit the [City's Website](http://ci.brainerd.mn.us) (ci.brainerd.mn.us)

MISSION

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

Pursuant to due call and notice thereof, the regular meeting of the Brainerd City Council was called to order at 7:30 P.M. by Council President Pritschet.

Upon roll call, the following members were noted as present: Stunek, Bevans, Badeaux, Johnson, Hilgart, and Pritschet. Mayor Menk was also noted as present. Member Lambert was noted as absent.

Council President Pritschet opened the meeting with the Pledge of Allegiance to the Flag.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPROVE THE AGENDA.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND BEVANS TO ADOPT THE CONSENT CALENDAR.

A. Approval of the Minutes of the Regular Meeting held on October 16, 2017 and the Special City Administrator Hiring Process Meeting held October 17, 2017 – Approved

B. Approval of Licenses – Approved

Contractor's Licenses – 6; 3 New – 3 Renewals

C. Department Activity Reports – Approved

1. Fire Chief
2. Parks Director

D. Minnesota Lawful Gambling Application For Exempt Permit – Submitted by Knights of Columbus Council 1491, 902 Fir St., Brainerd for Events to be Held January 18, January 25, February 1 and February 8, 2018 at St. Francis Catholic Church, 404 N. 9th St., Brainerd, MN - Approved

E. Waiver of Nuisance Assessment – 1323 Oak Street - Approved

Upon roll call, members Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet voted “aye.” No member voted “nay.” The Chair declared the motion carried.

Council Committee Reports

Safety and Public Works Committee Report

State Aid Advance Resolution – 2018 South 6th Street Construction – Adopted by Resolution 68:17

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX TO ADOPT RESOLUTION NO. 68:17 TO APPROVE ADVANCING MUNICIPAL STATE AID STREET FUNDS (MSAS) FOR THE CITY'S PORTION OF THE SIGNAL INSTALLATION ON THE 2018 SOUTH 6TH STREET RECONSTRUCTION PROJECT.

RESOLUTION NO. 68:17

Upon roll call, members Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet voted "aye." No member voted "nay." The Chair declared the motion carried.

Update on 2017 Construction Projects – Informational

City Engineer Sandy indicated all of the state aid projects were completed this year. The local frontage road and northeast Brainerd resurfacing projects are substantially complete, but we will be holding the project open for seeding. The final estimates will be presented in the spring of 2018.

The City has been approached by MnDOT regarding the sidewalk extension project on South 6th Street. MnDOT is planning to reconstruct the second half of South 6th Street in 2022. MnDOT realized the sidewalk project is on the City's future projects for 2019 and they offered to pay the 20% match on the sidewalk for the federal funds and to cover the engineering work for the project. Although it will push the project out another four 4 years, it will be a cost savings to the City. The proposal from MnDOT will be brought to council at the November 20, 2017 meeting. City Planner Ostgarden mentioned this project dates back to 2014 when the initial application to MnDOT was submitted for the funding.

Personnel and Finance Committee Report

Approval of Bills & Payments to Contractors - Approved

<u>Contractor</u>	<u>Imp. #</u>	<u>Project</u>	<u>Amount Paid</u>	<u>Amount Retained</u>
Anderson Brothers	17-04	2017 Patch Work	\$9,863	\$0
Anderson Brothers	15-12	S. 6 th Street Frontage thru 10/27	\$85,646	\$4,508
Anderson Brothers	16-10	NW Brainerd Resurfacing thru 10/27	\$289,916	\$15,259
Braun Intertec	15-12	S. 6 th Street Frontage Testing thru 10/7	\$2,066	\$0
Braun Intertec	16-10	NW Brainerd Resurfacing Testing thru 10/7	\$1,112	\$0
S.E.H.	17-08	2019 SRTS Sidewalks thru 9/30	\$2,695	\$0
S.E.H.	14-15	Airport Util Ext thru 9/30	\$6,287	\$0

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART TO APPROVE THE PAYMENT OF BILLS AND PAYMENTS TO CONTRACTORS AS RECOMMENDED BY PERSONNEL AND FINANCE COMMITTEE.

Upon roll call, members Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet voted "aye." No member voted "nay." The Chair declared the motion carried.

Fire Department Fee Appeal - Approved

Committee Chair Johnson explained Ms. Laura Fautsch was in need of rescue and extrication services in August. Ms. Fautsch has requested an appeal to waive the \$500 fee or postpone payments until she has the ability to pay.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO DIRECT STAFF TO WORK WITH MS. FAUTSCH TO SET UP A PAYMENT PLAN.

Authorize Submission of Small Cities Development Program (SCDP) 2018 Preliminary Proposal to Department of Employment & Economic Development (DEED) - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO AUTHORIZE THE BRAINERD HOUSING AND REDEVELOPMENT AUTHORITY (HRA) TO SUBMIT A SMALL CITIES DEVELOPMENT PROGRAM (SCDP) 2018 PRELIMINARY PROPOSAL TO THE DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED) FOR A NORTHEAST BRAINERD AND DOWNTOWN GRANT PROGRAM.

2018 Library Operating Supply Budget - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, ON BEHALF OF THE BRAINERD PUBLIC LIBRARY BOARD THAT THE KITCHIGAMI REGIONAL LIBRARY BOARD SUPPORT ALLOWING THE BRAINERD PUBLIC LIBRARY BOARD TO PURCHASE ALL SUPPLIES FOR THE LIBRARY BRANCH. THIS REQUEST WOULD ENTAIL MOVING THE \$6,000 SUPPLY ITEM LINE FROM THE KRLS BRAINERD PUBLIC LIBRARY OPERATING BUDGET TO THE CITY'S LIBRARY BUDGET. THE RECOMMENDED KRLS CONTRIBUTION FROM THE CITY WOULD BE REDUCED BY \$6,000.

Committee Chair Johnson explained this would simplify the process for the library to order supplies. Currently, a request is sent to the Kitchigami Regional Library Board from the Brainerd Library Board for approval. This would streamline the process for library staff to order supplies for the library as it would eliminate the need to place a request to the Kitchigami staff.

Employee Policy Manual Amendment and Memorandums of Agreement with IBEW, LELS and USW Unions to Increase Deductibles for High Deductible Health Plan as Required by IRS Regulations Effective January 1, 2018 - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPROVE THE AMENDMENT FOR SECTION 15 OF THE EMPLOYEE POLICY MANUAL AS PRESENTED AND TO APPROVE THE ATTACHED MEMORANDUMS OF AGREEMENT BETWEEN THE CITY OF BRAINERD AND THE FOLLOWING UNION GROUPS THAT INCREASES THE DEDUCTIBLE FOR THE HIGH DEDUCTIBLE HEALTH PLAN (HDHP) PER IRS REGULATIONS EFFECTIVE JANUARY 1, 2018. 1) IBEW REPRESENTING THE ADMINISTRATIVE SUPPORT EMPLOYEES 2) IBEW REPRESENTING THE PUBLIC UTILITIES EMPLOYEES 3) LELS REPRESENTING THE POLICE OFFICERS 4) USW REPRESENTING THE HYDRO EMPLOYEES.

Deferment of Assessment – Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE DEFERMENT FOR THE APPLICANT AT 928 10TH AVENUE NE FOR ASSESSMENT PAYABLE IN 2018 FOR IMPROVEMENT 13-19.

Unfinished Business

Continuation of Public Hearing – Downtown Special Services, Downtown Snow Removal and 2017 Nuisance Contested Assessments – Adopted by Resolution No. 69:17

The Chair Opened the public hearing at 7:41 P.M.

City Engineer Sandy indicated a resident will be appearing to speak at 7:45 p.m.

MOVED AND SECONDED BY ALDERMEN HILGART AND JOHNSON, DULY CARRIED, TO DELAY THE PUBLIC HEARING TO WHEN THE RESIDENT ARRIVES.

City Engineer Sandy stated there are three other assessments that were contested at the last meeting as follows:

1) 911 Kingwood Street – Unlicensed Vehicle - \$2,375. The property owner received nineteen (19) administrative citations in 2016 and 2017 for the unlicensed vehicle parked on his property. The owner did not respond until the assessment notice was sent and no action has been taken to move the vehicle.

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, TO UPHOLD THE CONTESTED ASSESSMENT AT 911 KINGWOOD STREET.

2) 319 N. 9th Street – Roof Condition - \$1,500. The property owner was sent twelve (12) nuisance letters with administrative penalties pertaining to the condition of his roof. The property owner claims to not know what the citations were for although a photo was sent with the letters.

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, TO UPHOLD THE ASSESSMENT AND WORK TOWARDS ABATEMENT OF THE NUISANCE.

3) 1504 8th Avenue NE – Siding, Junk, Long Grass - \$500. The property owner had received four (4) citations relating to siding needing repair, junk, brush and long grass. City staff has worked with the property owner and the junk and brush have been abated on the property. Habitat for Humanity is working with City staff and the owner to get the siding repaired. City staff feels the grass citations should stand, as it was not abated in a timely fashion by the owner.

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, TO WAIVE THE ASSESSMENT FOR JUNK/BRUSH AND SIDING IN THE AMOUNT OF \$250 AND TO UPHOLD THE GRASS CITATIONS IN THE AMOUNT OF \$250.

The Chair Continued the public hearing at 7:51 P.M.

The Chair recognized Ms. Sarah Hayden Shaw, 521 N. 9th Street, Brainerd. Ms. Shaw is the property owner of 606 Laurel Street. This property is adjacent to the city parking lot located on Laurel Street between 6th and 7th Street. Ms. Shaw indicated she is not contesting the assessment on the property however she would like to come to an agreement with the City on the shared use of the lot. The lot is being used for private parking and is the only access to the nine public parking spaces that are city owned.

The Chair Closed the public hearing at 8:02 P.M.

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, TO UPHOLD THE ASSESSMENT AT 606 LAUREL STREET.

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO ADD THE REQUEST FROM MS. SHAW TO DISCUSS A LEASE AGREEMENT ON THE PROPERTY AT 606 LAUREL STREET TO THE SAFETY AND PUBLIC WORKS COMMITTEE MEETING NOVEMBER 20, 2017.

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX TO ADOPT RESOLUTION 69:17 ADOPTING THE CONTESTED ASSESSMENT DECISIONS AS DISCUSSED ABOVE.

RESOLUTION NO. 69:17

Upon roll call, members Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet voted "aye." No member voted "nay." The Chair declared the motion carried.

Continuation of Public Hearing – Improvement 14-03 Contested Assessment – Adopted by Resolution No. 70:17

The Chair Opened the public hearing at 7:42 P.M.

No one came forward.

The Chair Closed the public hearing at 7:43 P.M.

City Engineer Sandy indicated a letter was received today from Gammello-Pearson on behalf of Brainerd Amateur Hockey Foundation withdrawing their contested assessment.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART TO ADOPT RESOLUTION NO. 70:17 TO UPHOLD THE PROPOSED ASSESSMENT TO BRAINERD AMATEUR HOCKEY FOUNDATION (BAHF).

RESOLUTION NO. 70:17

Upon roll call, members Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet voted "aye." No member voted "nay." The Chair declared the motion carried.

Demolition of Building at 507 6th Street South – Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND BEVANS, DULY CARRIED, TO APPROVE THE CONCEPT OF THE DEMOLITION OF THE BUILDING INCLUDING THE GARAGE LOCATED AT 507 6TH STREET SOUTH WITH THE COST TO BE ASSESSED AGAINST THE PROPERTY AND TO AUTHORIZE THE CITY ATTORNEY TO DRAFT THE AGREEMENT.

City Attorney Langel explained litigation on this property was initiated under the Hazardous Structure Statute to have the office and motel buildings to be demolished. There is a garage that was not subject to litigation as it was not found to be a hazardous structure. The

property owner wants to avoid legal fees, thus requesting the motel to be demolished by the City, with the cost to be assessed against the property.

City Administrator Thoreen added the property owner is currently delinquent in paying the taxes on the property.

Mayor Menk and City Administrator Thoreen indicated the property owner to the north of the motel expressed concern about the demolition affecting his buildings and property. The recommendation is to hire a contractor for the demolition.

Council Member Johnson questioned where the funds will come from to demolish the buildings. Finance Director Hillman indicated there is an old CDBG grant that could be used for this purpose, as it would meet one of the federal objectives of eliminating slum and blight. Staff will also research what was collected versus what was spent in nuisance fees over the last couple of years to determine the availability of funds.

Comprehensive Plan Steering Committee Appointments – Informational

Council President Pritschet requested each council member announce the candidate they have appointed to the committee. The Steering Committee consists of the following:

	Sector	Candidate Name
Councilman Pritschet	School District Member	Aaron Sinclair – Asst Superintendent
Councilwoman Lambert	Healthcare Representative	Mike Larson – Essentia
Mayor Menk	Local Industry Representative	Mike Higgins and Jeff Grunenwald
Councilman Bevans	Small Business Owner	Brian Moon – Easy Riders
Councilman Pritschet	Resident	Staci Headley
Councilman Badeaux	Park Board Member	Timothy Boeder
	City Council	Jan Lambert
	Planning Commission	Chuck Marohn
Councilman Johnson	Real Estate	Rick Fargo
Councilwoman Hilgart	BLAEDC Board Member	Pam O'Rourke
Councilman Stunek	Resident	Emily MacDonald

MOVED AND SECONDED BY ALDERMEN BEVANS AND JOHNSON, DULY CARRIED, TO OFFICIALLY APPOINT THE CANDIDATES TO THE COMPREHENSIVE PLAN STEERING COMMITTEE.

Call for Applicants – Informational:

(Application Information at www.ci.brainerd.mn.us/boards/)

Mayor Recommended: (all terms expire on 12/31 of said year)

Charter Commission – 1 term (Expire 2020)

Transportation Advisory Committee – 2 term (Expire 2018)

Park Board – 1 term – (Expire 2021)

New Business

National Joint Powers Alliance Board of Directors – Informational

City Administrator Thoreen explained there will be an opening on the National Joint Powers Alliance (NJPA) Board of Directors for Sub-Region IV January 1, 2018. The nomination forms are due back by December 18, 2017. Council President Pritschet indicated it would be great to have someone representing the City of Brainerd on the Board and asked for any interested Council member to consider being nominated for the position.

Planning Commission

First Reading of Proposed Ordinance No. 1474 – Rezoning – Adventure Properties, 110 NW 3rd St., Brainerd – Rezone Property from a B-2 (Neighborhood Business) District to an R-3 (High Density Residential) District - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND BEVANS, DULY CARRIED, TO APPROVE THE FIRST READING OF PROPOSED ORDINANCE NO. 1474 – AN ORDINANCE TO REZONE PROPERTY AT 110 NW 3RD STREET FROM A B-2 (NEIGHBORHOOD BUSINESS) TO AN R-3 (HIGH DENSITY RESIDENTIAL) DISTRICT.

First Reading – Proposed Ordinance No. 1475 – Amending Brainerd Zoning Ordinance Sections 515-02, 515-61, 515-63, 515-64, 515-65 and 515-70 Regarding Microdistilleries and Cocktail Rooms - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND BEVANS, DULY CARRIED, TO APPROVE THE FIRST READING OF PROPOSED ORDINANCE NO. 1475 – AN ORDINANCE TO AMEND ZONING ORDINANCE SECTIONS 515-02, 515-61, 515-62, 515-63, 515-64, 515-65 AND 515-70 TO PERMIT MICRODISTILLERIES AND COCKTAIL ROOMS.

Public Forum

The Chair Opened the public forum at 8:32 P.M.

No one came forward.

The Chair Closed the public forum at 8:32 P.M.

Staff Reports

None

Council Member Reports

Council Member Bevans reported he received an email from the District Chairman of the Boy Scouts of America recognizing our local Eagle Scout Ben Soukop for receiving a medal for saving a life.

Council member Stunek stated there is an upcoming Veteran's Memorial Ceremony planned at the memorial site by the Crow Wing County Courthouse on Saturday, November 11, 2017.

Council member Hilgart mentioned the Fire Advisory Committee meeting has been moved from November 13th to November 20th and Council Member Stunek will be attending.

Council member Johnson stated he attended the Housing and Redevelopment Authority's bus tour that took place on Thursday, November 2, 2017. The tour went to Fergus Falls, Fargo and Detroit Lakes to meet up with local staff about the downtown areas in those cities which was very insightful. Mayor Menk also attended the bus tour.

Mayor Menk indicated it was very nice to see all of the work going on downtown this week with roofing projects and store front projects taking place.

Committee Resignations

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO ACCEPT WITH REGRET THE RESIGNATION OF MR. DAVID RUNBERG FROM THE TRANSPORTATION ADVISORY COMMITTEE.

Committee Recommendations – Recommended by Mayor Menk

MOVED AND SECONDED BY ALDERMEN JOHNSON AND BEVANS, DULY CARRIED, TO APPOINT MR. TROY RUSHMEYER TO THE PARKS AND RECREATION BOARD.

Mayor Menk reported the other application received for this position was from Ms. Kara Schaefer. Ms. Schaefer was an excellent candidate as well and he appreciated her interest in the position.

Adjournment to

Closed Session pursuant to MN Statutes, 13D.05, Subd. 3(b) for attorney-client privilege to discuss the Firefighters Union Local 4725 lawsuit

Closed Session pursuant to MN Statutes, 13D.05, Subd. 3(b) for attorney-client privilege to discuss the pending annexation proceeding with the City of Baxter

City Administrator Interviews – November 15, 2017 at 2:00 p.m. – City Hall 2nd Floor Conference Room

The Chair adjourned the meeting at 9:34 p.m.

James M. Thoreen
City Administrator

**Brainerd, MN
November 15, 2017**

Pursuant to due call and notice thereof, the adjourned meeting of the Brainerd City Council was called to order at 2:00 P.M. by Council President Pritschet.

Upon roll call, the following members were noted as present: Lambert, Stunek, Bevans, Badeaux, Johnson, Hilgart, Pritschet and Mayor Menk. Also present were Gary Weiers, David Drown Associates Company (DDA); and Kris Schubert, HR Coordinator.

City Administrator Interviews.

Two candidates were interviewed for the City Administrator position. The candidates were Bill McCabe and Cassandra Torstenson.

After the interviews, the Council discussed the strengths and weaknesses of each candidate.

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO OFFER THE CITY ADMINISTRATOR POSITION TO CASSANDRA TORSTENSON; FURTHER, TO AUTHORIZE THE CONSULTANT TO WORK WITH STAFF TO FACILITATE THE NEGOTIATION PROCESS FOR MS. TORSTENSON'S EMPLOYMENT AGREEMENT.

Adjournment:

The Chair adjourned the meeting at 4:13 P.M.

James M. Thoreen
City Administrator

/ks

November 15, 2017

**BRAINERD POLICE DEPARTMENT
MEMORANDUM**

TO: Brainerd City Council
FROM: Police Chief Corky McQuiston
DATE: 11-15-17
RE: Monthly Report



October Domestic Violence Awareness Month

October was Domestic Violence Awareness Month. We again participated with area partners in the Domestic Violence Vigil organized by the Mid-Minnesota Women's Shelter. The event was held again this year at the Kiwanis Park, with candles being lit and placed in the river to commemorate the names that were read of those killed by acts of domestic violence during the past year.



Halloween

This Halloween marked our 14th Annual Halloween Safety Event. The event has grown over the years to include the Fire Department and the Crow Wing County Sheriff's Department. We had well over 500 kids visit the police department again this year.

14th Annual
Halloween Safety Event
Tuesday, October 31st
3:30 – 6:30 p.m.



**BRainerd POLICE
DEPARTMENT**



The Brainerd Police Department invites children to Trick-or-Treat with McGruff in the garage on the north end of the police department, which is located at 225 East River Rd.

There will be several trick-or-treat stations with glow necklaces, stickers, candy & other fun favors. Trick-or-Treaters will also receive a ticket for a chance to win a prize. Be sure to visit the Brainerd Police Department Facebook page after the event to see who the winners are.

**BRainerd FIRE
DEPARTMENT**



The Brainerd Fire Department Relief Association is a proud supporter of this Halloween Safety Event.

Children are invited to trick-or-treat at the fire department, which is located at 23 Laurel Street.



**CROW WING COUNTY
SHERIFF'S OFFICE**



The Crow Wing County Sheriff's Office invites children to trick-or-treat through stations set up for Patrol, Dispatch, Boat and Water, Tac Team and Bomb Disposal. You will find them just down the block at 202 Laurel Street.

This Halloween Safety Event is sponsored by:
Brainerd Police Department | Brainerd Fire Department | Crow Wing County Sheriff's Office | Northern Child Safety Council
Brainerd Patrolman's Association | Brainerd Fire Department Relief Association | Lakes Area Law Enforcement Association | First Impression Printing

FACEBOOK

We had another great example of how our Facebook friends partner with us to solve crimes and help to keep our community safer. We had an incident where a purse was stolen from a shopping cart at Cub Foods. We were able to get a picture of the suspect from the Cub Foods security cameras and we placed the following post on our Facebook page. In less than 24-hours we had several people help us identify the suspect, he was located, interviewed, and charges are pending against him. Here is the posting that we used:

Brainerd Police are asking for the public's assistance identifying the male in these pictures. Police want to question the male regarding a purse theft from a shopping cart at Cub Foods in NE Brainerd that occurred shortly before 9:10 pm on Monday, October 23rd. The male appears to be about 6 feet tall, 200 pounds, with dark hair, and appears to have a tattoo sleeve on his right arm. The male entered the store with a small child that was not wearing shoes. Anyone with information regarding this is asked to call the Brainerd Police at 218-829-2805.



We continue to utilize this to seek the public's help in locating runaways, getting tips on unsolved crimes, and interacting with the community on a variety of things.

The Facebook logo, consisting of the word "facebook" in white lowercase letters on a blue rectangular background.

Keno

Unfortunately, our K-9 partner Keno is in a splint at this time. He hurt himself during training on October 17th. He was referred to a specialist who diagnosed him with a partial tear in his left rear Achilles.

This did not require surgery, but he is on very limited restricted movement. He is estimated to be out of commission for about six weeks.

If you've ever had the chance to see him, you'll understand how this is very difficult for both Keno and Sergeant Dooley the handler. Keno is an **extremely** active dog, and is not adjusting well to the doctor's orders of rest and limited movement.

We are anticipating a full recovery and hope to have him back to work as soon as possible.



OCTOBER TRAINING



On October 11th, Investigator Kleffman attended the BCA Leaders Conference in St. Cloud, entitled ***Brining Legitimacy to Policing***. This was their 6th Annual Conference and the attendees were able to hear from prominent law enforcement leadership professionals who discuss a variety of challenges law enforcement leaders face. The topics and presenters were:

- **Policing in Today's Challenging Environment**
Chief Blair Anderson, St. Cloud PD
- **Legal Cynicism - The Biggest Threat to Policing**
Superintendent Garry McCarthy (retired), Chicago PD
- **Implicit Bias**
Bret Hood (retired), FBI
- **Character Based Hiring**
Sheriff Jack Serier, Ramsey County SO

NIBRS TRAINING



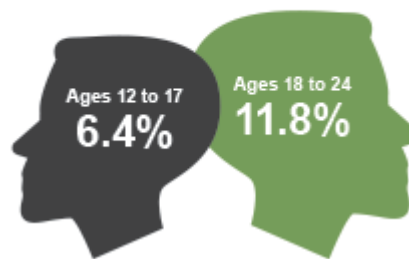
On October 12th, Sergeant Kulzer and Officer Runde (Field Training Officer) attended a one-day training at the BCA in St. Paul on the National Incident Based Reporting System(NIBRS). Both officers received seven POST Credits for this course. This NIBRS training is a preface to the conversion of our current reporting system Comprehensive Incident Based Reporting System(CIBRS) to the NIBRS system which is mandated by 2021.

The NIBRS system is the new data collection system which is being implemented nationwide which will enhance FBI reporting for crime trends and crime statistics and will streamline our coding and reporting to the system. We were selected to be part of nationwide grant funding to facilitate the conversion. Minnesota received federal funding to aid selected pilot agencies in working with their respective Records Management System(RMS) vendors to create, test, and implement “adaptors” within the RMS to automate the reporting.

Conversion to this system will require officers to capture and enter more data related to incidents they have been assigned to enhance the data and reports tracked by the FBI, ultimately making it more useful at an agency level for crime analysis purposes.

This is an example of how this data may be used in communities:

Frequency of Victims of Violent Crime Experiencing Co-Occurring Offenses



When law enforcement agencies report NIBRS data, community service providers and researchers can examine complex relationships in crime, victimization, and arrest practices by relying on an expanded range of variables.

FALL FIREARMS TRAINING

On October 5th or 19th, all officers participated in firearms training including qualifications with handguns and patrol rifles utilizing the Crow Wing County Sheriff's Department outdoor range at the fairgrounds.

TZD ANNUAL CONFERENCE

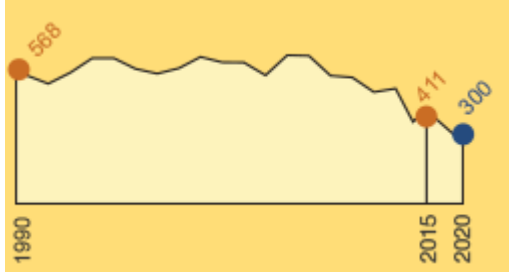
Minnesota Traffic Fatalities

TZD Goal: 300 by 2020

2017 YTD: 289

2016 YTD: 317

2016 Total: 392*



On October 26th and 27th, Officers Runde and Pallansch attended the 2017 TZD Conference at the River Centre in St. Paul. The cost for Officer Runde was covered by TZD grant funding and Officer Pallansch is assigned to DWI Court so his

conference registration fee was funded by DWI Court. Each received 7 POST Credits for attending the conference.

General sessions attended by our officers included topics discussing the future of autonomous vehicles (self-driving Google Cars/Waymo), and how estimations are that “Drugged Driving” will surpass “Drunk Driving.” Break-out sessions covered DWI legislative updates, drug use trends focusing on opioids, Standardized Field Sobriety Testing validation, and “Steve’s Law.” Steve’s Law is a provision which safe guards reporting persons from being prosecuted for possession of a controlled substance when requesting emergency help for a drug overdose (MN SS 604A.05, subd 2.)

The annual TZD conference is open to:

- Attorneys
- Child Passenger Safety Advocates
- City and County Engineers
- Departments of Transportation, Public Safety, and Health Employees
- Driver Educators
- Drug Recognition Evaluators
- EMS and Health Care Personnel
- Government Employees
- Judges
- Law Enforcement Officials
- Local and State Elected Officials
- Probation Staff
- Public Health Officials
- Safe Communities Coalitions
- Traffic Safety Stakeholders

The goal of the annual TZD Conference is to continue to foster multi-disciplinary approaches to traffics safety issues to help reduce fatal and serious injury motor vehicle crashes.

Conduct on Premises Activity Report for October

ICR	Date Reported	Title	Address	Summary
17014529	10/12/17	Conduct on Premises	3402 Oak Street	Conduct on premises.
17015008	10/22/17	Conduct on Premises	219 North 10 th Street	Conduct on premises.
17015148	10/24/17	Conduct on Premises	524 W College Drive	Conduct on premises.

Monthly Police Activity

October	2017	2016
Calls	1500	1644
Citations (Inc. Parking)	182	286
Part I and Part II Crimes Reported	244 **	377

**** Note: This does not include files that have not yet been coded.**

31 parking tickets were issued in the month of October with the following dispositions:

2	Dismissed
0	Business Validations
15	Paid in Full
0	Partial Payments Received
14	No Payment Received

Revenue Recapture Receipts:

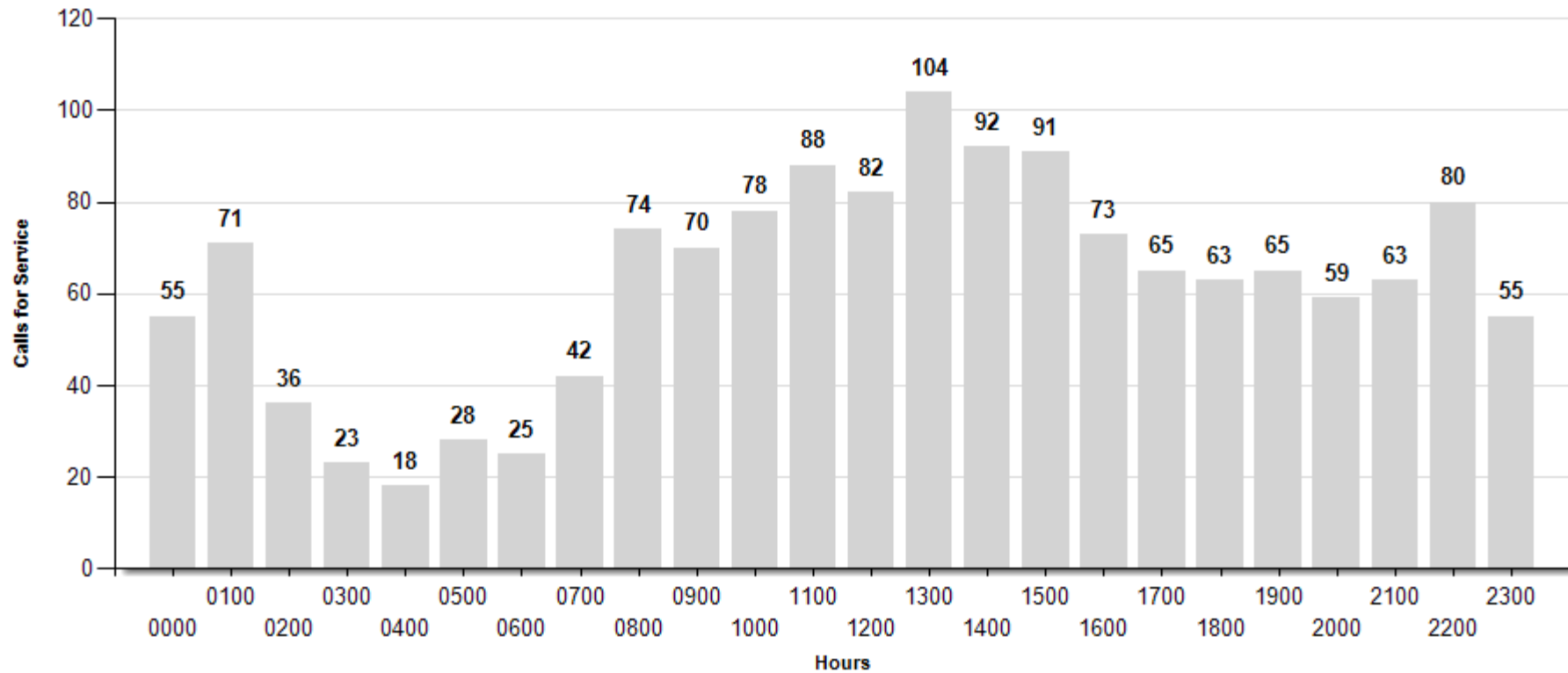
To Date: \$ 33,638.69
In 2017: \$ 5,629.23



Calls for Service Hourly

10/1/2017 to 10/31/2017

Total Calls: 1553



**CITY OF BRAINERD
SAFETY AND PUBLIC WORKS COMMITTEE
AGENDA**

November 20, 2017
City Council Chambers
6:30 PM

1. Sage on Laurel – Shaw Parking Lot Agreement Proposal Discussion
2. Proposal for Sanitary Sewer Repair – Gravity Sewer Line near Walnut Street
3. S 6th Street Sidewalk Extension – MnDOT Proposal for 2022 Construction
4. Event/Street Closure Application – Gnome for the Holidays
5. Event/Street Closure Application – Homeless Heroes 5K



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Shaw Parking Lot Agreement Proposal

- ☐ INFORMATION ONLY
☐ CONSENT AGENDA
☐ P&F COMMITTEE
☒ SPW COMMITTEE
☐ MAIN AGENDA

Action Requested:



Approve/Deny
Motion



Direction Requested



Discussion Item



Adopt
Resolution
(attach draft)



Hold Public Hearing*



Ordinance 1st Reading

**provide copy of published hearing notice*

Submitted by:

Paul Sandy, City Engineer

Department:

Engineering

Presenter (Name & Title):

Paul Sandy, City Engineer

Estimated Time Needed:

30 Minutes

Summary of Issue:

As the committee may recall from the last meeting, the Council agreed to consider an agreement with Ed and Sarah-Hayden Shaw on a lease agreement for a portion of their private lot directly abutting the Laurel Street public parking lot.

Alternatives, Options, Effects on Others/Comments:

See the attached memo.

Recommended Action/Motion:

Staff is requesting direction on how proceed with the information that was provided to the council tonight at this meeting. If the council has a general direction on what the agreement should consist of, staff can proceed with proposing a counter offer to the Shaw's and bring back an agreement or another counter offer to the next meeting. If council decides that re-configuring the Laurel lot is the best option long term for the public parking area, then staff can proceed with a final design for striping in the spring.

Financial Impact:

Is there a cost associated with this request:



Yes



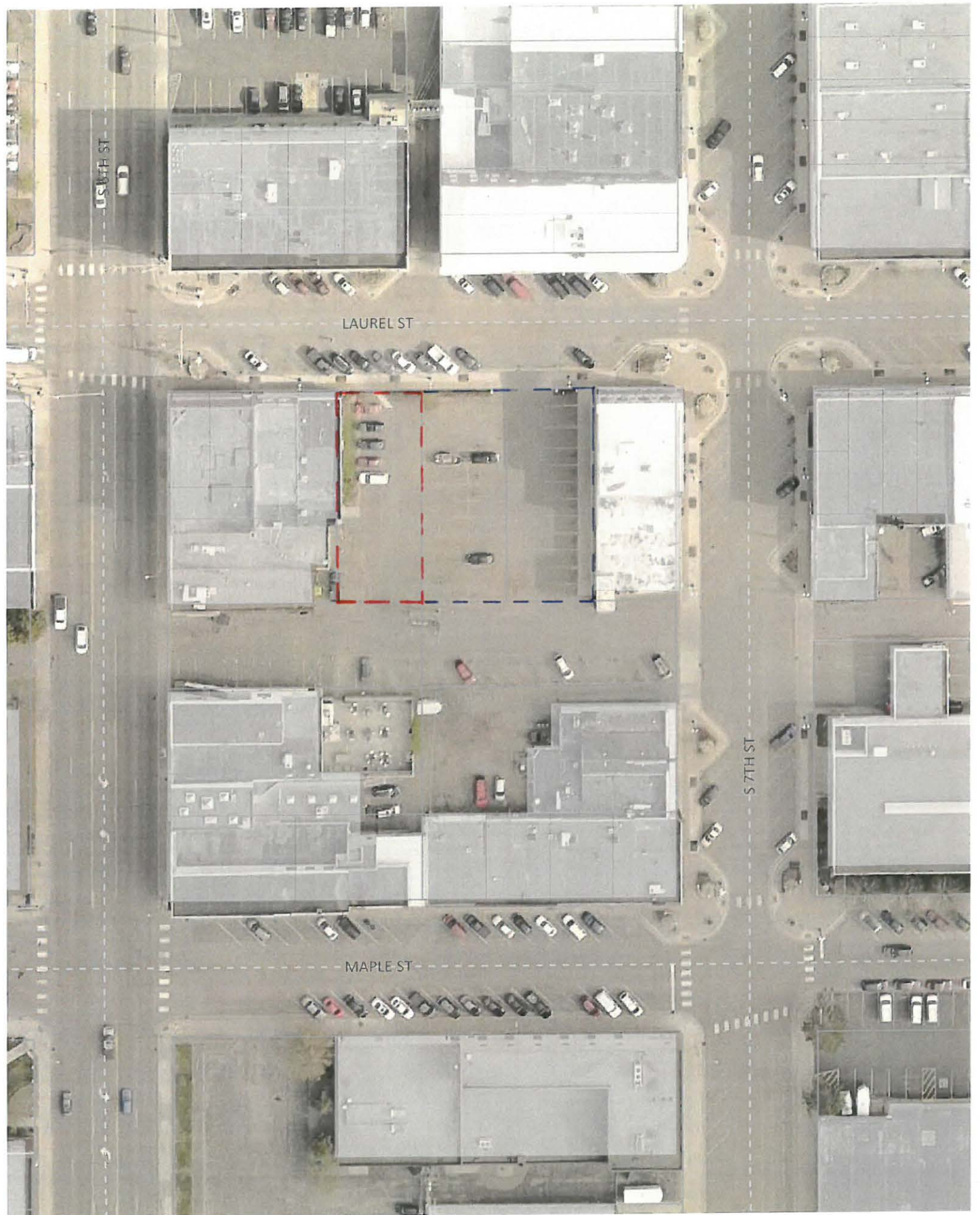
No

What is the total cost, with tax and shipping

\$ Not Known

Is this budgeted? ☐ Yes ☐ No

Please Explain:





MEMO

TO: Safety and Public Works Committee

FROM: Paul Sandy, City Engineer

DATE: November 15, 2017

SUBJECT: Downtown Laurel Street Parking Lot Agreement with Ed and Sarah Hayden-Shaw

As you may recall from the last Council meeting Sarah Hayden-Shaw, owner of Sage on Laurel, was at the council meeting contesting the proposed assessment to 606 Laurel Street and 612 Laurel Street due to the City use of their private parking area. During this time, there was discussion of the potential of a lease agreement with the City of Brainerd to use a portion of their parking area for access to nine spaces in the Laurel Street lot. I have attached some figures to this memo to outline what exactly the layout of the existing Laurel Lot is and how the spaces are configured in relation to the private parking and will also get into some options for the Committee and Council to consider when deciding of where to go in this circumstance.

Existing Lot Layout

After the Council Meeting on Monday, I had a technician go out to survey the location of the parking stalls in the Laurel Street Parking lot and how the stalls currently lay out in respect to Mr. and Mrs. Shaw's parking at Sage on Laurel. This layout can be seen in the first attachment to this memo. As you can see from the layout with the parcel lines and the parking spaces drawn, the spaces are 7 feet from the lot line of Sage on Laurel parking, which contradicts the email in which Mrs. Shaw sent regarding her proposal for a lease. Per her proposal, it states that the City uses 3/8 of their parking lot for access to the 9 spaces shown along with the west two feet of those spaces being located on their property. This is not the case, as the spaces lie 7' inside the City property. According to Brainerd Zoning Ordinance 515-22-5, Parking Surface Design Standards, the minimum 2-way isle width for 90° angle of parking is 24 feet, which currently exists to the east and west of the center island block of parking within the Laurel Street lot in reference to the spaces adjacent to both Sage on Laurel and the Hockey House. It is interesting to note that, without the Laurel Street Parking directly abutting the Sage on Laurel lot, the Sage on Laurel parking area would only have an 18' isle, which is 6 feet less than the 2-way minimum isle width according to the same zoning ordinance. Without the public Laurel lot adjacent to the Sage on Laurel lot, the north 5 spaces on the Sage on Laurel lot would essentially become un-usable to City Zoning Ordinance standards. I will get into a proposed lot

layout that the City could explore later into this memo, which eliminates the need for use of the Sage on Laurel parking area.

Shaw Proposal

While looking through the Shaw proposal, there are some things that I would like to point out regarding both the use of the lot and some of the maintenance costs associated with parking areas.

As I have stated previously, the statement of 3/8 of use of the lot as sole access to the 9 spaces may or not be true, as I cannot model how people drive in parking areas. The parking spaces are, however, located 7' within City property, which does contradict the statement made in the proposal which states the spaces lie 2' within Mr. and Mrs. Shaw's private property. Using the same standard 24' isle for 2-way, 90° parking spaces, that means that vehicles using the City parking spaces may use up to 17 feet of the Shaw's area for access, which does correlate to approximately 3/8 of their 50-foot lot. I will contend, however, that the Shaw's do need approximately 1/7 (7/50) of the public parking area for direct access to their private parking to have the minimum isle width for vehicles to access their spaces. The Shaw's also need to have both the entrance off Laurel Street into the Laurel Street lot and the entrance off S 6th Street through the alley to access their parking area, as they do not have any direct access to their private parking area.

When running through the costs in the proposal from Mr. and Mrs. Shaw, I do not disagree with the mortgage amount of \$2,580/year nor the \$900 in insurance or \$950 in city assessments for snow removal and landscaping/irrigation. The snow removal costs in the original email that I sent Mrs. Shaw equated to approximately \$1,950/year for an average snowfall year, which is contradictory of the \$1,850 in her proposal. When looking through proposed tax statements for 2017 to the property at 612 Laurel Street, the total proposed tax amount is \$2,204.00, \$704.80 of which is property tax, \$1,179.04 of which is an assessment for the Downtown Improvement Project 05-28, \$226.40 for the 2016 DTSS and DTSR assessment from 2016, and assessments listed as all other of \$93.76. The total slightly contradicts Mr. and Mrs. Shaw's proposal of \$2,500 taxes in the amount of \$296. With a large portion of their taxes being assessments from the Downtown Improvement 05-28, the inclusion of the assessment amount into a lease would really be providing relief of approximately \$442/year in Improvement 05-28 assessments along with 3/8 relief to the downtown special services and snow removal assessments per year.

Mr. and Mrs. Shaw propose an asphalt maintenance cost of \$800/year, which equates to \$32,000 over a 40-year life cycle of pavement with proper maintenance. The area of the parking area is 50' X 140', which is 7,000 square feet.

- Resurfacing Cost – 40-year cycle – 7,000 SF (2" bituminous): 90 ton @ \$100.00/ton = **\$9,000**
- Fog Seal – 10-year cycle – 7,000 SF (0.20 Gal/SY): 160 Gallons x \$10.00/Gal = \$1,600 x 4 = **\$6,400**
- Crack Seal – 5-year life – Crack Every 10 feet, 50 feet long = 700 Linear Feet x \$1.00/Ft = \$700 x 8 = **\$5,600**
- Striping – 5-year life - Approx. 400 Linear Feet Total = 400 Linear Feet x \$0.50/Ft = \$200 x 8 = **\$1,600**

Total Over 40 Year Life = \$22,600

Total/Year = \$565

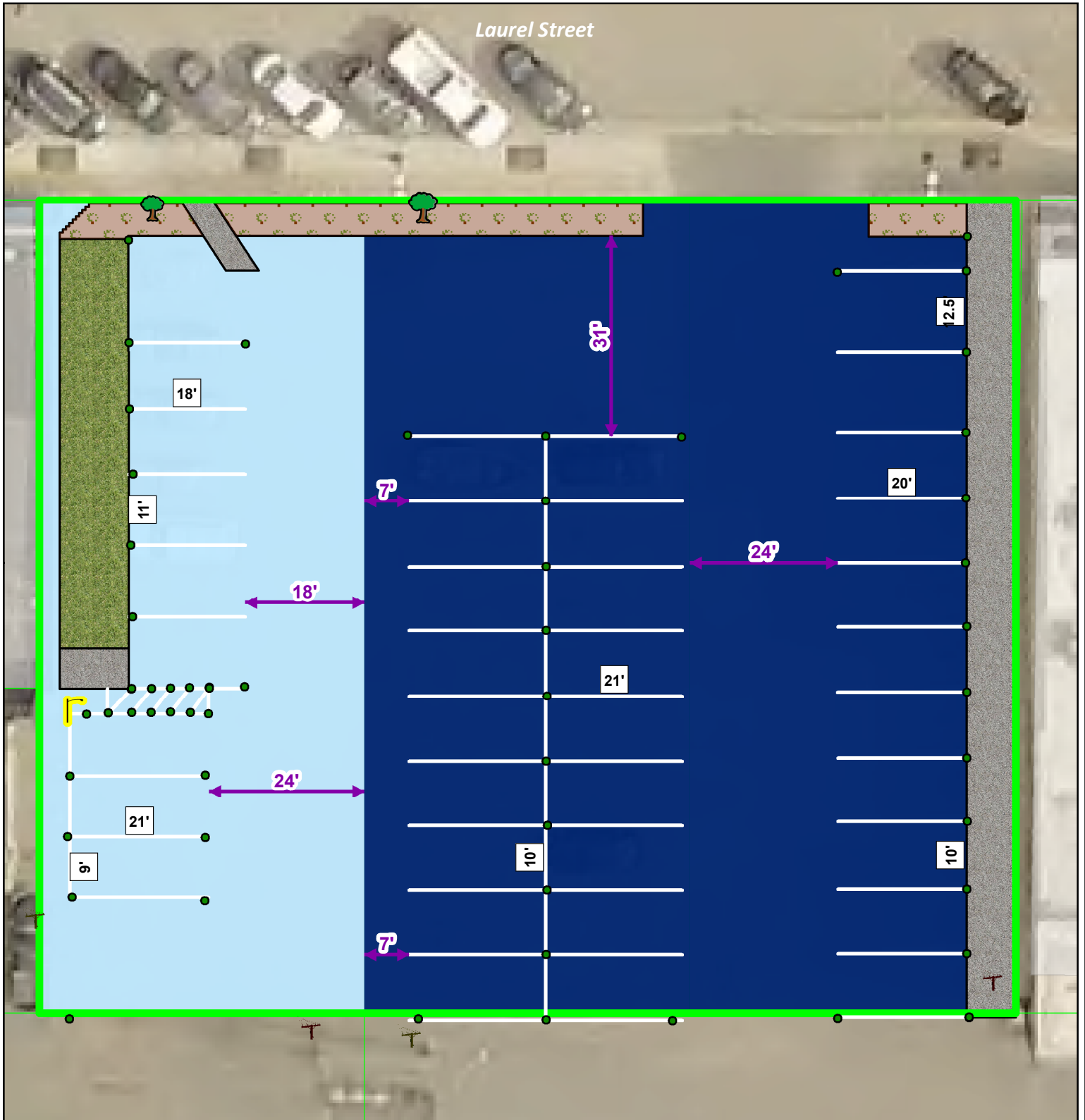
*Note – Unit prices are generous to include contractor mobilization and overhead.

In summary, if the conclusion of the council is to come to an agreement on a lease of the private parking, staff is requesting direction on what the council is willing to pay into a lease, as the numbers staff are calculated do contradict the proposed numbers from the proposal in many cases.

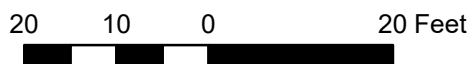
Proposal for Striping Lot

City staff took the time to look for alternatives besides a lease agreement so that use of the of the private parking would not be needed. A depiction of the proposal can be seen attached. The striping would include two blocks of 10 parking spots each oriented so that cars would be parking north and south. The blocks would be directly adjacent to Shaw's parking, but there would need to be some sort of barrier on the west City property line so that cars do not have the ability to come in from the west traveling to the east to the blocks of parking through the private property. As the lot is 50' wide, there is the opportunity to fit five ten-foot wide spaces and maintain the minimum 24' wide isle spacing. This would also create two additional parking spaces in the Laurel lot.

This is just one of many alternatives that the Committee and City Council have. Staff's interpretation of this is that the Shaw's need the public area for use of their lot, and if the public lot continues to be configured the way it is, the City does need to use a portion of theirs to access their spaces. This is all left up to interpretation, but I hope this helps to clarify the costs so that the Committee and Council can make an informed decision.



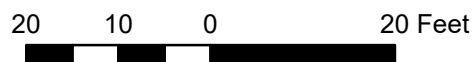
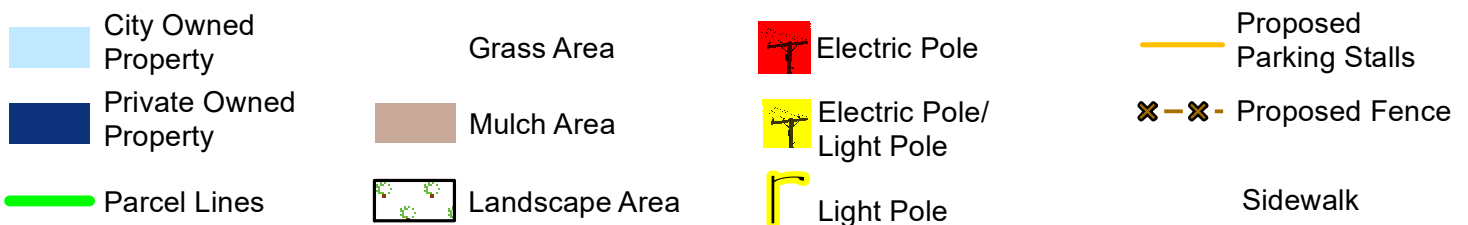
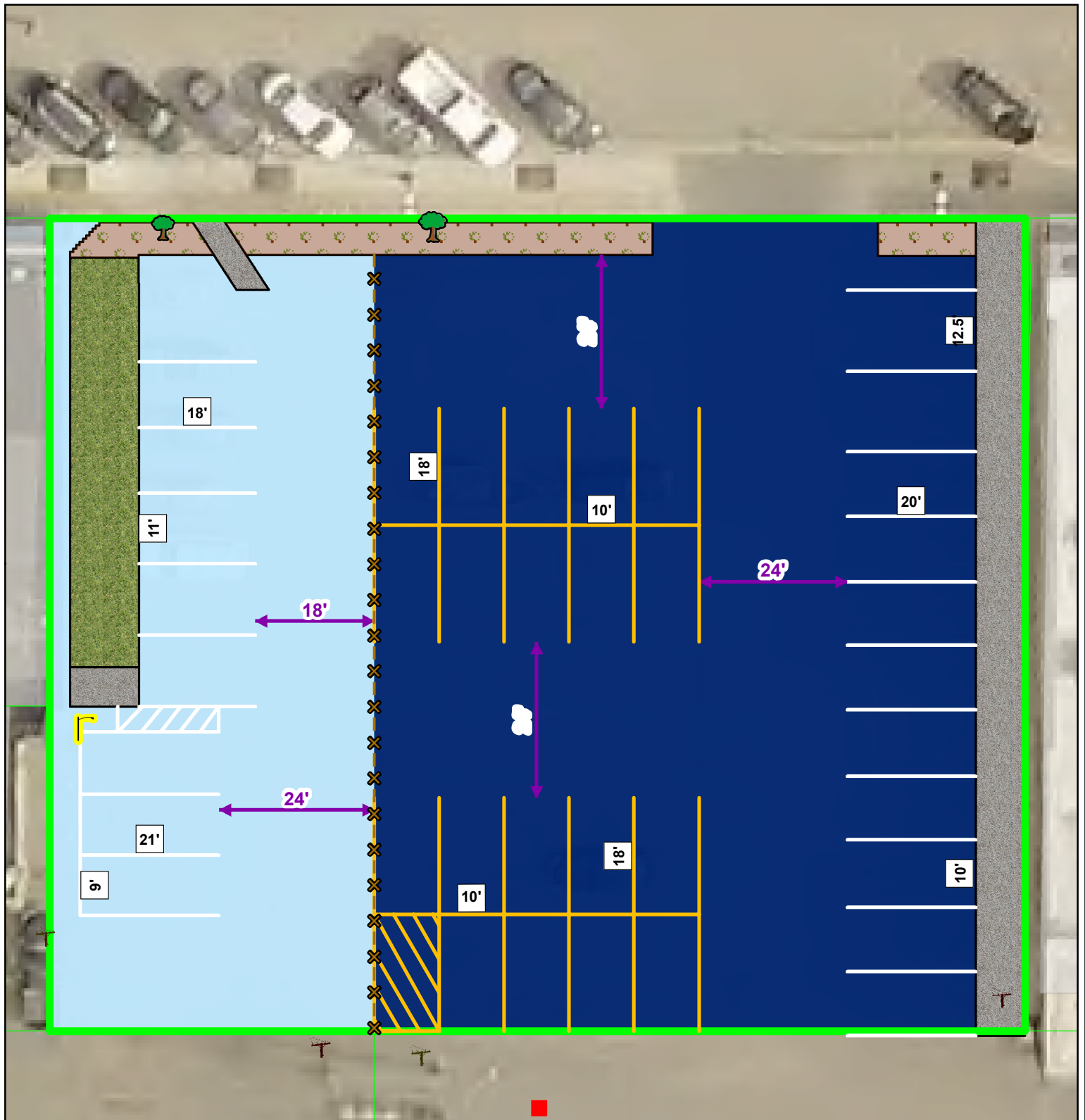
- | | | | |
|------------------------|----------------|---------------------------|----------|
| City Owned Property | Grass Area | Electric Pole | Sidewalk |
| Private Owned Property | Mulch Area | Electric Pole/ Light Pole | |
| Parcel Lines | Landscape Area | Light Pole | |



Print Date
11/16/2017

This map is intended for reference purposes only and is not a legally recorded map nor survey. The City of Brainerd shall not be liable for any damages or claims that arise due to accuracy, availability, use, or misuse of the information herein pursuant to MN Statutes 466.03 Subd 21.





Print Date
11/16/2017

This map is intended for reference purposes only and is not a legally recorded map nor survey. The City of Brainerd shall not be liable for any damages or claims that arise due to accuracy, availability, use, or misuse of the information herein pursuant to MN Statutes 466.03 Subd 21.



Paul Sandy

From: Paul Sandy
Sent: Thursday, November 2, 2017 7:09 AM
To: 'Sarah Hayden Shaw'
Subject: RE: Lot expenses

Hey Sarah,

I have this item on the main agenda and will take place during the discussion after the public hearing, which will be the time for you to come and give your proposal to the council so that they may hear and decide upon what you have proposed. I will include your email in the agenda request.

Thanks!

Paul G. Sandy, P.E.
City Engineer | City Of Brainerd
501 Laurel Street, Brainerd, MN 56401
218.454.3411 direct | 218.828.2316 fax
218.513.0172 mobile
Email | psandy@ci.brainerd.mn.us
www.ci.brainerd.mn.us

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From: Sarah Hayden Shaw [mailto:sjhaay@gmail.com]
Sent: Wednesday, November 1, 2017 8:31 PM
To: Paul Sandy <psandy@ci.brainerd.mn.us>
Subject: Fwd: Lot expenses

Dear Mr. Sandy,

Thank you for meeting Ed and I last week. We will not be contesting the assessments at the public hearing assuming we can come to an agreement on lease of the city's usage of our lot before hand. Here is what we propose, could you please pass this on to the Council for their review? Thank you, Sarah Hayden Shaw

The city does not contest the fact that it uses three eights of the usage of our private parking lot East of 606 Laurel St. as the sole access for nine parking spaces plus the west 2 feet of those nine spaces. We paid \$40,000 for the lot. A 30 year mortgage at 5% interest would be \$2580 a year. We pay \$900 in insurance and \$950 in city assesments. The snow removal cost as calculated by City Engineer Paul Sandy is \$1850 per year. Maintenance of asphalt and striping \$800 per year.

Taxes 2500
Insurance 900
Assessments 950
Snow removal 1850
Maintenance 800

Mortgage 2580

Total annual expenses- \$9530

The city has $\frac{3}{8}$ of the usage of the lot. We ask that the city pay $\frac{3}{8}$ of the expenses in the form of a lease agreement.

This comes to an annual lease cost of \$3574 per year. If the city agrees to continue snow removal on the lot, we would agree to reduce that amount by actual cost of snow removal as stated by Paul at 1850.

This leaves a final lease payment of \$1734 per year.

Thank you, Sarah Hayden Shaw

2. Residential uses in R-1 and R-2 Zoning Districts may construct driveways and parking areas up to the property line, but shall not encroach within drainage and utility easements.
 3. Non-residential uses in residential Zoning Districts and uses in all other zoning districts, driveways and parking stalls shall be set back a minimum of three (3) feet from side and rear property lines. The City may allow an exception to the required setback to accommodate a shared driveway along a common property line, provided the following conditions are met:
 - a. Access easements are established and recorded over the shared driveway in favor of each affected property owner.
 - b. A maintenance agreement between the property owners is established and recorded for the shared driveway.
 4. Each lot and parcel shall be entitled to at least one (1) curb cut. Lots and parcels shall be allowed one (1) curb cut access for each one hundred twenty-five (125) feet of street frontage. Corner lots and parcels are allowed one (1) curb cut access plus one (1) additional curb cut access for frontages over one hundred twenty-five (125) feet.
- E. Curb Cut/Driveway Width. No curb cut shall exceed thirty (30) feet in width as measured at the street right-of-way line. Commercial and Industrial properties requiring larger curb cuts to accommodate truck turning radii shall be allowed to have curb cuts up to thirty-six (36) feet in width. Access to a collector or arterial roadway shall require review and approval by the City Engineer and any other affected agency as outlined in Section 20-22-4.A of this Ordinance.

515-22-5: Parking Surface Design Standards.

- A. Parking Area Standards. Parking areas and the aisles shall be developed in compliance with the following standards:

Angle of Parking (A)	Stall Width (B)	Curb Length Per Car (C)	Stall Length (D)	Stall Depth Wall to Aisle (E)	Stall Depth Interlock to Aisle	Aisle One Way (F)	Aisle Width Two Way (F)
90°	10' 0"	10' 0"	18' 0"	18' 0"	18' 0"	24' 0"	24' 0"
75°	10' 0"	9' 6"	18' 0"	20' 8"	19' 10"	21' 6"	23' 0"
60°	10' 0"	10' 5"	18' 0"	21' 0"	19' 10"	18' 0"	22' 0"
45°	10' 0"	12' 9"	18' 0"	19' 10"	17' 10"	15' 0"	22' 0"
0°	10' 0"	22' 0"	22' 0"	9' 0"	9' 0"	12' 0"	24' 0"



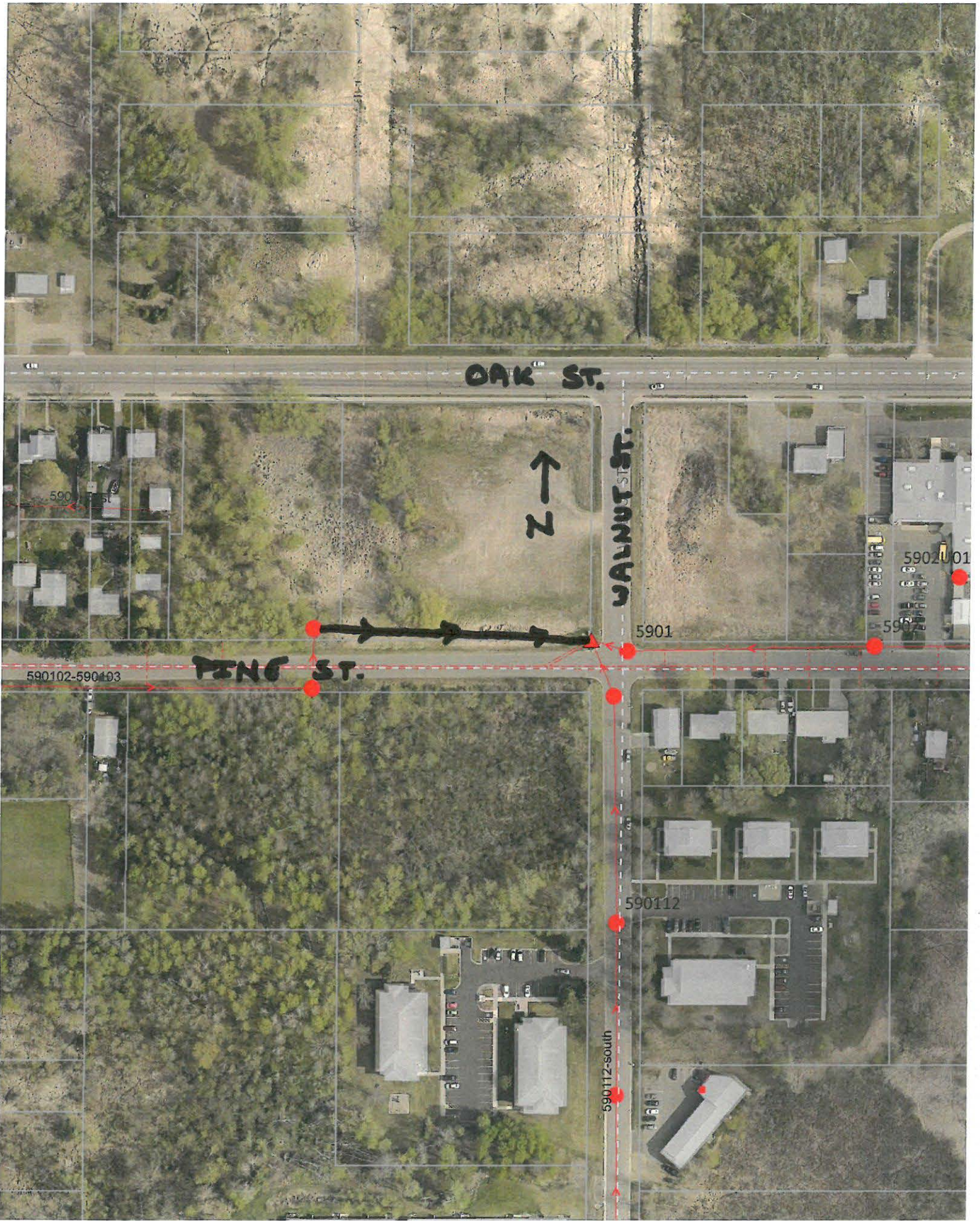
Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Proposal for Sewer Repair - Gravity Sanitary Sewer Line near Walnut St.

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Paul Sandy, City Engineer	Department: Engineering
Presenter (Name & Title): Paul Sandy, City Engineer	Estimated Time Needed: 10 Minutes
Summary of Issue: Attached is a quote from Visu-Sewer to do a repair on a gravity sewer line near the Walnut Street lift station. I have also attached a map of the location, and we will be watching a short video to see the problem we are encountering.	
Alternatives, Options, Effects on Others/Comments: I will be showing the committee the video of the issue at hand. Currently, there are four taps that are leaking groundwater into the pipe at this location. Typically, fixing this type of issue would not be a problem, as our sewer crew would be able to simply dig it up and make the repair. However, this sewer pipe is installed in the bottom of a ditch in a wetland. This pipe would not be able to be dug without dewatering and wetland permitting. A trench-less fix to this pipe is going to be the best and most cost effective way to fix the I and I issue. Staff had a Visu-Sewer representative come take a look at the area and also the video that you have seen. Visu-Sewer gave us a price to come and pressure grout the leak to get the leak to stop. Once that is done, a cured in place pipe liner would be installed for a permanent fix. Staff estimates that approximately 60,000 gallons/day of water may be getting treated at BPU due to these four leaks identified in this pipe.	
Recommended Action/Motion: Staff would recommend to accept the trenchless fix proposal from Visu-Sewer which includes a CIPP liner for a cost of \$15,444.25 and the pressure grouting of the pipe first to stop the leaks at \$270.00/hr labor plus \$12.00/gallon of grout (time and materials). There will also be some staff time involved to clear some trees and ensure they have driveable access to make the repairs.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☒ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ approx. \$17,000 <i>Is this budgeted?</i> ☐ Yes ☒ No <i>Please Explain:</i> Funds to come out of the Sanitary Sewer Fund 237.	



OAK ST.

WALNUT ST.

PINE ST.

Z ↑

5901

5902001

5902

590102-590103

590112

590112-south



Proposal

To: Paul Sandy
City of Brainerd
501 Laurel St
Brainerd, MN 56401-3595
(218) 454-3411

From: Todd Stelmacher
Visu-Sewer, Inc
3155 104th Lane NE
Blaine, MN 55449
763-252-0004

Date: 11/2/2017

Project: Sanitary Sewer CIPP Installation

Visu-Sewer is pleased to provide the following quotation for CIPP installation:

Install 379 linear feet of 8" National Liner @ \$40.75 per linear foot \$ 15,444.25

The above listed prices are based on the current video inspection and include:

- Labor, material and equipment
- Mobilization and residential traffic control
- Light cleaning and televising of sewers prior to installation of liner
- Bypassing of existing flow
- Installation of National Liner per manufactures instructions, ASTM 1216
- Televising of sewers after installation of liner
- Reinstatement of zero (0) services

Note: This proposal does not included removal of trees and brush at the upstream manhole required to position our equipment over the manhole.

The City of Brainerd will need to provide drivable access to all manholes, pump down the lift station level, water from nearby hydrants (without charge), a dump site for captured debris, and traffic control beyond cones and signs. Grouting of active leaks will be performed under a separate agreement prior to lining. Thank you for the opportunity to quote on this project. Please do not hesitate to call if you have any questions.

All material guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to standard practices or specifications submitted. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. If a collapse of the original pipe results during the lining process, Visu-Sewer will not be held liable for costs associated with excavation, repairs or restoration. Our workers are fully covered by Workmen's Compensation Insurance. This proposal may be withdrawn if not accepted within 30 days of issue. Terms - Net 30 days.

Acceptance of Proposal

The above prices / conditions are satisfactory and are hereby accepted. Visu-Sewer is authorized to do the work as specified.

Date: _____ Signature: _____

www.visu-sewer.com

WISCONSIN - ILLINOIS - MINNESOTA - IOWA - MISSOURI



Proposal

To: Paul Sandy
City of Brainerd
501 Laurel St
Brainerd, MN 56401-3595
(218) 454-3411

From: Todd Stelmacher
Visu-Sewer, Inc
3155 104th Lane NE
Blaine, MN 55449
763-252-0004

Date: 11/2/2017

Project: Grout Service Connections

Visu-Sewer is pleased to offer the following services:

Pressure grouting and sealing shut of four (4) sewer laterals in the City of Brainerd. Project to consist of filling the lateral with grout from the mainline sewer. Price assumes the mainline sewer is clear of obstructions which could prevent proper positioning of our equipment. Visu-Sewer will provide labor, equipment and material. Note: If obstructions (i.e. offset joints, protruding taps, mineral deposits, etc.) prevent the completion of the project, time removing obstructions, or mobilization/ time on site, will be charged at a T&M rate of \$260.00 per hour.

Price -	Labor	\$270.00 per hour (port to port)
	Material	\$12.00 per gallon (AV100 grout)

NOTE: The actual volume of grout used will be determined by the length and diameter of the existing lateral stub pipes.

The City of Brainerd shall provide access to all manholes, fresh water for our grout truck (without charge), and a dump site for captured debris. Visu Sewer, Inc. will not be held liable for any costs associated with damages that occur if an active service connection is inadvertently sealed shut.

Thank you for the opportunity to quote on this project. If you should have any questions please do not hesitate to contact us at 800-876-8478.

All material guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance. This proposal may be withdrawn if not accepted within 30 days of issue. Time and material rates are charges "port to port". Terms - Net 30 days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. Visu-Sewer, Inc. is authorized to do the work as specified.

Date: _____ Signature: _____

www.visu-sewer.com

WISCONSIN - ILLINOIS - MINNESOTA - IOWA - MISSOURI



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: S 6th Street Sidewalk Extension - MnDOT Proposal

- ☐ 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:

Paul Sandy, City Engineer

Department:

Engineering

Presenter (Name & Title):

Paul Sandy, City Engineer

Estimated Time Needed:

10 Minutes

Summary of Issue:

City and MnDOT staff have had preliminary discussions about the reconstruction of S 6th Street (TH 371B) from Joseph Street to Greenwood Street in 2022. As you recall, the City has hired SEH to perform engineering and construction services for the 2019 construction of a sidewalk on the east side of S 6th Street from Joseph Street to CR 117 (Industrial Park Road) along with Phases II and III of Garfield Safe Routes to School.

Alternatives, Options, Effects on Others/Comments:

See the attached memo.

Recommended Action/Motion:

Staff recommends accepting MnDOT's proposal to use the City's federal funds in the construction of the S 6th Street sidewalk extension with the conditions that MnDOT covers the City's 20% construction match of the sidewalk along with MnDOT designing the sidewalk to be incorporated into the MnDOT reconstruction of S 6th Street (TH 371B) from Joseph Street to Greenwood Street. Staff also recommends council direct staff to have SEH scope down their proposal for professional services from September 5th, 2017 to not include the S 6th Street Sidewalk Extension design and construction engineering services. This scoped down agreement would be brought forward for approval once received from SEH.

Financial Impact:

Is there a cost associated with this request:



Yes



No

What is the total cost, with tax and shipping

\$ Estimated Savings \$150,000

Is this budgeted?



Yes



No

Please Explain:

SEH would need to scope down their proposal for engineering and construction services to take out the S 6th Street sidewalk extension. Their contract would then only included Phases II and III of Garfield SRTS.



MEMO

TO: Safety and Public Works Committee
FROM: Paul Sandy, City Engineer
DATE: November 14, 2017
SUBJECT: S 6th Street Sidewalk Extension Project

As the committee may recall, the City has obtained Short Elliot Hendrickson to provide design and construction engineering services for the S 6th Street Sidewalk Extension Project and the Garfield Safe Routes to School Phase II and Phase III to be constructed in 2019. The total awarded grant money, city share, and engineering costs can be seen below:

SEH Design and Construction Services per September 5, 2017 Agreement:	\$229,981
Estimated Garfield SRTS Phase II Federal Grant Money:	\$280,000
Estimated Garfield SRTS Phase II City Match (20%):	\$70,000
Estimated Garfield SRTS Phase III Federal Grant Money:	\$408,000
Estimated Garfield SRTS Phase III City Match (20%):	\$102,000
Estimated S 6 th Street Sidewalk Extension Federal Grant Money:	\$312,572
Estimated S 6 th Street Sidewalk Extension City Match (20%):	\$78,143
Estimated Total Federal Grants:	\$1,000,572
Estimated Local Share (Engineering Costs + 20% Construction)	\$480,124
Estimated Total Costs	\$1,480,696

MnDOT has proposed to City staff an opportunity to construct the City sidewalk extension as part of a reconstruction project on S 6th Street (TH 371B) from Joseph Street to Greenwood. In return to pushing the project back to 2022, MnDOT has offered to cover the 20% match of the S 6th Street Sidewalk Extension as seen above and estimated at \$78,143 along with designing the sidewalk and incorporating it into their reconstruction plans. Doing a straight proportional

reduction of engineering costs based upon estimated construction costs, the estimated engineering cost savings is calculated to be 71,847. However, if approved tonight, staff would recommend that committee and council direct staff to request SEH scope down their agreement for engineering and construction services so that a new agreement for professional services may be executed.

If approved, the total estimated cost savings to the City is estimated to be \$150,000. Staff feels this is a great opportunity for the City to save some money and still get the project completed, albeit 3 years later. The City would forfeit their \$312,572 of federal funds to MnDOT for construction of the same sidewalk in the location, and MnDOT would design, obtain all easements, and install the sidewalk. Along with these items, MnDOT would cover the 20% local match for the construction.

By the City allowing MnDOT to design and construct the sidewalk, it also provides MnDOT flexibility to change profile grades on the highway to better match existing conditions without having to match into a pre-existing sidewalk in this location.



Paul Sandy

From: Wehseler, Luke (DOT) <luke.wehseler@state.mn.us>
Sent: Friday, November 3, 2017 7:22 AM
To: Paul Sandy
Cc: Mark Ostgarden; James Fladung; Jim Thoreen; Howieson, Kelvin (DOT); Voss, Steven (DOT)
Subject: RE: TH 371B Joseph Street South Reconstruct

Paul,

Thanks for working through this project with us. I did a little checking after our meeting on 10/17/17. It was determined from our ADA group that the sidewalk is needed to address the pedestrians in this area. If the City chooses to not build this sidewalk in 2019, MnDOT will include it with the 2022 project. The City would have no cost for this sidewalk in the 2022 project. MnDOT would cover the 20% cost share using the Federal money in 2022 for the funds originally allocated 2019. Kelvin would need to find a project to swap funds with for this to work.

If the City chooses to install it in 2019, all associated costs/design would be the City's responsibility. MnDOT would act as a reviewer.

Please let us know what route the City chooses to move forward with so we can plan accordingly.

Thanks,

Luke Wehseler, PE
Project Manager/Consultant Coordinator
District 3 Project Development
7694 Industrial Park Road
Baxter, MN 56425
Direct: 218-828-5721



From: Paul Sandy [mailto:psandy@ci.brainerd.mn.us]
Sent: Wednesday, October 04, 2017 3:07 PM
To: Wehseler, Luke (DOT) <luke.wehseler@state.mn.us>
Cc: Mark Ostgarden <mostgarden@ci.brainerd.mn.us>; James Fladung <jfladung@ci.brainerd.mn.us>; Jim Thoreen <jthoreen@ci.brainerd.mn.us>
Subject: RE: TH 371B Joseph Street South Reconstruct

Hey Luke,

I spoke with Mark a little bit on this issue, and we are a little hesitant about pushing the project back another 3 years. This sidewalk would be installed in a heavy pedestrian use area, and has ben needed for a very long time.

I am unsure how exactly this would unfold in the grand scheme of things. We were originally awarded these TAP funds in 2014 for 2018 construction. We decided to push back the sidewalk extension project, as we have been funded for two TAP Safe Routes to School projects after the award of the Sidewalk Extension project.

We currently have a consultant on board to design and construct all three projects as part of one large federally funded project in 2019. We have held our first Project Management Team Meeting and we have our first public informational meeting on October 23 so that we can engage public input for the proposed sidewalks.

A couple questions that may help our answer after we discuss this on a City level

- I think that this was the first time that the City was made aware of the potential reconstruct of the rest of TH 371B for 2022. Is it MnDOT's policy to construct a sidewalk along with the reconstruct anyways? If the City agreed to push the project back to 2022, would MnDOT be willing to fund the City's 20% share of the construction and the engineering for the project, if that was part of the plan to begin with? Would MnDOT design this anyway and the City not be involved?
- I am assuming that this is not an option, but thought I would ask the questions anyways. If MnDOT builds a sidewalk where the City planned the TAP funded project and uses state funds for that sidewalk, would the City be able to use its awarded TAP funds in another location?

This puts us in a bit of a sticky situation at this point with our project development taking off with our consultants as we speak, but it's something we should get resolved soon so we know the direction we need to go during the development of our federal projects.

We can sit down and discuss too if that would be a better option.

Thanks!

Paul G. Sandy, P.E.

City Engineer | City Of Brainerd
501 Laurel Street, Brainerd, MN 56401
218.454.3411 direct | 218.828.2316 fax
218.513.0172 mobile
Email | psandy@ci.brainerd.mn.us
www.ci.brainerd.mn.us

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From: Wehseler, Luke (DOT) [<mailto:luke.wehseler@state.mn.us>]

Sent: Wednesday, October 4, 2017 12:59 PM

To: Paul Sandy <psandy@ci.brainerd.mn.us>

Subject: TH 371B Joseph Street South Reconstruct

Paul,

We had a scoping meeting yesterday and there was a few concerns with the City's proposed sidewalk project slated for 2019. One with the retaining wall in the ROW and another with drainage/impervious. One suggestion was to see if these funds could be swapped to have a system built with the reconstruction project. Our planner is looking into this now.

Would the City be willing to wait until 2022 to install the sidewalk with the reconstruction project if the funding could be used then?

Thanks,

Luke Wehseler, PE
Project Manager/Consultant Coordinator
District 3 Project Development
7694 Industrial Park Road
Baxter, MN 56425
Direct: 218-828-5721





Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Event/Street Closure Application - Gnome for the Holidays

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Paul Sandy, City Engineer	Department: Engineering
Presenter (Name & Title): Paul Sandy, City Engineer	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached is the Event/Street Closure Application for the Gnome for the Holidays Event to be held in Downtown Brainerd on Saturday, December 9, 2017 from 1:00 PM to 5:00 PM.	
Alternatives, Options, Effects on Others/Comments: The event features Santa's arrival and also trolley rides downtown. No street closures were requested as part of the event. There will be use of the parking area at the corner of 7th and Front.	
Recommended Action/Motion: Staff recommends approval of the event application with the conditions of talking with the Fire Department on use of a contained fire pit for the event and also coordinate with Street Department staff if traffic control devices are needed for the parking area downtown.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

Application for a Street Closure, Special Event and Festival Permit

PART I: GENERAL INFORMATION

Name of the event: Gnome for the Holidays
Date(s) of the event: December 9th
Time of event (setup to breakdown): 1 - 5 pm
Location: Downtown Brainerd
Estimated number of attendees: 500

Organizer Information

Organizer's name (Please print): Nancy Williams
Organizer's address: 704 Laurel St.
Event contact person: same
Event contact daytime phone number: (h) _____ (w) 828-7844 (c) 218
Event contact persons e-mail address: chocolatelady49@yahoo.com
Contact name and phone number to be used on the day of the event: SAM E
(h) _____ (w) _____ (c) _____
For Profit/Nonprofit status (type): _____

Applicant Information, if different from the event organizer:

Applicant name (Please print): SAM E
Applicant address: _____
Applicant's telephone number (h) _____ (w) _____ (c) _____
Event contact e-mail address: _____

Description of Activities

Brief description of the activities planned during the event:

Santas arrival, trolley rides

If a parade, please describe the proposed route with the assembly and dispersal locations and attach a map: -

Site Information

Electrical usage?

Yes ☐ No ☒

Describe the type of equipment to be used and how you intend to supply the power:

Amplified sound?

Yes ☐ No ☒

Description of any recording and sound amplification equipment to be used in your event and the times:

Restrooms provided?

Yes ☐ No ☒ How many? _____

A ratio of 1 restroom for every 100-150 people is recommended.

Company contracted for restrooms: _____

If restrooms are provided by neighboring property(s) please submit the location and the property owner's signature to verify that approval has been granted.

Sign, banners, and posters/flyers?

Yes ☐ No ☒

Locations and descriptions: _____

Trash Disposal?

Yes ☐ No ☒

Company contracted for trash disposal: _____

Event Layout and Street Site Map

Yes ☐ No ☒

Please provide a layout of the event showing booths, staging, amusements, food, etc. and also provide a street map or park map showing the borders of the event.

Area Notification

Please describe your plans to notify property owners, tenants, and/or businesses within 300 feet of the event or festival site prior to City Council meeting. The City will supply you with a Notice of Hearing flyer to use in notification that lists the necessary information.

PART II: STREET CLOSURE REQUEST

No

While the City continues to treat downtown as a venue for special events, event plans must be balanced with the interests and needs of property owners.

Throughout all events, businesses should be reasonably accessible to the general public. If a business's entrance is blocked by the event layout, then accommodations such as signage, handbills, or similar methods should be made available to mitigate the impact on customer access. If a street closure occurs along residential streets, reasonable efforts must be made to alert all property owners along the road of the proposed closure. All street closures must be approved by City Council.

Please describe the name and sections of the streets for which you are requesting temporary closure (e.g. "South 7th Street between Maple Street and Front Street").

Time and date for beginning of street closures: _____

Time and date for reopening of streets: _____

Please describe your plans to notify property owners, tenants, and/or businesses along the affected route of the proposed street closure within 300 feet prior to City Council meeting. The City will supply you with a Notice of Hearing flyer to use in notification that lists the necessary information.

Failure to notify property owners and tenants in street closure areas will result in revocation of street closure permit.

Please describe how your event preserves customer and residential access for businesses and houses along your proposed street closure (e.g. preserving pedestrian flow along the downtown sidewalks). Additional pages or proposed layouts may be attached.

PART IV: HOLD HARMLESS AGREEMENT AND INSURANCE INFORMATION

The applicant covenants to save, defend, hold harmless, and indemnify the City of Brainerd and all of its officers, departments, agencies, agents, and employees (collectively the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with the applicant's event herein described.

The City, in its discretion, may require the Applicant to obtain liability insurance for any special event. If liability insurance is required, the following requirements apply:

- a. Minimum of \$1,000,000 in commercial general liability insurance.
- b. Applicant's insurance shall be primary.
- c. Insurance shall cover liability for injury death and property damage including coverage for alcohol related claims, if alcohol will be served.
- d. The insurance policy must be issued by an insurance company licensed to do business in Minnesota acceptable to the City.
- e. The City must be named as an "Additional Insured" on the policy.
- f. At least ten (10) days prior to the event, the applicant must give to the City a Certificate of Insurance showing the required coverage.

PART V: SIGNATURE OF EVENT APPLICANT

I attest that the above information is true and accurate and I have signed this application on behalf of the Applicant. I certify under penalties of perjury that I am authorized to execute contracts and other instruments and legally bind the Applicant.

Nancy Williams
Signature of the Event Applicant

11-9-2017
Date submitted to the City

Nancy Williams
PRINT NAME

Event Applicant Title

PART VI: FOR OFFICIAL USE ONLY

Departmental Sign-Offs Required

	Approval Date/Initials	Comments
Brainerd Public Utilities	<u>OK</u>	
City Administration	<u>OK</u>	
Engineering Depart.	<u>OK</u>	<u>WORK W/ STREETS IF TRAFFIC CONTROL NEEDED.</u>
Fire Department	<u>OK</u>	<u>TALK WITH FIRE DEPT ON</u>
Fire Support/EMS	<u>OK</u>	<u>FIRE PIT</u>
Parks and Recreation	<u>OK</u>	
Planning Department	<u>OK</u>	
Police Department	<u>OK</u>	

Certification of Street Closure Approval

The street closure request as described herein was approved by City Council at their _____, 20____ meeting. Approval is subject to the following condition:

Special Event/Festival Application and Permit Approval

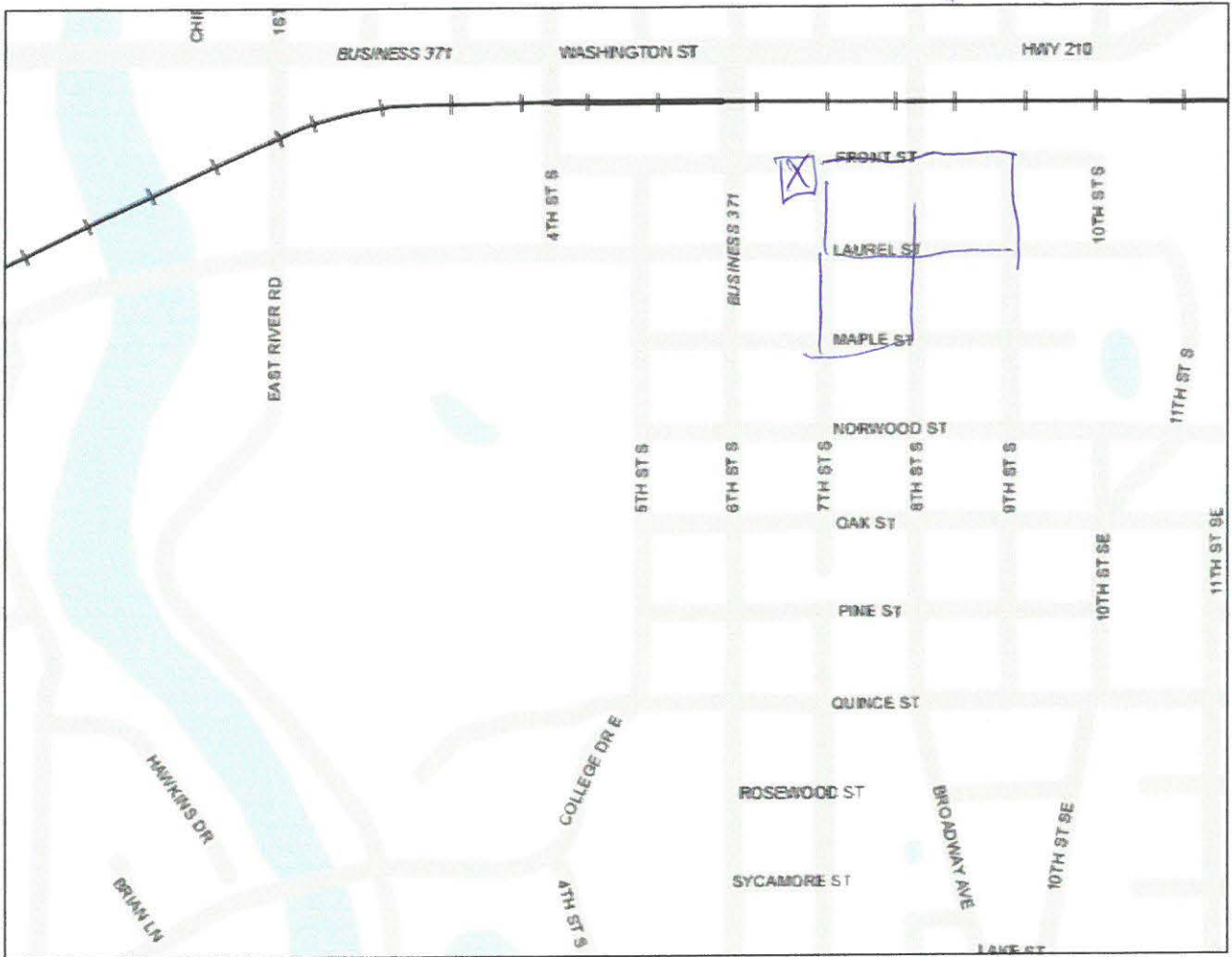
The Special Event as described above is approved subject to any conditions noted on this form or otherwise set forth by the City of Brainerd.

City Administrator

Date

Commonly Used Maps

Trolley
Ride
X parking lot
Also contained
fire pit for
warming





Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Event/Street Closure Application - Homeless Heroes 5K

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Paul Sandy, City Engineer	Department: Engineering
Presenter (Name & Title): Paul Sandy, City Engineer	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached is the Event/Street Closure Application for the Homeless Heroes 5K to be held on December 9, 2017 from 8:30 AM to 11:30 AM.	
Alternatives, Options, Effects on Others/Comments: The 5 K will utilize a route including the sidewalks/trails along College Drive, Mississippi Parkway, and Kiwanis Park around Boom Lake. No street closures were requested by the applicant. The applicant is working with Parks and Recreation for approval to use the park and also working with Police Department staff on support during the event at busy crossings.	
Recommended Action/Motion: Staff recommends approval of the event application with the conditions of getting approval for using the park and also the applicant continuing to work with police staff if presence is needed at the event.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



Street Closure, Special Event And Festival Application

Brainerd, Minnesota

Thank you for your interest in organizing a special event in Brainerd. The City is home to numerous cultural, community, and recreational events. These events are integral to our sense of community, and they play an important economic role by increasing tourism, generating downtown foot traffic, and fostering a festive atmosphere within the City. We look forward to working with you to help make your event a success.

All special events and festivals that require significant logistics planning between City departments or are requesting a street closure must submit this application to the City Administrator's Office at least thirty (30) days prior to the event. Event planners are encouraged to submit their applications as early as possible. City Council must approve all street closure requests, and additional licenses and permits may also be required, as outlined in part III of this application.

For questions, please contact the City of Brainerd Engineering Office at:

501 Laurel Street
Brainerd, MN 56401
Phone: (219) 828-2309
Email: engineering@ci.brainerd.mn.us

Application for a Street Closure, Special Event and Festival Permit

PART I: GENERAL INFORMATION

Name of the event: 2nd Annual Homeless Heroes 5K
Date(s) of the event: 12/09/2017
Time of event (setup to breakdown): 8:30am-11:30am
Location: Along College Dr.(side walks)from CLC to Kiwanis park, around Boom Lake trail
Estimated number of attendees: 50-75

Organizer Information

Organizer's name (Please print): Brainerd Jaycees
Organizer's address: PO Box 384 Brainerd, MN 56401
Event contact person: Arron Stoen
Event contact daytime phone number: (h) 218-831-0714 (w) 218-316-3782 (c) 218-831-0714
Event contact persons e-mail address: arron.stoen@gmail.com
Contact name and phone number to be used on the day of the event:
(h) _____ (w) _____ (c) 218-831-0714
For Profit/Nonprofit status (type): Nonprofit

Applicant Information, if different from the event organizer:

Applicant name (Please print): _____
Applicant address: _____
Applicant's telephone number (h) _____ (w) _____ (c) _____
Event contact e-mail address: _____

Description of Activities

Brief description of the activities planned during the event: _____

5K/one mile run/walk starting and ending at CLC. No road closure needed, utilizing sidewalks and side streets

If a parade, please describe the proposed route with the assembly and dispersal locations and attach a map: _____

Site Information

Electrical usage?

Yes ☐ No ☒

Describe the type of equipment to be used and how you intend to supply the power: _____

Amplified sound?

Yes ☒ No ☐

Description of any recording and sound amplification equipment to be used in your event and the times: _____

Only location will be at the main entrance of the college facing the river. Minimal sound amplified.

Restrooms provided?

Yes ☒ No ☐ How many? _____

A ratio of 1 restroom for every 100-150 people is recommended.

Company contracted for restrooms: We have the use of restrooms inside of the college.

If restrooms are provided by neighboring property(s) please submit the location and the property owner's signature to verify that approval has been granted.

Sign, banners, and posters/flyers?

Yes ☐ No ☒

Locations and descriptions: _____

Trash Disposal?

Yes ☐ No ☒

Company contracted for trash disposal: Event planners will conduct full clean up of entire route after

Event Layout and Street Site Map

Yes ☒ No ☐

Please provide a layout of the event showing booths, staging, amusements, food, etc. and also provide a street map or park map showing the borders of the event.

Area Notification

Please describe your plans to notify property owners, tenants, and/or businesses within 300 feet of the event or festival site prior to City Council meeting.

None other than working with local police department to ensure safety.

PART II: STREET CLOSURE REQUEST

While the City continues to treat downtown as a venue for special events, event plans must be balanced with the interests and needs of property owners.

Throughout all events, businesses should be reasonably accessible to the general public. If a business's entrance is blocked by the event layout, then accommodations such as signage, handbills, or similar methods should be made available to mitigate the impact on customer access. If a street closure occurs along residential streets, reasonable efforts must be made to alert all property owners along the road of the proposed closure. All street closures must be approved by City Council.

Please describe the name and sections of the streets for which you are requesting temporary closure (e.g. "South 7th Street between Maple Street and Front Street").

None

Time and date for beginning of street closures: _____

Time and date for reopening of streets: _____

Please describe your plans to notify property owners, tenants, and/or businesses along the affected route of the proposed street closure within 300 feet prior to City Council meeting. The City will supply you with a Notice of Hearing flyer to use in notification that lists the necessary information.

Failure to notify property owners and tenants in street closure areas will result in revocation of street closure permit.

Please describe how your event preserves customer and residential access for businesses and houses along your proposed street closure (e.g. preserving pedestrian flow along the downtown sidewalks). Additional pages or proposed layouts may be attached.

PART III: CONTACTS, PERMITS, AND FEES CHECKLIST

Each special event has its own requirements and needs. Listed below is a summary of the permits and fees common to many special events. Please note that it is not necessary to have all permits approved upon submission of this application. However, this checklist should serve as a guide as you plan your event. *All special events must have all permits and fees paid and approved prior to the start of the event.*

Permit, License, or Checklist	Yes	Pending	N/A	Contact (See contact information below)
Authorization to use a city park		X		Contact the Parks & Recreation Department for information.
Fire/EMS/Police support		X		Check yes to request emergency support. The appropriate level of fire, EMS, and police support will be determined by the City based on crowd size and the type of event. Fees may be discussed with the sponsor.
Food and vendor licenses			X	All vendors must apply for a temporary license through the Commissioner of Revenue's Office. Food vendors are required to collect and report meals tax.
Health Department permit			X	All food vendors must apply for a temporary food permit through the Minnesota Health Department (MDH).
Insurance certificate	X			May be required before issuing a permit.
Sign/banner permits			X	Contact the Planning Department for information.
Parade permit			X	Issued by the Police Department after complete submission of application.
Street closure			X	Must be approved by City Council after submission of the special events application. Contact the City Engineering Department for information/procedure. Closure of a State highway must be approved by MNDOT prior to City Council review.
Alcohol Use Permit			X	Must be approved by City Council after submission of the special events application. Contact the City Administrator's Office for information/procedure.

Contact Information:

Administrator's Office:	(218) 828-2307 E-MAIL admin@ci.brainerd.mn.us
Engineering Department:	(218) 828-2309 E-MAIL engineer@ci.brainerd.mn.us
Commissioner of Revenue:	(651) 282-5225 E-MAIL www.taxes.state.mn.us
Parks and Rec. Department:	(218) 828-2320 E-MAIL parks@ci.brainerd.mn.us
Planning Department:	(218) 828-2309 E-MAIL planning@ci.brainerd.mn.us
Police Department:	(218) 829-2805 E-MAIL police@ci.brainerd.mn.us
MN Department of Health	(320) 223-7300 E-Mail www.health.state.mn.us
MNDOT – Baxter Office	(218) 828-5700 E-Mail www.dot.state.mn.us

PART IV: HOLD HARMLESS AGREEMENT AND INSURANCE INFORMATION

The applicant covenants to save, defend, hold harmless, and indemnify the City of Brainerd and all of its officers, departments, agencies, agents, and employees (collectively the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with the applicant's event herein described.

The City, in its discretion, may require the Applicant to obtain liability insurance for any special event. If liability insurance is required, the following requirements apply:

- a. Minimum of \$1,000,000 in commercial general liability insurance.
- b. Applicant's insurance shall be primary.
- c. Insurance shall cover liability for injury death and property damage including coverage for alcohol related claims, if alcohol will be served.
- d. The insurance policy must be issued by an insurance company licensed to do business in Minnesota acceptable to the City.
- e. The City must be named as an "Additional Insured" on the policy.
- f. At least ten (10) days prior to the event, the applicant must give to the City a Certificate of Insurance showing the required coverage.

PART V: SIGNATURE OF EVENT APPLICANT

I attest that the above information is true and accurate and I have signed this application on behalf of the Applicant. I certify under penalties of perjury that I am authorized to execute contracts and other instruments and legally bind the Applicant.



Signature of the Event Applicant

Arron Stoen

PRINT NAME

Chair/Program Manager

Event Applicant Title

11/08/2017

Date submitted to the City

PART VI: FOR OFFICIAL USE ONLY

Departmental Sign-Offs Required

	Approval Date/Initials	Comments
Brainerd Public Utilities	<u>OK</u>	<u>No Comments</u>
City Administration	<u>OK</u>	<u>No Comments</u>
Engineering Depart.	<u>OK</u>	<u>No Comments</u>
Fire Department	<u>OK</u>	<u>No Comments</u>
Fire Support/EMS	<u>OK</u>	<u>No Comments</u>
Parks and Recreation	<u>OK</u>	<u>Authorization for Park use Pending</u>
Planning Department	<u>OK</u>	<u>No Comments</u>
Police Department	<u>OK</u>	<u>Continue organizing event w/ police staff.</u>

Certification of Street Closure Approval

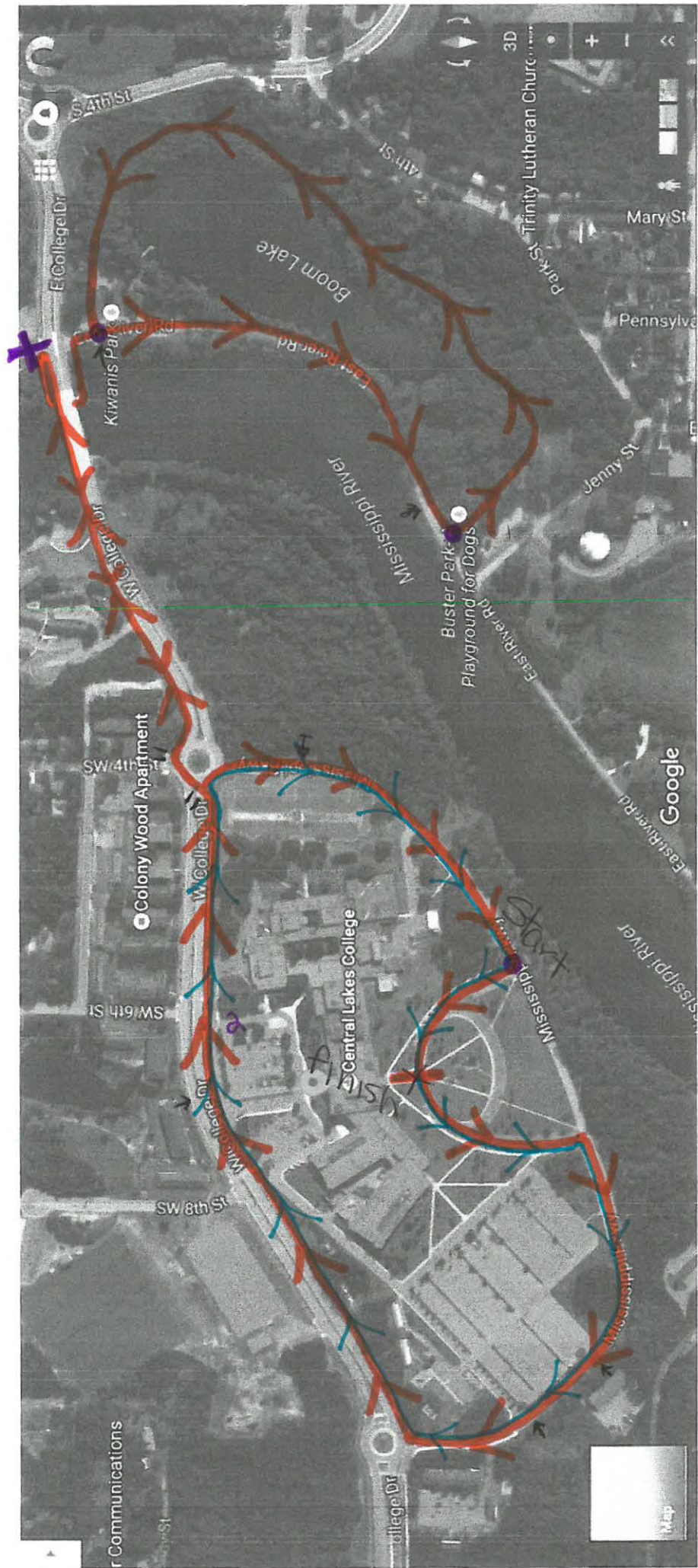
The street closure request as described herein was approved by City Council at their _____, 20____ meeting. Approval is subject to the following condition:

Special Event/Festival Application and Permit Approval

The Special Event as described above is approved subject to any conditions noted on this form or otherwise set forth by the City of Brainerd.

City Administrator

Date



**CITY OF BRAINERD
PERSONNEL AND FINANCE COMMITTEE
AGENDA**

November 20, 2017
City Hall Conference Room
7:00 PM

1. Approval of Bills, Transfer of Funds & Payments to Contractors

<u>Contractor</u>	<u>IMP#</u>	<u>Project</u>	<u>Amount Paid</u>	<u>Amount Retained</u>
Bolton & Menk	16-14	Traffic Study	\$7,279	\$0
S.E.H.	14-15	Airport Util Ext thru 10/28	\$10,902	\$0
S.E.H.	17-08	2019 SRTS Sidewalks thru 10/28	\$2,606	\$0
Anderson Brothers	15-12	S. 6 th St. Frontage thru 11/16	\$37,905	\$1,995
From Parking Lot Fund to Street & Sewer Fund for 2016-2017 Downtown Snow Removal				\$10,844
From Parking Lot Fund to Construction Fund for Downtown Special Services				\$ 1,905

2. City Administrator Employment Agreement

3. 2018 Budget and Levy Discussion

4. 2017 Audit Services – Engagement Letter

5. Authorize Agreement for Utility Rate Study

6. Discussion of Fuel Cards



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: City Administrator Employment Agreement with Cassandra Torstenson

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: HR Coordinator Kris Schubert	Department: Administration
Presenter (Name & Title): HR Coordinator Kris Schubert	Estimated Time Needed: n/a
Summary of Issue: The City Council conducted City Administrator interviews on November 15th and agreed to offer the position to Cassandra Torstenson. Our consultant Gary Weiers from DDA Human Resources, Inc., is currently revising our Administrator agreement utilized for Jim Thoreen for Ms. Torstenson's review. The actual agreement for Council consideration will be distributed at the Committee meeting as it couldn't be prepared and reviewed in time for packet distribution. Please note that we are anticipating a January 2, 2018, start date for Ms. Torstenson.	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion: Motion to approve the City Administrator Agreement with Cassandra Torstenson.	
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 <u>Please Explain:</u> The City Administrator position is included in the 2018 budget.	



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: 2018 Budget and Levy Discussion - Set Workshop

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Connie Hillman	Department: Finance
Presenter (Name & Title): Finance Director Hillman	Estimated Time Needed: 5 Minutes
Summary of Issue: At the August 28, 2017 budget workshop, staff presented to council, that with a 3.5% increase in the levy, we needed to cut a little more than \$226,000 to have a balance budget for 2018. Staff has been working over the last several months to balance the budget. We have been reviewing the budgeted line items and looking into issuing equipment certificates for some of the larger capital items, refining estimates, etc.	
Alternatives, Options, Effects on Others/Comments: The 2018 budget and levy public hearing is set for Monday, December 11, 2017 at 6:00 p.m. The preliminary levy was set at a 3.5% increase over the 2017 levy. The final levy can be lower than the preliminary levy but not higher. Staff is seeking direction on how the council would like to be updated on the status of the budget, and the levy amount the council would like to be presented at the public hearing.	
Recommended Action/Motion: Provide direction to staff and consider holding a budget workshop Monday, November 27, 2017.	
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 <u>Please Explain:</u>	



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: 2017 Audit Services - Engagement Letter

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Connie Hillman	Department: Finance
Presenter (Name & Title): Finance Director Hillman	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached is the engagement letter from CliftonLarsonAllen (CLA) for 2017 audit services. The fee for 2017 is \$45,570 which is a 1.6% increase over the 2016 audit fee and is in accordance with the proposal submitted by CLA in 2015.	
Alternatives, Options, Effects on Others/Comments: 2015 Audit Fee \$44,000 2016 Audit Fee \$44,850 2017 Audit Fee \$45,570	
Recommended Action/Motion: The recommendation action would be approve the engagement letter as submitted and to authorize signatures.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☒ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ 45,570 <i>Is this budgeted?</i> ☒ Yes ☐ No <i>Please Explain:</i>	

November 1, 2017

Honorable Mayor, City Council, and Management
City of Brainerd
501 Laurel Street
Brainerd, Minnesota 56401

We are pleased to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the audit and nonaudit services CliftonLarsonAllen LLP ("CLA," "we," "us," and "our") will provide for the City of Brainerd ("you," "your," or "the entity") for the year ended December 31, 2017.

Mary L. Reedy, CPA is responsible for the performance of the audit engagement.

Audit services

We will audit the financial statements of the governmental activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the City of Brainerd, as of and for the year ended December 31, 2017, and the related notes to the financial statements.

The Governmental Accounting Standards Board (GASB) provides for certain required supplementary information (RSI) to accompany the entity's basic financial statements. The following RSI will be subjected to certain limited procedures, but will not be audited.

1. Management's discussion and analysis.
2. Budgetary comparison schedules.
3. Schedule of funding progress – other postemployment benefits.
4. Schedule of the City's proportionate share of the net pension liability.
5. Schedule of the City's contributions.

We will also evaluate and report on the presentation of the following supplementary information other than RSI accompanying the financial statements in relation to the financial statements as a whole:

1. Schedule of expenditures of federal awards
2. Combining and individual nonmajor fund financial statements and schedules.
3. Component unit financial statements proportionate share of the net pension liability.

The following information other than RSI accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements and our auditors' report will not provide an opinion or any assurance on that information:

1. Introductory section.
2. Statistical information

Nonaudit services

We will also provide the following nonaudit services:

- Preparation of your financial statements, schedule of expenditures of federal awards, and related notes.

Audit objectives

The objective of our audit is the expression of opinions about whether your basic financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP). Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS); the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our audit will include tests of your accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express opinions and render the required reports. We will perform procedures on the financial information of Economic Development Authority, Brainerd Public Library, Brainerd Lakes Regional Airport, Brainerd Public Utilities, and the Housing and Redevelopment Authority of Brainerd to enable us to express our opinions. We will apply certain limited procedures to the RSI in accordance with U.S. GAAS. However, we will not express an opinion or provide any assurance on the RSI because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. We will also perform procedures to enable us to express an opinion on whether the supplementary information (as identified above) other than RSI accompanying the financial statements is fairly stated, in all material respects, in relation to the financial statements as a whole.

The objectives of our audit also include:

- Reporting on internal control over financial reporting and compliance with the provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Reporting on internal control over compliance related to major programs and expressing an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Uniform Guidance.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the result of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

We will issue written reports upon completion of our audit of your financial statements and compliance with requirements applicable to major programs. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement. If our opinions on the financial statements or the single audit compliance opinion are other than unmodified, we will discuss the reasons with you in advance. If circumstances occur related to the condition of your records, the availability of sufficient, appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements or material noncompliance caused by error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment prevent us from completing the audit or forming opinions on the financial statements or an opinion on compliance, we retain the right to take any course of action permitted by professional standards, including declining to express opinions or issue reports, or withdrawing from the engagement.

As part of our audit, we will also perform the procedures and provide the report required by the *Minnesota Legal Compliance Audit Guide for Political Subdivisions*. We will also perform the procedures and provide the Independent Auditors' Report on Compliance with Requirements Applicable to the Passenger Facility Charge Program and on Internal Control over compliance and on the Schedule of Expenditures of Passenger Facility Charges.

Auditor responsibilities, procedures, and limitations

We will conduct our audit in accordance with U.S. GAAS and the standards for financial audits contained in *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements as a whole are free from material misstatement, whether due to fraud or error. An audit involves performing procedures to obtain sufficient appropriate audit evidence about the amounts and disclosures in the basic financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the basic financial statements.

There is an unavoidable risk, because of the inherent limitations of an audit, together with the inherent limitations of internal control, that some material misstatements or noncompliance may not be detected, even though the audit is properly planned and performed in accordance with U.S. GAAS, *Government Auditing Standards*, and the Uniform Guidance. Because we will not perform a detailed examination of all transactions, material misstatements, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity, may not be detected. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management and those charged with governance of any material errors, fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management and those charged with governance of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a single audit.

In making our risk assessments, we consider internal control relevant to the entity's preparation and fair presentation of the basic financial statements and compliance in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting fraud or errors that are material to the financial statements and to preventing and detecting misstatements resulting from noncompliance with provisions of laws, regulations, contracts, and grant agreements that have a material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with the direct and material compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify deficiencies, significant deficiencies, or material weaknesses in internal control. However, we will communicate to you in writing significant deficiencies or material weaknesses in internal control relevant to the audit of the basic financial statements that we identify during the audit that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the entity's compliance with the provisions of laws, regulations, contracts, and grant agreements that have a material effect on the financial statements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

We will include in our report on internal control over financial reporting and on compliance relevant information about any fraud; noncompliance with provisions of laws, regulations, contracts, or grant agreements; or abuse that may have occurred that are required to be communicated under *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards that may have a direct and material effect on each of the entity's major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the "OMB Compliance Supplement" for the types of compliance requirements that could have a direct and material effect on each of the entity's major programs. The purpose of these procedures will be to express an opinion on the entity's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

We will evaluate the presentation of the schedule of expenditures of federal awards accompanying the financial statements in relation to the financial statements as a whole. We will make certain inquiries of management and evaluate the form, content, and methods of preparing the schedule to determine whether the information complies with U.S. GAAP and the Uniform Guidance, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We will compare and reconcile the schedule to the underlying accounting records and other records used to prepare the financial statements or to the financial statements themselves.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Management responsibilities

Our audit will be conducted on the basis that you (management and, when appropriate, those charged with governance) acknowledge and understand that you have certain responsibilities that are fundamental to the conduct of an audit.

You are responsible for the preparation and fair presentation of the financial statements, RSI, and the schedule of expenditures of federal awards in accordance with U.S. GAAP. Management is also responsible for identifying all federal awards received, understanding and complying with the compliance requirements, and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in accordance with the requirements of the Uniform Guidance.

Management's responsibilities include the selection and application of accounting principles; recording and reflecting all transactions in the financial statements; determining the reasonableness of significant accounting estimates included in the financial statements; adjusting the financial statements to correct material misstatements; and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. Management is responsible for compliance with applicable laws and regulations and the provisions of contracts and grant agreements, including compliance with federal statutes, regulations, and the terms and conditions of federal awards applicable to the entity's federal programs. Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

You are responsible for the design, implementation, and maintenance of effective internal control, including internal control over compliance, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; and that there is reasonable assurance that government programs are administered in compliance with compliance requirements.

You are responsible for the design, implementation, and maintenance of internal controls to prevent and detect fraud; assessing the risk that the financial statements may be materially misstated as a result of fraud; and for informing us about all known or suspected fraud affecting the entity involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for implementing systems designed to achieve compliance with applicable laws and regulations and the provisions of contracts and grant agreements, including compliance with federal statutes, regulations, and the terms and conditions of federal awards applicable to the entity's federal programs; identifying and ensuring that the entity complies with applicable laws, regulations, contracts, and grant agreements, including compliance with federal statutes, regulations, and the terms and conditions of federal awards applicable to the entity's federal programs; and informing us of all instances of identified or suspected noncompliance whose effects on the financial statements should be considered.

You are responsible for taking timely and appropriate steps to remedy any fraud; noncompliance with provisions of laws, regulations, contracts, or grant agreements; or abuse that we may report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings; and to follow up and take prompt corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan. The summary schedule of prior audit findings should be available for our review at the start of fieldwork.

You are responsible for ensuring that management is reliable and for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters, and for the accuracy and completeness of that information, and for ensuring the information is reliable and properly reported; (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance; (3) additional information that we may request for the purpose of the audit; and (4) unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence. You agree to inform us of events occurring or facts discovered subsequent to the date of the financial statements that may affect the financial statements. You are also responsible for providing us access to component information, those charged with governance of components, component management, and component auditors (including relevant audit documentation and communications).

Management is responsible for providing us with, or making arrangements to facilitate (1) unrestricted communication between us and the component auditor(s) to the extent permitted by law or regulation; (2) communications between the component auditor(s), those charged with governance of the component(s), and component management, including communications of significant deficiencies and material weaknesses in internal control; (3) communications between regulatory authorities and the component(s) related to financial reporting matters; (4) access to component information, those charged with governance of the component(s), component management, and the component auditor(s) (including relevant audit documentation requested by us); and (5) permission to perform work, or request a component auditor to perform work, on the financial information of the component(s).

You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon or make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards no later than the date the schedule of expenditures of federal awards is issued with our report thereon. Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is fairly presented in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

Management is responsible for the preparation and fair presentation of other supplementary information in accordance with U.S. GAAP. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon or make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. You agree to provide us written representations related to the presentation of the supplementary information.

Management is responsible for providing us with a written confirmation concerning representations made by you and your staff to us in connection with the audit and the presentation of the basic financial statements and RSI. During our engagement, we will request information and explanations from you regarding, among other matters, the entity's activities, internal control, future plans, specific transactions, and accounting systems and procedures. The procedures we will perform during our engagement and the conclusions we reach as a basis for our report will be heavily influenced by the representations that we receive in the representation letter and otherwise from you. Accordingly, inaccurate, incomplete, or false representations could cause us to expend unnecessary effort or could cause a material fraud or error to go undetected by our procedures. In view of the foregoing, you agree that we shall not be responsible for any misstatements in the entity's financial statements that we may fail to detect as a result of misrepresentations made to us by you.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies to us of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the "Audit objectives" section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other engagements or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

Responsibilities and limitations related to nonaudit services

For all nonaudit services we may provide to you, management agrees to assume all management responsibilities; oversee the services by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, and/or experience to understand and oversee the services; evaluate the adequacy and results of the services; and accept responsibility for the results of the services.

The responsibilities and limitations related to the nonaudit services performed as part of this engagement are as follows:

- We will prepare a draft of your financial statements, schedule of expenditures of federal awards, and related notes in conformity with U.S. GAAP and the Uniform Guidance based on information provided by you. Since the preparation and fair presentation of the financial statements and schedule of expenditures of federal awards is your responsibility, you will be required to acknowledge in the representation letter our assistance with preparation of the financial statements and schedule of expenditures of federal awards and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. You have a responsibility to be in a position in fact and appearance to make an informed judgment on those financial statements and schedule of expenditures of federal awards.

These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*.

Use of financial statements

The financial statements and our report thereon are for management's use. If you intend to reproduce and publish the financial statements and our report thereon, they must be reproduced in their entirety. Inclusion of the audited financial statements in a document, such as an annual report or an offering document, should be done only with our prior approval of the document. You are responsible to provide us the opportunity to review such documents before issuance.

If the parties (i.e., you and CLA) agree that CLA will not be involved with your official statements related to municipal securities filings or other offering documents, we will require that any official statements or other offering documents issued by you with which we are not involved clearly indicate that CLA is not involved with the contents of such documents. Such disclosure should read as follows:

CliftonLarsonAllen LLP, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. CliftonLarsonAllen LLP also has not performed any procedures relating to this offering document.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website or submitted on a regulator website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in those sites or to consider the consistency of other information in the electronic site with the original document.

We may issue preliminary draft financial statements to you for your review. Any preliminary draft financial statements should not be relied on or distributed.

Engagement administration and other matters

We understand that your employees will prepare all confirmations, account analyses, and audit schedules we request and will locate any documents or invoices selected by us for testing. A list of information we expect to need for our audit and the dates required will be provided in a separate communication.

At the conclusion of the engagement, we will complete the auditor sections of the electronic Data Collection Form SF-SAC and perform the steps to certify the Form SF-SAC and single audit reporting package. It is management's responsibility to complete the auditee sections of the Data Collection Form. We will create the single audit reporting package PDF file for submission; however, it is management's responsibility to review for completeness and accuracy and electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse and, if appropriate, to pass-through entities. The Data Collection Form and the reporting package must be electronically submitted within the earlier of 30 calendar days after receipt of the auditors' reports or nine months after the end of the audit period.

We will provide copies of our reports to the entity; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

We are available to perform additional procedures with regard to fraud detection and prevention, at your request, as a separate engagement, subject to completion of our normal engagement acceptance procedures. The terms and fees of such an engagement would be documented in a separate engagement letter.

The audit documentation for this engagement is the sole and exclusive property of CLA and constitutes confidential and proprietary information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the Minnesota Office of the State Auditor, or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of CLA personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of seven years after the report release date or for any additional period requested by the Minnesota Office of the State Auditor. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Except as permitted by the "Consent" section of this agreement, CLA will not disclose any confidential, proprietary, or privileged information of the entity to any persons without the authorization of entity management or unless required by law. This confidentiality provision does not prohibit us from disclosing your information to one or more of our affiliated companies in order to provide services that you have requested from us or from any such affiliated company. Any such affiliated company shall be subject to the same restrictions on the use and disclosure of your information as apply to us.

Professional standards require us to be independent with respect to you in the performance of these services. Any discussion that you have with our personnel regarding potential employment with you could impair our independence with respect to this engagement. Therefore, we request that you inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence and objectivity. Further, any employment offers to any staff members working on this engagement without our prior knowledge may require substantial additional procedures to ensure our independence. You will be responsible for any additional costs incurred to perform these procedures.

Our relationship with you is limited to that described in this letter. As such, you understand and agree that we are acting solely as independent accountants. We are not acting in any way as a fiduciary or assuming any fiduciary responsibilities for you. We are not responsible for the preparation of any report to any governmental agency, or any other form, return, or report or for providing advice or any other service not specifically recited in this letter.

Our engagement and responsibility end on delivery of our signed report. Any additional services that might be requested will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

Government Auditing Standards require that we make our most recent external peer review report publicly available. The report is posted on our website at www.CLAconnect.com/Aboutus/.

Mediation

Any disagreement, controversy, or claim ("Dispute") that may arise out of any aspect of our services or relationship with you, including this engagement, shall be submitted to non-binding mediation by written notice ("Mediation Notice") to the other party. In mediation, we will work with you to resolve any differences voluntarily with the aid of an impartial mediator.

The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the Dispute.

Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.

Any Dispute will be governed by the laws of the state of Minnesota, without giving effect to choice of law principles.

Time limitation

The nature of our services makes it difficult, with the passage of time, to gather and present evidence that fully and fairly establishes the facts underlying any Dispute that may arise between the parties. The parties agree that, notwithstanding any statute or law of limitations that might otherwise apply to a Dispute, including one arising out of this agreement or the services performed under this agreement, for breach of contract or fiduciary duty, tort, fraud, misrepresentation or any other cause of action or remedy, any action or legal proceeding by you against us must be commenced within twenty-four (24) months ("Limitation Period") after the date when we deliver our final audit report under this agreement to you, regardless of whether we do other services for you relating to the audit report, or you shall be forever barred from commencing a lawsuit or obtaining any legal or equitable relief or recovery.

The Limitation Period applies and begins to run even if you have not suffered any damage or loss, or have not become aware of the existence or possible existence of a Dispute.

Fees

We estimate that our fees for basic audit and federal single audit services will be \$45,570 per our proposal dated September 4, 2015. This fee includes Airport Passenger Facility Charge audit and any out-of-pocket costs such as report production, word processing, postage, etc., and internal and administrative charges. The fee estimate is based on anticipated cooperation from your personnel and their assistance with preparing confirmations and requested schedules. If the requested items are not available on the dates required or are not accurate, the estimated fee for services will likely be higher. If unexpected circumstances require significant additional time, we will advise you before undertaking work that would require a substantial increase in the fee estimate. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 60 days or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed even if we have not issued our reports.

You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

Changes in accounting and audit standards

Standard setters and regulators continue to evaluate and modify standards. Such changes may result in new or revised financial reporting and disclosure requirements or expand the nature, timing, and scope of the activities we are required to perform. To the extent that the amount of time required to provide the services described in the letter increases due to such changes, our fee may need to be adjusted. We will discuss such circumstances with you prior to performing the additional work.

Other fees

You also agree to compensate us for any time and expenses, including time and expenses of legal counsel, we may incur in responding to discovery requests or participating as a witness or otherwise in any legal, regulatory, or other proceedings that we are asked to respond to on your behalf.

Finance charges and collection expenses

You agree that if any statement is not paid within 30 days from its billing date, the unpaid balance shall accrue interest at the monthly rate of one and one-quarter percent (1.25%), which is an annual percentage rate of 15%. In the event that any collection action is required to collect unpaid balances due us, reasonable attorney fees and expenses shall be recoverable.

Consent

Consent to use financial information

Annually, we assemble a variety of benchmarking analyses using client data obtained through our audit and other engagements. Some of this benchmarking information is published and released publicly. However, the information that we obtain is confidential, as required by the AICPA Code of Professional Conduct. Your acceptance of this engagement letter will serve as your consent to use of the City of Brainerd's information in these cost comparison, performance indicator, and/or benchmarking reports.

Subcontractors

CLA may, at times, use subcontractors to perform services under this agreement, and they may have access to your information and records. Any such subcontractors will be subject to the same restrictions on the use of such information and records as apply to CLA under this agreement.

Agreement

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. This letter constitutes the entire agreement regarding these services and supersedes all prior agreements (whether oral or written), understandings, negotiations, and discussions between you and CLA. If you have any questions, please let us know. Please sign, date, and return a copy of this letter to us to indicate your acknowledgment and understanding of, and agreement with, the arrangements for our audit of your financial statements including the terms of our engagement and the parties' respective responsibilities.

Sincerely,

CliftonLarsonAllen LLP



Mary L. Reedy, CPA, CGFM
Principal
218-825-2972
mary.reedy@CLAconnect.com

Response:

This letter correctly sets forth the understanding of the City of Brainerd.

Authorized governance signature: _____

Title: _____

Date: _____

Authorized management signature: _____

Title: _____

Date: _____



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Authorize Agreement for Utility Rate Study

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Connie Hillman	Department: Finance
Presenter (Name & Title): Finance Director Hillman	Estimated Time Needed: 5 Minutes
Summary of Issue: In 2016, the City entered into an agreement with Utility Financial Solutions, LLC (UFS) to conduct a rate study for the Sanitary and Storm Sewer funds. The results were presented and in early 2017 the Council implemented the recommendations. If you recall, Council changed the rate structure for the Sanitary Sewer charge - a fixed monthly rate based on meter size as well as a consumption rate was established. Previously, the charge was a consumption rate only.	
Alternatives, Options, Effects on Others/Comments: Staff feels it would be beneficial for UFS to review the financial projections and rate design study. The proposal from UFS is attached and is estimated to cost \$5,000. This is the same entity BPU uses to review their rates. Staff feels it would be beneficial engage UFS for the following reasons: * We changed the structure of the sanitary sewer charge. It would be good to have the structure reviewed. * We are close to wrapping up the airport utility project so we will be working with more actual numbers than estimates. * We will be in the bond market to issue additional utility revenue bonds for the South 6th Street project next year.	
Recommended Action/Motion: Authorize staff to enter into the agreement with Utility Financial Solutions (UFS) to review the financial projections and rate design study for the Sanitary and Storm Sewer Funds in the amount of \$5,000.	
Financial Impact: Is there a cost associated with this request: ☒ Yes ☐ No What is the total cost, with tax and shipping \$ <u>\$5,000</u> Is this budgeted? ☒ Yes ☐ No Part of the operating costs. <u>Please Explain:</u>	

CITY OF BRAINERD
PROPOSAL FOR
WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN
AND RATE DESIGN STUDY
August 24, 2017



Submitted Respectfully by:
Daniel Kasbohm
Utility Financial Solutions
dkasbohm@ufsweb.com
(616) 846-6464



August 24, 2017

Ms. Connie Hillman
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

Dear Ms. Hillman:

We are pleased to submit a proposal to provide a wastewater collection system financial projection and rate design study for the City of Brainerd. The information in our qualifications proposal is based on our prior experience in completing over 300 utility rate studies for municipal utilities around the nation including Minnesota.

Utility Financial Solutions (UFS) will provide you with the highest quality service within an agreed-upon timeframe and has the personnel available to meet your needs. UFS has a long standing relationship and history of assisting municipalities with financial analysis and are recognized experts in the utility field. Our group and the project team assigned to this engagement are composed of highly qualified, experienced, and knowledgeable professionals who remain current on all issues facing municipal utilities. We are regularly requested speakers at seminars at regional and national level including the American Public Power Association, American Water Works Association, and numerous municipal utility agencies in various states. We are instructors for the basic and advanced electric cost of service courses and financial planning courses offered through the American Public Power Association.

Utility Financial Solutions experience includes serving as expert witnesses on rate issues and delivering testimony and depositions to legal & regulatory agencies. Our financial and engineering expertise resulted in Utility Financial Solutions providing high level rate services to other firms when rate issues become complex and exceed the normal scope. We have provided these services to a number of engineering and accounting firms including; Black & Veatch, Plante & Moran, and regional civil engineering firms around the nation.



Ms. Hillman
Page Two

UFS would like to be a resource to you for many years in the future. Our success is dependent on the quality and timeliness of the services provided to utilities. We are committed to the City of Brainerd's complete satisfaction. Our prior experience in providing the requested services allows us to conduct a cost effective and efficient rate study.

Our proposal includes a description for the completion of the following tasks:

- Executive Summary for Management and the Council
- Detailed report for Management
- Wastewater collection system Financial Projection for 2018 and long term rate track
- Wastewater collection system Rate Design for 2018
- Optional Presentation to Management and the Council
- Identification of minimum cash reserves

Our proposal is structured in the following sections:

- Understanding project requirements
- Proposed work plan and project approach
- Executive Report & Deliverables
- Project fees

We appreciate the opportunity to submit this proposal and look forward to discussing it with you. If you have questions or need additional information, please contact me at 616-846-6464.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Kasbohm", is written over a horizontal line.

Daniel Kasbohm
Utility Financial Solutions, LLC
dkasbohm@ufswest.com
14986 Sandstone Road
Grand Haven, MI 49417
616-402-7045

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Executive Report & Deliverables	7
Project Fees	8

WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN AND RATE DESIGN

UNDERSTANDING OF PROJECT REQUIREMENTS

The City of Brainerd (City) provides wastewater collection services to customers located in its service territory and is requesting the services of a Utility Rate Consultant to complete a wastewater collection system financial plan and rate study. Our proposed work plan is consistent with established methodologies and a summary of the project deliverables is listed below:

1. Wastewater collection system Financial Projection for 2018 and long term rate track

- Determine revenue requirements based on fully allocated cost method; including direct and indirect cost's
- Develop a long-term financial plan with rate track that incorporates future capital improvements and debt service
- Identify amount and timing of potential future debt issuances
- Develop minimum cash reserve levels
- Project cash reserves

2. Wastewater collection system Rate Design for 2018

- Develop rates to adequately fund utility operations, capital costs, and bonded debt
- Analyze effects of implementing changes to the current rate structure on customers based on varying levels of usage

3. Optional Presentation of study results

- Optional Presentation of Results to the Council and Management

WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN AND RATE DESIGN

PROPOSED WORK PLAN AND PROJECT APPROACH

Our approach to this project was developed to meet the objectives of the City and our prior experience in preparing electric, water and wastewater studies for publicly-owned utilities around the nation. Our proposed work plan is designed to meet the requirements and methodologies established by the American Public Power Association and American Public Works Association. Our Technical Approach and Work Plan include the following sections:

- Preliminary Tasks to Complete Study
- One year Rate Design
- Optional Presentation

To meet the objectives we propose the following approach to the project. The proposed work plan will be finalized during initial meeting with management.

PRELIMINARY TASKS

Task One - Review of Relevant Reports

Review of certain reports is necessary to ensure the models are established to fit the specific requirements of the BPU. Listed below are examples of reports to obtain and review.

- Monthly financial, operating and maintenance reports
- Breakdown of Assets and comparison with established FERC asset classifications
- Rate schedules and any special contracts

Task Two - Collect and Verify Data

Meeting with utility management is critical to ensure final reports will meet objectives of the CITY and the information request prepared by UFS is understood. Specific objectives of the meeting will be to identify the following:

- Clarify scope of services and specific expectations of management
- Review the City's chart of accounts and determine strengths and weaknesses and its consistency with utility accounting practices
- Discuss with management the strengths and weaknesses of determining utility revenue requirements using a utility basis vs. cash basis
- Gain an understanding of customers, including major industries and customer make-up

WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN AND RATE DESIGN

PROPOSED WORK PLAN AND PROJECT APPROACH

Task Three - Preparation of Data Request

Based on discussion with management and staff, we will prepare an information request that will include the necessary information to complete the study:

- Financial Projection (Wastewater collection system):
 - Financial statements for 2016
 - Current work-in-process and future capital improvement plans
 - Copies of rate schedules and any special contracts

CONDUCT FINANCIAL PROJECTION (WASTEWATER COLLECTION SYSTEM)

Development of a long-term financial plan is critical to help ensure the utility remains financially stable. The Executive Summary will provide a financial plan that includes development of a 5 year projection to assist the utility with the following:

- Identify long-term rate track and a plan, if necessary, to phase in rate adjustments
- Project cash balances of utility over the planning period
- Identify appropriate cash reserve requirements of the utility
- Identify the utility's ability to meet bond covenants specified in the ordinances
- Projected revenues and expenses over the five-year planning period

UFS will work with staff in development of the long-term financial plan. To ensure the integrity of the model, we typically perform the following tasks:

- Develop a forecasting model for system growth and sales
- Adjust the model for known changes in sales, such as the addition of a large manufacturing company or recently closed facilities
- Adjust operating costs based on historical expenses adjusted for inflation or changes in operations

WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN AND RATE DESIGN

PROPOSED WORK PLAN AND PROJECT APPROACH

	Projected 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014
Sales Revenues	\$ 72,317,239	\$ 72,678,826	\$ 73,042,220	\$ 73,407,431	\$ 73,774,468
District Thermal Energy	163,083	168,791	174,699	180,813	187,142
Fee & Other Revenue	1,130,022	1,135,672	1,141,350	1,147,057	1,152,793
Total Revenues	\$ 73,610,345	\$ 73,983,289	\$ 74,358,269	\$ 74,735,301	\$ 75,114,402
Power Generation & Production	\$ 47,693,208	\$ 50,362,470	\$ 52,880,594	\$ 55,524,623	\$ 58,300,855
Distribution	2,911,584	3,013,489	3,118,961	3,228,125	3,341,109
Salaries and Wages	2,634,882	2,727,103	2,822,552	2,921,341	3,023,588
Employee Benefits	1,866,886	1,932,227	1,999,855	2,069,850	2,142,295
Administrative & General	3,609,399	3,735,728	3,866,478	4,001,805	4,141,868
Depreciation	9,306,918	9,652,918	10,197,918	10,976,918	11,560,918
Contribution to the City	3,995,400	4,395,400	4,795,400	5,195,400	5,595,400
Total O&M	\$ 72,018,276	\$ 75,819,335	\$ 79,681,758	\$ 83,918,062	\$ 88,106,032
Operating Income	\$ 1,592,068	\$ (1,836,046)	\$ (5,323,489)	\$ (9,182,761)	\$ (12,991,630)
Interest Income	\$ 1,008,639	\$ 1,112,253	\$ 1,061,690	\$ 926,482	\$ 522,917
Interest Expense	-	-	-	(5,625,000)	(11,250,000)
Total Other Income & Expenses	\$ 1,008,639	\$ 1,112,253	\$ 1,061,690	\$ (4,698,518)	\$ (10,727,083)
Net Income	\$ 2,600,707	\$ (723,793)	\$ (4,261,798)	\$ (13,881,279)	\$ (23,718,713)

MINIMUM CASH RESERVE CALCULATION

We will provide a table as shown below to attempt to qualify a minimum amount of cash the utility should keep in reserve based on certain assumptions related to the percent of operation and maintenance, rate base, capital improvements, and debt service. This calculation considers the risk "in total" and not each individual category.

	Percent Allocated	Projected 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014
Operation & Maintenance Less Depreciation Expense	25%	\$ 15,677,840	\$ 16,541,604	\$ 17,370,960	\$ 18,235,286	\$ 19,136,279
Historical Rate Base	1%	2,360,341	2,483,341	2,632,841	5,122,841	5,174,841
Current Portion of Debt Service Reserve	100%	-	-	-	5,625,000	18,054,582
Next Years Capital Improvements - Net of bond proceeds	15%	1,843,500	1,843,500	1,843,500	1,843,500	1,843,500
Five Year Capital Improvements - Net of bond proceeds	15%	9,217,500	9,217,500	9,217,500	9,217,500	9,217,500
Recommended Minimum Cash Reserve Levels		\$ 29,099,181	\$ 30,085,946	\$ 31,064,801	\$ 40,044,127	\$ 53,426,702
Projected Cash Reserves		\$ 74,150,233	\$ 70,779,358	\$ 61,765,477	\$ 34,861,116	\$ 10,698,738

WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN AND RATE DESIGN

PROPOSED WORK PLAN AND PROJECT APPROACH

DEBT SERVICE CALCULATION

We will provide a table as shown below to identify the current Debt Service Ratio and how various rate adjustments or bond issuances can affect them.

<u>Debt Coverage Ratio</u>	Projected 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014
Add Net Income	\$ 2,600,707	\$ (723,793)	\$ (4,261,798)	\$ (13,881,279)	\$ (23,718,713)
Add Depreciation Expense	9,306,918	9,652,918	10,197,918	10,976,918	11,560,918
Add Interest Expense	-	-	-	5,625,000	11,250,000
Cash Available for Debt Service	<u>\$ 11,907,625</u>	<u>\$ 8,929,125</u>	<u>\$ 5,936,119</u>	<u>\$ 2,720,639</u>	<u>\$ (907,796)</u>
Debt Principal and Interest	\$ -	\$ -	\$ -	\$ 5,625,000	\$ 18,054,582
Projected Debt Coverage Ratio (Covenants)	-	-	-	0.48	(0.05)
Minimum Debt Coverage Ratio	1.40	1.40	1.40	1.40	1.40

OPTIMAL OPERATING INCOME TARGET

A table will be provided as shown below to identify an Optimal Operating Income Target for the utility based on ensuring the following items are funded by rates:

- Operation and Maintenance Expenses
- Depreciation Expense
- Interest expense on debt
- Adequate rate of return on investment to help ensure current customers are paying their fair share of the use of the infrastructure and not deferring the charge to future generations.

	Percent Allocated	Projected 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014
Outstanding Principal on Debt	5.0%	\$ -	\$ -	\$ -	\$ -	\$ 11,250,000
System Equity	7.0%	5,258,561	4,957,077	5,142,373	5,475,018	6,386,634
Target Operating Income		\$ 5,258,561	\$ 4,957,077	\$ 5,142,373	\$ 5,475,018	\$ 17,636,634
Projected Operating Income		\$ 1,592,068	\$ (1,836,046)	\$ (5,323,489)	\$ (9,182,761)	\$ (12,991,630)
Rate of Return in %		7.0%	7.0%	7.0%	7.0%	5.6%

WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN AND RATE DESIGN

PROPOSED WORK PLAN AND PROJECT APPROACH

FORMAT OF REPORTS

UFS reports are separated into reports listed below:

- **Executive Summary Report** – An overview that identifies the objectives, process and results of the rate study in a clear and concise format, the report includes graphs, charts, tables and recommendations.
- **Full Report** – Includes all the detailed schedules developed to complete the study and includes the executive summary report
- **Rate Design Recommendation Report** for one (1) test year – The rate design report is a separate module. To ensure efficiency and timeliness of the study the executive summary and the full detail report are provided to management for input into the rate design process. The rate design report includes the following:
 - Comparison of the current and proposed rates
 - Expected revenues generated from proposed rates
 - Impact on customer classes at various usage levels or load factors within each rate class

OPTIONAL PRESENTATION OF RESULTS

A critical aspect of the study is the clear and concise presentation to management and the Council. UFS professionals are skilled at explaining and working with advisory and governing bodies to ensure decisions are based on information they can understand and apply to the local environment.

MEETINGS AND PRESENTATIONS

We don't anticipate an on-site meeting to complete the analysis per conversation on 3/9/16. The following meetings are anticipated:

1. Initial meeting – Clarify scope of services, expectations of management and preliminary fieldwork (conference call)
2. Review draft reports with management (Conference call)
3. Conduct presentation to Management and the Council (Conference call / Optional On-Site)

We are available for presentations as requested by management as listed in the Project Fees section of this proposal.

WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN AND RATE DESIGN

EXECUTIVE REPORT AND DELIVERABLES

DELIVERABLES FOR WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN AND RATE DESIGN STUDY

- Executive Summary for Management and the Council
- Detailed report for Management
- Wastewater collection system Financial Projection for 2018 and long term rate track
- Wastewater collection system Rate Design for 2018
- Optional Presentation to Management and the Council

WASTEWATER COLLECTION SYSTEM FINANCIAL PLAN AND RATE DESIGN

PROJECT FEES

Prices, terms, and conditions are good for a period of 90 days from proposal date of 8/24/2017. Payment will be made through submission of invoice which itemizes the work performed. "Total Project Fees" do not include out of pocket travel expenses.

Financial Projection - \$4,000

Rate Design for 2018 - \$1,000

Total project fees for Scope of Services are a not to exceed \$5,000

Anticipated Meetings:

- Initial meeting – Conference Call to clarify scope of services, expectations of management and preliminary information request
- Fieldwork – Conference Call to verify data provided
- Report with management - Conference call
- As an option we can be available for on-site presentations as requested by management

DELIVERABLES:

- 1) Long-term financial projection and rate track
- 2) Minimum cash reserve determination
- 3) Target operating income (rate of return)
- 4) One-year rate design & revenue proof

Out of Scope Services – on-site and travel expenses

On-site visits if deemed necessary and agreed upon, will be billed at actual out of pocket expenses – plus travel time discounted at 50% of regular rates. In addition, out of scope service work hours are billed at the hourly rates listed on this page.

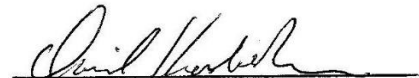
Hourly Rates (travel is discounted at 50%)

Mark Beauchamp	\$ 295.00
Dawn Lund	\$ 250.00
Mike Johnson	\$ 230.00
Dan Kasbohm	\$ 230.00
Joan Bakenhus	\$ 135.00
Support Staff	\$ 105.00 – 130.00

If you have any questions please call me at 616-402-7045. If you are in agreement with this letter please email to dkasbohm@ufswest.com or mail to: Daniel Kasbohm – 14986 Sandstone Road – Grand Haven, MI 49417

We look forward to exceeding your expectations.

Sincerely,



Daniel Kasbohm
Manager, Utility Financial Solutions

Accepted By: _____

Date: _____



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Discussion of Fuel Cards

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Connie Hillman	Department: Finance
Presenter (Name & Title): Finance Director Hillman	Estimated Time Needed: 5 Minutes
Summary of Issue: Currently we have charge accounts/cards at various local stores for employees to purchase fuel for City vehicles and equipments. Each store has their own monthly statement. Fuel can only be charged on account at the local gas stations where accounts are established. As an example, I do not have a PIN, so if I need to put gas in the City vehicle or if I'm out of town, I need to personally make the purchase and be reimbursed, or use the City credit card.	
Alternatives, Options, Effects on Others/Comments: Through Enterprise, we can get fuel cards for each vehicle or piece of equipment, whether it is leased through them or not. Each staff member can be set up with a PIN (done online), and can fuel the city asset they are using. The advantages staff sees in doing this are: * We will have one monthly fuel statement to reconcile every month instead of multiple statements. * We will be able to see trends and/or anomalies of our fuel purchases, by asset and employee. * The PINs will be the last 4 digits of the employee's social security number and therefore are unlikely to be shared. * Fuel purchases can be made at any gas station, not just at the local stations. The disadvantage is that we only get a discount on fuel purchased at Exxon Mobile stations.	
Recommended Action/Motion: The recommended action would be to authorize staff to open an credit account with WEX through Enterprise and to start using fuel cards.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Proposed Ordinance No. 1474 - Rezoning Adventure Properties, 110 NW 3rd St.

☐ 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 2nd Reading <i>*provide copy of published hearing notice</i>
Submitted by: Mark Ostgarden, City Planner	Department: Planning
Presenter (Name & Title): Same	Estimated Time Needed: 10 minutes
Summary of Issue: ISD 181 has a purchase agreement with Adventure Properties for property at 110 NW 3rd Street. The parcel is zoned B-2; a zoning district that does not permit school uses. The Riverside Elementary School site is in an R-3 zone; a zone that permits school uses by Conditional Use Permit. The ISD is interested in the parcel and its rezoning to an R-3 should future improvements to/expansion of the school be needed. Attached is proposed Ordinance No. 1474, draft minutes from the October 18, 2017 Planning Commission meeting that include Findings of Fact and the City Planner Staff Report.	
Alternatives, Options, Effects on Others/Comments: 1. Deny the rezoning which will not permit the parcels to be rezoned. 2. Approve the request which will permit the parcel to be used for R-3 purposes. The Planning Commission recommends approval.	
Recommended Action/Motion: A motion by _____ and seconded by _____ to hold/deny the 2nd reading of proposed Ordinance No. 1474, rezoning property 110 NW 3rd Street Brainerd, MN 56401 from a B-2 (Neighborhood Business) District to an R-3 (High Density Residential) District and to dispense with the actual reading.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☒ No <i>Please Explain:</i>	

**ORDINANCE
NO. 1474**

**AN ORDINANCE AMENDING ORDINANCE NO. 812
PERTAINING TO THE ZONING IN THE CITY OF BRAINERD**

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: In accordance with the procedure described in Section 515-04 of the Brainerd City Code the zoning designation of the property described below is amended from a B-2 (Neighborhood Business) District to an R-3 (High Density Residential) District.

Adventure Properties, 110 NW 3rd St. Brainerd, MN
PID 091980020010009

PT OF BURLINGTON NORTHERN & SANTA FE RR CO 400 FT WIDE CHARTER ROW GRANTED UNDER SEC 2 OF ACT OF CONGRESS APPROV 7-2-1864 SITUATED IN GL 7 SEC 4 T-133 R-28 DESC: COMM AT INTER OF SE ROW LINE OF WILLIAM ST & SE EXT OF NE'LY ROW LINE OF NW 4TH ST PLAT OF WEST BRD THEN NE'LY ALG SD SE'LY ROW LINE OF WILLIAM ST ALSO BEING NW'LY BNDRY OF SD 400 FT WIDE CHARTER ROW A DIST OF 500 FT TO TRUE POB THEN CONT NE'LY ALG LAST DESC COURSE 360 FT MOL TO W BANK OF MISSISSIPPI RIVER THEN S'LY ALG SD W BANK TO INTER WITH A LINE DRAWN PARALLEL WITH & 50 FT NORMALLY DIST NW'LY FROM SD RR COMPANY'S MAIN TRACT C/L AS NOW LOCATED & CON TRUCTED THEN SW'LY ALG SD PARALLEL LINE TO INTER WITH A LINE DRAWN PERPENDICULAR TO SD MAIN TRACT C/L THRU TRUE POB THEN NW'LY ALG SD PERPENDICULAR LINE TO POB & ALSO SE'LY 30 FT OF 60 FT WIDE VACATED WILLIAM ST LYING CON TIGUOUS TO & NW'LY OF THE HEREINABOVE DESC PREMISES. & ALSO INCL SE'LY 30 FT OF PT OF VACATED WILLIAM STREET LYING CONTIGUOUS TO & NW'LY OF FOL DESC PREMISES: PT OF BURLINGTON NORTHERN & SANTA FE RAILWAY CO (FORMERLY NPPR) 400 FT WIDE CHARTER ROW GRANTED UNDER SEC 2 OF ACT OF CONGRESS APPROVED 7-2-1864 SITUATED IN GL 7 OF SEC 4 TWP 133 RNG 28 OF 5TH PRINCIPAL MERIDIAN DESC: COMM AT INTER OF SE'LY ROW LINE OF WILLIAM STREET & SE'LY EXT OF NE'LY ROW LINE OF NW 4TH ST PLAT OF WEST BRD THEN NE'LY ALG SD SE'LY ROW LINE OF WILLIAM STREET ALSO BEING NW'LY BNDRY OF SD 400 FT WIDE CHARTER ROW A DIST OF 500 FT TO TRUE POB THEN CONT NE'LY ALG LAST DESC COURSE 360 FT MOL TO W BANK OF MISSISSIPPI RIVER THEN S'LY ALG SD W BANK TO INTER WITH A LINE DRAWN PARA/W & 50 FT NORMALLY DIST NW'LY FROM SD RR CO MAIN TRACT C/L AS NOW LOCATED & CONSTRUCTED THEN SW'LY ALG SD PARALLEL LINE TO INTER WIHT A LINE DRAWN PERPENDICULAR TO SD MAIN TRACK C/L THROUGH TRUE POB THEN NW'LY ALG SD PERPENDICULAR LINE TO TRUE POB.

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

Adopted this _____ day of _____, 2017

DAVID J. PRITSCHET
President of the Council

Approved this _____ day of _____, 2017

EDWIN L. MENK
Mayor

ATTEST: _____
JAMES M. THOREEN
City Administrator

Published: One Time, _____

STAFF REPORT TO THE PLANNING COMMISSION

October 9, 2017

REZONING

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

PETITION BACKGROUND

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

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

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

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

Without the easement, the property would have been landlocked.

This acquisition is strategic from several aspects:

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

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

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

Permitted Uses.

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

Accessory Uses.

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

Interim Uses.

- A. None

Conditional Uses.

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

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

Evaluation of the petition involves 2 scenarios:

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

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

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

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

PETITION EVALUATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PLANNING DEPARTMENT REVIEW

Attached for consideration is a Draft Findings of Fact.

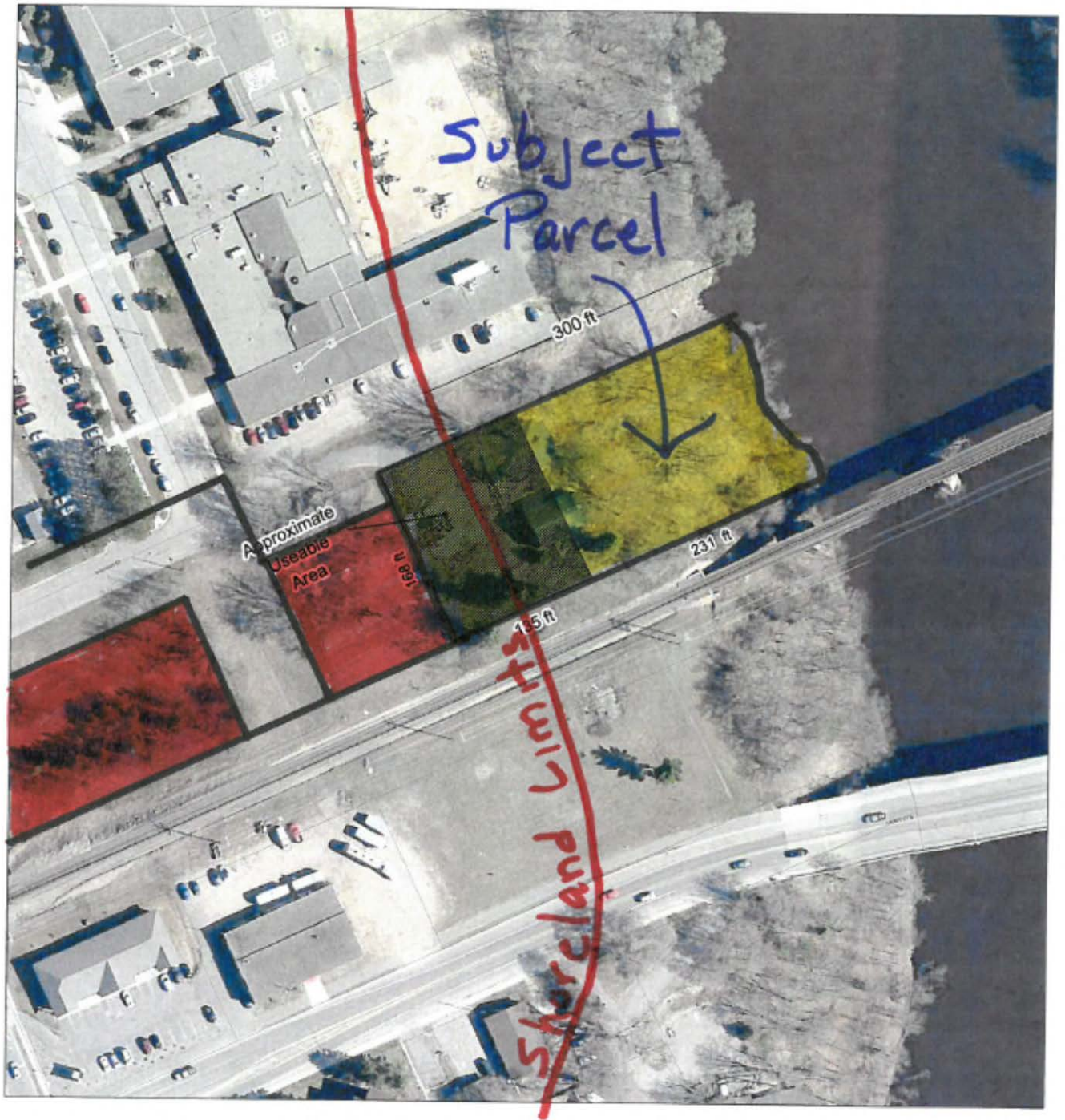
Question #4 above describes how acquisition (or not) could impact the Riverside Elementary school site and area. The best-case scenario for development of the area, access and traffic circulation is ISDs ability to assemble the described parcels for a school campus. Should that not occur, should (when)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

PLANNING COMMISSION AND CITY COUNCIL ACTION

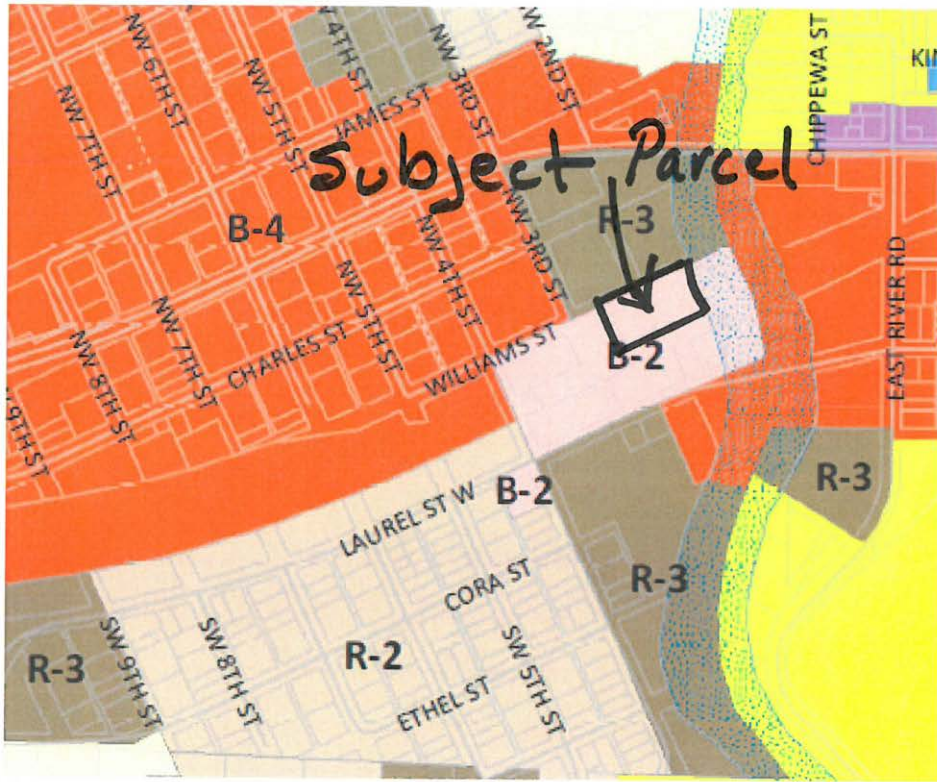
The Planning Commission can consider a recommendation on this request at its October 18, 2017 meeting. The City Council can receive the Planning Commission recommendation and consider an Ordinance First Reading on October 23, 2017 and an Ordinance Second/Final Reading on November 6, 2017.

Respectfully submitted,

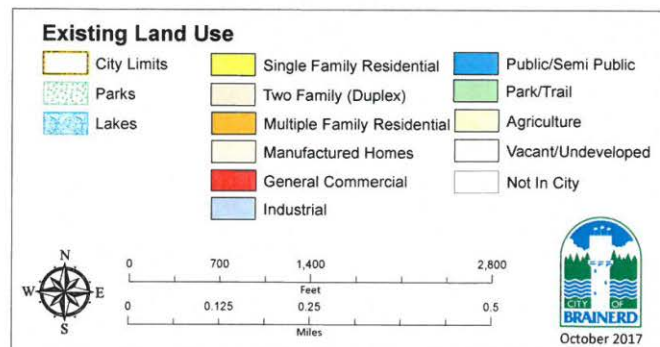
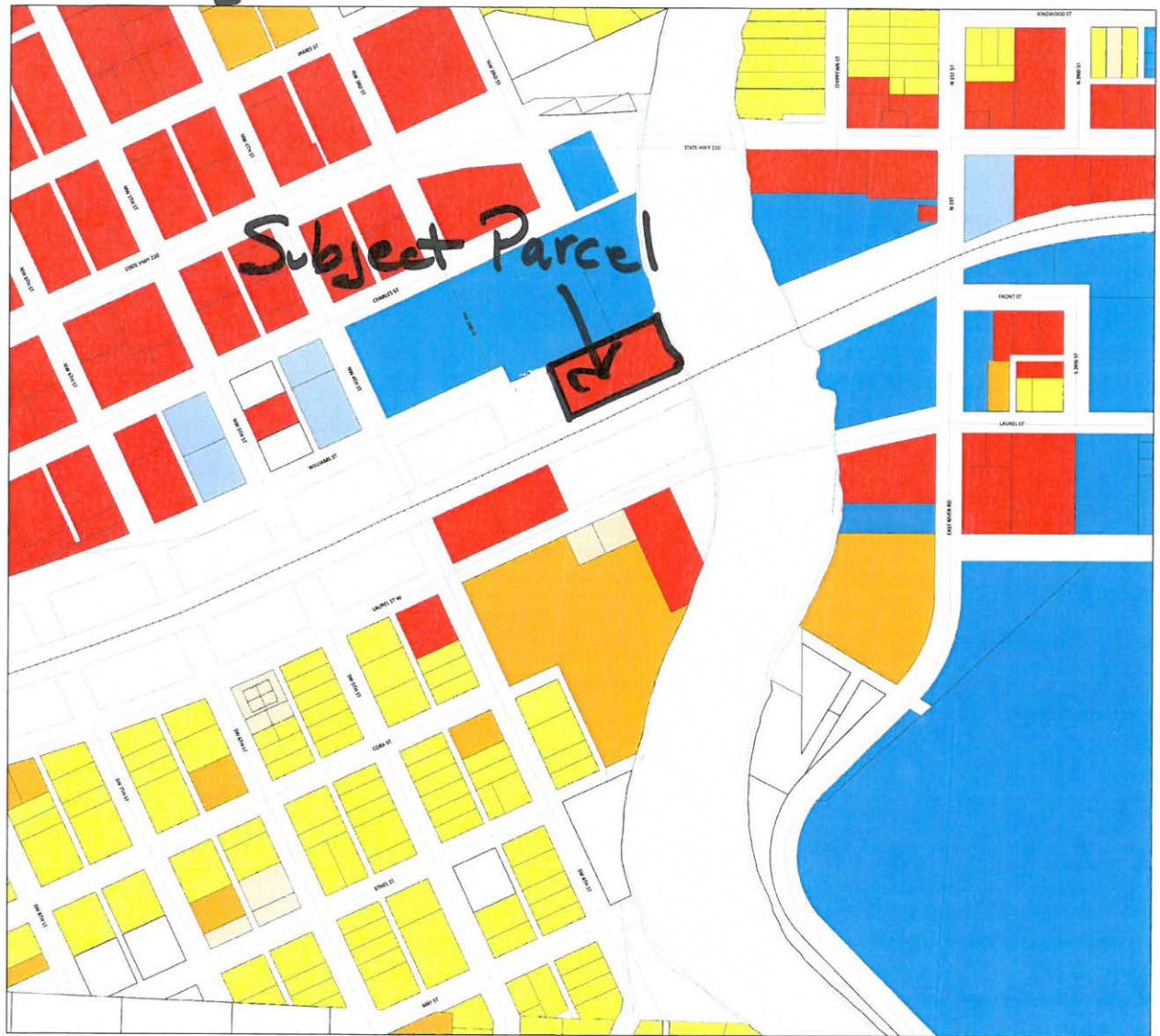
Mark Ostgarden AICP
City Planner



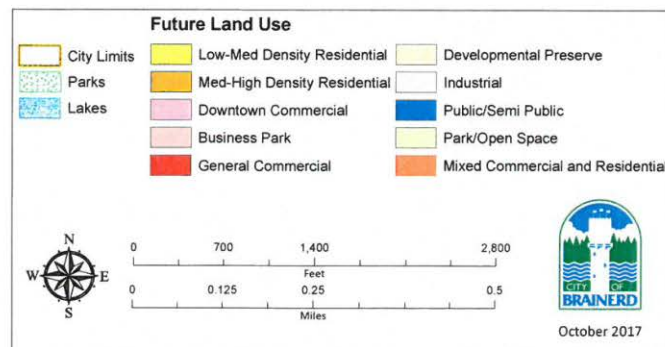
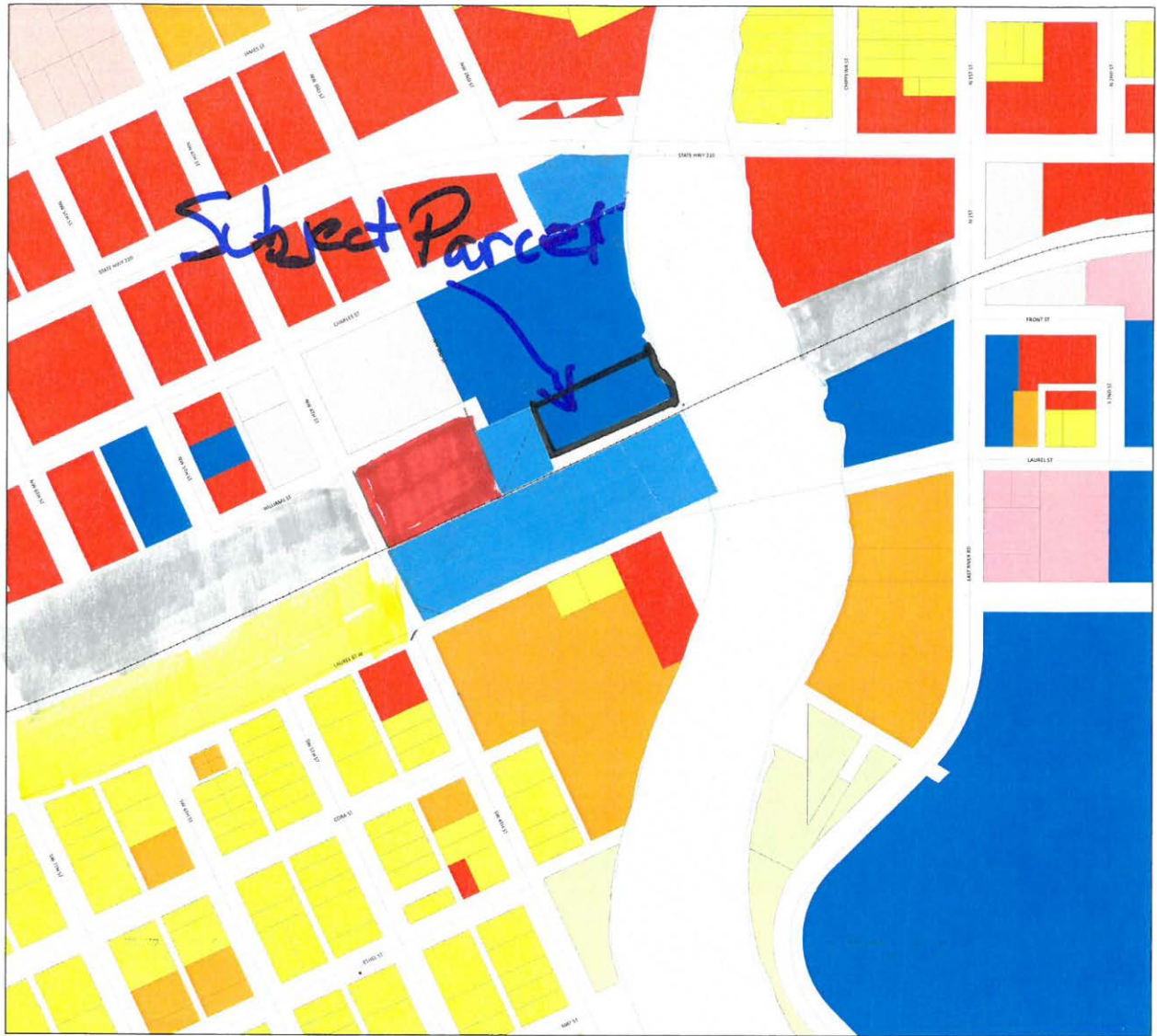
Current Zoning



Existing Land Use *City of Brainerd*



Future Land Use City of Brainerd



COMPREHENSIVE PLAN GOALS AND STRATEGIES

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

Strategies

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

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

Strategies

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

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

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

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

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

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

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

Findings of Fact

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

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

Accessory Uses.

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

Uses by Administrative Permit.

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

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

Interim Uses.

None.

Conditional Uses.

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

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

Permitted Uses.

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

Accessory Uses.

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

Interim Uses.

None.

Conditional Uses.

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

7. ISD 181 owns the property to the north and west which is developed as an elementary school.

8. ISD 181 is currently studying its district facility needs which includes Riverside Elementary School.

9. ISD 181 thinks the subject parcel can provide immediate flexibility for expanding staff parking and to alleviate parking and circulation congestion that exists in the present parking area. It can serve as a cornerstone piece to further expansion of the (elementary school) site through the possible acquisition of adjacent property presently owned by BNSF.

10. The Future Land Use for the parcel is identified in the 2004 Comprehensive Plan as Public/Semi Public Land Use.

PLANNING COMMISSION
Wednesday, October 18, 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 Burslie, Gorham, Headley, Marohn and Wussow; and Council Liaison Lambert. Commissioner Antolak was noted as absent. Also present was City Planner Ostgarden and Administrative Specialist Bestul and 6 others.

#2 Approval of Agenda

Commissioner Gorham requested item 4c. ISD181 Presentation switch places with 4b. Brainerd Zoning Text Amendment on the agenda.

MOTION AND SECONDED BY COMMISSIONERS WUSSOW AND LAMBERT, DULY CARRIED, TO APPROVE THE AGENDA AS AMENDED.

#3 Approval of Minutes of the Regular Meeting held on September 20, 2017 and of the Special Meeting held on October 11, 2017

MOTION AND SECONDED BY COMMISSIONERS WUSSOW AND LAMBERT TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 20, 2017 AND THE SPECIAL MEETING HELD ON OCTOBER 11, 2017 WITH THE FOLLOWING CORRECTIONS:

September 20, 2017 Meeting:

- Page 1 - Under #4 New Business: Add to Paragraph 2: *Commissioner Marohn also asked why the applicant was proposing such a large garage on the site. City Planner Ostgarden quoted Mr. Thompson as saying "nobody ever wants a small garage in the future."*

October 11, 2017 Meeting:

- Page 2 – Under Public Hearing: Change Paragraph: *The Chair recognized the petitioner Mr. Bruce Thompson, 113 Carol Lane. Mr. Thompson has pointed out the area in question is the only logical place to he will construct the garage. Mr. Thompson indicated he believes there are some serious issues with the storm sewer and the ravine regarding erosion. If the garage was constructed in the allowed setback, it would be within 10' to 12' of the storm sewer line into the ravine. Because there is no easement, this garage could be built right from the west property line east which would be pretty close to the storm sewer line and it would be very difficult to trench or dig to make repairs. The variance would allow him to build away from the ravine in order to maintain stability in the structure and crews could access the storm sewer line. The building will match the house and existing garage and the roof will have the same 6' x 12' pitch. Other locations for the placement of the garage were discussed; however, they are not logical places to build. The applicant now agreed there are other locations on the property this size of garage could be located without a variance, but as proposed this was the logical location.*

Members Gorham, Headley, Wussow and Lambert voted “aye”. Members Burslie and Marohn abstained from voting. The Chair declared the motion carried.

#4 NEW BUSINESS

A. Public Hearing – Rezoning Request – Adventure Properties, 110 NW 3rd St. – Rezone from a B-2 to an R-3 District - Approved

City Planner Ostgarden explained Adventure Properties is interested in selling its property to Independent School District 181 (ISD 181). Because school district does not own the property Adventure Properties’ applied for the rezoning which is contingent on the purchase agreement with ISD181.

City Planner Ostgarden described the property has two existing buildings; one being a century old house, which at one time was a Port Group Home facility and is currently the home for Adventure Advertising. The subject parcel is zoned B-2, which is a zoning district that does not permit school uses. ISD 181 is interested in the subject parcel should future improvements to / expansion of the school be needed. Mr. Steve Lund, ISD 181 Director of Business Services describes the near term and long-term interest in the subject parcel as follows:

As part of the acquisition by the current owners in 2009, the school district granted an easement for ingress/egress along the south portion of the vacated Williams Street. Without the easement, the property would have been landlocked.

This acquisition is strategic from several aspects:

- 1. Controlling the use of this property that has a very unique proximity to our school with no other similar properties surrounding it.*
- 2. Providing immediate flexibility for the possibility of expanding staff parking to alleviate parking and circulation congestion that exists in the present parking area.*
- 3. Serves as a cornerstone piece to the possibility of further expansion of the site through the possible acquisition of adjacent property presently owned by BNSF.*

As unlikely as it may be, the petition evaluation needs to be based on the school district purchasing the property and if the rezoning occurs and the school district does not purchase the property. Issues described in the staff report were reviewed. The city planner suggested the best scenario for this property is for the school district to acquire it.

The property is subject to the City’s Shoreland Regulations. In addition to zoning requirements, the Shoreland Regulations specify all lands within 300’ of the river have an additional set of land use requirements to meet. The most significant being impervious coverage, is limited to 25% of the property. Those areas were pointed out and explained on the overhead map.

Commissioner Burslie questioned if a parcel had ever been rezoned and created a non-conforming use and if the City can place conditions on a rezone application. City Planner Ostgarden indicated it has been done in the past; in a larger scale rezoning. The city planner explained that conditions on a rezoning application is not permitted as it is a legislative action by the City Council.

The Chair opened the Public Hearing at 6:18 p.m.

The Chair welcomed Steve Lund, ISD Director of Business Services, 804 Oak St. Brainerd. The parcel has a lot of limitations and it is not viewed as a parcel in and of itself for the district. The need to be

able to control the parcel is of great interest to the school as you don't know who could potentially inhabit the property. Since it is near Riverside Elementary, the need for safety and traffic control creates anxiety for the district. The district has also inquired with BNSF for the additional parcels to the west for possible purchase. The other possibility if the purchase with BNSF went through, there may be the desire to vacate Williams Street and a very small section of NW 3rd Street to the south of Williams Street. A plan for the site would be completed prior to any of these ideas proceeding.

Although the school did remodel in 2013, there are some other issues with congestion at peak times of the day. It is thought that if the properties are acquired and have the ability to include this site, a much better plan would be created for a safer environment and traffic control. This is the first piece to that potential plan. City Planner Ostgarden also mentioned the easement that was granted to Adventure Properties. This would disappear with the acquisition of the property.

Council Liaison Lambert questioned what the plans are for the house on the property. Mr. Lund explained what could happen if the purchase fell through. The purchase agreement has three conditions: 1) Clear Title 2) Soil testing is being completed within the next 30 days 3) Rezoning the property. The current tenants would be given a lease in order to find a new location, and it would probably be spring 2018 before anything proceeds. Mr. Lund indicated the house is not a building the school would be able to use as it is old with many small rooms. The building to the south is inhabitable and the other building to the north is average condition, but all would essentially be demolished.

The Chair closed the Public Hearing at 6:25 p.m.

Council Liaison Lambert read the highlights of the findings of fact as follows:

The property is zoned B-2 (Neighborhood Commercial) District zoning allows the following uses:

Permitted Uses.

- A. Multiple family dwellings.
- B. Two family attached dwellings

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

Permitted Uses.

- A. Multiple family dwellings.
 - B. Two family attached dwellings.
- ISD 181 owns the property to the north and west which is developed as an elementary school.
 - ~~ISD 181 is currently studying its district facility needs which include Riverside Elementary School.~~
 - ~~ISD 181 thinks the subject parcel can provide immediate flexibility for expanding staff parking and to alleviate parking and circulation congestion that exists in the present parking area. It can serve as a cornerstone piece to further expansion of the (elementary school) site through the possible acquisition of adjacent property presently owned by BNSF.~~
 - The Future Land Use for the parcel is identified in the 2004 Comprehensive Plan as Public/Semi Public Land Use.
 - The change in zoning would make the existing use non-conforming and the existing use cannot be expanded or enlarged.

- The rezoning is consistent with and compatible with surrounding properties.
- The property is adjacent to others properties zoned R-3 and it does meet the minimum size and requirements of the R-3 zone.

City Planner Ostgarden read the following applicable Comprehensive Plan Goals and Strategies as follows:

- o **GENERAL GOAL #1:** *Maximize Brainerd's potential as a thriving center for business, health care, industry, education and recreation, while maintaining and enhancing its livability.*
 - o Protect both the general welfare and the individual choices of Brainerd residents. Insure that decisions that are made by the community reflect the needs of current residents and business owners.
- o **LAND USE GOAL #3:** *Plan for the orderly, efficient and fiscally responsible growth of residential development in Brainerd.*
- o **Strategies**
 - o Continue to guide residential growth in an orderly and compact manner so that new developments can be effectively served by public improvements and that the character and quality of the city's existing neighborhoods can be maintained and enhanced.
 - o Only place high-density developments in areas with adequate transportation infrastructure.
 - o Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost-effective provision of city services.
- o **LAND USE GOAL #5:** *Support development that enhances community character and identity.*
 - o Support the redevelopment of vacant and abandoned sites within the urban core.

MOTION AND SECONDED BY COMMISSIONERS MAROHN AND BURLIE, DULY CARRIED, TO APPROVE THE REZONING REQUEST TO AN R-3 DISTRICT BASED ON THE FINDINGS OF FACT WITH THE CORRECTIONS AND ADDITIONS APPLIED AS SHOWN ABOVE INCLUDING THE LAND USE GOAL #3 STRATEGIES.

B. Independent School District 181 Presentation – District Facilities Planning Status

City Planner Ostgarden indicated at the last Planning Commission meeting it was suggested to eliminate off-street parking requirements in our Zoning Ordinance. The city planner recommended a conversation with the school district should occur prior to proceeding on the issue. After meeting with the district representatives on the parking issue, it was determined to have them present an update tonight on the status of the school facilities study.

The Chair welcomed Mr. Lund who has been involved with the study for the last three years. The first couple years was focused on data, fact and information gathering. The Comprehensive Facilities Plan includes:

- Increased Need for Space
- Increase in Enrollment
- Increase in Special Education

- Changing Instructional Best Practices
- Ensuring Quality Instruction and Student Opportunities
- Increasing Maintenance Costs for Aging Buildings
- Energy Savings with Modern Updates
- Operational Efficiencies with Larger Bundled Projects
- Proactive Planning vs. Reactive Decisions
- Strategic Decisions are More Efficient and Effective

The average ages of the buildings are about 46 years old. There need to be improvements to the buildings for energy and operational savings. The need to make larger investments in our buildings is the same as with home and business owners. It usually goes beyond the ability to meet this in the annual budget. If done right and engaged with the community, we can design a plan for the facilities for now and in the future that really begins to reflect how our community values education.

Starting the Process

- Gathering and Understanding Information
- Demographics and Enrollment
- Capacity of our Schools
- Condition of our Schools – Addressing Safety and Security; ADA Compliancy
- Enrollment
- Projections for Enrollment
- Age of our Schools – High School Constructed in 1968 to Forestview in 2004 shows a 35 year gap in new school construction – need to balance the cycle
- Future Maintenance Goals

The Chair welcomed Ms. Laine Larson, Superintendent of ISD181 who started with the district in July 2016. Ms. Larson spoke of the overall goals and phases proposed along with a PowerPoint presentation.

Overall Goal Facilities that Promote Opportunity Innovation and Success

8 Objectives

- Safe and Secure Facilities
- Mechanical and Educational Adequacy Updates
- Space that Fosters Best Practice Instruction and 21st Century Learning Opportunities
- Spaces that Promotes Robust Opportunities in Academics, Arts, Activities and Athletics
- Increased Community Collaboration, Ownership and Workforce Development
- Visionary Technology Integration
- Transparency, Engagement and Community Trust Building
- Highest Quality Educational Opportunities for our Taxpayers' Generous Investment

6 Phase Process

- Communications Planning – Keeping the lines of communication open
- Stakeholder Input – Input from employees in the district and the community as what they believe the strengths of our district are and what some of the needs are so they have say in the decision process based on our community values
- Surveys and Assessments – Provide adequate surveys for the Board
- Develop Options and Alternatives – Gather all information together to present to the Board

- Bond Election Process – If the bond election process is successful, then we would move to the last phase
- Construction Management

Findings from Stakeholder Input

- Great Teachers and Staff
- Diverse and Quality Educational Opportunities
- Neighborhood Schools are Very Important – Smaller, Family Based Elementary Schools
- High School Campus Location is a Valued Part of the Community

Business Community Desires

- o Enhanced Communications
- o Workforce Development Partnerships
- o Robust Offerings of Career Technical Education Opportunities
- o Comprehensive Technology Integration
- Forestview - Quality Facility with Appropriate Amount of Space

All of the schools have significant needs

- Lack of Physical and Functional Space at our Elementary Schools and the Functional Space at our Secondary Schools Results in an Inequality of Educational Delivery
- Facilities Faced with Significant Deferred Maintenance Needs with the Exception of Forestview
- Safety and Security Concerns
- Parking / Drop Off and Pick Up Facilities
- o Developing Options and Alternatives – A Team of Administrative Staff will work with Foster, Jacob, Johnson, Kraus-Anderson and Widseth Smith Nolting (WSN) to bring forth a recommendation to the Board of Education to proceed to the next level of priority.

The Chair welcomes Erica Martinson, Architect at Widseth Smith Nolting. Ms. Martinson indicated that with the listening sessions that have taken place, they have learned of some of the challenges in our elementary schools along with the studies that have been done in each of the buildings.

- Safety and Security
- Inadequate Physical Space
- Classrooms Do Not Reflect Current Instructional Needs
- Age = Significant Deferred Maintenance
- Imaging solutions – discovering opportunities

Ms. Martinson explained several schools will be renewed and “right sized” meaning the building will be brought to the correct size and configurations needed for a functioning school based on enrollment.

Renew and Right Size

- Garfield
- Lowell
- Riverside

- Harrison (Yet to be Determined)
 - Option 1. Right size and expand
 - Option 2. Relocate the school – Potential sites explained
- Baxter – New Location
- Nisswa

Ms. Martinson showed a series of PowerPoint slides indicating the current layout of each school along with the plan of the “right sized” school as proposed. The estimated cost values were included along with some tentative ideas.

Commission discussion took place and questions answered. The Commission thanked the district for the presentation.

C. Brainerd Zoning Text Amendment – Microdistilleries and Cocktail Rooms

City Planner Ostgarden gave a brief overview of the proposed definition of microdistilleries and cocktail rooms in the zoning ordinance as well as the districts that would be affected by the change to allow microdistilleries and cocktail rooms. The districts will be as follows:

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

Each district will have the following minimum standards:

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

The Chair opened the public hearing at 8:52 p.m.

No one came forward.

The Chair closed the public hearing at 8:52 p.m.

MOTION AND SECONDED BY COMMISSIONERS WUSSOW AND LAMBERT, DULY CARRIED, TO APPROVE THE AMENDMENTS AS PROPOSED WITH THE ELIMINATION OF #4 SHOWN ABOVE.

#5 PUBLIC FORUM

None

#6 OLD BUSINESS

A. Report on Steering Committee Appointment Process and Upcoming Ward Meetings

City Planner Ostgarden reported there were two additional nominations from City Council to the Steering Committee. There are still four openings to make the eleven member committee. The process is progressing a lot slower than anticipated and hopefully the November 6, 2017 Council Meeting will be the final meeting for appointments. Commissioner Marohn volunteered to contact members of the council to get the process moving along.

#7 COMMISSIONERS' QUESTIONS/COMMENTS

Commissioner Burslie requested a discussion take place regarding the special meeting policy. He said a special meeting regarding 113 Carol Lane variance occurred between the September and October Planning Commission meetings when it was agreed that it would not be called. City Planner Ostgarden indicated historically, the special meeting process has been very informal. It is up to the Chair to decide if a special meeting is needed. This informal process has not been questioned by past commissions. It has been thought of as a public service, and there have been only a couple of these meetings each year. The city planner said if this commission desires to change this policy and consider fees it can draft language for consideration. Chairman Headley said she called the meeting. The city planner stated the Council President was made aware of the commission's discussion about special meetings and he does not want the process to become more formalized.

Commissioner Wussow wanted clarification on the fees for variance applications and if labor charges or mailings are figured into the fee. The variance is a flat fee charged and it is not adjusted for services or time spent on the project. It was suggested to review the fee schedule for various applications.

Council Liaison Lambert indicated when a special meeting should occur it be for only the one issue for discussion and others not be added to the agenda.

Commissioner Marohn stated he came to the meeting tonight prepared to address with ISD 181 staff and to try to schedule a public hearing regarding the Zoning Code Parking Requirements for Schools. Mr. Marohn has gathered data and is requesting a public hearing be scheduled on the agenda for discussion in November.

MOTION AND SECONDED BY COMMISSIONERS MAROHN AND BURSLIE TO HOLD A PUBLIC HEARING IN NOVEMBER TO CONSIDER ELIMINATING THE PARKING REQUIREMENTS FOR SCHOOLS FROM THE CITY ZONING CODE.

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

Commissioner Wussow suggested that more information should be gathered and reviewed prior to scheduling a public hearing.

MOTION AND SECONDED BY COMMISSIONERS WUSSOW AND GORHAM TO ADD THE DISCUSSION OF THE CITY ZONING CODE PARKING REQUIREMENT TO THE AGENDA IN NOVEMBER.

Members Burslie, Gorham, Headley, Wussow, Marohn and Lambert voted "aye". No member voted "nay". The Chair declared the motion passed.

Commissioner Wussow spoke in regards to an action taken for a fencing variance request at 102 Ridge Drive. It has been discovered the fence was relocated as instructed, but it was installed with the “good” side facing in to the property not out to the road. Mr. Wussow indicated the ordinance should be enforced. City Planner Ostgarden responded that he was not aware of this, as he has not been in that area of the city. He will address the issue with the property owner.

Council Liaison Lambert indicated this is also the case at the property Sage on Laurel. The concern will be addressed.

Commissioner Gorham inquired about the variance application for 113 Carol Lane that went to Council on the final decision. The recommended denial was overturned by Council as they approved the variance. Commissioner Burslie requested a copy of the minutes of meeting of City Council October 16, 2017.

#8 CITY PLANNER’S REPORT

City Planner Ostgarden distributed an invitational flyer for a presentation from Brainerd River to Rail on November 1, 2017 at 6:00 p.m. in the Fire Department Meeting Room.

#9 ADJOURNED AT 9:19 P.M.

Respectfully submitted,

Mark Ostgarden AICP
City Planner



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Zoning Ordinance Amendments to Permit Microdistilleries and Cocktail Rooms

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☒ MAIN AGENDA	Action Requested: ☒ Approve/Deny Motion ☐ Adopt Resolution (attach draft) *provide copy of published hearing notice ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☒ Ordinance 2nd Reading
Submitted by: Mark Ostgarden	Department: Planning
Presenter (Name & Title): Same	Estimated Time Needed: 10 minutes
Summary of Issue: The proposal is to amend the following Zoning Ordinance No. 1475 to permit microdistilleries and cocktail rooms in: 515-2 Definitions; as a Conditional Use in 515-61 – B-2 and as Permit Uses in 515-62 – B-3; 515-63 – B-4; 515-64 – B-5; 515-65 – B-6; 515-70 – I-1 which includes 515-72 MU by reference. Attached are excerpts of the amended zoning districts and the October 18, 2017 Planning Commission meeting minutes. There was very little discussion by the Planning Commission.	
Alternatives, Options, Effects on Others/Comments: Should the amendments be denied, the uses would not be allowed in the districts. Should the City Council not think the uses be allowed in any one district, a change to that district could be denied. Should the City Council think that the uses be permitted uses in a district or conditional uses in a district, the district drafts can be amended. The City Council can add to or eliminate any of the minimum conditions.	
Recommended Action/Motion: The Planning Commission unanimously recommends the amendments. Motion by _____, 2nd by _____ approving/denying 2nd Ordinance reading to amend, as recommended by the Planning Commission, Zoning Ordinance Sections 2, 61, 62, 63, 64, 65, 70 and 72 to permit microdistilleries and cocktail rooms and to dispense with the Ordinance reading.	
Final Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☒ No <i>Please Explain:</i>	

**ORDINANCE
NO. 1475**

**AN ORDINANCE AMENDING BRAINERD ZONING ORDINANCE
SECTIONS 515-02, 515-61, 515-62, 515-63, 515-64, 515-65, AND 515-70 REGARDING
MICRODISTILLERIES AND COCKTAIL ROOMS**

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: That Section 515-2-2 - Definitions shall be amended by adding the following:

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

Microdistillery – A facility for distilling spirits not to exceed the State Statute allowed amount in a calendar year. It may include a cocktail room and retail space to sell spirits to patrons on the site.

SECTION TWO: That Section 515-61-6 – Conditional Uses shall be amended by adding the following:

515-61-6: Conditional Uses.

O. Microdistilleries and Cocktail Rooms. A microdistillery and cocktail room license subject to the provisions of Minnesota Statute 340A and the following:

1. No outdoor storage.
2. A cocktail room shall require an on-sale license from the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.

SECTION THREE: That Section 515-62-6 – Permitted Uses shall be amended by adding the following:

515-62-2: Permitted Uses.

V. Microdistilleries and Cocktail Rooms. A microdistillery and cocktail room license subject to the provisions of Minnesota Statute 340A and the following:

1. No outdoor storage.
2. A cocktail room shall require an on-sale license from the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.

SECTION FOUR: That Section 515-63-2 – Permitted Uses shall be amended by adding the following:

515-63-2: Permitted Uses.

AA. Microdistilleries and Cocktail Rooms. A microdistillery and cocktail room license subject to the provisions of Minnesota Statute 340A and the following:

1. No outdoor storage.
2. A cocktail room shall require an on-sale license from the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.

SECTION FIVE: That Section 515-64-2 – Permitted Uses shall be amended by adding the following:

515-64-2: Permitted Uses.

I. Microdistilleries and Cocktail Rooms. A microdistillery and cocktail room license subject to the provisions of Minnesota Statute 340A and the following:

1. No outdoor storage.
2. A cocktail room shall require an on-sale license from the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.

SECTION SIX: That Section 515-65-2 – Permitted Uses shall be amended by adding the following:

515-65-2: Permitted Uses.

T. Microdistilleries and Cocktail Rooms. A microdistillery and cocktail room license subject to the provisions of Minnesota Statute 340A and the following:

1. No outdoor storage.
2. A cocktail room shall require an on-sale license from the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.

SECTION SEVEN: That Section 515-70-2 – Permitted Uses shall be amended by adding the following:

515-70-2: Permitted Uses.

Y. Microdistilleries and Cocktail Rooms. A microdistillery and cocktail room license subject to the provisions of Minnesota Statute 340A and the following:

1. No outdoor storage.
2. A cocktail room shall require an on-sale license from the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Brainerd City Code 515-62-6B for outdoor serving, if applicable.

SECTION EIGHT: All other provisions of Section 515-2, 515-61, 515-62, 515-63, 515-64, 515-65, and 515-70 shall remain in full force and effect.

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

Adopted this ____day of _____, 2017

DAVID J. PRITSCHET
President of the Council

Approved this ____day of _____, 2017

EDWIN L. MENK
Mayor

ATTEST: _____
JAMES M. THOREEN
City Administrator

Summary Published: One Time,

SECTION 61
B-2, NEIGHBORHOOD BUSINESS DISTRICT

Section:

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

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

515-61-2: Permitted Uses.

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

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

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

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

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

A. Lot Area Per Unit:

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

Lots created after June 15, 2009 require four thousand five hundred (4,500) square feet per unit up to two units and three thousand (3,000) square feet per unit for more than two units up to four units.

SECTION 62
B-3, CENTRAL BUSINESS DISTRICT

Section:

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

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

515-62-2: Permitted Uses.

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

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

2. A COCKTAIL ROOM SHALL REQUIRE AN “ON-SALE” LICENSE FROM THE CITY OF BRAINERD, ACCORDING TO THE CITY CODE SECTION XII.
3. COMPLY WITH THE REQUIREMENTS OF BRAINERD CITY CODE 515-62-6B FOR OUTDOOR SERVING, IF APPLICABLE.

515-62-3: Accessory Uses.

- A. Uses incidental to the principal uses such as off-street parking as regulated by Section 17 of this Ordinance.
- B. Loading and unloading areas subject to the provisions of Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers as regulated by Section 35 of this Ordinance.

515-62-4: Uses by Administrative Permit.

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

SECTION 63
B-4, GENERAL BUSINESS DISTRICT

Section:

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

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

515-63-2: Permitted Uses.

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

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

515-63-3: Accessory Uses.

- A. Uses incidental to the principal uses such as off-street parking as regulated by Section 17 of this Ordinance.
- B. Loading and unloading areas subject to the provisions of Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Commercial accessory buildings shall not exceed thirty (30) percent of the gross floor space of the principal building.
- F. Drive-up service facilities provided that:
 1. Not less than one hundred twenty (120) feet of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty (60) feet per lane.
 2. The stacking lanes shall be setback three (3) feet from all property lines and its access must be designed to control traffic in a manner to protect the buildings and

SECTION 64
B-5, COMMERCIAL AMUSEMENT DISTRICT

Section:

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

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

515-64-2: Permitted Uses.

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

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

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

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

515-64-5: Conditional Uses.

- A. Commercial recreational businesses with keeping of animals limited to commercial riding stables, rodeo facilities, zoos and zoological facilities provided that:
1. All buildings and areas containing animals are at least three hundred (300) feet from a residentially zoned property.
 2. Animal wastes shall be flushed down an existing sanitary sewer system or enclosed in a container of sufficient construction to eliminate odors and organisms and shall be properly disposed of at least once a day.
 3. All State Health Department and Minnesota Pollution Control Agency requirements for such facilities are met.
- B. Auto racing tracks and go-cart tracks provided that:

SECTION 65
B-6, WASHINGTON STREET COMMERCIAL DISTRICT

Section:

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

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

515-65-2: Permitted Uses.

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

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

515-65-3: Accessory Uses.

- A. Accessory uses customarily incidental to permitted uses.
- B. Loading and unloading areas as regulated by Section 23 of this Ordinance.
- C. Signs.

SECTION 70
I-1, LIGHT INDUSTRY DISTRICT

Section:

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

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

515-70-2: Permitted Uses.

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

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

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

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

515-70-3: Accessory Uses.

- A. Off-street parking as regulated in Section 22 of this Ordinance.
- B. Off-street loading as regulated in Section 23 of this Ordinance.
- C. Signs as regulated in Section 37 of this Ordinance.
- D. Residence for night watchman or other security personnel.
- E. Commercial or business buildings not to exceed thirty (30) percent of the gross floor space of the principal building and shall be of the same material and design as the principal use.
- F. Fences as regulated in Section 19 of this Ordinance.
- G. Radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers as regulated by Section 35 of this Ordinance.



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Variance - Accessory Building Setback, Brainerd Laestadian Church (Manor), 1501 S. 8th Street

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Mark Ostgarden, City Planner	Department: Planning
Presenter (Name & Title): Same	Estimated Time Needed: 5 -15 minutes
Summary of Issue: The Laestadian Church (Manor) has a 150' x 22' garage along its south property line approximately 3' from the property line. They would like to construct a 22' x 36' addition on the east end and match the existing 3' setback. There are 14 senior living apartments and 11 garages. In 2009 when the Zoning Ordinance was rewritten, multifamily zoning accessory building setbacks were established at 15'; meaning to match the existing setback, a 12' variance is required.	
Alternatives, Options, Effects on Others/Comments: 1. Approve the variance, permitting the accessory building addition to match the existing setback. 2. Deny the variances requiring the accessory building to meet setback requirements.	
Recommended Action/Motion: The Planning Commission recommends approval. Moved and 2nd by _____ and _____ to approve/deny the 12' variance request submitted by Brainerd Laestadian Church (Manor), 1501 S. 8th Street to permit an accessory building addition to match the 3' side yard setback of the existing building.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☒ No <i>Please Explain:</i>	

VARIANCE

STAFF REPORT TO THE PLANNING COMMISSION

November 6, 2017

APPLICANT/LOCATION: Brainerd Laestadian Church (Manor), 1501 S. 8th Street

PROPOSED USE: Request to construct a non-conforming building (garage) addition that will encroach into the required side yard setback

LOT AREA: 4 Acres

CURRENT ZONING: R-3 (High Density Residential) District

ADJACENT USES: East: Trail/Residential
South: Residential/Nonresidential
West: Residential
North: Residential

ADJACENT ZONING: North: R-1A (Single Family Residential) District
East: R-1A (Single Family Residential) District
South: R-1A (Single Family Residential) District
West: R-1A (Single Family Residential) District

REPORT

The Laestadian Church (Manor) has a 150' x 22' garage along its south property line approximately 3' from the property line. They would like to construct a 22' x 36' addition on the east end and match the existing 3' setback. There are 14 senior living apartments and 11 garages. In 2009 when the Zoning Ordinance was rewritten, multifamily zoning accessory building setbacks were established at 15'; meaning to match the existing setback, a 12' variance is required.

Criteria for Granting Variances

A. Variances shall only be permitted:

When they are in harmony with the general purposes and intent of the Ordinance. Following is the Intent and Purpose section of the Zoning Ordinance:

- A. Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
- B. This Ordinance shall divide the City into use districts and establish regulations regarding location, erection, construction, reconstruction, alteration and use of structures and land.*
- C. Protect neighborhoods.*
- D. Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*

- E. Provide adequate light, air, and convenience of access to property.**
- F. Prevent congestion in the public right-of-way.**
- G. Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.**
- H. Protect and preserve the natural environment of the City.**
- I. Encourage the protection of historic and aesthetic resources in the City.**
- J. Conserve energy using alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.**
- K. Provide for compatibility of different land uses.**
- L. Provide for administration of this Ordinance.**
- M. Provide for amendments.**
- N. Prescribe penalties for violation of such regulations.**
- O. To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.**

Is the variance in harmony with the general purposes and intent of the Ordinance? The highlighted sections appear to be the ones that are related to whether the request will be in harmony with the purposes and intent of the Zoning Ordinance.

B. When the Variance is consistent with the Comprehensive Plan.

The Comprehensive Plan Goal and Strategy that may apply is:

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

Strategy

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

C. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.

Subdivision 4. "Practical Difficulties", as used about the granting of a variance means that:

I. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.

The addition will be at the east end of the existing building and be over 300' from S. 8th Street. There is sufficient area to construct a separate building for the additional units without encroaching into setback areas. There would be a cost savings by adding to the existing building, separate from that based on the addition location, and the impact it will/will not have on the adjacent property, is it reasonable property use to allow the addition as proposed.

II. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The property is a 4 acre site that was once an elementary school that has been repurposed for church use and apartments. There are no site development limitations such as wetlands, ravines, steep topography, etc.

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

The addition will not be readily visible from S. 8th Street or from the property to the north. The current garage is adjacent to residential property to the south. The addition will be adjacent to the platted right of way and the non-residential use. The addition would affect one residential property to the south, where the dwelling on that property is close to 100' from the addition. It will be visible to the non-residential use to the south.

Will the 36' addition onto the already 150' long building alter the neighborhood character?

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.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation at its meeting on November 15, 2017 and the City Council may consider the Planning Commission's recommendation at its November 20, 2017 meeting.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

DRAFT Findings-of-Fact

Brainerd Laestadian Church (Manor), 1501 S. 8th Street

Request to construct a non-conforming building (garage) addition that will encroach into a required side yard setback.

1. The property is in an R-3 (High Density Residential) District and the owner desires to construct a 22' x 36' addition onto an existing row style garage.
2. The site is approximately 4 acres and is a repurposed elementary school.
3. The new garage total area will be 4,092 sq. ft. (186' x 22').
4. There are 14 senior living apartments and 11 garages.
5. The property has frontage on S. 8th Street. The addition will be over 300' from S. 8th Street, there is vacant property and a multiple purpose trail located to the east. The closest building to the east is approximately 200' away.
6. The addition will be adjacent to the platted right of way and the non-residential use. The addition would affect one residential property to the south where the dwelling on that property is close to 100' from the addition. It will be visible to the non-residential use to the south.
7. There is single family use south of the existing garage structure. A nonresidential use is using a platted but undeveloped right of way adjacent to the south of the proposed addition.
8. The required side yard setback is 15'. The existing setback is approximately 3' and the addition is proposed to match the existing setback.
9. Following are the statements from Zoning Ordinance Section 1 – Intent and Purpose that are applicable to this application. The addition location will:
 - D. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
 - E. *Provide adequate light, air, and convenience of access to property.*
 - F. *Prevent congestion in the public right-of-way.*
 - G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
 - H. *Protect and preserve the natural environment of the City.*
 - I. *Encourage the protection of historic and aesthetic resources in the City.*
 - K. *Provide for compatibility of different land uses.*
8. **LAND USE GOAL #3:** *Plan for the orderly, efficient and fiscally responsible growth of residential development in Brainerd.*
Strategies

Continue to guide residential growth in an orderly and compact manner so that new developments can be effectively served by public improvements and that the character and quality of the city's existing neighborhoods can be maintained and enhanced.

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

10/24/2017

This letter is to describe the garage addition requested by the Laestadian Church of Brainerd, 1501 S. 8th Street, Brainerd, MN.

The Church has 14 apartments and only 11 garage spaces for residents' cars. The existing garages are on a line about 4' from the South property line. We would request a permit to allow us to simply add 3 more spaces as per the accompanying plans. They would continue where we already have asphalt paving which would then be removed and the new structure installed. This is the least disruptive to the property and the simplest means to add 3 more garage spaces. Existing gutters could be lengthened to divert water from the parking lot and to the rear property which has a very large undeveloped green space. Allowing this addition would enable us to use the existing parking and drive lanes with very little new hard surfaces.

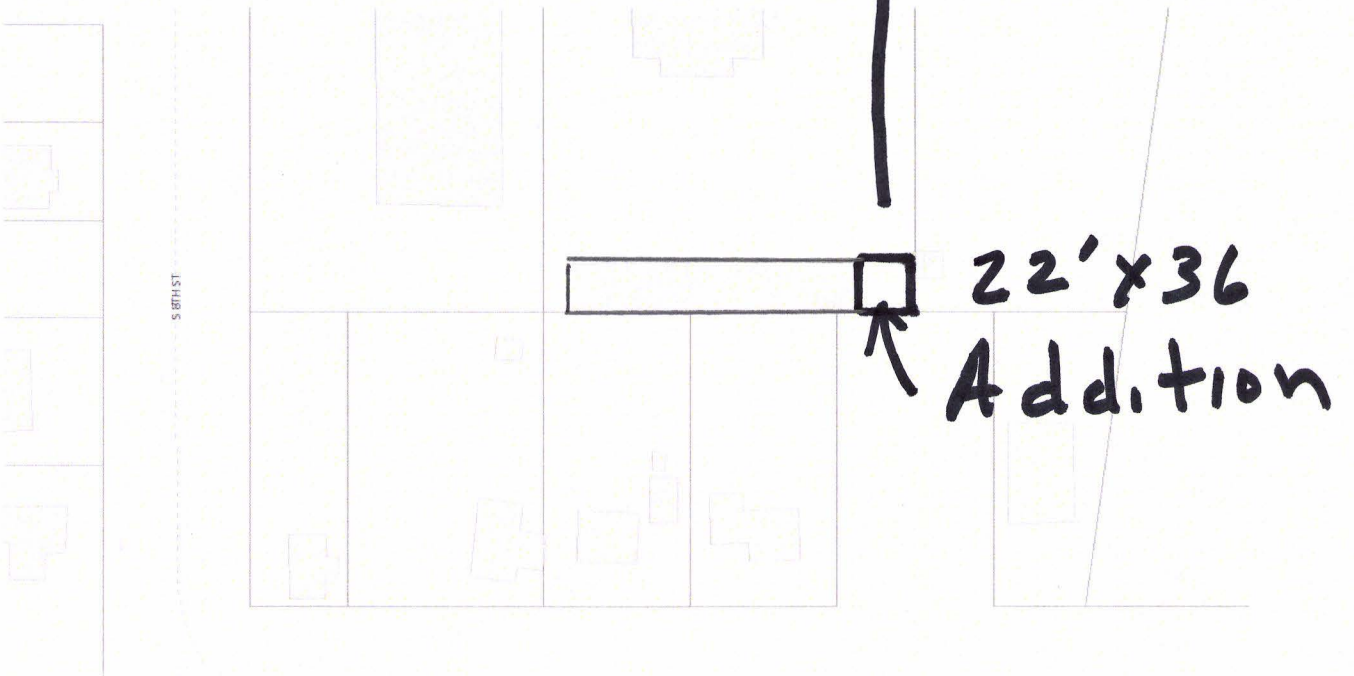
Thanks for considering our application.

Steve Collette

RECEIVED

OCT 24 2017

CITY OF BRAINERD
ADMINISTRATION





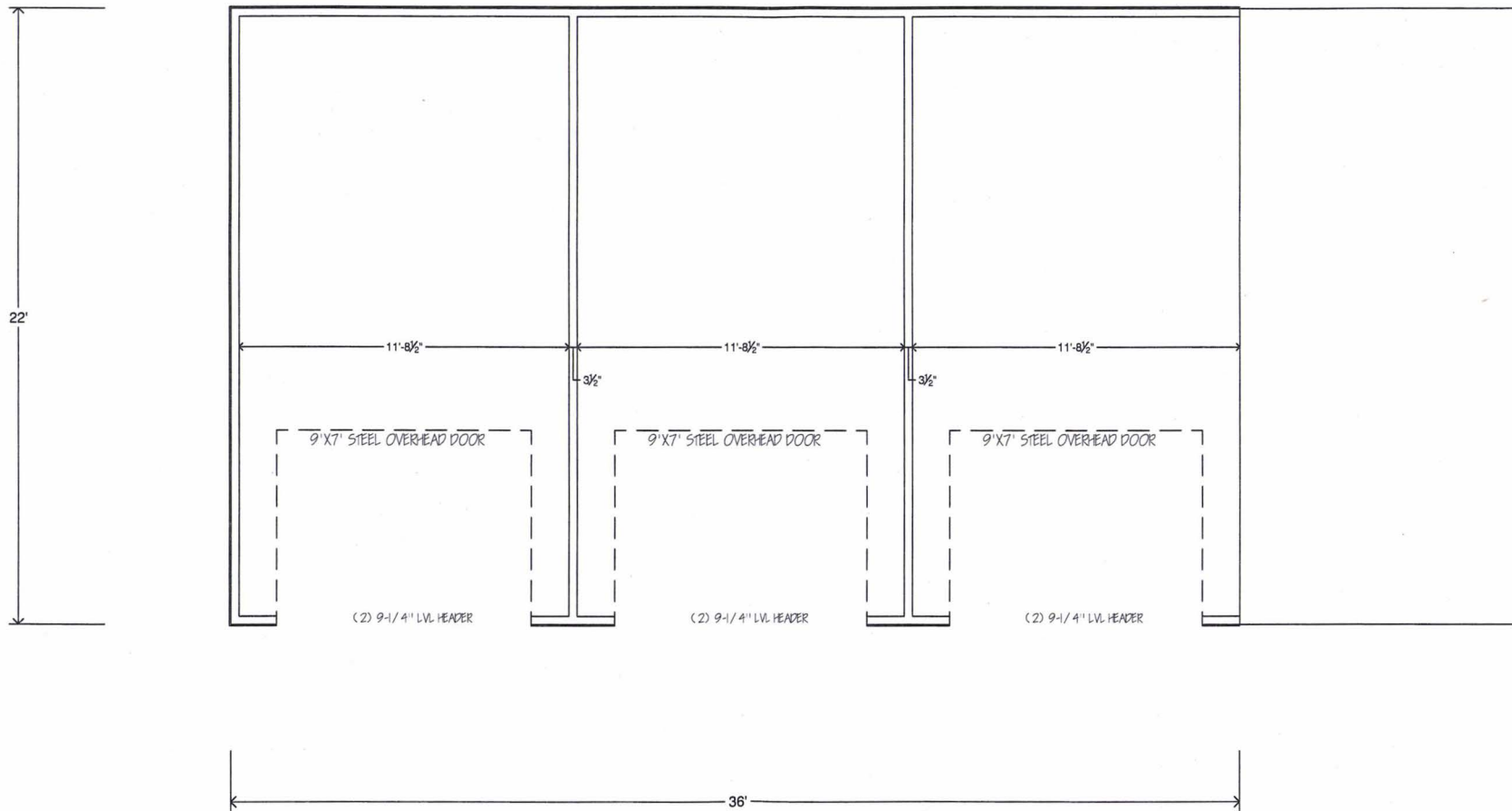
View from S. 8th St.



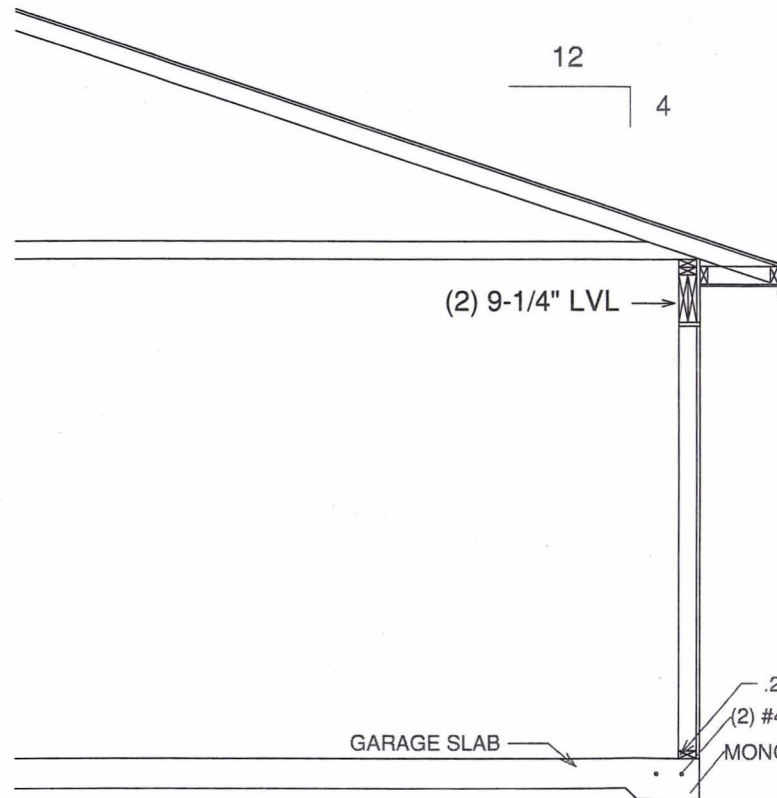
View from Brook St.



Addition Footprint



Addition Roof Pitch



ROOF ASSEMBLY

30 YEAR LANDMARK ASPHALT SHINGLES
#30 SHINGLE UNDERLAYMENT
(2) COURSES WEATHERWATCH @ EAVES
15/32" O.S.B. ROOF SHEATHING
4/12P ENGINEERED ROOF TRUSSES 24"OC

SOFFIT ASSEMBLY

2X4 S-P-F SUBFASCIA AND LOOKOUTS
1X6 CEDAR FASCIA
3/8" ROUGH SAWN FIR SOFFIT

WALL ASSEMBLY

5/8" SYP T1-11 8"OC SIDING
TYVEK HOUSE WRAP
2X4 S-P-F STUDS 16"OC

FOUNDATION ASSEMBLY

.25 TREATED SILL PLATE
(2) #4 REBAR CONTINUOUS
MONOLITHIC FOOTING

GARAGE SLAB



Brainerd City Council Agenda Request

Agenda Item #

Requested Meeting Date: November 20, 2017

Title of Item: Variance - Non-Conforming Building Addition Into Required Side Street Yard; Kelly Bevans, 523 Holly Street

☐ 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 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Mark Ostgarden, City Planner	Department: Planning
Presenter (Name & Title): Same	Estimated Time Needed: 5 -15 minutes
Summary of Issue: A variance to expand a non-conforming building that encroaches into the required side street yard setback by constructing a deck onto the top of the attached garage and front porch. R-1 minimum lot size is 7,000 sq. ft. and the petitioner's lot size is 5,000 sq. ft., a non-conforming lot size. The property is zoned R-1 (Single Family Residential) District and Zoning Ordinance Section 515-54-7. C. Single Family Residential District specifies a garage and deck must be setback 15' from the side street property line. The garage and deck are non-conforming because the setback is 12'9" from the N. 6th Street side street property line. The expansion encroaches 2'3" into the required side street yard setback.	
Alternatives, Options, Effects on Others/Comments: 1. Approve the variance, permitting the non-conforming building expansion. 2. Deny the variance which will mean the deck cannot be added to the building.	
Recommended Action/Motion: The Planning Commission recommends approval. Moved and 2nd by _____ and _____ to approve/deny the variance to permit the expansion of a non-conforming building that will permit a deck to encroach 2'3" into a required street side yard.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☒ No <i>Please Explain:</i>	

VARIANCE

STAFF REPORT TO THE PLANNING COMMISSION

November 6, 2017

APPLICANT/LOCATION: Kelly Bevans, 523 Holly Street

PROPOSED USE: Expand a non-conforming building by adding a deck that encroaches into a street side yard setback

LOT AREA: 60' x 82' = 5,000 sf

CURRENT ZONING: R-1 (Single Family Residential) District

ADJACENT USES: East: Residential
South: Residential
West: Residential
North: Residential

ADJACENT ZONING: North: R-1 (Single Family Residential) District
East: R-1 (Single Family Residential) District
South: R-1 (Single Family Residential) District
West: R-1 (Single Family Residential) District

REPORT

The property owner has requested a variance to expand a non-conforming building that encroaches into the required side street yard setback by constructing a deck onto the top of the attached garage and front porch. Deck construction began because the property owner believed a building permit approved for other work on the house included approval to construct the deck. A review of the building permit identifies that deck construction was not part of the application and therefore its construction was not approved.

R-1 minimum lot size is 7,000 sq. ft. and the petitioner's lot size is 5,000 sq. ft., a non-conforming lot size. The property is zoned R-1 (Single Family Residential) District and Zoning Ordinance Section 515-54-7. C. Single Family Residential District specifies a garage and deck must be setback 15' from the side street property line. The garage and deck are non-conforming because the setback is 12' 9" from the N. 6th Street side street property line. The expansion encroaches 2'3" into the required side street yard setback.

Zoning Ordinance Section 5 – Non-Conforming Lots, Buildings, Structures And Uses 515-15-2 D.: General Provisions reads as follows:

Any nonconformity, including the lawful use or occupation of land or premises existing at the time of adoption of an additional control under this Ordinance, may be continued in the same size and manner, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, ...

A variance is required to construct the deck that will encroach 2'3" into the required street side yard on a non-conforming building.

The Planning Department has discussed the addition and the need for a variance with the City Attorney. A question was asked whether removing 2' 3" of the deck back to the setback line would make the deck a permitted addition. His position is there can be NO additions horizontally or vertically to the non-conforming building.

Criteria for Granting Variances

A. Variances shall only be permitted:

When they are in harmony with the general purposes and intent of the Ordinance. Following is the Intent and Purpose section of the Zoning Ordinance:

- A. Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
- B. This Ordinance shall divide the City into use districts and establish regulations regarding location, erection, construction, reconstruction, alteration and use of structures and land.*
- C. Protect neighborhoods.*
- D. Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
- E. Provide adequate light, air, and convenience of access to property.*
- F. Prevent congestion in the public right-of-way.*
- G. Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. Protect and preserve the natural environment of the City.*
- I. Encourage the protection of historic and aesthetic resources in the City.*
- J. Conserve energy using alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. Provide for compatibility of different land uses.*
- L. Provide for administration of this Ordinance.*
- M. Provide for amendments.*
- N. Prescribe penalties for violation of such regulations.*
- O. To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

Is the variance in harmony with the general purposes and intent of the Ordinance? The highlighted sections appear to be the ones that are related to whether the request will be in harmony with the purposes and intent of the Zoning Ordinance.

B. When the Variance is consistent with the Comprehensive Plan.

The Comprehensive Plan Goal and Strategy that may apply is:

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

Strategy

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

C. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.

Subdivision 4. "Practical Difficulties", as used about the granting of a variance means that:

I. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.

Impervious area on the lot which includes the house footprint, driveway, walkways and other hard surfaces is approximately 60%. Maximum lot coverage in this district is 60%, leaving little or perhaps no lot area for additional impervious lot coverage.

Arguably, a 2nd story deck would provide more privacy for the residents. Due to the size of the dwelling footprint and the dwelling configuration, space available for an at grade outdoor deck/patio area is along the N. 6th Street side street yard and space is available in the front yard along Holly Street. Decks are not considered an impervious surface therefore would not be included in lot coverage calculations. The space along N. 6th Street could also be an area for an at grade patio. A patio area would be considered impervious therefore considered in coverage calculations and most would require maximum lot coverage variance.

Should the property owner desire privacy along N. 6th Street, a 5'-6' tall privacy fence would be desired. A fence variance would be required as a 4' tall fence is permitted in this location.

II. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The lot is approximately 5,000 sf; 2,000 sf less than the minimum lot size for the area and the lot coverage is approximately 60%. Due to the size of the dwelling footprint and the dwelling configuration, locations available for a deck or patio are along N. 6th Street and in the front yard along Holly Street.

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

Some may see the addition and think it visually stands out or looks out of balance in relationship to the proportions of the dwelling. The unusual aspect of this construction is the deck is over a pitched roof. The property owner plans to enclose the area under the deck floor so the supports and joists are not visible. This should create a more finished appearance.

Those that think it is not in proportion to the dwelling, may be in part due to the new treated lumber. Over time, it will age and weather, taking on a different look which may help it look like part of the dwelling. The property owner could paint or stain the deck, which will help to create more coordinated deck and dwelling appearance.

Although there may be some question about the deck's visual appearance and its proportion to the dwelling, it would be difficult to argue that it has an impact on the essential character of the locality. The neighborhood is a mix of housing age, styles, sizes, setbacks, materials and color. There are other roof top decks in the area; examples of which are provided in the attached photos. They are above living areas that have a flat roof (almost flat on one dwelling.)

Others arguably may think the deck will add character to the dwelling and the neighborhood.

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.

PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission may consider a recommendation at its meeting on November 15, 2017 and the City Council may consider the Planning Commission's recommendation at its November 20, 2017 meeting.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

DRAFT Findings-of-Fact

Kelly Bevans, 523 Holly Street, Brainerd, MN 56401

Expand a non-conforming building by adding a deck

1. The property is in an R-1 (Single Family Residential) District and the owner desires to construct a deck onto the dwelling that is non-conforming due to setbacks.
2. The lot size is non-conforming. The lot is approximately 5,000 sq. ft. (60' x 82') and the minimum R-1A lot size is 7,000 sq. ft.
3. Impervious area on the lot which includes the house footprint, driveway, walkways and other hard surfaces is about 60%. Maximum lot coverage in this district is 60%
4. For zoning setback purposes, the N. 6th Street is considered the street side yard.
5. The dwelling is non-conforming in that street side yard setback is 15', it encroaches 2'3" into the street side yard setback area.
6. The deck will be constructed above the attached garage and enclosed front porch. It is also proposed to encroach 2' 3" into the required side street yard setback area.
7. Zoning Ordinance Section 5 – Non-Conforming Lots, Buildings, Structures and Uses 515-15-2 D.: General Provisions reads as follows:

*Any nonconformity, including the lawful use or occupation of land or premises existing at the time of adoption of an additional control under this Ordinance, may be continued in the same size and manner, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, ...*There is an attached garage located 30' from the front property line. R1-A zoning requires a 30' front yard setback leaving no room to add onto the attached garage.
8. Following are the statements from Zoning Ordinance Section 1 – Intent and Purpose that appear applicable. The deck location will:
 - E. Permit adequate light, air, and convenience of access to property.
 - I. Encourage the protection of historic and aesthetic resources in the City.
 - K. Provide for compatibility of different land uses.
9. **LAND USE GOAL #3:** *Plan for the orderly, efficient and fiscally responsible growth of residential development in Brainerd.*

Strategies

Continue to guide residential growth in an orderly and compact manner so that new developments can be effectively served by public improvements and that the character and quality of the city's existing neighborhoods can be maintained and enhanced.

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

10. The deck location is efficient land use and will add to the value of the property to support the tax base? The deck will add value to the neighborhood and not negatively impact surrounding property?
11. The property is unique in that it is nonconforming in its size and there is little, if any, area for additional legal expansion of the dwelling.
12. The addition will not alter the neighborhood's character because it is defined by many combinations of housing age, styles, sizes, setbacks, materials and color.
13. Although not many exist, there are other roof top decks in the area.
14. The petitioner has stated the deck bottom will be screened to hide supports and joists.
15. Deck construction has begun based on the property owner thinking a deck permit had been issued. Building Department record verified a permit was not issued.

October 22, 2017

City of Brainerd
Planning & Zoning Commission
Mark Ostgarden Planner

Please accept this variance application to add a deck on top of an existing non-conforming attached garage. The variance is needed as the garage, & therefore the deck we plan to build above it, will encroach 27" into the side yard setback.

Enclosed is a copy of the plot plan map from Crow Wing County website.

The reason for this request is since purchasing this house in 1990 we have had to live with a garage that was added, for practicality, with no thought for the essential character of the property or the neighborhood. For nearly 30 yrs we have tried to come up with a plan to minimize the impact of the addition and better blend it in to the existing architecture. However, without the variance we will be unable to cover the entire existing structure, so then we'll be unable to box/skirt under the deck to the existing structure and also be unable to replace the siding on the garage and restore it to the beautiful 4" cedar (sitting in my garage) to match the rest of the house next summer.

This certainly seems reasonable to me as how else can we enhance the property & maintain the necessity of having a garage in Minnesota.

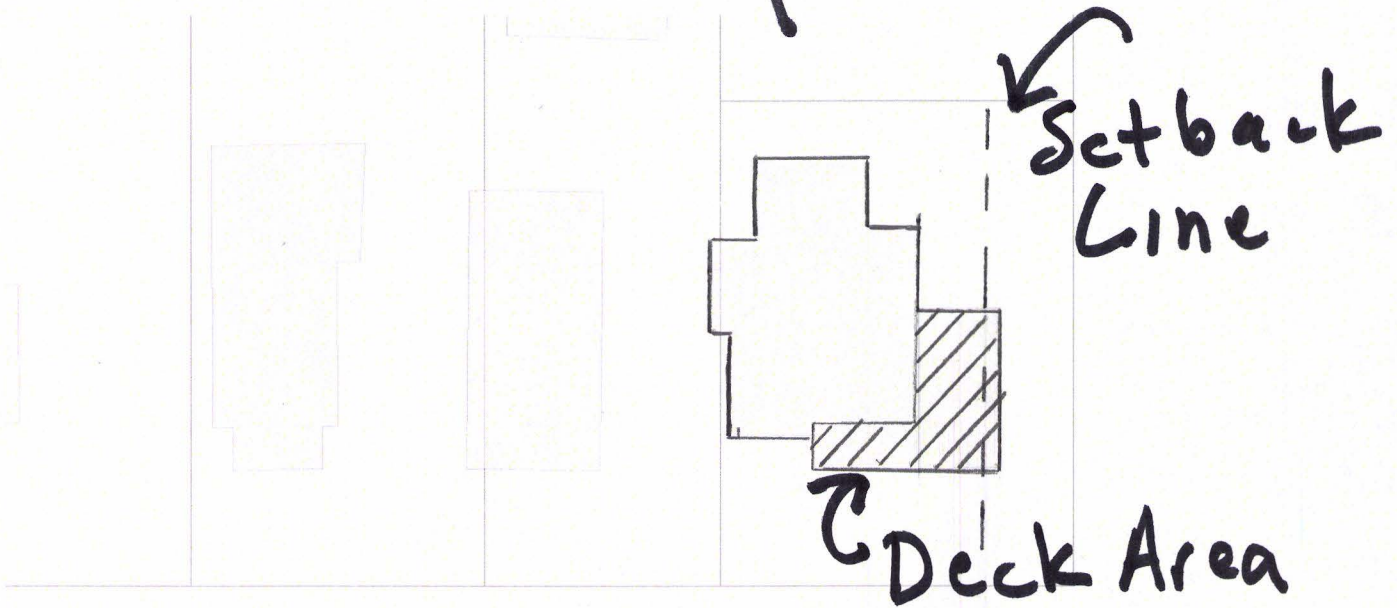
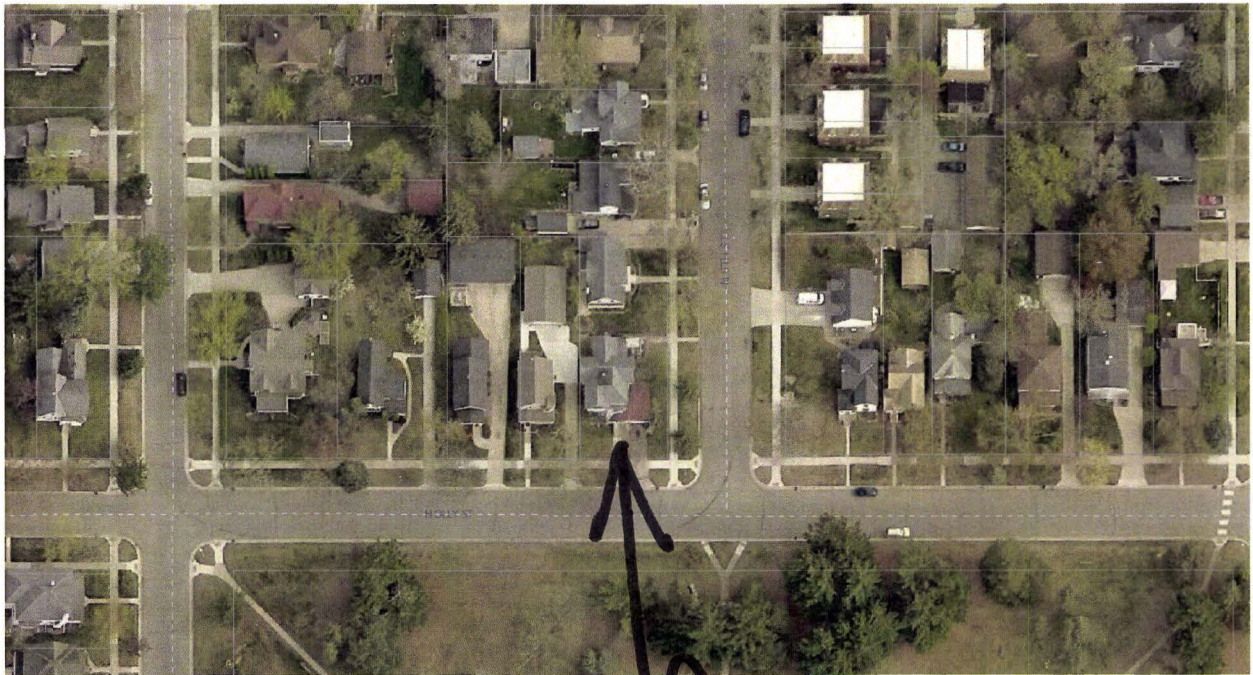
The circumstances of the original encroachment was created by the original builders of the garage back in the early 1970's

I believe this project, once completed, will enhance the essential character of the location as it will help make the ugly addition blend better with existing architecture.

Thank You

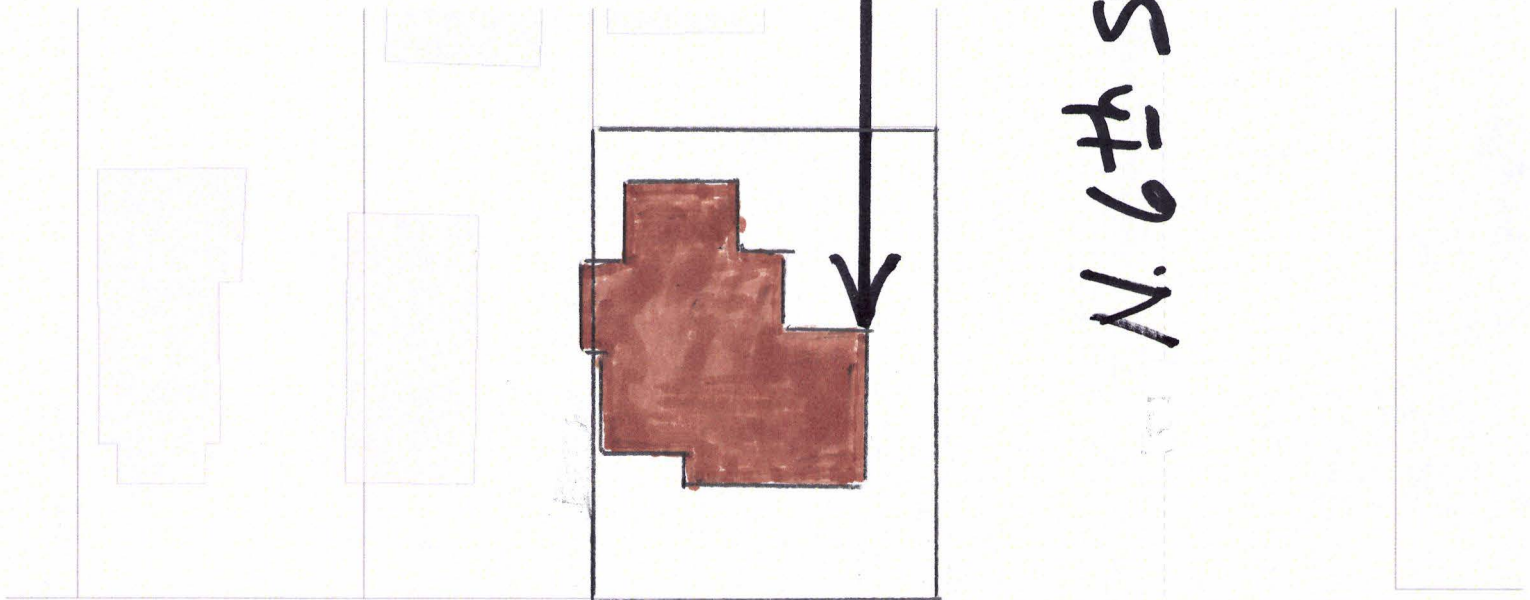


Kelly Bevens
523 Holly St.
Brainerd, MN 56401
(218) 828-9515 (days)





The deck setback is the same as the garage wall which is 2'3" into the required 15' street side yard setback.



N. 6th St.

Holly St.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that the Kelly Bevans, 523 Holly Street, Brainerd, MN 56401, has submitted a variance request to expand a non-conforming building (garage portion of the dwelling) by adding onto the garage roof a deck that will encroach into the required side street yard setback. Deck construction began because the property owner believed a building permit approved for other work on the house included approval to construct the deck. A review of the building permit identifies that deck construction was not part of the application and therefore its construction was not approved.

The garage and deck are setback 12' 9" from the N. 6th Street side street property line. The property is zoned R-1 (Single Family Residential) District and Zoning Ordinance Section 515-54-7. C. Single Family Residential District specifies the garage and balcony must be setback 15' from the side street property line.

The City of Brainerd Planning Commission will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 6:00 p.m., Wednesday, November 15, 2017 to consider the variance request.

A copy of the application is on file for review at the City Planning Department, 501 Laurel Street.

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

Dated this 1st day of November 2017


Mark Ostgarden AICP
City Planner

Publication date: November 3, 2017

See the reverse side for a photo of the deck and a site plan of the property.

Is there an ordinance for
big and ugly? It meets
the criteria 😊

PLANNING COMMISSION
Wednesday, November 15, 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 Burslie, Gorham, Headley, Marohn and Wussow; and Council Liaison Lambert. Also present were City Planner Ostgarden and Administrative Specialist Bestul. Noted absent was Commissioner Antolak.

#2 Approval of Agenda

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

#3 Approval of minutes of the regular meeting held on October 18, 2017

MOTION AND SECONDED BY COMMISSIONERS WUSSOW AND LAMBERT, DULY CARRIED, TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 18, 2017 WITH THE FOLLOWING CORRECTIONS:

Under #7 Commissioners Questions/Comments – Page 9; Add to line 3: *Mr. Wussow indicated the ordinance should be enforced **or change the ordinance.***

#4 NEW BUSINESS

A. Public Hearing – Variance Request – Brainerd Laestadian Church (Manor) - 1501 S. 8th St.

City Planner Ostgarden indicated the property is a repurposed school which is a church and an apartment building. The church is located closest to south 8th street and the apartments are on the east side. There are 14 senior living apartments on the site. The existing accessory building on the south side is a 150' x 22' building approximately 3' from the property line which consists of 11 garages. The proposal is to add a 22' x 36' addition on the east end and match the existing 3' setback. The intent is to add another 3 garages for the apartment building so each resident would have a garage. In 2009 the Zoning Ordinance was rewritten, it was established for multiple family dwellings that an accessory building side yard setback of 15'. The church would like to construct the garage addition to match the existing setback at that location which results in a variance request of 12'.

City Planner Ostgarden went through the maps and photos of the property explaining the location of the proposed addition as well as the building plan for the proposed structure. Several of the criteria for granting variances have been read and highlighted in the staff report that would potentially pertain to the variance request.

Commissioner Wussow stated that since the zoning ordinance was rewritten in 2009, when did this use take over the parcel? City Planner Ostgarden indicated it was prior to 2005 for sure. (1983) Mr. Wussow indicated there are numerous locations to construct the garage without a variance. One option is a parking area to the south that could be converted. Mr. Wussow questioned if there is a limit to the amount of accessory structures allowed on the property. City Planner Ostgarden replied that for multiple family dwellings, there is no limit.

The Chair opened the public hearing at 6:12 p.m.

The Chair recognized Mr. Steve Collette, 1126 Poplar Drive, East Gull Lake petitioning on behalf of the Laestadian Church. Mr. Collette confirmed that there is other property on the site that could be used for separate garages. However, it is a convenience for the residents to have the garage in the proposed location as it is already paved and there are parking spaces in that area. The school used to be Edison school and the apartments were put in in 1984. When the newest addition of a six-plex apartment building was built, there were no extra garages available.

Commissioner Marohn asked if the petitioner has discussed the proposed addition with the area neighbors. Mr. Collette indicated he has not. The property is about 200' – 300' back to the trail from the edge of the existing garage. Mr. Marohn stated from the edge of the property is about 140' as indicated from the Crow Wing County GIS website.

The Chair closed the public hearing at 6:16 p.m.

Commissioner Marohn indicated that based on the GIS website plat map, it shows property owners all through the area, but there is a gap that appears to be right-of-way. City Planner Ostgarden explained that is un-platted right-of-way extends up to the south property line. The encroachment will be into the setback in the right-of-way.

City Planner Ostgarden suggested paraphrasing the findings of fact rather than verbatim. The commission agrees. Commissioner Marohn asked if the findings of fact be sited rather than reading through all of them.

MOTION AND SECONDED BY COMMISSIONERS MAROHN AND LAMBERT, DULY CARRIED, TO APPROVE THE VARIANCE BASED ON THE TEN (10) FINDINGS OF FACT MODIFYING #6 AND ADDING THE FOUR (4) VARIANCE CRITERIA AS SHOWN BELOW:

- Page 4, #6. *The addition will be adjacent to the platted right of way and the non-residential use. ~~The addition would affect one residential property to the south where the dwelling on that property is close to 100' from the addition.~~ It will be visible to the non-residential use to the south.*
- *The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.*
- *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*
- *The variance, if granted, will not alter the essential character of the locality.*
- *Economic considerations alone do not constitute practical difficulties.*

Commissioner Burslie questioned if the property owner built the existing garage, which it was. It was constructed when the apartment building was built. Mr. Burslie suggested including the variance criteria in the findings of fact and the motion. Due to the ordinance changing in 2009, the non-conformity is not created by the landowner.

Commissioner Wussow asked the petitioner to speak about the history of the property.

Mr. Collette stated the church purchased the school from the school district. They remodeled the building into a church and an apartment building. There was such a demand for more apartments they added the six-plex to the property. There are a total of 14 apartments with the 11 garages for the residents. There is an additional garage structure on the property that is essentially a storage building for use of the residents for crafts or workshop use. When the garages were built, the side yard setback was 3'.

B. Public Hearing – Variance Request – Mr. Kelly Bevans – 523 Holly St.

City Planner Ostgarden stated the property is located north of Gregory Park in a neighborhood that has a mix of single family, duplex and multiple family dwellings. The area consists of many homes of different styles, ages, sizes, setbacks, materials and colors. Earlier this year, the property owner was planning to do work to the property. He came to City Hall to obtain a building permit for windows, doors and siding and what was perceived to be the ability to construct a deck as well. In reviewing the permits, it was determined that he was not issued a deck permit. The work on the deck was progressing all summer to the point it is at today. The property owner was alerted to the fact that a deck permit had not been issued and construction was halted. The minimum lot size in an R-1 district is 7,000 square feet. The petitioner's lot size is 5,000 square feet which is a non-conforming lot size. The attached garage is encroached into the required side street setback along north 6th street by 12' 9", as the required setback is 15'. The non-conformity means that the deck may remain and proceed if the variance is granted. If the variance is denied, the entire deck would have to be removed per the City Attorney.

City Planner Ostgarden read through a summary of the variance criteria that pertain to this request. The impervious area on the lot which includes the house footprint, driveway, walkways and other hard surfaces is approximately 60%. Maximum lot coverage in this district is 60%, leaving little of perhaps no lot area for additional impervious lot coverage. Decks are not considered impervious coverage and there are other locations for a deck to possibly be constructed along North 6th Street or in the front yard along Holly Street. Will the variance alter the essential character of the locality? Although there may be some question about the deck's visual appearance and its proportion to the dwelling, there are more plans to enclose the area under the deck floor to provide a more finished look.

Commissioner Marohn asked for the process taken for issuing building permits and how it was discovered that there was not one issued. City Planner Ostgarden indicated that is irrelevant to the variance request. Commissioner Marohn was merely interested in how it happened. City Planner Ostgarden indicated there is not a representative from the Building Department here to provide the facts of what took place, however the property owner came in for a building permit and he perceived the permit to include the deck. If the Building Department would have known about the plans to construct a deck, that would be an immediate time-out because of the need for the Engineering Department to review the weight, support needed and the placement the deck above the garage roof. There was no information submitted for the approval of a deck permit. The property owner thought he did apply for the deck permit. Commissioner Marohn asked how the setback is defined – the code states the minimum horizontal distance between the building and the lot line. Since the deck is defined as a non-building, how is the setback measured? Since the beginning, it is measuring the distance from the property line back to the foundation of the building. Commissioner Marohn questioned the result if the variance is denied. Why would the petitioner have to remove the entire deck, and not just be able to modify the size back to the allowed setback? City Planner Ostgarden the question was sent to the City Attorney and based on his response that no additions at all will be allowed on the non-conformity.

Commissioner Marohn indicated that did not make sense to him that it is all or nothing. City Planner Ostgarden stated that it is a choice and opinion to defy the City Attorney's recommendation and for the Planning Commission to be able to make its determination tonight the issue is not how the City Attorney comes to the conclusion - the conclusion has been made.

Commissioner Burslie asked if plans need to be submitted in order to obtain a deck permit. City Planner Ostgarden answered yes the plans are needed prior to issuance. Mr. Bevans did not submit plans because the Building Department did not approve a deck. Commissioner Burslie asked if the variance is approved, is there an extra fee or penalty for building the deck without a permit? City Planner Ostgarden stated no, only a deck building permit fee.

The Chair opened the public hearing at 6:49 p.m.

The Chair recognized Mr. Kelly Bevans, 523 Holly Street. Mr. Bevans indicated he paid double on his building permit and claims he does have a permit to construct a deck which is in process and currently in the hands of the Building Department but has not yet been issued due to the variance. The reason there was no variance request at the time of the initial permit request is that there was no increased footprint to the property. The Building Department never received the message that a deck was going to be built. Now, there is a plan in the building office waiting for the result of the Planning Commission recommendation and the City Council decision on Monday November 20, 2017. Mr. Bevans indicated he conceivably could argue the fact that double permit fees were paid, but that is not the matter at hand. Council Lambert questioned if he paid double due because of the fact that it was sat in hindsight. Mr. Bevans answered yes because he stated he had permits issued to him until Mr. James Thoreen, City Administrator called and asked for his permits. The other part of this applies to altering the essential character of the locality. In the picture provided, please look at this conceptually as this is showing a half completed project. Mr. Bevans has owned the house since 1989. In 1973, a garage was constructed on the front of the house and every single day I've had to look at this structure on my beautifully constructed 1911 home historic to the neighborhood. But I cannot tear the garage down. Inside the garage there is a beautiful door that enters into the house and at one time there was a wraparound porch. Mr. Bevans stated he has worked with several architects over the years to try and figure out how to blend the garage with the beauty of the house. The work I have done was new windows, siding, garage door and new front door. The intent was not to build a deck for the purposes of having a deck - It was in order to blend the garage front to make it look more like the house including the ornate woodworking that was used. Mr. Bevans explained he loves the neighborhood, the house, the lot he lives on and Gregory Park. He indicated the garage roof is the original red color and it was not updated when the house roof was because the intent was always to construct something over the garage that would blend the two together. The building plans that are now in the possession of the Building Department include building up to the new wood at the bottom of the deck. Mr. Bevans indicated he never knew he would need the variance as he was not told this when he asked for the deck permit that he did not receive.

Commission Chair Headley indicated in the packet is a letter that Mr. Bevans submitted, but it did not go into the depth of detail as indicated above. Mr. Bevans stated the letter was submitted with the variance application. City Planner Ostgarden explained that it would have assisted the Commission if the information stated above was submitted previously for review of the application. Mr. Bevans indicated he was planning on appearing at the hearing to speak.

Commissioner Marohn stated it does seem to be an oversight that the petitioner failed to obtain a permit as a structure this size could not possibly be inconspicuous to others. Mr. Bevans indicated in July he received a 60 page booklet via email from the Building Department with the instructions of how to meet building codes on how to construct a deck.

The Chair recognized Mr. Mark Filkins, 603 Holly Street. Mr. Filkins is a neighbor of Mr. Bevans and spoke in favor of the variance request with the belief that the construction plan is reasonable. Mr. Filkins thinks it will help the appearance of the garage as intended.

The Chair recognized Ms. Margaret Tiplady, 509 Holly Street. Ms. Tiplady is also a neighbor in favor of the variance request. Ms. Tiplady firmly believes that Mr. Bevans thought he did have all the necessary permits required to build. Since the garage was already constructed, Ms. Tiplady believes it must have been a misunderstanding between the Building Department and Mr. Bevans. Ms. Tiplady does not object to the construction and anything that is done to improve the neighborhood is a big plus.

The Chair recognized Ms. Allison Potvin, 521 Holly Street. Ms. Potvin is a neighbor to Mr. Bevans is speaking in full support of Mr. and Mrs. Bevans and the plans they have and will be a great addition to their home.

The Chair recognized Mrs. Sue Bevans, 523 Holly Street. Ms. Bevans received and read an email from a neighbor that could not be present at the meeting tonight. The letter is from Ms. Natalie Potvin, 609 N. 6th Street. Ms. Potvin is fully supporting the variance request and stated there is nothing negative about the plans and does not see it affecting anyone else in the neighborhood.

The Chair closed the public hearing at 7:05 p.m.

MOTION AND SECONDED BY COMMISSIONERS BURSLIE AND LAMBERT, DULY CARRIED, TO APPROVE THE VARIANCE REQUEST BASED ON THE FIFTEEN (15) FINDINGS OF FACT AND THE ADDITIONAL FINDINGS OF FACT AS FOLLOWS:

- *This is an after the fact variance request on a structure that has already been partially constructed.*
- *The property owner does propose to use the property in a reasonable manner. The deck is being built on top of an existing structure and is not expanding the footprint of the structure.*
- *The plight of the landowner is due to circumstances unique to the property as the garage was constructed by a previous property owner.*
- *The essential character of the locality will not be affected with the condition of approval.*
- *Economic considerations alone do not constitute practical difficulties as this the request is not solely based on economic considerations.*

Conditional Approval Item

- *The area between the roof of the garage and the base of the deck shall be enclosed and finished in a way that blends with the structure.*

#5 PUBLIC FORUM

None

#6 OLD BUSINESS

Off Street Parking Requirements for Schools

Special Meetings, Special Meeting Fees and Tracking / Estimating Time Spent on Applications
Report on Steering Committee Appointment Process and Upcoming Meetings

#7 COMMISSIONERS' QUESTIONS/COMMENTS

None

#8 CITY PLANNER'S REPORT

None

#9 ADJOURNED AT 7:52 P.M

Respectfully submitted,

Mark Ostgarden AICP
City Planner