

**CITY OF PARK RAPIDS  
REGULAR MEETING  
PLANNING COMMISSION  
MARCH 23, 2020, 6:00 p.m.  
Park Rapids City Hall, 212 Second Street West  
Park Rapids, Minnesota**

**1. CALL TO ORDER:** The March 23, 2020, Regular Meeting of the Park Rapids Planning Commission was called to order at 6:00 p.m. by Chair Bradow.

**2. ROLL CALL:** Present: Commissioners Dick Bradow, Robb Swanson, Nancy Newman, and City Council Member Liz Stone via telephone. Absent: Bruce Johnson. Staff Present: City Planner Andrew Mack and Planning/Administrative Assistant Carmen L. Lockhart. Others Present: Mark and Jan Herbert, Carol Winters, Arch Simonson, Shirley McCaslin, John Peterson and John Aeshliman.

**3. APPROVAL OF AGENDA:** A motion was made by Swanson, seconded by Newman, and unanimously carried to approve the agenda as presented.

The vote was called.

The following Commissioners voted in favor: Newman, Bradow, Swanson & Stone

The following Commissioners voted nay: None

The following Commissioners were absent: Johnson

The motion passed.

**4. APPROVAL OF REGULAR PLANNING COMMISSION MEETING MINUTES OF FEBRUARY 24, 2020:** A motion was made by Newman, seconded by Bradow to approve the February 24, 2020 Regular Meeting Minutes as presented.

The vote was called.

The following Commissioners voted in favor: Newman, Bradow, Swanson & Stone

The following Commissioners voted nay: None

The following Commissioners were absent: Johnson

The motion passed.

**5. PUBLIC HEARING:**

**5A. REQUEST FOR CONDITIONAL USE PERMIT REQUEST BEAUDRY OIL & PROPANE FOR LOCAL STORAGE AND DISTRIBUTION OF PROPANE AT THE NE CORNER OF 1<sup>ST</sup> ST. W (HWY 34 W) AND WESTERN AVE N, LOCATED IN A B-1 HIGHWAY BUSINESS DISTRICT, PID#32.74.00100:**

Mack stated John Aeshliman, Propane Manager of Beaudry Oil & Propane is present to speak to the request of a Conditional Use Permit. According to the city's  
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ordinance of B-1 Zoning District this use was determined as past practice by the city in a similar request elsewhere in the community determined to be by the planning agency to be of the same general character of the conditional uses of the B-1 zoning district and of course a finding to be made by the commission would be that it is not detrimental to existing uses and the general public health, safety and welfare within the city. Mack said the site layout is in the packet and the intended access is shown comes in off Western Avenue North and the reason for that access location is: 1. Hwy 34 has a planned service road from the lumber yard all the way to Western Avenue North. That frontage road was set in place as part of a prior MnDOT project however it has not been constructed and is anticipated as part of a future project. Obviously the lumber yard access is off of Hwy 34 but considering a similar access off Hwy 34 to this site, first of all would not be terribly safe and would not likely meet MnDOT'S spacing guidelines for access and particularly for a site like this has access like this out in a local street, MnDOT is looking for the local street to be the access point off of their trunk highway. That is why they have a frontage road planned in this location, similar to what we have on Hwy 71 South. Mack showed the proposed access and the paved improvement on the site except where the storage tank is located which is not required to be driven and would consist of Class V for mounting of the tank itself. The drive thru and parking area would be paved.

Mack stated the property is zoned B-1 as well as on the south side of Hwy 34 to the western city line which is Western Avenue. Mack explained Western Avenue is a shared roadway with Todd Township and there is shared maintenance as part of an agreement with the City but doesn't know the particulars. It is a paved local street.

Mack read his recommend findings in support of the application based on criteria outlined in our ordinance for conditional use permits and those findings we are obligated to make by ordinance.

**According to part (C) of this same Section, "In considering the granting of any CUP or IUP throughout the City of Park Rapids, the Planning Commission and City Council shall evaluate the effect of the proposed use upon:**

**(1) The maintenance of the public health, safety and welfare.** The proposed development is not anticipated to negatively impact the public health, safety and welfare of the community provided proper regulated standards of storage and dispensing of propane to delivery trucks is maintained according to Federal and State Laws.

**(2) The location of the site with respect to existing and proposed access roads.** The proposed development is not anticipated to create negative off-site impacts to surrounding development provided safe access to and from the site as proposed can be maintained. Future development of a frontage road on the north side of SH 34 is not anticipated as a part of this development; nor will the development trigger the need for such improvements as a part of the initial phase of development at this time.

**(3) Its compatibility with adjacent land uses.** The commercial development of the site is consistent and compatible with the existing commercial uses developed in the City Limits on both the north and south side of SH 34 to Western Avenue N. The use may not be

entirely compatible with the single-family residential homes in Todd Township on the opposite side of Western Ave N. A screening requirement along the west side of the development would be required if the township parcels were zoned residential in the City Limits, but cannot be enforced via our zoning regulations. An eight-foot screening fence or a landscape planting plan, or a combination of both for a portion of the westerly side of the development, however, would assure greater compatibility with the township residences and should be considered as a condition for approval of the request. Approval of a landscaping planting plan is an ordinance requirement and there are some mature trees planted throughout the site. They are dense along the northern portion, but sparsely along the easterly, southerly, or westerly portions of the site as may be viewed in the attached photos of the site.

**(4) Its compatibility with the intent of the zoning district in which such use is proposed.** The proposed development is compatible with the intent of the B-1 District which reads as follows: *“This district is established to accommodate commercial activities convenient to motorists and to accommodate those businesses which require large areas for off-street parking or commercial storage, and which generate substantial traffic originating from outside the community.”*

**(5) Its compatibility with the objectives of this chapter and its consistency with the City of Park Rapids Future Land Use Plan Map.** The Future Land Use Map of the Comprehensive Plan is consistent with and guides the property for Commercial Development.

**(6) The ability to provide pedestrian and bicycle access, as noted in the site plan, to any customer/tenant ingress/egress of the building, including from a public right-of-way and off-street parking area that serves the use in a manner which minimizes nonvehicular/vehicular conflicts.”** The Heartland Trail Plan for Park Rapids includes extension of the Heartland Trail on the undeveloped street ROW north of the property where it turns 90 degrees south following the east side of the Western Ave N. ROW where it will cross the proposed driveway into the site before it crosses Western Ave. along the north Side ROW of SH 34 W. Signage for the State Trail at the commercial driveway for pedestrian and vehicular use of the trail at the driveway would be installed in connection with the trail project when approved for construction. MnDOT also plans for a sidewalk along the SH 34 ROW improvements to Western Ave N. as a part of their highway improvement project at some point in the future.

Mack stated he is recommending approval of the request with the following conditions:

1. The development shall provide proper storage and dispensing of propane to delivery trucks and maintain all business operations according to Federal and State Laws.
2. The driveway access to the site shall be reviewed and approved by the City Planner and City Engineer for conformity to city street requirements and for a final approach location which minimizes vehicle headlight impacts upon the adjoining residences on Western Ave N. in connection with the approved landscaping and screening plan for the development.

3. Beaudry Oil & Propane Company shall submit a fencing and landscaping plan, including an eight (8') foot high privacy fence with a minimum of 260' lineal feet and landscaping on the Western Ave N. frontage providing so as to screen the adjoining residences. The plan shall be approved by the City Planner prior to issuance of any permits for the project and installed in accordance with the approved plan prior final inspection, occupancy and any propane operations upon the site.
4. All screening landscaping approved and required to be installed by the applicant shall be permanently maintained. Any approved landscaping or trees installed which die shall be replaced within one (1) year of mortality. Failure to maintain the approved landscaping screening plan shall constitute a violation of this Conditional Use Permit.
5. The applicant shall submit for prior City Engineer review and approval of a final site grading and drainage plan prior to commencing any site work or construction on the property.
6. The applicant shall submit for review and approval by the MPCA an NPDES Permit for site grading prior to commencing any work upon the site and shall provide proof of same to the City prior to issuance of any site development permits.
7. All signage for the development shall conform to all requirements of the Park Rapids Sign Ordinance Regulations.
8. The retail and business office may be constructed with a later phase of the development provided the structure conforms to all requirements of the Zoning Ordinance in force at the time of the building permit application.
9. Conformity to all other applicable requirements of the City Code and MnDOT ROW Permit requirements.

Mack advised the chair reminded him additional conditions were adopted for a previous project which can be discussed by the Planning Commissioners.

Stone asked if other locations were considered? Mack said he didn't know but it would be a good question for applicant during the public hearing.

**The Public Hearing was opened at 6:17 p.m.**

Mark Herbert stated he lives at 137 and also owns property at 125 Western Avenue North. The reason my wife and I, Jan are here and if you hear the phrase let it go, that just her singing so I don't get carried away so take a deep breath, I tend to get a little bit excitable and emotional. The reason I'm here is when we first got our letters two weeks ago, we looked at this and it was the old I don't want this in my back yard syndrome so we really stopped and looked and went is this the case or is it just, we have some questions, big questions. Thank you to Mr. Mack for reading because he answered some of them already about the privacy fencing and that kind of thing, because where that driveway is, when a semi stops to turn in there he's completely covered my house. My front deck will look directly out across that field at that big tank and stuff so that was one of our questions, privacy fencing, down lighting and that kind of thing. One of the big concerns we have is what is Western Avenue rated for as far as

tonnage on that road? I've been told five tons. I've been told seven tons. Cory Aukes told me they think it's seven tons. The county can't tell me. The city couldn't tell me. The street department couldn't tell me. My issue is right now it is being used as a cut across because the cut across that was built outside the city limits is not marked so I have full trucks coming down a five ton road. If anybody has been down Western Avenue North it's the worst road in the city because it gets beat up. I mean it's just torn up from weight. That's a concern for us. The reason Mr. Aukes said he can't enforce the law is there is no signs that say this is a five ton road or this is a seven ton road. I've had full lumber trucks and full Marvin window trucks go by today and there are road restrictions on. But we can't do anything about it because it's not marked at all. I was told by Todd Township that's a city issue and when I talked to the city they say, anyways, that goes round and round.

Herbert said the other issue we have is noise. We have a lot of jake breaking we have people down the end of our road and I've got pictures of them from the deck in my front yard looking out across that field and you can't see that field because they load their trucks down. The reason for that is in play because I don't know why Western Avenue North is 40 mph and Western Avenue South is 30mph. I don't get it, but whatever.

Herbert stated the other issue we have and Mack said something about it meets the health standards. I disagree with that. My wife has a breathing issue. She has to nebulize twice a day, it's chronic and will be for the rest of her life. If I have a bus stop to pick up the neighbor kids and that truck stops in front of my yard it completely covers my property and we've got to breathe in diesel fuel. Maybe some will say that's not an issue, I'm just going by what we are thinking. Say they are coming out, their loading up and trying to get out because their driveway is directly across from my property, there's more diesel and she's got to breathe that and that's not healthy. I was told not to come here today from my neurosurgeon as I do not have an immune system. My issue is and this is all medically proven is I don't sleep but three hours a day? What time are the trucks coming in and out to load. If they wake me up, I'm up, that means I don't sleep at all. They sent me home from test studies, sleep studies because I don't sleep. They say go home we can't do a thing for you. You have to sleep to do, well I don't. Herbert said we have a lot of concern with that. I'm not adverse to having a tank there. I mean nobody wants it even if it is nice and pretty and the trees would stand and such are there. Its not such a bad thing. But I have concerns with my quality of life and my wife's quality of life, safety issues. I think Shane, we brought a letter from Shane for you folks to read. He's concerned about the amount of big wheel traffic with his kids right there on the Western Avenue North.

Herbert said he's not quite understanding his other big issue is the entrance. Why it would have to be, when that truck stops to turn into that entrance, he is 80 feet from my front door. I don't know why it can't come off the highway and I know Mack said and we don't know if there are MnDOT regulations and such. I'm not for it. I guess I wouldn't say with all the work the company is doing I can't say I would definitely go to court and fight it tooth and nail because I wouldn't but we do have some concerns and we felt that we were in the dark. We didn't know any information and that's what we are here for. I don't know how you can get a recommendation from anybody when you haven't heard what other people have to say. That's just my own personal feeling on that. Because we didn't know, things like this just always come out wrong is we retain counsel just because we didn't know what we're running into. That counsel is a professor of law at BSU, he's my brother so I guess retaining, it's not costing us anything and just because we felt ignorant. We don't know what exactly they were doing. We had no information

and thank you again for saying that because even my neighbor Carol here just went oh, that's something and it is, it's a good thing. I think the entrance is really the main issue and it is right there. If that bus stops at Shane's house, if he turns his lights on at Carol's driveway that semi is going to stop and then you've got the kids backed up behind them. We have noise issues, we have all kinds of other, which to me it's just going to heighten that. Because with the 40 mph when that truck gets off, it's going to be, I've got a mile and half of straight shot and I'm going and they do, you can hear them for a long time.

Herbert said he doesn't have anything else and just wanted to express myself and thank you for the time. I don't know what my wife has.

Jan Herbert stated she lives at 137 Western Avenue North. That road, do you know what it's rated? Bradow responded he does not. Herbert said shouldn't that have been the first thing considered? Mack said he did receive a call from Todd Township Chairperson today and indicated the county protocols for township roads is a ten ton rating? Jan Herbert asked is it a ten ton rating? Mack said I don't know how the road is constructed, I'm not a city engineer or a township engineer. Jan Herbert insisted that has to be one of the primary considerations, right? Mack said I have referred the matter to our public works director and the city engineer since it was brought to my attention today. Mack said yes, we do consider road ratings when we look at commercial development and we have a standard for typical for what is a typical commercial urban section roadway. This was constructed years ago and is certainly not a newly constructed road with commercial development in mind. It serves a residential area through the township. Again, the commercial development addition in this location by the city's Comprehensive Plan is commercial development and the zoning map shows the plan.

Jan Herbert asked again, but we don't know about the road rating? It was constructed a long time ago. It was redone, they have to, do that not have to give the road rating when they construct it? Bradow asked Mack who owns the road? Mack said it is a shared road between city and township and the particulars of that agreement are in the archives of the city clerk's office and that's going to be referred. It is my understanding the township is holding a meeting on that subject on the second Monday of April. Bradow asked on the road rating? Mack said yes on the road rating. Bradow said we will know that on April 2<sup>nd</sup>. Mack said he just learned about this today so it was too late to get any information on this particular subject. Bradow said we will know what it is on April 2<sup>nd</sup>? Newman said no, the second Monday in April. Bradow stated the second Monday in April. Mack said we won't know after their meeting because the city would have to provide some sort of input since it is a shared road agreement and I don't know if that rating is listed in the agreement or not. If it is that information would be supplied in advance to the town board meeting for the township. They must have a copy of the agreement somewhere.

Jan Herbert said again, this should have been the first consideration. You're going to have semis on the road and you don't know if it is rated for semis? Mack responded so what the town supervisor chair informed me of is that it started being used more heavily as a part of the bypass when Hwy 71 was reconstructed. It's not the designated truck route though, it's a route that semi drivers have found and they probably shouldn't be using it and so there could be some enforcement issues.

Mark Herbert said he talked to Cory Aukes and he said it doesn't matter what it's rated, if it is not marked, I can't enforce it and he said we don't scale and go hey you weigh too much, get off the road. He's the one I talked to and he said I can't enforce it

because it's not marked. It used to be a Todd Township 35 and those signs are gone so nobody could tell me when I called and Cory said I will look into it but I can't enforce it if it is not marked. The semi drivers probably know but hey if it's not marked they can use it.

Jan Herbert said and the bypass that was constructed for hundreds of thousands of dollars isn't signed. This road is heavily used by school traffic. School buses, Park Rapids and Nevis, school staff, parents dropping off children at opening and closing times and those would be very inconvenient times to have a semi trying to turn into the road. So that's a concern.

Jan Herbert asked who owns this property at this time? Mack said I can answer that question. Bradow said go ahead. Mack said the property is under a purchase agreement by Beaudry Oil & Propane but the current owner is the seller of the property legally at this time. The purchase agreement is a requirement for standing on the land in order to make application for the project. Jan Herbert said Liz brought up a good point, were other locations considered? How about the industrial park? That seems like kind of a no brainer! I would like that looked into. Thank you.

Carol Winters said she lives at 149 Western Avenue North. I guess one of my big things too is the kids, the school buses, and our school people who are in sports, whatever, do their running on the road and I hate to see them coming across this kind of traffic. It's been wonderful. The reason I bought my house and this is no lie is because I was out on 25 acres down County 20 and after my husband died, I said hey I can't do this alone. I found my little house there on Western Avenue North and it looked like country right out in front and they said it's really similar to what I left and my acreage and all of a sudden, I just cannot picture looking over at this across the road. I honestly can't and I wish something could be done to go to the industrial park instead of in our little area. We're all close and we really appreciate one another and we appreciate these kids who are doing their running and the track and the whole thing. I don't want to see them run into this kind of thing so I just wanted to let you know that. Thank you.

Lockhart asked Bradow to read letter from Shane Young and two others? Mack said you should at least cite it in testimony that it was handed out tonight and was from three individuals on Western Avenue North, Shane Young, Crystal Fetterer and Mary Pattison. Bradow responded he's not going to read it. Mack said we also have a letter in your packet signed by Pam and Jim Girtz. Bradow stated in the packet there was a letter from Pam and Jim Girtz, their address is 2814 Bristow Mountain Trail, Green Bay, Wisconsin 54313 and they wrote in opposition of this type of business being located at this location in question tonight. PID#32.74.00100. Also, in opposition, we received a letter today from Shane Young and Crystal Fetterer and they are also in opposition to locating the gas company at this location as well.

Jan Herbert said the Girtz's live in Green Bay but they also own and live in the property on the corner so that isn't just somebody writing from Green Bay, Wisconsin. Bradow said he sees that in the letter that the location is on Western Avenue North so they do have an interest there. Jan Herbert said yes.

Cindy Wentz of Coldwell Banker said I know there was a question raised earlier about the company looking at other lots and I did show them a total of six different properties. A lot of their concerns were for the neighbors and trying to minimize impact on the surrounding area. Bradow asked if any lots viewed in the industrial park area? Wentz said not specifically, I'm not exactly sure where that's at so if you could describe

that. I showed them the edge of town on both edges east and west. And then also north of Park Rapids in a commercial area. There was one right across from the car dealership but they threw that out because they were realizing truck traffic with residences (inaudible) concerns.

Mack asked if anyone else was on the call line to offer testimony for the public hearing?

Stone said I'm wondering why nothing was shown to your client in the industrial park? Wentz said they were looking for increased (inaudible) we looked at current listings and there was south on 71 so then we contacted a party that we knew had lots (inaudible) they weren't willing to entertain an offer. (inaudible)

John Aeshliman introduced himself as the Propane Manager at Beaudry Propane and I will just go through the list of questions that Mark and Jan Herbert and everyone else had and I will try to answer them the best that I can. The first question that you had Mark was something about the street rating and I can't answer that because I'm not sure as far as that goes. You did have a concern regarding noise and if it will create a log. So, the good thing about the propane business is that really that's just a storage facility and we have maybe one to two trucks in there during the day. You can see potentially a truck in the morning maybe and then maybe one more time around midday and that would be the extent of the trucks being there. In essence it would actually be a lot less traffic than a retail type of situation so there's that. With the health standards, that's a tough one for me because it is the trucking industry and we have diesel trucks and they do expound exhaust. I think I answered the traffic amounts, that was one of your things. You have issues with sleep, what I can tell you is that it is not a very noisy process, us being out there. Basically, it's just one three horse pump that pumps the propane into our delivery trucks and that's it. You might hear a little bit of a disconnection noise and that's it. What were the other things here, you've got the road situation. Carol you had a question about the concern about the kids and the school buses and worried about the extra traffic and I think I answered that as well as it would be very minimal from us. Even more so in the summer time as the weather gets warmer there's not a whole lot of use for propane. What I can say is that our company and the propane industry as a whole, we pride ourselves on safety and that's number one otherwise we wouldn't be in business. There are multiple safety things we have in place at our bulk plants and on our trucks to make sure that everybody including the residents around us and our drivers are as safe as possible. With that being said, we look forward to serving the community in more of a presence. We do have a few accounts and customers within the Ponsford, Ogema and areas like that and we'd like to get some more in the Nevis and Park Rapids area.

Jan Herbert asked could you describe your landscaping and fencing plan please. Bradow said that is for down the line if the CUP goes further ahead, that's not for this discussion here tonight. John Aeshliman asked if he could say one thing? I know that it's going to be eight feet tall and privacy so you won't be looking out your window at a truck and a tank. You will have a privacy fence that you can not look through it and there will be trees planted that was part of the plan a minimum of every 50 feet is what it said on the plan. We would maintain and make sure it looks decent. We don't want things to look neglected.

Bradow asked how often does that 30,000 gallon tank get filled up. Aeshliman said in the winter months it is more often than the summer months so it depends on a lot of different factors so the 30,000 gallon tank only holds 80% of that 30,000. You can

figure that we would be out there right now I would say maybe once a week to fill the tank. Now we would have a delivery driver out there right now pulling from that tank one to two times per day. Being that it is spring we have load restrictions that we can only fill the tank half way so you would maybe see a little bit more traffic there just because we are at half filled tanks.

Mark Herbert (inaudible) down the end of the road so we're kind of hearing ask for downlighting, ask for this and ask for that (inaudible).

Bradow asked who do you see as your clientele, is it residential, commercial, both, what's the split? Aeshliman said both. We are geared more towards residential and we do support a lot of the commercial business as well with it being four plus cylinders but that's about it as far as commercial. Maybe if they are doing some heating in the shops as well. What we won't be doing is any sort of cylinder filling on site as far as filling the cylinders on site and then going to do an exchange. We go actually to the location of the commercial business and fill them there, verses on our property.

Mark Herbert asked do we have any kind of something to fall back on as far as property values? Is this going to lower my property value? Is this going to keep my property value the same? If there is a big decrease in property value, who makes up for that? I shouldn't have to lose out on progress, nothing personal John, and I have to pay for it when I will benefit nothing from this. I don't use propane, I use natural gas, sorry. As a (inaudible) on the other side of the road, as a Park Rapids person, I am gaining nothing and I certainly don't necessarily want to lose money or value because of this. I don't know if there is a precedent or say no they don't they change a little bit one way or the other but my concern is a big fall off. There's already a fall off with the country the way it is and that concerns me a little bit. I don't know if John can answer that or anybody can. Thank you.

Bradow responded I don't have an answer for you on that, there's no way of knowing that. That's up to the county assessor I'm guessing.

Jan Herbert asked do homeowner policy premiums typically go up being so close to a propane facility? Bradow said no, I am in the insurance field and the answer is no. Jan Herbert said thank you. Mark Herbert said it's nice to have a direct answer.

Aeshliman commented we are a family business and my father in law is the owner and he does strive to make sure that the brand that we carry is a clean brand. Our tanks are top notch. We try and make sure everything including the proposed property here would be maintained as well as the tanks on site. You don't have to worry about it being overgrown and rusty tanks and stuff like that and an old bomber nasty looking truck pulling in because we don't operate that way. Mark Herbert said he appreciates that.

Mack asked if anyone on live stream had questions? Lockhart said there are none.

**The Public Hearing was closed at 6:50 p.m.**

**The Findings of Facts were reviewed. Bradow advised he is doing this a little different than in the past as we have the Findings of Fact on page 21 and then I'm going to refer back to page 10 of the packet where Mack provided findings and I'm going to ask if everybody agrees with those. The commissioners came to the**

**following conclusions: Is the proposed use identified as a conditional use in this zoning district? YES.**

1. *Are there characteristics of the proposed use that may violate the public health, safety, or general welfare of Park Rapids City residents?*

<i>Commissioners Answers</i>		<i>Agree OR Disagree</i>
<i>Bradow</i>	<i>No</i>	<i>No - agree</i>
<i>Newman</i>	<i>Yes</i>	<i>Yes - disagree</i>
<i>Swanson</i>	<i>Yes</i>	<i>Yes - disagree</i>
<i>Stone</i>	<i>Yes</i>	<i>Yes - disagree</i>

2. *Is the proposed use inconsistent with the intent of the Park Rapids City Comprehensive Plan and Zoning Ordinance?*

<i>Commissioners Answers</i>		<i>Agree OR Disagree</i>
<i>Bradow</i>	<i>No</i>	<i>agree</i>
<i>Newman</i>	<i>No</i>	<i>agree</i>
<i>Swanson</i>	<i>No</i>	<i>agree</i>
<i>Stone</i>	<i>No</i>	<i>agree</i>

3. *Does the proposed use present any unique concerns regarding erosion, runoff, water pollution or sedimentation?*

<i>Commissioners Answers</i>		<i>Agree OR Disagree</i>
<i>Bradow</i>	<i>No</i>	<i>agree</i>
<i>Newman</i>	<i>No</i>	<i>agree</i>
<i>Swanson</i>	<i>No</i>	<i>agree</i>
<i>Stone</i>	<i>No</i>	<i>agree</i>

4. *Could the proposed use create any special problems with parking?*

<i>Commissioners Answers</i>		<i>Agree OR Disagree</i>
<i>Bradow</i>	<i>No</i>	<i>agree</i>
<i>Newman</i>	<i>No, not with parking</i>	<i>agree</i>
<i>Swanson</i>	<i>No</i>	<i>agree</i>
<i>Stone</i>	<i>No</i>	<i>agree</i>

5. *Would the proposed use cause any problems with access or traffic generation?*

<i>Commissioners Answers</i>		<i>Agree OR Disagree</i>
<i>Bradow</i>	<i>No</i>	<i>agree</i>
<i>Newman</i>	<i>Yes</i>	<i>disagree</i>
<i>Swanson</i>	<i>No</i>	<i>agree</i>
<i>Stone</i>	<i>Yes</i>	<i>disagree</i>

*Stone said with semis turning down Western Avenue North it could encourage other semis to use that road as well and use it from Hwy 34 all the way out to Hwy 71. Newman said*

she agrees with that and a lot of times when semis do go down there they see one and they could follow suit, but they will turn off of Western onto Monico Lane which goes by the school and to North Main and then to Hwy 71 and there is a lot of traffic that does that so I would say that would be my main concern.

6. Is the proposed use incompatible with other uses located in the zoning district?

Commissioners Answers		Agree OR Disagree
Bradow	No	agree
Newman	No	agree
Swanson	No	agree
Stone	No	agree

For each response answered affirmatively, are there conditions that could be attached to the granting of a permit that would mitigate the adverse impact. Bradow stated we have two affirmatives and two negatives on question #5. One question #1 we have three yes and one no, are there any conditions that could be placed to satisfy the public health, safety or general welfare of the Park Rapids City residents? The yes' are Swanson, Newman and Stone.

Further Discussion:

Swanson commented his yes is concerning safety concerning the school and the students in athletics using that road for running or physical fitness or whatever the school is doing. I don't see there would be a realistic condition to put on a business that would alleviate the timing of that. Bradow asked what type of a commercial business could go into this commercially zoned lot? Swanson said that is also the reason I am a no on the traffic because I see the limit that the small amount of traffic as being a positive but the type of traffic being the negative, but I would rather have that than a bar. Bradow said absolutely. Swanson commented on a retail place. Bradow said which would generate more traffic. Swanson agreed so just going down the list of why I say yes is there is a safety factor there but when isn't there? Bradow asked safety being running over people? Swanson responded yes, pedestrians. Bradow commented our risk is much lower with two trucks a day versus 20 vehicles a day. Swanson agreed, it absolutely is. Bradow and Swanson both commented it is still a risk. Bradow said again, my question is what business would be allowable on this lot that is zoned B-1 commercial? Swanson said maybe that is an improper way to answer it when I say yes but just reading the question, I think any business increases the risk, this one increases it less than most, but it doesn't change that it's a yes. Bradow said and it's still a yes, you're giving your rationale for it and that's what I'm looking for.

Bradow asked Newman for comments. Newman said she agrees. Bradow said okay, I am going to ask you the same question, what business can we put there on this lot? The use of that rationale indicates to me we can't ever fill that lot with anything because it will generate traffic on that street. MnDOT is not going to let the driveway come off of Hwy 34 so any business that is put there will generate traffic on that road. Swanson asked conditions can't be, they aren't responsible for signage, that's like another issue. Bradow indicated that is beyond our purview here we can't force the city or the county to put signage on that road. We can't enforce, we can't require Cory Aukes to move the existing truck traffic that is supposedly illegal off of that road over to the new bypass that they should be using. That's not the question at hand here. Swanson replied true and maybe this is question for you. Mack said I suspect that will

be answered though with this being brought up. Bradow said I hope it is answered. Swanson said yeah, I think it's the way this question is worded and really puts any business in the same light, it increases and could be a safety issue for any pedestrians. Bradow said I agree and that's why I asked the question what business can be put on this lot that will not cause that risk of running over people. Mack commented about the pedestrian traffic and the joggers, keep in mind that this site along the eastern right of way of Western Avenue North is proposed for the ten foot paved trail of the Heartland Trail Extension. That legislative bill in the Minnesota Legislature this session. It wouldn't be construction dollars for it but it's engineering and bonding dollars for design and getting that shovel ready for construction. That trail will come down the north side of this platted commercial area and do a ninety degree turn and come down the eastern right of way of Western Avenue North to intersection with Hwy 34 which are proposed for future sidewalks along the trunk highway in the future whenever MnDOT does additional sidewalk improvements as indicated in their ten year plan. It would then travel across the Western Avenue intersection on Hwy 34 on the north side of the Hwy 34 road right of way where it will then travel out to and towards Osage. There will be in the future plans for safe routes to school, safe place for jogging, safer places for pedestrians over time, not tomorrow, but in the future.

Swanson asked why does MnDOT allow Lakes Area Cooperative to pull onto a state highway? Mack asked are you talking about Cenex? Swanson said it is out on east Hwy 34. There was further discussion concerning their permit and spacing proximity to a side street and that is a MnDOT decision.

Swanson stated if this question was worded differently and said with this type of business be less than I would answer it for them because I think the amount of traffic is pretty minimal and I think that's a pro.

Stone said if I'm not mistaken Western Avenue North is a five ton road so for example right now I believe it is restricted to heavy traffic so I guess my other question is if I am correct, I'm wondering how exactly a tanker truck could utilize Western Avenue to access the property with the way they have it proposed. The other question is similar to Swanson's, why couldn't they access the property from Hwy 34? (inaudible) My other question is what alternative businesses would be could on that corner and also off the top of my head I can't really come up with a great answer but the best answer I can come up with to that is any business that could be accessed from Hwy 34 verses using Western Avenue North as their entrance or to gain entrance? Those are my thoughts.

Bradow reiterated any business that could access that lot from Hwy 34? Swanson said so similar to the lumber yard. Stone said correct, exactly like the lumber yard and they have deliveries made quite often I'm sure with the semis. Bradow responded well I think that's a MnDOT question I don't think that's pertaining to any particular business. Mack answered that is a MnDOT question and one we can't answer tonight without checking with MnDOT. I will tell you that type of condition is a condition of building, this body can place on request but it's pretty tough to word that type of condition until that information is first sought out by MnDOT. This body can't impose condition of authority on the applicant that may be in conflict with a state authority. We can't answer that tonight and I wouldn't recommend that you place that type of condition without first getting that answered. Stone asked is it reasonable to suggest that it is possible to table this discussion and refer that back to staff until we have an answer from MnDOT? Swanson said the rate of the road would be important too. Bradow said I would think that would be important to the buyer because if they are going to restrict you right now, what is that going to do to your business? The public hearing is not open, I'm just talking

to Mack. Mack said he will respond to Commissioner Stone's comment about the city street being a five ton rating, I think normally that is our standard for local streets in the city for residential purposes would be a five ton rating. My understanding in the county for town roads that's a higher rating and a ten ton according the Chair of Todd Township so the question being posed to Todd Township on the residents my understanding for their meeting which is scheduled to be held on April, the 2<sup>nd</sup> Monday, April 13<sup>th</sup> is a request to the Township to reduce the rating from ten to five. If I understand that correctly that is the request before the town board. However, the other thing I'm not clear about, this is a question for the engineer, if there is local traffic to an adjacent property that there is commercial ownership which we grant an access or driveway opening to, that's triggered from a different permit request, that we have separate from the Conditional Use Permit that's also referenced in the staff conditions. If that's a local trip to that site on a street that may not be up to grade it may still be entitled to the most direct route of access to their property as opposed to not permitting any access of a semi to a commercial zoned property. I know you think the city is in a position to restrict that and so who owns the five ton portion and who owns the ten ton portion, that's another question that would also be for the city engineer and the city council to answer and I don't know if this body is in line to answer that question. Mack said but the staff certainly is and I don't have that answer for you tonight because this was just brought up today in terms of the tonnage rating.

Bradow said let me ask you another question that hasn't been approached yet, when you showed us where the access was, approximately between house #137 and #149, what if you would move the access down to the south side of #113? Mack said in this location there is a large area of road right of way and I'm not 100% certain who owns that road right of way section. The MnDOT Hwy 34 plan looks pretty clearly defined, but simply clicking on the ownership of the right of way it is not clear, and I assumed it would be city right of way but I can't even state that definitively without doing the research so I don't know whether a driveway approach permit could be issued in that area or not. It would appear to me that's a future frontage road for along the businesses on the north side of 34 would access that frontage road and come up and assume it would create a ninety degree angle of that frontage road onto Western Avenue at some future point when 34 is reconstructed and the frontage road is built. Who's going to own that frontage road? Normally in the case of 71 that would be the city so that's why my assumption is it's the same but I don't know that for a fact. Bradow said that's one question that, if this gets tabled, I would like an answer to that. Who owns that and if there is going to be a planned frontage road there, wouldn't that be a logical access point for that lot? Mack said if the configurations here and the past discussion I've heard there's likely some sort of plan and that may be in MnDOT'S district whatever out of Detroit Lakes has some authority here but I did see stuff in district 2 commenting about this area as well so I'm not sure which district of MnDOT would have the right answer but we can certainly find that out and certainly would find out if this progresses any further if it were to put us to council we would still do due diligence to research it and get those answers.

Bradow requested the commission address #5 on page 22 of the Findings of Fact which had two yes and two no. We are talking about the traffic generation and so forth, did we address #1. Swanson said safety so the two are kind of combined. The safety of the traffic and the size of the vehicles is my issue for pedestrians but traffic generation would be substantially less than other businesses. Bradow said I understand your point.

Bradow asked the commission how they want to proceed at this point? Do you want to make a recommendation to the Park Rapids City Council or are you looking for

more information? What will this do to your sale or don't you care about the answers that we're searching here as far as the weight restriction of the road, the MnDOT access? Is that going to affect your purchase? John Aeshliman responded it may, weight restrictions could pose some challenging things there. It very well may, depending on what tonnage road that is. I do know that our, I'm not too sure with our transports which are the bigger trucks, what their restrictions are on a road like that. What I do know is that our small delivery trucks as long as they are loaded to 50% they've got, I believe, a state exemption to drive on the road just so you can get product to the customers. I don't know about the full transport loads though so that could be a question that. Bradow commented you're going to want an answer to? Aeshliman said yes. Bradow inquired so we would pose no hardship on you if we were to table this and get those answers? Aeshliman said okay. Bradow asked is that a true statement? Aeshliman said yeah. Bradow asked the commission how they feel about it? Swanson said he is for tabling. Newman said for tabling. Stone said okay for tabling.

Mack asked if the realtor is on the phone? Wentz said yes. Mack said the specific question could you hear that was asked was a continuation of this hearing tabling until for approximately 30 days to do additional research, would that impact the pending purchase agreement for this property? Wentz said I included in it the approval process but didn't have a specific time frame listed.

**A motion was made by Bradow, seconded by Swanson to TABLE THE BEAUDRY GAS AND OIL CONDITIONAL USE PERMIT REQUEST WITH THE PUBLIC HEARING TO BE RECONVENED when the following specific items are completed:**

**(i) obtain answers to the road weight restrictions on Western Avenue North;**

**(ii) obtain answers about the right of way at the very south tip of the lot adjacent north side of Hwy 34 and Western Avenue North, can the access point be changed there to fit with the frontage road whether it exists or doesn't exist, can the access point be there verses to the back of the lot;**

**(iii) obtain answer to who owns that frontage, right of way;**

**(iv) obtain answers to whether access can be obtained from Hwy 34 onto that lot or if it can't, can it go just at the front end of the lot basically by house #113?**

The vote was called.

The following Commissioners voted in favor: Newman, Bradow, Swanson & Stone

The following Commissioners voted nay: None

The following Commissioners were absent: Johnson

The motion passed.

**5B. PRELIMINARY AND FINAL PLAT OF SIMONSON THIRD ADDITION CONSISTING OF APPROXIMATELY 2.23 ACRES AND ONE LOT AND BLOCK IN B-1 HIGHWAY BUSINESS DISTRICT, PID#32.50.50100, 32.45.00200 & 32.45.00300 AND PORTION OF VACATED ALLEY:**

Mack said the request is for approval of the Simonson Third Addition. The purpose of this plat is to add two parcels as shown on the screen and in the packet. From the current Simonson Second Addition 100 feet to the north of the existing plat on the Western side of that alley road right of way, that 100 feet has been vacated by the City Council and is now half owned by the Simonson's Second Addition and the other 10 or 20 feet alley would be vacated over to 115 and 109 Park Ave N, those two parcels are not currently part of the plat. They are part of the original Cutler's Addition and the legal descriptions for that vacation were created. That public hearing was held and the City Council voted and vacated that. That action had to occur first before this application for the plat was made. That was approved, therefore the sequencing of the approvals for this redevelopment project are proceeding in the correct order. The plat would now incorporate not only the vacated right of way of additional 100 feet to approximately midway through the width of 115 Park Ave N and incorporate all of that lot, all that parcel into the third addition. So, it's a pretty straight forward request. The entire property has already been rezoned. The final action for that ordinance here by City Council under first approval was the last meeting and will be final approved tomorrow night. Commercial redevelopment this plat is consistent with the B-1 zoning district. If you recall this area was recently rezoned as part of your recommendation to council is now all B-1 so currently the only remaining R-2 parcel is the very northeast corner that is not under control of the developer for this site. The plat incorporates all of the zoned area for commercial. This plat now brings this remaining house at 115 Park into the plat so that structure remains part of plat with the platted lot with the commercial development rendering the house legal nonconforming. It is currently occupied as a licensed rental under Mr. Simonson's ownership who is here with us this evening. That actually continues to remain as a form of buffer to the residents to the north so I think when they heard that at the hearing that was viewed as a positive for those landowners knowing they would have some meaningful buffering and screening in place either with the new commercial development coming on line as planned for 2020. Based on this staff recommends approval of both the preliminary and final plat.

Lastly, I did have comments and we have citizens that are also here this evening concerned about some of the lighting. You have been provided that information tonight what was submitted by Mr. Simonson for the canopy light fixture that is planned as part of the gas pump canopy which was the biggest concern talked about by residents in the are. Mack provided picture of another project in North Dakota and indicated this is the type of fixture that will be installed as part of a predesign package I understand from the architect and Mr. Simonson can comment on that further tonight. This is planned. I also learned from the architect as part of the administrative approval of this site plan and building permits they do plan to develop a full photometrics plan for the site so we can actually see what the foot candle ratings are from the light fixtures that are still being developed, the plan isn't made yet, it is still being developed by the architect.

Mack advised this plat is the last hearing you will have for this project because this is a permitted use and administrative site plan approval. Knowing the concerns staff will obviously be working diligently to protect the concerns that have been expressed.

Bradow requested the item you presented on the screen and passed out be read into the minutes. Mack advised staff has it.

**The Public Hearing was opened at 7:43 p.m.**

John Peterson introduced himself and stated he has a residence at 200 Park

Avenue North. I understand this is a plat hearing and the appropriateness of talking to certain things is a little bit suspect right now, I understand that. On the other hand, some of the concern Mr. Mack brought up caused him to even bring up the question of lighting in this particular venue. I sent you an email, you were talking about reading it in, and I don't necessarily want to read it to you here and I understand that not all projects are the same. I went to the Simonson store in Fargo, North Dakota having that as a local option for me to take a look at and I appreciate the owner's concern to get photometrics put together for the site but as I took a look at things and you certainly want to take a look at the site at night and it is a bright site and obviously there are some things that are competing for interest on Main Avenue in Fargo and I can understand why they want to light things up. This is maybe a little bit of a different situation as we turn north and go onto 71 and have residential to the north. Mr. Mack has stopped at the canopy light which in Fargo is a surface mounted fixture and understand that we are looking at a recessed fixture in this case in Park Rapids. That would be certainly a much better situation as far as we would be concerned. The other thing is the general signage, I understand this is a plat but once again kind of the devil becomes the details. The devil is in the details, even your last discussion you had was regarding where a proposed business would be and we get into questions about where signs would be on this particular project and I imagine there is going to be a large sign, I'm just guessing, out on Hwy 34. I can certainly understand that, but as you come up Hwy 71, I guess I'm wondering what kind of lighting might be happening there? Mr. Mack has gone to the large light or the large sign with the gas rates and in that situation seems to be an appropriate sign on Hwy 34 but as you turn onto Hwy 71, I'm just wondering what kind of additional signage might be looked at there? The impact of that signage on adjacent residential properties and across the street. This one is square to Main Avenue and I don't know if something were square to Hwy 71 how that would impact lighting? It probably wouldn't affect things too much to the east but probably to the north it probably would cast a shadow, but once again I'm really not sure how things are going to be developed here. I guess I know as I said these comments may seem odd and not necessarily applicable at a plat hearing but we feel the details are critical to the development of the project that will be appropriate and successful for both project developer and adjacent property and business owners. All of my comments were there, I would hope they don't need to have pole type lighting in this situation that would give great illumination to the site and a lot of wash and when I talk about the pole type lighting, I'm talking about the light that is right in the middle of the Simonson sign in the picture provided and what we always called a shoebox light which is kind of a down light, kind of a cut off light but I think that as the people that were here last time made a comment that as some of the signs that as they have popped up in the neighborhood have caused some issues with kind of nuisance light coming in their windows. I didn't realize and thought our comments may be appropriate tonight because of the situation of platting and the vacated alley being part of that plat. I didn't realize that alley vacation had already happened but I do appreciate you hearing this and hearing our concerns even though it's a plat hearing. Do you have any questions for me as it relates to some of the concerns that we've had?

Bradow said he doesn't have questions but would encourage you to keep in touch with city staff Mack as he said the plans are still being developed at this point. Peterson said we would love to have some input because of some of the concerns that we've had and Mack has been more than accommodating as we've had some questions on the project so.

Arch Simonson introduced himself as being with Bemidji Management Company and is the developer and appreciate Mr. Peterson's concern and I know this is a plat

hearing and just wanted to say that you probably couldn't have picked a worst example to go see. I have a much better example in Bemidji which is about 50 miles away from here. In Bemidji you will find that the lighting there is a lot more subdued and in this particular location in Fargo this is an interstate location where we light to do the clean white bright. There are clearly no houses around us and even though it's on the intersection of US 10 and I29 it still sits off the interstate so a long story short that's why we needed the high rise sign and in Fargo in that particular location they authorize up to 75 foot high sign if you abut up to NDDOT's property so that's one of the reasons that sign is so high is because the interstate actually goes under Hwy 10 so the cars are down lower and so the sign has got to be up higher and so on. The other thing about this location is it's a red, white and blue location and we call that the clean white bright and we think on the interstate locations they have greater appeal and in this particular location we don't feel we need that and so our color scheme is actually going to be quite different in this location. To address the lighting, this location is just about twenty years old now and when we built it they didn't have any LED lighting back in that day, but all the lighting in the location in Park Rapids will be LED lighting and it will be down lighting. It won't be cast out. Everything will be down and so the canopy fixture you see there that light will come down and only the newer modern day stores you see now have this type of a recessed lighting. There is not going to be any bleed over into your property. It's not a concern at all of mine because I know what's going in here and you people don't. Again, it's not a concern and I did hear some rumblings about your concern so I had my architect take some measurements for me and from my canopy lighting to your property line, just your property line across the street, not across your parking light and into your condos is 136 feet so it is quite a ways away. From my nearest proposed site light that is going to go straight down, that's 87 feet away from your property line which you still have to go across the parking lot all the way to the townhomes. There is virtually not going to be any bleed over lighting. We are doing a photometrics to make everybody at ease with that situation so our intent is not to blow out the neighborhood with lights, we won't do that. We will have a tall sign. I think the proposed sign we will have will be on the corner of Hwy 34 and Hwy 71 and I think that's only 25 feet high so it's not even this type that you saw in Fargo. It's a completely different look. This site will not be a red, white and blue clean white bright sign. It's going to have some white and some red but there is another color that we are bringing in. It's a prototype store that we haven't done yet but I'm really excited about it and in fact I was on the phone this afternoon for about five hours on a conference call working with my people on the site. I think it's really going to be an attractive business on one of the biggest corners in Park Rapids. Lighting I know is a problem but you'll have to trust me I hope when I tell you that it's not going to be an issue. We are not going to blow the neighborhood out. We don't need to. The other thing is it's on a stop light right, so the traffic isn't going by at 70 mph on the interstate, that kind of a thing. We don't need to attract here like we do in other locations. We have certain designs and certain looks for certain locations and they're not all the same. I made some notes here, again Bemidji would be a better example. That's going to be a lot closer to the look of this store than any of the others that we have. I mentioned no large sign like Fargo, we're not proposing that either. That's what I have to say to address those lighting concerns that these people have but I'd be happy to answer any other questions that you might have.

Carolyn McCaslin stated she lives on Park Avenue and was just wondering since Mr. Simonson is here if he would just take a moment to talk about the landscaping and the traffic flow on whole site and how car lights and traffic circulation might be happening there and any efforts with landscaping to kind of mitigate the car lights going around. Thanks.

Arch Simonson said I sure can. Where our canopy is proposed to be is south of like your driveway, what do you call it the Red Bridge Road, where it goes into the trail head. It is south of there actually. The headlights from our fuel canopy would basically be, if they were going to shine to the east would shine into the east to Subway and the pizza place it would shine towards that direction. We are not that far north so it shouldn't be an issue at all. The traffic flow, we are proposing access off of Hwy 71 and also Hwy 34 and also Main Avenue. I don't know what will happen in the alley. I'm sure they will use the alley like they always have.

Mack added that our ordinance will require basically the site is devoid of trees so there will be new trees planted and also as part of the landscaping requirement when the landscape plan is developed, we have a standard in terms of how many lineal feet between each planted tree. Each tree needs to consist of 1¼ inch in diameter and will be a mixture, I believe primarily, I don't think there will be any interest in any type of coniferous trees in this location, they will be deciduous but there will also be additional enhancement accent landscaping that may consist of some perennials. There is a nice low level fence planned as a part of the site development which will have some accent landscaping to augment that appearance of essentially, for lack of a better term (inaudible) it's kind of a rod iron low profile fence that will help to differentiate between the sidewalk and the actual development and green space that will be also between the development and the parking area of the service station. There will be a minimum 8 foot landscape buffer around the entire perimeter of the parking lot before it can project. That is a setback requirement for the parking area is 8 feet and that would be green space and other types of landscape treatments.

Arch Simonson said I forgot to address the landscaping but I ended up buying way more property than I started out intending to buy but one thing led to another as things kind of transpired. There is going to be plenty of access around this site so the fuel canopy and the station itself. That's going to be basically on the other side of the alley, not the fuel canopy but the store itself. There is going to be a lot of space. It's actually going to be quite a ways away from your homes so I think we're good. But I do want to say when it comes to landscaping we're not intending to build like a dirt berm to block you out, that's not in our plan. There will be shrubs and green space. There's plenty of space for green space and shrubs and trees and so on. We think it's going to be really nice, the nicest one we've ever done actually. This has been going on for three years so we better see something here by the time we're done.

Mack asked if there was anyone commenting on the website. Lockhart advised there are no comments. No one commented on the telephone.

**The Public Hearing was closed at 8:02 p.m.**

Lockhart advised one motion would be sufficient.

**A motion was made by Stone, seconded by Newman, to recommend to the City Council approval of a Preliminary and Final of Simonson Third Addition consisting of approximately 2.23 acres with one Lot and one Block located in a B-1 Highway Business District. PID#32.50.50100, 32.45.00200 & 32.45.00300 and portion of Vacated Alley.**

**The vote was called.**

**The following Commissioners voted in favor: Newman, Bradow, Swanson & Stone**

**The following Commissioners voted nay: None**

**The following Commissioners were absent: Johnson**

**The motion passed.**

**5C. ORDINANCE AMENDING CHAPTER 152 RENTALS OF THE PARK RAPIDS CITY CODE AUTHORIZING THE PERMITTING OF SHORT-TERM RENTALS AND PRESCRIBING STANDARDS:**

Mack explained a project the commission has been working on is a high priority between the City Council and the Planning Commission and have put substantial work into developing new ordinance standards for short term rentals over the course of the last six months. We have done extensive research on the subject. I am also bringing up in addition to the actual draft language that we have before you this evening. I also want to show that we did a study looking at other communities and again what we concluded is the standards for these approximately ten to twelve communities all across predominately northern Minnesota the standards were all over the board. No two cities the same. We set out to develop an ordinance unique to our needs here in Park Rapids. I believe what we now have in front of you is just exactly that. You have new definitions to specifically regulate something that is relatively new in terms of our country in terms of short-term rentals. I've also created a permit fee amount for this to become based upon the coinciding registration for a licensed rental in our community so the two go hand in hand. There are two separate applications as proposed. First in order to get a permit for a short-term rental they must first license and be inspected. That was one our our main goals as we set out was to ensure the safety of basic life safety requirements within the structure. That is provided for within the ordinance and in the dual licensing requirement in the ordinance and our rental requirements. We also included within the ordinance provisions that require a permit to be issued and certain requirements within the ordinance to make sure they won't become a nuisance in a neighborhood. We have several provisions that must be addressed as part of any permit application. This would be done administratively and we will not conduct a hearing on this. We would require they follow the ordinance standards for the rentals and there is a provision that talks about any violations of the terms of the permit are conditions for revocation. Any three recorded violations within a year puts them at risk of having a hearing conducted to revoke the permit. Staff would monitor this and also take complaints from citizens in the community when appropriate and investigate each and every complaint if one developed. I also suggest to you that there would be some staff monitoring without complaints as well to ensure the standard is being implemented and there is monitoring and some follow up done so it wouldn't strictly be on a complaint basis but on late night disturbance we are going to rely on complaints that come into the police department and we work very closely with the police department on enforcement when these types of land use issues do come up. We also put in provisions to address other concerns about fairness and equity assuring the hotel lodging taxes are paid into the city that are not currently being collected for this type of use and that is clearly defined for anything less than 38 days consecutive would trigger that same requirement and reporting requirements and whether or not they are occupied during a given month or not and still be responsible for submitting monthly reports to the city like every other lodging facility in our community.

Mack said lastly what I would like to talk about was one change that was put in by the city attorney's review. We had put a full restriction on any on street parking as a part

of the proposed draft and we had that tied to shoreland properties. The city attorney felt that out of fairness for the code given other licensed rentals as being able to rely on some on street parking to meet their needs for their tenants whether it's shoreland or non-shoreland. They took the reference to shoreland property out and left the restriction on for this particular use to limit no more than three on street parking spaces which would be a standard above and beyond any restrictions we would place on a license rental. There is still some built in provision to minimize too much on street parking as a negative impact to the neighborhood. We have restrictions as to how many people can be licensed to occupy the sleep at a rental property based upon our newly adopted International Property Maintenance Code. What that basically means is that for one person to sleep in a room or to qualify as a sleeping quarters must have at least 70 sq. feet – 7x10 bedroom, not very big. You add another 50 sq. ft. per person to be allowed. Basically, that translates into how many individuals the property can be license for to have occupancy in any given residential property which this will also fall underneath. There is some control built in on how much parking would occur based on how many people will be licensed to occupy and sleep on the property above and beyond the rentals. I felt like this was a fairly reasonable compromise to all out restriction of no on street parking. That's up for you to discuss in terms of that number. The city attorney recommended three as opposed to zero. If you have a different number in mind, we should discuss that tonight. Other than that, I'm certainly moving ahead with what was recommended by the attorney.

Mack summarized that pretty well concludes what we have again the standards I referred to, they have to get a special permit, it is subject to conditions of the city code. They have to be maintained. We have limitations built in for parking. We have an outright prohibition on any signage which would otherwise be allowed for a home occupation in the community. They have to maintain a list of guests that occupy the property in the event that it is needed by city staff or for law enforcement. They have to maintain an emergency contact of the host. What I will indicate on this particular standard that we looked at from the example provided by Two Harbors, they did not want a restriction on far away they could live for the emergency contact. They felt the owners of the property may still be the emergency contact if they own property here seasonally and may live out of state and didn't feel that was necessarily a fair requirement so I didn't feel I should argue with that so that's been removed. Limitations about noise is a fairly restrictive requirement beyond 9:00 p.m. and before 8:00 a.m. In terms of trash handling and again posting inside their dwelling the rules of the city as well as whatever the guidelines are that would likely be in addition to the city's requirements for street address and floor plan for fire exit escape routes, occupancy limits and primary and secondary contacts about the noise limitations and the parking requirements. Those would all be posted.

Mack said the last remaining standard is the buffering standard of 500 feet. Again, we have language in here that allows for that standard to be established. The city attorney did agree with that so we do have a buffering standard built into the ordinance. Two rentals shall be no closer than 500 feet from another permitted short-term rental except for in areas zoned R-B, B-1 and B-2. We still have a grandfather clause if they are already existing as a rental ordinance on the effective date of this ordinance they are exempt from the 500 foot buffer or if they are already operating as a short term rental and then they will come into the new licensing requirements and be granted a permit even though they don't meet that spacing and it has to be dealt with in the same calendar year as the effective date of the ordinance provided that they get the permit and continue to maintain the permit on an annual basis moving forward. If that were to

lapse as a short-term rental, basically no longer permitting it as a short term rental then that grandfather clause would go away.

Mack said those are the main subjects that you've worked on and it's now completed in ordinance format and ready for you to take action on this evening. Staff recommends you approve a recommendation for adoption to the city council.

Bradow asked on the grandfathering, how about change of ownership? Bradow said I have the permit, I sell it to Rob, does my permit run to the new owner? Mack said they would have to license it as a new owner under their name so that permit runs with the applicant and not with the land. That permit would then lapse, the owner would have to purchase it as long there's no discontinuance of that use, they would be entitled to obtain a new permit and continue to enjoy the legal nonconforming aspects of the spacing of the distance. Bradow said you are talking about continuity so do we say how long? Is it a one-year period effective, the permit runs for how long, one year, so annually? Mack said they would have to apply for a new permit in their name, pay the new fee and do it prior to the expiration or upon expiration of the current permit. Bradow asked how long does the permit run, what is the duration, annual, semi-annual? Stone said they expire on December 31<sup>st</sup> of the year. Mack said it is an annual permit. The rental licensing is a three year. Bradow said so I sell my property to Rob, on the renewal permits are April 30<sup>th</sup> every year, okay I sell my property to him on the day it expires and don't get into renew that are you going to tell me no I can't get it then? It's a timing issue, that's my question? Mack said we are going to issue the permit. Bradow clarified so you are going to use common sense and issue the permit? There was further discussion concerning the timing of application, checking with the city in advance of purchase for a permit, and whether we need to put something in the ordinance or if the planner should administer it. Mack said he is okay with administering it and the city attorney didn't raise a concern. Mack asked Lockhart if she had a concern and she said no.

Swanson asked about noise, it says amplified music after 9:00 p.m., would there be any reason to make it more of an objective measurement that decibel reading within a certain number of feet? What if it is people sitting out at a campfire singing and jamming on acoustic guitars and it's not amplified so then it turns into a subject of argument from your neighbor that you are being too loud and the police come and it's a he said, she said? Mack said we have more specific standards in Chapter 92 of the city code that does talk about noise and nuisance and I don't have the specifics with me but its not subjective it's more objective in that section of the code. The police deal with that on occasion, not just because it's a short-term rental.

**The Public Hearing was opened at 8:22 p.m.**

**There were no comments in person, on the phone or on u-tube.**

**The Public Hearing was closed at 8:23 p.m.**

**The Findings of Facts were reviewed. The commissioners came to the following conclusions:**

1. *Is the zoning amendment consistent with the Park Rapids Comprehensive Plan? YES.*

2. *Have there been changes in the character of development in this vicinity? N/A.*

3. *Is the amendment request a result of an error made in the Zoning Ordinance/Zoning Map or Comprehensive Plan? NO.*

**A motion was made by Swanson, seconded by Bradow, and unanimously carried to recommend to the City Council approval of an Ordinance Amending Chapter 152 Rentals of the Park Rapids City Code Authorizing the Permitting of Short-Term Rentals.**

**The vote was called.**

**The following Commissioners voted in favor: Newman, Bradow, Swanson & Stone**

**The following Commissioners voted nay: None**

**The following Commissioners were absent: Johnson**

**The motion passed.**

### **6. INFORMATIONAL/DISCUSSION:**

#### **6A. Recruitment – Open Planning Commission Seat: Mack**

Mack said he put out an inquiry but has not heard back from the individual. There was discussion concerning advertising in the newspaper by the City Clerk. Lockhart advised the clerk usually puts an ad in the paper after the first of the year but don't get any response so I couldn't say for sure if she did that this year based on never getting a response in the past. There was discussion concerning vacancies on various committees. Bradow suggested running the ad if it hadn't been done this year. Mack said he would check with the council.

**6B. Training:** Mack said Government Training Services advertised some citizen planner courses to an online format making it more accessible so folks don't have to travel to the cities. The opportunity is out there if anyone is interested and I would encourage you to take advantage of it. Mack commented on the dates and names of the trainers and where to assemble. Bradow commented he has taken interactive land use training and found it to be very helpful and beneficial through the League of MN Cities. Bradow commented the ultimate goal is to make good recommendations to the council. Mack said to send him an email if interested.

**7. ADJOURNMENT: A motion was made by Swanson, seconded by Bradow, and unanimously carried to adjourn the meeting at 8:33 p.m.**

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Chair Richard Bradow

ATTEST:

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Carmen L. Lockhart  
Planning/Administrative Assistant