

**CITY OF PARK RAPIDS
REGULAR MEETING
PLANNING COMMISSION
OCTOBER 23, 2017, 6:00 p.m.
Park Rapids Library, 210 First Street West – Lower Level
Park Rapids, Minnesota**

1. CALL TO ORDER: The October 23, 2017, 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, Nels Peterson, Sam Spaeth, Thomas Petschl and City Council Member Liz Stone. Absent: None. Staff Present: City Planner Ryan Mathisrud and Planning Assistant Carmen L. Lockhart. Others Present: Whitney Marlett, Seth Marlett, Linda Anderson, Kelly Trumpold, Deb Sorenson and Gail Petschl.

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

4. APPROVAL OF REGULAR PLANNING COMMISSION MEETING MINUTES OF AUGUST 28, 2017: A motion was made by Stone, seconded by Peterson and unanimously carried to approve the August 28, 2017 Regular Meeting Minutes as presented.

5. PUBLIC HEARINGS:

5A. CONDITIONAL USE PERMIT FOR WHITNEY MARLETT, 1008 PARK AVE S TO OPERATE A CONSIGNMENT AND ON-LINE BASED AUCTION SALES COMPANY KNOWN AS TRINITY AUCTION COMPANY, IN A B-1 HIGHWAY BUSINESS DISTRICT, PID#32.25.04500:

Mathisrud explained the purpose of this request is to establish a consignment and online auction company known as Trinity Auction Company. Sales will consist of personal property, motor vehicle, machinery, farm equipment and recreational vehicles. In discussions with the applicant the primary business will be personal property but in the future is hoping to get into equipment and vehicles. The applicant is Whitney Marlett and the owner is Roger and Gina Aukes. The location is 1008 Park Ave S just south of the A&W and north of the old J&B building. The parcel is not platted and is approximately 1.72 acres and currently the site of Warner Garage Doors and previously used as a car dealership for used cars. They were previously operating as a legally established nonconforming grandfathered use but lost that status.

Mathisrud stated the Comprehensive Plan shows this area as future commercial uses and it's also located in the B-1 Highway Business District. It is not located in an environmentally sensitive area or shore land area. It is located in the Airport Overlay District but only in Safety Zone C which means that an airspace study is not required in this location as it's not a hazard to aircraft or people. Currently there are no water/sewer utilities provided to site as they are not available so they are on well and septic.

Mathisrud provided the pertinent portion of the City Code for Conditional Use Permits in the B-1 Highway Business District within the packet and the applicant provided a proposed layout of the site. Basically no changes are proposed for the building as the applicant intends to occupy the front of the building and the back space will continue to be operated by Warner Garage Doors. The layout shows a display area for equipment and vehicles in the south portion adjacent to the old J&B building as well as a display in the front. They are also showing some vehicle parking in front and 9 paved spaces which is adequate for the use. The parking lot is not striped. The layout also depicts the trees and grass location. Mathisrud also provided photos of the site. Mathisrud stated there are no topographical challenges that we identified and there is an appropriate access for vehicles along the frontage road. It will be mostly office type use with storage in the back. For this type of use there is typically a low level of traffic sporadically during times when people drop off or pick up but doesn't generate excess traffic. The applicant does intend to sell cars and RV's so the display area is needed for inventory. The display area shown is approximately 2,160 sq. ft. plus an additional 256 sq. ft. but they may expand in the future. They are showing 9 parking spaces and landscaping in the rear but additional landscaping could be added in the front if they remove paving however, we aren't recommending that at this time.

Mathisrud provided proposed staff's responses to the Findings of Fact as follows:

1. Are there characteristics of the proposed use that may violate the public health, safety or general welfare of Park Rapids City Residents? **No.**
2. Is the proposed use inconsistent with the intent of the Park Rapids Comprehensive Plan and Zoning Ordinance? **No.**
3. Does the proposed use present any unique concerns regarding erosion, runoff, water pollution or sedimentation? **No.**
4. Could the proposed use create any special problems with parking? **No.**
5. Would the proposed use cause any problems with access or traffic generation? **No.**
6. Is the proposed use incompatible with other uses located in the zoning district? **No.**

Mathisrud stated staff recommends approval of the Conditional Use Permit with the following conditions:

1. The owner shall operate the business in accordance with all local, state, and federal regulations.
2. The owner shall provide striped and signed customer and handicap parking to serve the proposed use.
3. All signage shall meet the standards indicated in the zoning ordinance.

Peterson inquired on the striped handicap parking, is there an ordinance that applies to all commercial businesses? Mathisrud explained there is and all businesses are required to meet the parking requirements for ADA under the building code and we don't have an ordinance that specifically calls out maintaining that so if it was striped at one time when it was constructed but is worn off and not visible anymore, we encourage making sure to stripe it appropriately as our recommendation.

The Public Hearing was opened at 6:10 p.m.

There were no comments.

The Public Hearing was closed at 6:11 p.m.

The Findings of Facts were reviewed. 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? **NO.***
2. *Is the proposed use inconsistent with the intent of the Park Rapids City Comprehensive Plan and Zoning Ordinance? **NO.***
3. *Does the proposed use present any unique concerns regarding erosion, runoff, water pollution or sedimentation? **NO***
4. *Could the proposed use create any special problems with parking? **NO.***
5. *Would the proposed use cause any problems with access or traffic generation? **NO.***
6. *Is the proposed use incompatible with other uses located in the zoning district? **NO.***

The public hearing was reopened at 6:15 p.m.

Sam Spaeth inquired how can we have a parking lot, sell cars, farm machinery and all these things in an acre of land and stated he was concerned about how much stuff is going to be operated there because you know it's going to grow. Peterson commented that's a good thing – we like growing businesses. Spaeth stated he understands that but you should also understand it is a main artery into the City of Park Rapids and wants to know how much stuff the applicant is going to accept when it comes to farm machinery and the big stuff with the amount of land that you have? Marlett responded a lot of the big stuff can be sold off site at their location so a lot of machinery and farm equipment could be sold on the farmer's farm if they wanted to consign it but if they have one tractor they could bring it in so it is more visible to the public. Spaeth asked if Marlett was going to keep it neat or keep bringing in a whole bunch of stuff. Marlett said he plans on keeping it neat but as people would like to consign stuff I can't turn it away. Spaeth asked what is going to become of it then, are you just going to keep accepting stuff and building it up, where are you going to have room? Marlett explained the stuff would only be there two weeks at the most from the time they bring it in and we list it, it goes through auction and there is a short time period to pick it up and if it doesn't sell the owner has to pick it back up, so there wouldn't be a bulk of stuff sitting there at all time, it would be a turnaround of items. Bradow asked are you saying it's a two-week turnaround? Marlett explained two to three weeks depending on the auction term. Spaeth asked are you going to keep it neat out there? Marlett responded yes sir.

The Public Hearing was closed at 6:17 p.m.

For each response answered affirmatively, are there conditions that could be attached to the granting of a permit that would mitigate the adverse impact? No

affirmative responses but Mathisrud and the Commissioners recommend the following conditions:

1. The owner shall operate the business in accordance with all local, state, and federal regulations.
2. The owner shall provide striped and signed customer and handicap parking to serve the proposed use.
3. All signage shall meet the standards indicated in the zoning ordinance.

A motion was made by Stone, seconded by Peterson, and unanimously carried to recommend to the City Council approval of a Conditional Use Permit request from Whitney Marlett, 1008 Park Ave S, owned by Roger Aukes, to operate a consignment and on-line based auction sales company known as Trinity Auction Company, for sales of personal property, motor vehicles, machinery, farm equipment and recreational vehicles, located in a B-1 Highway Business District, PID#32.25.04500 with the following conditions:

1. The owner shall operate the business in accordance with all local, state, and federal regulations.
2. The owner shall provide striped and signed customer and handicap parking to serve the proposed use.
3. All signage shall meet the standards indicated in the zoning ordinance.

5B. CONDITIONAL USE PERMIT FOR LINDA ANDERSON, 807 1ST St. W, TO REMODEL PART OF AN EXISTING COMMERCIAL BUILDING TO OPERATE AN EVENT CENTER WITH BANQUET FACILITY FOR 180 GUESTS WITH KITCHEN AND LIQUOR SALES, LOCATED IN A B-1 HIGHWAY BUSINESS DISTRICT, PID#32.23.01000:

Mathisrud explained the purpose of this request is the applicant is wishing to establish an event center with banquet hall for weddings, funerals, graduations and other events as a place for people to gather and serve food and liquor. The applicant is Linda Anderson and the owner is Hodgepodge, LLC, Sara Jennen from Hillsboro, North Dakota. The applicant is in the process of purchasing the property and will close shortly. The property is located at 807 1st St. W and is across the street from the West Forty restaurant. The parcel is not platted and consists of approximately 3 acres. The existing land use is retail consignment or antique store and they also sell portable sheds. The Comprehensive Plan designates this area as commercial and the zoning is B-1 Highway Business District. The property is not located in the shore land or an environmentally sensitive area. It is located in Airport Safety Zone C but an airspace study is not required. The property is adjacent to city sanitary sewer and water however it is not adjacent to storm sewer. It is required to be connected to city utilities but is not currently connected. The B-1 District of the City Code – Zoning Ordinance does indicate that any professional service or retail establishment not specially allowed as a permitted use is required to obtain a Conditional Use Permit as well as for the use of on and off sale liquor establishments.

Mathisrud provided some images of the site and building as well as proposed parking areas in the front, side and rear of building. Only a small portion is currently

paved. The applicant intends to provide seating for 180 guests so guessing there may be up to 90 cars or more at the location if two people come in one car. Also provided is an interior layout floor plan and remodeling for bathrooms, bar area, banquet space and kitchen facility. The budget for the remodeling also includes a sprinkler system for an assembly use. The applicant intends to develop the site and continue to use the front of the building for retail sales and consignment business located there as well as sales of storage sheds. It is approximately 5,000 sq. ft. and can hold 25 tables serving 180 people. Under the building code when you have that many people in a small space they are required to provide a sprinkler system so the developer has plans for that. Sewer and water connection needs to be completed in order to serve this use and this is required under City Code and the Septic System Ordinance.

Mathisrud stated the site has appropriate access for vehicles for this type of use as it generates traffic during the times when people arrive and leave the facility but it is not a huge use that would create a significant amount of traffic on the state highway. There will be no additional accesses created so MNDOT permitting may not be required on this application. The developer has not indicated that they would pave the lot at this time and it is also not required to be paved under the Zoning Ordinance because it is not adjacent to a storm water system. However, we are recommending the handicapped area in front of the entrance be paved to provide the handicap parking area. Because the proposed use includes a bar they have to meet the requirements for obtaining a liquor license and as I understood the bar was intended to serve at any time other than during the events so the liquor license would be required and a kitchen appropriate to satisfy those other requirements would need to be met.

Mathisrud provided proposed responses to the Findings of Fact as follows:

1. Are there characteristics of the proposed use that may violate the public health, safety or general welfare of Park Rapids City Residents? **No.**
2. Is the proposed use inconsistent with the intent of the Park Rapids Comprehensive Plan and Zoning Ordinance? **No.**
3. Does the proposed use present any unique concerns regarding erosion, runoff, water pollution or sedimentation? **No.**
4. Could the proposed use create any special problems with parking? **Yes. Handicap parking condition recommended.**
5. Would the proposed use cause any problems with access or traffic generation? **No.**
6. Is the proposed use incompatible with other uses located in the zoning district? **No.**

Mathisrud stated staff recommends approval of the Conditional Use Permit with the following conditions:

1. The owner shall operate the business in accordance with all local, state, and federal regulations.
2. The owner shall provide a paved area for handicap parking that is striped and signed and adequate to serve the proposed use.
3. City sewer and water connections shall be made prior to establishing the use.

4. The owner shall obtain a liquor license and maintain compliance with all applicable state and local regulations relating to serving of alcohol.

The Public Hearing was opened at 6:29 p.m.

Kelly Trumphold introduced himself as Linda Anderson's son. Trumphold stated we are buying the property and closing on Thursday and just wanted to make that clear as far as anything to do with the turnovers that we will be the owners on Thursday. Trumphold stated he will be the operations control for the banquet facility and the bar and came to this meeting to answer any questions. Trumphold said we will be in complete compliance and has been in the bar business for 9 years and in the restaurant industry going on 30 years and I own and operate Farley's Family Restaurant in Hermantown and Lakes Superior Catering in Hermantown so I don't have a convention center but I do cater. This year I have catered 38 weddings and 5 of them with liquor as I have a travelling liquor license. I have plenty of experience under my belt and it's not a fly by night operation or somebody whose never done catering or events coming in.

Trumphold stated he has water hooked up already and needed a bigger line for the sprinkler system which we are tackling today and tomorrow and the sewer is going to be connected around November 1st so we will be in compliance with that come November 5th or there about.

The Public Hearing was closed at 6:31 p.m.

The Findings of Facts were reviewed. 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? NO.*
2. *Is the proposed use inconsistent with the intent of the Park Rapids City Comprehensive Plan and Zoning Ordinance? NO.*
3. *Does the proposed use present any unique concerns regarding erosion, runoff, water pollution or sedimentation? NO.*
4. *Could the proposed use create any special problems with parking? YES.*
Recommended to pave and install area for handicap parking.
5. *Would the proposed use cause any problems with access or traffic generation? NO.*
6. *Is the proposed use incompatible with other uses located in the zoning district? NO.*

For each response answered affirmatively, are there conditions that could be attached to the granting of a permit that would mitigate the adverse impact? Yes, *Mathisrud and the Commissioners recommend the following conditions:*

1. The owner shall operate the business in accordance with all local, state, and federal regulations.
2. The owner shall provide a paved area for handicap parking that is striped and signed and adequate to serve the proposed use.

3. City sewer and water connections shall be made prior to establishing the use.
4. The owner shall obtain a liquor license and maintain compliance with all applicable state and local regulations relating to serving of alcohol.

A motion was made by Peterson, seconded by Petschl, and unanimously carried to recommend to the City Council approval of a Conditional Use Permit request from Linda Anderson to remodel part of an existing commercial building at 807 1st St. W, owned by Hodgepodge, LLC, to operate an event center with banquet facility for 180 guests with kitchen and liquor sales, located in a B-1 Highway Business District, PID #32.23.01000 with the following conditions:

1. **The owner shall operate the business in accordance with all local, state, and federal regulations.**
2. **The owner shall provide a paved area for handicap parking that is striped and signed and adequate to serve the proposed use.**
3. **City sewer and water connections shall be made prior to establishing the use.**
4. **The owner shall obtain a liquor license and maintain compliance with all applicable state and local regulations relating to serving of alcohol.**

6. INFORMATIONAL/DISCUSSION:

6A. Small Cell Wireless Update: Mathisrud stated this is concerning legislation that was passed by the state regarding making small cells permitted within city right of way. Small cells are the antennas that capture your cell phone and provide signal for internet and they are making it so this is a permitted use and we have to update our right of way ordinance. Mathisrud said he attended a webinar on the topic and discussed it with our City Administrator. There is a new League of MN Cities template ordinance for right of way ordinances and is reviewing that and comparing it with our current ordinance and will make appropriate changes if necessary so you can expect something in the next couple of months. Bradow questioned the timeline associated with this? Mathisrud said it is supposed to be December 31st that it goes live so you want to have your ordinance updated by then because it is fair game for cell phone companies to start bringing applications under that legislation. Bradow asked if we are able to meet that time line? Mathisrud stated he thinks so as the attorneys are working on it and he anticipates getting it done by the end of the year. Bradow inquired if there have been any requests? Mathisrud stated approximately a year and half ago he received a request for this type of use but since then that company put up a big tower instead of a small cell or they are working towards a big tower so I would expect delay on this but it's coming at some point so it's best to get it done.

There was further discussion concerning:

- size being under 45 feet tall;
- mounting them onto light poles and power lines
- the limited amount of review a city can do;
- what nominal fee can be charged;
- controlling main street and historical districts if in ordinance;
- the state law;
- protecting residential areas;
- requiring a Conditional Use Permit and the mechanics of recording such a document as right of way is public property;
- the pros and cons and the aesthetics;

- providing the technology to changing society and tourists;

Mathisrud stated he will provide further information in the future.

6B. AIRBNB Discussion: Mathisrud provided some articles in the packet and some of the commissioners stated they did additional research on line as well to see how many homes are involved in the City of Park Rapids. Mathisrud stated this has been part of the planning discussion over the past couple of years during the rise of this and when Bradow brought it to my attention I thought it's was timely to take a closer look at regulating it in the City of Park Rapids.

There was discussion concerning the challenges of regulating AIRBNB, VRBO and HOMEAWAY:

- The number of rentals in the Hubbard County area including properties in the city limits;
- Requiring a Conditional Use Permit for home occupation such as Bed & Breakfast and notifying neighbors during the public hearing process;
- County assessor's designated use – residential or commercial tax rates;
- Requiring a rental inspection per existing city ordinance;
- Lodging tax;
- Are there insurance issues;
- Are there liability issues if city is involved in inspections;
- Definition of short term rental verses bed and breakfast or boarding house;
- Protecting residential neighborhoods;
- Parking issues;
- Equality in adhering to the rental ordinance;
- Term of the rental – week, month, etc.
- Background checks;
- Limiting the number of permits allowed per area;
- Check with other communities and see if they regulate it;
- Pros and cons of having them in our quaint community;
- Whatever we develop for regulations being geared towards tourism;
- Other types of home based businesses that aren't being regulated;
- Business registration lists in other cities – benefits and drawbacks;
- Rental process and procedures and building permit procedures;
- Privacy of AIRBNB operators and renters;

Mathisrud stated he brought this up for input on developing policy so what do we want to do as a community to regulate these if anything? Peterson commented on the cost of obtaining a Conditional Use Permit for an AIRBNB host and the only reason I can see to require that would purely be to protect the other neighbors. Bradow agreed.

There was further discussion about protecting the neighbors and a boundary of one or two in an area. The commissioners reviewed the Findings of Fact for a Conditional Use Permit i.e. parking and traffic generation and the effect on the neighbors and potential complaints. Bradow commented he feels we should treat as a Bed & Breakfast or a short-term rental as I'm guessing that's what 99% of them are especially in the Park Rapids area. Stone stated if we require Bed & Breakfast to have a Conditional Use Permit then I feel we should have the VRBO's, etc. do the same because it would be frustrating as a Bed & Breakfast owner who follows the rules and takes the time to get the Conditional Use Permit. Mathisrud added as staff I think the

concern for people that are operating the VRBO and AIRBNB's is going to be the cost associated with obtaining the Conditional Use Permit, that's the pushback we're going to receive and I'm not saying that's positive or negative. The fee is \$175.00 and the escrow is \$750.00 for a total of \$925.00 with what is not used to cover the direct costs is returned to the applicant and perhaps we could look at something smaller because there should be a consistent level of review on them because they are so prolific and are the same type of request so we may not have to collect as much escrow because we have more predictable costs but still the applicant is paying approximately \$500.00 for the process. Mathisrud said most rentals in other communities pay an annual \$100 to \$150 fee for a rental inspection. Our rental ordinance we charge \$40 every 3 years for the inspection so in the whole scheme of things maybe it doesn't matter. Stone stated that the VRBO's etc. are in the same business as a Bed & Breakfast so why wouldn't I become a VRBO owner and not do the Bed & Breakfast to avoid the costs so my feeling is if we expect the Bed & Breakfast owner to pay \$925 then we should expect that from a VRBO owner and when you're looking what they charge for a weekend per night, it's recouped fairly quickly.

Mathisrud said he would work on some language.

Bradow asked Spaeth his thoughts and Spaeth stated it is a business and he's not against business. Bradow said he agreed but we are just deliberating whether they should be considered the same. Spaeth stated we should keep the charge the same.

7. ADJOURNMENT: A motion was made by Stone, seconded by Peterson, and unanimously carried to adjourn the meeting at 7:27 p.m.

Chair Dick Bradow

ATTEST:

Carmen L. Lockhart
Planning/Administrative Assistant