



## MEMORANDUM

DATE: November 14, 2016

TO: Chairperson Hvidsten, Members of the Planning Commission, and Administrator Votca

FROM: Cynthia Smith Strack, Community Development Director

RE: Item 5.1 Parking Space Variance & Conditional Use Permit: Rental in CBD – Cindy Heimerl, 229 Meridian Street North

### REQUEST SUMMARY

**PZ Task:** Hold hearing and review requests for parking space variance and conditional use permit. Recommend action to City Council.

**Overview:** The Applicant requests a reduction in parking spaces required per apartment in the Central Business District. Applicant proposes a reduction of one (space); two are required under code. In addition, the Applicant requests a CUP to allow use of an existing two-bedroom apartment located in the rear of the storefront at 229 Meridian Street North. The majority of the building will be used for small special events. The Applicant currently owns/operates Rubies and Rust and



**History/Locale:** Locale is a mix of downtown commercial and single family residential in the original townsite. The structure has been used for commercial purposes and the apartment was occupied prior to year 2010.

**Applicant:** Cindy Heimerl, 23961 Kittson Blvd. Belle Plaine MN 5611

**Planned Use & Zoning Classification:** Planned (2008 Comprehensive Plan): Central Business Zoning, current: B-3 Central Business

**Attachments to Report:** (a) Staff analysis of request dated November 14, 2016;  
(b) Variance and CUP applications;  
(c) Resolution No. 16-024 recommending action on the variance request; and,  
(d) Resolution No. 16-025 recommending action on the conditional use permit request.

**Legal Description:** The North 2 feet of Lot 4; and the North 36 feet of the South 48 feet of Lot 4, all in Block 102, Belle Plaine, Scott County, Minnesota. PID 200015120

**Action Options:** Action on Resolution 16-024 and Resolution 16-025 recommending approval or denial (specify) of concept plan to City Council. Alternatively, the PZ may postpone action pending receipt of additional information.

**Staff Recommendation:** Approval, with conditions specified in both resolutions.

**Notes:** Ms. Heimerl is expected to be present at the meeting.

**November 14, 2016**

TO: Chairperson Hvidsten, Members of the Planning Commission, and Administrator Votca

FROM: Cynthia Smith Strack, Community Development Director

SUBJECT: Resolution 16 – 024: Variance Number of Parking Spaces for Apartments in the B-3 District  
Resolution 16 – 025: Conditional Use Permit (CUP): Central Business Residential

The purpose of this memo is to provide the Commission with information regarding two applications submitted by Cindy Heimerl for property at 229 Meridian Street North. Heimerl requests a variance from required off-street parking pursuant to residential rental uses in the B-3 Central Business District. Heimerl further requests a CUP to allow an apartment as an accessory use located behind the street entrance commercial space. The location will be incidental to the conduct of the primary use of the main building.

Heimerl proposes to use the structure as a small event center suitable for quaint weddings, gatherings of family and friends for special occasions such as graduation, birthday, and anniversary celebrations and other small events. Maximum occupancy is 99 persons as the building is currently designed. Similar places of assembly including theaters, public buildings, and funeral homes are permitted uses in the CBD.

Heimerl proposes to use the accessory apartment for guests on an occasional basis. Code does not distinguish between apartments and occasional apartments in the CBD; therefore, the request is being processed as an apartment.

### ***LAND USE REVIEW***

#### **Consistency with Comprehensive Plan**

The subject property is guided toward continued central business use in the 2008 Comprehensive Plan. The CBD provides for pedestrian-oriented mixed uses of higher intensity.

#### **Applicable Use Standards**

Section 1107.12, Subd. 10(26)(9)(b) of the Code requires two off-street parking spaces be provided for each apartment in the CBD. The Applicant proposes to supply one (1) off-street parking space within the existing structure. The concept has been reviewed by a local contractor and the Building Official and is seen as physically possible providing a building permit is issued.

Chapter 1105.11 of the Code allows residential as an accessory use under CUP in the Central Business District provided: it is located above the street level, or behind the main street entrance commercial space, where the location is incidental to the conduct of the primary use of such main building. The residential rental unit will comprise 16% of the total area (approximately 5,520 sq. ft.) of the building qualifying it as accessory or subordinate to the principal commercial use.

At this time a two-bedroom apartment exists at the very rear of the building, accessory to the commercial storefront. The apartment has not been occupied since approximately 2010. As such any previously issued CUP has become null and void due to non-use.

#### **CBD Performance Standards**

The structure is existing, no changes to the building footprint are proposed. No minimum lot size or width standards apply within the CBD. The existing floor area ratio is 1:1 with the structure having classification of existing legal non-conforming with respect to rear setback.

**Variance Standards**

Section 1103.05 of the Code establishes review criteria to be address during variance review:

1. Variance must be in harmony with the general purposes and intent of the Code.
2. Variance must be consistent with the Comprehensive Plan.
3. Practical difficulties must exist, meaning:
  - a. The property is to be used in a reasonable manner which is not permitted by the Code;
  - b. The plight of the property owner is due to circumstances unique to the property and not created by the landowner; and,
  - c. The variance, if granted, will not alter the essential character of the locality.

The following sample findings of fact are offered for information purposes:

*Potential findings supporting the variance request*

- A finished apartment currently exists within the structure at 229 Meridian Street North.
- The building covers the entire lot (FAR 1:1) making the creation of on-site parking exterior to the structure impractical.
- The subject property is currently a distressed and underutilized property within the heart of the Downtown. The variance will enable building renovation and rehabilitation returning the structure to a fully utilized facility.
- The proposed use of the property is consistent with planned use for the property under the 2008 Comprehensive Plan.
- Adjacent parcels include public, commercial, mixed commercial/residential, and pure residential uses. The parcel was previously used as a bowling alley, a post office, and mixed use commercial/residential. The variance will not alter the essential character of the locality.

*Potential findings opposing the variance request*

- The variance is necessitated by the desire of the property owner to re-occupy an apartment and not a practical difficulty relating to the property.
- The Applicant could purchase real property adjacent to the subject parcel for off-street parking purposes.

**Conditional Use Permit Standards**

Section 1103.08, Subd. 4 of the code requires the following be considered prior to issuance of a CUP:

1. The use must be consistent with the Comprehensive Plan.
2. The use must be consistent with the intent of the B-3 District (provide for uses within the Downtown).
3. The use may not adversely impact government facilities, utilities, or service provisions.
4. The use may not adversely impact the public health, safety, or welfare.
5. The use may not be injurious to the use and enjoyment of property in the immediate vicinity or substantially diminish and impair adjacent property values.
6. The use may not impede the normal, orderly development and improvement of adjacent properties for uses permitted in the subject zoning class.
7. Adequate utilities, access roads, drainage, and necessary facilities must be or will be provided.
8. Adequate measures have been/will be taken to provide for vehicular and pedestrian safety and convenience to, from, and within the site.
9. The use in all other respects conforms to the applicable regulations of the district within which it is located.

The apartment is currently in existence, accessory in nature, and aligned with planned land use. No change to building footprint is proposed.

In addition, Section 1105.11, Subd. 4(5) requires apartments in the CBD be above or to the rear of storefront commercial and be accessory to commercial as a principal use. The existing apartment meets both of those requirements.

#### Public Hearing

Notice of required public hearing has been posted, published, and mailed as prescribed by state law. No oral or written comments either for or against the proposed activity have been received as of the drafting of this memo.

#### **DEPARTMENTAL REVIEW**

##### Building Official/Fire

Building Official McCarty has examined the use in concept and notes a change of occupancy permit, a building permit for interior remodeling, and a rental license are needed.

##### Community Development

Staff fully supports rehabilitation and reuse of the existing underutilized and vacant property. The proposed activity will add interest to the Downtown and encourage future care and maintenance of the structure.

The overall intensity/density of the existing use and structure appears to be minimal. Therefore, no adverse impacts to the public's health, safety, or welfare are anticipated. In addition impacts to local systems (transportation, sanitary sewer, drinking water, parks, stormwater) appear to be minimal. The use is consistent with the Comprehensive Plan and applicable land use standards.

#### **STAFF RECOMMENDATION**

##### Variance

Staff recommends **approval** of the variance request supported by the aforementioned sample findings of fact in support of the request, subject to the following conditions:

1. Approval of a conditional use permit to allow use of an existing apartment at 229 Meridian Street North.
2. The "Use" is an approximately 900 square foot two-bedroom apartment at 229 Meridian Street North. The apartment shall not be increased in square footage.
3. There shall be no additional residential apartments added to the subject parcel.
4. This approval shall expire one year after date of approval unless the Applicant has applied for a change in occupancy permit, a building permit, or a rental license in conjunction with activities at 229 Meridian Street North.
5. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.

##### Conditional Use Permit

**Approval** subject to the following conditions:

1. Approval of a variance to required number of off-street parking stalls for an apartment in the B-3 Central Business District.
2. The "Use" is defined as an approximately 900 square foot two-bedroom accessory apartment at 229 Meridian Street North. The conditional use permit shall be valid only for the Use defined herein.
3. Establishment of the Use as defined within the application for CUP approval and as defined within a staff memo dated November 14, 2016 submitted by the Community Development Director.
4. Issuance of a rental license and maintaining of said license.

5. The CUP shall expire one year after date of approval unless the Applicant has commenced operation of the Use on-site, or a petition for an extension of time has been granted by the City Council.
6. The CUP shall be subject to all applicable codes, regulations and ordinances, and the conditions of approval contained herein. A violation of any applicable codes, regulations and ordinances, and the conditions of approval herein shall be grounds for revocation.
7. The CUP shall be subject to annual inspection and audit by the City.
8. The CUP shall expire if the Use ceases for more than twelve (12) consecutive months, in the event the structure is destroyed and a building permit is not issued within 180 days, or if the Use is changed to a different Use.
9. The Conditional Use permitted under this Resolution may not change to another Conditional Use or further intensified without a new application and approval by the City Council.
10. The Use permitted under this Resolution shall remain in effect as long as the conditions of the Resolution are observed.

**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ 16-024**

**A RESOLUTION RECOMMENDING APPROVAL OF A VARIANCE TO REDUCE THE NUMBER OF  
OFF-STREET PARKING STALLS REQUIRED FOR APARTMENTS IN THE B-3 CENTRAL  
BUSINESS DISTRICT FROM TWO SPACES TO ONE SPACE FOR A  
RESIDENTIAL APARTMENT AT 229 MERIDIAN STREET NORTH**

PID: 200015120

Legal: North 2 Feet of Lot 4; and the North 36 feet of the South 48 feet of Lot 4,  
all in Block 102, Belle Plaine, Scott County, Minnesota

WHEREAS, Cindy Heimerl has entered into a purchase agreement for the property at 229 Meridian Street North; and,

WHEREAS, Heimerl has submitted an application for a variance to the number of off-street parking spaces required for apartments in the B-3 Central Business District, under Section 1107.12, Subd. 10(26)(b) two (2) off-street parking spaces are needed for the proposed apartment; and

WHEREAS, the Applicant proposes to create one (1) off-street parking stall within the structure at the subject address; and,

WHEREAS, the property in question is zoned B-3, Central Business District; and,

WHEREAS, the Planning Commission conducted a public hearing on the proposed variance request on November 14, 2016, following mailed and published notice; and,

WHEREAS, the Planning Commission has reviewed the application and applicable variance standards; and,

WHEREAS, The Planning Commission has reviewed the following criteria for granting a variances and has found:

1. A finished apartment currently exists within the structure at 229 Meridian Street North.
2. The building covers the entire lot (FAR 1:1) making the creation of on-site parking exterior to the structure impractical.
3. The subject property is currently a distressed and underutilized property within the heart of the Downtown. The variance will enable building renovation and rehabilitation returning the structure to a fully utilized facility.
4. The proposed use of the property is consistent with planned use for the property under the 2008 Comprehensive Plan.
5. Adjacent parcels include public, commercial, mixed commercial/residential, and pure residential uses. The parcel was previously used as a bowling alley, a post office, and mixed use commercial/residential. The variance will not alter the essential character of the locality.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE THAT: It hereby recommends the City Council approve a variance from the required number of off-street parking stalls for an apartment at 229 Meridian Street North in the B-3 Central Business District as requested by Cindy Heimerl for a reduction of one (1) parking space, contingent upon the following:

1. Approval of a conditional use permit to allow use of an existing apartment at 229 Meridian Street North.
2. The "Use" is an approximately 900 square foot two-bedroom apartment at 229 Meridian Street North. The apartment shall be limited to two bedrooms.

3. There shall be no additional residential apartments added to the subject parcel.
4. This approval shall expire one year after date of approval unless the Applicant has applied for a change in occupancy permit, a building permit, or a rental license in conjunction with activities at 229 Meridian Street North.
5. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.

The adoption of the foregoing resolution was duly moved by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: \_\_\_\_\_.

and the following voted against the same: \_\_\_\_\_.

Whereupon said resolution was declared duly passed and adopted. Dated this 14<sup>th</sup> day of November, 2016.

\_\_\_\_\_  
Nathaniel Hvidsten  
Planning Commission Chairperson

\_\_\_\_\_  
Cynthia Smith Strack  
Community Development Director

**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ 16-025**

**A RESOLUTION RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT FOR A  
RESIDENTIAL APARTMENT AT 229 MERIDIAN STREET NORTH  
WITHIN THE CENTRAL BUSINESS DISTRICT**

PID: 200015120

Legal: North 2 Feet of Lot 4; and the North 36 feet of the South 48 feet of Lot 4,  
all in Block 102, Belle Plaine, Scott County, Minnesota

WHEREAS, Cindy Heimerl has entered into a purchase agreement for the property at 229 Meridian Street North; and,

WHEREAS, Heimerl has submitted an application for a Conditional Use Permit to allow for an existing apartment, vacant since approximately 2010, to be rented at 229 Meridian Street North; and,

WHEREAS, the Applicant proposes to create one (1) off-street parking stall within the structure at the subject address; and,

WHEREAS, the subject property is zoned B-3, Central Business District; and,

WHEREAS, the Planning Commission conducted a public hearing on the proposed Conditional Use Permit request on November 14, 2016, following mailed and published notice; and,

WHEREAS, the Planning Commission has reviewed the application and applicable code standards; and,

WHEREAS, The Planning Commission has reviewed the following criteria for granting a Conditional Use Permit and has found:

1. The proposed use is consistent with goals, policies and objectives of the Comprehensive Plan.
2. The proposed use is consistent with the intent of the Central Business District.
3. The proposed use is currently within the urban service area, features a full complement of services, and will not have a negative impact on existing governmental facilities, utilities, services or existing improvements.
4. The proposed use will be contained within a structure and will not adversely impact on the public health, safety or welfare.
5. The proposed use will be subordinate to the principal use of the property and, as such, will not be injurious to the public or substantially diminish property values within the neighborhood.
6. The use is consistent with the future land use map and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the B-3 District.
7. No structural alterations are proposed, the accessory use will have minimal impact on existing systems, as such adequate utilities, access roads, drainage and necessary facilities are provided.
8. Adequate off-street parking is proposed for an area abutting the proposed dwelling unit.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE THAT: It hereby recommends the City Council approve a Conditional Use Permit as requested by Cindy Heimerl for the reestablishment of an approximately 900 square foot, two-bedroom apartment at 229 Meridian Street North, contingent upon the following:

1. Approval of a variance for a reduction of required off-street parking from two (2) spaces to one (1) space.
2. The "Use" is defined as an approximately 900 square foot two-bedroom apartment at 229 Meridian Street North. The conditional use permit shall be valid only for the Use defined herein.

3. Establishment of the Use as defined within the application for CUP approval and as defined within a staff memo dated November 14, 2016 submitted by the Community Development Director.
4. Issuance of a rental license and maintaining of said license.
5. The CUP shall expire one year after date of approval unless the Applicant has commenced operation of the Use on-site, or a petition for an extension of time has been granted by the City Council.
6. The CUP shall be subject to all applicable codes, regulations and ordinances, and the conditions of approval contained herein. A violation of any applicable codes, regulations and ordinances, and the conditions of approval herein shall be grounds for revocation of the CUP.
7. The CUP shall be subject to annual inspection and audit by the City.
8. The CUP shall expire if the Use ceases for more than twelve (12) consecutive months, in the event the structure is destroyed and a building permit is not issued within 180 days, or if the Use is changed to a different Use.
9. The Conditional Use permitted under this Resolution may not change to another Conditional Use or be further intensified without a new application and approval by the City Council.
10. The Use permitted under this Resolution shall remain in effect as long as the conditions of the Resolution are observed.

The adoption of the foregoing resolution was duly moved by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: \_\_\_\_\_.

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Nathaniel Hvidsten  
Planning Commission Chairperson

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