1. Call To Order/Roll Call
   1.A. 1. PC Agenda
       Documents:
       1. 04-06-2020 AGENDA.PDF

2. Approve Minutes
   2.A. 2. Approval Of 3/2/2020 PC Meeting Minutes
       Documents:
       2. 2020-03-02 PC MEETING MINUTES.PDF

3. Public Hearings
   3.A. 3A. VAR 09-2020 Variance Request From T Nelson 230 Central Avenue
       Documents:
       3A MEMO 230 CENTRAL WITH ATTACHMENTS.PDF
   3.B. 3B. ZTA 11-2020 Establishment Of Biodigester Ordinance
       Documents:
       3B MEMO BIODIGESTER WITH ATTACHMENTS.PDF

4. Routine Business

5. Work Session
   5.A. 6. Amended WS Agenda
       Documents:
       04-06-20 WS AGENDA AMENDED.PDF

6. Adjourn
Minn. Stat. § 13D.021 – Meeting by Telephone or Other Electronic Means; Conditions - Minn. Stat. § 13D.021 provides that a meeting of a public body may be conducted via telephone or other electronic means if meeting in a public location is not practical or prudent because of a health pandemic or declared emergency.

Anyone interested in the public hearings may participate in the hearings by calling the following telephone number or joining the following videoconference at the scheduled date and time of the public hearings:

1. Telephone number to call at the time of the public hearing: 1-312-626-6799, meeting ID: 889 986 454#

2. Videoconference to join at the time of the public hearing: https://zoom.us/j/889986454

Monday, April 6, 2020 7:00 PM

1. CALL TO ORDER / ROLL CALL

2. APPROVAL OF MINUTES

A. Minutes of March 2, 2020

3. PUBLIC HEARINGS

A. VAR 09-2020 Variance Request from T Nelson Properties to Allow Nine Residential Units on the Parcel at 230 Central Avenue, Whereas the Ordinance Allows a Maximum of Five Residential Units

B. ZTA 11-2020 Establishment of Biodigester Ordinance

4. ROUTINE BUSINESS

A. None

5. ADJOURN

Please contact the City Planning Division (507.334.0100) if you need special accommodations related to a disability to participate this meeting.

The Public Hearings are broadcast live on FCTV.
1. **CALL TO ORDER**

Chair Albers called the meeting to order at 7:00 p.m. Commissioners present: Dave Albers, Faysel Ali, Joe Faugstad, and Samuel Temple.

Commissioners Absent: Dave Campbell and Chuck Ackman.

Staff present: Planning Coordinator, Peter Waldock; City Planner, David Wanberg; Administrative Assistant I, Kari Casper; and City Engineer, Mark DuChene.

Others Present: John Lippman, 2129 14th St, NE, Faribault, MN; Orland Anderka, 18220 Alvey Trail, Faribault; Dave Yetzer, 2905 2nd Ave, Faribault; Bill Deegan 17386 Ames Trl, Faribault; Pat O’Connor, 17875 Ames Trl, Faribault; Lou Deegan 17689 Ames Trl, Faribault; Preston Bauer, 9820 Eiler Avenue, Faribault; and Tom Mitchel 2915 2nd Ave NW, Faribault.

2. **Oath of Office:**

Chair Albers announced that Commissioners Faugstad and White have graciously agreed for another term and have signed their Oath’s of Office.

3. **APPROVAL OF MINUTES**

A motion was made by Commissioner Faugstad and seconded by Commissioner Ali to approve the minutes of the February 18, 2020 regular meeting minutes as presented. Motion carried (5/0).

4. **PUBLIC HEARINGS**

A. **PFP 04-2020 Preliminary and Final Plat application for State Avenue Subdivision to extend State Avenue north from Division Street E. to 1st Street E. (State Highway 60 E) and replat two existing single family lots at 734 and 810 Division St. E.**

Waldock presented this action which will ultimately give better, direct access for traffic to the hospital and other amenities to the south east side of town. DRC stated that there were no major issues. No parkland due on previously
developed lots. There are standards conditions that will apply. Staff recommends approval of the draft Resolution with findings in support of a recommendation for approval of the preliminary and final plat of State Avenue Subdivision.

Chair Albers then opened the matter up for discussion and Commissioner White asked about the 810 lot and whether the vegetation was scheduled to be removed. Duchene stated that it would most likely be removed after they conduct a site line survey. White mentioned the usual speed for the area and the need to ensure that the site line was fully visible. Duchene mentioned that the City has been approached by the hospital about vacating 1st Avenue due to the Helipad and this would provide direct access to the front of the hospital. Temple asked about whether wetlands would be affected. Duchene stated that there was no historical evidence of a wetland being there prior so that would not trigger a formal environmental review. Temple also asked about the two lots and whether they were currently in use. Duchene stated that the one lot was empty and that the other lot would be offered to the HRA for redevelopment in the future. Temple also stated that this would also allow better access to the River Bend Nature Center. Chair Albers then opened the floor up to the public for comment. John Lippman, 2129 14th Street, Faribault came forward and asked what the intent of the hospital was. Chair Albers stated that the board we aren’t the right one to answer that question. Waldock stated that the project is intended to help support the hospital. Lippman asked if it was intended to have the hospital to grow. Waldock could not answer him since his question was not part of this application. Chair Albers then closed the public hearing at 7:18 p.m. and brought it back to the board for additional discussion. Commissioner Temple went on to explain that the route would make it more of a direct accessible access to the hospital. Commissioner White made a motion to recommend approval with the condition that staff improve the site line based on the speed limit and grade to make it safer. Commissioner Temple seconded the motion. The motion carried on a (5/0) vote.

B. OMA 07-2020 Adoption of an Official Map that identifies land for the future construction of a road that will connect the east terminus of 30th Street NW with the west terminus of the platted, but unimproved, East View Drive.

Wanberg talked about the short term and long term plans for this potential extension of the road. MN Dot is intended on putting in a roundabout in the future and the long term goals would be to have a bridge over the river. This
Chair Albers then opened the matter up for discussion and no one spoke.

Chair Albers then opened the matter up for public hearing. Orland Anderka, 18220 Alvey Trail, Faribault came forward. Mr. Anderka asked about the 66’ right-of-way. Duchene stated that he believed it would be a 66’ ROW. Anderka then mentioned that there are issues with the property lines between the Borcherts and the Canning Factory. Duchene stated that the Official Map is south and is aware of the property line issues and they would meet with the property owners of the encroachment which would be part of the next process. Anderka also mentioned about “Skull Corner” or “Dead Man’s Corner” which he stated the state was aware of this curve; he suggested curbing, putting a gutter and sidewalk in there. He said that they should move the retaining wall. Dave Yetzer, 2905 2nd Ave, Faribault came forward asking if the City had any intention on moving 1st Ave up and if the area will it be rezoned. Duchene said there are no plans as of today. Yetzer also asked about if there would be any assessments with this project. Duchene stated that the Trunk Hwy 3 is a state road and the city is the project lead. The state has awarded $1.4M for the 2022 or 2023 for the roundabout; it’s more about getting an access. Yetzer also inquired about speed. Duchene stated the roundabout will have a traffic calming effect and there will be a speed study. Bill Deegan 17386 Ames Trl came forward inquiring about whether there was an intention of adding housing out there. Wanberg stated that the current comp plan (2003) does guide mostly industrial and some commercial in the spray fields area. The comp plan will be updated this spring. This has been marketed by Faribault Foods for commercial and industrial uses, there has been some residential interest explored. The property on one side of the RR track by the river is in the flood plain and the city doesn’t anticipate anything in that area. Chair Albers mentioned that the 2040 comp plan has not been wrapped up and this is a good time to bring up this official map. Pat O’Connor, 17875 Ames Trl, then came forward inquiring if east of the rail yard, will it be a viaduct thing? He stated that everything that gets churned up on that side is on his property about two minutes later. Albers said that this is so far down the road, could be 10 or 20 years from now; no plans right now. Wanberg did clarify that it would have to have enough clearance and identified where it would need to be placed. City Engineer, Duchene did confirm that it would be a viaduct-type bridge there. O’Connor said that the berm would be 40’ and
15’ for railroad. DuChene stated that by they would have to clear the railroad by 25’ making this a substantial project. Lou Deegan 17689 Ames Trl, came forward and stated he doesn’t want to see a trailer park in that area; he would like to see a nice industry that pays a livable way and it’s up to you guys to get something in there that’s decent. He’s opposed to a trailer park. Preston Bauer, 9820 Eiler Avenue, Faribault, City Township supervisor, then came forward stating that he doesn’t have any objection to the proposed map. However; being from the east side, he wanted to know if the city ever looked at the 20th St and 2nd Ave access. Duchene stated that with the wastewater treatment plant there, it was not a viable option and 30th St. was the most economical solution. John Lippman 2029 14th St came forward again and asked about public hunting areas and nature conservancy areas. Wanberg did stated that the City did notice the DNR on this and the proposals that are all on private property. Lippman states that it’s right next to it. Wanberg stated that it is in that general area. Lippman was concerned about the pheasants and wildlife being affected. He walks his dogs there. Wanberg has stated that the engineers have made every attempt to be sensitive to the environmental areas. O’Connor stated that it references East View and stated that there was not a very wide stretch of land there and 80’ is the minimum for a road of that type which would be right next to the rest home. Tom Mitchel 2915 2nd Ave NW; he’s the 1st house south of Borcherts and asked about alleviating some of the traffic and is hard to get out of his driveway in that area. Duchene stated that the roundabout provides the free flow movement and MN DOT is going to have to identify some improvements to Trunk Hwy 3. Chair Albers then closed the public hearing on this.

Commissioner White then made a motion seconded by Commissioner Ali to recommend approval of the Official Map as presented. The motion carried on a (5/0) vote.

4. ROUTINE BUSINESS

None.

5. ADJOURN

Motion was made by Commissioner Temple and seconded by Commissioner Faugstad to adjourn the meeting. The meeting was adjourned at 7:54 p.m. Motion carried (5/0).

Respectfully Submitted,

______________________________
MINUTES APPROVED:

Dave Albers, Chair
CASE NUMBER AND REQUEST: VAR 09-2020, Variance to Allow Development of Nine Residential Units on the Parcel at 230 Central Avenue
Whereas the Ordinance Allows a Maximum of Five Residential Units

Applicant: T Nelson Properties

Requested Action: Recommend Approval or Denial of Request

Deadline for Council Action: May 1, 2020 unless extended by the City

From: David Wanberg, City Planner

BACKGROUND

In late 2019, T Nelson Properties (Applicant and Owner) bought the 230 Central Avenue building and the 11 3rd Street NW building from Masonic Hall Building Association. The Faribault Freemasons historically conducted their meetings on the second and third floors of the 230 Central Avenue building, which the Applicant is proposing to convert to eight apartments. The ground floor will continue to be used for commercial use. The 11 3rd Street NW building is immediately to the west of the 230 Central Building and is on the same parcel as the 230 Central Building. It includes an unoccupied apartment on the second floor and a commercial use on the ground floor. The Applicant proposes to maintain the commercial use and renovate the unoccupied apartment for rental. It is not known when the apartment was last occupied. Refer to the attached Applicant’s Application in Exhibit D for additional information.

RESIDENTIAL UNITS ALLOWED BY ORDINANCE

The subject buildings are in the CBD, Central Business District and the Heritage Preservation District. The City’s Unified Development Ordinance outright permits residential units above the ground floor of a commercial use, but Section 11-430 limits the number of residential units based on one of two calculations, whichever is the most restrictive.

1. The area of the parcel divided by two thousand (2,000), times the number of floors in the building above ground-floor. The parcel area is 5,588 square feet. Unfortunately, the Ordinance is unclear on how to calculate the number of floors on a parcel when the upper floors have a different square footage than the ground floor. In this case, the second floor has the same square footage as the ground floor, but the square footage of the third floor is roughly 87% of that of the ground floor. In addition, the Applicant proposes to construct lofts in the third-floor units. The lofts have a
square footage of roughly 30% of the ground floor. The following provides options on how to calculate the number of allowed residential units based on this requirement:

A. **Strict interpretation of the Ordinance.** If we simply take the number of floors above the ground floor (and disregard that the third floor has an area less than the ground floor), then this site can have 5.58 residential units (5,588 square foot parcel / 2,000 = 2.79 x 2 floors = 5.58 units). This calculation does not identify the lofts as a separate floor.

B. **Interpretation that the upper floors should be calculated based on the percentage of the upper floors in relation to the ground floor.** Based on this interpretation, the site can have 5.22 residential units (5,588 square foot parcel / 2,000 = 2.79 x 1.87 floors = 5.22 units). This calculation takes into account that the third floor is 87% of the ground floor area. Like the above calculation, this calculation does not count the lofts as a floor.

C. **Interpretation that the loft area should be considered a floor based on the percentage in relation to the ground floor.** Based on this interpretation, the site can have 6.14 residential units (5,588 square foot parcel / 2,000 = 2.79 x 2.2 floors = 6.14 units). This calculation counts the loft area as 30% of the ground floor area.

Regardless of which of the above calculations are used, the Applicant is requesting to develop nine residential units, whereas the Ordinance allows a maximum of five or six residential units on the parcel, depending on how the City interprets the Ordinance.

2. **Minimum size of residential units.** Section 11-430 of the Unified Development Ordinance requires that the residential units meet minimum square footage standards. The following table shows the square footage for the proposed residential units in comparison to the minimum square footage required by the Ordinance:

<table>
<thead>
<tr>
<th>Unit</th>
<th>Bedrooms</th>
<th>Square Feet Proposed</th>
<th>Square Feet Required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>230 Central 2nd Floor</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>2</td>
<td>699*</td>
<td>700</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
<td>886*</td>
<td>900</td>
</tr>
<tr>
<td>3</td>
<td>3</td>
<td>912</td>
<td>900</td>
</tr>
<tr>
<td>4</td>
<td>3</td>
<td>912</td>
<td>900</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>3,409</td>
<td>3,400</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Unit</th>
<th>Bedrooms</th>
<th>Square Feet Proposed</th>
<th>Square Feet Required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>230 Central 3rd Floor</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>2</td>
<td>819 (including loft)</td>
<td>700</td>
</tr>
<tr>
<td>6</td>
<td>4</td>
<td>1,063 (including loft)</td>
<td>900</td>
</tr>
<tr>
<td>7</td>
<td>4</td>
<td>1,063 (including loft)</td>
<td>900</td>
</tr>
</tbody>
</table>
The most restrictive of the above two calculations is the first calculation, which limits the number of residential units by the parcel area divided by 2,000, then multiplied by the number of floors. The Applicant’s narrative (see attached application) notes that it is unreasonable for the Ordinance to require that the units be a minimum of 2,000 square feet each. However, the Ordinance does not require that the units be a minimum of 2,000 square feet. The minimum unit size required by the Ordinance is as outlined in the table above. The 2,000 number is part of a formula that considers the area of the parcel and the number of floors in the building. Again, the 2,000 number is not the required minimum square footage for a residential unit.

If the Applicant’s existing building were on a 9,000 square foot lot (rather than the existing 5,588 square foot parcel), the Ordinance would allow the Applicant to develop nine residential units in the same building, rather than the five allowed on the existing parcel. Roughly 3,500 square feet of the parcel (not covered by the building) would presumably provide some onsite parking and/or site amenities for the building, which appears to be the intent of this provision in the Ordinance.

**VARIANCE REQUEST**

Based on a strict interpretation of the Ordinance, the Planning Commission should recommend approval or denial of the Applicant’s request to develop nine residential units on the parcel instead of the five units allowed by the Ordinance.

However, if the Planning Commission chooses to, it could interpret that the intent of the Ordinance is to calculate the number of floors based on the percentage of area in the upper floors in relation to the ground floor. The Planning Commission could also interpret that the lofts are part of an additional floor. If that is the case, the Planning Commission could interpret that the parcel can accommodate six units instead of five. If the Planning Commission were inclined to interpret the Ordinance in this way, the City Planner believes the Planning Commission should still take action based on strict interpretation of the Ordinance, which limits the parcel to five units. However, the City should then refine the Ordinance to clarify how to calculate the number of floors for future requests.
REQUIRED FINDINGS FOR APPROVAL OR DENIAL OF THE VARIANCE REQUEST

The Planning Commission can recommend approval of the Applicant’s variance request if it finds that request is consistent with all required findings outlined in Section 2-460 of the Unified Development Ordinance and listed below. A denial recommendation requires that the Planning Commission find that the variance request is not consistent with one or more of the required findings.

1. The variance is in harmony with the general purposes and intent of the City’s Ordinances.

2. The variance is consistent with the Comprehensive Plan.

3. The Applicant proposes to use the property in a reasonable manner not permitted by the City’s Ordinances.

4. Unique circumstances apply to the property, which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owner of the property has not had control. The unique circumstances do not result from the actions of the applicant.

5. The variance does not alter the essential character of the neighborhood.

6. The variance requested is the minimum variance which would alleviate the practical difficulties.

7. Economic conditions alone do not constitute practical difficulties.

The Planning Commission can make additional findings beyond those listed above if it is inclined to approve the variance request, but an approval recommendation must, at a minimum, be based on the required findings as described in Section 2-460 of the Unified Development Ordinance.

A denial recommendation should only be based on a finding that the variance request is inconsistent with one or more of the above findings. The Planning Commission should avoid findings of denial that do not directly relate to the above findings. For example, the Planning Commission should avoid the following findings:

1. Lack of onsite parking is not a valid finding to deny the variance request. The Ordinance exempts uses in existing buildings in the Central Business District from providing onsite parking. While some may be concerned about the additional pressure the proposed residential development will have on the lack of existing parking in this area of the downtown, it is not a strong finding to deny the Applicant’s variance request based on a lack of onsite parking when very few existing and future uses in the downtown provide (or will provide) adequate onsite parking for their uses.
2. Given that the existing buildings cover the entire parcel, there is no adequate space on the site for an outdoor trash container that serves the residential units. Nevertheless, lack of a space to install an outdoor trash enclosure is not a strong finding to deny the variance request. Multiple sites in the downtown do not have outdoor trash enclosures onsite. It is valid for City Staff to address this issue with the Applicant, but it is not a strong reason to deny the variance request. The Applicant has stated that if needed, he would install an indoor trash room that trash haulers could access.

3. A belief that the proposed residential units are not “high-end” residential units is not a strong finding to deny the variance request. While Community Vision 2040 has a goal to provide high-end and market rate housing in the downtown, the City has not and should not codify denying housing in the downtown that some may not consider “high-end”. Likewise, the Ordinance does not allow the City to deny a building permit request for a residential unit that has four bedrooms. The proposed number of bedrooms is not a valid reason to deny the variance request.

Again, any recommendation to deny the Applicant’s variance request must relate directly to one or more of the required findings listed in Section 2-460 of the City’s Unified Development Ordinance.

**DEVELOPMENT REVIEW COMMITTEE RECOMMENDATION**

In its review of the Applicant’s variance request, the City’s Development Review Committee (DRC) suggested that it would be difficult, but not necessarily impossible, to find that the Applicant’s variance request is consistent with all required findings for approval. The DRC found that additional housing in the downtown would be beneficial to the community. However, the DRC also questioned whether there are “practical difficulties” that prevent the Applicant from developing housing consistent with the requirements of the Ordinance. Consequently, the DRC felt it would be best to leave the final determination of whether or not the requested variance is justified to the Planning Commission and City Council, given that those bodies may have a different interpretation of “practical difficulties”.

The DRC also noted that the Applicant did not submit an acceptable plan for how the development is going to handle the residents’ trash (given that the parcel has no outdoor space for a trash enclosure). The Applicant would like to put a trash container in the public alley across the street, to the north. The DRC does not support this approach. The Applicant, in response, stated that he would explore providing an indoor trash room. The trash hauler would then pick-up the trash from the indoor room.

**POTENTIAL PLANNING COMMISSION ACTION**

The Planning Commission can take one of the following actions:

1. **Continue the public hearing.** If the Planning Commission feels it does not have sufficient information from the Applicant or City Staff to make a recommendation
on the Applicant’s request, then the Planning Commission can request additional information and continue the public hearing until April 20, 2020. However, it appears that there is sufficient information for the Planning Commission to make a recommendation.

2. **Recommend approval of the variance request with or without conditions.** A recommendation for approval must include written findings that state the Applicant’s variance request is consistent with all required findings listed in Section 2-460 of the City’s Unified Development Ordinance. The Planning Commission can include conditions of approval, if the conditions relate directly to the variance request. Findings that support approval of the Applicant’s variance request include, but are not limited to, the following:

   A. The Ordinance sets the allowable number of residential units on a parcel based on the size of the parcel and the number of floors above the ground floor. The subject parcel is unusually small and completely covered by the existing building. These unique conditions create practical difficulties for developing residential units on the parcel in a manner that does not affect larger parcels in the Central Business District.

   B. The proposed units can meet the minimum square footage standard set by the Ordinance. The Ordinance does not set a maximum allowable size or a maximum number of bedrooms allowed in a unit. Therefore, the Applicant could develop fewer residential units, but each unit could have more bedrooms than currently proposed. Denying the variance will not necessarily result in fewer residential occupants in the building.

Refer to Exhibit A: Draft Resolution Approving the Variance Request for specific findings.

3. **Recommend approval of a lesser variance.** The Planning Commission can recommend denial of the Applicant’s variance request, but recommend approval of a lesser variance. For example, the Planning Commission could recommend approval of six residential units on the subject parcel, rather than the nine units requested by the Applicant. Key findings for denying the Applicant’s variance request, but approving a lesser variance, include the following:

   A. The Applicant’s variance request is not the minimum variance request needed to eliminate practical difficulties caused by the Ordinance. A variance to allow the development of nine residential units, when the Ordinance only allows five units, is excessive.

   B. The Ordinance does not specifically allow the calculation of the number of floors above the ground floor to be based on the percentage of the upper floors in relation to the ground floor. The Ordinance does not specifically
state loft areas should be counted as part of a floor. However, it is reasonable to calculate the number of floors based on these approaches, which would allow the subject parcel to have six units rather than the five units required by the Ordinance. Allowing six residential units on the parcel is reasonable and meets the intent of the Ordinance.

C. Allowing six residential units on the subject parcel, rather than the nine units requested by the Applicant, allows the Applicant the opportunity to include additional amenities in the building or units, such as washers and dryers, larger living rooms and dining rooms, a common meeting room, or storage space for the units. For example, the second and third floors of 230 Central could have three residential units each. The upper floor of 11 3rd Street NW could be a laundry facility, meeting room, or storage spaces for the units. These amenities would help offset the fact that the subject parcel is not large enough to support onsite parking and/or other site amenities.

For additional findings, refer to Exhibit B: Draft Resolution Denying the Applicant’s Variance Request, but Approving a Lesser Variance.

4. **Recommend denial of the variance request.** If the Planning Commission does not feel the variance request meets all required findings for approval, it must then deny the Applicant’s request. Please note that if the City Council ultimately denies the variance request, the denial does not then prevent the Applicant from developing five residential units on the parcel. Rather than developing nine residential units with an average of three bedrooms per unit, the Applicant could potentially, but not necessarily, develop five residential units with an average of five bedrooms per unit. But the Applicant could also provide additional amenities (like laundry facilities and meeting rooms) as opposed to maintaining the same number of bedrooms in the building. Presumably, fewer units and fewer bedrooms would require higher rents to develop and maintain fewer units. Key findings for denial of the Applicant’s variance request include the following:

   A. The subject parcel is not unique in the Central Business District. Multiple other parcels have an area smaller than the subject parcel. In addition, multiple other properties have no open space, similar to the subject parcel. Therefore, there is nothing unique about this property that prevents the proposed development from meeting the requirements of the Ordinance.

   B. The Applicant’s request to develop nine residential units on the subject parcel, rather than the five allowed by the Ordinance, is excessive. The Ordinance does not create practical difficulties that prevent reasonable development of the parcel. In recent years, 206 Central Avenue and 127 Central Avenue developed residential units on their upper floors in a manner consistent with the Ordinance. 206 Central is a smaller parcel than the subject parcel and the building on 206 Central covers most of the parcel. The
Ordinance does not prevent the subject property from developing in a reasonable manner that is consistent with the Ordinance.

Refer to Exhibit C for a draft resolution of a denial of the Applicant’s variance request.

ADDITIONAL PLANNING AND ZONING COMMENTS

The City Planner appreciates the Applicant’s proposal to provide much needed housing in Faribault. The City Planner also appreciates the Applicant’s efforts to invest in and improve an historic property in the Central Business District. Nevertheless, based on a strict interpretation of the Ordinance, the City Planner feels that the Applicant’s variance request is not consistent with the findings necessary to approve the request. If the City Council were to ultimately approve the variance request, the City Planner then recommends that the City amend the Ordinance to eliminate the requirements that limits the number of residential units in the Central Business District based on parcel area and the number of floors of the building. The minimum size requirements (perhaps with some refinement) could remain.

The City Planner believes that if the requirement to limit the number of residential units based on parcel area and the number of floors above the ground floor were to remain in the Ordinance, then those provisions should be refined to calculate the number of floors of residential space above the ground floor (including loft areas with living space below), based on a percentage of the upper floor area in relation to the ground floor area of the building.

The City Planner feels it is reasonable to allow six residential units on the subject parcel based on the interpretation to count suitable loft area as part of a floor. Thus, the City Planner supports denying the Applicant’s variance request for nine units, but approving a variance to allow for six residential units on the subject parcel.

Regardless of the Planning Commission’s recommendation and the Council’s ultimate action, the City Planner supports the Applicant’s desire to develop residential units and improve an historic building. Whether the development includes five, six, or nine residential units, the Applicant will need to address issues, including but not limited to, how to appropriately handle the residents’ trash. The City Planner also strongly encourages the Applicant to provide amenities, such as laundry facilities, a common meeting room, and/or storage areas for the residential units. The City Planner also recommends that the City continue to explore solutions to parking concerns in the downtown.
ATTACHMENTS

1. Exhibit A: Draft Resolution Approving the Applicant’s Variance Request
2. Exhibit B: Draft Resolution Approving a Lesser Variance than Requested by the Applicant
3. Exhibit C: Draft Resolution Denying the Variance Request
4. Exhibit D: Applicant’s Application
RESOLUTION #2020-XXX

APPROVE A VARIANCE TO ALLOW NINE RESIDENTIAL UNITS INSTEAD OF THE MAXIMUM ALLOWED FIVE RESIDENTIAL UNITS ON THE 230 CENTRAL AVENUE PARCEL

WHEREAS, T Nelson Properties (Applicant and Owner) has applied for a variance that would allow nine (9) residential units (instead of the maximum five (5) residential units allowed by the Unified Development Ordinance) to be developed on the 230 Central Avenue parcel, legally described as follows:

(insert legal description); and

WHEREAS, the subject property is located in the CBD, Central Business District; and

WHEREAS, Section 11-430 of the Unified Development Ordinance limits the subject parcel of five (5) residential units based on the following calculation: 5,558 square feet of parcel area divided by 2,000 = 2.79 multiplied by two floors above the ground floor = 5.58 residential units allowed; and

WHEREAS, City Staff completed a review of the Applicant’s request and made a report to the Planning Commission (VAR 09-2020), a copy of which has been presented to the City Council; and
WHEREAS, the Planning Commission, on the 6th day of April, 2020, following proper notice, held a public hearing regarding the Applicant’s request, and following said public hearing recommended that the City Council approve the request based on the following findings as required by Chapter 2, Article 9, Section 2-460 of the City’s Unified Development Ordinance:

1. **The variance is in harmony with the general purpose and intent of the City’s ordinances.**

   Expanded Finding: The general intent of the City’s Unified Development Ordinance is to implement the policies of the Comprehensive Plan and to protect the health, safety, and welfare of the public. The Comprehensive Plan identifies high-density housing as an acceptable use in the downtown. Although the number of proposed residential units exceeds that allowed by the Ordinance, the proposed residential units would be constructed in a manner that does not adversely affect the health, safety, and welfare of the public. Therefore, the variance request is in harmony with the general purpose and intent of the City’s ordinances.

2. **The variance is consistent with the Comprehensive Plan.**

   Expanded Finding: The City’s current Comprehensive Plan (adopted in 2003) states that high-density residential is allowed in the downtown as a mixed-use development or a standalone development. Policies of the Comprehensive Plan include providing a mix of housing, work, shopping, and entertainment uses in the downtown and protecting the historic qualities of the downtown.

   Community Vision 2040 (adopted in 2016) describes the community’s vision for a vibrant downtown. It sets community goals to establish market rate and high-end housing in the downtown and enhance the appearance of downtown buildings and the streetscape.

   Approval of the variance request is consistent with the Comprehensive Plan in that it would facilitate development of quality, market rate apartments in the downtown and it would allow the building to produce additional income, which will help ensure the property owner can invest in the maintenance and appearance of the property.
3. **The applicant proposes to use the property in a reasonable manner not permitted by the City's ordinances.**

Expanded Finding: The existing buildings have sufficient area to develop nine (9) residential units in a manner consistent with the Unified Development Ordinance, except in regard to the number of units allowed on the parcel. If the existing buildings were on a larger parcel, the proposed number of residential units would be allowed by the Ordinance, yet there are no Ordinance requirements for parking or open space in the Central Business District. Therefore, it is reasonable to develop nine (9) residential units as proposed on the subject parcel.

4. **Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has not had control.**

Expanded Finding: The subject property is not the only property in the Central Business District that has relatively small area that limits the number of residential units that can be developed on the parcel. However, the relatively small area of subject parcel, coupled with the fact that the buildings cover the entire parcel, makes the subject property more challenging for the development of residential units than many other parcels in the Central Business District. Consequently, due to the unique circumstances of the subject property, it is reasonable for the City to provide reasonable relief from the strict application of the Ordinance related to the number of allowable residential units.

5. **The variance does not alter the essential character of the neighborhood.**

Expanded Finding: Whether the subject parcel contains five residential units or nine residential units, the character of the building and neighborhood will appear the same. Although approval of the variance would increase the number of residential units on the parcel, it would not necessarily increase the number of residents living in the downtown. The building can support the
same number of new residents regardless of the number of residential units in the building. Therefore, approval of the variance does not directly alter the character of the neighborhood.

6. **The variance requested is the minimum variance which would alleviate the practical difficulties.**

   Expanded Finding: The square footage of the proposed residential units is generally consistent with the minimum requirements of the Ordinance. The proposed number of bedrooms in each unit is reasonable. Therefore, it is impractical to require fewer than nine (9) residential units on the subject parcel. Limiting the number of residential units on the subject parcel to five (5) would create undue practical difficulties in developing feasible residential units on the subject parcel in a manner that allows investment and ongoing maintenance of the building.

7. **Economic conditions alone do not constitute practical difficulties.**

   Expanded Finding: The square footage of the proposed residential units is generally consistent with the minimum requirements of the Ordinance. Therefore, the variance request is not directly related to economic conditions alone. There is a strong need for additional housing in the City and the proposed development will provide additional housing while still meeting the minimum area requirements for residential units in the Central Business District. Approval of the requested variance will also provide income needed to defray the costs of necessary building improvements and ongoing maintenance. Improving and maintaining the historic buildings in the downtown is a stated policy of the City’s Comprehensive Plan and Community Vision 2040.

**WHEREAS,** the City Council concurs with the recommendations and findings of the Planning Commission as stated in the above recitals and hereby makes the identical findings.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Faribault as follows:

**Section 1: Approval of the Variance.** The City Council hereby approves the Applicant’s variance request to develop nine (9) residential
units instead of the maximum five (5) residential units allowed by the Ordinance on the subject parcel.

**Section 2: Conditions of Approval.** The variance is approved subject to conditions listed herein as authorized under Section 2-470 of City’s Unified Development Ordinance, all of which are necessary to comply with the standards established by the City's ordinances, or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance. The conditions of the variance approval are as follows:

1. The subject parcel must be developed in a manner substantially consistent with the preliminary floor plan attached to Exhibit 1 of this resolution. Before issuance of a building permit, the Applicant shall submit detailed construction documents that show the proposed development (including the ninth (9th) unit in the 11 3rd Street NW building (not currently shown on the attached floor plan)) is consistent with the City’s ordinances, except as otherwise approved by this resolution; and

2. Before issuance of a building permit for the proposed development, the Applicant shall address to the satisfaction of City Staff all outstanding issues, including but not limited to, the handling of trash from the residential units, accessibility issues, and building and fire code issues, WAC and SAC fees, and similar issues, fees, and requirements.

3. The Development Review Committee is authorized to approve revisions to the Applicant’s proposal provide that the revisions meet the intent of this resolution.

**Section 3: Incorporation of Recitals and Exhibits.** The recitals set forth in this Resolution and the Exhibits attached hereto are incorporated into and made a part of this Resolution.

**Section 4: Effective Date.** This Resolution shall become effective immediately upon its passage and without publication.
Date Adopted:  April 14, 2020

Faribault City Council

_______________________________
Kevin F. Voracek, Mayor

ATTEST:

_______________________________
Timothy C. Murray, City Administrator
State of Minnesota
County of Rice

CITY OF FARIBAULT

RESOLUTION #2020-XXX

DENY A VARIANCE REQUEST TO ALLOW NINE RESIDENTIAL UNITS ON THE PARCEL AT 230 CENTRAL AVENUE, BUT APPROVE A VARIANCE TO ALLOW SIX RESIDENTIAL UNITS INSTEAD OF THE MAXIMUM FIVE RESIDENTIAL UNITS ALLOWED BY THE ORDINANCE

WHEREAS, T Nelson Properties (Applicant and Owner) has applied for a variance that would allow nine (9) residential units instead of the maximum five (5) residential units allowed by the Unified Development Ordinance to be developed on the 230 Central Avenue parcel, legally described as follows:

(insert legal description); and

WHEREAS, City Staff completed a review of the Applicant’s request and made a report to the Planning Commission (VAR 09-2020), a copy of which has been presented to the City Council; and

WHEREAS, the subject property is located in the CBD, Central Business District; and

WHEREAS, Section 11-430 of the Unified Development Ordinance limits the subject parcel to five (5) residential units based on the following calculation: 5,558 square feet of parcel area divided by 2,000 = 2.79 multiplied by two floors above the ground floor (based on the original building construction) = 5.58 residential units allowed; and
WHEREAS, the Planning Commission finds that in this particular case, it is appropriate to calculate the number of floors based on the percentage of the upper floors in relation to the ground floor of the existing building on the subject parcel. Consequently, it is reasonable to allow the subject parcel to accommodate six (6) residential units, rather than the five (5) units allowed through a strict interpretation of the Ordinance as described in the above recital. The calculation for allowing six (6) residential units on the subject parcel is as follows: 5,588 square feet of parcel area divided by 2,000 = 2.79 multiplied by 2.2 floors above the ground floor (including the proposed loft areas on the third floor of the building) = 6.12 residential units; and

WHEREAS, the Planning Commission, on the 6th day of April, 2020, following proper notice, held a public hearing regarding the Applicant’s request, and following said public hearing recommended that the City Council deny the Applicant’s variance request to develop nine (9) residential units on the subject parcel. However, the Planning Commission recommends approval of a lesser variance approve to allow six (6) residential units on the subject parcel, rather than the five (5) residential units allowed by a strict interpretation of the Ordinance; and

WHEREAS, the Planning Commission’s recommendation to deny the Applicant’s request to develop nine (9) residential units on the subject parcel is based on a determination that the Applicant’s variance request does not meet all required findings for approval of the variance request as required by Chapter 2, Article 9, Section 2-460 of the City’s Unified Development Ordinance. Specifically, the Applicant’s request is inconsistent with the following required findings:

The variance requested is the minimum variance which would alleviate the practical difficulties.

Expanded Finding: The Applicant’s variance request to develop nine (9) residential units on the subject parcel, rather than the maximum five (5) residential units allowed by the Ordinance, is not the minimum variance required to alleviate the practical difficulties. Residential units were recently developed above 206 Central Avenue and 127 Central Avenue in accordance with the Ordinance. 206 Central is a relatively small lot that is virtually covered by the existing building, similar to the subject parcel. There are no practical difficulties that would prevent the Applicant from developing fewer than nine (9) residential units on the subject parcel.
WHEREAS, the Planning Commission finds that it is reasonable to approve a variance to allow six (6) residential units on the subject parcel, rather than the maximum of five (5) residential units as required by the Ordinance. The Planning Commission’s recommendation to approve a variance to allow six residential units on the subject parcel is based on the following findings as required by Chapter 2, Article 9, Section 2-460 of the City’s Unified Development Ordinance:

1. **A variance to allow six (6) residential units on the subject parcel rather than the maximum five (5) residential units allowed by the Ordinance is in harmony with the general purpose and intent of the City’s ordinances.**

   Expanded Finding: The general intent of the City’s Unified Development Ordinance is to implement the policies of the Comprehensive Plan and to protect the health, safety, and welfare of the public. The Comprehensive Plan identifies high-density housing as an acceptable use in the downtown.

   Although the Ordinance does not specifically allow loft areas to contribute to the number of allowed residential units on a parcel, doing such a calculation would allow the subject parcel to have six (6) residential units. Approving a variance for six (6) residential units is in harmony with the purposed and intent of the Ordinance. Such of an approval would not adversely affect the health, safety, and welfare of the public.

2. **A variance to allow six (6) residential units on the subject parcel rather than the maximum five (5) residential units allowed by the Ordinance is consistent with the Comprehensive Plan.**

   Expanded Finding: The City’s current Comprehensive Plan (adopted in 2003) states that high-density residential is allowed in the downtown as a mixed-use development or a standalone development. Policies of the Comprehensive Plan include providing a mix of housing, work, shopping, and entertainment uses in the downtown and protecting the historic qualities of the downtown.

   Community Vision 2040 (adopted in 2016) describes the community’s vision for a vibrant downtown. It sets community goals to establish market rate and high-end housing in the
downtown and enhance the appearance of downtown buildings and the streetscape.

Approval of a variance to allow six (6) residential units on the subject parcel is consistent with the Comprehensive Plan in that it would facilitate development of quality, market rate apartments in the downtown and it would allow the building to produce additional income, which would help ensure the property owner can invest in the maintenance and appearance of the property.

3. **A variance to allow six (6) residential units on the subject parcel rather than the maximum five (5) residential units allowed by the Ordinance allows use of the subject property in a reasonable manner that is not permitted by the Ordinance.**

Expanded Finding: The Ordinance does not specifically allow loft areas to be counted in the calculation for determining the allowable number of residential units on a parcel. However, it is reasonable to include the loft area that the Applicant has proposed in the calculations. Doing so, will result in allowing six (6) residential units on the parcel, rather than the maximum five (5) units allowed by the Ordinance.

4. **Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has not had control.**

Expanded Finding: The subject property is not the only property in the Central Business District that has a relatively small area that limits the number of residential units that can be developed on the parcel. However, the relatively small area of subject parcel, coupled with the fact that the buildings cover the entire parcel, makes the subject property more challenging for the development of residential units than many other parcels in the Central Business District. Consequently, due to the unique circumstances of the subject property, it is reasonable for the City to provide reasonable relief from the strict application of the Ordinance related to the number of allowable residential units.
5. **A variance to allow six (6) residential units on the subject parcel rather than the maximum five (5) residential units allowed by the Ordinance would not alter the essential character of the neighborhood.**

Expanded Finding: Whether the subject parcel contains five (5) residential units or six (6) residential units, the character of the building and neighborhood will appear the same. Although approval of such a variance would increase the number of residential units on the parcel, it would not necessarily increase the number of residents living in the downtown. The building can support the same number of new residents regardless of the number of residential units in the building. Therefore, approval of the variance does not directly alter the character of the neighborhood.

6. **A variance to allow six (6) residential units on the subject parcel rather than the maximum five (5) residential units allowed by the Ordinance is the minimum variance which would alleviate the practical difficulties.**

Expanded Finding: It is not reasonable to limit the subject parcel to five (5) residential units given that the Applicant has proposed to develop livable loft areas that, if counted in the calculation to determine the allowable number of residential units on the subject parcel, would then allow six (6) residential units. There are no practical difficulties that justify allowing more than six (6) residential units on the subject property.

7. **Economic conditions alone do not constitute practical difficulties.**

Expanded Finding: The square footage of the proposed residential units is generally consistent with the minimum requirements of the Ordinance. Therefore, the variance request is not directly related to economic conditions alone. There is a strong need for additional housing in the City and the proposed development will provide additional housing while still meeting the minimum area requirements for residential units in the Central Business District. Approval of the requested variance will also provide income needed to defray the costs of necessary building improvements and ongoing maintenance. Improving and maintaining the historic
buildings in the downtown is a stated policy of the City's Comprehensive Plan and Community Vision 2040.

WHEREAS, the City Council concurs with the recommendations and findings of the Planning Commission as stated in the above recitals and hereby makes the identical findings.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Faribault as follows:

Section 1: Denial of the Applicant’s variance request to allow nine (9) residential units on the subject parcel. The City Council hereby denies the Applicant’s variance request to develop nine (9) residential units on the parcel at 230 Central Avenue, whereas, the Ordinance allows five (5) residential units on the parcel. Specifically, the City Council finds that denial of the variance request is appropriate based on the findings described in the above recitals.

Section 2. Approval of a variance to allow six (6) residential units on the subject parcel rather than the maximum of five (5) residential units allowed by the Ordinance. The City Council hereby approves a variance to allow six (6) residential units on the subject parcel based on the findings described in the above recitals.

Section 3: Conditions of Approval. The variance is approved subject to conditions listed herein as authorized under Section 2-470 of City’s Unified Development Ordinance, all of which are necessary to comply with the standards established by the City's ordinances, or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance. The conditions of the variance approval are as follows:

1. Before issuance of a building permit, the Applicant shall submit detailed construction documents that show the proposed residential units are consistent with the City’s ordinances, except as otherwise approved by this resolution.

2. Before issuance of a building permit for the proposed residential development, the Applicant shall address to the satisfaction of City Staff all outstanding issues, including but not limited to, the handling of trash from the residential
units, accessibility issues, and building and fire code issues, WAC and SAC fees, and similar issues, fees, and requirements.

3. The Development Review Committee is authorized to approve revisions to the Applicant’s proposal provided that the revisions meet the intent of this resolution.

Section 4: Encouragement to Provide Amenities. Although not a condition of approval of this Resolution, the City Council strongly encourages the Applicant to provide the residential units with amenities, which may include laundry facilities, larger living room/dining room areas, a common meeting room, and/or storage facilities.

Section 5: Incorporation of Recitals and Exhibits. The recitals set forth in this Resolution and the Exhibits attached hereto are incorporated into and made a part of this Resolution.

Section 6: Effective Date. This Resolution shall become effective immediately upon its passage and without publication.

Date Adopted: April 14, 2020

Faribault City Council

___________________
Kevin F. Voracek, Mayor

ATTEST:

_______________________________
Timothy C. Murray, City Administrator
CITY OF FARIBAULT

RESOLUTION #2020-XXX

DENY A VARIANCE REQUEST TO ALLOW NINE RESIDENTIAL UNITS INSTEAD OF THE MAXIMUM FIVE RESIDENTIAL UNITS ALLOWED BY THE ORDINANCE ON THE PARCEL AT 230 CENTRAL AVENUE

WHEREAS, T Nelson Properties (Applicant and Owner) has applied for a variance that would allow nine (9) residential units (instead of the maximum five (5) residential units allowed by the Unified Development Ordinance) to be developed on the 230 Central Avenue parcel, legally described as follows:

(insert legal description); and

WHEREAS, City Staff completed a review of the Applicant’s request and made a report to the Planning Commission (VAR 09-2020), a copy of which has been presented to the City Council; and

WHEREAS, the subject property is located in the CBD, Central Business District; and

WHEREAS, Section 11-430 of the Unified Development Ordinance limits the subject parcel to five (5) residential units based on the following calculation: 5,558 square feet of parcel area divided by 2,000 = 2.79 multiplied by two floors above the ground floor (based on the original building construction) = 5.58 residential units allowed; and
WHEREAS, the Planning Commission, on the 6th day of April, 2020, following proper notice, held a public hearing regarding the Applicant’s request, and following said public hearing recommended that the City Council deny the Applicant’s variance request to allow nine (9) residential units on the subject parcel; and

WHEREAS, the Planning Commission’s recommendation to deny the Applicant’s request to allow nine (9) residential units on the subject parcel is based on a determination that the Applicant’s variance request does not meet all required findings for approval of the variance request as required by Chapter 2, Article 9, Section 2-460 of the City’s Unified Development Ordinance. Specifically, the Applicant’s request is inconsistent with the following required findings:

1. **Unique circumstances apply to the property, which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has not had control.**

   Expanded Finding: The subject property is not the only property in the Central Business District that has a relatively small area that limits the number of residential units that can be developed on the parcel. Residential units were recently developed above the ground floor of 206 Central Avenue in a manner consistent with Ordinance. The parcel at 206 Central has less area than the subject parcel. In addition, the building at 206 Central covers most of the parcel, similar to the subject parcel. Consequently, there is nothing unique about the subject parcel that prevents development in a manner consistent with the Ordinance.

2. **The variance requested is the minimum variance which would alleviate the practical difficulties.**

   Expanded Finding: The Applicant’s variance request to develop nine (9) residential units on the subject parcel, rather than the maximum five (5) residential units allowed by the Ordinance, is not the minimum variance required to alleviate the practical difficulties. Residential units were recently developed above 206 Central Avenue and 127 Central Avenue in accordance with the Ordinance. 206 Central is a relatively small lot that is virtually covered by the existing building, similar to the subject parcel.
There are no practical difficulties that would prevent the Applicant from developing fewer than nine (9) residential units on the subject parcel.

WHEREAS, the City Council concurs with the recommendations and findings of the Planning Commission as stated in the above recitals and hereby makes the identical findings.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Faribault as follows:

Section 1: Denial of the Applicant’s variance request to allow nine (9) residential units on the subject parcel. The City Council hereby denies the Applicant’s variance request to allow nine (9) residential units on the subject parcel, whereas the Ordinance allows five (5) residential units on the parcel. The City Council determines that denial of the request is appropriate based on the findings described in the above recitals.

Section 2: Acknowledgement that five (5) residential units are allowed on the subject parcel. Denial of the Applicant’s variance request does not prevent the Applicant from developing five (5) residential units on the subject parcel in a manner consistent with all applicable ordinances and regulations. Should the Applicant choose to develop up to five (5) residential units on the subject parcel, the City Council strongly encourages the Applicant to provide the residential units with amenities, which may include laundry facilities, larger living room/dining room areas, a common meeting room, and/or storage facilities.

Section 3: Incorporation of Recitals and Exhibits. The recitals set forth in this Resolution and the Exhibits attached hereto are incorporated into and made a part of this Resolution.

Section 4: Effective Date. This Resolution shall become effective immediately upon its passage and without publication.
Date Adopted:  April 14, 2020

Faribault City Council

_______________________________
Kevin F. Voracek, Mayor

ATTEST:

_______________________________
Timothy C. Murray, City Administrator
APPLICATION FOR REQUESTED ACTION

Variance

Planning Case #: 
Filing Fee: 
Hearing Date: 

SITE ADDRESS: 230 Central Avenue N.

APPLICANT: Todd Nelson  E-MAIL: dynamiclectric@guestoffice.net

PHONE: 507-291-0585  (H)  507-333-5300  (W)  (FAX)

APPLICANT ADDRESS: 2800 1st Ave. N.W.

OWNER (if other than applicant):

PHONE: 
(H)  (W)  (FAX)

OWNER'S ADDRESS: Lot 5 Block 57 of Original Town Faribault OK16 town

LEGAL DESCRIPTION: E127FT N2/3 45 B57

ACREAGE/SIZE OF PROPERTY: 5588 SQ FT - Building: LOT 0.13 ACRES

CURRENT ZONING: Commercial

EXISTING USE OF PROPERTY: Commercial

PROPOSED USE OF PROPERTY: Commercial + Residential (see attached)
(Including number of units per acre and types of uses if mixed use)

IDENTIFY ALL ADJACENT LAND USES: Commercial

SIGNATURE OF APPLICANT: 
DATE: 3-2-20
(Must submit proof of property control)

SIGNATURE OF THE OWNER:
DATE:
(If other than the applicant)

PLEASE PROVIDE ALL INFORMATION REQUESTED ON THIS FORM AND THE ATTACHED CHECKLIST.

Revised 8/23/2016
VARIANCE
Required Submittals

☐ Site plan
  ☐ Drawn to scale, with scale noted
  ☐ Date and North arrow
  ☐ Boundaries and dimensions shown graphically
  ☐ Location of any streets, public trails, railroads, or waterways
  ☐ Location of existing and proposed structures, with distance from property lines noted
  ☐ Location and dimensions of existing and proposed off-street parking and loading spaces, with distance from property lines noted (when applicable)

☐ Required supplemental information
  ☐ Written summary stating the specific variation requested, giving distances as needed
  ☐ Written summary stating exceptional conditions/peculiar difficulties which make the variance necessary
  ☐ Written statement as to why you feel a variance should be granted
  ☐ Other information as required

☐ Filing fee

☐ SIGNATURE OF APPLICANT [Signature] DATE 3/2/20

Planning Case # ____________
Please answer the following questions as they relate to your specific variance request:

1. In your opinion, is the variance in harmony with the purposes and intent of the ordinance?
   Yes (x)  No ( )  Why or why not?
   The variance will allow more housing for people in the community.

2. In your opinion, is the variance consistent with the comprehensive plan?
   Yes (x)  No ( )  Why or why not?
   Yes - because it meets the minimum requirements of the city's Central Business District ordinance for residential use in Section 11-430 A-B-C, p. 161-162.

3. In your opinion, does the proposal put property to use in a reasonable manner?
   Yes (x)  No ( )  Why or why not?
   Because it allow an empty building to be fully utilized and provide housing and increase economic growth & income for business downtown.

4. In your opinion, are there circumstances unique to the property?
   Yes (x)  No ( )  Why or why not?
   The building is land locked. Additions or add-ons make it impossible to expand. Therefore, we need to work within the confines of the structure.

5. In your opinion, will the variance maintain the essential character of the neighborhood?
   Yes (x)  No ( )  Why or why not?
   Yes - It will add housing to the housing shortage and it will be affordable.

6. In your opinion, is the variance requested the minimum variance which would alleviate the practical difficulty?
   Yes (x)  No ( )  Why or why not?
   It's unreasonable to have a 2,000 square foot apartment when many homes are not this big. We would still meet the minimum sq ft. requirements of the city's unified development ordinance Section 11-430.

7. In your opinion, do the economic conditions alone constitute the practical difficulty?
   Yes (x)  No ( )  Why or why not?
   We would be able to build more housing/rental units if the variance is allowed and still meet city's minimum requirements.

The City Council must make an affirmative finding on all of the seven criteria listed above in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied.
The undersigned certifies that they are familiar with application fees and other associated costs, and also with the procedural requirements of the City Code and other applicable ordinances.

Applicant’s Signature: ___________________________ Date: 3-2-20
Required Supplemental Information for Variance at 230 Central Avenue N. Faribault, MN

We are requesting a variance for the existing city ordinance that requires residential units in the Central District to be no less than 2,000 sq. ft. per unit. The total square footage of both second and third floors is 11,176 sq. ft. or 5,588 sq. ft. per floor. This calculates to only 5.588 units total. It is unreasonable to build these units this large since many single-family homes do not exceed 2,000 sq. ft. By allowing additional units to be built inside the building, we will be providing additional housing to meet the housing and rental shortage in Faribault. We will be providing affordable housing to meet this shortage as well. As with our other rental units, we screen all potential tenants and do background checks to be crime-free and drug free. By allowing the extra units and additional people downtown, this will help with economy downtown and we will utilize the building to its fullest potential.

We are requesting to build 9 units instead of 5. We would stay within the parameters of Faribault’s Unified Development Ordinance in regard to square feet per apartment.

We are requesting to build:

On the second floor:  
1 – 3 bedroom unit at 912 sq. ft.
1 – 2 bedroom unit at 912 sq. ft.
1 – 2 bedroom unit at 886 sq. ft.
1 – 2 bedroom unit at 700 sq. ft.

On the third floor:  
2 – 4 bedroom units at 1,063 sq. ft.
1 – 4 bedroom unit at 1,108 sq. ft.
1 – 2 bedroom unit at 819 sq. ft.

There is an existing 968 sq. ft. 2 bedroom apartment above the clothing store.
ARTICLE 5. CBD, CENTRAL BUSINESS DISTRICT

11-390. Purpose. The purpose of the central business district is to provide for the development and redevelopment of the established downtown core, including a mix of retail, financial, office, service, and entertainment uses. Additionally, residential units are allowed as an accessory use, when located above a first-story commercial use.

11-400. Uses. Permitted and conditional uses in the CBD District shall be as specified in Table 11-1.

11-410. General district regulations. The following conditions govern uses in the CBD District:

(1) Maximum floor area. All commercial uses, including shopping centers, shall be limited to a maximum gross floor area of twenty thousand (20,000) square feet.

(2) Wholesale and off-premise sales. Wholesale and off-premise sales accessory to retail sales shall be limited to two-thousand (2,000) square feet of gross floor area or forty-five (45) percent of gross floor area, whichever is less, provided that the main entrance opens to the retail component of the establishment.

(3) Drive-through facilities permitted. Drive-through facilities are permitted, subject to the standards of Chapter 4, Site Plan Review and Chapter 8, Off-Street Parking and Loading.

11-420. Enclosed building requirement. (A) In general. All production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in (B) through (E) below or elsewhere in this ordinance.

(B) Outdoor storage. Outdoor storage may be allowed as an accessory use provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met.

(C) Outdoor sales and display. Retail merchandise may be displayed on a temporary basis on the sidewalk immediately in front of the principal building or displayed at convenience store gasoline pump islands, provided that such display does not interfere with pedestrian or vehicle traffic. In addition, the following principal uses may include outdoor sales and display provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met:

(1) Automobile rental.
(2) Lawn and garden center or greenhouse.
(3) General retail sales.

(D) Outdoor speakers. Outdoor speakers shall not be audible from a residential district boundary or residential use.

(E) Outdoor dining area. Facilities offering outside dining shall be allowed provided that the standards identified for such use in Chapter 7, Specific Development Standards, are satisfied.

11-430. Residential uses. Residential uses are permitted in the Central Business District, secondary to ground floor commercial uses, with the maximum number of units based on the lesser of the calculations shown below. In addition to area requirements, all residential uses must provide at least one private parking space per unit within four hundred feet of the main entrance to the building.
(1) The area of the parcel divided by two thousand (2,000), times the number of floors in the building above ground-floor; or

(2) The number of units that satisfy area requirements as follows:

   (a) Efficiency and one-bedroom units 600 square feet
   (b) Two-bedroom units 700 square feet
   (c) Three-bedroom units and above 900 square feet

11-440. Permitted accessory structures and uses. (A) In general. Permitted accessory uses within CBD district include maintenance and parking facilities, mechanical equipment, and other buildings and structures which are necessary to the operation of the principal use.

(B) Child care center as an accessory use to a principal commercial activity and for the exclusive service to employees of that activity.

(C) Temporary structures for storage of equipment and materials used in connection with construction of a lawfully authorized use, not to exceed two years.

(D) Warehousing and storage related to the principle use as follows:

(1) Warehousing and storage uses shall not be located in the storefront of a building, which shall be defined as that area of the building at street level that fronts on a public right-of-way (not including an alley), and shall consist of the first 20’ back from the wall of the building at street level that fronts on the public right-of-way (not including an alley). In the case of a corner building, both sides of the building at street level that fronts on a public right-of-way (not including an alley) shall be considered a storefront. Where there are no window openings in the street level of a wall that fronts on a public right-of-way, such frontage shall not be considered a storefront.

(2) Warehousing and storage uses shall be separated from the storefront area of the building by a wall that extends from floor to ceiling, or at a minimum 24” above the height of a standard door, the entire width of the building or area to be used for storage. For the purposes of this section, a wall shall be constructed of dry-wall, plaster, stone, brick or other masonry material, or other similar material to provide adequate physical and visual separation between the primary use and the secondary warehousing or storage use.

(3) Additional conditions may be established to ensure compatibility of the use with surrounding uses.

(4) Existing warehousing and storage uses shall comply with all provisions of this ordinance within one year of the effective date (10/02/01) of this ordinance.

11-450. Maximum height. The maximum height of all principal structures located in the CBD District shall be three (3) stories or forty-five (42) feet, whichever is less.

11-460. Truck and commercial vehicle parking for non-residential uses. Outdoor parking of trucks and other commercial vehicles shall be limited to single rear axle vehicles of not more than fifteen thousand (15,000) pounds gross vehicle weight.
**BACKGROUND**

The wastewater that Faribault Foods discharges from its plant at 3200 Industrial Drive has a significant amount of organic material in it. As a result, Faribault Foods pipes its wastewater to its facility at 3801 Park Avenue NW (the former Renneberg site) where it pretreats the wastewater before it discharges it into the sanitary sewer system for final treatment at the City’s wastewater treatment plant. However, after the pretreatment process, the wastewater still has a significant amount of organic material, which not only causes odor problems, but it also increases the costs of treatment at the City’s wastewater treatment plant. Although the City passes the extra treatment costs to Faribault Foods, the extra treatment reduces the capacity of the wastewater treatment plant. Consequently, resolving this issue is in the best interest of Faribault Foods and the community.

**THE CASE FOR A BIODIGESTER**

To address these concerns, Faribault Foods is proposing to install a biodigester at its 3801 Park Avenue NW facility. A biodigester is a system in which microorganisms breakdown biodegradable material (like the organic material that is in Faribault Foods’ wastewater). As the organic material breaks down, biogas is released and captured. The biogas can be used for heat or power, or it can be introduced into the natural gas pipeline. Biosolids (such as an organic fertilizer) can also be a byproduct of the digestion process.

Although biodigesters are often used as an alternative energy source and as a means to produce organic byproducts, the purpose of the proposed digester at Faribault Foods is to pretreat its wastewater to reduce odors and reduce the costs associated with final treatment of its wastewater at the City’s wastewater treatment plant.
THE NEED FOR A BIODIGESTER ORDINANCE

Faribault’s Unified Development Ordinance does not specifically address the use of a biodigester in the city. However, like many cities, Faribault has a biodigester at its wastewater treatment plant. In addition, many rural agricultural operations operate biodigesters.

The City Planner recommends that Faribault regulate the use of biodigesters as an accessory use to a principal industrial use. Consequently, Faribault Foods (and all other industries in an industrial district) would be permitted to install a biodigester at their plants provided the biodigester met the standards outlined in the City’s Unified Development Ordinance.

The City Planner recommends that the Ordinance remain silent on biodigesters as a principal use, which means that such a biodigester would not be allowed in Faribault without an ordinance amendment to allow it. A biodigester as a principal use would be a large operation that would take in materials from a large service area, similar to the MMPA biodigester in Le Sueur. Such a biodigester could raise community concerns that would need to be addressed before it could be approved. Therefore, development of a biodigester as a principal use would require an ordinance amendment.

PROPOSED ORDINANCE TO ALLOW A BIODIGESTER AS AN ACCESSORY USE IN AN INDUSTRIAL DISTRICT

If adopted by the City Council, the attached draft ordinance would allow Faribault Foods to install and operate a biodigester at its plant and, thereby, reduce the odors emanating from the discharge of its wastewater. However, this ordinance would apply to all industries in Faribault. Consequently, other industries, like Jennie-O Turkey Store, could conceivably install a biodigester that is consistent with the standards of this ordinance.

This ordinance is intended to provide adequate measures to ensure that a biodigester does not create issues or concerns that would negatively affect the public. It is also intended to reduce barriers that would otherwise discourage or prevent industries from installing a biodigester that would benefit the industry and community as a whole.

RECOMMENDED ACTION

The Development Review Committee recommended approval of the attached ordinance. The City Planner recommends that the Planning Commission recommend that the City Council approve the attached ordinance.

ATTACHMENTS

- Draft Ordinance 2020-6
- Applicant’s Application
CITY OF FARIBAULT
ORDINANCE No. 2020-6

AN ORDINANCE TO ALLOW A BIODIGESTER AS AN ACCESSORY USE TO A
PRINCIPAL INDUSTRIAL USE IN AN INDUSTRIAL DISTRICT

WHEREAS, David Tieman, Vice President of Manufacturing of Faribault Foods, Inc. (Applicant), on behalf of Faribault Foods, Inc., has proposed to install a biodigester at the Faribault Foods facility at 3801 Park Avenue NW to address odor issues associated with the discharge of its wastewater; and

WHEREAS, the City’s Unified Development Ordinance is silent on the use of biodigesters in the City of Faribault; and

WHEREAS, the City Planner has determined that the City Council must first amend the City’s Unified Development Ordinance to allow a biodigester in Faribault before the City can issue permits for the use of a biodigester in Faribault; and

WHEREAS, David Tieman, Vice President of Manufacturing of Faribault Foods, Inc. (Applicant) applied for an ordinance amendment to allow the use of a biodigester in Faribault; and

WHEREAS, the City Planner prepared this ordinance to allow the use of a biodigester in an industrial district as an accessory use to the principal use; and

WHEREAS, this ordinance does not allow a large-scale biodigester that accepts biodegradable material from multiple uses not associated with the principal use; and

WHEREAS, the Planning Commission, on the 6th day of April 2020, following proper notice, held a public hearing regarding this ordinance; and

WHEREAS, following the public hearing, the Planning Commission recommended that the City Council approve the subject ordinance amendment based on the following applicable findings as required by Section 2-150 of Appendix B – Unified Development Regulations of the City Code of Ordinances:

1. This ordinance is consistent with the applicable policies of the City’s Land Use Plan. It limits biodigesters to industrial districts. It also provides an appropriate means for industries to handle their biodegradable waste materials in a responsible manner.
that benefits the community by, in part, reducing objectionable odors and allowing the biodegradable waste material to serve as an alternative energy source; and

2. This ordinance is in the public interest and is not solely for the benefit of a single property owner. While this ordinance will benefit Faribault Foods, Inc. by allowing Faribault Foods to install a biodigester to address its odor issues, it will also allow all other industries in Faribault to install a biodigester as an accessory use. In addition, it will benefit the community by providing an appropriate means to address odor issues and to allow industries to process biodegradable waste in an environmentally responsible manner, which benefits the community as a whole; and

WHEREAS, based on a review of the City Planner’s report, this ordinance, and a summary of the public hearing, the City Council concurs with the findings of the Planning Commission and hereby makes the identical findings.

NOW THEREFORE, THE CITY OF FARIBAULT ORDAINS:

Section 1. Amendments to the Unified Development Ordinance. The City Council of the City of Faribault hereby amends the City Code of Ordinances, Appendix B, Unified Development Ordinance of the City of Faribault, Minnesota as described below. The Unified Development Ordinance is amended by the addition of the underlined language and by the deletion of the stricken language as follows:

A. The following definitions are hereby added to Chapter 1 – Introductory Provisions, Section 1-120 – Definitions:

   Anaerobic digester. See biodigester.
   
   Biodigester. A device, structure, or system in which anaerobic digestion occurs. Anaerobic digestion is a collection of processes by which microorganisms break down biodegradable material in the absence of oxygen. A biodigester is typically used to manage biodegradable waste and/or to produce fuels and/or biosolids, such as fertilizer.

B. The following specific development standards are hereby added to Chapter 7 – Specific Development Standards, Section 7-30 – Development Standards:
**Biodigester as an accessory use to a principal industrial use.**

A biodigester may be permitted in an industrial zoning district as an accessory use to a principal industrial use as per the following conditions:

1. The biodigester shall be designed, constructed, and maintained in full compliance with all applicable federal, state, and local laws and regulations, including but not limited to building, safety, property maintenance, health, sanitation, fire, electrical, plumbing, mechanical, wastewater, stormwater, and all other applicable laws and regulations.

2. The biodigester shall not encroach into the minimum required setback of the principal building.

3. The feedstock serving the biodigester shall be from the principal industrial use. In the case of a planned unit development, the feedstock may be from other industrial uses in the planned unit development.

4. All feedstock, filtering chemicals, and digestate shall be delivered, stored, and processed on an impermeable surface with a sealed drainage system inside a fully enclosed building, sealed containers, or reactor vessels. Objectionable odors, bio aerosols, and microorganisms shall not be released into the ambient air. The building may be required to maintain negative air pressure if needed to control the release of objectionable odors.

5. Before issuance of City permits, the property owner shall submit to the Faribault Department of Community and Economic Development an operating plan, which includes strategies for mitigating odor. The operating plan shall be subject to future amendments as needed to
implement measures that adequately address existing and future odor issues.

(6) If the feedstock or other materials associated with the biodigester operation present health, safety, or welfare concerns, the City may then require that the storage and process tanks be enclosed with a proper berm to contain a potential spill.

(7) Flaring of biogas shall be permitted in a location and manner approved by the City Fire Chief and in accordance with all applicable laws and regulations. To the maximum extent reasonable, the flaring of biogas shall be screened from adjacent properties and rights-of-way.

C. Chapter 12 – Industrial Districts, Section 12-150 – Permitted Accessory Structures and Uses is hereby amended as follows:

Sec. 12-150. – Permitted accessory structures and uses in all industrial districts.

(A) In general. Permitted accessory uses within all industrial districts include maintenance, storage, and parking facilities, mechanical equipment, and other accessory uses associated with buildings and structures which are necessary to the operation of the principal use.

(B) Child care center as an accessory use to a principal industrial activity and for the exclusive service to employees of that activity.

(C) Temporary structures for storage of equipment and materials used in connection with construction of a lawfully authorized use, not to exceed two (2) years.

(D) Biodigester as an accessory use to a principal industrial use as per the standards identified for
such use in Chapter 7, Specific Development Standards.

Section 2. Findings. The recitals set forth in this Ordinance are incorporated into and made a part of this Ordinance and where applicable, constitute the findings of the City Council.

Section 3. Authorization to take additional steps. City Staff and City Consultants are hereby authorized and directed to take any additional steps and actions necessary or convenient to accomplish the intent of this Ordinance.

Section 4. Effective date. This Ordinance shall take effect and be in force after its passage and publication, in accordance with Chapter 3 of the City Charter.

Public Hearing: April 6, 2020
First Reading: April 14, 2020
Second Reading: __________, 2020
Published: __________, 2020

Faribault City Council

__________________________________
Kevin F. Voracek, Mayor

ATTEST:

__________________________________
Timothy C. Murray, City Administrator
APPLICATION FOR REQUESTED ACTION
Rezoning/Text Amendment

Planning Case #
Filing Fee
Hearing Date

TO BE FILLED OUT BY ALL APPLICANTS

TYPE OF REQUEST:  ____ REZONING  ____ TEXT AMENDMENT

APPLICANT__ Faribault Foods  E-MAIL__ dtieman@faribaultfoods.com

PHONE  507-331-3392  (H)  507-331-1400  (W)  507-331-1457  (FAX)

ADDRESS__ 3401 Park Ave  Faribault, MN 55021

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<tr>
<th>REZONING</th>
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<tbody>
<tr>
<td>Legal Description______________________</td>
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<tr>
<td>Current Zoning__________________________</td>
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<tr>
<td>Existing Use of Property__________________</td>
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<tr>
<td>Identify All Adjacent Land Uses__________</td>
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<td>Reason for Request______________________</td>
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REQUIRED SUBMITTALS:
- Boundary survey of the property
- Concept development plan

TEXT AMENDMENTS

A detailed written summary fully explaining the proposed amendment to the ordinance which should include the following:

- Specific section of City Code to be amended
- List of the specific changes being proposed
- Specific reasons for the requested amendment
- Any necessary graphics
- Statement of why the amendment should be granted
- Benefits to be derived by the proposed change in text
- Impacts of the proposed amendment on those affected by it
- Relationship of the proposed amendment to community plans

SIGNATURE OF APPLICANT__ DATE__ March 12, 2020

(Must submit proof of property control)
FARIBAULT PLANNING COMMISSION
AMENDED WORK SESSION AGENDA

Minn. Stat. § 13D.021 – Meeting by Telephone or Other Electronic Means; Conditions - Minn. Stat. § 13D.021 provides that a meeting of a public body may be conducted via telephone or other electronic means if meeting in a public location is not practical or prudent because of a health pandemic or declared emergency.

Anyone interested in the public hearings may participate in the hearings by calling the following telephone number or joining the following videoconference at the scheduled date and time of the public hearings:

1. Telephone number to call at the time of the public hearing: 1-312-626-6799, meeting ID: 889 986 454#
2. Videoconference to join at the time of the public hearing: [https://zoom.us/j/889986454](https://zoom.us/j/889986454)

Monday, April 6, 2020 7:00 PM

1. CALL TO ORDER / ROLL CALL

2. DISCUSSION

3. ROUTINE BUSINESS

   A. Next City Council Meeting – April 13, 2020
   B. Summary of EDA Meeting
   C. Next PC Meeting Agenda – Monday, April 20, 2020
   D. Joint Planning Commission/City Council meeting on April 21 to discuss the Comp Plan and other items of mutual interest.

4. ADJOURN