

CITY OF HAYWARD, FREEBORN COUNTY

STATE OF MINNESOTA

RESOLUTION 2023-28

FINDINGS OF FACT AND RESOLUTION APPROVING RAYMOND J HEMENWAY JR'S REQUEST FOR A CONDITIONAL USE PERMIT ALLOWING A RESIDENTIAL HOME ON HIS PROPERTY 20525 810TH AVENUE LOCATED IN THE C-2 CENTRAL BUSINESS DISTRICT IN THE CITY OF HAYWARD, MINNESOTA, FREEBORN COUNTY

WHEREAS, in 2018, the City of Hayward in Minnesota adopted the Minnesota Basic Code of Ordinances (MBC) in its entirety;

WHEREAS, the MBC is a book of ordinances, or laws, passed by council, that govern the City of Hayward and reflect current state statutes, case law, and rules that city government officials and residents must follow;

WHEREAS, in 2023 the city of Hayward began analyzing zoning issues in the city and found some zoning classification discrepancies;

WHEREAS, the parts of the existing zoning map needed to be updated;

WHEREAS, it is necessary that Hayward's classification of zoning districts match the classification of zoning districts as written in the MBC;

WHEREAS, some of the city's zoning classifications are no longer accurate because they are old and do not match those in the MBC;

WHEREAS, the parcels that have were affected are situated along a stretch of 810th Avenue and were classified as either Commercial (C) or Manufacturing (M) - Commercial must be zoned either C-1 Commercial Business District, *which does not allow for residential usage* or C-2 Commercial District, *which does provide for residential usage*. - any property with a Manufacturing classification must be changed as Manufacturing is not a zoning district identified in the MBC;

WHEREAS, in each zoning district, permitted uses and conditionally permitted uses are listed - conditional uses require Special Use Permit(s);

WHEREAS, the Conditional Use Permit (CUP) process is designed to provide the City sufficient flexibility to determine whether a specific land use on a certain site will be compatible with its surroundings, the city's comprehensive plan and the zoning on adjacent parcels;

WHEREAS, in approving the CUP, the City Council had to find that the proposed use would not be injurious to the neighborhood or otherwise detrimental to the public welfare and would be in harmony with the general purpose of the zoning ordinance;

WHEREAS, through the process it is recommended that an applicant attend a city council meeting to address and inform council of intent to apply for a CUP and discuss city codes, regulations, items that may be of concern, and application submission requirements;

WHEREAS, in this case, the council itself initiated the CUP process;

WHEREAS, notice of the scheduled public hearing was mailed to all property owners within 350' of the subject properties per Minnesota State Statute;

WHEREAS, legal notice was posted on the community bulletin board and published in the Albert Lea Tribune at least ten (10) days prior to the scheduled public hearing per Minnesota State Statute;

WHEREAS, on September 11, 2023, a Public Hearing was held (per statute) to discuss five residential properties that were located on land that had been zoned for either Commercial or Manufacturing purposes, where the needs of the properties at issue have changed;

FURTHERMORE, the MBC does not allow for homes to be located on property zoned as Commercial but permits a residential home property zoned as Commercial 2 as a conditional use; and

NOW THEREFORE, THE HAYWARD CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT

1. **The Hayward City Council rezoned five properties to C-2, of those, the following property owners are granted a conditional use permit allowing their residential home on their property in the C-2 district;**
2. **The Conditional Use Permit follows the land, not the home owner;**
3. **The following C-2 zoned parcel is granted a Conditional Use Permit which conditionally permit a residence on the parcel:**

Property Owner: Raymond J Hemenway Jr: 20525 810th Avenue Hayward, MN 56043; Parcel ID. 29.040.0160

A tract of land bounded as follows: Commencing at the Southeast corner of the NE ¼ of Section 8, Township 102, Range 20, thence running North 11 rods, thence West 16 rods, thence South 11 rods, thence East to the place of beginning.

4. The following language is from the Hayward City Code.

§ 151.20 CLASSIFICATION OF ZONING DISTRICTS, per Minnesota Basic Code of Ordinances (2018)

- (A) R-1 Single Family Residential District
- (B) R-2 Multi-Family Residential District
- (C) C-1 Central Business District
- (D) C-2 Central Business District
- (E) I Industrial
- (F) Rural Residential and Agricultural District

§ 151.26 C-2 COMMERCIAL DISTRICT, per Minnesota Basic Code of Ordinances (2018)

- (A) **Purpose.** The purpose of the **C-2 Commercial District** is to provide for commercial development outside of the C-1 Central Business District.
- (B) **Permitted uses** and structures. All uses of a commercial nature, including retail, light industrial, wholesale, service, office, financial, recreational, professional, lodging, and sexually oriented businesses in compliance with Chapters 119 and 153, including all uses permitted in the C-1 Central

Business District, and those other commercial uses as are not considered industrial as listed in § 151.27.

(C) **Accessory uses.** Those accessory uses permitted in the C-1 Central Business District.

(D) **Conditional uses.** **Within the C-2 district no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in section (I) of this ordinance: All conditional uses permitted in the C-1 District.**

(E) Lot requirements and setbacks. The following minimum requirements shall be observed in C-2 Districts, subject to additional requirements, exceptions and modifications set forth in this chapter:

(1) Lot area. None.

(2) Lot width. None.

(3) Setbacks.

(a) Front yards. None.

(b) Side yards. None.

(c) Rear yards. 15 feet.

(4) All lots shall front on and have ingress and egress by means of a public right-of-way.

(F) Building requirements; height. No structure shall exceed three stories or 45 feet, whichever is less.

(G) **Parking. Refer to §§ 151.35 through 151.39.**

(H) Height limitations shall not apply to water towers, chimneys, flag poles, antennae, wind energy conversion systems, church spires, church belfries or church domes not containing habitable space and support towers permitted by § 150.04.

(I) **Conditional use permit standards for the C-2 Central Business District.**

(1) Purpose. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this chapter and comprehensive plan, if one exists. The Planning Commission, if one exists, may recommend and the City Council may impose conditions on such uses in order to effect the purpose of this chapter.

(2) General standards. No conditional use permit shall be granted unless the City Council determines that all of the following standards will be met:

(a) The use is consistent with the intent of this chapter;

(b) The use is consistent with the goals, policies, and objectives of the comprehensive plan, if one exists;

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

(d) The use does not have an undue adverse impact on the public health, safety or welfare;

and

(e) **The use meets the performance standards of § 151.30.**

(3) Specific standards. In addition to the standards specified in division (2) above, no conditional use permit shall be granted unless the City Council determines that all of the specific standards contained in this subdivision will be met.

(a) **One and two family dwellings** and multiple family dwellings, including manufactured homes meeting the standards set forth in § 151.24 and manufactured home parks licensed by the state.

1. Building and site design shall provide a quality residential environment which is compatible with the permitted use;

2. At least two off-street parking spaces must be provided for the each residential unit, with such parking to be in a garage, carport or on a paved area specifically intended for that purpose;

3. The dwelling unit must be in compliance with all applicable building, housing, electrical, plumbing, heating and related city codes;

4. The use will be permitted only where the dwelling unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the neighborhood character; and

5. The city may require buffering or screening if needed.

(b) Nonresidential licensed daycare facilities.

1. Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements and designed to promote the safety of children entering the center;

2. Outdoor play areas shall be fenced and located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas (if any);

3. One parking space for each six attendees based on the licensed capacity of the center shall be provided; and

4. Shall obtain all applicable state, county and city licenses.

(c) Outdoor storage incidental to a principal use.

1. Outdoor storage shall not be located within 100 feet of any residential parcel;

2. Outdoor storage shall be screened by suitable materials, such as a fencings or natural landscaping features (trees, shrubbery, berms), as determined by Council. The screen must be, at minimum, equal to the height of the tallest item stored on the site;
3. Outdoor storage must be located in a rear or side yard;
4. Shall be kept in a neat and orderly fashion;
5. Shall not contain any unlicensed or inoperable motor vehicles; and
6. Shall not be operated in a manner as to constitute a nuisance or harborage of rodents or other wild animals.

(d) Drive-thru or drive-up windows accessory to a principal use.

1. Drive-up windows and stacking areas shall not be located adjacent to any residential parcel;
2. Stacking areas shall provide for a minimum of six cars per aisle;
3. Public address system shall not be audible from any residential parcel;
4. Drive-up windows and stacking areas shall be screened with suitable materials from adjacent parcels; and
5. Drive-up windows shall be designed to avoid interfering with traffic and pedestrian movements.

(e) Sidewalk cafes and outdoor eating or dining areas accessory to a principal use.

1. Shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal building;
2. Shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;
3. Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;
4. Shall not be located to obstruct parking spaces;
5. Shall be located adjacent to an entrance to the principal use;
6. Shall be equipped with refuse containers and periodically patrolled for litter pick-up; and
7. Shall not have speakers or audio equipment which is audible from adjacent parcels.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD, MINNESOTA:

That a Conditional Use Permit is hereby granted to the aforementioned parcel of land to conditionally permit a residential dwelling (house) on the stated parcel of land in the Commercial 2 zoning district;

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD that this Resolution shall become effective immediately upon its passage and approval.

PASSED AND ADOPTED by the City of Hayward, Minnesota, on **September 11, 2023**.



Anthony Cox, Mayor



Kathryn Aase, City Clerk/Treasurer