

**AGENDA**  
**GREATER BEMIDJI AREA JOINT PLANNING BOARD**  
317 4<sup>th</sup> Street NW

**Wednesday, DECEMBER 13, 2017 REGULAR MEETING – 6:00 p.m.**

- **Roll Call** **Chair**
- **Pledge of Allegiance**
- **Approval of the Agenda**

**A. MINUTES** **Chair**  
Approval of November 8, 2017 Minutes

**B. CONSENT AGENDA**  
Items in the Consent Agenda are approved with one motion without discussion/debate. The Chairman will ask if any Board member wishes to remove an item. If no items are to be removed, the chairman will then ask for a motion to approve the consent Agenda.

- 1. Approve/Pay Bills (see attached list of bills) **Chair**
- 2. LMCIT Liability Coverage Waiver Form-**Resolution 2017-41** (Tort. Liability) **Chair**
- 3. Joint Planning Commission reappointments – **Resolutions 42, 43** **Chair**

**C. VISITORS** **Chair**

**D. NEW BUSINESS**

- 1. **Northern Township** – **Resolution No. 2017-44** - V-17-31.01015.00 – Robert & Penny Nemgar **CB**
- 2. **City of Bemidji** - **Resolution No. 2017-45** V-17-80.05072.00 – Terry Newby **CM**
- 3. **City of Bemidji** – **Ordinance No. 2017-09** Z-17-80.02996.00 – Wildgen and Wilimek **CB**
- 4. **City of Bemidji** - **Resolution No. 2017-46** V-17-80.03304.00 & 80.03305.00–City of Bemidji **CB**
- 5. **City of Bemidji** - **Resolution No. 2017-47** V-17-80.05754.00 & 80.05755.00 – Stittsworth Properties, LLC **CM**

**E. OTHER BUSINESS**

- 1. 2018 Calendar – **Resolution No. 2017-40**
- 2. 2018 Fee Schedule – **Ordinance No. 2017-08**
- 3. 2017 Budget Adjustments

**F. ADMINISTRATOR’S REPORT** **CM**  
1. **Year End Report**

**G. UPCOMING MEETINGS** **Chair**

- 1. December 21, 2017 6:00 pm JPC Regular Meeting
- 2. January 10, 2018 6:00 pm JPB Regular Meeting
- 3. January 25, 2018 6:00 pm JPC Regular Meeting – tentative
- 4. February 14, 2018 6:00 pm JPB Regular Meeting – tentative

**H. ADJOURN** **Chair**

**GREATER BEMIDJI AREA JOINT PLANNING BOARD**  
**Meeting Minutes**  
**December 13, 2017**

Pursuant to due call and notice a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, December 13, 2017, at 6:00 p.m. in City Hall. Chair Kelly presiding called the meeting to order and roll call was taken.

Upon roll call, the following members were declared present: Albrecht, Erickson, Meehlhause, Kelly, Frenzel

Members absent: None

Staff present: Casey Mai, Cory Boushee, Josh Stearns, Terri Ball

Others in attendance: Terry Newby, Michael Chock, Jim Lucachick, Al Felix, Bret Cooper, Veronica Cooper, Bob Nemgar, Matt Murray, Myke Stittsworth, Mark Wildgen, William Smith, Craig Gray

Pledge of Allegiance was performed.

**AGENDA**

Motion by Meehlhause, second by Albrecht to approve the agenda as presented.

Motion carried unanimously.

**MINUTES**

Motion by Frenzel, second by Erickson to approve the November 8, 2017 JPB minutes.

Motion carried unanimously.

**CONSENT AGENDA**

- 1) Bills for the total amount of \$30,073.25 were presented for payment.
- 2) Resolution No. 2017-41 – Approval of LMCIT Liability Coverage Waiver.
- 3) Resolution No. 2017-42 – Approval to re-appoint Chris Lahn to JPC
- 4) Resolution No. 2017-43 – Approval to re-appoint Kristi Miller to JPC

Motion by Albrecht, second by Frenzel to approve consent agenda as presented.

Motion passed unanimously.

**VISITORS** - None addressed the board.

## NEW BUSINESS

### RESOLUTION NO. 2017-44 -V-17-31.01015.00 – ROBERT & PENNY NEMGAR

Applicants are requesting multiple variances in the (R-3) Suburban Residential Unsewered Zoning District and Shoreland Overlay of Northern Township at 7326 Birchmont Ct NE in order to construct a single family home. 1.) Easterly side yard setback reduction of (6.8) feet of the required ten (10) feet. 2.) Westerly side yard setback reduction of (4.1) feet of the required ten (10) feet. 3.) Construct a new structure on a substandard lot of record.

### **BACKGROUND**

The lot is currently developed with a nonconforming cabin and noncompliant septic system.

### **PLANNING CONSIDERATIONS**

#### Existing Conditions

This is an existing substandard lot of record consisting of a cabin, detached garage, patios and walkways. Every property line has a setback issue except for the OWHL, or an encroachment over property lines. The current home is a single story single-family home.

#### Proposed Improvements

The proposal would correct some encroachment and setback issues by creating a multi-level narrow house. Although two (2) setback variances are necessary the property line encroachment from the existing house will be eliminated. The encroachment on the public ROW setback will be eliminated. Separation from property lines is being increased on both sides of the structure. The property will have a flat roof with a gutter system to direct stormwater to ensure adjacent properties are not adversely affected by the proposed structure.

#### Septic System

The owner recently purchase a sliver of land from a neighboring parcel on a back lot for the installation of their new septic system. This will allow the applicant to bring his noncompliant system into compliance without having to request additional variances.

#### Landscaping

The proposal will likely require the removal of trees on the property for construction, the applicant plans to save as many as possible. JPB ordinance would require at least two (2) trees on the property.

JPB Engineer - Freeberg & Grund, Inc. Consulting Engineers

Based on the documents I received, in combination with the information you provided, items of note/recommendations are listed below.

- Ensure that an Erosion Control Plan is provided and implemented for the entire disturbance of the project (to include the proposed septic system).
- Ensure that Owner (or Owner's representative) has accounted for a future/replacement septic system.
- Ensure that project does not send any new/additional storm runoff to the adjacent properties. Key to note, here, is that the stormwater already runs off to the adjacent parcels. Just worth noting that it shall not be increased.
- Beyond that, from an engineering and resource protection standpoint, this project seems to be a benefit as it meets the setback requirement from the lake and includes a permitted, functioning septic system.

Comprehensive Plan References

A reasonable use of property with potential to improve setback requirements and environmental quality is in keeping with the spirit, purpose and intent of the GBAJPB Land Use Plan.

**RECOMMENDATION**

Staff recommends approval of (3) variance's. 1.) Allow for a (6.8) foot setback reduction of the easterly side yard ten (10) foot requirement. 2.) A (4.1) foot setback reduction of the westerly side yard ten (10) foot requirement. 3.) To construct a new structure on a substandard parcel of land in the shoreland overlay, with the following conditions:

1. Building will be staked by professional surveyor to mitigate setback encroachment.
2. A stormwater mitigation plan will be reviewed and approved by the JPB and JPB engineer before land use permit can be issued.

Board members had the following concerns:

- Albrecht questioned ownership of property located between the home and proposed septic. Staff stated it is an agreement between the owners, but offered it as an added condition. Albrecht requested a utility easement shall be recorded for the placement of the proposed sewer line on the neighboring property.
- Kelly asked if OHW setbacks were met, and if there will be a complete removal of the home. Staff answered affirmatively to both.

Motion by Frenzel, second by Albrecht to approve Resolution No. 2017-44 on parcel 31.01015.00 for three (3) variances to 1.) Allow for a (6.8) foot setback reduction of the easterly side yard ten (10) foot requirement. 2.) A (4.1) foot setback reduction of the

westerly side yard ten (10) foot requirement. 3.) To construct a new structure on a substandard parcel of land in the shoreland overlay, with the following conditions:

1. Building will be staked by professional surveyor to mitigate setback encroachment.
2. A stormwater mitigation plan will be reviewed and approved by the JPB and JPB engineer before land use permit can be issued.
3. A utility easement must be granted and recorded for the proposed sewer line.

and findings:

1. **Has the applicant demonstrated a practical difficulty?**  
Yes. This is an existing lot of record that is currently developed, the surrounding area is heavily developed on small substandard lots. Without variance for side yard setbacks the structure could not meet the minimum width requirement of a single family home of twenty (20) feet.
2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**  
Yes. This is a previously platted and developed narrow lot of record. The unique shape is narrower at the water then at the road.
3. **Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**  
Yes. This request is proposing to make use of the property in a reasonable manner while making improvements on existing nonconformities and improving environmental quality.
4. **Can the variance be granted without altering the essential character of the surrounding area?**  
Yes. This existing neighborhood has continued to see redevelopment on small lots through variances in recent years.

Motion carried unanimously.

#### RESOLUTION NO. 2017-45 -V-17-80.05072.00 – TERRY NEWBY

Applicant is requesting approval of a variance for a lot size reduction of 152,460 square feet or 3.5 acres from its substandard lot located at 710 Woodland Avenue SW in the R-4 Moderate Density Residential (SEWERED) and Shoreland zoning district. Recently the applicant asked if the City of Bemidji could surface the 50' gap between the driveway and the city road with bituminous.

#### **BACKGROUND**

The applicant and their representatives approached JPB staff with a proposal to build a new single family home with a detached garage on a substandard parcel located on the

north shore of Lake Irving. JPB staff informed them that this lot would require a variance as it does not meet the requirements for lot size within the sensitive area overlay.

## **PLANNING CONSIDERATIONS**

This lot does meet the dimensional standards of the (R-4) Residential District and the shoreland requirements for General Development Lakes; however, it does not meet the requirements of the Sensitive Area Overlay. The minimum lot size for an R-4 district is 6,000 square foot and for a riparian lot on a general development lake is 15,000 square foot.

### Sensitive Area Overlay (SA)

The following standards apply to lots located within the Sensitive Area Overlay District. Whenever these standards conflict with the requirements of the underlying zoning district, or another overlay district, the stricter standards shall apply.

1. Lot Size:
  - a. Minimum lot area: 5 acres
  - b. Minimum lot width: 200 feet
  - c. Minimum lot depth: 200 feet
2. Setbacks:
  - a. Front yard 30 feet
  - b. Side yard, principal structures 10 feet
  - c. Side and rear yard, accessory structures 5 feet
  - d. Rear yard 25 feet
3. Height of Structures 45 feet

### Existing Conditions

Currently, there are two (2) cabins and a detached garage that reside on this substandard parcel. One of the cabins currently lies inside the 50 foot setback from the ordinary high water level (OHW). This site is served by city utilities with both water and sewer. The applicant plans to remove both cabins and the garage once the new proposed house and garage are built. One cabin will remain for storage until the proposed house is fully constructed, then it will be demoed. The garage will also remain until such time that a new garage is constructed.

### Setbacks

No setback reductions are being requested as part of this variance.

### Impervious Surface/Drainage

No request for additional impervious surface is being made as part of this variance. The proposed impervious surface is 14% as the requirement is no greater than 25% without

providing increased stormwater mitigation. With the majority of the property being a wetland and residing in the sensitive area overlay, proper stormwater mitigation efforts shall be enforced to prevent impacts to Lake Irving or the nearby wetland. The applicant shall provide a stormwater plan prior to obtaining a building permit that will mitigate any potential runoff issues created by increased impervious surface.

#### Development Team (Public Works / Engineer; Building Official; Fire Department)

No issues were presented regarding this variance from either the fire department or the building department. The building department will need to approve plans prior to a building permit being issued for construction. An erosion control permit will need to be approved before any grading can start as well.

The City of Bemidji Engineering Department had the following response:

- Due to the close proximity to Lake Irving, I'd like to see a proposed grading plan ensuring pre- and post- stormwater runoff calculations and proposed building elevations.
- An erosion control plan should be submitted for approval.
- It would be preferred to have a paved driveway, due to the close proximity of Lake Irving and neighboring wetlands for stormwater runoff.
- Water and sewer are available, a proposed plan for modifying the existing services should be provided for review.

A grading plan will be required and reviewed by City of Bemidji Building and Engineering Departments as well as JPB staff before a building permit can be issued.

#### Neighborhood Comment

At the time of writing this report no comment or concern was received from any neighboring parcels.

#### Comprehensive Plan References

In regards to the comprehensive plan, the goals of the plan are to protect the safety, health and welfare of the community population and environment. With the proper construction steps for mitigating potential impacts, this request is in keeping with the goals and policies of the comprehensive plan. This request also provides opportunity to continue to improve and maintain the character of an existing neighborhood.

### **RECOMMENDATION**

Staff recommends approval of a variance for a lot size reduction of 152,460 square feet or 3.5 acres from its substandard lot, located at 710 Woodland Avenue SW in the R-4 Moderate Density Residential (SEWERED) and Shoreland zoning district. Approval recommended with the following conditions:

1. A grading and drainage plan as well as pre and post stormwater plan shall be submitted for approval by City of Bemidji and JPB staff prior to the start of any construction activities occurring on-site.
2. An erosion control plan shall be submitted for approval prior to obtaining a building permit.
3. The driveway shall be improved with a bituminous, paver or concrete surface to help reduce the amount of sediments entering Lake Irving or the nearby wetland.

Board members had the following concerns:

- Erickson sought clarification from staff on the 50' gap the applicant requested be paved. City Attorney Al Felix stated Woodland Avenue was previously vacated and it dead ends in front of applicant's driveway. Staff also stated three properties access this point.
- Frenzel asked staff if it is a normal request to ask applicant to pave in a sensitive overlay area. Staff explained the attempt is to mitigate effects on Lake Irving and the nearby wetland, as Lake Irving has recently been added to the MPCA list of impaired waters.
- Erickson supported applicant's request for the city to pave 50' gap and asked City Engineer Craig Gray if his staff could accommodate this. Gray said he would do this surfacing as part of summer maintenance as it is beneficial also for winter plow turn around.
- Albrecht questioned wetland delineation. Staff stated the area had been filled long ago, but the wetland was clearly defined, and verified by the county.

Motion by Frenzel, second by Erickson to approve Resolution No. 2017-45 for parcel 80.05072.00 for a variance of a lot size reduction of 152,460 square feet or 3.5 acres from its substandard lot, located at 710 Woodland Avenue SW in the R-4 Moderate Density Residential (SEWERED) and Shoreland zoning district, with the following conditions:

1. A grading and drainage plan as well as pre and post stormwater plan shall be submitted for approval by City of Bemidji and JPB staff prior to the start of any construction activities occurring on-site.
2. An erosion control plan shall be submitted for approval prior to obtaining a building permit.
3. The driveway shall be improved with a bituminous, paver or concrete surface to help reduce the amount of sediments entering Lake Irving or the nearby wetland. The City of Bemidji will surface the 50' gap between the applicant's driveway and the city road with bituminous.



And findings:

- 1. Has the applicant demonstrated a practical difficulty?**  
Yes. The existing parcel was platted lawfully before the adoption of the JPB ordinance, building a home and garage on a lot greater than one acre in size that meets the R-4 Zoning District and the requirements of a General Development Lake in a reasonable request.
- 2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**  
Yes. The lot was created lawfully before the Sensitive Area Overlay was in place within the GBAJPB Zoning and Subdivision Ordinance.
- 3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**  
Yes. The intent of the ordinance is to ensure substandard lots that are too small to be served by private well and septic systems are not developed; however, this lot is served by city utilities and is keeping with the spirit, purpose and intent of the zoning ordinance.
- 4. Can the variance be granted without altering the essential character of the surrounding area?**  
Yes. Other lots to the east along the north shore of Lake Irving all have single family house with either attached or detached garages. This will not alter the essential character of the neighborhood. With the proper stormwater mitigation efforts, impacts shall not occur to Lake Irving or the nearby wetland.

Motion carried unanimously.

ORDINANCE NO. 2017-09 -Z-17-80.02996.00 – WILDGEN & WILIMEK

At the JPC meeting the JPC agreed with staff's recommendation and the written request from the applicant to recommend to the JPB to choose the alternate zoning option, (O/M) Office/Medical with proposed text amendment changes in lieu of the original application to rezone to (B-2) General Commercial. This aligned better with the goals for future development for the applicant, as they never envisioned their properties being retail orientated. In staff's opinion this also works better to create a transitional district from high density residential areas to multi-family housing.

**BACKGROUND**

JPB staff were approached by a party looking to subdivide approximately one (1) acre off the Northwest corner of this parcel for a dentist office. The current use of the property is for a private mental health office, which would be a lawful non-conforming land use. Per section 302 of the JPB ordinance the current use of the property would be a medical clinic, which would not be allowed in the (R-6) Multi-Family zoning district.

A dental office would also be described as a medical clinic per section 302 of the zoning ordinance. This property was originally surveyed in 1986 to become four (4) approximately one (1) acre lots for the use of professional or medical type offices, at this time a sewer system was constructed for the development of four (4) lots. This property has been used commercially since 1986 and this request could potentially correct what may have been an error in the zoning map.

## **PLANNING CONSIDERATIONS**

### Existing Conditions

Site is currently a private mental healthcare facility. A sewer line does run north and south down the center of the property to accommodate the development of four (4) properties. R-6 Multiple Family Provide areas for multiple family residential development and compatible uses in both an urban and suburban setting.

### Adjacent Zoning and Land Use

The property proposed for rezoning is surrounded by a mix of land uses. The north and east of the property is multi-family zoning with a mix of multi-family uses, including senior living, townhome residential, and apartment buildings. To the south of the property is commercial zoning with a mix of commercial land uses. The west of the property includes a mix of commercial and multi-family zoning, including an assisted living facility and a bank. The bank property was rezoned in 2013 from (R-6) Multi-Family Residential to (B-2) General Commercial.

### Proposed Zoning

Continued use of this property as commercial and an increase in commercial land uses is anticipated to be compatible with the surrounding area. This area is transitioning from commercial to multi-family and medical type land uses. It is expected the current land owner will retain ownership of the property and wishes it only to be developed with uses compatible to what is their currently and what is being proposed.

A medical clinic is a permitted use in the (B-2) General Commercial zoning district and would not require further review by the JPC/JPB.

*B-2 General Commercial Provide areas for the placement of commercial establishments, including service, retail, and wholesale providers, and uses complimentary to such uses, in areas where central services are available.*

### Alternative Zoning Option

After further review of this request JPB staff felt that the (OM) Office/Medical zoning district could be more appropriate. As this property already has a medical component to it, and multiple-family residential is also allowed through a conditional use permit. The

allowed land uses are more fitting for a commercial to residential transition. This zoning district may also be more in line with the properties owners wishes to continue any development on the property to be compatible with what is their currently.

A medical clinic is a permitted use in the (OM) Office/Medical zoning district and would not require further review by the JPC/JPB.

*O/M Office/ Medical Provide areas for the placement of medical and professional office uses and compatible commercial uses.*

If the planning commission feels that the (OM) Office/Medical Zoning district is the right choice for this rezoning application, JPB staff would also recommend that the maximum impervious surface for this zoning district be increased from fifty (50) percent to seventy (70) percent. This was proposed to be changed in the last major zoning ordinance update that was not passed. This change the impervious surface regulations to be similar to commercial and multi-family zoning districts.

#### Transportation / Road Plan / GIS 911

No issues were brought to the attention of JPB staff in regards to this rezoning request.

#### Development Team (Public Works / Engineer; Building Official; Fire Department)

No concerns were presented to JPB staff from Public Works, Building, or Fire Department as at this time no development is occurring. Any development that does occur on this parcel will need to be reviewed by JPB staff and City of Bemidji staff.

#### Neighborhood Comment

No comment was received at the time of writing this report.

#### Comprehensive Plan References

This Greater Bemidji Area Land Use Plan has identified this area for residential use, as land use has changed around the area this request would be in keeping with the spirit and intent of the land use plan. This will allow for commercial growth to continue in a concentrated area.

### **RECOMMENDATION**

JPC recommends approval to rezone the property located at 1526 30<sup>th</sup> Street NW in the (R-6) Multi-Family Residential to (O/M) Office/Medical with the following findings:

- 1. Whether the change in classification would be consistent with the intent and purpose of this Ordinance.**

Yes. The current intent and proposed future land use are consistent with the (O/M) Office Medical Zoning District.

2. **Whether every use that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.**

Yes. Professional office and medical land uses are compatible in this area. This property has been used as a professional office since 1986, this area is a transitional area from multi-family to commercial uses. Preventing retail orientated establishments and adding more professional office or medical type uses is not anticipated to impact the adjacent properties.

3. **Whether adequate sewer and water facilities, and all other needed public services, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified.**

Yes. Municipal services are existing including, sewer, waste water, streets, and stormwater. The parcel was intended to be split into four (4) approximately one (1) acre lots, as a City of Bemidji sewer pipe was installed for the lot split in 1992.

4. **Whether the proposed amendment would correct an error in the application of this Ordinance.**

Yes. It cannot be completely certain that this property was zoned in error, however it was a professional medical office prior to the current zoning ordinance and zoning map.

5. **Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions.**

Yes. This large property has been solely used by one (1) business since 1986, with the rest of the lot remaining undeveloped. The property was originally proposed to be used for professional offices and was never developed, the continued growth of the Greater Bemidji Area is allowing the applicant the opportunity to develop a portion of the property as originally intended.

Board members had the following concerns:

- Albrecht asked if our attorney was consulted regarding spot zoning, staff replied he was not contacted. Albrecht questioned applicant's intent for future subdivision. Staff said there is potential for four (4) lots but only one (1) is planned at this time. Albrecht further stated concern that setbacks be maintained upon subdivision and correct process be used so that rules are not circumvented.
- Albrecht also stated the rezone makes sense, but has concerns as property is located amid residential zoning. Staff explained the rezone as a transitional zone as development is expected in surrounding area.

Motion by Albrecht, second by Frenzel to approve Ordinance No. 2017-09 amending the zoning map of the Greater Bemidji Area Zoning and Subdivision Ordinance for planning case Z-17-80.02996.00.

Motion carried unanimously.

RESOLUTION NO. 2017-46 -V-17-80.03304.00 - 80.03305.00 – CITY OF BEMIDJI

The City of Bemidji is requesting four (4) variances at 504 Paul Bunyan Drive NW, the current location of Discount Liquor and Orton's Convenience Store. 1.) Reduction in the North front yard setback of ten (10) feet of the required thirty (30) feet. 2.) Reduction in the East front yard setback of ten (10) feet of the required thirty (30) feet. 3.) Reduction in the South front yard setback of six (6) feet of the required thirty (30) feet. 4.) Reduction of five (5) of the required twenty-six (26) parking spaces.

Due to recent public concerns, staff consulted legal counsel about city representatives abstaining from the JPB vote. Attorney Troy Gilchrist stated the Joint Planning Board operates separately from the City and this planning case is not for individual benefit, so abstentions are not necessary. It is not considered a conflict of interest.

## **BACKGROUND**

The City of Bemidji owns two (2) municipal liquor stores, the State of Minnesota allows the establishment of municipal owned liquor stores to generate municipal income. This income can be used for special projects or property tax reduction. This also allows for further control on the sale of alcohol. The City of Bemidji has recently purchased the Orton's property in order to construct a new liquor store. The current store is too small to accommodate the retail space needed to display the variety of products, and it is anticipated a new store will allow for an increase in overall profits. The newly designed liquor store will create a modern liquor store atmosphere with increased cooler storage space accommodating the shifting market that requires more variety and diversity than in the past. Also, to combine inventory and retail space to create a more efficient atmosphere, an open floor concept could allow for inventory to be ready for sale in lieu of consistently having to stock shelves. The new design may be more similar to how a grocery store operates rather than a traditional off-sale liquor store.

## **PLANNING CONSIDERATIONS**

### Existing Conditions

The small lots on this block spanning from Delton Ave NW to Irvine Ave NW between Paul Bunyan Drive NW and 23rd St NW will be difficult for redevelopment to meet current zoning regulations. These lots are not benefited by the depth or size of other

areas of the Trunk Highway (T.H.) 197 Overlay District. It has been a common theme for redevelopment on smaller lots along T.H. 197 to request for variances to accommodate their proposed use. This redevelopment is continuing to improve the T.H. 197 corridor overall. The City of Bemidji has already submitted a lot combination application to JPB staff for the combining of the two (2) parcels into one (1) lot of record.

#### Front Yard Setback from Right-of-Way (ROW)

ROW setbacks are put in place to ensure that the public ROW is always maintained in a safe manner for all forms of transportation and to ensure that essential services and public utilities can be maintained and installed in the future. No adverse or negative impacts are anticipated from the ROW setbacks, and a safe ROW will be maintained for the future. All proposed buildings, signage, and landscaping will be outside of the site distance triangles.

#### Parking

City of Bemidji liquor store staff feel that approximately twenty (20) parking spaces would be sufficient for the amount of business anticipated. The existing store has seventeen (17) spaces which were sometimes used by Orton's customers. The proposed retail space would require twenty-six (26) parking spaces for passenger vehicles. The proposed site plan would include nineteen (19) passenger spaces and two (2) oversized spaces to accommodate customers hauling boats, snowmobiles, fish houses, etc.

#### Landscaping

The proposed site plan is meeting the landscaping and impervious surface requirements. A site that has no trees and is nearly one-hundred (100) percent impervious surface will now meet the thirty (30) percent impervious requirement with grass swales for stormwater infiltration and sixteen (16) trees will be planted. The site will not only meet the tree requirement, but will also meet the street frontage requirement between the front property line and the minimum front yard setback line.

#### Signage

A new sign is proposed meeting the fifteen (15) foot setback and will be less than twenty-five (25) feet in height. A building signage plan will also be developed that meets the ordinance.

#### Trash Handling

Dumpster enclosures do not currently exist on this site, one is being proposed and meeting Section 1002 standards.

Development Team (Public Works / Engineer; Building Official; Fire Department)

No issues were brought to the attention of JPB staff at the time of writing this report. City officials have been heavily involved in the planning and design of this liquor store. Final plans will be reviewed by all officials for compliance with City of Bemidji and JPB regulations.

Agency Review Considerations

Comment from Darren Laesch, MnDOT D2 Planning Director:

*MnDOT does not have concerns with the proposed variances. The proposed closure of the access points near the intersection of Irvine Avenue will have a positive impact on traffic safety and operations of the traffic signal. Future improvements on Paul Bunyan Drive are anticipated in 2027. For the upcoming project we will be analyzing options to improve walking and biking along the corridor. One of those options would be a grass boulevard with a multi-use trail. To alleviate future impacts, its encouraged that the proposed parking lot, trees and other permanent structures maintain 15'-20' of separation from the existing curb line to provide space for a future trail. Thank you for the opportunity to review the proposed plan.*

Response from Craig Gray, City of Bemidji Public Works Director / City Engineer

*The city strongly supports a trail along Trunk Highway 197. The current liquor store plan has 25 feet of separation from the existing TH 197 curb line to the building. We will work with MnDOT in 2027 to construct the trail around the parking lot area if they indeed build something in 10 years.*

Neighborhood Comment

No neighborhood comment was received at the time of writing this report.

Comprehensive Plan References

Redevelopment of old properties is encouraged in the Greater Bemidji Area. The proposed request has the potential to improve the safety of the adjacent roadways through removing multiple ingress/egress locations. Stormwater management will also be improved as the nearly impervious site will now include grass swales and trees. This request is in keeping with the objectives and policies of the Greater Bemidji Area Land Use Plan.

**RECOMMENDATION**

Staff recommends approval of four (4) variances. 1.) Reduction in the North front yard setback of ten (10) feet of the required thirty (30) feet. 2.) Reduction in the East front

yard setback of ten (10) feet of the required thirty (30) feet. 3.) Reduction in the South front yard setback of six (6) feet of the required thirty (30) feet. 4.) Reduction of five (5) of the required twenty-six (26) parking spaces.

Board members had the following concerns:

- Frenzel commented on concern of the new building being a site line obstruction. Staff reiterated MnDOT's support. Frenzel also questioned oversized parking spots, if credit is given to the applicant for this planning. Staff stated it would be good to address this in the future, as it is not currently defined in our ordinance. Further, Frenzel asked if the proposed walking trail takes away parking spaces. Staff explained this number was figured into the design, plus more parking is available on the south side of the building.
- Kelly questioned the potential trail running north along Paul Bunyan Drive, if it will leave 10' from the curb to the greenspace. Staff stated that space is 15' per MnDOT measurements, so it is very close, but will not eliminate any parking spaces. Further, Kelly asked how staff arrived at the number of 21 parking spaces if the calculation resulted in 26. Staff explained the final number was based on the type of retail and the floor area square footage, also the applicant was very aware of the needs for this location.
- Albrecht agreed with staff on the decision of the project meeting the 30% greenspace requirement with stormwater swales and trees over the priority of parking spaces. Further, Albrecht commented this priority was determined through Development Meetings which include applicant and other departments.

Motion by Albrecht, second by Erickson to approve Resolution No. 2017-46 for four (4) variances on parcels 80.03304.00 & 80.03305.00:

1. Reduction in the North front yard setback of ten (10) feet of the required thirty (30) feet.
2. Reduction in the East front yard setback of ten (10) feet of the required thirty (30) feet.
3. Reduction in the South front yard setback of six (6) feet of the required thirty (30) feet.
4. Reduction of five (5) of the required twenty-six (26) parking spaces.

With findings:

**1. Has the applicant demonstrated a practical difficulty?**

Yes. A practical difficulty exists as the existing lots are shallower in depth and smaller than average for lots along Paul Bunyan Drive NW. The lots being encumbered by three public right-of-ways create a practical difficulty for buildings to meet the strict enforcement of three (3) front yard setbacks. Meeting a thirty (30) percent greenspace requirement on smaller than



average lots and designing a safe parking lot to accommodate a variety of vehicles was found to not be possible with meeting parking requirements.

2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**

Yes. The smaller size of the lot and the shallower depth of the property in comparison to other lots within the T.H. 197 Overlay District creates a unique circumstance for these properties.

3. **Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**

Yes. Although setback encroachments towards a ROW are not encouraged significant effort has been made to increase green space and the overall safety of the site.

4. **Can the variance be granted without altering the essential character of the surrounding area?**

Yes. Other existing properties that were constructed in the past have encroached on setbacks and are nearly 100% impervious or have redeveloped into conforming sites. This redevelopment will match the other T.H. 197 sites that have been redeveloping in recent years.

Motion carried unanimously.

#### RESOLUTION NO. 2017-47 – V-17-80.05754.00 & 80.05755.00 – STITTSWORTH

Stittsworth Properties, LLC is requesting a variance from Section 1009 of the JPB ordinance in order to use Crushed Concrete Class V Gravel in lieu of bituminous pavement, concrete, or equally durable surface for a maximum of **10,276 Square Feet** of proposed improved surfacing. The properties are located northeast of Corrigan Ave SE and Herrington Ave SE intersection, located in the (I-1) Light Industrial Zoning District and are legally described as Block 7 Lot 5 & 6 of the Second Addition to Industrial Park Plat.

#### **BACKGROUND**

Applicant is proposing a meat processing plant at this current vacant location. The animals will be killed off site and transported to the processing plant to be processed, packaged and distributed. All waste or animal remains will remain at the farm or the site where the animal was harvested. Stittsworth Properties, LLC will have low volume heavy truck traffic maneuvering around the site as they come and go for the distribution of meat. The mobile slaughtering vehicle and trailer will be stored on-site when not in use.

The Greater Bemidji Area Zoning and Subdivision Ordinance does not define a meat processing facility and is not part of the Section 302 Land Use Matrix. Section 301 Allowed, Permitted, Conditional, and Interim Uses of the zoning ordinance states that:

The planning director feels a meat processing facility is a land use similar to a warehouse and distribution or retail (food distribution) with a wholesale production, which both uses are a permitted use in the (I-1) Light Industrial Zone.

## **PLANNING CONSIDERATIONS**

### **Recent Industrial Land Development**

Recent land development in the Second Addition to Industrial Park has consisted of development in the distribution industry including Coca-Cola, Frito-Lay, Fed-Ex, and Spee-Dee. These four properties have been developed in accordance with bituminous or concrete surface driving, parking, and loading areas. This has been the recent development trend for the industrial park for this type of land use.

Other recent land development was the Minnesota Limited Complex occupying the southerly most properties of the Industrial Park. A very large gravel surface was administratively approved for this development for the sole use of exterior storage of heavy equipment, pipe, and pipeline equipment. This was to be low traffic and not to be used as a consistent maneuvering area for distribution. In the event of a large project in the area heavy use of this could be anticipated in the short-term. JPB staff does not consider this proposal of a meat processing plant to be similar to the Minnesota Limited proposal for the use of gravel for exterior storage only.

Last month the JPB approved GM Development, LLC with a similar request to Stittsworth Properties, LLC for the site to use crushed concrete class V gravel in lieu of bituminous pavement, concrete, or equally durable surface. GM Development, LLC was approved for the operation of a trucking terminal cross-deck that obtains low volume heavy truck traffic with the storing of tractor truck trailers.

### **Improved Surfacing Requirements**

Section 1009 of the JPB ordinance requires that all parking, loading, and driving areas be surfaced with bituminous pavement, concrete or an equally durable surface. Durable surfaces are required for multiple reasons including; stormwater management reducing the amount of sediments traveling to stormwater management areas; air quality reducing dust and fine particles entering the air effecting surrounding land uses; controlling the continuous expansion of parking areas; and to ensure parking areas are in aesthetically pleasing condition and not full of rutting, water pockets, and unwanted vegetation.

The proposed portion of this lot requested to be surfaced with crushed concrete class five gravel is not for the sole purpose of exterior storage, it is also for the maneuvering of semis and trailers around the site. The applicant did inform us that the mobile slaughtering vehicle and trailer will be stored on the gravel area while not in use. The applicant was informed that semi-trailers or other containers are not to be used as storage on site for the business.

#### Stormwater and Drainage

A preliminary grading and drainage plan was submitted with the application to demonstrate the potential plan for stormwater runoff. A final engineered grading plan will need to be approved by City of Bemidji engineering staff. To the best of my knowledge the grading and drainage plan does not take into account the difference in surface materials whether that be gravel or pavement and assumes entire area as an impervious surface as JPB ordinance would classify it.

#### Transportation

The applicant is requesting one (1) forty-five (45) foot wide ingress/egress to Corrigan Ave SE. Access and size of access to roadways is up to the local road authority to decide, in this case the City of Bemidji Engineering and Streets Department will review the final engineering plans and proposal for ingress/egress location and provide recommendation to the applicant. With the location of where the ingress/egress will be located, Corrigan Ave SE will need to be extended to ensure the Stittsworth development is connected to a paved city street at the Developer's cost. With the extension to Corrigan Ave SE; water, sewer and electrical would all need to be extended past the impervious as well for future development.

#### Landscaping

A landscaping plan has not been submitted as part of this request. The minimum standards for this location are four (4) trees along the street frontage and ten (10) trees required in total throughout the site. A final landscaping plan would need to be submitted before final project approval and prior to construction starting.

#### Overall Development

All other performance standards such as lighting, signage, screening, exterior storage will be reviewed for compliance before final project approval and construction start. Development Team (Public Works / Engineer; Building Official; Fire Department) Neither the Building Department nor the Fire Department had any concerns regarding this proposed project. The Public Works/Engineering Department is opposed to granting a variance from the required bituminous surfacing requirements for this project. The City Engineer has requested staff to reference and include the memo from the GM Development, LCC variance request, in addition to the attached email, for review in regards to this variance request. All of the comments are the same and also apply to

this Stittsworth Planning case. City Engineer also reiterated that this is a bad road that we are going down in relation to the city's stormwater management goals and it will result in future costs for the city taxpayer.

A final grading and drainage plan is required to be submitted by an engineer and will need to be approved by the city engineering department, a final site plan will need to be approved by JPB and the fire department, and final architecture plans will need to be approved by the building department and fire department before any construction can commence.

#### Neighborhood Comment

At the time of writing this report, JPB staff has not received any comments from the neighborhood; however, an area landowner that followed the GM Development, LLC planning case very closely, has expressed disappointment in the final decision of the JPB to allow a deviation of the high standards they felt protected with their investment in this industrial park.

#### Comprehensive Plan References

This request is not in keeping with Greater Bemidji Area Land Use Plan as the granting of a variance from the improved surface requirements is not promoting best planning practices in the implementation of the ordinance and land use plan nor is it in keeping with the spirit and intent of the of the land use ordinance, ensuring uniform development throughout the regulation developed for the various zoning districts of the Greater Bemidji Area.

### **RECOMMENDATION**

Staff recommends the denial of a variance from Section 1009 of the JPB ordinance in order to use Crushed Concrete Class V Gravel in lieu of bituminous pavement, concrete, or equally durable surface for a maximum of 10,276 Square Feet of proposed improved surfacing. Located in the (I-1) Light Industrial Zoning District in the City of Bemidji due northeast of Corrigan Ave SE and Herrington Ave SE intersection and legally described as Block 7 Lot 5 & 6 of the Second Addition to Industrial Park Plat, parcels 80.05754.00 & 80.05755.00.

Board members had the following concerns:

- Frenzel commented that this case is different from Magnum Trucking variance because their intent was for long term storage area whereas the Stittsworth variance request is not for the same use. Frenzel also stated the need for ordinance update for clarification.
- Albrecht asked if staff contacted the Bemidji Development Corporation (BDC) about utility extension, which they had not. Albrecht further questioned who is expected to pay for pavement when it is extended. City Engineer Craig Gray

stated the applicant is generally responsible for extending pavement to the area that is being developed, and the city is generally responsible for covering the cost to extend the mains for sanitary sewer and water beyond the development project.

- Erickson questioned 2008 Industrial Park development which the city undertook for the BDC. Albrecht clarified that funding sources including state loans and grants were utilized, and the BDC also contributed funding.
- Albrecht asked if the site's stormwater system drains into two (2) large swales. Gray stated the ponds are dedicated to the Industrial Park but are maintained by the city.
- Frenzel questioned future expansion of this site, and if staff would be able to administratively allow changes so applicant has time to develop area. Staff unsure about administrative changes, but stated if this project expands, it will do so in the southeast which is opposite the location of proposed crushed concrete. Further, staff stated this project differs from Magnum expansion options.
- Applicant Mychal Stittsworth spoke to the board as he was absent from the JPC hearing. Stittsworth explained the slaughter trailer will be stored on the bituminous in front of the building where contents can be transferred to the retail area. The front of the building will also receive local deliveries. Initially for construction, large equipment will be delivered on the northwest side. Eventually a back haul operation is planned, which involves a distributor dropping off a trailer that may sit for multiple days before being swapped out with another trailer. Stittsworth also clarified that maneuvering will not be a daily activity, most traffic will occur on bituminous. Further, the enclosed dumpsters will not be on bituminous but will face it.

Motion by Erickson, second by Meehlhause to follow staff recommendation which is based on the current ordinance to approve Resolution No. 2017-47 to deny the variance for parcels 80.05754.00 & 80.05755.00, including the findings of fact:

**1. Has the applicant demonstrated a practical difficulty?**

No. The use of an alternate to concrete, bituminous, paver, or equally durable surface at a meat processing plant for the purpose of driving and a maneuvering area does not constitute a practical difficulty for reasons other than the higher cost of required surfaces. Crushed concrete would not be considered an equally durable surface to the proposed alternative of bituminous pavement. Crushed concrete also does not infiltrate stormwater more effectively than bituminous, and will likely have greater impacts on stormwater infrastructure with an increase in fine sediments. The required surfaces can be designed or engineered to handle the heavy truck traffic and the storing of equipment and machinery.

2. **Are there exceptional circumstances, unique to this property, which have not been created by the land owner?**  
No. This is a large vacant currently undeveloped lot without any unusual constraints. The request is to use the land in a different way than allowed by the ordinance, therefore the use of crushed concrete or bituminous paving is not a unique circumstance to the property to be considered for variance approval.
3. **Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?**  
No. A variance from the improved surface requirements is not promoting best planning practices in the implementation of the ordinance and land use plan, nor is it in keeping with the spirit and intent of the of the zoning ordinance. The objective of the (I-1) Light Industrial Zoning District to encourage the development of industrial uses which are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants. The large amount of proposed crushed concrete has the potential to create issues with air quality with increased dust and stormwater pollution with an increase in sediments traveling to stormwater ponds.
4. **Can the variance be granted without altering the essential character of the surrounding area?**  
No. Recent similar use developments through the Second Addition to Industrial Park have been constructed with surfaces meeting the requirements of the JPB ordinance; however, GM Development, LLC was recently approved a variance for the use of crushed concrete class five gravel for the maneuvering and storing semi-trailers. The current zoning ordinance was already amended to allow for a ten (10) percent increase in impervious surface area; continued relaxation of the zoning ordinance has potential to alter the intended development and proposed character of the Second Addition to the Industrial Park.

Motion carried unanimously.

#### OTHER BUSINESS

#### 2018 MEETING CALENDAR

Staff presented Resolution No. 2017-40 approving the Calendar of Meetings for 2018.

Motion by Erickson, second by Frenzel to approve Resolution No. 2017-40 as presented.

Motion carried unanimously.

### 2018 FEE SCHEDULE

Staff presented Ordinance No. 2017-08 to amend the Greater Bemidji Area Joint Planning Board Fee Schedule.

Motion by Meehlhause, second by Erickson to approve Ordinance No. 2017-08 as presented.

Motion carried unanimously.

### 2017 BUDGET AMENDMENTS

Staff presented income and expense adjustments to the 2017 budget.

Motion by Erickson, second by Meehlhause to approve the 2017 GBAJPB Budget adjustments as presented.

Motion carried unanimously.

### DIRECTOR'S REPORT

Mai summarized upcoming planning cases, development projects, and also stated that chapters 1 – 4 of the comprehensive plan have been completed by the consultant, and expects that chapters 5 – 9 will be completed by the end of the week. Mai further offered the Year End Report which is available in the board packet.

### UPCOMING MEETING DATES:

December 21, 2017	-- JPC Regular Meeting @ 6:00 p.m.
January 10, 2018	-- JPB Regular Meeting @ 6:00 p.m.
January 25, 2018	-- JPC Regular Meeting @ 6:00 p.m.
February 14, 2018	-- JPB Regular Meeting @ 6:00 p.m.

Board members and staff had the following concerns:

- Frenzel asked Chair Kelly what the response should be to constituents when asked why people were not allowed to speak at the Joint Planning Board meeting. Kelly stated that the public does not participate in the JPB meeting, but the chair has the option to allow it but must be able to keep the meeting on task. Frenzel clarified that the Visitor section would be the part of the meeting to speak up.
- Erickson stated that when visitors are invited to speak during the Visitor section on the agenda, it is intended as open time for questions and comments, not for case related discussion.
- Albrecht stated public comments are at the discretion of the chair. Board members can ask for clarification at any time, to better understand the case.

- City Attorney Al Felix stated that all of these board concerns are correct. The one time that public was allowed to speak tonight made sense as the applicant was not present at the public hearing. Felix also stated that extra staff was present if needed to address any concerns during the meeting.
- Erickson encouraged written comments from public.
- Kelly stated the public may have concerns between the public hearing and the board meeting, and ability to speak could be granted.

ADJOURNMENT:

There being no further business, motion by Albrecht, second by Erickson, to adjourn the Joint Planning Board meeting at 8:05 PM.

Motion carried unanimously.

Respectfully submitted,  
Terri Ball  
Planning Assistant

JPB Minutes Approved and attested by:

  
\_\_\_\_\_  
Joint Planning Board Representative