

**AGENDA**  
**GREATER BEMIDJI AREA JOINT PLANNING BOARD**  
**City Hall Council Chambers/Webex**  
(For log in information <https://www.jpbgba.org/planning-actions>)  
**Wednesday, April 13, 2022 REGULAR MEETING – 6:00 p.m.**

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

**A. MINUTES** **Chair**  
Approval of March 9, 2022 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. **Resolution No. 2022-07** – Consider Letter of Support & Resolution for Joint USDOT RAISE Grant Application with MnDOT **JC**

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

- D. NEW BUSINESS**
- 1. **City of Bemidji** – **Ordinance No. 2022-03** – Z-22-80.00889.00 & 80.00890.00 – Timothy Edmiston & Bemidji Professional Building Inc. **JC**
  - 2. **City of Bemidji** – **Resolution No. 2022-05** – V-22-80.04872.00 – Doug & Kim Williams **NP**
  - 3. **City of Bemidji** – **Ordinance No. 2022-04** – Z-22-80.05511.00 & 80.05512.00 – Eric Nelson **NP**
  - 4. **City of Bemidji** – **Resolution No. 2022-06** – IUP-22-80.06166.00 – Aurora Waasakone Community of Learners **NP**
  - 5. Discuss LGU Contributions for 2023 **JC**
  - 6. Discuss next LGU meeting **JC**

**E. OTHER BUSINESS**

- 1. Update on upcoming listening session for area business owners **JC**

**F. DIRECTOR’S REPORT** **JC**

**G. SITE ANALYST & ENFORCEMENT UPDATE** **MF**

- H. UPCOMING MEETINGS** **Chair**
- 1. April 26, 2022      2:00-4:30 pm      JPB Listening Session at the Sanford Center
  - 2. April 28, 2022      6:00 pm              JPC Regular Meeting
  - 3. May 11, 2022       6:00 pm              JPB Regular Meeting
  - 4. May 26, 2022       6:00 pm              JPC Regular Meeting
  - 5. June 8, 2022        6:00 pm              JPB Regular Meeting

**I. ADJOURN** **Chair**

**GREATER BEMIDJI AREA JOINT PLANNING BOARD**  
**Meeting Minutes**  
**April 13, 2022**

Pursuant to due call and notice, a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, March 9, 2022. Chair Jorge Prince called the meeting to order at 6:00 pm and roll call was taken.

Upon roll call, the following members were declared present: Prince, Thayer, Peterson, Barnard (alternate), Frenzel.

Members absent: Lahn (utilized alternate).

Staff present: Jamin Carlson, Ainslee Krause, Nick Phillips, Melissa Fahrenbruch.

Others in attendance: R. Scott Pearson, Mark Dickinson, CT Marhula, Eric Nelson.

Pledge of Allegiance was performed.

**AGENDA**

Motion by Thayer, second by Frenzel, to approve the agenda. Motion carried unanimously.

**MINUTES**

Motion by Frenzel, second by Thayer, to approve the March 9, 2022 minutes as presented. Motion carried unanimously.

**CONSENT AGENDA**

- 1) Bills for the total amount of \$6,067.48 were presented for payment.
- 2) **Resolution No. 2022-07** – Consider Letter of Support & Resolution for Joint USDOT RAISE Grant Application with MnDOT

Frenzel requested that staff elaborate on the letter of support. Staff identified that it was the same letter and information that was recently brought before City Council, and the resolution and letter were in support of MnDOT's grant application for Highway 197 improvements.

Motion by Frenzel, second by Peterson, to approve the consent agenda. Motion carried unanimously.

**VISITORS WITH BUSINESS NOT ON THE AGENDA**

No visitors.

**NEW BUSINESS**

**ORDINANCE No. 2022-03 – Z-22-80.00889.00 & 80.00890.00 – TIMOTHY EDMISTON & BEMIDJI PROFESSIONAL BUILDING, INC.**

Timothy Edmiston/De Fidelis, LLC & Bemidji Professional Building Inc. are requesting a rezone of properties at 201 & 205 7th St NW, currently in the R-5 High Density Residential Zoning District, to

U-R Urban Renaissance Zoning District. The subject properties have been used as professional offices going back decades and this rezone request will get the use closer to conformity with the Ordinance.

Timothy Edmiston/De Fidelis, LLC a potential buyer for the 201 7<sup>th</sup> St. NW (80.00889.00) property called JPB staff and he inquired about the zoning and if a use change could happen at this location. After a good deal of discussion through phone calls, emails, and office visits with both property representatives (205 & 201 7<sup>th</sup> St. NW), it was recommended to have this and the adjoining lot rezoned. Adverse effects on the surrounding neighborhoods are not anticipated with this rezone proposal as the parcels have already been used as offices and the proposed use (Spa/Clinic) is permitted under the urban renaissance (UR) district. Any higher intensity land-uses or major redevelopment of the area would require significant review by either JPB and City staff or the Commission and Board.

#### Development Team

No comments from the development team at the time of writing the report.

#### Neighborhood Comment

At the time of writing this report, no neighborhood concerns were received.

#### RECOMMENDATION & FINDINGS

JPC and Staff recommend approval for a rezone of the subject properties, parcels 80.00889.00 & 80.00890.00 from (R-5) High Density Residential to (UR) Urban Renaissance, in order to reflect existing land use of the properties and to allow continued development of those properties under such compatible commercial uses. Approval of this rezone action is based on the following findings of fact:

#### Findings of Fact:

**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 Urban Renaissance Zoning District. The subject properties have been in commercial use for quite some time and are consistent with the purpose of the Ordinance as they would be closer to conformity with a zoning change.

**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. This area is made up of the single-family to the north, county services buildings, St. Philips, other similar uses. Other urban renaissance uses reside to the south, west and east of the subject 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 do exist at this location.

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

Yes. This would resolve an existing non-conformity and move the subject properties towards the goal of conformity with the Ordinance.

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

Yes. These properties have been zoned R-5 and the uses have been an office type going back decades and this proposed amendment would correct that. As re-development occurs, areas located in certain parts of the city are better suited to commercial uses, due to their proximity to other intensive land-uses, transportation nodes, and desirable amenities.

**BOARD DISCUSSION AND DECISION**

Board members had the following comments:

- Frenzel asked if there was feedback from Beltrami County. Carlson addressed that the jail was not specifically contacted regarding this case, but there would have been neighborhood notice. Prince addressed that the jail is just starting their feasibility study so they are not currently looking at procuring additional property in that area.
- Thayer inquired as to the timeline of the plan for the jail. Prince noted that they are in the feasibility study portion, so this may be some number of years. Members discussed.
- Prince inquired about Urban Renaissance zoning. Carlson noted that almost all of downtown is Urban Renaissance.

Motion by Thayer, second by Peterson, to approve Ordinance No. 2022-03 for a rezone of the subject properties, parcels 80.00889.00 & 80.00890.00 from (R-5) High Density Residential to (UR) Urban Renaissance, in order to reflect existing land use of the properties and to allow continued development of those properties under such compatible commercial uses, with the above stated findings of fact.

Ayes: Frenzel, Barnard, Prince, Thayer, Peterson.  
Nays: None.

Motion carried unanimously.

**RESOLUTION 2022-05 – V-22-80.04872.00 – DOUG & KIM WILLIAMS**

Doug & Kim Williams are seeking a variance in order to construct a new accessory structure consisting of a shop with a covered patio and garage on their lot located at 3345 River Park Ct NE within the City of Bemidji. This parcel lies within the (R-2) Suburban Residential Zoning District and Forested River Shoreland Overlay. The requested variance is for an ordinary high-water mark structure setback reduction from the required 150 feet per Section 901(D) to 130 feet.

The Applicants previously applied for a variance on May 28<sup>th</sup>, 2021. The initial request was for a setback reduction of 25 feet from the required 150-foot OHWM setback. During review of that initial variance consideration, the JPB found that the variance could not be approved due to the applicant's failure to adequately demonstrate a practical difficulty. Since that variance denial, alternative site layouts were discussed, and the applicants reevaluated the proposal to construct this accessory structure. The property is an existing lot of record (was previously two lots of record that have since been combined 12/6/2021), and the existing house was placed at a 75-foot setback via a variance request in 1996 (Case #96-4), which cited the previous setback of 75 foot at the time the lot was subdivided in 1984. Through redesign and relocation efforts, the applicants now plan to build the new accessory structure near the same location north of the existing dwelling, now at a 130-foot setback from the OHWM. Overall impervious surface is currently at approximately 12%.

**Existing Conditions**

This is an existing substandard lot of record consisting of a house, deck, sidewalks, patio, and a

concrete driveway. The current single-family house covers approximately 4,300 square feet at the overhangs, with driveway and attendant features covering an additional 3,300 square feet outside of overhangs (appx. total). The area east of the existing garden has been cleared of a single tree and all ground cover, in preparation for siting the accessory structure. No noticeable topographic alteration has yet occurred and the work is outside of any steep slopes or the shore impact zone. As the permitted use of the lot is already established (single-family dwelling) this land alteration does not appear to have needed a conditional use permit, and only at such time that any topographic changes occur will one be needed if not associated with valid building permits.

### Proposed Improvements

The applicant proposes a new combined shop and garage accessory structure. The roofline of this structure would measure 40 foot by 40 foot at the drip edges. A shop area would be contained within that footprint, along with a triangular covered patio lakeside on the south west corner.

The structure footings and exterior wall would be located at a 144-foot setback from the OHWM. As shown on the site plan, the proposed structure will be placed at a 130-foot setback from its closets point to the OHWM, which consists of the southwest corner of the roof edge of the covered patio (next page).

A new driveway extension will be added to the existing concrete drive. As seen on topographic maps of the area, the applicant had to contend with setting the structure far back enough to allow a more gradual slope into the garage, but accounted for some of this by setting the entire structure further below existing grade. Overall impervious surface is currently at approximately 12% of the combined lot area, and this proposal would increase coverage to just over 15% of the combined lot area.

The applicant states that this revised site plan will work better than their original proposal, easing the ability to maneuver vehicles into the parking stalls while reducing the visual impact of the building as visible from the river and other areas on the property. The shorter vertical encroachment will reduce shade for the existing garden, and allow energy conservation through the reduced exposure to the weather. Additionally, the applicant states the pyramidal hip roof system of this design fits more in line with the existing dwelling, and is simpler than their previous rendition that included a cross-hipped design with a custom face to the southwest.

### Maneuverability

The site layout was reviewed to determine the ease of backing a vehicle and trailer combination, based on the average turning radius of 45 foot for the tow vehicle and an overall combined length of 50 feet. Such an arc would just be possible starting centered from the existing driveway and into the new structure, however shifting the structure further east would require widening of the driveway to the east of the existing garage structure, encroaching onto the SSTS drainfield. A small amount of setback reduction could be achieved through this realignment; however, the assumption is that this represents the minimum required radius and maneuvering area, and not the safest or most comfortable radius. This layout is preferred and would allow the applicant to avoid backing up from the public roadway, which presents a safety concern to the surrounding neighborhood.

Staff received a letter from Frohn Township as part of this revised application (attached), which outlines that the revised site plan is generally favorable to the township, and the township notes the current location is ideally located for public safety, where relocation would be less desirable.

### Neighborhood Comment

Many of the applicant's neighbors had commented in favor of the original variance request. During the most recent notice period, three neighbors reached out again to provide support:

**Glen Bergeron** (3479 River Park RD NE) noted he is in favor of the request  
**Bob Cole** (5537 River Park RD NE) noted he is in favor of the request  
**Olga Cole** (5537 River Park RD NE) noted the Williams are good neighbors, have well-kept property and buildings, and stated she is in favor of the variance.

#### City Engineer Office Comment

Sam Anderson, Assistant City Engineer, provided the following comment via email on March 4, 2022: "The driveway location discussion will involve Frohn Township since they are the road authority, but it doesn't appear to be moving.

The 2-foot contours indicate that area where the new garage would be constructed is relatively flat, with a steeper drop off just prior to the Mississippi River. I would request an erosion control plan be included for my review with an erosion control permit for approval prior to construction. Slope arrows on a site plan to indicate future stormwater flow direction with the new garage along with denoting proposed downspouts would be sufficient for a grading & drainage plan."

Staff would recommend that the applicant install a gutter system on the new structure to direct stormwater towards a mitigation system such as raingardens or natural low areas on the owners own property east of the proposed structure. That plan would be intended to prevent additional storm-water runoff from collecting on neighboring properties or reaching the aquatic resource. Such a stormwater mitigation plan shall be submitted to JPB Staff and City Engineer for review and approval prior to permits being issued.

A landscaping plan would need to be submitted if any additional trees, shrubs, or vegetation are to be removed. Erosion control would have to be in place before any further construction activities begin and remain intact until suitable vegetation is established and in place.

#### RECOMMENDATION & FINDINGS

JPC and Staff recommend approval of the requested OHWM setback variance in order to build an accessory structure at 3345 River Park Court NE. Approval is recommended with the following conditions and findings of fact:

#### Conditions:

1. Buildings shall be staked by a licensed, professional surveyor to mitigate further setback encroachment.
2. JPB site verification form and fee shall be submitted prior to construction.
3. An erosion control plan shall be submitted to the City Engineer, approved, and erosion control permit issued before any construction commences on the property. All construction shall meet State Building Code requirements, and be permitted by the City of Bemidji Building Department.
4. Any stormwater discharge generated by the new structure must be directed solely onto the applicant's property, and must not be directed or otherwise discharged onto neighboring properties without first being treated onsite through a stormwater mitigation plan approved by JPB staff and Public Works. Stormwater runoff from portions of the structure that encroach on the structure setback from the Ordinary High Water Mark shall be redirected away from the aquatic resource.
5. If further tree removal or landscaping disturbance is necessary to accomplish the proposed work, a landscaping plan shall be submitted to the JPB for review and approval, and any necessary shoreland alteration or tree removal permits obtained, before the building permit is issued.
6. The variance shall expire and become void if the project is not substantially started

within twelve (12) months from its date of variance approval. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

#### Findings of Fact:

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

Yes. The applicant has provided sufficient evidence to show that alternate site plans or configurations will not work to meet the uses described while meeting existing setbacks. The applicants have stated that the location of the new garage structure is critical for their ability to maneuver a long trailer without backing up onto the public roadway. Staff believe that the difficulty partially arises from the owner's past choice in placement of the single-family dwelling and driveway alignment, but the township's statement that they would not favor relocation of that driveway presents serious limitations to any further site development. While expansion of the existing garage to the north would accommodate the room necessary for storage of a longer trailer, it does not address the other uses the proposed structure would provide, and such a site redesign would still require backing the trailer onto the property from the public roadway.

##### **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 lot of record within the shore land overlay, which limits available space on the lot to meet the required setbacks. While past variances allowed the construction of a dwelling at a 75' setback, and this has established the primary use of the parcel without sacrificing all buildable areas available to the owner, the ability to relocate the driveway to access those structures has been removed.

##### **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. This proposal, if approved, would be required to provide mitigation for excess storm-water runoff.

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

Yes. This neighborhood has seen development on small lots within the allowed setbacks via past variances, and the existing structures to the south and north of the proposed structure are already set closer to the river than the 130-foot setback the applicant has proposed.

#### BOARD DISCUSSION AND DECISION

Board members had the following comments:

- Thayer inquired as to the neighbors who were in support and their proximity to the applicant. Phillips clarified.
- Frenzel expressed concern over changing the natural terrain of a shoreland site, and noted that in his opinion such actions should be considered within practical difficulty findings as more than an economic consideration.

Motion by Frenzel, second by Thayer, to approve Resolution 2022-05 to approve the OWHM setback variance in order to build an accessory structure at 3345 River Park Court NE., subject to the above stated conditions and findings of fact.

Ayes: Frenzel, Barnard, Prince, Thayer, Peterson.  
Nays: None.

Motion carried unanimously.

**ORDINANCE No. 2022-04 – Z-22-80.05511.00 & 80.05512.00 – ERIC NELSON**

Eric Nelson is the prospective buyer of the subject properties currently owned by Rough Cut LLC. He is requesting a rezone of these properties from (B-2) General Commercial to (R-6) Multifamily Residential. These properties are located on the west end of Tracy Court NW, within the City of Bemidji. Currently these properties are partially developed lots previously platted as Lots 2 & 3, Block 1 of Bardwell Park. Eric Nelson approached Staff inquiring about the potential development of these properties for multi-family housing, and is proposing to extend the existing (R-6) Residential Zone north of the subject properties to the south.

When reviewing zoning requests, it is imperative to ensure that “spot zones” are not created. Spot zoning allows for a particular parcel of land to have land uses differing from land uses allowed in adjacent and small regional areas, and is likely a deviation from the land use plan. Per the current Zoning Map below, the existing commercial classification abuts multi-family residential use, and reclassifying it would create a larger block of residential properties available for development. The existing commercial classification follows with many other properties in the Bardwell Park development, which generally serve commercial uses well. However, the properties in question are at the end of Tracy Court, where numerous non-commercial and non-conforming uses had previously been established for residential development. Additionally, the subject properties contain large amounts of wetland area, which limit the scope of potential commercial development. Due to those factors, the street appears to be best suited for residential development.

The Greater Bemidji Area Comprehensive Plan shows the area is already zoned in harmony with the proposed future land use patterns. While this proposal would not be in line with that proposed map, it does not conflict with it either, as the proposed residential use is not likely to be subject to intrusion by high-density commercial development, due to the unique character and existing development of the immediate surrounding lots.

The street is not well suited for heavy traffic, limiting potential development to lower traffic uses. In addition, this part of Bardwell Park does not have high visibility, which lowers the utility of the land for many general retail operations. Given these considerations, future intensification on surrounding properties is not likely to occur in a manner that would negatively affect the subject properties.

**Development Team Comment**

Sam Anderson, Assistant City Engineer, emailed the following comment on March 4, 2022: *“I don’t have any major engineering related concerns with this rezone request. Any future development or redevelopment would require further review for how it would function on these individual properties. Municipal services are available, which will help with future plans.”*

**Neighborhood Comment**

At the time of writing this report, no neighborhood concerns were received.

**RECOMMENDATION & FINDINGS**

JPC and Staff recommend approval for a rezone of the subject properties, parcels 80.05511.00 and 80.05512.00 from (B-2) General Commercial to (R-6) Multi-Family Residential, in order to allow expansion of existing residential development on the subject lots for multi-family residential use. Approval of this rezone action is based on the following findings of fact:

## Findings of Fact:

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

Yes. The proposed future land use is consistent with many of the surrounding properties on this street and those abutting on the street to the south. Properties along Tracy Court NW have been developed single-family residential for quite some time, and the addition of additional affordable housing is in the scope of the comprehensive plan and zoning ordinance.

### **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. While this area is made up of a mix of defunct commercial and residential uses, the existing commercial lots in the vicinity have limitations that would preclude intensive commercial activity, such as wetland areas, low visibility, or restrictive layouts that would require special approvals. The residential use of these properties would fit in well with the rest of Tracy Court to the east.

### **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. These lots are currently serviced, and the proposed multi-tenant uses would be appropriately serviced by the existing infrastructure.

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

Yes. This proposal would avoid the potential development of these two lots into more intense commercial use that could pose an impact to the remaining residential neighborhood and aquatic resources in this neighborhood. While commercial uses do fit within the general area of Bardwell Park, residential neighborhoods are best designed when the entire roadway can be managed uniformly for traffic control and distribution of utility services.

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

Yes. The Greater Bemidji Area continues to change as development continues to move outwards from the City of Bemidji, and demand for affordable housing has increased. As re-development occurs, areas located in sensitive overlays or areas problematic to future development should be geared toward less impactful and lower intensity uses.

## BOARD DISCUSSION AND DECISION

Board members had the following comments:

- Frenzel inquired about surrounding properties. Phillips addressed that a number of the neighboring properties are residential and they are existing nonconformities. No neighboring property owners came forward to join the Applicant in getting their properties rezoned to residential as well.
- Members and staff discussed the surrounding properties and the current zoning.
- Prince discussed incentive on connecting to city water and sewer for properties located in Bardwell Park.

Motion by Peterson, second by Thayer, to approve Ordinance No. 2022-04 to approve a rezone of the subject properties, parcels 80.05511.00 and 80.05512.00 from (B-2) General Commercial to (R-6) Multi-Family Residential, subject to the above stated findings of fact.

Ayes: Frenzel, Barnard, Prince, Thayer, Peterson.  
Nays: None.

Motion carried unanimously.

**RESOLUTION 2022-06 – IUP-22-80.06166.00 – AURORA WAASAKONE COMMUNITY OF LEARNERS**

Anna Wallin of the Aurora Waasakone Community of Learners (AWCL) is requesting approval of an Interim Use Permit (IUP) to operate a charter school in an existing leased space located at 3604 Bemidji Ave N, parcel 80.06166.00, in the City of Bemidji. This parcel is located in the (B-1) Low Density Commercial Zoning District and Shoreland Overlay District.

Currently, the site is developed with a conforming structure previously operated as business offices and records storage for Sanford Health. Construction of the current building was approved by the Beltrami County Planning Commission as part of a CUP in 1997 (Recorder Document MF 379562), allowing the commercial construction in the shoreland zone. The Applicant reviewed options for utilizing the site and existing building for the school, and both parties decided that extensive remodeling of the interior would be necessary to meet Charter standards. The Applicant and property owner later approached JPB and City staff regarding the remodel of the interior of this building for the proposed charter school use, and were informed of the need for an IUP for the operation. While many components of the site meet current Ordinance requirements, some improvements were initially identified to bring the property into full conformity with current standards. However, §501(G) states:

*“When any lawful nonconforming use of any structure or land is replaced by another use or new structure of different size, the new use or structure must conform to the provisions of this Ordinance and it shall not thereafter be changed to any nonconforming use or structure.”*

After review of this language with the JPB attorney, and discussion of similar case law, staff have determined that this application should be viewed as a change in use only, and as such the language in 501(G) only pertains to conformity with Ordinance requirements that have a direct nexus to that change in use. In this particular case, ordinance conformity through mandated site improvements are limited to those necessary to meet traffic control and public safety/health concerns, which includes changes to controlling the increased traffic movement, pedestrian safety, encroachments on greenspace or sidewalks or infrastructure from said traffic, and health-safety concerns arising from the increased site population.

**Parking & Traffic**

Per the requirements in §1009B, Schools – Elementary and Middle School (Primary and Intermediate schools) shall provide one (1) space per each faculty member of full-employee status. Employee parking space is provided on the west and north parts of the property, as required by Section 1009, and additional spaces will be available to provide waiting stalls and ADA compliant access as necessary to accommodate their specific needs during student pick-up and drop-off.

Staff arrival and departure will be between 07:30-08:00 and 15:30-16:00 on school days. No more than two (2) school buses will arrive at 8:25 and 15:05 on school days to shuttle students to designated ISD 31 locations, and any remaining students will be allowed parent drop-off and pick-up times as needed. Additional parking is available in the front lot for parent shuttling of students, and if necessary the buses can be directed to the back portion of the property to avoid congestion.

It shall be the Applicant’s sole responsibility to submit a traffic management plan to JPB staff to be implemented on site. Such a plan should allow for vehicle and bus traffic to safely drop off and pick

up students, without creating a hazard to traffic on Bemidji Avenue. Signage shall be installed at both accesses that limits incoming and outgoing vehicles, with ingress favored to the south access and egress from the north shared access. Such signage should proximately identify the school, signaling to traffic that the shared access to the north would allow incoming and outgoing traffic to the neighboring property. Further delineation of the forty-two-foot (42) wide shared access may be necessary in the traffic management plan to show a sixteen to eighteen-foot (16-18) wide exit-only lane from the school property, leaving a twenty-four-foot (24) wide two-way access for the property owner to the north. Special consideration should also be noted in ensuring that southbound traffic on Bemidji Avenue attempting to turn into the property pose a new traffic concern on such a busy street, and that all means to ensure wait times for turning traffic are reduced are contemplated and acted upon through the traffic management plan.

#### Landscaping

In their letter to the JPB, the AWCL note that environmental education are requirements for their curriculum, and so outdoor natural playground and habitats, from planting and maintenance to utilization and discovery, are a designed part of the school program. Students will be planting and caring for garden spaces and trees, which will bring the site closer to or within full conformity with Ordinance requirements when fully implemented. However, conditions placed on the use that would require such improvements upfront before operation would reduce the educational utility such activities would provide their program. In addition, these standards are not closely tied to this particular use, and staff have yet to determine an appropriate nexus between the Charter school and immediate conformity with those requirements. For this reason, staff are recommending the issue be reevaluated as part of an overall permit review, as generally outlined in the recommended conditions to occur after the first five (5) years.

#### Signage

Existing wall-mounted signs would be removed, and no free-standing signs are currently installed. All new signage, including monument or elevated signs shall be permitted and installed per §712 requirements. The sign permit and plan shall also include traffic control signage, indicating the type and style of signs to be used at both accesses and within the site.

#### Fencing

Fencing along the front parking lot, between the front yard greenspace and front-most parking stalls, would be beneficial to prevent vehicle traffic from encroaching and further degrading the area. Additionally, movable fencing would provide additional control of student in the rear of the property, and could be beneficial for the overall safety of the operation. Should any fencing be installed on the property, the applicant shall submit an application for a fencing permit, which must be approved by JPB staff and meet all applicable ordinance and State Building Code requirements.

#### Subsurface Sewage Treatment System

The existing septic system was installed around the completion of the building, and was last inspected in 2017. It consists of two separate and nearly identical systems of tanks and gravity trench drain-fields, exiting near the center of the back wall of the structure and running north to south in the western portion of the rear greenspace. There is currently 245 linear feet of drain-field in the southern section and 280 feet in the northern section, with three-foot-wide trenches. With a combined soil treatment area of 1,590 sq. ft, the owner did in fact oversize this system dramatically for the initial use, and with 24" of rock under distribution pipes the system is eligible for a 40% sizing reduction, which in this case means the drain-field is sized to handle about 2,067 gallons per day. Assuming MN Rules Chapter 7081 estimates for a new system, this would be able to serve 140 students with the system as-is, but the septic tanks themselves may be undersized for such flows. More time in operation would be needed to determine the actual flows, which may show that the tanks are adequate for the actual flows, but this wouldn't be known until after the first year. Since

the drain-field is sized reasonably large enough, there's little concern about the immediate danger of the system backing up, but concern still exists regarding the longevity of the system - should the tanks fail to remove enough solids from the wastewater before reaching the drain-field – which can cause premature system failure and future back-ups. A management plan and stipulation agreement would allow initial operation of the system, and dictate what future modifications may be needed to meet the continued or expanded needs as proposed.

#### Development Team Comments

Sam Anderson, City of Bemidji Assistant Engineer, stated the following in regards to the site plans for the Charter School:

##### *“Water/Sewer*

*As we discuss briefly already, they appear to be on a private septic system. That will need to be assessed to ensure that it's sized appropriately enough for the possibility of 180 students and 40 staff as the application states. The actual location of the septic tanks and drain field should be denoted on the site plan for review with other site features. Water is available on Bemidji Avenue, but may need to be upsized to meet the proposed demand including a possible fire suppression line.*

##### *Stormwater*

*The Interim Use request may not require overall site compliance, but with the actual septic location, I'd like to better understand where the stormwater is intended to go with this current layout and how that interacts with the private septic system.*

##### *Parking*

*The planning office can weigh in further, but parking looks to be sufficient if you include the proposed spaces along the sides of the building and backside (away from Bemidji Avenue). A couple items to note with that, is there going to be a designated outdoor playground area built into this design and how will separation be provided with the current traffic areas? Will there be room available for future snow stockpiling onsite without affecting these other site features and parking? Might need to be hauled offsite.*

##### *Bus Drop-off/Access*

*Any access modification requests will need to come from the County, as they are the road authority. I would like to see the intended drop off/pick up proposal for the busses that will access the property. Will any parking spaces need to be eliminated in order to accommodate a bus turning movements on private property, for example?”*

After discussion with Mr. Anderson and the applicant, it was clarified that site improvements would be limited to traffic control and safety issues, which would not include reconstruction of the parking lot or additional stormwater generation or features. With the additional information presented regarding the onsite sewage system, intended traffic management, and water service details, the substance of these concerns have been addressed.

#### Beltrami County Highway Department Comments

Bruce Hasbargen, Beltrami County Engineer, submitted an email comment March 4<sup>th</sup>, 2022, regarding traffic on the site (attached to this packet). Following conversations between the Highway Department, the applicant, and staff led to the development of proposed conditions for the approval of the IUP, which seek to address potential traffic safety concerns on Bemidji Ave. Bruce submitted the following response on March 17<sup>th</sup>, 2022, regarding the draft conditions included in this report: *“All looks good to me. I'm not sure if #4 is needed to address my concern, but expect they will need it for orderly traffic flow within their parking lot. Thank you for your work on this.”*

### Neighborhood Comment

No neighborhood comments were received at the time of writing this report.

### RECOMMENDATION & FINDINGS

The Joint Planning Board will have to decide whether or not they support a charter school at this subject location, and determine whether the Applicant has done enough to alleviate the congestion and stacking issues by rerouting and controlling traffic on the site. If a school does not properly function on this site, then a denial should be considered. If the proposed plan works, and allows the site to properly function, then the Commission and Board should review what conditions are warranted for IUP approval.

Staff are providing findings of fact for approval, including some appropriate conditions attached, if granted. If the determination is for denial of the Interim Use Permit, the Board shall determine findings of facts that support their decision, or extend the application as necessary to allow staff to draft such findings as directed.

JPC and Staff recommend approval of an Interim Use Permit (IUP) to operate a charter school in an existing leased space located at 3604 Bemidji Ave N, parcel 80.06166.00, in the City of Bemidji. Approval is recommended with the following conditions based on the findings of fact:

#### Conditions:

1. All existing and proposed exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
2. Any new or existing dumpsters on site shall be completely enclosed on all sides with a trash enclosure and located on an approved hard surface, complying with Section 1002 of the Ordinance.
3. A sign permit shall be obtained prior to the installation of any new signage, which must comply with Section 712 of the Ordinance. All site signage, including that for traffic control, shall be included on the sign permit or will require another permit prior to being placed on the property at a future date.
4. The defined maneuvering and parking lanes shall be adequately marked with a painted stripe and/or clear signage to provide direction for traffic and to lessen congestion or confusion. Enter Only and Exit Only Signs shall be placed at the existing accesses, utilizing themes or logos on such signs that identify the charter school.
5. A traffic plan shall be developed and implemented that will allow for vehicle and bus traffic to safely drop off and pick up students. Such plan should clarify the methods used to avoid negative impacts to traffic on Bemidji Avenue. This plan shall be revised over time if any safety issues arise, and failure to implement the plan shall lead to review and possible revocation of the permit. In the event that traffic from the proposed charter school is found to create an articulable and legitimate safety hazard, the JPB Zoning Administrator shall provide written (including any electronic communication consisting of text message or email) notice to the school Director that the traffic plan must be immediately revised and reviewed by the JPB. The Director shall have seven (7) calendar days to derive a plan addressing the safety hazard, which may then be approved by the JPB Zoning Administrator. Unless approved or extended by the Zoning Administrator, the JPB may hold a hearing after thirty (30) days to formally revoke this IUP.

6. The existing SSTS servicing the property may be utilized for the proposed school only if an SSTS stipulation agreement is executed between JPB and the property owner, which shall designate a management plan for the first year of operation to determine if additional system capacity is needed.
7. A final landscaping plan with size, type and location of trees to be planted throughout the property shall be submitted for final approval to JPB staff complying with Section 1006 of the Ordinance. Conformity with §1006 standards shall be achieved as part of this plan, which will allow flexibility in the timeline for completion to accommodate the school's programmatic goals related to environmental sustainability.
8. All proper permits shall be obtained prior to construction, including a building, demolition, and mechanical permit from the City of Bemidji.
9. The area along the street-side parking lot, between the parking stalls closest to the roadway and the front yard greenspace, shall be improved with landscaping, borders, curb, fencing, or any other raised surface suitable for preventing vehicle traffic from encroaching further on the greenspace area.
10. The school shall not exceed a staff of 40 persons and student load of 180 children. If either of these limits shall be reached during a school year, the IUP shall be subject to review by the JPB, resulting in modification or revocation of the IUP as necessary to protect public health and safety.
11. The IUP shall expire and become void if the charter school is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the school are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.
12. This IUP shall expire five years from the date of approval. Renewal of the IUP shall be considered by the JPB no more than six (6) months before its expiration, and may be extended for any additional length of time deemed appropriate during their review. Any additional conditions necessary to ensure public health and safety may be added to the permit renewal as deemed necessary by the JPB. Application for renewal will be made by the School Director (or other representative) in writing to the JPB Planning Director, and is **not** subject to the requirements for a new request per current Ordinance requirements. Review shall be held at the next regular meeting of the JPB after required notice or public comment periods are met, as determined by the Planning Director.

Findings of Fact:

**1. Whether the proposed use adversely affects the public safety, health, morals, convenience and general welfare of the occupants of the surrounding land;**

No. The Applicant has made a reasonable effort to redirect traffic to stack within the property rather than to extend directly out into the right-of-way or block incoming traffic, and has room on the property for an alternative plan should the initial proposal fail to meet basic safety standards. This proposed use should have no additional contribution to traffic safety at this location, if properly managed, as proper site mitigation for maneuvering and traffic control will be in place.

**2. Whether the proposed use adversely affects traffic conditions and parking on adjacent streets and land;**

No. The Applicant is planning to use existing entrances for ingress and egress from the property.

The Applicant will have a traffic management plan in place before operation of the school. Staggering of the arrival and departure times of bus and other vehicle traffic will alleviate some possible stacking issues in the parking lot. The shared access with the property owner to the north will have some traffic mitigation measures installed to help redirect traffic that flows from the two properties.

**3. Whether the proposed use adversely affects property in the surrounding area;**

No. The Applicant will submit and follow a management plan for the site to accommodate expected traffic. The nature of the use is in line with existing properties operations nearby, including Voyageurs Charter School just to the north on Bemidji Ave.

**4. Whether the proposed use is in conformance with the community's Comprehensive Plan; and**

Yes. The proposed use for a Charter School is consistent with the goals and policies of the Comprehensive Plan as well as the Zoning & Subdivision Ordinance in the B-1 Low Density Commercial Zoning Districts with the issuance of an interim use permit. The Applicant is planning to alter the site as necessary to manage traffic appropriately, and future improvements are proposed to increase the natural and aesthetic qualities of the property.

**5. Whether adequate utility, drainage and other such necessary facilities have been or can be provided.**

Yes. The subject property is connected to City water services, and has an existing septic system that was oversized for the original use. The amount of wastewater treatment capacity is adequate for the estimated starting cohort of the school, and further measured flows will help determine the extent to which the existing system shall be upgraded to meet the specific use at maximum capacity. Existing greenspace and stormwater mitigation have adequately served the site for over two decades, and no improvements are proposed to the site that would change the dynamics of stormwater accumulation or production.

**BOARD DISCUSSION AND DECISION**

Board members had the following comments:

- Peterson inquired about traffic concerns with neighboring charter school. Phillips noted that he discussed the proposal with Bruce Hasbargen from Beltrami County Highway Department. Staff is not aware of concerns in regards to the close proximity of the neighboring charter school.
- Thayer requested clarification on landscaping plans. Phillips noted that this will be conditioned and will be allowed to be done in phases, as this will be implemented as part of a school program.
- Thayer addressed concern over making an exception to landscaping standards. Phillips noted that their charter is given to them by a nature learning organization. Phillips also identified that the interim use permit would expire in five years, and that review of landscaping progress could guide the JPB on a renewal decision. Staff also discussed the nexus to require improvements as the new proposed use is not an expansion of the building.
- Frenzel discussed the reasonableness of the request as it pertains to their landscaping.
- Frenzel addressed concern over traffic site visibility. Phillips noted that the landscaping plans for the front of the property include a pollinator garden which will be low vegetation, and the required trees in the front yard setback would be placed to avoid visibility issues.
- Frenzel addressed the need for crosswalk signs, and noted the neighboring charter school has children and staff walking to Algoma Park. Staff noted that signs were discussed.

Carlson addressed that the applicants stated that no student would be walking to school or home from the proposed location.

- Prince noted the increased safety with the new location in regards to their current location where they walk downtown Bemidji to the nearby park.

Motion by Frenzel, second by Peterson, to approve Resolution 2022-06 to approve an Interim Use Permit (IUP) to operate a charter school in an existing leased space located at 3604 Bemidji Ave N within the City of Bemidji, subject to the above stated conditions and findings of fact.

Ayes: Frenzel, Barnard, Prince, Thayer, Peterson.

Nays: None.

Motion carried unanimously.

#### **Discussion on LGU Contributions for 2023:**

- Carlson noted his recent discussion with Ron Eischens, the City Finance Director, regarding the need for a possible increase in LGU contributions in the future.
- Prince inquired as to what the policy on reserves is, and addressed that the excess reserves could be used before the JPB looks into increasing LGU contributions.
- Frenzel addressed that in the past the policy on reserves has been to hold enough for six months of expenses.
- Prince requested further analysis on what the costs for the Joint Planning Board would be for six months. Prince requested that Carlson discuss this further with Ron.

#### **Discussion on next LGU Meeting:**

- Staff discussed scheduling the next LGU meeting in the third week of June. Prince inquired about location and suggested the Sanford Center or Council Chambers. Frenzel suggested Diamond Point Park for a location.
- Staff noted that a Doodle Poll would be sent out with possible dates for the LGU meeting.

#### **OTHER BUSINESS**

Carlson addressed that the upcoming JPB Listening Session has been scheduled for Tuesday, April 26, 2022 at 2:00 pm at the Sanford Center. Carlson noted that there will be additional details to come.

#### **DIRECTOR'S REPORT**

Carlson addressed the Board and described year-to-date activity, as well as completed, current and upcoming development projects, and upcoming planning cases.

#### **Board members had the following comments:**

- Thayer inquired about current projects, the restaurant Tapatios and the Caribou drive-thru, both along Paul Bunyan Drive. Staff clarified that Tapatios is in progress and they are currently working with the building department, and Caribou is working on finalizing the paperwork and site plan for the Development Agreement with the City.
- Frenzel inquired if staff has received complaints about the Subway drive-thru. Staff noted that they have not received any complaints.
- Frenzel requested an update on the behavioral health facility on Hannah Avenue. Staff addressed that this project may need to go through a CIC approval ( i.e.: Common Interest Community), and it may need to go back before the Board on the Consent Agenda. Members and Staff discussed the Sanford Campus.

- Thayer inquired about the process a resident should go through if they have concerns regarding shoreland issues. Staff noted that there are resources, including staff themselves and Minnesota DNR specifically. Staff addressed that citizens should be directed to staff with concerns or issues regarding shore-land regulation.
- Prince inquired about the Community Development Director position, which oversaw JPB staff at the time. Prince inquired if the Northern Township Board was involved in the hiring of the Community Development Director. Prince addressed that City Council is currently discussing the possibility of hiring this position, or an Assistant City Manager and requested that if Northern Township Board had any concerns or requests to bring them to City Council.

**SITE ANALYST AND ENFORCEMENT REPORT**

Fahrenbruch addressed that she will be taking over reporting on current development projects from the Director’s Report as it falls under the Site Analyst part of her position. Fahrenbruch addressed current development projects, the permitting software build that is currently in the works and set to launch in the fall, and the Walkable Community Workshop this upcoming Friday. Fahrenbruch identified her work with the Sustainability Committee and the plan for it to become a formally recognized City Committee. Fahrenbruch noted enforcement activity for March, her work on other projects and assignments, enforcement numbers, neighborhood outreach activity, and number of active enforcement cases.

**Board members had the following comments:**

- Prince inquired about the Walkable Community Workshop and the location. Fahrenbruch clarified that the meeting will be held via Zoom.
- Prince requested clarification on the Site Analyst and Compliance Enforcement position. Fahrenbruch identified the aspects of the position.
- Thayer queried staff on the tree clearing and requirements on the Dollar General site. Staff discussed and noted tree preservation requirements within the Ordinance.

**UPCOMING MEETING DATES**

<b>April 26, 2022</b>	<b>2:00 pm</b>	<b>JPB Listening Session (Sanford Center)</b>
April 28, 2022	6:00 pm	JPC Regular Meeting
May 11, 2022	6:00 pm	JPB Regular Meeting
May 26, 2022	6:00 pm	JPC Regular Meeting
June 8, 2022	6:00 pm	JPB Regular Meeting

**ADJOURNMENT**

There being no further business, motion by Peterson, second by Frenzel, to adjourn the Joint Planning Board meeting at 7:42 p.m. Motion carried.

Respectfully submitted,

Ainslee Krause  
 Planning & Building Administrative Assistant

JPB Minutes approved and attested by: \_\_\_\_\_  
 Joint Planning Board Representative