

AGENDA
GREATER BEMIDJI AREA JOINT PLANNING BOARD
317 4th Street NW

Wednesday, August 10, 2016 REGULAR MEETING – 6:00 p.m.

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

A. MINUTES **Chair**
Approval of July 13, 2016 Minutes

B. ATTORNEYS GEORGE HOFF & TROY GILCHRIST **(CLOSED MEETING)**
Pursuant to Minn. Stat. 13D.05, subd. 3(b) to discuss the case of Red Barn Estates LLC v. Greater Bemidji Area Joint Planning Board, Beltrami County, Case No. 94-CV-15-3364.

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. Ordinance No. 2016-02 – Zoning and Ordinance Updates 2016 **Chair**
- 3. Ordinance No. 2016-08 – Opt Out Temporary Family Health Care Dwellings **Chair**
- 4. Resolution No. 2016-26 – Red Barn **Chair**

C. NEW BUSINESS

- 1. Bemidji Township – Z/IUP/V-16-03.00025.00, 03.00026.00, 03.00027.00 – Baker Properties (ineligible) **CM**
- 2. City of Bemidji – CUP-16-80.03031.00 – Naylor Property Management/Trek North (withdrawn) **CB**
- 3. Northern Township – Resolution No. 2016-24 – Plat-16-31.00254.01 – Tiffany Falk **CB**
- 4. Northern Township – Resolution No. 2016-25 – V-16-31.02946.00 – Jason & Michelle Lindom **CB**

D. OTHER BUSINESS

- 1. Discuss Josh Stearns' Contract Status

E. VISITORS **Chair**

F. ADMINISTRATOR'S REPORT **CM**

G. UPCOMING MEETINGS **Chair**

- 1. August 25, 2016 6:00 pm JPC Regular Meeting
- 2. September 14, 2016 6:00 pm JPB Regular Meeting
- 3. September 22, 2016 6:00 pm JPC Regular Meeting
- 4. October 12, 2016 6:00 pm JPB Regular Meeting

H. ADJOURN **Chair**

GREATER BEMIDJI AREA JOINT PLANNING BOARD
Meeting Minutes
August 10, 2016

Pursuant to due call and notice a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, August 10, 2016, at 6:13 p.m. in City Hall. Chair Olson presiding called the meeting to order and roll call was taken.

Upon roll call, the following members were declared present: Albrecht, Mountain, Olson, Kelly, Erickson

Members absent: Heuer, Merschman, Johnson

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

Others in attendance: Jeff Dickson, John Schulke, Matt Murray, Bob Dickson

Pledge of Allegiance was performed.

AGENDA

Agenda presented. Motion by Mountain, second by Erickson to approve the agenda.

Motion carried unanimously.

MINUTES

Motion by Kelly, second by Erickson to approve the July 13, 2016 JPB minutes.

Motion carried unanimously.

CLOSED MEETING WITH ATTORNEY

Motion by Erickson, second by Mountain to close the meeting in accordance with Minnesota Statue Section 13D.05, Subdivision 3(b) for the purpose of discussing with the JPB Attorney regarding pending litigation with regards to Red Barn Development.

Motion carried unanimously. Closed at 6:16 PM.

Public invited to stay in Council Chambers. Staff and Joint Planning Board members relocated to the Conference Room.

MEETING RE-OPENED BY CHAIR OLSON AT 6:32 PM

CONSENT AGENDA

- 1) Bills for the total amount of \$15,690.93 (Check No. 2006 through 2021) were presented for payment.
- 2) Ordinance No. 2016-02 – Zoning and Ordinance Updates 2016
- 3) Ordinance No. 2016-08 – Opt Out Temporary Family Health Care Dwellings
- 4) Resolution No. 2016-26 – Red Barn

Motion by Mountain, second by Kelly to approve payment of bills and Ordinance No. 2016-08 and to move Ordinance No. 2016-02 to Other Business as 2A, and to move Resolution No. 2016-26 to Other Business 2B.

Motion passed unanimously.

NEW BUSINESS

Staff informed JPB, as per July 13 vote to approve a Moratorium on rezoning, the Baker Property case in Bemidji Township has become ineligible to be presented. Full refund was issued.

Staff informed JPB the Trek North case in the City of Bemidji has been granted a 60 day extension. The case will be presented at the August 25 Joint Planning Commission meeting.

RESOLUTION NO. 2016-24 – Plat-16-31.00254.01 – TIFFANY FALK

Applicant is requesting a Minor Subdivision of land in order to create the Autumn Oaks Plat.

BACKGROUND

The applicant would like to divide 33.1± Acres into eight (8) lots in compliance with the Suburban Residential (R-2) zoning district. The property is to the northwest of the intersection of Sumac Rd NE a Beltrami County road and Wildwood Rd NW a Northern Township road. One (1) large 16.8± acre lot is being created as a flag lot, the other seven (7) will be two (2) acres or greater.

PLANNING CONSIDERATIONS

The proposed lots exceed the required lot size for the zoning district. The proposed lots are not foreseen to have issues being developed in compliance with the GBAJPB zoning ordinance.

The basic criteria for the creation of a minor subdivision are as follows:

1. Subdivision complies with simple or minor subdivision procedures.
2. Does not create any new public ways, is approved by appropriate road authorities.
3. Drainage or utility easements are provided if necessary.
4. Properly zoned, properly sized lots and suitable for development.
5. Compatible with existing properties.
6. Legal access to a public way in accordance with GBAJPB zoning ordinance.
7. Final Plat is approved by Beltrami County Surveyor.

Transportation / Road Authority

Northern Township has approved the use of Wildwood Rd NE to provide access to the lots adjacent to it.

The Beltrami County Highway Department has approved shared access to Sumac Rd NE. Lot Eight (8) in the subdivision will need to share an access with Lot One (1) or Lot Seven (7) to reduce the number of access points and increase safety. The county does not want to eliminate creating more accesses off of county roads. In most cases only one access per parcel would be allowed, however an existing approach exists on Lot Eight (8). This approach could be moved to access Lot Seven (7) and share with Eight (8) as shown. Lot Eight (8) may also share with Lot One (1) as shown. An existing access to Lot One (1) is also located off of Suman Rd NE, this access needs to be removed and reestablished with black dirt and vegetation. This will need to be done before any land use permits can be granted for Lot One (1). Lots Two (2) through Six (6) also must be accessed off of Wildwood Rd NE.

GIS/E911

Beltrami County GIS Department has no concerns with the subdivision is not creating any new roads, and all new parcels will have direct access to a public way.

Engineering/ Stormwater/ Utilities

A fifteen (15) foot easement has been provided along Sumac Rd NE and Wildwood Rd NE for drainage and utilities. A larger subdivision or one with an increased density may require some topographic alterations for stormwater. Staff feels that the large two (2) acre lots and the 25% impervious limitations of the (R-2) zoning district will allow plenty of space for stormwater to be handled on each individual parcel.

Surrounding Land Use

The surrounding land uses are a mixture of residential, commercial, and conservation. As this property was already rezoned from commercial to residential in the past year, staff still feels that residential development is suitable for this site.

North: Residential/Commercial
East: Conservation
South: Residential
West: Residential/Commercial

Tree Preservation

Single family homes usually do not need to meet tree preservation requirements. However, new subdivisions, plats, and homes on vacant lots are required to meet the tree preservation standards for new development. A tree permit will need to be issued to any landowner at the same time as a land use permit. No clearing and grubbing will be allowed without first obtaining a tree permit as well as a land use permit. If more than 60% tree removal is desired, a conditional use permit will need to be approved with conditions to mitigate the loss of trees.

As stated before the proposed subdivision is directly adjacent to a conservation district, it is important to ensure the Northwood's character remains with this subdivision.

Signage

No signage plans were received with this request. Any request for signage with the development shall comply with the JPB Zoning Ordinance for residential districts.

Neighboring Property Owner Input

At the time of this writing, staff have received no complaints/concerns from neighbors.

Comprehensive Plan References

The request meets the goals of the Greater Bemidji Area Land Use and Transportation Plans.

RECOMMENDATION

Staff recommends approval based on the following conditions.

1. Approved final plat is submitted to the JPB.
2. Trail access to Lot One (1) is removed before any access can be granted to Lot One (1).
3. A tree permit shall be issued at the same time as a land use permit (if tree removal is proposed) before any clearing and grubbing or other construction type activities may occur on a parcel.

Board members had the following concerns:

- Mountain sought to confirm that construction would not require variances. Staff affirmed there is plenty of room to meet setbacks.

- Albrecht asked about applicant's plans for Lot 1. Staff answered the intent is for future subdivision which isn't feasible at this time. Albrecht questioned if Lots 7 & 8 will share driveway access. Staff explained they would, unless Lot 8 shares with Lot 1. Further, Albrecht asked if an easement is part of the plat. Staff said easement is recorded later and is not on the final plat.
- Albrecht commented that a stormwater plan was not present, and the topography shows drainage from SE to NW, which would mean all drainage will naturally go to Lot 1. She asked if there was a history of overland flooding or runoff.
- Matt Murray, applicant representative, addressed the board. He was not aware of any flooding as it has never been an issue. Staff assured that an engineering plan would be required if area involved in a final plat.

Motion by Mountain, second by Kelly to approve Resolution No. 2016-24 for parcel 31.00254.01 with findings:

1. The development is permitted in the Suburban Residential (R-2) district.
2. A total of eight (8) new residential lots will be created in accordance with the minor subdivision standards of the GBAJPB zoning ordinance.
3. The proposed lots meet the minimum lot requirements of the Suburban Residential (R-2) district.
4. Lots can be developed in accordance with the standards for the Suburban Residential (R-2) zoning district.
5. No adverse impacts to traffic in this location are expected.
6. Two (2) acre lots an allowed impervious surface of only 25% will provide adequate area for stormwater, as well as septic system placement.
7. Loss of significant high quality trees will be mitigated.

And with conditions:

1. Approved final plat is submitted to the JPB.
2. Trail access to Lot One (1) is removed before any access can be granted to Lot One (1).
3. A tree permit shall be issued at the same time as a land use permit (if tree removal is proposed) before any clearing and grubbing or other construction type activities may occur on a parcel.

Motion carried unanimously.

RESOLUTION NO. 2016-25- V-16-31.02946.00 – JASON & MICHELLE LINDOM

Applicants are requesting a setback variance of fifteen (15) feet from a septic drain field located on their property in order to construct a detached garage.

BACKGROUND

The applicant does have two acres of property that does provide other options for the structure, but none the applicant feels would be practical or would be in keeping of the style of his neighborhood. The structure would need to be located approximately one-hundred (100) feet from the principle structure. The existing home was purchased by the applicants, the septic system was installed prior to purchase. A compliance inspection was performed in May of 2012 indicating the system to still be in satisfactory condition and compliant.

PLANNING CONSIDERATIONS

In regulating structure setbacks from septic system drain fields or mound system, there are concerns that need to be addressed. Including increased run-off draining towards the drain field and protecting the system during construction. Staff has had many meetings with the contractor looking at potential other sites for the structure. Through the land use permit process and through the variance verification process, staff feels that these concerns can be address and the potential impacts can be mitigated.

Conditions staff is planning to add if a land use permit were to be approved include:

1. Staff must verify location of proposed accessory structure on-site with contractor.
2. Run-off must be directed away from the drain field through grading or guttering.
3. A certified septic system designer/installer will verify the edge of the drain field boundary. Fencing must be placed around the drain field for increased protection. This will be used as a tool to measure the setback.

Although the accessory structure could be placed closer to the road in regards to the front yard setback, the principle structure must be setback one-hundred feet from the property line for an accessory structure to be placed in front of it.

Existing Conditions/Alternative Sites

The house is currently built up on a hill with a gradual slope to the north and a more extreme slope to the south. When this subdivision was created, this lot was platted longer to the north and south. If the applicant would like to construct on the south side of the house, it would take significant land alterations to grade and fill a suitable location. Or to be placed a significant distance from the principle structure, likely requiring a second driveway. If the proposed accessory structure was built on the north side, a significant enough slope to the northeast exists to provide ample opportunity for drainage away from the drain field.

Fire Marshal

The fire department had no concerns with the proposed accessory structure location in regards to fire protection.

Building Considerations

The proposed structure meets the ten foot setback requirement from other buildings. It also meets the size requirements for the Suburban Residential (R-2) zoning district.

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.

Agency Comment

Brent Rud, Environmental Services Director for Beltrami County sent me some information in an e-mail.

“MN Rules Chapter 7080 does not have a required setback for detached garages from a drainfield unless the LGU determines otherwise. Beltrami County typically does not require a setback for structures other than dwellings from drainfields. We do often put conditions on land use permits for buildings placed close to drainfields or vice versa such as requiring runoff to be directed away from the drainfield.”

Neighborhood Comment

One phone call was received from a property owner to ensure the granting of a variance would not affect his own septic system.

RECOMMENDATION

Staff recommends approval of a Variance to allow for a fifteen (15) foot setback encroachment on the twenty (20) feet required from a septic system drain field, on the east side of the system. The conditions stated above would be imposed on an approved land use permit, the applicant will also go through the JPB variance verification process and pay the set fee.

Board members had the following concerns:

- Mountain asked how the size of their building compares to the rest of the neighborhood. Staff explained its size and proposed location would be in keeping with others in the area. Mountain commented that a homeowner wouldn't want their septic system to fail either.

- Albrecht sought to clarify difficulty for applicant to place structure in another location, and commented on difference between terms hardship and practical difficulty. Staff reiterated the significant topographical alteration needed as well as drainage issues.

Motion by Kelly, second by Erickson to approve Resolution No. 2016-25 granting a variance for parcel 31.02946.00 with findings:

1. Has the applicant demonstrated a practical difficulty?

Yes. The site is located on a parcel with significant topographic features presenting a difficulty for suitable locations for a proposed structure.

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

Yes. The septic system was placed in a location without regard for future construction of an accessory structure.

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. Keeping the accessory structure near the house and not having to be placed in front of the principle structure is in keeping with the ordinance.

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

Yes. Other suitable locations for the accessory structure could be approved without a variance, but could alter the character of the neighborhood.

And with requirements placed on Land Use permit.

Motion carried unanimously.

OTHER BUSINESS

- Staff presented Resolution No. 2016-26 which approves a rezone/CUP for a PUD/Preliminary and Final Plat for parcels 03.00161.06 and 03.00161.00. A necessary correction of text was identified.

Motion by Albrecht, second by Mountain to approve Resolution No. 2016-26 which approves a rezone/CUP for a PUD/Preliminary and Final Plat for parcels 03.00161.06 and 03.00161.00 legally described as Sect-14 Twp-146 Range-033 17.28 AC SW1/4 OF SE1/4 LESS W660' THEREOF & LESS N300' OF E330' OF W990' THEREOF & LESS HWY and Sect-14 Twp-146 Range-033 30.62 AC NW1/4 OF SE1/4 LESS N100' THEREOF & LESS S610' OF N710' OF W656' THEREOF ALONG WITH N300' OF E330' OF W990' OF SW1/4 OF SE1/4.

Motion carried unanimously.

Motion by Albrecht, second by Erickson to approve Ordinance No. 2016-09 which approves rezone from R-2 to R-5 for parcels 03.00161.06 and 03.00161.00 legally described as Sect-14 Twp-146 Range-033 17.28 AC SW1/4 OF SE1/4 LESS W660' THEREOF & LESS N300' OF E330' OF W990' THEREOF & LESS HWY and Sect-14 Twp-146 Range-033 30.62 AC NW1/4 OF SE1/4 LESS N100' THEREOF & LESS S610' OF N710' OF W656' THEREOF ALONG WITH N300' OF E330' OF W990' OF SW1/4 OF SE1/4.

Motion carried unanimously.

- Staff reminded board that Josh Stearns' contract ends at the end of August. Staff further presented an offer by the City of Bemidji for a new position titled GIS/ Storm Water / Site Analyst which would make Stearns a full time City employee with health benefits, while maintaining enforcement duties for the GBAJPB.

Board members had the following concerns:

- Mountain stated that Northern Township has been involved in the discussion and is supportive of the change.
- Kelly asked Stearns if he was comfortable with the proposed changes in duties. Stearns affirmed that he was happy with the decision. Kelly further questioned the financial implications for the JPB moving forward.
- Erickson described her informal conversation with City Finance Director Ron Eichens who stated that the position is still under evaluation. No financial quotes were available.
- Kelly asked if this would then categorize Stearns as a contracted employee and questioned costs. Staff unsure at this time, but essential duties with JPB would remain the same.
- Mountain stressed the need for the director to monitor Stearns' work schedule and manipulate it according to the cost structure. The director needs to exercise supervisory judgement.

Motion by Mountain, second by Erickson to move the City of Bemidji's creation of the GIS/ Storm Water / Site Analyst position.

Motion carried unanimously.

- Staff presented Ordinance No. 2016-02 Zoning and Ordinance Updates for 2016.

Board members had the following concerns:

- Albrecht identified specific items of concern:
 - Section 401 item C.
 - Section 402 no changes are permitted with moratorium in place.
 - Section 901 items A, B, D.
 - Section 1009 item A2, 3b.
- Kelly stated that clarity of process is needed for Preliminary and/or Final Plats. He further requested staff to direct JPB in the process that will be the norm.
- Albrecht requested changes to Section 1207.

Detailed discussion between board members and staff. As a result of the concerns while the Comprehensive Plan is in progress, staff – with board support – will not pursue 2016 zoning updates. The next updates will include 2016 modified updates.

ADMINISTRATOR'S REPORT

Director Mai summarized upcoming planning cases, the Comp Plan's recent writing time line from HEI as well as a proposed steering committee meeting.

Stearns summarized recent enforcement actions consisting of complaints and dynamic sign inspection. Improvement noted from last inspection of approximately 60%. Next enforcement focus will pertain to parking violations.

Mai asked board if they have an interest in holding the Annual Fall Tour this year. Board suggested not hosting the event due to a full work load for staff. Tentative tour planned for spring of 2017.

Mai indicated the enclosed letter from Bemidji Township was forwarded to our attorneys. Board members want to have the repayment issue pursued aggressively. Also, discussion about current budget. The financial committee will meet after the City finalizes new position.

UPCOMING MEETING DATES:

August 25, 2016	-- JPC Regular Meeting @ 6:00 p.m.
September 14, 2016	-- JPB Regular Meeting @ 6:00 p.m.
September 22, 2016	-- JPC Regular Meeting @ 6:00 p.m.
October 12, 2016	-- JPB Regular Meeting @ 6:00 p.m.

ADJOURNMENT:

There being no further business, motion by Mountain, second by Kelly, to adjourn the Joint Planning Board meeting at 8:44 PM.

Motion carried unanimously.

Respectfully submitted,
Terri Ball
Planning Assistant

JPB Minutes Approved and attested by:



Joint Planning Board Representative