

AGENDA
GREATER BEMIDJI AREA JOINT PLANNING BOARD
City Hall

Wednesday, March 11, 2020 REGULAR MEETING – 6:00 p.m.

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

A. MINUTES **Chair**
Approval of February 12, 2020 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**

C. VISITORS **Chair**

D. NEW BUSINESS

- 1. **Northern Township** – **Ordinance No. 2020-03** – Z-20-31.00183.00 – DDB Properties **CM**
- 2. **City of Bemidji** – **Resolution No. 2020-07** – IUP-20-80.00351.00 – Bemidji Fire Dept. **JC**
- 3. **City of Bemidji** – **Resolution No. 2020-08** – V/CUP-20-80.02706.00 – CCIS, LLC **CM**
- 4. **City of Bemidji** – **Resolution No. 2020-09** – V-20-80.01153.00 – Labraaten Properties **JC**
- 5. **Northern Township** – **Resolution No. 2020-10** – Plat/V-20-31.02927.00; 31.02928.00; 31.02929.00; 31.02930.00; 31.02931.00; 31.02932.00 & Groveland Court NE, Plantation Estates – Darwin Wiebolt **CM**

E. OTHER BUSINESS

F. DIRECTOR’S REPORT **CM**

G. UPCOMING MEETINGS **Chair**

- | | | |
|-------------------|---------|-------------------------------|
| 1. March 24, 2020 | TBD | Ordinance Update Work Session |
| 2. March 26, 2020 | 6:00 pm | JPC Regular Meeting |
| 3. March 31, 2020 | TBD | Ordinance Update Work Session |
| 4. April 8, 2020 | 6:00 pm | JPB Regular Meeting |
| 5. April 23, 2020 | 6:00 pm | JPC Regular Meeting |
| 6. May 13, 2020 | 6:00 pm | JPB Regular Meeting |

H. ADJOURN **Chair**

GREATER BEMIDJI AREA JOINT PLANNING BOARD
Meeting Minutes
March 11, 2020

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 11, 2020, at 6:00 p.m. City Hall. Chair Meehlhause presiding called the meeting to order and roll call was taken.

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

Members absent: Albrecht

Staff present: Casey Mai, Jamin Carlson, Terri Ball

Others in attendance: Vince VanAntwerpen, Jon Labraaten, Matt Murray, Shep Willimek, Darwin & Debbie Wiebolt

Pledge of Allegiance was performed.

AGENDA

Motion by Frenzel, second by Erickson, to approve the agenda.

Motion carried unanimously.

MINUTES

Motion by Kelly, second by Frenzel, to approve the February 12, 2020 minutes as presented.

Motion carried unanimously.

CONSENT AGENDA

- 1) Bills for the total amount of \$2,483.48 were presented for payment.

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

Motion passed unanimously.

VISITORS

None.

NEW BUSINESS

ORDINANCE 2020-03- Z-20-31.00183.00 – DDB Properties

David Baker of DDB Properties, LLC is requesting a rezone from (R-2) Suburban Residential to (B-1) Low Density Commercial. This property is located at 9504 Irvine Avenue NW or Parcel #: 31.00183.00 within Northern Township. The purpose of the rezone is to expand commercial opportunity within the area.

BACKGROUND

In 2011, the Applicant purchased the property, which currently has a residential structure on site that is being rented out for single-family occupancy. The Applicant is now looking to rezone this property to commercial use similar to the adjacent (B-1) low density commercial zoned properties to the south. This request makes sense due to the adjacent commercially zoned properties along with the property accessing a major thoroughfare. Following the rezone, the Applicant would like to subdivide the parcel either through a lot division request or a minor subdivision, creating two (2) plus commercial properties. Any minor or major subdivision will require further approve from the Commission and Board.

PLANNING CONSIDERATIONS

Adjacent Zoning and Land Use

The proposed development is surrounded by primarily suburban residential to the north and east with low density commercial land that is currently vacant to the south. Directly to the west is Irvine Avenue NW/County Highway 15 that runs perpendicular and west and southwest of the Highway is multi-family zoned properties that currently are either vacant or have suburban single-family residential located on them.

Adverse effects on the surrounding neighborhoods are not anticipated with this rezone proposal as the area directly to the south is already zoned for low density commercial development. Any high intensity uses or major redevelopment of the area would require significant review before the Commission and the Board.

Beltrami County Highway Department

No concerns from Bruce Hasbargen, Beltrami County Engineer, regarding this rezone request. However, they will have concerns if the parcel is subdivided and there are requests for additional entrances. Beltrami County suggest the owner meet with them prior to any subdivision and go over options.

Development Team (Fire Department)

The Development Team had no concerns with this rezone request.

Neighborhood Comment

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

Comprehensive Plan References

The newly adopted Greater Bemidji Area Comprehensive Plan has identified the following objectives and strategies that supports this rezone.

Objective 4.2: Preserve and Promote Commercial and Industrial Redevelopment or In-Fill Development Where Appropriate

- 1. Identify areas where commercial and industrial uses should be located, specifically adjacent to highways with controlled access where noise, odor, dust, and glare will have minimal impact. When reviewing new commercial and industrial land uses, ensuring these areas are appropriate and compatible with opportunity to be successful. Piecemeal development of industrial and commercial land uses can increase urban sprawl and have negative impacts on existing, less intense surrounding land uses.**

RECOMMENDATION

Staff recommends approval for a rezone of the property, parcel 31.00183.00, from (R-2) Suburban Residential to (B-1) Low Density Commercial in order to expand commercial opportunity off of Irvine Avenue NW and County Highway 15 within Northern Township. Approval of a rezone to a (B-1)

Low Density Commercial zoning district is based on the following findings of fact:

Board members had no comments:

Motion by Erickson, second by Kelly, to approve Ordinance 2020-03 for parcel 31.00183.00 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 (B-1) Low Density Commercial Zoning District. Properties along County Highway 15/Irvine Avenue NW to the south have been trending towards lower density of commercial land use for quite some time and are consistent with the purpose of the Ordinance as they are all zoned (B-1) Low Density Commercial.

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 rural residential and low density commercial. Other low density commercial facilities reside less than a mile to the south off of County Highway 15/Irvine Avenue NW.

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 not exist at this location and are not anticipated anytime soon; however, public services would not be needed at this location for a low density commercial use. This property would be required to meet all well, septic and stormwater requirements for any new use.

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

No. This is not a correction. However, through the new adopted comprehensive plan and the future land use map, this area along County Highway 15/Irvine Avenue NW is anticipated to be developed into a low density commercial in the future as development continues to grow outwards from the City of Bemidji.

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. As development occurs, future land use changes as well as amendments to the ordinance that would essentially permit this type of development in a rural setting. For this proposed location along County Highway 15/Irvine Avenue NW, a mixed-use of low density commercial and residential is spread out along the highway.

Motion carried unanimously.

RESOLUTION 2020-07 – IUP-20-80.00351.00 – Bemidji Fire Department

The Bemidji Fire Department is requesting an interim use permit to conduct hands-on fire department training at their storage and training location on the east end of the wastewater treatment

plant parcel in the Lake Oriented Commercial (LC) district located at 427 Irving Access Loop SW within the City of Bemidji.

BACKGROUND

The proposed use is for a fire training area to be used anywhere from five (5) to six (6) times a year. This request does not require any alterations to the site or building. The site has storage containers that are utilized for controlled burn simulations as well as using Lake Irving for dry hydrant trainings. Per Section 302 of the JPB Ordinance, fire training facilities are not identified through the land use matrix; however, based on the type of use and in close proximity to Lake Irving, it was determined that an interim use permit was warranted. It is our responsibility that proper measures and mitigation efforts be taken to preserve the natural resources as well as the surrounding property owners.

PLANNING CONSIDERATIONS

This property is currently owned by the City of Bemidji with the Bemidji Fire Department leasing the space. If the fire department were to vacate the use of the area, the interim use permit would be terminated as IUP's run with the leaseholder.

Existing Conditions

The existing site is southeast of the wastewater treatment plant and this has been operating as a fire training area for some time without any special use permits. The Bemidji Fire Department as well as JPB staff felt it was necessary to obtain a special use permit such as an IUP for this use due to nature of the use on the existing property. Per Section 1011 of the Ordinance, storage containers in commercial areas require the approval of an IUP for the purpose of storage. The on-site storage containers are not used for storage, but for the sole purpose of fire training simulations.

Parking

This request does not propose any changes to the parking lot. The parking lot is currently gravel. If the parking area, building, or lease space is ever expanded, the JPB may require paving of the existing gravel surface.

Development Team: (Public Works/Engineering, Building & Fire Department)

The Development Team did not have any concerns regarding the proposed use.

Sam Anderson, Assistant City Engineer had the following comments:

I have no engineering related concerns.

I did have a good email discussion with Dave Hoefer in regards to possible stormwater impacts due to the close proximity to Lake Irving, and I have no further concerns will this proposal. Below are few items from our discussion they may add some clarity to the proposal:

- *Live fire training is planned to be completed periodically at this location, but suppression is completed with water only, no foam operations area allowed at this site.*
- *During live fire training, very little water is used during suppression activities. Most training evaluations are extinguished with 15-20 gallons of water. With those amounts and the site being flat, I have no concerns about potential run-off to a neighboring body of water.*
- *Live fire training regulations in Minnesota only allow the use of clean class "A" fuels, examples include: straw, untreated wood, clean wooden pallets. Items such as tires, old building materials, shingles, tar paper, garbage, etc. are strictly prohibited per State Statute.*
- *Live fire training is required annually for only Fire Department personnel. This is usually completed in the fall over a 3 day training.*

Neighborhood Comment

At the time of writing this report no comments were received by JPB staff.

Comprehensive Plan References

The newly adopted Greater Bemidji Area Comprehensive Plan has identified the following objectives and strategies for this type of development.

Objective 7.1: Preserve and Enhance our Public Services and Private Utilities

Cooperation is important when planning for public or private expansion of services, encouraging private and public entities to work together on major improvements and promote reasonable expansion projects while supporting the maintenance of existing facilities.

Plan for expansion of public service facilities through partnerships in planning with adjacent communities. Continue to support initiatives that expand public service facilities to surrounding areas that are not currently adequately served where appropriate, while being mindful of the capacity of the provided service to not strain resources.

RECOMMENDATION

JPC recommended approval of an interim use permit for a training area for the Bemidji Fire Department at 427 Irving Access Loop SW in the (LC) Lake Oriented Commercial Zoning District within the City of Bemidji, with the following conditions:

1. The interim use permit shall terminate upon the Fire Department vacating the use of the facility; any expansion of the leased space will require an amendment to this permit.
2. The maximum number of training days is limited to seven (7) per year.
3. Best practice mitigation will be determined by the JPB.

Board members had the following comments:

- Erickson asked if the Fire Department requested the limit of seven (7) days per year to train on this parcel. Staff explained that the JPC made that recommendation to the Board. Erickson also questioned a request for an Interim Use Permit. Staff stated that the Fire Department has exterior storage units on site and made the request to be in compliance with the ordinance.

Motion by Erickson, second by Frenzel, to approve Resolution 2020-07 for an interim use permit on parcel 80.00351.00, with the following condition:

1. The interim use permit shall terminate upon the Fire Department vacating the use of the facility; any expansion of the leased space will require an amendment to this permit.
2. Best practice mitigation will be determined by the JPB.

And 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. Having fire training services protects the general public's safety and welfare. The site has been used in the past as a training area without any detriment to the lake or the surrounding land.
2. **Whether the proposed use adversely affects traffic conditions and parking on adjacent streets and land.**
No. This use will generate no additional traffic to this site or the surrounding area and will

have no impact or disruption to Paul Bunyan Drive S or to traffic circulation flow.

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

No. There are no adverse effects to property in the surrounding area anticipated as a result of this proposal. Proper mitigation efforts are in place to protect Lake Irving from environmental impacts taking place.

4. Whether the proposed use is in conformance with the community's Comprehensive Plan or Land Use Plan.

Yes. The proposed use is consistent with the goals and policies of the Greater Bemidji Area Comprehensive Plan as well the Zoning & Subdivision Ordinance with the approval of an Interim Use Permit.

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

Yes. The proposed site is served by municipal water and sewer services; however, this use does not propose to use utilities.

Motion carried unanimously.

RESOLUTION 2020-08 –V/CUP-20-80.02706.00 – CCIS, LLC

Construction, Consulting, Inspection & Services, LLC (CCIS) is requesting multiple variances in order to redevelop on a substandard lot of record for a mixed-use structure within the (B-2) General Commercial Zoning District located at 2201 Irvine Avenue NW in the City of Bemidji. A Conditional Use Permit (CUP) is required for the mixed-use building, which will consist of professional offices on the main level with residential rental units placed on the upper or lower level. The variances being requested are as follows:

1. To build on a substandard lot of record as lot width is sixty (60) feet, not meeting the minimum seventy-five (75) feet in width;
2. Reduction in front yard setback (south) of twelve and one-half (12 ½) feet of the required thirty (30) feet;
3. Reduction in the rear yard setback (north) of nine and two-tenths (9.2) feet of the required twenty (20) feet;
4. Reduction in front yard greenspace of one hundred and eighty-six (186) square feet or four percent (4%) of the required two thousand five hundred and fifty-six (2,556) square feet or fifty percent (50%) of coverage;
5. Reduction in parking area setback of one and seven-tenths (1.7) feet of the required five (5) feet from the south property line; and
6. Reduction of five (5) feet from the required forty (40) feet for the separation of an approach access from an intersection.

BACKGROUND

Vince VanAntwerpen, owner of CCIS, and his representative recently met with JPB staff to look into options for redevelopment of the existing property. CCIS purchased the property in November of 2019 with the goal of demolishing the existing buildings and constructing a new mixed-use structure that would house a low density commercial use along with a residential unit or two (2) that could be rented out. The history of this building is unclear; however, for the past few years this structure has been used as a single-family residential owner-occupancy. According to the County records, the existing one thousand two hundred and seven (1,207) square foot structure was built in 1916 and remodeled in 1940. The existing principal structure currently lies on both the south and east property

lines, not complying with either of the front yard setbacks. This structure also lies within the site visibility triangle at this intersection, creating a potential crash hazard.

Additionally, the proposed plan would beautify the neighborhood, add a paved parking lot where there is a currently gravel driveway, remove a structure in close proximity to an intersection and increase greenspace along with ascetics as well. Overall, this proposal will greatly enhance the area.

PLANNING CONSIDERATIONS

Existing Neighborhood Conditions

The small lots on the surrounding blocks spanning from Delton Ave NW to Irvine Ave NW between Paul Bunyan Drive NW and 22nd 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 and 23rd Ave. to request variances to accommodate their proposed use. This redevelopment will be a significant improvement for the parcel, Irvine Avenue and T.H. 197 corridor overall.

Recently, over the past two (2) years, the JPB has seen adjacent properties such as the City Liquor Store and Sintec Audio, located to the north, apply and receive similar variance requests with reduction to property line setbacks due in large part to the smaller lot sizes or the uniqueness of having multiple front yard setbacks.

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.

The new proposed building may be within the front yard setback from the south property line; however, it will actually be set further back from the ROW than where the existing structures currently lie.

Parking & Traffic

The Applicant is proposing to construct a total of eleven (11) parking stalls throughout the property, with one (1) stall space being designated for handicap parking. Although it is unknown at this time of the total number of employees on max shift, the proposed commercial use for this building is professional office. Per Section 1009 of the Ordinance, professional offices requires one (1) space for each three-hundred (300) square feet of gross floor area , plus one (1) space for each employee on max shift. Based on the proposed size of the building, a minimum of four (4) parking spaces are required.

According to the application and the Applicant, it is anticipated to have one (1) residential unit within the structure consisting of two (2) bedrooms. Per the Ordinance, licensed rentals for one and two-family residential requires one (1) space per bedroom or one (1) space per licensed occupancy, whichever is greater (maximum of 4 required). A standard parking space is eight and a half (8 ½) feet in width by nineteen (19) feet in depth, which was shown on the site plan. A continuous concrete curb and gutter shall be installed with all or portions of the passenger parking lot perimeter for the purpose of surface management control, site design and long-term maintenance of defined edges between pervious and impervious surfaces. A final site plan shall be submitted with all civil drawings for review.

Per Section 1009 of the Ordinance, driveway approach accesses or curb cut locations shall not be located less than forty (40) feet from the intersection of two (2) or more street right-of-ways. This distance shall be measured from the intersection of lot lines, not curb lines. The Applicant has indicated on the site plan that their driveway approach access will be thirty-five (35) feet from the east lot line, triggering a variance request from the Ordinance.

Landscaping

The proposed site plan shows the site will be approximately forty percent (40%) pervious, complying with the minimum twenty (20%) pervious surface requirement. The Applicant indicated that a variance will be needed as the site will be unable to meet the front yard greenspace coverage requirement of fifty percent (50%) or two thousand five hundred and fifty-six (2,556) square feet. Due to location and parking requirements, the site will only have forty-six percent (46%) or two thousand three hundred and seventy (2,370) square feet of greenspace coverage within the front yard setback.

Per Section 1006 of the Ordinance, this site will be required to have a total of three (3) trees planted throughout the property. At least one (1) tree per fifty (50) lineal feet of street frontage between the property line and the minimum front yard setback line is required as well. A total of five (5) trees shall be planted within the front yard setback. A final landscaping plan shall be submitted to JPB staff for approval indicating the type, size and location of all required trees.

Lighting

All exterior lighting proposed for this development shall meet Section 1008 of the Ordinance. A lighting plan showing fixtures and placement will need to be submitted for approval prior to land a building permit being issued. All lighting shall be directed downward in order to minimize adverse impact on surrounding properties and rights-of-way.

Signage

No exterior wall signage or freestanding signage was indicated on the site plan. All signage must comply with Section 712 of the Ordinance and a sign permit shall be obtained prior to installation.

Trash Handling

A trash enclosure is not indicated on the site plans; any dumpsters brought on site shall comply with Section 1002 of the JPB Ordinance and be fully enclosed. Such areas shall be completely screened and enclosed on all sides, except the roof, with an enclosure or screening wall with durable and opaque material at a minimum of six (6) feet in height.

Utilities and Easements

This property is served by municipal water and sewer and will continue to do so moving forward. The water curb stop is located off of Irvine Avenue, while the sewer connection is accessed from the municipal sanitary sewer line which runs north and south along the west property line. Because this sanitary line runs along the property boundary, a ten (10) foot utility easement is recorded on the property, restricting construction from occurring within the easement. The location of the municipal sanitary sewer line is in place due to a former alley running north and south through the block; the alley has since been vacated. A digging permit shall be obtained from the City of Bemidji prior to disconnecting from the water and sewer lines for demolition and construction.

Development Team (Public Works / Engineer; Building Official; Fire Department; GIS; & Community Development Director)

The Building Department has no immediate issues with this request. Please note that construction documents will need to be submitted for review per the 2015 MN State Building Code or the new 2020 MN State Building Code depending on when plans are submitted. Specifically note that if the

new structure has multiple occupancy classifications the appropriate construction documents will need to be submitted to the Building Department for plan review prior to permitting including provisions of the 2015 MSBC 1305.508 for mixed use occupancies of the appropriate occupancy classifications, and appropriate separations for the Residential occupancies per MSBC 1305.420. GIS Department stated the entire building will have one address number and suite numbers/letters will be assigned to any businesses or residential unit inside, otherwise GIS had no concerns. Sam Anderson, Assistant Engineer of City Public Works/Engineering Department had the following to say in regards to application and proposed site plans:

- One concern is related to the sight lines on the east side of the property for vehicles entering/exiting the proposed driveway. Vehicles leaving the proposed driveway should have a clear ability to see cars heading south on Irvine Avenue that may potentially be taking a right and heading west on 22nd Street. Our engineering recommendation is to not allow any trees to be placed on the east side of the property to prevent sight line obstruction.
- In tandem with the sight line discussion, winter snowplowing may be an issue with the limited space on the property. Snow can be stored in the parking area as long as they are not blocking any required minimum parking spaces per our planning ordinance (not sure what that is for this site). If they use the available greenspace, they will again not want to pile the snow high enough to block vehicle sight lines on the east side of the parking lot. Not sure if we've ever used a snow maintenance agreement on other developments?
- A grading & drainage plan with stormwater calculations completed by a licensed civil engineer will need to be submitted for approval prior to construction.

Neighborhood Comment

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

Comprehensive Plan References

Objective 4.2: Preserve and Promote Commercial and Industrial Redevelopment or In-Fill Development Where Appropriate

Providing opportunity for commercial and industrial redevelopment is imperative to reduce urban sprawl and increase land use densities where appropriate. Land use planning can preserve existing developed areas and ensure land is available as well as compatible for increased development.

1. **Promote flexibility for commercial and industrial redevelopment and encourage in-fill development.** *Allowing for in-fill development and redevelopment of existing commercial areas will ensure the current commercial and industrial areas remain vibrant, full, and diverse. In-fill and redevelopment will be encouraged before resorting to increasing commercial and industrial areas.*

Land Use Objectives & Strategies Objective 4.1: Preserve the Quality Residential Neighborhoods

2. **Promote "mixed-use" areas to improve the transition of residential land use to other land uses.** *Mixed-use areas can provide an excellent transition from residential areas to commercial or highly developed areas. Gradually intensifying the uses on the fringe of neighborhoods or along high-traffic corridors that have been traditionally residential will mitigate impact to existing neighborhoods*

RECOMMENDATION

Staff recommends approval of the conditional use permit and the following variances in order to construct a new mixed-use structure at 2201 Irvine Avenue NW:

1. To build on a substandard lot of record as lot width is sixty (60) feet, not meeting the minimum seventy-five (75) feet in width;
2. Reduction in front yard setback (south) of twelve and one-half (12 ½) feet of the required thirty (30) feet;
3. Reduction in the rear yard setback (north) of nine and two-tenths (9.2) feet of the required twenty (20) feet;
4. Reduction in front yard greenspace of one hundred and eighty-six (186) square feet or four percent (4%) of the required two thousand five hundred and fifty-six (2,556) square feet or fifty percent (50%) of coverage;
5. Reduction in parking area setback of one and seven-tenths (1.7) feet of the required five (5) feet from the south property line; and
6. Reduction of five (5) feet from the required forty (40) feet for the separation of an approach access from an intersection.

Approval recommended with the following conditions:

1. All exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
2. Any dumpsters brought 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 installation of any new signage and must comply with Section 712 of the Ordinance. All signage shall be included on the sign permit or will require another permit prior to being placed on the property at a future date.
4. A final landscaping plan with a total of at least five (5) trees be planted within the front yard setbacks shall be submitted for final approval to JPB staff complying with Section 1006 of the Ordinance.
5. A continuous concrete curb and gutter shall be installed around the passenger parking lot perimeter for the purpose of surface management control, site design and long-term maintenance of defined edges between pervious and impervious surfaces.
6. Final engineering grading, drainage, stormwater and utility plans from a licensed engineer will need to be approved for review by JPB staff and City of Bemidji Public Works staff before any construction can commence.
7. A driveway installation permit shall be obtained from the City of Bemidji prior to the construction of the approach access or the parking lot.
8. All other proper permits shall be obtained prior to construction, whether it's a building, mechanical, and digging, water & sewer access permits from the City of Bemidji.
9. A rental license shall be obtained from the City of Bemidji prior to leasing/renting the residential unit(s).
10. A development agreement shall be entered into between the JPB, City, and Applicant to ensure all site construction is completed to a satisfactory condition.
11. The variances and conditional use permit shall expire and become void if the project 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 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.

Board members had the following comments:

- Erickson questioned the number of units intended to be built. Staff stated that the Applicant plans one (1) rental unit and four (4) offices, and explained that the eleven (11) parking spaces planned are adequate.
- Frenzel asked what the property is currently being used for. Staff explained that the previously vacant house has become a rental unit, under contract, until June.

Motion by Frenzel, second by Erickson, for the approval of a variance by Resolution 2020-08 on parcel 80.02706.00 with the following conditions:

1. All exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
2. Any dumpsters brought 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 installation of any new signage and must comply with Section 712 of the Ordinance. All signage shall be included on the sign permit or will require another permit prior to being placed on the property at a future date.
4. A final landscaping plan with a total of at least five (5) trees be planted within the front yard setbacks shall be submitted for final approval to JPB staff complying with Section 1006 of the Ordinance.
5. A continuous concrete curb and gutter shall be installed around the passenger parking lot perimeter for the purpose of surface management control, site design and long-term maintenance of defined edges between pervious and impervious surfaces.
6. Final engineering grading, drainage, stormwater and utility plans from a licensed engineer will need to be approved for review by JPB staff and City of Bemidji Public Works staff before any construction can commence.
7. A driveway installation permit shall be obtained from the City of Bemidji prior to the construction of the approach access or the parking lot.
8. All other proper permits shall be obtained prior to construction, whether it's a building, mechanical, and digging, water & sewer access permits from the City of Bemidji.
9. A rental license shall be obtained from the City of Bemidji prior to leasing/renting the residential unit(s).
10. A development agreement shall be entered into between the JPB, City, and Applicant to ensure all site construction is completed to a satisfactory condition.
11. The variances and conditional use permit shall expire and become void if the project 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 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.

And Findings of Fact:

1. Has the applicant demonstrated a practical difficulty?

Yes. A practical difficulty exists as the current lot is a substandard lot of record that has two (2) street frontages 22nd Street NW and Irvine Avenue NW. The lot is being encumbered by two (2) public right-of-ways which create a practical difficulty for buildings to meet the strict enforcement of two (2) front yard setbacks of thirty (30) feet. Also, there is a ten (10) foot wide sewer easement along the west side of the property running north and south, thus no structures can be built upon.

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 commercial lots located along Irvine Avenue NW or within the Trunk Highway 197 Overlay District creates a unique circumstance for properties like this one. Current front yard setback requirement of thirty (30) feet along with the rear yard setback requirement of (20) feet only leaves ten (10) feet of buildable area on this property, essentially making this lot of record unbuildable without the approval of variances.

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 right-of-way are not encouraged, significant efforts has been made to increase greenspace and the overall safety and functionality of the site by pushing structures further back from the intersection and the right-of-way, allowing the site to comply with the site visibility triangle.

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 nonconforming sites. This project will be similar to the other sites in the area that have been redeveloping in recent years. As this is a general commercial zone, this proposal would fit well into the surrounding area.

Motion carried unanimously.

Motion by Erickson, second by Kelly, to approve a CUP with Resolution 2020-08 for parcel 80.02706.00, with the following conditions:

1. All exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
2. Any dumpsters brought 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 installation of any new signage and must comply with Section 712 of the Ordinance. All signage shall be included on the sign permit or will require another permit prior to being placed on the property at a future date.
4. A final landscaping plan with a total of at least five (5) trees be planted within the front yard setbacks shall be submitted for final approval to JPB staff complying with Section 1006 of the Ordinance.
5. A continuous concrete curb and gutter shall be installed around the passenger parking lot perimeter for the purpose of surface management control, site design and long-term maintenance of defined edges between pervious and impervious surfaces.
6. Final engineering grading, drainage, stormwater and utility plans from a licensed engineer will need to be approved for review by JPB staff and City of Bemidji Public Works staff before any construction can commence.
7. A driveway installation permit shall be obtained from the City of Bemidji prior to the construction of the approach access or the parking lot.
8. All other proper permits shall be obtained prior to construction, whether it's a building, mechanical, and digging, water & sewer access permits from the City of Bemidji.

9. A rental license shall be obtained from the City of Bemidji prior to leasing/renting the residential unit(s).
10. A development agreement shall be entered into between the JPB, City, and Applicant to ensure all site construction is completed to a satisfactory condition.
11. The variances and conditional use permit shall expire and become void if the project 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 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.

And 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. Mixed-Use fits well in this neighborhood as single-family homes and businesses make up this area. The proposed project is not anticipated to adversely affect, nor create an unreasonable level of disruption or increase interference upon the surrounding area. The neighboring property adjacent to the north and west was recently approved a conditional use permit as well for mixed-use development.
2. **Whether the proposed use adversely affects traffic conditions and parking on adjacent streets and land.**
No. Based on the proposed project, the site plans show adequate paved parking that is designated for the business as well as the residential unit(s). The proposal indicates eleven (11) total parking spaces throughout the site which should alleviate on-street parking issues. Mixed-use for this location is not anticipated to adversely affect traffic or parking conditions. This proposal would positively affect the parking conditions in this area as it would be adding off-street parking along a narrow road.
3. **Whether the proposed use adversely affects property in the surrounding area.**
No. The proposed use is not anticipated to adversely affect, nor create an unreasonable level of disruption or interference upon the surrounding neighborhood. Based on the site plans, this project should have a positive impact on the surrounding properties and area with the redevelopment of the lot.
4. **Whether the proposed use is in conformance with the community's Comprehensive Plan**
Yes. The proposed use is consistent with the goals and policies of the Comprehensive Plan as well as the Zoning and Subdivision Ordinance as long as the property is approved through a conditional use permit. The proposed layout of the property is also creating a significant transformation of the site by pushing all structures away from the right-of-way and out of the site visibility triangle at an intersection, increasing the overall safety in the area.
5. **Whether adequate utility, drainage and other such necessary facilities have been or can be provided.**
Yes. The property is served by City services and currently has a utility easement running along the west edge of the property.

Motion carried unanimously.

RESOLUTION 2020-09 –V-20-80.01153.00 – Labraaten Properties

Labraaten Properties, LLC is requesting two (2) variances in order to expand and install new enclosed entrances on an existing building located at 700 Bemidji Ave N in the City of Bemidji. This property is located within the sewer (R-6) Multiple Family Zoning District and the Shoreland Overlay. The requested variances are as follows:

1. A reduction in front yard setback of six (6) feet from the required thirty (30) feet per Section 402;
2. To expand on a substandard lot of record as the existing parcel does not meet the minimum lot size or width requirements per Section 901;

BACKGROUND

The property owner met with staff about expanding and installing new enclosed entrances to the front and rear of his current building that houses a residential rental unit on the upper level and offices for an insurance business on the main level. The Applicant stated that the current entries are very old and by constructing new additions they would be adding much needed efficiency and safety. The existing rear entry was added in the past and it is not insulated or constructed well; this entrance is used by the upstairs tenant along with the business employees. The existing front entry is an open porch with a ramp along with a single door that opens directly into the main office area that is used by primarily customers. The Applicant also stated he is planning on replacing the roof, windows, and siding to make the structure more efficient, usable, and aesthetically pleasing. The building's business dates back to the 1930's and there have been numerous additions to the structure throughout the years.

PLANNING CONSIDERATIONS

Parking and Impervious Surface Coverage

The existing property currently is made up of eight thousand and fifty-four (8,054) square feet or seventy-seven percent (77%) of impervious surface coverage. The proposed site plan indicates the impervious surface coverage will decrease to seven thousand nine-hundred and eighty-two square feet or seventy-six and half percent (76.5%). This property is located within the shoreland overlay which allows a maximum of twenty-five percent (25%) of impervious coverage, which is currently three-times over the maximum allowed. Per Article V of the Ordinance, all non-conformities are encouraged to come into or closer to compliance over time. At this time, staff feels there are number of possibilities with this site that could bring the property closer to compliance. Below are a couple alternative options for a redesigned parking lot and increased greenspace.

Per recommendation by JPB staff, Alternative Option #2 is a redesign of the submitted site plan from the Applicant showing greenspace that could be added throughout unused portions of the parking lot. Approximately, five-hundred and fifty (550) square feet or six percent (6%) of greenspace that could be added throughout the property, thus keeping the same parking configuration.

Alternative Option #3, a staff recommendation, shows a site reconfiguration of the parking area with curb and increase of approximately one-thousand two-hundred and fifty (1,250) square feet or twelve percent (12%) of greenspace throughout the property. This would bring the property down from the existing seventy-seven percent (77%) to approximately sixty-five percent (65%) of impervious coverage. The increase of greenspace would allow the property to control all stormwater run-off rather than entering into the public right-of-way (ROW). With this proposal, the site would only one (1) parking space going from eleven (11) to ten (10) stalls.

The Commission and Board will have to decide which plan(s) can achieve the spirit of the ordinance and the overall site goals. The following is a marked up site plan by JPB staff with alternative options for additional greenspace throughout the property. (Refer to hereafter as "Alternative #2").

The following is a marked up site plan by JPB staff with a reconfiguration of the parking area with curb and added greenspace. (Refer to hereafter as "Alternative #3").

Since the adjacent property to the north is also under the same ownership and used as a shared access for the rear parking areas, it is recommended that a shared easement be established for the driveway. It is also recommended that the property to the north replace the Class V gravel with at least a bituminous surface. If an easement is not established nor is the Class V gravel replaced, staff would then recommend a five (5) foot setback buffer of greenspace be installed between the north property line and the adjacent property.

Development Team: (Public Works/Engineering, Building, GIS & Fire Department)

No issues were brought to the attention of JPB staff at the time of writing this report. Final plans will be reviewed by all officials for compliance with City of Bemidji and JPB regulations. The Building Department noted that appropriate construction documents will need to be submitted for review prior to permitting according to the 2015 MN State Building Code or the 2020 MN State Building Code if submission is after implementation of the new codes.

Sam Anderson, Assistant City Engineer had the following comments:

A few engineering/public works related comments for this proposal:

- *The proposed vehicle parking striping shall not be placed with the City right of way (alley)*
- *The parking space layout does not meet the minimums for access aisle widths relating to angled parking. 75 degree parking requires a 24 foot access aisle and 60 degree requires 18 feet.*
- *An item of note for the owner, the City maintains the right to stockpile snow with its right of way. If the owner wants full access to proposed parking area, they may need to account for additional snow removal at their own expense.*

Mississippi Headwaters Board (MHB)

Tim Terrell of Mississippi Headwaters Board stated the following in regards to the variance request:

Early comments from the MHB is that you follow the 2019 MHB Comprehensive Plan. Since septic is municipal, there is no concern there. Since impervious exceeds 25%, so you will need to have a stormwater plan prepared and meeting approval of your staff.

MnDOT

Nancy A. Graham, PE, Project Manager/Acting Director – District 2 had the following to say:

It appears that the existing parking is within Mn197 right-of-way. MnDOT would like to provide a buffer along the sidewalk (4' from walk to right-of-way line) to accommodate pedestrian use (no door swing to block the walk) and minimal snow storage along the back of the walk.

Removal of the pavement is not required, but the parking blocks and striping of the parking spaces should not be within the right of way. If the parking blocks and striping of the stall are to remain within the right-of-way the owner will need to apply for a lease from the MnDOT land management office in Bemidji.

Neighboring Property Input

No neighborhood comment was received at the time of writing this report. One letter in opposition was received after the JPC meeting.

Comprehensive Plan References

The newly adopted Greater Bemidji Area Comprehensive Plan has identified the following objectives and strategies for this type of development.

Objective 4.1: Preserve the Quality Residential Neighborhoods

Thriving neighborhoods are important to a growing community as well as ensuring that existing neighborhoods are not consistently replaced with multi-family or commercial development that could increase rural sprawl. It is also important to allow existing non-conforming residential areas to be redeveloped.

2. Promote “mixed-use” areas to improve the transition of residential land use to other land uses. *Mixed-use areas can provide an excellent transition from residential areas to commercial or highly developed areas. Gradually intensifying the uses on the fringe of neighborhoods or along high-traffic corridors that have been traditionally residential will mitigate impact to existing neighborhoods.*

3. Identify specific redevelopment opportunities and promote revitalization while maintaining character. *Mapping of existing neighborhoods can provide a clearer boundary to ensure preservation. This can also aid in the development of form-based zoning to allow redevelopment of existing nonconforming structures.*

RECOMMENDATION

Staff has found that a redesign of the rear parking area could substantially increase greenspace and maneuverability along with usability for the site. It is also a recommendation that the Applicant establish an easement between the north and south properties as this entrance is used by the business and it is on the parcel to the north.

Staff recommends approval of two (2) variances in order to expand and install new entrances on an existing building located at 700 Bemidji Ave N in the City of Bemidji:

1. A reduction in front yard setback of six (6) feet from the required thirty (30) feet per Section 402;
2. To expand on a substandard lot of record as the existing parcel does not meet the minimum lot size or width requirements per Section 901;

Approval is recommended with the following findings conditions:

1. New building entrances or vestibules shall be staked by a professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.
3. JPB site verification form and fee shall be submitted prior to construction.
4. The parking area shall be paved with at least a bituminous surface, replacing the Class V gravel.
5. A building permit shall be obtained prior to construction.
6. An easement shall be recorded for the shared driveway/maneuvering lane that abuts the property to the north.
7. Parking stalls adjacent to Mn197 need to be removed or a lease shall be obtained from the MnDOT Land Management Office in Bemidji.
8. The variance shall expire and become void if the project 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 expansions 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.

Board members had the following comments:

- Erickson questioned if it is possible to come closer to compliance, and if so, what would be lost. Staff detailed the options presented by staff.
- Frenzel commented that the intent to return a gravel surface into a stormwater containment area is as good as adding green space. Staff stated that the ordinance requires commercially zoned areas to be paved, and commented that when a business outgrows their current location a new location should be sought.
- Erickson asked if the Applicant owns the property and the adjacent property to the north, which staff affirmed. Erickson further questioned why MN DOT required them to lease space for parking. Staff explained that a parking spot is within the ROW, so MN DOT offered the choice of either eliminating that parking spot or officially leasing the space.
- Kelly asked where customers park currently. Staff demonstrated the six (6) spots available located adjacent to Bemidji Avenue N, using the monitor. Kelly also questioned if the opposing neighbor's letter was taken into consideration. Staff explained that the options created by staff addressed those alternatives.
- Meehlhause stated that he received a phone call from a different neighbor who had a concern with the capacity of the storm drain in the event of a four (4) to six (6) inch rain fall. Staff directed specific questions to the Public Works Department. Meehlhause also questioned the matter of an easement. Staff stated that was addressed with condition number six (6) in the resolution.
- Frenzel commented that the request is a minor adjustment, and supports the JPC recommendation as the Applicant presented.
- Kelly stated that he likes the change in the surface from gravel to pavement, and cautioned that the JPB should not make it so difficult for applicants to request a minor change. Kelly further commented that improvements on the amount of green space are present in the site plan.
- Meehlhause stated his concern with the volume of parking off of a City alley, and would entertain Option #2. Frenzel stated that the Board is considering the option that the JPC approved, and should not consider any other option without the property owner's input.
- Erickson commented that parking is at a premium in this area, and thus understands the Applicant not wanting to reduce even one (1) parking space.

Motion by Erickson, second by Frenzel, to approve Resolution 2020-09 granting the variances on parcel 80.01153.00 with the following conditions:

1. New building entrances or vestibules shall be staked by a professional surveyor to mitigate setback encroachment.
2. An erosion control plan shall be submitted and be in place before any construction commences on the property.
3. JPB site verification form and fee shall be submitted prior to construction.
4. The parking area shall be paved with at least a bituminous surface, replacing the Class V gravel.
5. A building permit shall be obtained prior to construction.
6. An easement shall be recorded for the shared driveway/maneuvering lane that abuts the property to the north.
7. Parking stalls adjacent to Mn197 need to be removed or a lease shall be obtained from the MnDOT Land Management Office in Bemidji.
8. The variance shall expire and become void if the project 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 expansions 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.

And Findings of Fact:

1. Has the applicant demonstrated a practical difficulty?

Yes. The building was built before current zoning standards. The location of the building and street demonstrate a practical difficulty for upgrading the front entryway.

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

Yes. The building was built prior to today's zoning standards and was not constructed by the current owner. With the addition of front and rear doorways, energy will be conserved with retaining heat in the building and providing safe exits as well.

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 area is zoned for multiple family and adding enclosed entry ways would be keeping with the spirit, purpose and intent of the Zoning Ordinance. Although setback encroachments towards a right-of-way are not encouraged, the applicant has stated that the proposed enhanced entrance would only be practical at the current location.

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

Yes. This area is zoned for multiple family with single family homes and mixed use surrounding the proposed site. The proposed variance request would fit well within the surrounding area and would not alter the character as several structures in the area enclosed entrances and vestibules that lie within the front yard setbacks.

Motion carried unanimously.

RESOLUTION 2020-10 – Plat/V-20-31.02927.00; 31.02928.00; 31.02929.00; 31.02930.00; 31.02931.00; 31.02932.00 & Groveland Court NE, Plantation Estates – Darwin Wiebolt

Darwin Wiebolt is requesting to replat the subdivision along with eliminating the proposed frontage road of Groveland Court NE off of Highway 71 within Northern Township. In order for the replat to be recorded, the Applicant is requesting the following variances for Lots 4, 5, & 6:

1. Proposed Lot 4: A Reduction of one hundred (100) feet in lot width at the front yard property line abutting Shelby Dr NE;
2. Proposed Lot 5: The creation of a flag lot; and
3. Proposed Lot 6: The alteration or realignment of an existing flag lot.

BACKGROUND

In 2003, the Applicant platted the Plantation Estates Subdivision, creating a nineteen (19) parcel development. Of the nineteen (19) parcels, the front six (6) parcels were zoned (B-1) Low Density Commercial, whereas the remaining thirteen (13) parcels were zoned (R-2) Suburban Residential. Over the course of time, twelve (12) of the thirteen (13) residential parcels sold and were constructed on, while the six (6) commercial lots remained vacant and undeveloped.

In August of 2019, the Applicant submitted a rezone request for the six (6) commercial lots to be rezoned as suburban residential, matching the surrounding area and parcels within the Plantation Estates Development. In October of 2019, the Joint Planning Board ("Board") approved the rezone

request. By months end, the Applicant then submitted a preliminary plat subdivision application for a replat of the new rezoned six (6) parcels, with the intent of adding three (3) additional lots from the six (6) parcels, creating a total of nine (9) lots along the frontage of Highway 71. With the replat, the original platted Groveland Court NE that had yet to be built was proposed to be vacated to allow for the three (3) additional properties to be platted. With the new replat design, a new cul-de-sac, much shorter in length, was proposed to allow for the southerly proposed lots to have access onto a public road. The total replat area in size is approximately 14.6 acres. The Applicant ultimately was approved of the preliminary plat by the Joint Planning Commission ("Commission") at the October meeting and Approved by the Board at the November meeting. The final plat was then submitted to the Commission and went before the public hearing at the December meeting in which the Commission sent a recommendation for approval that would go before the Board for final approval at the January of 2020 meeting. However, the Applicant withdrew the final plat the day of the Board meeting, citing that they had not attained a letter of credit as required by Northern Township for the construction of the newly proposed cul-de-sac known as Dels Court NE. The Applicant stated the cost of constructing Dels Court NE was much higher than anticipated and then mentioned their desire to submit a new plat with options not including a public road. Below is an image of the original submitted replat, known as Option #1.

The Applicant has now submitted a new replat design with Groveland Court NE remaining vacated and with the elimination of Dels Court NE from the recent proposal. The replat also shows the development back down to six (6) lots rather than nine (9) lots along the frontage of Highway 71. Through this replatting process, the Applicant is requesting to make some odd shaped lots, with Lot 5 and Lot 6 being classified as flag lots and Lot 4 not meeting the minimum lot width at the front yard property line, in which abuts the public right-of-way. Per the Greater Bemidji Area Zoning & Subdivision Ordinance ("Ordinance"), flag lots are prohibited. Lot 6 within the development was originally platted as a flag lot, which at that time was done under the jurisdictional provision of Northern Township and not the Joint Planning Board. Below is an image of the newly submitted replat, known as Option #2.

PLANNING CONSIDERATIONS

Northern Township

Northern Township is the Road Authority within this jurisdiction. The Applicant shall work with the Township to amend the Road Agreement that is currently in place or establish a new Agreement as Groveland Court NE along with Shelby Dr NE were identified within the original Agreement to become public roads when both were constructed to Township specifications. The Township has stated they will not accept Shelby Dr NE until all roads are complete as approved within the Agreement. If Groveland Court NE is never constructed and the plat is approved of a replat, then Groveland Court NE shall be vacated with the Township.

Response to Applicant's Practical Difficulty Analysis Letter

In response to the Applicant's letter, it is imperative to use best planning practices for all new developments and it is Staff's opinion that the proposed replat is not consistent with those practices. It is our job to protect the public health, safety, comfort, convenience and general welfare as well as to promote the beneficial and safe interaction between the use of land, buildings, and people throughout the Greater Bemidji Area. We are also required to guide the future growth and development of the Greater Bemidji Area in accordance with the Comprehensive Plan, including various elements and/or plans adopted by the Greater Bemidji Area Joint Planning Board.

Although Highway 71 cut through the original forty at a forty-five degree (45°) angle, making a uniqueness of the property, it was the Applicant/Owner who then thereafter platted the remaining chunk of land, creating a platted subdivision that met Ordinance requirements with all parcels having direct access to a public road. The Applicant at that time, constructed Shelby Dr NE for all the

residential properties as they were selling; however, the proposed Groveland Court NE was never built as none of the commercial frontage lots had sold. Currently all roads within the development are private roads owned by the Developer/Owner. According to Northern Township, the Applicant approached the Town Board several times about accepting Shelby Dr NE as a public road and each time the Town Board indicated that Groveland Court NE needed to be constructed prior to the Township accepting the roads as public. Now at this time, the Applicant is requesting to take a recorded plat that would function adequately in accordance with the Ordinance and is proposing to vacate a potential public road solely based on economics alone. An alternate option (Option #1) was presented and went through the entire planning process and was on the brink of final plat approval by the Board before the Applicant decided to withdraw the application due to cost estimates. Proposed Option #1 was a good alternative option that complied with all standards of today's Ordinance and would not require any variances for plat approval. Proposed Option #2 that is being requested for consideration ultimately requires three (3) variances from the Ordinance. With this Option, the Applicant's representative has sought the possibility of further subdividing Lot 5 through an administrative lot division process if the plat were to be approved. Their hopes would be to divide Lot 5 into three (3) total lots, with the two (2) additional lots needing to be accessed through a private thirty-three (33) foot wide access easement. This private access easement would be approximately five hundred (500) plus feet in length. This is not smart planning.

Also, per Section 402 of the Ordinance, lots within a major subdivision or planned unit development platted after September 12, 2018 may contain forty-five thousand (45,000) square foot lots and have a width of one-hundred and fifty (150) feet. The key word within that Section of the Ordinance, was may allow. The intent of the Ordinance in allowing for flexibility of smaller lot sizes and widths in major subdivisions within the (R-2) zoning districts was for having consistency and unity throughout the development and not having a wide range of lots that are being piecemealed in order to fit.

Beltrami County GIS

Kevin Trappe, GIS Director for Beltrami County had no comments regarding this new replat submittal. At the time of the original replat being submitted, Mr. Trappe stated the following in regards to the proposed Dels Court NE:

I have discussed with the surveyor the proposed street name 'DELS CT NE' as shown on the Preliminary Plat of Plantation Estates First Addition, and this is an acceptable street name for 911 addressing purposes. If the plat is approved, the Beltrami County Highway Department will install a street sign bearing the name 'DELS CT NE'.

MnDOT

No concerns were received from MnDOT regarding this replat request.

Development Team (Fire Department & Community Development Director)

The Fire Department had no concerns with this request; however, Steve Jones, the Community Development Director, had the following to say in regards to both the plat and variance request:

- 1) The conditions have been created by the property owner. Suitable other plans have been shown to work that won't rely as much on variances and other conditions.*
- 2) Economic issues seem to carry a lot of weight in this request.*
- 3) The plan does create flag lots. Yes, these have been allowed in some circumstances, but in this case, with a better road plan, they can be alleviated, and they aren't a necessary component of the plan except for financial reasons.*

I really think the intent of the Comprehensive Plan, the Joint Powers Board, and the time and effort of Professional staff, is to strive for the best planning scenarios possible, not just the

most expedient ones.

Neighborhood Comment

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

Comprehensive Plan References

The newly adopted Greater Bemidji Area Comprehensive Plan has identified the following objectives and strategies in regards to smart planning for housing subdivisions:

Objective 4.1: Preserve the Quality Residential Neighborhoods

Thriving neighborhoods are important to a growing community as well as ensuring that existing neighborhoods are not consistently replaced with multi-family or commercial development that could increase rural sprawl. It is also important to allow existing non-conforming residential areas to be redeveloped.

- 4. Allow flexibility with site design standards to ensure high-quality development.** *Allowing for greater flexibility of zoning ordinances or density requirements for meeting site development criteria, such as increased live landscaping, stormwater retention areas, active recreation amenities, or park area, can provide a benefit to developers while ensuring a high-quality neighborhood is being designed or redeveloped.*

Objective 4.3: Promote Land Use Decisions that Protect the Natural Environment through Smart Growth and Sustainable Practices

When reviewing increases of land uses through subdivisions or large-scale commercial developments, resource conservation measures and sustainable land use practices will be reviewed.

- 2. Promote in-fill development with access to public infrastructure.** *Supporting projects that can use existing public infrastructure as well as increase density and intensification of land use when appropriate can help limit urban sprawl. However, supporting proposals at a density that strain existing public transportation or utilities is not sustainable and can negatively impact the public.*

Objective 8.2 Promote and Encourage Diversity with New Housing Developments

Housing developments that include a diverse amount of housing options can help ensure all residents have housing, diverse housing can and should provide market rate and affordable opportunities.

- 1. Promote a variety of housing options based on market and need.** *It is important to support all forms of housing developments and to promote diversity and choice of housing for all residents. Market rate housing or workforce housing should be promoted based on market trends, affordable or supportive housing should be promoted based on the needs of the community.*

RECOMMENDATION & FINDINGS

Staff recommends denial of the proposed replatting of Plantation Estates First Addition and the following requested variances:

1. Proposed Lot 4: A Reduction of one hundred (100) feet in lot width at the front yard property line abutting Shelby Dr N.E.;
2. Proposed Lot 5: The creation of a flag lot; and
3. Proposed Lot 6: The alteration or realignment of an existing flag lot.

Board members had the following comments:

- Kelly clarified that Northern Township is the road authority and was involved when the Applicant requested the rezone from commercial to residential. It was the intent to vacate Groveland Ct. under the original plat, but if the Applicant chooses to change the plan by eliminating it, three (3) parcels will be without direct access. Kelly reminded the Board that a road has not been built, so the area could be used for something. Kelly further questioned the flag lot. Staff defined the term as per the ordinance, while explaining the narrowed entrance as a triggering factor to the situation.
- Erickson questioned the lot size conformity within the area developments. Staff explained the difference in continuity from the last preliminary plat, thus detailing the specific sizes of each lot. Erickson further asked staff if it is felt that the change in lot size is to avoid road costs, and staff affirmed.
- Kelly explained that the Northern Township road agreement process includes a Letter of Credit from an Applicant, and stated that the Applicant was present at Monday's Township Board meeting.
- Meehlhause clarified that the originally proposed plat included consistent lot size.
- Frenzel questioned if any lots in the proposed development have been sold yet. Staff stated that Lot 1 has been sold and has been granted a land use permit contingent on the plat containing Dels Court. Frenzel asked if it was the same as the original plat proposal. Staff stated that Lots 1, 2, and 3 are the same, whereas Lots 4, 5 and 6 are not the same. Frenzel questioned the option of phasing the project as money permits, but staff stated that has not been discussed. Frenzel further commented that he does not want the Board to stifle projects.
- Kelly noted that if Groveland Ct. is abandoned, traffic will flow to Shelby Dr., which will impact an established, good quality neighborhood. He stated that a new development should be consistent with the neighborhood, and commented that since the plat changed it became incompatible.
- Erickson cautioned that the Board should not mix township and city requirements, and further urged consistency.
- Discussion about options for the Applicant. Erickson stated that it is not the Board's job to solve the problem or to design the development.

Motion by Erickson, second by Kelly to approve Resolution 2020-10 which denies the variances and Preliminary Plat, based on the following findings:

Findings of Fact – Preliminary Plat Subdivision and Variances

1. Darwin Wiebolt ("Applicant") submitted an application to the Greater Bemidji Area Joint Planning Board for preliminary plat approval and three variances for the replatting of the property he owns located between Shelby Drive NE and Highway 71 in Northern Township ("Town") and which is legally described as follows ("Property"):

Lots 2, 3, 4, and 5, all in Block 2, and that part of vacated GROVELAND COURT N.E. lying adjacent to said Lots 2, 3, 4, and 5, Block 2, all in PLANTATION ESTATES, according to the recorded plat thereof, Beltrami County, Minnesota.

2. The Property is zoned (R-2) Suburban Residential Zoning District.
3. The lots within the existing plat are to be served by a street platted as Groveland Court N.E. The street has not been built and the Applicant has requested the Town to vacate it.

Preliminary Plat Subdivision

1. The Applicant proposes to replat the Property into six (6) residential lots to be named Plantation Estates First Addition ("Proposed Plat").
2. The Proposed Plat is not in conformity with the Greater Bemidji Area Comprehensive Plan or the Greater Bemidji Area Zoning and Subdivision Ordinance ("Ordinance"). As a result, the Applicant has requested three variances for the Proposed Plat as described below.
3. Lots 1, 2, & 3 of the Proposed Plat meet the minimum lot requirements of the (R-2) Suburban Residential Zoning District.
4. Lots 4, 5, & 6 of the Proposed Plat do not meet minimum requirements as they either do not meet the width requirement at the front yard property line or they constitute a flag lot under the Ordinance.
5. Flag lots are prohibited by the Ordinance, except in certain circumstances not applicable in this instance.
6. Existing lots in the neighborhood have minimum street frontages of two hundred (200) feet and allowing smaller street frontages would be inconsistent with the neighborhood.
7. Per the Ordinance, lots within a major subdivision or a planned unit development platted after September 12, 2018 may contain forty-five thousand (45,000) square foot lots and have a width of one hundred and fifty (150) feet.
8. Lot 5 within the Proposed Plat is much larger than the other lots and the Applicant indicated he may further subdivide the lot at a later date, such lots to be accessed through a thirty-three (33) foot wide private access easement.
9. It is clear the Applicant has drawn the Proposed Plat and has requested the vacation of the existing public road to avoid the costs associated with constructing a public road and cul-de-sac.
10. An increase in traffic will occur; however, no adverse impacts to traffic are anticipated in this immediate vicinity.
11. The potential to seek the further subdivision of Lot 5 within the Proposed Plat would furtheracerbate the public frontage and access concerns.
12. The Proposed Plat cannot be approved unless all three of the requested variances are approved.

Variances

1. The Applicant requests three variances (collectively, the "Variances"):

- a. Proposed Lot 4: A reduction of one hundred (100) feet in lot width at the front yard property line abutting Shelby Dr NE;
 - b. Proposed Lot 5: The creation of a flag lot; and
 - c. Proposed Lot 6: The alteration or realignment of an existing flag lot.
2. The procedure to consider and act on variance requests are set out in Section 1206 of the Ordinance.
 3. The Board finds as follows with respect to the criteria to be considered when reviewing variance requests:
 1. Has the applicant demonstrated a practical difficulty?
 - a. While the use of the Property for residential development is a reasonable use, there is nothing unique about the Property that interferes with the Applicant using the Property for residential development in a way that complies with the Ordinance.
 - b. The creation of Highway 71 did cut through the original platted forty, but the Applicant platted Plantation Estates following the construction of the Highway in a way that complied with the zoning regulations in effect at that time. The existing plat also provides all parcels direct access to a public road in compliance with the current standards in the Ordinance. The Applicant previously submitted a preliminary plat for the Property that complied with the Ordinance and which the Board approved.
 - c. The requested Variances are proposed to allow the replatting of the existing compliant lots into a configuration that does not provide sufficient frontage on a public road or that creates flag lots. The prospect of creating new lots that do not comply with the Ordinance would be contrary to the fundamental purpose of the Board's planning and zoning efforts and its Ordinance.
 - d. The idea to squeeze the new lots in along the existing street is born solely out of Applicant's effort to avoid the costs of providing sufficient public access to the lots by constructing a short segment of street and a cul-de-sac as shown in the previously approved preliminary plat. The Applicant has sought to avoid street costs by having the existing platted street vacated. However, attempting to avoid any street costs by refusing to dedicate and build additional right-of-way is contrary to the Ordinance.
 - e. Economic considerations alone cannot serve as the basis for granting a variance under the Ordinance or under Minnesota Statutes, section 462.357, subdivision 6(2). The sole basis for the requested Variances are to avoid the costs of constructing public access to the proposed new lots.
 - f. The Applicant has failed to demonstrate the presence of a practical difficulty that would allow the Board to grant the requested Variances.
 2. Are there exceptional circumstances, unique to this property, which have not been created by the land owner?

- a. There are no exceptional circumstance that are unique to this Property that justifies converting the currently conforming lots into lots that do not comply with the Ordinance. The establishment of Highway 71 did not prevent the Applicant from platting his property in a way that complied with the Ordinance. Nothing has changed with respect to the Property since that time to justify granting variances for a replat to avoid having to provide the required amount of frontage on a public road.
 - b. Since 2003, the Applicant had the opportunity to construct Groveland Court N.E. dedicated as part of the original plat. That street provides the required frontage on a public road, allowing each of the frontage properties to comply with all size and width requirements within the Ordinance. The Applicant is instead choosing to seek the vacation of the existing right-of-way and to reconfigure the lots to avoid needing to construct even the short segment of public road. The Applicant has demonstrated with the previously submitted and approved preliminary plat for the Property that it can be replatted in a manner that complies with the 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?
 - a. The requested Variances propose a reduction in lot width at the front yard property line and the creation of flag lots when viable alternative options exist that would not require variances or go against the spirit, purpose, and intent of the Ordinance.
 - b. Flag lots are prohibited under the Ordinance, except when approved through a PUD/CIC process and/or in accordance with other provisions of the Ordinance.
 - c. Under Section 401 of the Ordinance, no new lot shall be created that does not meet the minimum dimensional standards of the encompassing zoning district.
 - d. Granting the Variances would be contrary to the purpose of the Ordinance because they would be based on nothing more than the Applicant's desire to avoid the costs associated with providing the required amount of frontage on a public road. Again, the previously approved preliminary plat demonstrates that complying with the Ordinance is feasible on the Property.
 - e. Granting the requested variances would not be in keeping with the purpose and intent of the Ordinance.
4. Can the variance be granted without altering the essential character of the surrounding area?
 - a. The proposed Variances are for a reduction in lot width as well as the creation or alteration of flag lots. The Ordinance may allow lots within a subdivision to contain forty-five thousand (45,000) square feet in size or have a width of one-hundred and fifty (150) feet as long as it does not alter the character of the neighborhood or the surrounding area. The current Plantation Estates Plat consists of all two (2) to two and one-tenth (2.10) acre lots throughout the development and by approving this Proposed Plat, the six (6) new proposed lots would not provide consistency or unity for the surrounding area as these lots are all being piecemealed to fit within the development rather than strategically using smart planning or best planning

practices. The previously approved preliminary plat showed continuity of consistent and similar lots in size.

- b. By allowing these Variances, flag lots will be altered and created, ultimately allowing the placement of properties and the development of structures to be built and located behind other properties, blocking the direct view to the public right-of-way.
 - c. Approving the Variances would alter the essential character of the surrounding area.
4. The definition of "variance" in Section 109 of the Ordinance makes it clear that a variance may only be granted "when due to the particular physical surroundings, shape or topographical condition of the property, compliance [with the ordinance] would result in a practical difficulty upon the property owner." There is nothing unique about this Property that creates the sort of barrier to compliance that would justify the granting of the requested Variances. The Applicant has already demonstrated through the submission and approval of a previous preliminary plat for the Property that fully complied with the Ordinance. It was only when the Applicant began exploring the costs to construct the short segment of new public road and cul-de-sac necessary to provide the required lot frontage did he withdraw the plat and submit the Proposed Plat which does not comply with the Ordinance. While the Board is mindful of cost considerations for developers, the desire for a developer to avoid public infrastructure costs cannot be the sole basis for granting multiple variances. The definition of "practical difficulties" in Section 109 specifically states that "Economic considerations alone do not constitute practical difficulties." This language prohibiting the Board from granting variance based merely on the cost of compliance is taken directly from Minnesota Statutes, section 462.357, subdivision 6(2) and cannot be overlooked.
 5. The standards reflected in the Ordinance are there for a reason and must be upheld unless there are truly unique circumstances, other than economic, rising to the level of a practical difficulties to justify the granting of variances. Those reasons do not exist here and the standards have not been met, and so the Board is compelled to deny the requested Variances.
 6. Because the Variances are not approved, the Proposed Plat must be denied as it does not comply with the requirements of the Ordinance.

Roll call vote:

Ayes: Frenzel, Kelly, Meehlhause, Erickson

Nays: None

Absent: Albrecht

Abstain: None

Motion carried unanimously.

OTHER BUSINESS

- Meehlhause announced that the hiring of an Enforcement Position was recently approved by the City Council. Staff indicated that the Position would be posted later in the week.
- Kelly initiated the topic of municipal services around the northern and eastern parts of Lake Bemidji.

DIRECTOR'S REPORT

Mai described the upcoming planning cases, year-to-date activity, as well as new and on-going development projects. Mai also reminded the Board of the April 8th Public Hearing on Short Term Vacation Rentals, which will be held during the next JPB meeting. In conclusion, Mai presented a training opportunity lead by our Attorney. A Doodle Poll will be sent next week for the determination of a date and time.

UPCOMING MEETING DATES

March 24, 2020	5:00 pm	Ordinance Update Work Session
March 26, 2020	6:00 pm	JPC Regular Meeting
March 31, 2020	5:00 pm	Ordinance Update Work Session
April 8, 2020	6:00 pm	JPB Regular Meeting
April 23, 2020	6:00 pm	JPC Regular Meeting
May 13, 2020	6:00 pm	JPB Regular Meeting

ADJOURNMENT

There being no further business, motion by Frenzel, second by Kelly, to adjourn the Joint Planning Board meeting at 7:48 p.m.

Motion carried unanimously.

Respectfully submitted,

Terri Ball
Planning Administrative Assistant

JPB Minutes Approved and attested by:



Joint Planning Board Representative

