

# Crow Wing Township Planning Commission Meeting

## December 13, 2021 6:00 PM

Commission Members Present: Brad Arnold (Chair), Dan Lee, Linda Schuety , Amanda Peterson (Planning and Zoning Administrator), Justin Burslie (Planning and Zoning Administrator), Tucker Schuety (Township Supervisor) & Sue Kern (Township clerk).

Brad called the meeting to order at 6:00 PM and the Pledge of Allegiance was recited.

Public Hearing for preliminary plat application 01-21 and conditional use application 01-21 for the subdivision of a planned unit development Battalion Holdings, LLC, Owned Storage 371. Amanda presented, the applicant is proposing to subdivide a 7-acre tract for a planned unit development that will include 32 individually owned storage units and 1 common area. The proposed use as a planned unit development is permitted as a "conditional use", and the subject property will be subdivided with a plat. The subject property is located on the north side of State Highway 371 and the east side of 50<sup>th</sup> Avenue and is zoned Commercial 2. The property is adjacent to property zoned "Rural Residential 2.5" (east), "Agricultural/Forestry" (west and north). The proposed lots are intended for individually owned residential storage buildings. No lots will contain a septic system or well. The property is mostly wooded and does contain approximately 3,500 sq. ft. of delineated wetland that the applicants plan on filling with a de minimis permit from Crow Wing County. The property does not contain any area designated as floodplain. The proposed development will be accessed via 50<sup>th</sup> Avenue (Township Road), and 20-foot gravel drives will be used for access to each individual lot. Each of the 32 proposed lots are 30' X 48'. The proposed buildings will take up the entirety of the lot.

Staff findings: The following findings of fact have been prepared for consideration by the Planning Commission:

### Preliminary Plat

1. Owned Storage 371 is a proposed planned unit development consisting of 32 individually owned lots for residential storage structures with one common area.
2. The subject property is approximately 7 acres and located adjacent to State Highway 371 North and 50<sup>th</sup> Avenue.
3. The subject property is in the "Commercial 2" zone.
4. The property is adjacent to property zones "Rural Residential 2.5" (east and "Agricultural/Forestry" (north and west).
5. The proposed lots are intended for individually owned residential storage buildings.
6. No subsurface sewage treatment systems or wells are proposed.
7. The property is mostly wooded and contains approximately 3,500 sq. ft. of delineated wetland that will be filled with a de minimis permit from Crow Wing County.
8. The property does not contain any area designated as a floodplain.
9. The proposed development will be accessed off 50<sup>th</sup> Avenue, and 20-foot gravel drives will be used for access to each individual lot.
10. Each of the 32 proposed lots are 30' X 48' with the proposed buildings using the entirety of the lot.
11. Covenants for the development have not been submitted.

12. A grading plan for the subdivision has been submitted.
13. A stormwater management plan for the development has been submitted.

#### Conditional Use Permit

1. The proposed use will not impact the health, safety, or general welfare of the occupants in the surrounding neighborhood. The use, with conditions, will not generate offensive noise, odors, or pose any detrimental impacts to the safety of the surrounding neighborhood.
2. The proposed use will meet all Crow Wing Township Zoning regulations and conditions outlined in this conditional use permit. Final approval and review of conditions will be given at time of land use permit. Final approval and review of conditions will be given at time of land use permit and before approval of the final plat.
3. The proposed use meets the following goals and policies listed in the Comprehensive Plan:  
Goal 3: Ensure that new subdivisions and developments are designed to maintain privacy for adjacent properties: The proposed planned unit development will have substantial screening in the areas adjacent to residentially zoned property.  
Goal 7: All properties in the township should maintain a basic level of appearance that is neat and non-offensive.
4. The proposed use will not impact nor prevent any potential future development in the surrounding area. The south side of the parcel is adjacent to State Highway 371, and the subject property is located within the "Commercial" zone on the future land use map. The Commercial zone is a designation for property that is best suited for commercial development. Parcels should be adjacent to and have direct access to a state highway.
5. The proposed use will not impact any groundwater, surface, or air quality. Proposed improvements will include a detailed stormwater management plan to retain water onsite per the MPCA. The nature of the use will not generate any kind of odors nor impact the air.
6. No water is needed to service the proposed use so no impacts to the water supply will occur. The use does not propose any subsurface sewage treatment systems so no impacts will occur. Proper stormwater management techniques and best practices will be strictly followed. All proposed stormwater improvements will adhere to state, and local regulations. During construction all erosion and sediment control best practices will be strictly adhered to and checked.

The Planning Commission can recommend approval/denial to the Town Board or table the application for further review. If the decision is to approve or deny, findings of fact should be cited.

Staff Recommendation: If the Planning Commission wished to approve the applications, staff recommends the following conditions of approval:

#### Preliminary Plat

1. Prior to final plat approval the applicant shall submit a vegetation/landscaping/screening plan acceptable to the planning commission which includes three staggered rows of 6'-8' tall, planted height evergreen trees located on the east and north property lines. The trees shall be properly maintained. Any tree that dies shall be replaced with a new 6'-8' planted height evergreen tree. One row of evergreens shall also be planted along the west property line.
  - a. The approved vegetation/landscape/screening plan shall be implemented in full prior to land use permit approval OR the property owner shall enter into a

development contract including a cash deposit or bond in the amount of 125% of the cost of implementation of the plan prior to final plat approval.

2. Private covenants for the development describing ownership and maintenance responsibilities of individual lots and the common area shall be reviewed and approved by the planning commission prior to final plat approval.
3. The final plat application shall not be approved until all conditions of the preliminary plat approval are fulfilled.

#### Planned Unit Development

4. The applicant shall submit a lighting plan showing all exterior lighting.
5. The applicant shall submit elevation drawings of the proposed storage buildings, and the color shall be approved by the Planning Commission prior to application of land use permits.
6. The planned unit development shall zero lot line setbacks for all interior lots (1-32); however, overhang of roofs will be prohibited.
7. Prior to land use permit approval, landscaping, grading, and driveways shall be approved by the township.
8. No exterior storage of materials or equipment shall be allowed.
9. The structures within the development may only be utilized for personal (non-commercial) storage.
10. There shall be no habitation of the storage units.
11. Subsurface sewage treatment systems and water well (other than for irrigation) shall not be allowed on the subject property.
12. There shall be no encroachments on State Highway 371 ROW, and any work in the ROW will require a permit from the State of Minnesota Department of Transportation.
13. The approved stormwater management plan will include the use of sedimentation ponds or comparable, and there will be no stormwater runoff to Highway 371 ROW.

Amanda stated she did send notice to all owners in a half mile radius and there was one response by mail. The letter was in the packet. The resident was concerned about the possibility of an unmarked grave at the location. Amanda did contact the state archeology department and they did not have record of any unmarked graves in their system. They did have one on the property directly to the west. She contacted the individual who wrote the letter and gave her information for the state archeology department. I asked the state archeology department how we should proceed, and they said they have nothing to hold us up and they have no record of it. She also reached out to the owner and asked if they were aware of any unmarked graves, and they did not know of this. She did reach out to the Department of Transportation and those recommendations are in the staff findings above. The applicant has a copy of the staff findings.

Brad stated the township has struggled with commercial development as it has stated it is rural residential overall. However, this property is on the 371 corridor and has a certain amount of commercial and this is suitable for that. The previous owner presented a substantially different proposal of commercial, but this proposal is significantly different than in the past. There is a big emphasis on the buffer around the property to maintain a harmonious atmosphere between commercial and residential. Clearly, the applicant has put a lot of time, money and planning into this proposal, and they appear to be doing things the right way. Regarding the comment about the burial, Brad stated that he had heard about that, and we don't know if that is rumor handed down from the generations or what. If someone is unearthed or discovered, the matter needs to be disclosed and

treated with utmost care. The applicant stated that the excavator has been notified and he will keep an eye out and observe concern. There was considerable discussion regarding the completion of the 6'-8' evergreen vegetation (3 rows) and the contract agreement. The applicant is aware of the extensive border of trees, and it is to be completed at the time of structure permit and there will be writing in a contract form regarding these details.

The questions of how the applicant will address snow removal and plowing were discussed. Initially the owners will be responsible. Then as sections are sold to others, they will have to form a committee which will then, in turn manage the property including the snow aspects. There will not be a large area for snow storage and snow will have to be removed via trucks, etc. by the new storage unit owners. They will be made aware of this ahead of time and owners will pay dues toward that end. Dan commented they need to keep in mind the snow that comes off the buildings as well will need to be taken care of. The applicant mentioned they would use snow clips on the buildings. Regarding the zero set back from the building and overhangs of roofs will be prohibited and there was discussion regarding the roof drip line. Then Justin asked about who owns the common area and the applicant replied each one of the 32 overall will own it. With that, there will be a pre-existing covenant and understanding in advance where these details will be spelled out. Their attorney is working on the verbiage for that. The entrances will have a gate that goes up versus a sliding one.

Dan questioned if there would be a type of heat. The applicant replied that there would be electricity and that would be an option for that. They hadn't yet talked about propane possibilities but would make a consistent idea for that each to have the same. There would be more discussion about this. Regarding coloration, it was to be a soft pallet of tans, browns, gray or green. Nothing aggressive. Linda questioned about the snow plowing will not be allowed to go across 50<sup>th</sup> Avenue. Tucker questioned the pervious impervious on the site. Only 60% is allowed and they are not even close to that. The applicants stated they were a part of a similar project elsewhere and are aware of the concepts involved. They also stated the owners themselves do their own self-policing of the area as they have a vested interest in it. Brad also mentioned that they would need to see the lighting plan proposal and use of down lighting and to make sure lighting is not projected on the highway or towards neighboring properties. Brad mentioned that owners will have 24/7 hours of access, but he just didn't see owners coming and going in the middle of the night. The conditions will be transferrable to owners. The planned unit development will be recorded at the county and there will be no changing that without a big process and conditions are listed on the PUD. There will be no exterior storage. Dan suggested they consider having internet with cams to watch property that owners may want that feature. The applicant will maintain the property until a possibly 5-person board of new owners take that over and they will be responsible for maintenance. The township will never be taking over the maintenance. A resident questioned the size of the buildings, and the answer was they are 16' high with 14' X 14' doors. The Planning Commission does not have the final ruling on this but are here tonight to make a recommendation to approve/deny or table the proposal to the town board for a final ruling. Once the preliminary plat is approved by the board, they will submit a final plat. There are no changes to dimensions once approved by the Town Board. Brad stated he supports the proposal because they have done all the legal work and have proper storm water plan and presenting a respectable development. Dan made a motion to approve the proposal with the stated finding of facts and conditions that were listed and noted in the proposal to send to the Town Board. Linda seconded. Brad added that the owners would be cooperative and respectful regarding possible remains on the property. Motion passed 4-0. Amanda and Justin will send list of findings and conditions to the owners once the Town Board approves and then they will do the final plat with the vegetation, lighting, storm water and color proposal. A plat check by a 3<sup>rd</sup> party surveyor will be needed. The third thing would be to make sure all

the conditions have been met. They will need to again go through a public hearing process again but that is more of a formality at that time. The owners plan to attend the regular board meeting tomorrow.

Additions or Deletions to the Agenda: Will be added to the Old Business.

Approval of Minutes for November 8, 2021, meeting. Linda made a motion to approve the minutes as written. Dan seconded. Motion passed 4-0.

New Business: Ordinance amendments.

1. Agribusiness definition and land use.
2. Energy systems language

Brad stated a lot is changing in our world regarding solar energy.

Amanda brought in information regarding the above. She stated that agribusiness would address the Litchy situation as well as a couple more businesses and it really should be reflected in the ordinance. The ordinance adds agri-business to the land use table and amendments and allows conditional use permit in the agricultural forestry and rural residential zones. The ordinance encompasses solar energy systems. Residents will not require a permit for a solar panel on top of a roof but require a permit if they want to set it up in a field. If it was a commercial solar panel, they would need a permit for that as well. Litchy's do plan to apply for the permit in February. A conditional use permit will be needed. This will be on the January agenda for a public hearing.

Current enforcement policy & violation ordinance language: Amanda presented a significant amount of language possible additions from surrounding areas. She included the current policy of complaint driven and the township to take care of the violation after that. Her recommendation is to add a space for letters to be written. Currently that is not in the policy. She recommended two letters of violation and a deadline of 30 days for each, for a total of 60 days. She stated that the Township needs to contract with an attorney for unresolved violations. Amanda stated the need to add the whole nuisance section to the ordinance between article 17-20. This would make it easier to reference back to the ordinance when writing letters. Brad intends to recommend to the Township Board to get a local attorney at tomorrow's meeting. Brad said our junk/salvage #45.9 is not lengthy enough and needs more detailed verbiage. There was discussion on the whether there is the right to go on to someone's property and whether permission is needed to do so. They have always requested permission in the past. Justin said if you send a letter and there is no response, you don't go there. The general approach needs to be cordial otherwise law enforcement needs to be present. Currently, whatever you see from the right of way and can take pictures, or go directly to the door, knock, introduce self but that you can not just go looking around without a warrant. If there are no trespass signs, Justin encouraged to stop right there and not go further. Brad is asking for a suggested do's and don'ts for the Commission to follow. Justin also suggested the Commissioners wear a badge to be more official looking and possibly in a township vehicle. Brad stated that for the most part there is an open dialect between the resident and the Commissioner. Brad stated that one of our shortcomings has been timelines are not even documented. Tucker suggested we have written amount of time to give to people and then check back on progress for certain items. Thereafter, an attorney needs to be contacted. The citizen complaint needs to be updated as well. A resident commented that there needs to be some provision keeping in mind that some of the 'problem areas' have been there for decades and over an 80-acre property and not just a 25' lot in a town. Brad stated a line of communication needs to be started and to establish a plan. Brad stated that some residents have the willingness to comply but not always the means to fulfill a plan. Tucker suggested that after a complaint, that within 30 days there needs to be a plan in place to proceed,

regardless of the size of the property. Each situation is different, but a process needs to be in the ordinance. Brad discussed a few examples and possible timelines for these situations. There was discussion about abandoned vehicles and what is and isn't an abandoned vehicle. The language in the ordinance needs to be updated. Some of our current language is too vague. Amanda and Justin will work on the ordinance and nuisance language and bring back language which will work for our township and if the Commissioners have suggestions, they will email them. Amanda said the Town Board really needs to get an attorney. Brad stated the penalties need to be stiffer and more enforced by an attorney. Some of the language will be land use driven and some will not.

Finally, Brad said we need to tidy up our violation forms, addresses, get policy in alignment, develop a relationship with an attorney, expand on what is concern for violation material and internally have guidelines of dos and don'ts of what we are legally responsible to do, what we can't do and to always act professional, courteously and respect the landowner. Tucker added we should bear in mind how many drivers are in a household before putting a number on how many vehicles than can have, etc. Brad added we should determine what is a junk vehicle and have that as part of the language. Justin and Amanda will send out a draft to the board that they may read before the next meeting.

There was a discussion about plat books and Brad will ask the town board to see if they have copies to return. He also wanted to talk to them about a new scanner.

Old Business: A current permit and fee schedule will be updated at the town board meeting tomorrow. Brad will talk to the Town Board about considering David Nelson to be on the Planning and Zoning Commission at the regular meeting tomorrow. They will look into training for him. Amanda will email him some information.

Regarding the Ream complaint, Brad has met with Mary and Becky along with Amanda. The violator has rented a skid steer and moved everything into a pile. There has been a follow-up complaint. In Brad's opinion, the initial complaint has been dealt with. The debris is not on the neighbor's property. If there is, it isn't much. The Ream family is trying, and Brad is working with them. The immediate complaint has been addressed. There is a collapsed garage, chicken coop is falling, there is a camper and the pile. They are being very cooperative and doing as much as they can. Brad is going to put her in contact with a few folks who may be able to help. Brad will follow up,

The Jillson complaint is in a holding pattern. It is a legal matter and should be dealt with in the next 1-2 months. There is someone living in the 5<sup>th</sup> wheel that is on probation. Legal dates are coming up.

Planning and Zoning Administrators report was presented. It has been busy. Plus, Amanda has two more to add to the list.

Town Board Correspondence: The Town Board will adopt the current fee schedule. We don't want to make money, but we don't want to lose money.

A resident made the comment that there is a mistake on the website making mention of Bay Lake Township and Brad M. will be contacted to change that mistake.

There was no other business. Dan made a motion to adjourn. Linda seconded the motion. No discussion. Motion passed 4-0. Meeting adjourned at 8:18 pm.

