



AGENDA

Greenwood City Council & Planning Commission Annual Joint Worksession

Wednesday, February 21, 2018

Old Log's Cast & Cru Restaurant, 5175 Meadville Street, Greenwood, MN 55331

Approximately 8pm (*immediately following the planning commission meeting*)

In accordance with open meeting laws, members of the public are welcome to view the worksession, but there will be no opportunity for the public to participate. No city action will be taken at the worksession.

1. CALL TO ORDER | ROLL CALL | APPROVE AGENDA

2. DISCUSS: BOARD OF ADJUSTMENT & APPEALS CONCEPT FOR PLANNING REVIEW

See attached documents.

3. DISCUSS: POTENTIAL CHANGE TO GRADING ORDINANCE

Mayor Kind & Chairman Lucking will present a verbal report regarding this topic at the worksession.

4. DISCUSS: LOT SIZE RESEARCH

Councilman Cook will present a verbal report regarding this topic at the worksession.

5. ADJOURNMENT



Agenda Item: Board of Adjustments & Appeals Concept for Planning Review

Summary:

- The city council is considering replacing the planning commission with a Board of Adjustments & Appeals (BAA) to streamline turnaround of variance / conditional use permit (CUP) applications and ordinances to comply with the new state law that requires ordinances to be posted online 10 days prior to council meetings.
- To comply with the law, the city council packet deadline now is 2 days after most planning commission meetings.
- The city zoning administrator cannot commit to turning around council packet materials in 2 days.
- Therefore, the city council approved a date resolution with a lead time for processing applications that is increased substantially from what it has been in the past. With this schedule, the city will need to frequently invoke the right to extend the 60-day period to process applications. See the yellow highlighted column on the attached resolution 04-18.
- By contrast, if the city council approves the new BAA concept, the time to process applications is improved from what it has been in the past. See the highlighted column on the attached date resolution "with BAA concept."
- The "Board of Adjustments & Appeals Concept for Planning Review" also is attached.
- There are additional benefits to changing to the BAA concept besides the ability to streamline processing of variance and CUP applications (see "pro" list on the BAA concept sheet).
- The city attorney's memo regarding the topic also is attached.

Timeline: If the city council decides to move forward with the BAA concept, it needs to be done via ordinance. Below is the timeline.

- 03-07-18 City council considers 1st reading of the ordinance (may make revisions / may waive 2nd reading).
- 03-08-18 If the 2nd reading is waived, the ordinance is submitted to the Sun-Sailor for publication.
- 03-15-18 If the 2nd reading is waived, the ordinance is published in the Sun-Sailor (goes into effect on this date).
- 04-04-18 City council considers 2nd reading of the ordinance (may make revisions).
- 04-05-18 The ordinance is submitted to the Sun-Sailor for publication.
- 04-12-18 The ordinance is published in the Sun-Sailor (goes into effect on this date).

Council Action: If the city council desires to move forward with dissolving the planning commission, a 4/5ths approval is required.



BOARD OF ADJUSTMENTS & APPEALS CONCEPT FOR PLANNING REVIEW

1. Dissolve the planning commission.
2. Appoint an 8-member Board of Adjustments & Appeals (BAA) that is made up of the 5 city council members plus 3 appointed citizen representatives.
3. Applicants for the citizen representative seats will be placed on a ballot and each city council member will vote for 3 people. The top 3 vote getters will be appointed to the citizen representative seats. To stagger the terms, seat 1 will begin with a 3-year term, seat 2 will begin with a 2-year term, and seat 3 will begin with a 1-year term. Thereafter, terms will be for 3 years. There will be no limit to the number of terms served.
4. BAA meetings will be at 6:30pm immediately preceding regular city council meetings that will start at 7:30pm.
5. The mayor will serve as the chair of the BAA.
6. All 8 BAA members vote. A quorum is 5 BAA members.
7. A 3-member BAA subcommittee will be appointed by the BAA to work with the zoning administrator to make recommendations regarding BAA agenda items. Findings will be included in the BAA meeting packet based on the recommendation.
8. BAA members interested in serving on the BAA subcommittee will be placed on a ballot and each BAA member will vote for 3 people. The top 3 vote getters will be appointed to the BAA subcommittee.
9. The BAA will handle all matters currently handled by the planning commission – variance applications, conditional use permit applications, public hearings, zoning ordinances, etc.
10. The votes of the BAA will be official action. The BAA may approve the drafted findings, direct the applicant to make revisions to their plan for review at the following month's BAA meeting, direct staff to draft different findings for consideration at the following month's BAA meeting, etc.
11. BAA meetings will not be on camera.
12. A recap of the BAA discussion and action will be made during the regular city council meeting that is on camera.
13. The zoning administrator will prepare minutes of BAA meetings that will be approved by the BAA at the following month's meeting.

PROS

- A. Streamlines the turnaround of ordinances and variance / conditional use application processes to comply with the new state law for posting ordinances 10 days prior to council meetings. Compare the two date resolutions attached.
- B. If the BAA wants the applicant to make tweaks to their plan, the BAA can review the tweaks the following month and still comply with the 60-day deadline for action.
- C. Reduces the number of citizen representatives from 7 to 3 to improve the ability to recruit.
- D. Improves transparency and access to application documents. BAA packet items (including the subcommittee recommendation) would be included in the council packet that is posted online 10 days in advance. Currently the public needs to stop by city hall to meet with the zoning administrator one-on-one to review documents or wait to see the documents at the planning commission meeting.
- E. Saves money in zoning administrator time by reducing the number of packets prepared / delivered, number of meetings, and number of one-on-one meetings with the public.

STATUS QUO

- F. Keeps the casual off-camera setting to encourage conversation and public hearing participation.
- G. Keeps the "pipeline" for training potential future council members.

CON

- H. If there are several complex items on the same BAA agenda, the BAA meeting could delay the start of the regular council meeting.

Updated for the 02-21-18 city council / planning commission joint worksession packet based on discussion at the 01-03-18 city council meeting.

Resolution 04-18

City of Greenwood Dates for 2018

Be it resolved that the city council of the city of Greenwood, Minnesota approves the following dates for variance / conditional use permit / subdivision applications, publication of notices, planning commission meetings, and city council meetings:

Application Date	Sun Sailor Publish Date	Planning Commission Public Hearing	Council Packet Submission Deadline	Council Packet Posted Online	City Council Meeting
Wed (15 days before publish date)	Thu (13 days before PC meeting)	7pm, 3rd Wednesday	Fri (12 days before CC meeting)	Mon (10th day before CC meeting)	7pm, 1st Wednesday
October 18, 2017	November 2, 2017	November 15, 2017	December 22, 2017	December 25, 2017	January 3, 2018
November 22, 2017	December 7, 2017	December 20, 2017	January 26, 2018	January 29, 2018	February 7, 2018
December 20, 2017	January 4, 2018	January 17, 2018	February 23, 2018	February 26, 2018	March 7, 2018
January 24, 2018	February 8, 2018	February 21, 2018	March 23, 2018	March 26, 2018	April 4, 2018
February 21, 2018	March 8, 2018	March 21, 2018	April 20, 2018	April 23, 2018	May 2, 2018
March 21, 2018	April 5, 2018	April 18, 2018	May 25, 2018	May 28, 2018	June 6, 2018
April 18, 2018	May 3, 2018	May 16, 2018	June 22, 2018	June 25, 2018	Tue July 10, 2018
May 23, 2018	June 7, 2018	June 20, 2018	July 20, 2018	July 23, 2018	August 1, 2018
June 20, 2018	July 5, 2018	July 18, 2018	August 24, 2018	August 27, 2018	September 5, 2018
July 18, 2018	August 2, 2018	August 15, 2018	September 21, 2018	September 24, 2018	October 3, 2018
August 22, 2018	September 6, 2018	September 19, 2018	October 26, 2018	October 29, 2018	November 7, 2018
September 19, 2018	October 4, 2018	October 17, 2018	November 23, 2018	November 26, 2018	December 5, 2018
October 24, 2018	November 8, 2018	November 21, 2018	December 21, 2018	December 24, 2018	January 2, 2019

All meetings are held in the Deephaven council chambers, 20225 Cottagewood Road, Deephaven, MN 55331. Dates may change due to lack of quorums.

Be it resolved that the city council of the city of Greenwood, Minnesota approves the following additional dates:

	Date	Time	Notes
Pre-Board Worksession with Assessors	March 7, 2018	6pm	Before March council meeting
Local Board of Appeal & Equalization Meeting	April 12, 2018	6pm	2nd Thursday in April
Subsequent LBAE Meeting	April 26, 2018	6pm	4th Thursday in April
Joint Worksession	February 21, 2018	8pm	3rd Wednesday in Feb, following PC meeting
Spring Clean-Up Day	May 19, 2018	8am	3rd Saturday in May
Worksession: Budget & Fees	August 1, 2018	6pm	Before August council meeting
Worksession: Budget & Fees	September 5, 2018	6pm	Before September council meeting
Fall Sales Ratio Meeting with Assessors	November 1, 2018	4pm	Last Thur in Oct or 1st Thur in Nov
Budget Public Comment Opportunity	December 5, 2018	7pm	During December council meeting

ADOPTED by the city council of the city of Greenwood, Minnesota, this 7th day of February 2018.

There were 5 AYES and 0 NAYS.

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana H. Young, City Clerk

Resolution __-18

City of Greenwood Dates for 2018 - with BAA concept

Be it resolved that the city council of the city of Greenwood, Minnesota approves the following dates for variance / conditional use permit / subdivision applications, publication of notices, board of adjustments and appeals / city council meetings:

Application Date	Sun Sailor Submission Date	Sun Sailor Publish Date	Council Packet Submission Deadline	Council Packet Posted Online	BAA & City Council Meeting
Wed (15 days before publish date)	Thu (1 week before publish date)	Thu (13 days before BAA & CC meeting)	Fri (12 days before BAA & CC meeting)	Mon (10th day before BAA & CC meeting)	1st Wed 6pm BAA Meeting 7pm CC Meeting
December 6, 2017	December 14, 2017	December 21, 2017	December 22, 2017	December 25, 2017	January 3, 2018
January 10, 2018	January 18, 2018	January 25, 2018	January 26, 2018	January 29, 2018	February 7, 2018
February 7, 2018	February 15, 2018	February 22, 2018	February 23, 2018	February 26, 2018	March 7, 2018
March 7, 2018	March 15, 2018	March 22, 2018	March 23, 2018	March 26, 2018	April 4, 2018
April 4, 2018	April 12, 2018	April 19, 2018	April 20, 2018	April 23, 2018	May 2, 2018
May 9, 2018	May 17, 2018	May 24, 2018	May 25, 2018	May 28, 2018	June 6, 2018
June 13, 2018	June 21, 2018	June 28, 2018	Wed June 27, 2018	Fri June, 29, 2018	Tue July 10, 2018
July 4, 2018	July 12, 2018	July 19, 2018	July 20, 2018	July 23, 2018	August 1, 2018
August 8, 2018	August 16, 2018	August 23, 2018	August 24, 2018	August 27, 2018	September 5, 2018
September 5, 2018	September 13, 2018	September 20, 2018	September 21, 2018	September 24, 2018	October 3, 2018
October 10, 2018	October 18, 2018	October 25, 2018	October 26, 2018	October 29, 2018	November 7, 2018
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December 5, 2018	December 13, 2018	December 20, 2018	December 21, 2018	December 24, 2018	January 2, 2019

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Budget Public Comment Opportunity	December 5, 2018	7pm	During December council meeting

ADOPTED by the city council of the city of Greenwood, Minnesota, this ____ day of January, 2018.

There were __ AYES and __ NAYS.

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Dana H. Young, City Clerk

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MEMORANDUM

TO: Mayor Kind and City Council Members, City of Greenwood

FROM: Mark W. Kelly

DATE: December 29, 2017

RE: Planning Review Concept – (8-Member Board of Adjustments and Appeals BAA)

Facts

Planning Review Concept: 8-Member Board of Adjustments and Appeals (BAA)

It is proposed an 8-member Board of Adjustments and Appeals be created as a substitute to the present Planning Commission. The board would be composed of the five council members and three appointed citizen representatives; all members would have a vote.

I have reviewed the Planning Review Concept agenda memoranda and make the following comments.

While the Planning Commission is authorized by MN. Stat. §462.354, Subd. 1(1), the City is *not* required to keep the Planning Commission and may, by a 4/5th vote of the entire Council, abolish the body. (Mn. Stat. §462.354, Subd. 1.) If abolished, all references in the Zoning Ordinance or Zoning Code to the Planning Commission are to be read to refer to the City Council of Greenwood as if the Code had been rewritten and republished accordingly. (Code Section 1101.00.)

All Cities with a Zoning Ordinance must provide for a Board of Appeals and Adjustments. The statute assumes that the Board of Appeals and Adjustments will be the City Council. However, the Council is empowered to establish an alternate separate Board of Appeals and Adjustments (BAA) and give it an appropriate name. A BAA has the powers stated under Mn. Stat. §462.357, Subd. 6 and §462.359, and the City Council may assign the Board other duties as deemed appropriate.

If the City Council does not serve as the BAA, it may provide by ordinance that the decisions of an appointed Board of Appeals and Adjustments are either:

- 1) final, subject to judicial review,
- 2) final subject to appeal to the Council and the right of later judicial review, or
- 3) that the decisions thereof are merely advisory to the Council.

Greenwood's Planning Commission recommendations have been advisory to the City Council, with Council, serving as the Board of Appeals and Adjustments, making the final decisions.

As proposed, the 8-member body would be strictly advisory to the City Council which will retain final decision-making authority. Whether this body is labeled *Board of Appeals and Adjustments*, or is labeled Planning Commission, the body will require an enabling ordinance addressing record keeping, report preparation, powers and duties, nominations and appointments. Code Section 220, most likely, will be revised accordingly.

Where the City Council does not serve as the Board of Appeals and Adjustments, statute allows the City to appoint its municipal officers, and others, to a Board of Appeals and Adjustments. There is no limit on the number of Council Members that might be so appointed, and there is no cap on the number of persons who might be appointed to serve on such a body.

Heretofore, the Planning Commission has conducted the public hearings necessary to the processing of variance/CUP applications. It is expected the proposed 8-member body would replace the Planning Commission, and hold those hearings. It is uncertain whether public comment would be allowed at the regular City Council Meeting immediately following. As the make-up of the two bodies is similar, a second "hearing" may be unnecessary.

Holding the 8-member body meetings immediately preceding the regular City Council Meeting removes time necessary for preparation of Minutes and written reports to the City Council. This will necessitate an oral report by a representative of the 8-member body. However, that report must be an accurate representation of the discussions earlier had, and reflect the vote/recommendation of the 8-member body. This will require members of the 8-member body to state with accuracy and precision, motions of approval or denial. Minutes will need to be taken by a recorder, then reviewed and verified after the motion and vote; and before adjournment.

Issue

What should be the decision-making role of the 8-member board?

Discussion

The City Council may retain final decision authority on variances/CUP's or delegate it to the 8-member body. If delegated, the City Council may give itself the role of appellate body. If the City does so, it should expect appeals to be frequent.

I *do not* recommend that the City Council take on the role of an *appellate body* regarding the decisions of the 8-member BAA. First, the composition of the two bodies are similar, and review by the Council process would be arguably redundant. We will also be inviting District Court review of our appeal process. In defense of such challenges, we will need to establish Rules of Procedure for the processing of appeals and strictly observe due process rights.

If the City Council *retains* final decision-making authority as proposed, then I recommend the City Council retain the title of Board of Appeals and Adjustments, and that the 8-member body be seen as a reconstituted Planning Commission holding its meetings in the hours preceding the regular City Council Meetings. This was the process 20 years ago. Again, removing time between the meetings of those bodies, removes the opportunity for a written report. It does not, however, obviate the need for regular order and a written record of the meetings.

If the City Council *renounces* its right to be the BAA and final decider, it may do so, then the 8-member board should be named Board of Appeals and Adjustments.

In any event, the open meeting law will apply to a Planning Commission, Board of Appeals and Adjustments and, of course, the City Council. Members need to be educated in that regard.

Recommendation

As I understand the goal of expedited process, greater efficiency and substantive review by the final decision-makers, I recommend the City dissolve the Planning Commission, approve the 8-member board, name it the Board of Appeals and Adjustments, and grant it final decision-making authority subject to Judicial Review.