

**GREATER BEMIDJI AREA  
REGULAR JOINT PLANNING COMMISSION MEETING**

**Thursday, April 27, 2017  
6:00 P.M.**

**Council Chambers, City Hall  
317 4<sup>th</sup> ST NW  
Bemidji, MN 56601**

**AGENDA**

- **Call to Order/Roll Call** **Chair**
- **Pledge of Allegiance**
- **Approve Agenda**
- **Approve Minutes**
  - **Thursday, March 23, 2017 Regular Meeting**

**NEW BUSINESS**

**Public Hearings**

1. **Northern Township** – V-17-31.00329.00 – Anthony & Tiffany Schouten **CB**
2. **City of Bemidji** – Preliminary & Final PUD-17-80.05081.00 – Sanford Medical **CM**
3. **City of Bemidji** – IUP-17-80.01105.00 – UMMHC A.C.T. **CB**
4. **City of Bemidji** – V-17-80.02699.00 – Ross Walters **CB**
5. **City of Bemidji** – V-17-80.03308.01 – Tim Orton Properties, LLC **CM**

**OTHER BUSINESS**

1. **Visitors** **Chair**
2. **Director Report** **CM**
3. **Upcoming Meetings** **Chair**
  - May 10, 2017                      6:00 pm                      JPB Regular Meeting
  - May 25, 2017                      6:00 pm                      JPC Regular Meeting
  - June 14, 2017                      6:00 pm                      JPB Regular Meeting
  - June 22, 2017                      6:00 pm                      JPC Regular Meeting
4. **Adjourn** **Chair**

**MINUTES  
GREATER BEMIDJI AREA  
REGULAR PLANNING COMMISSION MEETING**

April 27, 2017  
6:00 p.m.

City Hall  
Council Chambers

**CALL TO ORDER:** Chair Nicki Lemmer called the regular meeting of the Greater Bemidji Area Joint Planning Commission to order at 6:00 p.m. Roll call was taken and the pledge of allegiance was recited

**MEMBERS PRESENT:** Berg, Steffen, David (6:02), Hendricks, Lahn, Lemmer, Smith

**MEMBERS ABSENT:** Kramka, Miller

**STAFF PRESENT:** Casey Mai, Cory Boushee, Terri Ball

**OTHERS:** Frank Orton, Tim Orton, Ross Walters, Sharon Swanson, Jeffrey Orvedal, Paul Nistler, Don Gunderson, Matt Murray

**APPROVAL OF AGENDA:**

Motion by Steffen, second by Lahn, to approve the Agenda as presented.

Motion carried unanimously.

**APPROVAL OF MINUTES:**

Smith presented a difference in minutes between 4/12/17 JPB and 3/23/17 JPC meetings, regarding Boell case. Staff will correct 3/23/17 minutes and provide at 5/25/17 JPC meeting.

Motion by Steffen, second by David, to approve minutes from the March 23, 2017 Greater Bemidji Area Regular Joint Planning Commission as corrected.

Motion carried unanimously.

**NEW BUSINESS:**

**Public Hearing:**

**Boushee presented the withdrawal of first case:**

**PLANNING CASE – V-17-31.00329.00 – Anthony & Tiffany Schouten**

Staff found an existing variance approved by the JPB September 12, 2007. A new variance will not be required for this parcel to be a buildable lot, per the applicant continuing to be able to meet the conditions for approval.

Applicant submitted a signed *Intent To Withdraw Planning Action* April 20, 2017. A full refund will be given.

**Public Hearing opened at 6:09 p.m.**

Don Gunderson stated he was present at the 9/12/07 meeting and heard the Planning Director, Mel Melander, say the variance was only good for two years. Staff found no wording to support that in any minutes or recorded resolution, however Gunderson was thanked for presenting that information. Staff explained to commissioners the possible legal conflict of setting such a time limit. No actions were taken.

**Public Hearing closed at 6:14 p.m.**

**Mai presented the second case:**

**PLANNING CASE – Preliminary and Final PUD-80.05081.00 – Sanford Medical**

Applicant is requesting PRELIMINARY/FINAL approval of a Planned Unit Development (PUD) for their medical campus located at 1300 Anne Street NW. This primary parcel of the campus is 80.05081.00 located in the Office/Medical (OM) Zoning District.

Additional parcels as part of the application include: 80.00469.00, 80.00470.01, 80.04727.00, 80.04728.00, 80.04729.00, 80.04730.00, 80.04731.00, 80.04732.00, 80.04733.00, 80.04734.00, 80.04735.00, 80.04735.01, 80.04736.00, 80.04737.00, and 80.04738.00.

**BACKGROUND**

On March 8<sup>th</sup>, 2017 a Concept PUD was approved by the Joint Planning Board. The applicant has addressed the requests of the JPC/JPB and is requesting final approval for PUD. The applicant's proposed development is located at 1300 Anne Street NW.

No PUD can be approved without issuance of a Conditional Use Permit (CUP) by the Joint Planning Board. Since the March 8th Concept PUD approval, the applicant has addressed the requests of the JPC/JPB.

**CONDITION 1:**

JPB: A Draft Developer's Agreement will be required to be submitted and reviewed by the applicable agencies for final PUD approval.

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**Staff Analysis:** A draft Developer's Agreement has been created and reviewed by all parties prior to final PUD approval. Once the Developer's Agreement is signed by all applicable agencies, it shall be recorded against the new platted parcels within the PUD boundary.

**CONDITION 2:**

**JPB:** An updated landscaping plan with total tree count based on all disturbed areas for phase I and phase II. Landscaping for interior parking lot green space calculations should also be on this plan.

**Staff Analysis:** The applicant has submitted updated landscaping plans for both phase I (L400) and phase II (L401) with total tree count. For phase I, the applicant has provided all 57 trees that were required throughout the disturbed area. For phase II, the applicant has also provided all 30 trees that were required throughout disturbed areas. All trees are meeting the size requirements per Section 1006 in the GBAJPB Zoning and Subdivision Ordinance. The applicant will be required to submit a final landscaping plan with the quantity and location of each type of tree. Interior greenspace calculations have been included for both phase I and phase II and are exceeding the 4% requirement. Phase I parking area will have 5% interior greenspace while phase II will have 6.4%.

**CONDITION 3:**

**JPB:** An updated site plan showing all newly developed parking areas meeting the five (5) ft setback from all property lines with a minimum of 4% interior green space islands with trees. This should include landscaping plan for Phase II entrance removals.

**Staff Analysis:** The applicant has provided site layout surfacing and traffic plans for phase I and phase II along with landscaping plans incorporating the 4% interior greenspace with live landscaping and trees. All parking areas are meeting the five (5) ft setback requirements per Section 1009. Site grading and drainage plans have also been provided for phase I and phase II. Both access driveways being removed were included in the landscaping plan for phase II.

**CONDITION 4:**

**JPB:** A final sign plan will need to be submitted for preliminary/final approval displaying existing signage and proposed signage as part of Phase I and Phase II of this project only.

**Staff Analysis:** A final sign plan has been submitted for phase I and phase II of the project. With this PUD, sign standard flexibility is being granted. Future signage plans

will need to be approved through PUD amendments. A sign permit will need to be obtained from JPB staff prior to the installation of any signs on phase I.

**CONDITION 5:**

**JPB:** An updated site plan showing all existing dumpsters fully enclosed meeting Section 1002.

**Staff Analysis:** The applicant has submitted a final master plan, C020, indicating the existing dumpster locations on site will be fully enclosed with a six (6) foot high wooded panel fence with a gated door for screening.

**CONDITION 6:**

**JPB:** Plans submitted for Preliminary/Final approval should only consist of Phase I and Phase II being approved for PUD.

**Staff Analysis:** The applicant has updated all plans only including phase I and phase II for future development. A final set of signed approved drawings (City Engineering and Planning) will be required after approval of the PUD, or before any building permit can be issued. Lighting plans and specifications have been submitted for phase I and II as well and are in compliance with Section 1008 of the GBAJPB Zoning and Subdivision Ordinance. All future development on site after phase I and phase II will require an amendment to the PUD.

**CONDITION 7:**

**JPB:** Plans shall include proposed setbacks for the site as the applicant has requested flexibility, reducing the front and rear yard setbacks to 20 ft.

**Staff Analysis:** The applicant has included the proposed 20 ft building setback as well as the 5 ft parking setback on the site master plan (C020). Greater flexibility is allowed with a PUD than otherwise allowed under the zoning and subdivision ordinance, if it is a coordinated development providing public benefits not otherwise required. Flexibility can only be granted to the extent allowed by the ordinance and flexibility will only be given to items approved during the approval process. At this time, the only flexibility the applicant is requesting, is with the property setbacks.

**PLANNING CONSIDERATIONS**

### Public Safety Concerns

No concerns were received from the Bemidji Police Department. The Fire Chief has indicated no concerns with the closure of the two entrances off of Anne Street. The parking lot connection will allow for fire access around the campus.

### Building Department

No concerns have been identified with this request. Architectural plans will need to be submitted and approved prior issuing a building permit for phase I.

### GIS/911 Addressing

The following comments were provided by Beltrami County GIS/911 services: Because all affected parcels are located within the boundaries of the City of Bemidji, City GIS Coordinator, will be responsible for address assignment within this area.

### Neighborhood Comment

At this time of writing the report, no neighborhood comment or concern was addressed to staff.

### Comprehensive Plan

A compact campus environment while still preserving green space is in conformity with the goals and policies of the Greater Bemidji Area Land Use Plan. A Planned Unit Development is encouraged for the Sanford Medical Campus.

## **RECOMMENDATION**

JPB staff recommends approval for a Planned Unit Development Preliminary and Final Plat and Conditional Use Permit for the primary parcel of the campus 80.05081.00 located in the Office/Medical (OM) Zoning District. Additional parcels as part of the application include: 80.00469.00, 80.00470.01, 80.04727.00, 80.04728.00, 80.04729.00, 80.04730.00, 80.04731.00, 80.04732.00, 80.04733.00, 80.04734.00, 80.04735.00, 80.04735.01, 80.04736.00, 80.04737.00, and 80.04738.00:

### Planned Unit Development / Final Plat Findings and Conditions

#### Findings:

1. The development is a permitted use.
2. A Development Agreement for Phase I and Phase II will be executed between the Applicant and the JPB after approval of CUP/PUD.
3. The final plat can be properly recorded with Beltrami County.

4. The plat and planned unit development meet the requirements of the GBAJPB Zoning and Subdivision Ordinance.
5. Existing amenities provided meet the requirements of the zoning ordinance to allow flexibility from the zoning ordinance.
6. A landscaping plan has been provided and is meeting the requirements per the zoning and subdivision ordinance.

Conditions:

1. The final plat shall be recorded with Beltrami County within six months of approval by the JPB.
2. The signed Development Agreement between the Applicant and the JPB shall be recorded against all parcels within the PUD boundary.
3. An amendment to the PUD is required for any future development on site.
4. A final landscaping plan with the quantity and location of each type of tree shall be submitted for approval to JPB staff prior to a building permit being issued for phase I.

Conditional Use Permit Findings and Conditions

Findings:

- 1. Whether the proposed use adversely affects the public safety, health, morals, convenience and general welfare of the occupants of surrounding land;**  
The area is currently and will continue to be zoned (OM) office/medical. The office/medical district is defined as to "Provide areas for the placement of medical and professional office uses and compatible commercial uses." The proposed uses within the PUD all fit and are allowed within this zoning district.
- 2. Whether the proposed use adversely affects traffic conditions and parking on adjacent streets and land;**  
The existing roadway system is adequate to handle the proposed PUD amendment request and shall not adversely affect traffic conditions and/or parking on adjacent streets and land. With the closure of two existing accesses off of Anne Street NW, this shall improve the safety of transportation and decrease the traffic congestion.
- 3. Whether the proposed use adversely affects property in the surrounding area;**  
Surrounding land use is not expected to be adversely affected as it includes mostly office/medical as well as low density commercial.
- 4. Whether the proposed use is in conformance with the community's Comprehensive Plan or Land Use Plan; and,**  
This development is in conformity with the goals and policies for office/medical in accordance with the Greater Bemidji Area Land Use Plan. Planned Unit Development is encouraged in these areas to create a compact campus environment to help preserve open space.

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

The property currently has adequate public infrastructure and is served by city services. Engineering and grading plans have been submitted and approved by City Engineer. Final plans will be submitted.

**Conditions:**

1. All lighting shall remain in compliance with the JPB Zoning Ordinance, per Section 1008.
2. A site safety plan shall be submitted for JPB staff review with final engineering plans for each phase of the project.
3. A sign permit shall be obtained from JPB staff prior to the installation of any signs on phase I.
4. All dumpsters located on site shall be fully enclosed with a secure gate per Section 1002 of the JPB Zoning Ordinance.
5. Both access driveways off of Anne Street NW shall be removed per the phase II landscaping plans prior to the phase completion. The Developer shall reconstruct the access driveways to match the existing grade of the surrounding landscape, removing all existing pavement, grading to match with topsoil and grass seed. The Developer is responsible for obtaining all permits and permissions that may be required from the applicable road authority.
6. Final architectural plans will need to be submitted and approved by the City Building Official prior to a building permit being issued for phase I.
7. Final engineering plans will need to be submitted and approved by the City Engineer prior to the Building Official issuing a building permit for phase I.
8. Phase II of development shall be completed within six months of occupancy of the cancer center. An extension may be granted if construction is not finished prior to winter.
9. A landscape escrow in the amount of \$10,000 and a performance standard escrow in the amount of \$5,000 shall be submitted to the JPB prior to the issuance of a city building permit.

**Public Hearing opened at 6:34 p.m.**

Representative Jeff Orvedal clarified proposed street vacation from original application is no longer a factor. No other questions or comments.

**Public Hearing closed at 6:35 p.m.**

Motion by Steffen, second by Smith to accept the Planned Unit Development Preliminary and Final Plat and Conditional Use Permit for the primary parcel of the campus 80.05081.00 as well as additional parcels 80.00469.00, 80.00470.01, 80.04727.00, 80.04728.00, 80.04729.00, 80.04730.00, 80.04731.00, 80.04732.00, Planning Commission Meeting, April 27, 2017



80.04733.00, 80.04734.00, 80.04735.00, 80.04735.01, 80.04736.00, 80.04737.00, and 80.04738.00, along with all findings and conditions as read into the record.

Motion carried unanimously.

**Boushee presented the third case:**

**PLANNING CASE – IUP-17-80.01105.00 – Upper Mississippi Mental Health A.C.T.**

Applicant is requesting an Interim Use Permit (IUP) in order to open an Assertive Community Treatment (ACT) facility to be located at 116 3<sup>rd</sup> St NW in the (UR) Urban Renaissance district of the City.

**BACKGROUND**

ACT as stated in the supporting documentation provided by the applicant is, “a form of case management; it is a model for providing comprehensive community-based treatment to persons with severe and persistent mental illness”. In summary the ACT team will be made up of a group of professionals specializing in mental health and chemical dependency treatment and support.

The UMMHC ACT program currently operates at 408 Beltrami Ave NW, in accordance with an IUP approved by the JPB on July 13th, 2016. JPB staff have conducted the six month review of this property and found it to be operating satisfactory and within all conditions for approval.

Services provided will be continuous or long-term and the intended group of individuals are to be 18 or older with severe psychiatric illness. A major part of services provided will be in the clients home, neighborhood, job, or where they spend the most time. ACT is designed to be mobile and available for the client where needed. All clients are first reviewed before accepted into the program to be sure they fit the services offered.

The main goals of ACT are to eliminate or minimize symptoms of mental illness, eliminating hospital stays and jail time, and enhance the quality of life by providing opportunities to be involved in the community, with employment and other activities.

**PLANNING CONSIDERATIONS**

Per the GBAJPB Zoning Ordinance, clinics that provide psychiatric counseling require the issuance of an Interim Use Permit by the JPB to be located in the Urban

Renaissance (UR) zoning district. A community cannot use its zoning authority to discriminate against classes of people that it does not want to accept, such as substance dependent persons, individuals with behavioral disorders, etc. Therefore, the use is allowed following a public hearing with conditions to ensure the safety of both the clients of the facility as well as the public.

#### Fire / Engineering / Police / Building Department

No concerns were identified by the Fire Department, Public Works Department, Police Department or Building Department.

#### Parking and Traffic Circulation

Per GBAJPB code the (UR) district is exempt of all parking requirements. However staff feels employees should be using current downtown city parking lots, and refrain from using on-street parking.

#### Signage

No signage plan has been presented to JPB staff.

Any new signage will require a sign permit through the GBAJPB. The applicant has expressed interest in a window sign. Per the GBAJPB ordinance window signs that are not accessory to a permitted sign will still require a permit.

#### Comprehensive Plan References

The proposed use to provide counseling services in the district (UR) district is consistent with Greater Bemidji Area Land Use Plan; provided the IUP process is followed and specific conditions are met in order to assure compatibility with surrounding uses.

#### Neighboring Property Owner Input

Staff has received no comments or concerns regarding the proposal.

### **RECOMMENDATION**

Staff recommends approval of the Interim Use Permit for Upper Mississippi Mental Health Center to open an Assertive Community Treatment (ACT) facility to be located at 116 3rd St NW in the (UR) Urban Renaissance district of the City of Bemidji, with the following conditions:

1. The IUP shall terminate upon a change in use, a change in the owner/operator (leaseholder), or a change in the lease space as may be determined by the JPB Staff.

2. UMMHC full-time staff must utilize city parking lots, and refrain from using on-street parking.
3. The hours for counseling shall be 8 A.M. to 5 P.M. after hours counseling shall not be permitted, JPB staff shall be informed if operation hours are to change.
4. The IUP shall be reviewed for compliance one time upon six months of operation by the JPB staff. If staff feel there is a reason to bring it to the JPB, the applicants shall participate in a review of the IUP.
5. If a change in type of counseling services were to occur or an intensification of services provided such as increased allowable clientele, JPB staff shall be notified. If staff feel a change or intensification warrants review it will be brought to the Joint Planning Board for a review.

**Public Hearing opened at 6:34 p.m.**

Director Paul Nistler stated they have outgrown their current space in only six months of operation. Current location has approximately 700 s.f. while the proposed new location offers approximately 7,000 s.f. Twenty-six clients are receiving services and the goal is fifty. Commissioner Lemmer asked if only one entrance will be available, which Nistler clarified one entrance in the front of the building is for clients and one entrance in the back is for staff.

**Public Hearing closed at 6:46 p.m.**

Motion by Steffen, second by David to accept the Interim Use Permit for Upper Mississippi Mental Health Center to open an Assertive Community Treatment (ACT) facility to be located at 116 3rd St NW in the (UR) Urban Renaissance district of the City of Bemidji, with the following conditions:

1. The IUP shall terminate upon a change in use, a change in the owner/operator (leaseholder), or a change in the lease space as may be determined by the JPB Staff.
2. UMMHC full-time staff must utilize city parking lots, and refrain from using on-street parking.
3. The hours for counseling shall be 8 A.M. to 5 P.M. after hours counseling shall not be permitted, JPB staff shall be informed if operation hours are to change.
4. The IUP shall be reviewed for compliance one time upon six months of operation by the JPB staff. If staff feel there is a reason to bring it to the JPB, the applicants shall participate in a review of the IUP.
5. If a change in type of counseling services were to occur or an intensification of services provided such as increased allowable clientele, JPB staff shall be notified. If staff feel a change or intensification warrants review it will be brought to the Joint Planning Board for a review.

And with findings:

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

No. The primary concern for the location of mental health therapy facilities is

assurance that the facility will not create an unreasonable level of disruption or interference to the surrounding property owners. The UMMHC intends to primarily operate as an out-patient facility with office space for employees, and on-site counseling hours are regulated to ensure the proper staff is present.

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

No. No changes to access or traffic circulation flow on adjacent streets are proposed. Increases in traffic or other negative impacts are not anticipated.

**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. The subject parcel is appropriately zoned for the proposed use with approval of an IUP.

**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 JPB Land Use Plan. Per the GBAJPB Zoning Ordinance, mental health counseling clinics are allowed pursuant the issuance of an Interim Use Permit by the JPB, and the subject parcel is appropriately zoned for the proposed use.

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

Yes. The location is serviced by centralized services.

Motion carried unanimously.

**Boushee presented the fourth case:**

**PLANNING CASE – V-17-80.02699.00 – Ross Walters**

Ross Walters authorized agent for Gordon and Eleanore Walters.

**BACKGROUND**

Applicant is requesting approval to construct a garage and improved entryway with room for utilities within the shoreland overlay. He would like to update the property to be more suited towards year-round living in Minnesota.

**PLANNING CONSIDERATIONS**

This lot does meet the dimensional standards of the (R-4) Residential District, but does not meet the shoreland requirements for General Development Lakes. This lot does not meet minimum size requirements for substandard lots in the shoreland overlay nor can the enlargement and expansion meet all other current zoning standards.

### Existing Conditions

This is generally an old neighborhood built in the early 1980's that has been platted by (2) two different subdivisions at (2) two different times. The west boundary of the Walters property is the line where both plats come together making the line difficult to accurately identify. The (2) two property owners do agree that the current surveyed line is accurate.

The subdivision also has platted ROW that is no longer used by the Woodland Ave and does not have city utilities in it. With the complexity of the platted ROW, JPB staff feel the likelihood of a vacation to alleviate the issue is unlikely or not possible.

Properties adjacent in this neighborhood all have attached garages or detached accessory structures.

Properties along Woodland Ave that have been constructed are nearly all nonconforming structures in accordance with our current regulations. Whether it be from rear, side, or OWHL encroachment is common for this neighborhood.

JPB staff anticipate that this lakeshore neighborhood will maintain its same character as properties continue to be updated, repaired and maintained as allowed by current zoning ordinance regulation.

The current property does meet all of OWHL setbacks from Lake Irving and all expansion is planned to be away from the OWHL.

The current layout of the house has the entryway on the east side and bedrooms on the west side.

### Rear Yard / Public ROW Setback

Typical ROW in the city encroaches (10) ten feet to (15) fifteen feet from the edge of the road or curb. In this case the ROW extends (21) twenty-one to (23) twenty-three feet approximately into the ROW. Under typical circumstances the necessity for a variance from rear yard or public ROW could be reduced or unnecessary.

### Side Yard Setback

The existing house has been built within the current side yard setback on the west side, but is meeting the side yard setback on the east side as this still provides access to the front of the structure for emergencies or other necessities. The house has been constructed in a manner that limits the ability for the addition of a detached garage to be placed inside the setbacks. The garage is being attached to the house where a bedroom is currently located, so the entry way can remain in the same place and increase space for indoor utilities. A shed that is currently encroaching in the side yard setback will also be removed and replaced with a shed meeting setback requirements.

### Impervious Surface / Drainage

The proposed impervious surface is 28% as the requirement is no greater than 25% without providing increased stormwater mitigation. A large portion of roof water is

proposed to be drained from the addition across the driveway and into a shallow swale. In a large rain event this swale may overflow with water directed towards Lake Irving. The proposed plan will be an improvement to the site and allow for any increase in stormwater to infiltrate into the ground before reaching other properties or Lake Irving. This is also to mitigate any potential runoff issues created by increased impervious surface within the side yard setback.

#### Fire Department

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

#### Building Department

A building permit and variance verification will be required before inspection.

#### Public Works Department

The Public Works Department did not express any issues regarding the reduced ROW setback. The city utilities in Woodland Ave ROW were located to ensure there will be no issue in future reconstruction or repair in their existing location.

#### Neighborhood Comment

No concerns were given to JPB at the time of writing this report.

#### Comprehensive Plan References

In regards to the comprehensive plan, the goals of the plan are to protect the safety, health and welfare of the community population and environment. With the proper construction steps for mitigating potential impacts, this request is in keeping with the goals and policies of the comprehensive plan. This request also provides opportunity to continue to improve and maintain the character of an existing neighborhood.

### **RECOMMENDATION**

Staff recommends approval of (3) variance's. 1.) Allow for a (7.2) foot setback encroachment of the side yard of the ten (10) feet required. 2.) A (10.1) foot encroachment of the public right-of way requirement of twenty (20) feet. 3.) To enlarge the footprint of a structure on a substandard parcel of land in the shoreland overlay. Approval recommended with the following findings of fact and conditions:

1. \$300 variance verification fee will be paid before building permit can be issued.
2. Building corners of addition, proposed shed, and proposed driveway will be staked by a professional surveyor to ensure accuracy and mitigate chance for setback encroachment.

#### **Public Hearing opened at 7:02 p.m.**

Applicant stated he is representing his parents who currently own the property. He plans to purchase it from them when upon approval of variance.

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**Public Hearing closed at 7:03 p.m.**

Motion by Steffen, second by Hendricks to approve of (3) variance's. 1.) Allow for a (7.2) foot setback encroachment of the side yard of the ten (10) feet required. 2.) A (10.1) foot encroachment of the public right-of way requirement of twenty (20) feet. 3.) To enlarge the footprint of a structure on a substandard parcel of land in the shoreland overlay. Approval recommended with the following findings of fact and conditions:

1. \$300 variance verification fee will be paid before building permit can be issued.
2. Building corners of addition, proposed shed, and proposed driveway will be staked by a professional surveyor to ensure accuracy and mitigate chance for setback encroachment.
3. Proposed stormwater mitigation plan, including grading and drainage improvements for driveway, gutters, and a shallow swale shall be installed.

And with findings:

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

Yes. The existing building was constructed within the side yard setback with the entry way on opposite side, making the addition of a garage not feasible without a complete reconstruction or remodel of the house.

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

Yes. The building was placed in this location before the official controls and oversight of today for setbacks, as well as surveying and platting practices.

**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. Having an attached garage or detached accessory structure is in keeping with the character of the neighborhood, and does not compromise the intent of the zoning ordinance.

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

Yes. Nearly every property in this neighborhood has the benefit of a garage, likely constructed before the implementation of stricter regulation and oversight.

Motion carried unanimously.

**Mai presented the fifth case:**

**PLANNING CASE – V-17-80.03308.01 – Tim Orton Properties, LLC**

Applicant is looking to redevelop their site at 555 Paul Bunyan Drive NW. This site will see an expansion to both the existing convenience store and car wash building along with the removal of the diesel island canopy. The zoning standards require a maximum impervious surface coverage of 70% in the Trunk Highway 197 Overlay District. The

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applicants are requesting an 81.4% impervious surface coverage; therefore, it will be an 11.4% variance request. The following variances are being requested:

1. An increase of 11.4% in maximum impervious surface coverage.
2. A reduction of seven (7) trees from the minimum of twelve (12) tree requirement
3. A reduction of five (5) trees from the street frontage tree requirement of ten (10).

## **BACKGROUND**

The underlying zoning is B-2 General Commercial with the Trunk Highway 197 Overlay District. The applicant has indicated the site redevelopment will include an expansion to the existing convenience store with a 1,248 sq. ft. addition as well a 455 sq. ft. addition to the existing car wash building. The existing diesel island canopy will be removed. The current site has 6,133 sq. ft. or 18.3% pervious surface coverage. The request is to increase to 6,231 sq. ft. or 18.6%; however, the 197 Trunk Highway requires 30% pervious surface coverage while the underlying B2 zone requires 20%.

## **PLANNING CONSIDERATIONS**

Several business have come before the JPB in the past year or two to redevelop or expand their business along the Trunk Highway 197 Overlay. Some projects were able to bring their site into full compliance as others have had practical difficulties with the way existing buildings were constructed in the past and variances were needed in the redevelopment process. Two most recent projects that came before the JPB with similarities to this project were Culvers and the Four-Point Bar and Grill locations. Both sites were approved as the applicants made significant efforts to increase the greenspace on their sites from 16% to 24% pervious surface.

Applicants location contains an existing sanitary sewer easement with a City sewer main, roughly forty-three (43) feet in width, currently runs through the middle of the property. This does hinder the applicant from expanding or redeveloping on this lot as nothing can be constructed within the easement. The applicant currently operates a gas station and car wash at this location and plans to continue operating both at this location with the expansion.

On March 15th, 2017, the Applicants attended the JPB development meeting, which comprised of JPB staff and city staff members, to discuss the proposed redevelopment project. Both JPB staff and city staff made several alternative recommendations on ways to increase the greenspace of the site. The following recommendations will be discussed throughout the planning considerations.

### **Parking**

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The applicant is required to provide at least twelve (12) parking spaces on site. There will be a total of twenty-four (24) parking stalls on site, which includes the eight (8) stalls within the fuel island. Essentially there are sixteen (16) parking stalls on site, exceeding the twelve (12) space requirement by four (4). One alternative approach to increase greenspace on site, would be to convert the four (4) extra parking spaces into greenspace. Another alternative approach that was suggested at the development meeting was to vacate the access off of 24th Street NW and to extend the greenspace up to the neighboring parcel to the east.

### Trees

On this site with a thirty percent (30%) pervious surface coverage, the baseline minimum landscaping standards requires a total of twelve (12) trees on the property. This site also requires a minimum of ten (10) trees along the street fronts of the property (Paul Bunyan Dr NW, Park Avenue NW and 24th Street NW).

At this time, the applicant has only provided five (5) trees of the minimum twelve (12) tree requirement on the site plan. It is recommended that if the tree requirement cannot be met, that large scale trees be planted as an alternative approach. One alternative approach that staff would recommend is that at least five (5) high quality significant trees be planted on site with a minimum height of eight (8) feet and a caliper greater than 1.75 inches to be a condition for approval.

### Trash Enclosure

The applicant has indicated a trash enclosure will be on site. Per Section 1002 of the JPB zoning ordinance, the structure must be completely screened on all sides with a secure door, constructed to a height of six feet and matching the architecture appearance of the buildings.

### Signage

The applicant recently obtained a new sign permit for a freestanding sign on site; however, a sign plan has not been submitted for any new or additional signage to the facilities. The applicant will be required to obtain an additional sign permit by submitting a sign application with sign dimension plans to JPB staff. The requirements for signage are as follows per Section 712 of the GBAJPB Zoning and Subdivision Ordinance:

Wall signage is limited to a maximum of four (4) percent of the building's total wall elevation square feet per street frontage, or fifty (50) square feet whichever is greater. Maximum allowable sign size shall not exceed two hundred and fifty (250) square feet.

### Lighting

The applicant has not indicated any additional lighting being added to the existing structure. Any additional lighting that would be added would need to conform to the JPB's requirements per Section 1008 of the JPB zoning ordinance.

Lighting shall be directed downward in order to minimize adverse impact on surrounding properties and rights-of-way.

### Fire/Engineering

No concerns were identified by the Fire Department. Craig Gray, Public Works Director/City Engineer recommends the three (3) boulevard areas in the City right-of-way between the various curb cuts on Park Avenue be converted back to grass as it will assist in providing some storm water infiltration. Mr. Gray also recommends that one (1) of the three (3) existing Park Avenue driveways be removed to limit the traffic conflict and to create a safer surrounding. If a driveway cannot be closed, then a combination of the northern two (2) driveways shall occur limiting to one (1) 30-32 foot driveway.

### Neighborhood and Agency Comments

No neighborhood opposition has been received. MnDot had no comments regarding the project.

### Comprehensive Plan References

The land use plan indicates that "approval of conditional use permits, variances, and requests for zoning amendments will be made only when consistent with the spirit and intent of the land use plan and upon positive findings of fact". With proper mitigation to the site, these variance requests are consistent with the spirit and intent of the land use plan and have positive findings of fact.

## **RECOMMENDATION**

Staff recommends approval of the following three (3) variances contingent on the approval of the recommended conditions: 1.) An increase of 11.4% in maximum impervious surface coverage; 2.) A reduction of seven (7) trees from the minimum of twelve (12) tree requirement; and 3.) A reduction of five (5) trees in the street frontage tree requirement of ten (10). Staff recommends the following conditions:

1. The applicant shall provide an enhanced landscaping plan, which will include at least a minimum of five (5) high quality significant trees that are larger than eight (8) feet in height and greater than 1.75 caliper inches.
2. Final engineering plans will be submitted for approval by both MnDOT and the City of Bemidji Engineering Department.
3. All applicable permits from the City of Bemidji Building Department shall be

- obtained prior to construction or modification. Any future additions to this structure must be approved by GBAJPB staff and the City of Bemidji Building Department.
4. A sign permit will be obtained prior to any new signage being erected on the site.
  5. The trash enclosure on site shall be completely enclosed on all sides.
  6. All existing and future lighting improvements on the property shall be in full conformity with Section 1008 of the GBAJPB Zoning & Subdivision Ordinance.
  7. One (1) of the three (3) driveways/access points off of Park Avenue shall be removed or the two (2) northern most driveways (20' and 28') on Park Avenue shall be combined into one 30-32' driveway.
  8. All paved boulevards in the City right-of-way between curb cuts along Park Avenue shall be returned to grass to assist in providing storm water infiltration.
  9. A landscaping escrow will be provided to the JPB staff and held until the trees are planted and have been determined to have been established for 1 year.
  10. A development escrow will be provided to the JPB staff prior to obtaining a building permit for construction and held until all performance standards have been fulfilled.
  11. The snow piling area must always remain greenspace and will be restored to a satisfactory landscaped condition each spring.
  12. A development agreement will be entered into between the JPB and Applicant to ensure all site construction is completed to a satisfactory condition.

**Public Hearing opened at 7:25 p.m.**

Frank Orton stated this was the first he heard of paving over a green space, as it did not occur during their ownership. Also stated concern with limited turning radius on western entrance. Orton further stated concern with closing the exit for the car wash and using an in/out access as car wash exit. Commissioner Smith suggested using north access to enter and central access for exit. Discussion between Orton and commissioners about possibility of removal of power pole. Orton commented on city owned right of way being a green space, as it will most likely be trampled on a regular basis. Further, Orton stated concern with reduced entrances limiting the transport access to the gas storage basin. Lengthy discussion about entrances and traffic patterns. Orton stated he was approached by the City of Bemidji to sell his current Orton's property for a new liquor store development. Further, he said the location is already busy, and adding on to Tesoro will generate more business and greater traffic, so it is a big investment for him. Orton stated he has already developed a compromise plan which factors in an exit of the car wash line yet preserves parking for staff. More discussion about transport maneuvering space and overall traffic safety. Staff stated public safety is a main concern as this site will be busier than already is. Tim Orton stated he hasn't done

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anything to eliminate green space, he has only changed out gas pumps. Smith proposed angled parking to alleviate some traffic problems. Frank Orton stated that stacked parking limits spaces. Steffen asked if applicant's other location has been sold. Orton replied it is in process, and is contingent on these variances being approved. Commissioner Berg asked if applicant was sure that no more trees could be added to the site. Discussion between commissioners that this plan is better than current site, although everyone supports having more trees.

**Public Hearing closed at 7:53 p.m.**

Motion by Smith, second by Steffen to approve the following four (4) variances: 1.) An increase of 11.4% in maximum impervious surface coverage; 2.) A reduction of seven (7) trees from the minimum of twelve (12) tree requirement; 3.) A reduction of five (5) trees in the street frontage tree requirement of ten (10), and 4.) An increase of eight (8) feet for extending the north curb cut access on Park Avenue from the curb cut maximum width of 24' to 32' contingent on the following conditions:

1. The applicant shall provide an enhanced landscaping plan, which will include at least a minimum of five (5) high quality significant trees that are larger than eight (8) feet in height and greater than 1.75 caliper inches.
2. Final engineering plans will be submitted for approval by both MnDOT and the City of Bemidji Engineering Department.
3. All applicable permits from the City of Bemidji Building Department shall be obtained prior to construction or modification. Any future additions to this structure must be approved by GBAJPB staff and the City of Bemidji Building Department.
4. A sign permit will be obtained prior to any new signage being erected on the site.
5. The trash enclosure on site shall be completely enclosed on all sides.
6. All existing and future lighting improvements on the property shall be in full conformity with Section 1008 of the GBAJPB Zoning & Subdivision Ordinance.
7. The center access of the three (3) driveways/access points off of Park Avenue shall be removed and the northern most driveway (28') on Park Avenue may be extended into a 32' driveway shifting either north or south as it fits.
8. All paved boulevards in the City right-of-way between curb cuts along Park Avenue shall be returned to grass to assist in providing storm water infiltration.
9. A landscaping escrow will be provided to the JPB staff and held until the trees are planted and have been determined to have been established for 1 year.
10. A development escrow will be provided to the JPB staff prior to obtaining a building permit for construction and held until all performance standards have been fulfilled.
11. The snow piling area must always remain greenspace and will be restored to a satisfactory landscaped condition each spring.

12. A development agreement will be entered into between the JPB and Applicant to ensure all site construction is completed to a satisfactory condition.

And with findings:

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

Yes. A practical difficulty exists as this lot is an existing, previously built upon lot in the Trunk Highway 197 Overlay. No addition to the structures or alterations to the lot can be permitted without approval of a variance as the property exceeds the maximum impervious surface coverage. An existing sanitary sewer easement also runs through the property hindering redevelopment of the site.

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

Yes. A practical difficulty exists as this lot is an existing, previously built upon lot with an existing sanitary sewer easement running through it. No additions to the structure can be permitted without approval of a variance.

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. The underlying zoning is B-2 Commercial along Paul Bunyan Drive, which is an appropriate use and allows for a 20% pervious surface coverage. Therefore the request is reasonable as the site is near the requirement for the underlying zone. The proposed request is in conformity with the Greater Bemidji Area Land Use Plan.

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

Yes. The site has been gas station and car wash and will continue to be one. This variance will not alter the essential character of the area. With the additional requirements for enhanced landscaping, the site will be redeveloped to improve on its existing conditions to match or exceed the surrounding parcels.

Roll call vote:

Ayes: Smith, Lemmer, Lahn, Hendricks, David, Steffen, Berg

Nays: None

Absent: Miller, Kramka

Abstain: None

Motion carried unanimously.

## **OTHER BUSINESS**

### **DIRECTOR REPORT:**

Mai summarized recent planning cases, detailed development projects, and announced the recent release of Bemidji Township from the Joint Powers Agreement and its Planning Commission Meeting, April 27, 2017

anticipated effects on the Joint Planning Board. Also, Mai announced upcoming CPAW event and encouraged everyone to attend. Further updates on audit, enforcement actions, and comprehensive plan.

**UPCOMING MEETING DATES:**

May 10, 2017	6:00 pm	JPB Regular Meeting
May 25, 2017	6:00 pm	JPC Regular Meeting
June 14, 2017	6:00 pm	JPB Regular Meeting
June 22, 2017	6:00 pm	JPC Regular Meeting

**ADJOURNMENT:**

There being no further business, motion by Steffen, second by Smith to adjourn the Regular Planning Commission meeting at 8:17 p.m.

Motion carried unanimously.

Respectfully submitted.

Terri Ball  
Planning Assistant

Approved and attested by:   
Joint Planning Commission Representative