

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

**Thursday, July 22, 2021  
6:00 P.M.**

**Bemidji City Hall 317 4<sup>th</sup> Street NW, Bemidji, MN 56601  
/Cisco Webex Video Conferencing  
(For log in information <https://www.jpbgba.org/planning-actions>)**

**AGENDA**

- |  |              |
|--|--------------|
| <b>➤ Call to Order/Roll Call</b>                 | <b>Chair</b> |
| <b>➤ Pledge of Allegiance</b>                    |              |
| <b>➤ Approve Agenda</b>                          |              |
| <b>➤ Approve Minutes</b>                         |              |
| • <b>Thursday, June 24, 2021 Regular Meeting</b> |              |

**NEW BUSINESS**

- |                    |              |
|--------------------|--------------|
| <b>1. Visitors</b> | <b>Chair</b> |
|--------------------|--------------|

**Public Hearings**

- |  |           |
|--|-----------|
| <b>1. <u>City of Bemidji</u> – IUP-21-80.06216.00 – Hagen’s Bark Avenue</b>    | <b>NP</b> |
| <b>2. <u>Northern Township</u> – V-21-31.01265.00 – Sonja &amp; John Upton</b> | <b>NP</b> |
| <b>3. <u>Northern Township</u> – CUP-21-31.00184.02 – Dollar General</b>       | <b>MF</b> |

**OTHER BUSINESS**

- |   |              |
|---|--------------|
| <b>1. Director’s Report</b>   |              |
| <b>2. Upcoming Meetings</b>   | <b>Chair</b> |
| • August 11, 2021      6:00 pm                      JPB Regular Meeting |              |
| • August 26, 2021     6:00 pm                      JPC Regular Meeting  |              |
| • September 8, 2021   6:00 pm                      JPB Regular Meeting  |              |
| • September 23, 2021 6:00 pm                      JPC Regular Meeting   |              |
| <b>3. Adjourn</b>   | <b>Chair</b> |

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

**July 22, 2021  
6:00 p.m.**

**Cisco Webex / Council Chambers  
317 4<sup>th</sup> St NW**

**CALL TO ORDER:** Chair Mike Granlund 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, Heinonen, Lemmer, Steffen, David, Faver, Granlund, Gould, Smith.

**MEMBERS ABSENT:** None.

**STAFF PRESENT:** Ainslee Knudson, Nickolaus Phillips, Melissa Fahrenbruch.

**OTHERS:** Kelly Hagen, Daryl Hagen, Naomi Halverson, Jake Hagen, Bonnie Price, Spencer Price, Erik Skoe, Nadine Elliot, Sehgahega Atkinson, Dustin Merseth, Matt Murray, Nikole Hagen, Anna Atkinson, John Upton, Sonja Upton, Dan Hinzmann, Pete Oleszczuk, Jared DeVoursney.

**APPROVAL OF AGENDA:**

Motion by Heinonen, second by Steffen, to approve the agenda as presented.

Motion carried unanimously.

**APPROVAL OF MINUTES:**

Motion by Steffen, second by Heinonen, to approve minutes from the June 24, 2021, Greater Bemidji Area Regular Joint Planning Commission as presented.

Motion carried unanimously.

**VISITORS:**

**NEW BUSINESS:**

**Public Hearings:**

**Phillips presented the first case:**

**PLANNING CASE – IUP-21-80.06216.00 – HAGEN’S BARK AVENUE**

Kelly Hagen, representing Hagen’s Bark Avenue, is requesting renewal and transfer of an Interim Use Permit held by the previous property owner in order to continue operation, without modification, of an established pet grooming and daycare service. The subject property is located at 196 Anne Street NW is in the B-1 Low-Density Commercial District and abuts residentially zoned properties.

The property was purchased by Hagen as an operational business, but the status of the approval (via IUP) was not fully explained and Hagen’s Bark Avenue LLC had continued operation of the business without a transfer of the IUP to reflect the new ownership. Typically, this can be done administratively as a minor IUP modification, however the subject parcel is adjacent a residentially zoned lot, and per §1205(1)(2)(a):

*“Sites shall be in nonresidential zoning districts, and shall not abut any residentially zoned property.”*

Under these circumstances, the IUP change is classified as a major permit modification, to be processed according to all provisions of Section 1205 and shall be subject to all requirements and standards of the Ordinance.

### **RECOMMENDATION & FINDINGS**

Staff recommends approval of the requested Interim Use Permit for an animal Grooming & Dog Day Care in a B-1 zone for parcel 80.06216.00, located at 196 Anne Street NW, provided all requirements of the JPB Zoning Ordinance are met, and subject to the following conditions:

### **CONDITIONS:**

1. All signage for the property shall be in full conformity with Article VII. of the JPB Zoning and Subdivision Ordinance. A sign permit shall be obtained by the applicant or lessee prior to a change of any permanent signage.
2. The outdoor area for dog exercise shall be entirely fenced.
3. Signs shall be posted on the fenced area with a warning to not approach or enter the dog exercise area.
4. No animals shall be left in the outdoor exercise area for more than 1-hour.
5. A current waste management plan shall be filed with JPB staff no later than August 31, 2021.
6. The IUP shall terminate upon a change in use from a dog day care and grooming facility, a change in the owner/operator (leaseholder), or a change in the lease space as may be determined by the JPB Staff.

### **FINDINGS**

Staff supports approval of this application, provided the applicant agrees to and satisfies the conditions for approval of the IUP. Section 1305 B of the JPB Zoning & Subdivision Regulations requires the JPC to consider the 5 listed criteria in evaluating all IUPs.

**Staff recommended findings are as follows:**

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

The proposed use will not adversely affect the surrounding area. The surrounding land uses are:

North – Mobile Home Park  
South – Single Family Homes  
East – Single Family Homes  
West - Heavy Commercial

There are two concerns for local residents; excessive noise and animal waste. The applicant has indicated that no animals will be boarded outside overnight. A condition has been placed on the outdoor exercise area, limiting the amount of time an animal can be left outside. A waste management plan shall be provided to JPB staff. No waste shall be left onsite longer than 10 days.

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

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

**c. Whether the proposed use adversely affects property in the surrounding area.**

There are no adverse effects to property in the surrounding area anticipated as a result of this proposal. While noise from dogs exercising outside is expected to occur, this is no different than if the subject property were a residential property having dogs kept outdoors. The use does not introduce additional nuisance that other residential properties in the neighborhood could also produce in their ordinarily permitted uses.

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

The proposed use is consistent with the goals and policies of the JPB Land Use Plan.

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

Adequate public infrastructure exists to provide services in this location.

**Additional Findings**

1. The use conforms to the zoning regulations as a permitted IUP in the B-1 District.
2. No additional building or site development was proposed with the request. Any future changes shall be reviewed in accordance with ordinance requirements.
3. No new access is to be provided to the site.
4. Approval of the IUP will not impose additional costs on the public.
5. The applicant has reviewed and agreed to the approval conditions.
6. The IUP shall terminate with a change in use, owner/operator (leaseholder) or lease space, except upon approval of the Joint Planning Board.

**Commission members had no comments.**

**Public Hearing opened at 6:05 p.m.**

- Kelly Hagen addressed the Commission. Hagen described how they came to own Bark Avenue and described services and improvements. Hagen addressed that they do work to reduce noise.
- Smith inquired if the Applicant has had any noise complaints. Hagen noted that she has not received any, but believes that a neighboring property owner is in attendance and has a complaint.
- Bonnie Price, a neighboring property owner, noted that they have filed a complaint and have spoken with the owners. Price stated that the ways in which the Applicant plans to mitigate sound will help. Price noted a willingness to speak with the Applicant if the noise issues continue.
- Maxine Elliot, 2607 Beltrami Ave NW, expressed support for approval of the IUP. Elliot noted that the business is not open at night, on holidays, or weekends so the noise issues will not be present at those times.
- Sehgahega Atkinson, a client of Bark Avenue, addressed the commission and noted support for the business.
- Erik Skoe, a client of Bark Avenue, also expressed support for the business.
- Amanda Atkinson, another client of Bark Avenue, expressed support for the business.

**Public Hearing closed at 6:13 p.m.**

Motion by Steffen, second by David, to approve the Interim Use Permit for an animal Grooming &

Dog Day Care in a B-1 zone for parcel 80.06216.00, located at 196 Anne Street NW, provided all requirements of the JPB Zoning Ordinance are met, and subject to the above conditions and findings of fact.

Ayes: Steffen, Faver, Berg, Heinonen, Lemmer, David, Smith, Granlund, Gould.

Nays: None.

Abstentions: None.

Motion carried unanimously.

**Phillips presented the second case:**

**PLANNING CASE – V-21-31.01265.00 – SONJA & JOHN UPTON**

Sonja and John Upton are requesting multiple variances in order to rebuild a single-family summer house on their substandard lot of record located at 6327 Lavinia Rd NE in Northern Township. This property is within the (R-3) Suburban Residential Unsewered Zoning District and Shoreland Overlay. The requested variances are as follows:

1. A reduction of 37,504 square feet in lot size from the underlying R-3 Zoning District requirement of 45,000 square feet;
2. A one-hundred (100) foot reduction in lot width from the underlying R-3 Zoning District requirement of one hundred and fifty (150) feet per Section 402;
3. A fifty and one-tenth (50.1) foot reduction in lot depth from the underlying R-3 Zoning District requirement of one hundred and fifty (200) feet per Section 402;
4. An ordinary high water setback reduction for the deck of forty and six-tenths (40.6) feet from the required one-hundred (100) feet per Section 901;
5. An ordinary high water setback reduction for the principal structure of thirty and a half (30.5) feet from the required one-hundred (100) feet per Section 901;
6. A side-yard setback reduction for the deck of nine and four-tenths (9.4) feet from the required ten (10) feet per Section 901;
7. A side-yard setback reduction for the principal structure of seven and nine-tenths (7.9) feet from the required ten (10) feet per Section 901;
8. An additional twelve (12) percent or nine-hundred twelve (912) square feet of impervious surface coverage throughout the property per Section 901;

The applicants and applicant's representative have met with staff regarding this proposal to redevelop the lake lot. The legal non-conforming lot is currently developed with a nonconforming structure and compliant septic system. The existing cabin sits approximately sixty-nine and one half (69.5) feet from the ordinary high water level (OHWL) and two feet from the south property line. The applicants plan to build a new home on the property. As shown on the site plan, the proposed house will not encroach further than present.

**RECOMMENDATION & FINDINGS**

Staff recommends approval of eight (8) variances in order to reconstruct a single family structure at 6327 Lavinia Rd NE. The variances are as follows:

1. A reduction of 37,504 square feet in lot size from the underlying R-3 Zoning District requirement of 45,000 square feet;
2. A one-hundred (100) foot reduction in lot width from the underlying R-3 Zoning District requirement of one hundred and fifty (150) feet per Section 402;
3. A fifty and one-tenth (50.1) foot reduction in lot depth from the underlying R-3 Zoning District requirement of one hundred and fifty (200) feet per Section 402;
4. An ordinary high water setback reduction for the deck of forty and six-tenths (40.6) feet from the required one-hundred (100) feet per Section 901;

5. An ordinary high water setback reduction for the principal structure of thirty and a half (30.5) feet from the required one-hundred (100) feet per Section 901;
6. A side-yard setback reduction for the deck of nine and four-tenths (9.4) feet from the required ten (10) feet per Section 901;
7. A side-yard setback reduction for the principal structure of seven and nine-tenths (7.9) feet from the required ten (10) feet per Section 901;
8. An additional twelve (12) percent or nine-hundred twelve (912) square feet of impervious surface coverage throughout the property per Section 901;

Approval recommended with the following conditions and findings of fact:

### **Conditions**

1. Buildings 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. Trees on neighboring property shall be protected from construction disturbance, which includes any activity that may damage the root zone. If tree removal or disturbance is necessary to accomplish the proposed work, a signed agreement between property owners shall be submitted to the JPB for review before the land-use permit is issued.
4. A stormwater mitigation plan shall be provided by the landowner from a design professional to be reviewed and approved by the Planning Director before a land use permit can be issued.
5. JPB site verification form and fee shall be submitted prior to construction.
6. A land use permit shall be obtained prior to construction and demolition; once certification approval received from Mississippi Headwaters Board (MHB).
7. 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 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.

### **Findings of Fact**

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

Yes. This is an existing lot of record that is currently developed; the surrounding area is heavily developed on small substandard lots. Without a variance, the lot could not be improved or further developed.

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

Yes. This is a previously platted and developed lot of record. No improvements could be made to the residence or redevelopment on this property can be permitted without approval of a variance, this includes the existing structure and the septic system.

#### **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 request is proposing to make use of the property in a reasonable manner while improving environmental quality and not increasing the impact of existing nonconformities.

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

Yes. This existing neighborhood has continued to see redevelopment on small lots through variances in recent years.

**Commission members had no comments.**

**Public Hearing opened at 6:20 p.m.**

- John Upton, the property owner, addressed the Commission. Smith inquired about the trees. Upton noted their desire not to take any trees down, but cannot guarantee as the work could affect the trees.
- Smith requested if the applicant has an agreement with the neighboring property. Upton noted that they have a legal agreement with the neighboring property that the area between their properties is middle-ground or “no-mans land.” Upton explained that under this legal agreement no permanent or temporary structure are allowed, and the neighbors are in support of what the applicant is planning. Upton noted that the pavers shown in the image presented will be taken up and replaced with grass.
- Smith requested if the applicant has a plan if the trees are impacted. Upton noted that if any trees come down, it will be replaced with another tree.
- Heinonen requested if the outside staircase will be removed. Upton noted that the staircase is on the neighbor’s property and will be removed and not replaced.
- Faver inquired if the applicant is requesting an encroachment on the lakeside or side yard. Upton stated that he is not.
- Faver asked how high the deck is off the ground. Upton noted that it is approximately twelve to sixteen inches off the ground.

**Public Hearing closed at 6:27 p.m.**

Motion by Steffen, second by Smith, to approve eight (8) variances in order to rebuild a single-family summer house on their substandard lot of record located at 6327 Lavinia Rd NE in Northern Township with the above conditions and findings of fact.

Ayes: Heinonen, Steffen, Faver, Lemmer, David, Berg, Granlund, Smith, Gould.

Nays: None.

Abstentions: None.

Motion carried unanimously.

**Fahrenbruch presented the third case:**

**PLANNING CASE – CUP-21-31.00184.02 – DOLLAR GENERAL**

Dollar General, Midwest, MN LLC (Represented by SEH) is requesting a conditional use permit (CUP) to construct a general retail store larger than 10,000 square feet at TBD Irvine Ave NW within Northern Township, parcel 31.00184.02.

Midwest, MN LLC. (Dollar General) currently has a purchase agreement in place to purchase this vacant parcel located at TBD Irvine Ave NW, next to the Animal Clinic and the Northern Township Hall. Midwest plans to build a new building approximately ten thousand six-hundred forty (10,640) square feet of gross floor area. This parcel was subdivided from the southern parcel in May of 2020 for the construction of the Animal Clinic to the south. Per Section 302 of the Greater Bemidji Area Zoning & Subdivision Ordinance, general retail stores larger than ten-thousand (10,000) square feet in size are allowed in (B-1) Low density Commercial zoning district through the issuance of a conditional use permit (CUP).

Fahrenbruch noted that seven (7) community members submitted written comment in opposition to the proposed retail store, citing traffic and safety concerns during the school year and the character of the area.

## **RECOMMENDATION & FINDINGS**

Staff recommends approval of a conditional use permit (CUP) for a retail store on parcel 31.00184.02, located at IRVINE AVE NW within Northern Township with the following conditions and findings of fact:

### **Conditions**

1. Final building plans will need to be approved by the JPB staff and Bemidji Fire Department, and a building permit shall be obtained prior to construction.
2. All exterior lighting on-site shall comply with Section 1008 of the JPB Ordinance; a lighting plan shall be submitted with final building plans for JPB review.
3. All signage needs to meet Section 712 of the JPB Ordinances and a permit must be obtained prior to any signage being placed on site.
4. All dumpsters on-site shall be fully enclosed complying with Section 1002 of the JPB Ordinance.
5. The developer/owner shall enter into a development agreement with the JPB prior to construction.
6. The CUP shall expire and become void if the use it allows 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.

### **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.** A general retail store use conforms to the zoning regulations as a permitted CUP in the (B-1) Low Density Commercial Zoning District. The proposed use is not anticipated to adversely affect, nor create an unreasonable level of disruption or interference upon the surrounding commercial areas.
2. **Whether the proposed use adversely affects traffic conditions and parking on adjacent streets and land.**  
**No.** Increases in traffic or other negative impacts are not anticipated as this building will be next to an animal clinic. The site will have adequate off-street parking and the ingress and egress to and from the site is a shared access road.
3. **Whether the proposed use adversely affects property in the surrounding area.**  
**No.** Adverse impacts upon the surrounding area are not anticipated with this proposal as a general retail store is within the zoning regulations. Any future changes shall be reviewed in accordance with all zoning requirements.
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 as the JPB Zoning & Subdivision Ordinance through an approved CUP.
5. **Whether adequate utility, drainage and other such necessary facilities have been or can be provided.**



**Yes.** The property will have adequate infrastructure and will be served by on-site septic system and well.

**Commission members had the following comments:**

- Faver inquired if there was any discussion with the Highway Department or if there was a traffic study done. Fahrenbruch stated that the information was sent to the Highway Department, but no comment was received.
- Smith addressed that he spoke with Bruce Hasbargen from the Highway Department and they did not receive the information. Smith noted that Bruce Hasbargen of the County Highway Department stated in an email to him that he would like to comment on this case.
- Smith had looked into traffic studies for Dollar Generals in the nation, noted concerns over the average amount of traffic at a Dollar General, and concerns on the nearby intersection.
- Steffen noted concern over traffic.

**Public Hearing opened at 6:28 p.m.**

- Dan Hinzmann, the engineer assigned to the project with the firm SEH, addressed the Commission and noted that they have written approval from the County Highway Department for the location and access. Hinzmann noted the safety benefit of the shared access with the vet clinic to the south.
- Pete Oleszczuk, the developer and proposed property owner, noted that they are typically not a destination retailer for a location like this, but an in-line retailer. Oleszczuk addressed trip generation and stated that the average is typically fifteen to twenty (15-20) trips per hour. Oleszczuk noted extensive landscaping plan.
- Smith inquired as to when the access approval was signed by the Beltrami County Highway Department. Smith requested that this approval be presented to the Joint Planning Board. Hinzmann noted that the access was approved by the Beltrami County Highway Department on May 19, 2021, approximately two months ago.
- Oleszczuk noted that Hinzmann can provide the written documentation of approval for the access from the Beltrami County Highway Department.

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

**Commission members had additional comments:**

- Smith expressed support for denying the conditional use permit, but allowing the applicant to open a retail store under 10,000 square feet as per the Ordinance.
- Faver stated that he does not believe the Commission should move forward without a traffic study.
- Berg suggested adding a condition of a traffic study with approval from the Beltrami County Highway Department.
- Faver noted that every parcel has the right to access a public road, so the County's approval of the access does not hinge on a traffic study.
- Smith noted that the Beltrami County Highway Department would like to comment.

Motion by Smith, second by Faver, to deny a conditional use permit (CUP) for a retail store on parcel 31.00184.02, located at IRVINE AVE NW within Northern Township.

- Commission members discussed motion.

Smith withdrew motion to deny the conditional use permit.

Motion made by Steffen, second by Heinonen, to approve a conditional use permit (CUP) for a

retail store on parcel 31.00184.02, located at IRVINE AVE NW within Northern Township.

- Berg discussed adding the condition of requiring a traffic study.
- Heinonen suggested adding a condition that the Beltrami County Highway Department review and approve the CUP.
- Staff noted that the building permit and development agreement could hinge on an approval from the Highway Department.

Steffen amended the motion to approve the conditional use permit to include an additional condition that the Beltrami County Highway Department review and approve the additional traffic onsite.

- Faver requested that Staff communicate the Commission's concerns over excessive traffic to the Beltrami County Highway Department.

Heinonen confirmed support of the amendment. Members confirmed addition in the condition for Staff to communicate the Commission's concerns to the Highway Department.

Ayes: Lemmer, Granlund, Heinonen, David, Steffen, Faver, Berg.

Nays: Smith, Gould.

Abstentions: None.

Motion carried.

#### **DIRECTOR'S REPORT**

Phillips provided updates on current developments as well as proposed cases. Fahrenbruch provided updates on enforcement actions.

Smith inquired about open violations from 2017. Fahrenbruch noted shipping containers, outdoor storage, parking on the grass, sign violations, septic violations.

#### **UPCOMING MEETING DATES:**

|                    |         |                     |
|--------------------|---------|---------------------|
| August 11, 2021    | 6:00 pm | JPB Regular Meeting |
| August 26, 2021    | 6:00 pm | JPC Regular Meeting |
| September 8, 2021  | 6:00 pm | JPB Regular Meeting |
| September 23, 2021 | 6:00 pm | JPC Regular Meeting |

#### **ADJOURNMENT:**

There being no further business, motion by Heinonen, second by Steffen, to adjourn the Regular Planning Commission meeting at 7:15 p.m.

Motion carried unanimously.

Respectfully submitted,



Ainslee Knudson  
Administrative Assistant

Approved and attested by:

  
Joint Planning Commission Representative