

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

**Thursday, March 25, 2021
6:00 P.M.**

**Cisco Webex Video Conferencing
(For log in information <https://www.jpbgba.org/planning-actions>)**

AGENDA

- **Call to Order/Roll Call** **Chair**
- **Pledge of Allegiance**
- **Approve Agenda**
- **Approve Minutes**
 - **Thursday, February 25, 2021 Regular Meeting**

NEW BUSINESS

- 1. Visitors** **Chair**

Public Hearings

- 1. City of Bemidji – V-21-80.01444.00 – Sherry Holloway** **JC**
- 2. City of Bemidji - V-21-80.03004.01, 80.03005.01, 80.03004.00, 80.03005.00 –
Northern Fire Hospitality, LLC** **JC**

OTHER BUSINESS

- 1. Director’s Report**
- 2. Upcoming Meetings** **Chair**
 - April 14, 2021 6:00 pm JPB Regular Meeting
 - April 22, 2021 6:00 pm JPC Regular Meeting
 - May 12, 2021 6:00 pm JPB Regular Meeting
 - May 27, 2021 6:00 pm JPC Regular Meeting
- 3. Adjourn** **Chair**

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

**March 25, 2021
6:00 p.m.**

**Cisco Webex
Video Conference**

CALL TO ORDER: Chair Mike Granlund called the regular meeting of the Greater Bemidji Area Joint Planning Commission to order at 6:01 p.m., roll call was taken and the pledge of allegiance was recited.

MEMBERS PRESENT: Berg, Heinonen, Lemmer, Granlund, Smith, Gould, Steffen, David (6:14), Faver (6:27).

MEMBERS ABSENT: None.

STAFF PRESENT: Jamin Carlson, Ainslee Knudson, Nickolaus Phillips.

OTHERS: Dennis Johnson, Tim Brockman, Matt Murray, Mike Kuntz, Sherry Holloway, Robert Bush, Michael Weiher, Kevin McIntyre, Roland Hill.

APPROVAL OF AGENDA:

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

Motion carried.

APPROVAL OF MINUTES:

Motion by Heinonen, second by Steffen, to approve minutes from the February 25, 2021, Greater Bemidji Area Regular Joint Planning Commission as presented.

Motion carried.

VISITORS:

None

NEW BUSINESS:

Public Hearing:

Carlson presented the first case:

PLANNING CASE – V-21-80.01444.00 – SHERRY HOLLOWAY

Sherry Holloway is seeking multiple variances in order to construct a new single-family structure along with an attached garage and patio on a substandard lot of record located at 1308 Bixby Ave NE within the City of Bemidji. This parcel lies within the (R-4) Moderate Density Residential Sewered Zoning District and Shoreland Overlay. The requested variances are as follows:

1. A lot size reduction from the required 20,000 square feet to 5,250 square feet per Section 901;
2. A lot width reduction from the required 100 feet to 75 feet per Section 901;
3. A front yard setback reduction from the required 30 feet to 20 feet per Section 402 and;

4. An increase in impervious surface coverage from the required 25% or 1,313 square feet to 48.5% or 2,548 square feet per Section 901.

BACKGROUND

The Applicant's representative met with Staff on a proposal to redevelop this lot. The legal non-conforming lot is currently developed with multiple nonconforming structures set within required setbacks. The existing house sits approximately thirteen (13) feet from the Bixby Ave NE right-of-way (ROW), and the current detached garage abuts the rear lot line. Additionally, the lot currently has 2,766 square feet of impervious surface, which is approximately 53% of the lot area and exceeds the allowable 25% for the more restrictive shoreland overlay. The Applicant plans to build a new home on the property with an attached garage. As shown on the site plan, the proposed house will be moved to a 20 foot setback from the ROW, and the existing detached garage will be removed. A new proposed driveway and patio will be added to the lot. It is worth noting that the overall impervious will be reduced by four and two-tenths percent (4.2%) or two-hundred and eighteen (218) square feet, however it will still exceed the allowable 25% with a proposed 48.5% of impervious area, or two thousand five hundred forty eight (2,548) square feet.

Planning Considerations

Variances should only be granted when they are in harmony with the general purpose of zoning ordinances or consistent with the comprehensive plan. A practical difficulty is the legal standard for consideration of variances. An applicant can demonstrate a practical difficulty when their proposal is reasonable, will not alter the essential character of the neighborhood, and is caused by a unique circumstance related to the property not directly caused by the land owner. Economics and cost can be a factor of consideration, but alone does not constitute a practical difficulty.

This lot does not meet any of the allowances for substandard lot construction in the ordinance Section 502 or Section 903, and nothing can be constructed or expanded without a variance.

Existing Conditions

This is an existing substandard lot of record consisting of a house, detached garage, deck, sidewalks, patio, and a ribbon driveway with standard approach. The current single-family house covers 896 square feet at the overhangs, the garage covers 262 square feet, and the deck covers an additional 143 square feet outside of overhangs (164 total). Hard-packed surfaces exist outside of the driveway surfacing, and have been included in the current impervious surface calculations (shown in tan on survey).

Proposed Improvements

The proposal would correct the rear yard encroachment issue and reduce that of the ROW encroachment. The driveway approach would be widened to twenty-two (22) feet at the curb and flaring to twenty-six (26) feet at the garage apron. The new proposed home and garage will be pushed back from the front lot line. The increase in setback distances would be a benefit to the surrounding properties.

An alternative option would be to rebuild a new structure in the same footprint of the existing house; however, then the new buildings would still present their current setback issues and some of the additional storm-water load currently generated would not be addressed.

Stormwater Mitigation

Staff would recommend that the Applicant install a gutter system on the new structure to direct stormwater towards a mitigation system such as raingardens or even a pervious pavement system in lieu of concrete or bituminous surface. This plan is intended to prevent excess storm-water runoff from entering Lake Bemidji or causing nuisance to neighboring properties. A stormwater mitigation plan shall be submitted to JPB Staff for review and approval prior to land use permit being issued.

Such plan shall calculate the additional percentage of impervious approved over the requirement in Section 901, and mitigate for an additional and proportionate amount of rain in its design based on climate data.

Landscaping Requirements

A landscaping plan would need to be submitted if any trees, shrubs, or vegetation are to be removed. Erosion control would have to be in place before any construction or demolition begins and remain intact until suitable vegetation is established and in place.

Neighborhood Comment

No neighborhood comments have been received.

City Engineer Office Comment

Sam Anderson, Assistant City Engineer, provided the following comment via email on March 4, 2021:

"Hello,

A few engineering related comments below:

Already has water/sewer available and the assumption is that the new structure will use the existing services. If that's not the case than (sic) a utility plan drawing will need to be submitted to public works for review and approval.

Driveway opening request of 22 feet is below our maximum and seems satisfactory. Costs to modify the curb and sidewalk of Bixby Avenue will be the responsibility of the Owner and must meet city standards.

Impervious looks to be above the 25% maximum, but is less than current impervious coverage percentage.

Required deliverables:

- High level drainage plan – I don't need a full blown drainage plan, but a site plan with some drainage arrows to prove the water isn't going to the neighbor's property or directly to the city street.*
- Erosion control plan – I would like some erosion control BMP's defined on a site as it appears they'll have some removals by the street and structure demo. This will be attached to the eventual erosion control permit prior to construction."*

Comprehensive Plan References:

The newly adopted Greater Bemidji Area Comprehensive Plan has identified a few objectives and strategies that supports the variance request and is in keeping with the spirit, purpose and intent of the Plan.

Land Use Objective 4.1: Preserve the Quality Residential Neighborhoods

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

Community Facilities and Services Objective 7.2: Preserve and Enhance Area-Wide Storm-water Treatment Systems for All Public and Private Development and Educate Public on Importance of Storm-water Management

Allow flexibility for private development providing enhanced on-site storm-water retention and treatment facilities. Providing an enhanced storm-water facility that goes beyond the minimum local and state regulations can enhance the overall storm-water system.

Natural Resources Objective 11.6 Encourage Bird and Pollinator Friendly Practices for New and Existing Buildings and Landscapes

The Greater Bemidji Area will continue to support birds, bees, & butterflies by creating habitat, reducing threats, and engaging citizens in the conversation as well as the outdoor recreation.

...

1. Promote planting of native wild flowers, shrubs and trees to benefit birds and pollinators. Encourage collaborative, community-wide initiatives such as “Birds, Bees, & Butterflies – Bemidji” and to establish demonstration gardens, develop educational materials, conduct workshops, and partnering with local nurseries and greenhouses to increase awareness and use of native plants in local landscapes and gardens.

Zoning Ordinance References

Section 402: Lot Size and Bulk Regulations

Section 502: Substandard Lots of Record

Section 901: Bulk Density and Lot Sizes

Section 903: Nonconforming Structures Substandard in Shoreland Overlay

Section 1206: Variances, Appeals and Adjustments

RECOMMENDATION & FINDINGS

Staff recommends approval of four (4) variances in order to replace the single family structure at 1308 Bixby Avenue NE. The variances are as follows:

1. A lot size reduction from the required 20,000 square feet to 5,250 square feet per Section 901;
2. A lot width reduction from the required 100 feet to 75 feet per Section 901;
3. A front yard setback reduction of ten (10) feet from the required thirty (30) feet per Section 402(E), and;
4. An increase in impervious surface coverage from the required 25% or 1,313 square feet to 48.5% or 2,548 square feet per Section 901.

Approval recommended with the following findings of fact and conditions:

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. 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 site plan review can be approved for a city building permit.
4. JPB site verification form and fee shall be submitted prior to construction.
5. All necessary city permits shall be obtained prior to construction and demolition.
6. Applicant shall obtain approval from the City of Bemidji for widening of the driveway approach and any modification of the curb and sidewalk along Bixby Avenue NE.
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

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, and the current shoreland overlay requirements severely limit the total allowable impervious surface any replacement structure could occupy. Without a variance, the lot would 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 within the shoreland overlay.

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 making improvements on existing nonconformities and improving environmental quality. This proposal will reduce impervious surface and provide mitigation for excess storm-water runoff.

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 the following comments:

Members had no comments.

Public Hearing opened at 6:15 p.m.

Murray, the Applicant's representative, addressed the Commission. Smith inquired as to the timeline. Holloway confirmed that they plan to have the project completed by October 1, 2021.

Public Hearing closed at 6:17 p.m.

Motion by Heinonen, second by Steffen, to approve four (4) variances in order to replace the single family structure at 1308 Bixby Avenue NE within the City of Bemidji with the following conditions and findings of facts:

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. 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 site plan review can be approved for a city building permit.
4. JPB site verification form and fee shall be submitted prior to construction.
5. All necessary city permits shall be obtained prior to construction and demolition.
6. Applicant shall obtain approval from the City of Bemidji for widening of the driveway approach and any modification of the curb and sidewalk along Bixby Avenue NE.
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

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, and the current shoreland overlay requirements severely limit the total allowable impervious surface any replacement structure could occupy. Without a variance, the lot would 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 within the shoreland overlay.

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 making improvements on existing nonconformities and improving environmental quality. This proposal will reduce impervious surface and provide mitigation for excess storm-water runoff.

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.

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

Nays: None.

Abstentions: None.

Motion carried.

Carlson presented the second case:

PLANNING CASE – V-21-80.03004.01, 80.03005.01, 80.03004.00, & 80.03005.00 – NORTHERN FIRE HOSPITALITY, LLC

Northern Fire Hospitality, LLC, is requesting a variance in order to increase the site population for the proposed businesses on the old UBC lumber site, located at 1635 Paul Bunyan Dr NW. The variance being requested is to allow for an increase from 51 total occupants to 461 total occupants on all the listed parcels per Section 402 T. 2. Horizontal Airport Zone B.

BACKGROUND

The total area for the four parcels is approximately 3.39 acres in size and is located in the (B-2) General Commercial Zoning District within the Trunk Highway 197 Overlay as well as the Airport Zone B Overlay Districts. Once the lots are combined, this would be a conforming lot for Airport Zone B. The previous use of the property was a lumber company and has been vacant for some time. The Applicant is requesting to add a Pizza Ranch sit-down restaurant along with a fun zone and office space to the front half of the existing building. The applicant has not determined a use for the back half (north end) of the building at this time, but are considering putting mini storage at the north end of the property in the future. As shown in the preliminary site plans, the Applicant is making substantial improvements to the parking lot, greenspace, and overall look of the building.

MN Rules 8800.2400 AIRPORT ZONING STANDARDS are the governing regulations that the Greater Bemidji Area Joint Planning Board Adopted to be applied within the Airport Overlay zoning district. This overlay district has three zones: A, B and C. A is the most restrictive. These parcels

are within Zone B; which includes the following regulations:

Minimum Lot Size: Each use shall be on a site whose area shall not be less than three (3) acres.

Height restrictions: Except as necessary and incidental to airport operation, no structure or tree shall be constructed, altered, or allowed to grow in any airport zone so as to project above any of the imaginary airspace surfaces as established

Use restrictions: In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from an airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following use restrictions are applied to the land use safety zones.

Prohibited Uses: The following uses are specifically prohibited in zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, campgrounds, and other places of public or semipublic assembly.

Population Restrictions: Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.

Total number of structures: Each site shall have no more than one building plot upon which any number of structures may be erected.

A structure is defined: A building plot shall be single, uniform, and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Structure size: The ratio of site area to building plot area on a three acre lot is 12 to 1 or 10,900 square foot.

Planning Considerations

Variances should only be granted when they are in harmony with the general purpose of zoning ordinances or consistent with the comprehensive plan. A practical difficulty is the legal standard for consideration of variances. An applicant can demonstrate a practical difficulty when their proposal is reasonable, will not alter the essential character of the neighborhood, and is caused by a unique circumstance related to the property not directly caused by the land owner. Economics and cost can be a factor of consideration, but alone does not constitute as a practical difficulty.

Airport zoning is one of the most vital overlays in this community. Similar to shoreland, these regulations are based on State rules with local administration. MnDOT Aeronautics is the State Department set up to ensure the area around airports is protected from development. The highest numbers of crashes occur at or near the ends of runways. Therefore, those areas are encouraged to not have any development encroachments.

In the early 90's, Paul Bunyan Drive was developed not only to consider the value of open space within the airport overlay zones, but also to consider the economic value and alternative crash areas.

In considering the proposed use, a question arises: "How have all of the other buildings along Paul Bunyan Drive been built?" The answer is in a variety of lawsuits, variances, and PUD applications. Most of the properties were then required to also situate their buildings in a manner that would minimize damage and loss of life if there was a crash. Example: Walmart was required to put its garden center closest to the runway and the grocery furthest from the runway and Target complied by offsetting their structure away from the runway centerline.

Exterior Lighting

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

Trash Handling

Any new or additional dumpsters brought on site shall comply with Section 1002 of the Ordinance and be fully enclosed. Such areas shall be completely screened and enclosed on all sides, except the roof, with an enclosure or screening wall with durable and opaque material at a minimum of six (6) feet in height.

Parking

Per Section 1009, restaurants are required to have One (1) space per three (3) seats based on maximum fixed seating design capacity for restaurants without liquor service, provided that drive-in restaurants shall have at least ten spaces. For restaurants with liquor service, an additional 30% shall be required in addition to the one (1) space per three (3) fixed seats standard.

Landscaping

Per Section 1006 of the Ordinance, properties that lie within the Trunk Highway 197 Overlay are required to have a minimum of 30% greenspace. According to the submitted site plan, staff calculated approximately 28.7% greenspace on all the lots once they are combined into one lot of record and a substantial increase in greenspace for this property as it is nearly 100% paved over.

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

Neither the GIS Department, the Building Department, nor the Fire Department had any concerns regarding this variance request.

Sam Anderson, Assistant City Engineer stated the following in regards to the variance:

To echo what Craig and Al mentioned, their proposal looks to improve the nearly 100% impervious site with some proposed greenspace and trees, but I see many issues with the proposed parking and how they are proposing to revise their accesses to TH 197.

There's a number of parking spaces that look too close to the TH 197 access points that could cause conflict with vehicles backing out as other vehicles are pulling off from TH 197. MnDOT will certainly want to weigh in on the access points, but I don't think what is shown is likely to be allowed.

The onsite stormwater will need to be addressed as part of the design. Understanding that much of the previous site layout was impervious, they will still need to provide some treatment of the first 1" of rainfall onsite with also ensuring they aren't add more water to neighboring properties as well.

I'm envisioning a civil site plan and grading & drainage plan to detail out these specifics for review prior to construction.

Minnesota DOT Aeronautics & Aviation

Karen Weller, the Executive Director of the Bemidji Regional Airport Authority had the following to say:

Thank you for the opportunity to review and comment on this case. It is appreciated.

I strongly oppose issuing a variance for this development and implore you and the Greater Bemidji

Area Joint Planning Board to not issue the variance for this project.

This proposed development lies in Airport Zone B and therefore is subject to airport zoning. Zone B shall be restricted in use as follows.

- Each use shall be on a site shall not be less than three acres (which it meets at 3.39 acres)
- Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage (the requested variance up to 461 occupants far exceeds the 45 occupants allowed for 3 acres)
- Each site shall have no more than one building plot – that may have any number of structures but shall be a single, uniform and non-contrived area that does not exceed the minimum ratios as shown on Table 3-1 from the Airport Land Use Compatibility Manual (see attached). (it appears there will be multiple building plots)

Airport zoning exists to protect the approaches to the runways as well as protecting people and property on the ground in the event that an aircraft accident occurs and every variance such as this one that is issued is a piece by piece eroding of established and protected zones. If the trend of issuing variances continues, this community will be in the same position it was in 2003 when the Bemidji-Beltrami County Airport Commission (now Bemidji Regional Airport Authority) received a letter from the Minnesota Department of Transportation Office of Aeronautics (attached) that states they have “concerns about the accumulation of structures within the runway hazard areas and their impacts on public safety” and “state funding for construction and maintenance projects will be withheld from the Bemidji-Beltrami County Airport effective July 1, 2004, unless the airport is in compliance with safety zoning requirements at that time.” This letter started a series of projects that took millions of Federal, State and Local dollars to shift runway 13/31 (the requested variance lies in Zone B for this runway) and associated safety area to bring the airport back into compliance. Enforcing airport zoning is the responsibility of its sponsors (the City of Bemidji, Beltrami County and Airport Authority) and we must hold fast to the restrictions of the zones as they relate to new development, uses and properties not affected by previous litigation and settlements and not approve non-complying uses of properties not covered by previous litigation or agreements.”

It is our duty to protect the millions of Federal, State and Local dollars that have been invested in the Bemidji Regional Airport over the last 18 years to correct the issues that came to a head in 2003. We cannot afford to have variances issued that slowly erode airport zoning and permit non-complying land uses that will interfere with airport operations, zoning and/or safety. While aviation is the safest form of transportation, accidents can and will happen. We must not put high density businesses and other structures underneath the approaches to our airport’s primary runway 13/31 as this puts people on the ground potentially in harm’s way. **I implore the GBJPB to put long-established airport zoning and safety above economic development in this case.** If this variance is approved, I am fearful that it will begin the slow eroding of noncompliance with airport zoning and until we end up right back to 2004. I would then hold the GBAJPB responsible to fund future airport operations and capital improvements because the chances of FAA and MN/DOT Aeronautics funding being lost will once again become a reality!

Please do everything you can to ensure this variance is not approved. I would be able to attend the March 25th public hearing if necessary.

Julie Carr, Aviation Planner and Zoning Administrator at MnDOT Aeronautics also commented on the proposed variance and her letter is included in the packet along with additional materials supplied by Karen Weller.

Distance from Runway Center Line

The distance from the center line of the runway is approximately 1000’ feet from the building and

approximately 890' from the closest edge of the lot(s). As shown on the zoning map below, the subject parcels are at the very edge of the northeast portion of Zone B and the northeast corner is outside of Zone B entirely. This use is allowed in the Airport Zone B, but is restricted by the site population. In the B-2 General Commercial and 197 Overlay districts, this use would be allowed without any special use permitting.

From the Airport Land Use Compatibility Manual, page 76:

For example, a use might be incompatible or more hazardous if located on the extended runway centerline, but might be compatible if sited significantly far away from the centerline extended.

Neighboring Property Input

At the time of writing report, one neighboring property owner asked if the variance request was for a hotel.

Comprehensive Plan References

The newly adopted Greater Bemidji Area Comprehensive Plan has identified the following objectives and strategies in regards to this request:

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

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

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

Objective 9.2 Encourage an All-Season Multimodal Transportation System that Serves a Diverse Population

Encouraging the development of an all-season, safe, and diverse multimodal transportation system can decrease reliability on vehicular transportation, promote healthy lifestyles, and increase opportunities for transportation alternatives.

- 5. Promote the long-term protection and development of the Bemidji Regional Airport.** *The airport is invaluable to continued economic development. Protection of airspace through aviation zoning best management practices will ensure the continued development of opportunities for the community as well as on-site at the airport.*

Zoning Ordinance References

Section 102: Intent and Purpose

Section 109: Definitions

Section 302: Greater Bemidji Area Land Use Regulation Matrix

Section 402: Lot Size and Bulk Regulations by Zoning District

Section 1006: Landscaping Requirements

Section 1008: Lighting

Section 1009: Off-Street Parking, Loading & Surfacing Standards

Section 1016: Special Provisions for Airport Protection Overlay

Section 1206: Variances, Appeals and Adjustments

RECOMMENDATION & FINDINGS

Staff recommends approval of the variance from Section 402 T. 2. Horizontal Airport Zone B for parcels 80.03004.01, 80.03005.01, 80.03004.00 & 80.03005.00 in order to increase the site population from 51 occupants to 461 total possible occupants within the City of Bemidji.

Approval recommended with the following findings of fact and conditions:

Conditions

1. All lots must be combined into one (1) lot of record.
2. A building permit and all other necessary permits shall be obtained from the City of Bemidji prior to construction or renovation.
3. All existing and proposed exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
4. Any dumpsters brought on site shall be completely enclosed on all sides with a trash enclosure and located on an approved hard surface, complying with Section 1002 of the Ordinance.
5. An enhanced landscaping plan complying with Section 1006 of the Ordinance.
6. No future expansions/uses will be permitted without an additional variance application.
7. A sign permit shall be obtained prior to any new or additional signs being erected on the properties per Section 712 of the Ordinance.
8. Any redevelopment of the listed parcels will require final engineering plans to be submitted for approval by JPB staff and City of Bemidji Public Works, MNDOT staff before any construction can commence, this includes grading, drainage, stormwater and utility plans from a licensed engineer.
9. An erosion control plan shall be submitted and be in place before any construction commences on the property.
10. FAA height determination application must be approved prior to submittal of any building permits for site redevelopment of structures.
11. A development agreement shall be entered into between the JPB, City, and Applicant to ensure all site construction is completed to a satisfactory condition.
12. The variance shall expire and become void if the lot division 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 lot creation 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

1. Has the applicant demonstrated a practical difficulty?

Yes. A practical difficulty exists as the current, previously built upon, non-conforming lots in the Bemidji Airport Overlay district cannot be used in a reasonable manner due to the Airport Zoning B restrictions. No increases in site population density can be permitted without approval of a variance.

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

Yes. A practical difficulty exists as these lots are existing, previously built upon, non-conforming lots in the Bemidji Airport Overlay district. This area of Bemidji is the main commercial district with valuable property that cannot be used in a reasonable manner. No increases in site population density 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 General Commercial along Paul Bunyan Drive NW, which requires a minimum lot size of 7,500 square feet. The Airport Overlay District requires a lot to be no less than three (3) acres and would not allow any use that generates a site population greater than fifteen (15) persons per acre within Zone B. The Applicant is seeking to increase the site population to be able to use the property for an allowed use. The distance from the centerline of the airport runway is approximately 1000' from the closest part of the building, significantly far away from the airport runway centerline.

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

Yes. Although the Airport Overlay district does not support a more intense use by right, the City of Bemidji established several standards to be reviewed in a variance proceeding, economic benefit and providing an alternative crash zone. The site is currently developed as a lumberyard. The Applicant is seeking to change to another compatible use that would generate a higher site population density than currently exists. This variance will not alter the essential character of the area as the lot is already developed. With the additional requirements for enhanced landscaping, the site will be redeveloped to match or exceed the surrounding parcels.

Commission members had the following comments:

Smith inquired about custom airport zoning. Carlson responded that Staff cannot speak to that at this time. Faver inquired about past variances and if the current property and surrounding properties had to obtain variances. Staff confirmed that neighboring properties Starbucks and Bemidji Motel LLP did get variances. Smith asked about FAA Form 7460 and if the Applicant went through that process. Smith suggested moving building(s) further north. Staff confirmed that the Applicant is trying to utilize the current structures. Steffen clarified that there would be no need for a variance if not for the airport zoning. Staff confirmed.

Public Hearing opened at 6:31 p.m.

Dennis Johnson spoke on behalf of Northern Fire Hospitality LLC. Johnson addressed the property improvement, and identified that it will be a \$3.9 million investment into the property. Johnson detailed that the confirmed businesses going into the location will be Pizza Ranch and FunZone, with the plan for additional businesses in the future. Johnson illustrated that Bemidji's airport zone has stricter regulations than FAA rules. Johnson stated that the FAA zone regulates out to 2700 feet from the end of the runway versus Bemidji's airport zone which regulates out to approximately 7,000 feet from the end of the runway. Johnson identified the current maximum site population of 212 with the previous use of the lumberyard. Johnson explained that the front of the building is the finished portion and the back part of the building is possibly for cold storage at this time.

Public Hearing closed at 6:53 p.m.

Commission members had additional comments:

Smith inquired if there was communication with the Airport. Carlson confirmed that JPB Staff and the Developer had multiple meetings regarding this project with an Airport representative present. Smith expressed concern over the Airport's lack of support and over federal funding for the Airport. Carlson addressed the letter from City Attorney, Al Felix, and Staff's reasoning to support the variance.

Motion by Steffen, second by David, for approval of a variance from Section 402 T. 2. Horizontal Airport Zone B for parcels 80.03004.01, 80.03005.01, 80.03004.00 & 80.03005.00 in order to

increase the site population from 51 occupants to 461 total possible occupants with the following conditions and findings of fact:

Conditions

1. All lots must be combined into one (1) lot of record.
2. A building permit and all other necessary permits shall be obtained from the City of Bemidji prior to construction or renovation.
3. All existing and proposed exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
4. Any dumpsters brought on site shall be completely enclosed on all sides with a trash enclosure and located on an approved hard surface, complying with Section 1002 of the Ordinance.
5. An enhanced landscaping plan complying with Section 1006 of the Ordinance.
6. No future expansions/uses will be permitted without an additional variance application.
7. A sign permit shall be obtained prior to any new or additional signs being erected on the properties per Section 712 of the Ordinance.
8. Any redevelopment of the listed parcels will require final engineering plans to be submitted for approval by JPB staff and City of Bemidji Public Works, MNDOT staff before any construction can commence, this includes grading, drainage, stormwater and utility plans from a licensed engineer.
9. An erosion control plan shall be submitted and be in place before any construction commences on the property.
10. FAA height determination application must be approved prior to submittal of any building permits for site redevelopment of structures.
11. A development agreement shall be entered into between the JPB, City, and Applicant to ensure all site construction is completed to a satisfactory condition.
12. The variance shall expire and become void if the lot division 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 lot creation 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

1. Has the applicant demonstrated a practical difficulty?

Yes. A practical difficulty exists as the current, previously built upon, non-conforming lots in the Bemidji Airport Overlay district cannot be used in a reasonable manner due to the Airport Zoning B restrictions. No increases in site population density can be permitted without approval of a variance.

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

Yes. A practical difficulty exists as these lots are existing, previously built upon, non-conforming lots in the Bemidji Airport Overlay district. This area of Bemidji is the main commercial district with valuable property that cannot be used in a reasonable manner. No increases in site population density 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 General Commercial along Paul Bunyan Drive NW, which requires a minimum lot size of 7,500 square feet. The Airport Overlay District requires a lot to be no less than three (3) acres and would not allow any use that generates a site population greater than

fifteen (15) persons per acre within Zone B. The Applicant is seeking to increase the site population to be able to use the property for an allowed use. The distance from the centerline of the airport runway is approximately 1000' from the closest part of the building, significantly far away from the airport runway centerline.

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

Yes. Although the Airport Overlay district does not support a more intense use by right, the City of Bemidji established several standards to be reviewed in a variance proceeding, economic benefit and providing an alternative crash zone. The site is currently developed as a lumberyard. The Applicant is seeking to change to another compatible use that would generate a higher site population density than currently exists. This variance will not alter the essential character of the area as the lot is already developed. With the additional requirements for enhanced landscaping, the site will be redeveloped to match or exceed the surrounding parcels.

Ayes: Lemmer, Gould, Granlund, David, Steffen, Berg.

Nays: Faver, Heinonen, Smith.

Abstentions: None.

Motion carried.

DIRECTOR REPORT

Carlson provided updates on last month's planning cases as well as proposed cases. Carlson anticipates that the upcoming JPC meeting will be held via Webex. Phillips provided an update on enforcement activity. Carlson confirmed that the new Planning Director will be at the next Joint Planning Commission meeting.

Granlund inquired as to the timeline on enforcement actions. Phillips responded that it depends on the violation. Phillips stated that Staff is discussing drafting a more formal policy on enforcement timelines.

UPCOMING MEETING DATES:

April 14, 2021	6:00 pm	JPB Regular Meeting
April 22, 2021	6:00 pm	JPC Regular Meeting
May 12, 2021	6:00 pm	JPB Regular Meeting
May 27, 2021	6:00 pm	JPC Regular Meeting

ADJOURNMENT:

There being no further business, motion by Steffen, second by Heinonen, to adjourn the Regular Planning Commission meeting at 7:11 p.m.

Motion carried.

Respectfully submitted,

Ainslee Knudson
Administrative Assistant

Approved and attested by: Michael Salcedo
Joint Planning Commission Representative