

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

**Thursday, September 20, 2018
6:00 P.M.**

**Council Chambers, City Hall
317 4th ST NW
Bemidji, MN 56601**

AGENDA

- **Call to Order/Roll Call** **Chair**
- **Pledge of Allegiance**
- **Approve Agenda**
- **Approve Minutes**
 - **Thursday, August 23, 2018 Regular Meeting**

NEW BUSINESS

- 1. **Visitors** **Chair**

Public Hearings

- 1. **Northern Township - CUP-18-31.00957.00 & 31.01425.00 – Derek Hanson** **CM**
- 2. **City of Bemidji – CUP-18-80.06731.00 – John Peterson (60 Day Extension Rule)** **CB**

OTHER BUSINESS

- 1. **Director Report**
- 2. **Upcoming Meetings** **Chair**
 - Oct. 10, 2018 6:00 pm JPB Regular Meeting
 - Oct. 25, 2018 6:00 pm JPC Regular Meeting
 - Nov. 14, 2018 6:00 pm JPB Regular Meeting
 - Nov. 29, 2018 6:00 pm JPC Regular Meeting
- 3. **Adjourn** **Chair**

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

**September 20, 2018
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: Lemmer, Faver, Steffen, David, Heinonen, Lahn, Miller

MEMBERS ABSENT: Berg, Smith

STAFF PRESENT: Casey Mai, Cory Boushee, Terri Ball

OTHERS: Brent Mason, Mark & Mary Varriano, Trudy Peterson, Matt Murray, Derek Hanson

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 August 23, 2018, Greater Bemidji Area Regular Joint Planning Commission.

Motion carried unanimously.

NEW BUSINESS:

VISITORS:

No one addressed the commission.

Public Hearing:

Mai presented the first case:

PLANNING CASE - CUP-18-31.00957.00 & 31.01425.00 – Derek Hanson

Derek and Alison Hanson are requesting approval of a conditional use permit (CUP) to construct an accessory dwelling unit (ADU) within a detached garage located at 5712 Birchmont Drive NE within Northern Township. This property is located in the R-3 Suburban Residential Zoning District within the Shoreland Overlay.

BACKGROUND

The applicant, who recently purchased the property, approached staff about the possibility of redeveloping the property by demoing the existing house that resides on site and replacing it with

a new home that is further back from Lake Bemidji. Through the redevelopment process, the applicant plans to construct a new detached garage with an accessory dwelling unit above the garage. The applicant plans to live in the accessory dwelling unit while they construct the new proposed house. Once the new home is built, the accessory dwelling unit will become a guest cottage for family members who come to visit. The existing house sits roughly thirty (30) feet from the ordinary high water level (OHWL) and is encroaching within the side yard setback from the neighbors to the north. The proposed redevelopment will push the home back to comply with the fifty (50) foot OHWL setback as well as the ten (10) foot side yard setbacks from the north and south. Per Section 604 of the Greater Bemidji Area Zoning & Subdivision Ordinance, ADUs may be incorporated within or added onto an existing house, garage, or other accessory structure, or may be built as a separate structure on a lot where a single-family dwelling exists in the R-1 through R-4 Residential Zoning Districts. All detached ADUs in the R-3 and R-4 Residential Districts, or on lots smaller than two (2) acres, shall require the issuance of a CUP subject to the standards of the Ordinance. The maximum accessory structure size for this property is 1,200 square feet. The maximum size of the ADU within the accessory structure may be no more than fifty (50) percent of the square footage of the principal dwelling unit or eight hundred (800) square feet, whichever is less.

PLANNING CONSIDERATIONS

Lot Combination

The applicant has submitted a lot combination application and has been approved by JPB staff to combine the two parcels into one lot of record. Through the combination, the new parcel of record will meet all lot areas and lot widths per Section 901 of the Greater Bemidji Area Zoning & Subdivision Ordinance.

City Utilities

The location is currently serviced by city water and sewer and is part of the 2020 annexation. The proposed ADU would connect to the existing services that occupy the single-family dwelling.

Agency Comment

Tim Terrill of Mississippi Headwaters Board had the following to say about the proposed project and the provided site plan:

"It is good to see that the old house is being removed and the new one will comply with the state shoreland ordinance and be set back fifty (50) feet from the OHWL. Also, it is good that the impervious surface is being reduced from approximately twenty-seven percent (27%) to approximately twenty-three percent (23%) and the home is on public sewer."

Comprehensive Plan References

If all conditions placed on this request are met by the applicant, the request is in keeping with the spirit purpose and intent of the Greater Bemidji Area Land Use Plan.

RECOMMENDATIONS

Staff recommends approval of a Conditional Use Permit to construct an Accessory Dwelling Unit at 5712 Birchmont Dr NE in the R-3 Suburban Residential zoning district and shoreland overlay of Northern Township with the following conditions and findings of fact:

1. ADU approved as shown on provided site plan.
2. A land use permit, as well as an erosion control / stormwater permit shall be obtained prior to construction beginning.

Public Hearing opened at 6:13 p.m.

Derek Hanson was asked how big his garage will be, and if it will have a kitchen. He replied to Commissioner David that the size will be 30'x40' and will contain a kitchenette (sink, mini refrigerator, microwave, and perhaps a cook top) and a ¾ bath. Heinonen asked what the timeline is to finish building the home. Hanson explained that construction will begin after his current home is sold, but expects completion within one year. Miller asked if Hanson owns this property, and he stated that he does. Rod Pickett, former home owner, spoke in support of Hanson's project and of the improved value for the neighborhood.

Public Hearing closed at 6:18 p.m.

Motion by Heinonen, second by David, to approve a Conditional Use Permit to construct an Accessory Dwelling Unit at 5712 Birchmont Dr NE in the R-3 Suburban Residential zoning district and shoreland overlay of Northern Township with the following conditions and findings of fact:

1. ADU approved as shown on provided site plan.
2. A land use permit, as well as an erosion control / stormwater permit shall be obtained prior to construction beginning.

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. An ADU will have no adverse effect on the surrounding land as this structure as well as all new proposed structures will comply with all setback requirements. Occupants of ADU's are limited to members of the family of the owner(s) of the principal structure and no rentals are allowed within the ADU.

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

No. The proposal of an ADU is not anticipated to adversely affect traffic conditions or parking within the street or adjacent properties. Adequate impervious surface coverage will be on site for parking. The ADU will be located above a detached garage.

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 a CUP.

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, ADU's are allowed with approval of a CUP.

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

Yes. The location is currently serviced by city water and sewer and is part of the 2020 annexation.

Motion carried unanimously.

Public Hearing:

Mai presented the second case:

PLANNING CASE - CUP-18-80.06731.00 - John Peterson

Mai summarized the JPB lawyer's recent memo, and the approval of a 60-day Extension by the JPB on September 12. Mai also presented new plans submitted by the applicant which lowered density and also lowered the percentage of impervious surface.

One concern about the updated site plan was the number of parking spaces. Mai identified the ordinance requirement of 1 space per person plus .25 per unit, thus making a total of 22 spaces necessary for this project. Currently 20 spaces are proposed.

RECOMMENDATIONS

Staff suggested separate motions be made:

1. Address the JPB motion regarding original applicant proposal.
2. Advise the JPB about the new proposal based on updated site plan.

Commissioners had the following questions and concerns:

- Heinonen reminded staff that at the last JPC meeting the applicants did not want three (3) or four (4) bedroom units because they are too hard to fill. Also increased traffic will result.
- Miller does not think this new proposal is better, because the higher occupancy will be located so close to Lake Bemidji.
- Steffen offered idea of adding the two extra parking spaces closer to Lake Bemidji. Staff explained that the currently proposed number of parking spaces equals 15,956 SF and 16,105 SF is the maximum allowed.
- Steffen commented that reducing the number of bedrooms from four (4) to three (3) is a logical step.
- Heinonen identified a typo on the site plans – parking spaces for Unit 4 should be nine (9) feet instead of six (6) feet. He also stated concern with lack of guest parking spaces.
- Miller asked staff for clarification on JPC/JPB actions needed during the 60-Day Extension. Applicant has 20 days to act on improving plans to present at the October 10th JPB meeting. Another 40 days remain if the JPB denies that request, so the planning case can be finalized at the November 14th JPB meeting.
- Lahn questioned the size of Units three (3) and four (4) being over density if the number of bedrooms is reduced. Staff explained that the applicant is under the maximum amount of impervious, so the total square footage is allowable.

Public Hearing opened at 6:34 p.m.

- Trudy Peterson stated that this has been a long process and that they have made a lot of concessions to get this far. She does not want to end up changing the dynamics of the clientele. Peterson also stated her surprise about the new parking issue as it was never discussed before this.
- Matt Murray, representative for applicant, also commented about the sudden parking concern, and asked for staff clarification. Staff re-iterated the formula used for multiple units on a single parcel, as found in Section 1009 B.
- Peterson commented on confusion between density and occupancy requirements. She also questioned if the benefits of improving the property offset the concern with occupancy.
- Lemmer commented that the applicant did not want 4-bedroom units, yet this proposal still has two (2) units with 4 person density. She feels density means the number of people on the property whether it is under one (1) roof or two (2).

- Staff clarified that the possible maximum capacity currently is 36, but with the proposed changes, even with families the total maximum capacity is reduced to 28.
- Lahn commented that even though the parking standard came as a surprise to the applicants, they are already suggesting of options. He asked if they are open to the possibility of a revised site plan, to which they replied to the affirmative.
- David stated concern with guest parking, and questioned availability of over-flow parking. She also questioned size of garage. Peterson said that extra parking is always available at their home, next door, and the 18'x26' garage is for storage only.
- Murray questioned David's dissenting comments compared to her supportive comments from 8/23/18 JPC meeting minutes. David clarified her concerns with density and parking.
- Faver asked if staff could add conditions to the CUP instead of doing the full PUD process. Staff stated it is possible, however this is the preferred process.
- Lemmer commented that she likes the updated layout, but dislikes the potential density of Units 3 & 4. She stated further that the commission needs to anticipate the future of this property and potential re-sale, and those potential outcomes.
- Murray identified the protection measures of the CUP's conditions as well as the City's Rental Ordinance, so that this project is not left completely at risk. He also reminded the commission that this proposed conversion fits within the residential neighborhood, and will have increased setbacks, erosion control and stormwater plans, and will only be allowed for residential use going forward, then stated the applicants only ask that their density continues to be the same.
- David again stated concern about the maximum occupancy allowed. Staff commented that the JPB has no control over what constitutes a "family," and explained that occupancy is based on square footage of the property.
- Murray asked if any citations have been issued since the new ownership. Commissioner Heinonen commented that he does not feel comfortable driving into the property as it currently is, then stated that traffic will become an issue after all of the proposed improvements, because the owners and residents will want to show off the updates. Heinonen further added that the JPC is responsible to look beyond today and tomorrow when considering proposals such as this.
- DNR Hydrologist, Brent Mason, reiterated his comments from previous JPC and JPB meetings. He stressed the purpose of regulation is to bring non-conformities into compliance, and if regulations are not maintained he asks how non-conformities could ever become compliant. Mason questioned the JPB vision for this neighborhood and stated that proof exists that increased density within the shoreland increases pollution. He clarified that pollution can take the form of soil erosion, not just by fertilizers and mowed grass clippings. Mason also stated support for staff's shoreland restoration ideas.
- Steffen stated support for Mason's position, yet commented that there are other ways to control pollution besides this one situation.
- Miller commented that a primary issue is the sensitivity to Lake Bemidji, which has historically been an issue. She stated that the JPC and JPB cannot continue to ignore effects to our area lakes.
- Mark Varriano, neighbor of Clear Vue Resort, stated agreement with Heinonen's and Lemmer's comments that the future of this site must be considered. In the 23 years that Varriano has owned his property, the resort has had four (4) owners. He stated that traffic is indeed an issue, and that it is wrong to allow this proposal because it doesn't fit the neighborhood. Varriano urged wisdom when making the final decision.

Public Hearing closed at 7:21p.m.

Motion by Miller, second by Steffen to deny the original proposal requesting approval of a Planned Unit Development (PUD) through a Conditional Use Permit (CUP) for the conversion of an existing resort located at 4910 Birchmont Drive NE in the (R-3) Suburban Residential – Sewered zoning district and shoreland overlay within the City of Bemidji. The existing property has nine (9) structures consisting of single dwelling units. The proposal is to convert from a resort to a residential development with five (5) structures still maintaining nine (9) dwelling units, 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.

Yes. The proposal to completely raze an existing resort in a single family zoned neighborhood on Lake Bemidji and rebuild all the structures increasing the height and size is an adverse effect on the surrounding land. High density residential along lake shores is known to increase overall lake pollution. Maintaining and intensifying high density residential can increase overall pollution of Lake Bemidji. The majority of the existing buildings are small cabins, some are even one room cabins. The proposal to maintain the same density with all two bedroom units, and one three bedroom home, is not found to be in the best interest of the surrounding property owners. The new structures will increase in height as they are proposed at two-story; the structures will be taller than most surrounding single family structures.

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

Yes. Increasing the population density of this site in a single family neighborhood will increase traffic. Negative impacts are not anticipated to the adjacent streets; however, the increase in traffic that is expected with high density residential could disrupt the low density residential neighborhood. An increase in tenants will increase the amount of daily trips in and out of the property, as well as increase the amount of visitors.

3. Whether the proposed use adversely affects property in the surrounding area.

Yes. The high density of the proposed use adversely effects the surrounding properties as it resides in a single family zoned neighborhood. The subject parcel is zoned R-3 suburban residential which only allows single family dwellings. The proposed use is to maintain the same density of nine units.

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

No. The proposed use does not meet the goals and policies of the JPB Land Use Plan for a suburban sewered residential area. The proposed use is anticipated to maintain the same density with all new structures increasing the height to two-story units in a single-family neighborhood made up of single level or story and half level units. Although the proposal does expand the diversity of housing opportunities for the area, the proposed density is not appropriate for this single family residential area.

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

Yes. The location is serviced by centralized services and was annexed into the City limits in 2015. A grading and drainage plan managing stormwater on-site is required as part of this proposal.

Roll call vote:

Ayes: Miller, Lahn, Heinonen, David, Steffen, Faver, Lemmer

Nays: None

Absent: Smith, Berg

Abstain: None

Motion carried unanimously.

Motion by Steffen, second by Lahn for approval of a Planned Unit Development (PUD) through a Conditional Use Permit (CUP) for the conversion of an existing resort located at 4910 Birchmont Drive NE in the (R-3) Suburban Residential – Sewered zoning district and shoreland overlay within the City of Bemidji. The existing property has nine (9) structures consisting of single dwelling units. The proposal is to convert from a resort to a residential development with six (6) structures still maintaining eight (8) dwelling units, with conditions:

1. Final grading, drainage and utility plan to be approved by City of Bemidji engineering department, plan to include phased construction plan.
2. An erosion control plan will need to be submitted and approved, plan to include phasing plan.
3. Final site plan needs to be approved by City of Bemidji fire department.
4. The proposed lot line realignment will need to be approved before any building permits for new construction may be issued.
5. A development agreement will be entered into between the JPB and applicant.
6. Applicant will work with a professional landscaper or landscape architect to design a shoreline restoration plan to be approved by the Joint Planning Board prior to the approval of Phase Two building applications, shoreline restoration to be implemented as part of Phase Three. Plan should include Minnesota native species and designs recommended by the MnDNR and SWCD.
7. Final tree planting plan to be updated to include phasing and approved by JPB staff.
8. Development must maintain compliance with Section 1002 Exterior storage of the JPB ordinance, including the construction of a trash enclosure in Phase One.
9. Storage of boats, recreational vehicles, water orientated outdoor recreation equipment, or other similar items on-site should be screened from the public right of way and public water. Water recreation items stored in a designated neatly kept area, or on a racking system may be allowed within the fifty (50) foot setback.
10. Shall maintain compliance with the City of Bemidji rental and property maintenance codes at all times for all occupied dwelling units, and maintain leases for thirty (30) or more days.
11. No occupancy will be allowed for more than the approved dwelling unit density at any point during construction, and no more than the approved amount of dwelling units will exist for more than 30 days after a certificate of occupancy has been granted for newly constructed buildings.
12. The shed located in the OHWL setback shall be removed and the area revegetated as part of Phase One.
13. The driveway paving and parking spot paving shall occur during Phase Two.
14. Any proposed change to the phasing plan JPB staff determines is significant must be reviewed for approval by JPB.
15. The applicant would not be allowed to construct this project through the exercise of the applicant's existing nonconforming rights as it involves an expansion of the structures. Such expansions are prohibited both by the Ordinance and state law. Instead, the applicant has opted to pursue a conversion to a residential PUD. Because the continued assertion of nonconforming rights is inconsistent with the expansion allowed to occur under this CUP, applicant agrees to waive its nonconforming rights with respect to this property. The applicant knowingly agrees to this waiver and is with the understanding that the applicant

is bound by the conditions placed on the CUP. Further, if any of the conditions are violated, the JPB may provide notice, hold a hearing, and upon a finding of one or more violations it may revoke the CUP. The applicant agrees that if the JPB does revoke this CUP, the applicant will be required to cease its operations and to remove its residential PUD from the Property. The conversion of the property to a residential PUD and construction of any of the structures allowed by this CUP shall be deemed an agreement by the applicant, and it successors and assigns, to each of the following: (a) the conditions contained in this CUP; (b) the waiver of the nonconforming rights that currently exist with respect to the property; and (c) to cease the residential PUD and remove it from the Property upon a repeal of this CUP by the JPB due to a violation of one or more of its conditions.

16. Signage shall comply with JPB Zoning and Subdivision Ordinances.

17. Maximum of three (3) boat slips permitted.

18. Bring updated site plan to the next JPB meeting, which includes the required 22 parking spaces on approved surfaces.

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. Replacing the structures with modern building standards will increase public safety on-site and to adjacent properties that may be impacted in the event of a fire. Meeting modern setback requirements from Lake Bemidji and the addition of trees will improve lake health and preserve the view of the natural shoreline. Aesthetically pleasing modern construction can be a benefit to the neighborhood.

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

No. The current use does not impact traffic, it is not anticipated that the conversion will have a negative impact on traffic. The ingress/egress to the property is located approximately 200 feet from White Pine Street NE providing access to Bemidji Ave N, which is major thoroughfare into the city.

3. Whether the proposed use adversely affects property in the surrounding area.

No. The property has been used as a commercial property and is still a licensed resort through the Minnesota Department of Health. This proposal will create a residential property; residential use is consistent within this area.

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

Yes. The currently adopted GBAJPB land use plan identifies this area as residential, and also outlines objective to have a diverse amount of housing available. This proposal would create a residential use, and provide an opportunity for lake living through long term leases. This area is zoned for single family residential; however, the proposal can meet the objective of providing diverse housing opportunities for Bemidji residents.

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

Yes. The location is serviced by centralized services and was annexed into the City limits in 2015.

Roll call vote:

Ayes: Steffen, David, Lahn, Lemmer

Nays: Faver, Heinonen, Miller

Absent: Berg, Smith

Abstain: None

Motion carried.

OTHER BUSINESS: None

DIRECTOR REPORT:

Mai provided an update of the recent JPB planning case decision, updates on development projects – most of which did not require variances, and also informed the commission of the upcoming MN APA conference in Rochester. He stated that the next City Council Work Session will include discussions about continuing the GBAJPB past 2020, and whether the Site Plan Analyst position will be filled. Comprehensive Plan updates were also addressed.

UPCOMING MEETING DATES:

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|-------------------|---------|---------------------|
| October 10, 2018 | 6:00 pm | JPB Regular Meeting |
| October 25, 2018 | 6:00 pm | JPC Regular Meeting |
| November 14, 2018 | 6:00 pm | JPB Regular Meeting |
| November 29, 2018 | 6:00 pm | JPC Regular Meeting |

ADJOURNMENT:

There being no further business, motion by Steffen, second by Miller, to adjourn the Regular Planning Commission meeting at 7:45 p.m.

Motion carried unanimously.

Respectfully submitted,

Terri Ball
Planning Administrative Assistant

Approved and attested by: 
Joint Planning Commission Representative