

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

**Thursday, October 25, 2018
6:00 P.M.**

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

AGENDA

- | | |
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| <p>➤ Call to Order/Roll Call</p> | Chair |
| ➤ Pledge of Allegiance | |
| ➤ Approve Agenda | |
| ➤ Approve Minutes | |
| • Thursday, September 20, 2018 Regular Meeting | |

NEW BUSINESS

- | | |
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| 1. Visitors | Chair |
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Public Hearings

- | | |
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| 1. <u>Northern Township</u> - V-18-31.01012.00 – Ruttger’s | CM |
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OTHER BUSINESS

- | | |
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| 1. Director Report | |
| 2. Upcoming Meetings | Chair |
| • Nov. 14, 2018 6:00 pm JPB Regular Meeting | |
| • Nov. 29, 2018 6:00 pm JPC Regular Meeting | |
| • Dec. 12, 2018 6:00 pm JPB Regular Meeting | |
| • Dec. 20, 2018 6:00 pm JPC Regular Meeting | |
| 3. Adjourn | Chair |

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

**October 25, 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: Berg, Lemmer, Faver, David, Heinonen, Miller, Smith

MEMBERS ABSENT: Steffen, Lahn

STAFF PRESENT: Casey Mai, Terri Ball

OTHERS: Mark Nelson

APPROVAL OF AGENDA:

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

Motion carried unanimously.

APPROVAL OF MINUTES:

Motion by Heinonen, second by David, to approve minutes from the September 20, 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 - V-18-31.01012.00 – Ruttger's Resort

Mark and Karrie Nelson of Ruttger's Resort are requesting an after-the-fact variance for the expansion of a non-conforming structure in the (R-3) Suburban Residential zoning district (unsewered) and within the Shoreland Overlay at 7598 Bemidji Rd NE in Northern Township. A variance is being requested in order to increase the pitch of the roof from thirty-four (34) feet to thirty-eight (38) feet and to enclose the two exterior stairwells to preserve the longevity of the structure and to provide safety to the people on the resort campus.

BACKGROUND

The Nelson's recently purchased the existing resort from Randy Ruttger and took ownership in February of 2018. The purchase only included the west half of the resort; however, all parties entered into a lease agreement on February 20th of 2018 that allowed the Nelsons of Gold Coast of Bemidji, LLC ("Tenant") to tenant the east half of the resort premises from Randy Ruttger of Birchmont, Inc. ("Landlord"). This lease agreement runs until December 31st, 2022 unless terminated earlier. According to the Nelsons, they plan to purchase the remaining half at a later date.

Throughout this past year, Mark Nelson has stopped into the JPB office on several occasions to discuss his future plans of the main lodge as well as the resort as a whole. Staff has stated several times that no expansion or site alterations could take place without the approval of a variance or through a commercial Planned Unit Development (PUD), which would require the Ruttger's Resort campus to be rezoned to commercial. After consulting with the JPB Attorney, the alterations to the main lodge would only require a variance to enclose the exterior stairwells and to increase the pitch of the roof. Any alterations to the site would trigger the commercial PUD. On August 20th, 2018, JPB staff responded in an email to Mark Nelson and their design consultant, regarding their email which included the proposed elevations for the main lodge remodel. In this response, staff asked for existing elevations in relation to the proposed elevations so staff could compare. Staff also informed the applicant that increasing the height of the structure would not be allowed or permitted and that no land use permit would be issued until septic systems were brought into compliance. See the email in the planning case attachments.

On October 2nd, 2018, JPB staff observed structural alterations taking place to the main lodge with new rafters being installed increasing the height of the structure. A Stop Work Order was issued to the Nelsons for violating Sections 1204 & 1206 of the Greater Bemidji Area Zoning & Subdivision Ordinance. A land use permit has not been issued for any work alterations to take place on the roof or stairwells. No land use permit required for interior remodeling.

PLANNING CONSIDERATIONS

Existing Conditions & Proposals

Based on conversation with the Nelsons and review of the plans that were submitted, the height of the main lodge will increase from thirty-four (34) feet to thirty-eight (38) feet. The change in height to the current roof is in large part due to altering the pitch of rafters from 4/12 to a 6/12. The reason for altering the pitch height, is the current 4/12 pitch accumulates too much snow and ice load and in the past has caused severe damage to the structure and presents a danger to the public with falling snow or ice chunks. Per Section 902 of the Zoning & Subdivision Ordinance, the maximum building height of a structure in the shoreland overlay, except for religious institutions and agricultural structures, shall not exceed thirty (30) feet in height.

Also through this variance request, the Nelsons plan to enclose the exterior stairwells on the main lodge. These exterior stairwells are utilized to access the second and third floor of the lodge. One stairwell is located on the west side of lodge and the other is located on the east side. Revised site plans shall indicate the height of the stairwell roofs and shall not exceed thirty-eight (38) feet in height unless requested for through the variance process.

The Nelsons also plan to remodel the interior of the structure bringing the building into compliance with all Minnesota State Codes.

Septic Systems / Minnesota Pollution Control Agency (MPCA)

On November 22th, 2017, the previous owners, the Nelson's and the Planning Director of the JPB signed a stipulation agreement that all non-compliant septic systems would be brought into compliance within one years' time or would at least be making substantial efforts in updating the

failing systems with a plan in place for the remaining systems. At this time, over half of the systems on the property are deemed non-compliant per a compliance inspection completed by Ken Ramondo of H&R Septic Designs on November 13th, 2017.

There are three separate septic systems that serve the main lodge. System 1 was deemed non-compliant and consists of flows from half of the main lodge, the cedar lodge, cabins 1, 2, 3, 4, 39 and the indoor pool. System 2 was deemed compliant and consists of flows from the women's restrooms in the main lodge. System 3 was also deemed compliant and consists of flows from the remaining half of the main lodge, restaurant and bar. System 1 at this time would need to be brought into compliance prior to a land use permit being issued for the remodel of the main lodge.

Although the east half of the resort premises is still owned by Randy Ruttger of Birchmont, Inc., those cabins are still owned by the resort and will count in this determination and will need to be inspected and updated as part of this process, per MPCA requirements. Nicholas Kramer of the MPCA has indicated that a state permit will be required as the resort is open year around and uses over 10,000 gallons per day. An engineering firm will need to be hired as a certified engineer shall sign off on all designs.

Setbacks

For a General Development Lake outside City limits, the Lake Bemidji setback from the OHWL in an unsewered district is one-hundred (100) feet. The closest wall/overhang of the main lodge currently sits approximately ninety-eight (98) feet from the OHWL. This portion of the main lodge is not altering in size or area, just altering of the exterior façade. The portion of the lodge that is increasing in height is the roof of the third floor, which is roughly one hundred and thirteen (113) feet from the OHWL. Any alterations to the building or enclosing of the stairwells shall maintain a ten (10) foot setback from other structures or buildings.

Stormwater

A stormwater mitigation plan as well as an erosion control permit shall be submitted for approval. All stormwater runoff shall be collected and properly directed so it doesn't impact or run toward Lake Bemidji or any septic systems on site. Staff encourages gutters to be placed on the structure to help guide the stormwater.

Mississippi Headwaters Board (MHB)

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

The increase of the pitch of the roof would exceed MHB standard height of 35' for a General Development Headwaters Lake so it would be noncompliant.

According to state and MHB standards, impervious may not exceed 25% on a parcel, so I recommend that an impervious surface calculation be done on the parcel to see if the added enclosed stairwells would increase the impervious over the standard.

According to the packet, three out of the five septic systems are non-compliant and failing. This is a violation of state and MHB standards, so replacement with a type 1 septic or improvement to existing septic to bring it up to code is recommended. Because this is causing a cesspool of sewage, I would set up emergency procedures to keep sewage from entering Lake Bemidji. I recommend that the GBA contact Beltrami Soil & Water Conservation District to see if there is any cost share to help replace any existing failing septic.

And finally, because this is an after the fact Variance request and the owner has allegedly known

about this issue, the Greater Bemidji Area JPB should factor this in to their decision.

Development Team (Fire Department)

The main lodge will be required to be inspected by the Bemidji Fire Chief to review for code compliance.

Neighborhood Comment

At the time of writing this report, no public concerns were identified.

Comprehensive Plan References

The current GBAJPB Land Use Plan encourages commercial uses to utilize best planning practices when redeveloping a site or bringing a structure into compliance to protect and conserve the value of buildings throughout the Greater Bemidji Area. Through the variance process, this is in keeping with the spirit and intent of the Land Use Plan as well as the Zoning & Subdivision Ordinance upon positive findings of fact.

RECOMMENDATIONS

Staff recommends approval of an after-the-fact variance in order to increase the pitch of the roof from thirty-four (34) feet to thirty-eight (38) feet and to enclose the two exterior stairwells to preserve the longevity of the structure and to provide safety to the people on the resort campus. The resort campus is located in the (R-3) Suburban Residential zoning district (unsewered) and within the Shoreland Overlay at 7598 Bemidji Rd NE in Northern Township. Approval recommended with the following conditions:

1. An after-the-fact land use permit shall be submitted with the associated fees.
2. Stormwater mitigation and erosion control plan shall be submitted and inspected by JPB.
3. All noncompliant septic systems shall be redesigned by a certified engineer and brought into compliance immediately per MPCA requirements.

Public Hearing opened at 6:23 p.m.

Applicant Mark Nelson stated that the largest record of water usage was 6,000 gallons a day, and explained that the only parts of the resort open year-round are the pool and fitness building, eight (8) hotel rooms and the six (6) cabins at the end of the property. He addressed Commissioner Miller's and Smith's septic concerns by detailing the process used during this past season with a failing septic system, which included reducing the number of available bedrooms from 35 to 18 so the lodge could function off the two compliant systems, as well as weekly septic pumping of the failed system. Nelson described why he began construction without going through the variance process as a communication error between himself and previous staff, his wife and previous staff, as well as himself and his wife. Commissioner Faver asked what work has been completed since the October 2nd Stop-Work-Order, to which Nelson stated was 30 dumpsters of debris. Progress included removing the exterior stucco, removing windows, gutting walls down to studs for re-wiring, re-plumbing, and re-framing. Staff clarified that a land use permit would only be required for the re-structuring of the roof and enclosing the exterior stairwells.

Public Hearing closed at 6:31 p.m.

Motion by Heinonen, second by Miller, to approve an after-the-fact variance in order to increase the pitch of the roof from thirty-four (34) feet to thirty-eight (38) feet and to enclose the two exterior stairwells to preserve the longevity of the structure and to provide safety to the people on the resort campus, located in the (R-3) Suburban Residential zoning district (unsewered) and within the Shoreland Overlay at 7598 Bemidji Rd NE in Northern Township. Approval recommended with the

following conditions:

1. An after-the-fact land use permit shall be submitted with the associated fees.
2. Stormwater mitigation and erosion control plan shall be submitted and inspected by JPB.
3. All noncompliant septic systems shall be redesigned by a certified engineer and brought into compliance immediately per MPCA requirements.

And with findings:

1. Has the applicant demonstrated a practical difficulty?

Yes. The main lodge has experienced damage in the past due to the current pitch of the roof. The applicant is requesting to alter the roof pitch and enclose the exterior stairwells to preserve the longevity of the main lodge structure and to provide safety to the people on the resort campus.

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

Yes. The main lodge structure was built prior to today's building code and zoning ordinance standards. In order to bring the complete building into compliance, whether it is plumbing, electrical, structural, fire or zoning, a variance would be needed to preserve the structure or to provide safety to all clientele.

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. These proposed building alterations are anticipated to have a positive impact to the building as it will gradually be brought into conformity with all codes as well as protect the public health, safety, comfort convenience and general welfare of the area. This complies with both the Zoning & Subdivision Ordinance and the Land Use Plan.

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

Yes. This property has been operating as a resort and will continue to do so. The building alterations will have no impact on the surrounding neighborhood or with the Greater Bemidji Area.

Motion carried (Faver opposed).

OTHER BUSINESS: None

DIRECTOR REPORT:

Mai provided updates of the recent JPB planning case decisions and updates on development projects. He also informed the commission of Cory's recent resignation and the ensuing candidate search. Mai summarized his APA Conference attendance, as well as invited all commissioners to attend the upcoming Comprehensive Plan Open House scheduled on Tuesday, November 20th from 5:30 -7:30 pm in City Hall Chambers.

UPCOMING MEETING DATES:

November 14,2018	6:00 pm	JPB Regular Meeting
November 29,2018	6:00 pm	JPC Regular Meeting
December 12,2018	6:00 pm	JPB Regular Meeting
December 20,2018	6:00 pm	JPC Regular Meeting

ADJOURNMENT:

There being no further business, motion by Faver, second by Heinonen, to adjourn the Regular Planning Commission meeting at 6:45 p.m.

Motion carried unanimously.

Respectfully submitted,

Terri Ball
Planning Administrative Assistant

Approved and attested by: 
Joint Planning Commission Representative