

AGENDA
GREATER BEMIDJI AREA JOINT PLANNING BOARD
City Hall Council Chambers/Webex
(For log in information <https://www.jpbgba.org/planning-actions>)
Wednesday, July 14, 2021 REGULAR MEETING – 6:00 p.m.

- **Roll Call** **Chair**
- **Pledge of Allegiance**
- **Approval of the Agenda**

A. MINUTES **Chair**
Approval of June 9, 2021 Minutes

B. CONSENT AGENDA
Items in the Consent Agenda are approved with one motion without discussion/debate. The Chairman will ask if any Board member wishes to remove an item. If no items are to be removed, the chairman will then ask for a motion to approve the consent Agenda.

1. Approve/Pay Bills (see attached list of bills) **Chair**

C. VISITORS **Chair**

D. NEW BUSINESS

1. City of Bemidji – Resolution No. 2021-12 –V-21-80.04871.00 & 80.04872.00 - Williams **NP**
2. ~~Withdrawn: City of Bemidji – CUP-2-21-80.04944.00 – Hegna Properties, LLC~~ ~~**JC**~~
3. City of Bemidji – Resolution No. 2021-13 – CUP-21-80.01958.00 & 80.01957.00 – Nameless Coalition **JC**
4. City of Bemidji – Resolution No. 2021-14 – IUP-21-80.05058.00 & 80.05059.00 – Sanford Behavioral Health **NP**

E. OLD BUSINESS

1. Ordinance 2021-02 Short Term Vacation Rentals

F. OTHER BUSINESS

1. Joint Planning Board Ad hoc committee

G. DIRECTOR’S REPORT **JC**

H. ENFORCEMENT UPDATE **NP/MF**

I. UPCOMING MEETINGS **Chair**

- | | | |
|----------------------|---------|---------------------|
| 1. July 22, 2021 | 6:00 pm | JPC Regular Meeting |
| 2. August 11, 2021 | 6:00 pm | JPB Regular Meeting |
| 3. August 26, 2021 | 6:00 pm | JPC Regular Meeting |
| 4. September 8, 2021 | 6:00 pm | JPB Regular Meeting |

J. ADJOURN **Chair**

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J. ADJOURN **Chair**

GREATER BEMIDJI AREA JOINT PLANNING BOARD
Meeting Minutes
July 14, 2021

Pursuant to due call and notice, a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, July 14, 2021, at 6:00 p.m. Chair Jess Frenzel called the meeting to order and roll call was taken.

Upon roll call, the following members were declared present: Prince, Erickson, Peterson, Kelly, Frenzel

Members absent: None

Staff present: Jamin Carlson, Nick Phillips, Melissa Fahrenbruch, Ainslee Knudson

Others in attendance: Douglas Williams, Kim Williams, Reed Olson, John Pierson

Pledge of Allegiance was performed.

AGENDA

Motion by Kelly, second by Peterson, to approve the agenda.

Motion carried unanimously.

MINUTES

Motion by Prince, second by Peterson, to approve the June 9, 2021 minutes as presented.

Motion carried.

CONSENT AGENDA

- 1) Bills for the total amount of \$21,873.92 were presented for payment with a late addition to the bills from Sanford Center for the LGU meeting in the amount of \$453.07.

Motion by Kelly, second by Prince, to approve the consent agenda.

Motion passed unanimously.

VISITORS

NEW BUSINESS

RESOLUTION 2021-12 – V-21-80.04871.00 & 80.04872.00 – DOUG & KIM WILLIAMS

Doug & Kim Williams are seeking a variance in order to construct a new accessory structure consisting of a shop with a covered patio and attached garage on a lot located at 3345 River Park Ct NE within the City of Bemidji. This parcel lies within the (R-2) Suburban Residential Zoning District and Forested River Shore land Overlay. The requested variance is for an ordinary high water mark

structure setback reduction from the required 150 feet per Section 901(D) to 123 feet. Staff noted that the legal non-conforming lot is currently recorded as two lots of record, however a combination request has been approved and filed with the County Recorder to join parcels 80.04871.00 and 80.04872.00, bringing the property closer to conforming size.

RECOMMENDATION & FINDINGS

Staff recommends denial of requested OHWM variance in order to build the accessory structure at 3345 River Park Court NE. Denial recommended based on the following findings of fact.

Findings of Fact

1. Has the applicant demonstrated a practical difficulty?

No. The applicant has not provided sufficient evidence to show that alternate site plans or configurations could not work to meet the uses described while meeting existing setbacks. The addition of fill and replacement of sections of the existing driveway would allow for a smoother topographic transition into a garage meeting the required setbacks, however the applicant has stated that option to be unfavorable to the overall site plan. Staff believe that the difficulty arises from the owner's past choice in placement of the single family dwelling and driveway fills, and that the work needed to address the topographic relief issue represents an economic consideration, but that alone does not represent a practical difficulty.

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

No. While this is a previously platted and developed lot of record within the shore land overlay, which limits available space on the lot to meet the required setbacks, the past variance allowing the dwelling at a 75' setback has allowed establishment of the primary use of the parcel without sacrificing all buildable areas available to the owner.

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. This proposal, if approved, would be required to provide mitigation for excess storm-water runoff.

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

Yes. This neighborhood has seen development on small lots within the allowed setbacks via past variances, and the existing structures to the south and north of the proposed structure are already set closer to the river than the 125 foot setback the applicant has proposed.

The Joint Planning Commission did not provide a recommendation.

BOARD DISCUSSION AND DECISION

Board members had the following comments:

- Prince and Staff discussed late submissions. Staff addressed that the late submissions were obtained by Staff after the Public Hearing regarding this case.
- Prince inquired if the structure as presented would require a variance for any additions or changes in the future. Staff confirmed that any additions or changes that would make the structure more non-conforming would need a variance.
- Kelly and Staff discussed the OHWM setback and the locations of the Applicant's home and homes on neighboring properties.
- Kelly inquired about the result from the Joint Planning Commission. Staff confirmed that the commission forwarded the case forward without a recommendation.

- Frenzel asked if this case would go to the Mississippi Headwaters Board. Staff confirmed that they would be notified of it.
- Prince inquired if a correct summation of the practical difficulty expressed by the Applicant would be a preservation issue. Williams responded and discussed the culture of the area at the time, and the lot's status as a forested river segment.
- Frenzel inquired of Staff's response to the Williams' presented hardship. Staff addressed the issues, the location and stormwater.
- Erickson inquired if Staff has received any information to change the recommendation. Staff acknowledged that they have not.
- Erickson recommended that if the Board wishes to go against Staff recommendations, then the Board should be responsible for compiling findings of facts for approval.
- Frenzel requested Staff input. Staff noted a lack of evidence to support the case other than economic hardship, which does not make a practical difficulty.
- Frenzel and Prince noted that the request fits with the character of the neighborhood.
- Staff noted the majority of variances that come before the Board are on nonconforming lots. Staff also addressed that the lot in question is large and the Applicant has the ability to build the structure within the setbacks without going through the variance process.
- Frenzel addressed that the Board could assist Staff in writing findings of facts for approval.
- Frenzel inquired if the case would need to go back to the Public Hearing at the Commission meeting. Staff noted that if new information is presented than it would need to go before the Commission again. Staff expressed their need for additional information from the Applicant in order for Staff to write Findings for approval.
- Prince noted that a few members of the Joint Planning Commission were missing at the public hearing for this case.

Motion by Prince, second by Peterson, to extend the 60-day rule for Resolution 2021-12 to deny an OHWM variance in order to build the accessory structure at 3345 River Park Court NE. This case will go back before the Joint Planning Commission at their August meeting.

Ayes: Frenzel, Peterson, Kelly, Prince

Nays: Erickson.

Absent: None

Abstentions: None

Motion carried.

RESOLUTION 2021-13 – CUP-21-80.01958.00 & 80.01957.00 – NAMELESS COALITION FOR THE HOMELESS

Reed Olson, representing - Nameless Coalition for the Homeless, is requesting approval of a conditional use permit (CUP) to operate a daytime drop-in center on two (2) parcels located at 722 15 St. NW. This request is to use the donated estimated 10,000 square feet facility (two-story) for a non-profit agency and partner agencies to connect agencies with their clients for services to gain stable life services. This property is zoned "R-6" Multiple Family District. This requested land use falls under Community Center per Section 302 of the GBAJPB Ordinance, and is allowed with an approved CUP. Staff addressed that there is some gravel on the property that will need to be converted to greenspace. Staff noted the hours of operation, and the need for trees on the site. Members of the public expressed support for this conditional use permit at the Public Hearing.

RECOMMENDATION & FINDINGS

JPC and Staff recommend approval of a Conditional Use Permit to allow Sanford - Nameless Coalition for the Homeless to operate a daytime drop-in center on two (2) parcels located at 722 15 St. NW in the R-6 Multiple Family Zoning District, with the following conditions and findings of fact:

Conditions

1. The CUP shall terminate upon a change in use, a change in the owner/operator (leaseholder), or a change in the lease space as may be determined by the JPB Staff.
2. Any additional signage must meet Section 710 of the JPB Ordinances and a permit must be granted if necessary before any additional signage is placed on site.
3. All dumpsters shall be fully enclosed with a gate complying with Section 1002 of the JPB Ordinance.
4. The hours for the daytime drop-in center shall be 8 A.M. to 8 P.M., after hours shall not be permitted. JPB staff shall be informed if operation hours are to change.
5. If a change in type of services were to occur or an intensification of services provided such as increased allowable clientele, JPB staff shall be notified. If staff see a change or intensification warrants review it will be brought to the Joint Planning Board for further action.
6. Shall remove the parking area to the southwest of the building by adding greenspace to that area, as well as, green space to the north end of the parking lot along the sidewalk within the front yard setback next to 15th St. NW.
7. The parking lot potholes shall be remedied and stripping added to define the parking spaces.
8. Trees shall be added to the front yard setback area.
9. The parcels (80.01957.00 & 80.01958.00) shall be combined into one lot of record.

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. The proposed use is not anticipated to adversely affect, nor create an unreasonable level of disruption or interference upon the surrounding area. A community center is compatible with the current GBAJPB land use regulations. The former use of the property was a behavioral health clinic.

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. The subject parcels will use its current parking lot for the services. Pedestrian foot traffic is anticipated to increase to this site.

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

No. The proposed use is not anticipated to adversely affect, nor create an unreasonable level of disruption or interference upon the surrounding area. The subject property was being used as a behavioral clinic with no known adverse effects and is currently unoccupied. 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 land use is consistent with the goals and policies of the Comprehensive Plan.

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

Yes. The property has adequate public infrastructure and is served by city services.

BOARD DISCUSSION AND DECISION

Board members had the following comments:

- Board members discussed the services offered. Staff confirmed that it is a day-center that will be open 365 days per year.

- Erickson inquired if alcohol will be allowed in the facility. The Applicant noted that there would not be.

Motion by Erickson, second by Peterson, to approve Resolution 2021-13 for a Conditional Use Permit to allow Sanford - Nameless Coalition for the Homeless to operate a daytime drop-in center on two (2) parcels located at 722 15 St. NW in the R-6 Multiple Family Zoning District, with the above stated conditions and findings of fact.

Ayes: Frenzel, Kelly, Peterson, Erickson, Prince

Nays: None.

Absent: None

Abstentions: None

Motion carried unanimously.

RESOLUTION 2021-14 – IUP-21-80.05058.00 & 80.05059.00 – SANFORD BEHAVIORAL HEALTH

James Coughenour and Paul Nistler, representing Sanford Health, are resubmitting a request for approval of an Interim Use Permit (IUP) to provide psychiatric emergency services at property located on Hannah Ave. NW just north of the Prime West facility within the City of Bemidji. The facility will be in a new building that is yet to be constructed. This property is located in the OM Office/Medical District and the Airport Zone C Overlay.

This project was previously discussed under planning case IUP-21-80.05058.00 & 80.05059.00, and was withdrawn before board decision due to a lack of information on the demographics of clientele. Staff noted that the facility will be located on two lots, and addressed the number of employees and number of beds. Staff addressed that the parking can be addressed in the Development Agreement.

RECOMMENDATION & FINDINGS

JPC and Staff recommend approval of an Interim Use Permit to allow Sanford Health to add emergency psychiatric services at the property located on Hannah Ave NW in the O/M Office/Medical Zoning District, within the City of Bemidji, with the following conditions and findings of fact:

Conditions

1. The IUP shall terminate upon a change in use, a change in the owner/operator (leaseholder), or a change in the lease space.
2. Any signage must meet Section 712 of the Ordinances and a permit must be granted if necessary before any signage is placed on site.
3. All dumpsters shall be fully enclosed with a gate complying with Section 1002 of the Ordinance.
4. If a change in type of emergency psychiatric services were to occur or an intensification of services provided such as increased allowable clientele, JPB staff shall be notified. If staff see a change or intensification warrants review it will be brought to the Joint Planning Board for further action.
5. The developer/owner shall enter into a development agreement with the City of Bemidji & the JPB prior to construction.
6. The IUP shall be reviewed for compliance one (1) time upon six (6) months of operation by the JPB, the applicants shall participate in a review of the IUP.
7. An interim use permit 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. The proposed use is not anticipated to adversely affect, nor create an unreasonable level of disruption or interference upon the surrounding area. A counseling service for emergency psychiatric services is compatible with the current GBAJPB land-use regulations.

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. The subject parcel will use an on-site parking lot for the counseling services.

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

No. The proposed use is not anticipated to adversely affect, nor create an unreasonable level of disruption or interference upon the surrounding area. The subject parcel is appropriately zoned for the proposed use with approval of an IUP.

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

Yes. The proposed land use is consistent with the goals and policies of the Comprehensive Plan as well as the Zoning and Subdivision Ordinance.

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

Yes. The property will be connected to public infrastructure and will be served by city services.

BOARD DISCUSSION AND DECISION

Board members had the following comments:

- Erickson requested clarification on services. Staff confirmed that there is a negative-pressure isolation room for COVID patients, and the option for short-term care.
- Kelly inquired if it will be a detox facility. Staff was unsure, although
- Erickson asked if there were any concerns from the airport... Staff confirmed that there were no issues.

Motion by Erickson, second by Peterson, to approve Resolution 2021-14 for an Interim Use Permit to allow Sanford Health to add emergency psychiatric services at the property located on Hannah Ave NW in the O/M Office/Medical Zoning District, within the City of Bemidji, with the above stated conditions and findings of fact.

Ayes: Frenzel, Kelly, Peterson, Erickson, Prince

Nays: None.

Absent: None

Abstentions: None

Motion carried unanimously.

ORDINANCE NO. 2021-02 – SHORT-TERM VACATION RENTALS

Fahrenbruch stated that she recently implemented an ordinance amendment at the city she

previously worked for which allowed short term vacation rentals. Fahrenbruch also noted that this is the topic of her graduate thesis.

Carlson identified that Staff was contacted by a Beltrami County Commissioner, who addressed that the county may be looking into county-wide zoning for short-term vacation rentals. Carlson noted additional research done by Staff and discussed the three-day minimum, the difficulty in implementing a 90-day maximum, and also noted that hospitality tax would not be the responsibility of the city.

Fahrenbruch presented answers to questions posed by Board members at the previous meeting.

BOARD DISCUSSION AND DECISION

Board members had the following comments:

- Frenzel asked for clarification of the fee. Staff clarified.
- Kelly and Prince expressed support over a significant annual fee.
- Prince noted concern over introducing a commercial practice into residential neighborhoods.
- Kelly expressed support over limiting density, but has concerns over the practicality of it.
- Frenzel inquired of Staff if limiting density is common in other communities. Fahrenbruch noted that it is done in some localities.
- Fahrenbruch addressed noise complaints and noted that this is already regulated by law enforcement, and this would be difficult for City Planning Staff to address.
- Prince questioned allowing individuals to run businesses out of their residential homes.
- Frenzel addressed that Bemidji is competing with other areas for tourists. Frenzel also noted the current status of the housing market in Bemidji and how it could be a significant investment for an individual to pursue this venture in Bemidji.
- Carlson stated that the Joint Planning Board Zoning Ordinance allows individuals to run businesses out of their home under Home Occupation Permits, and the Ordinance also allows home-shares.
- Kelly discussed Beltrami County's interest in county-wide zoning.
- Prince expressed concern over the timing with the country coming out of a pandemic and the hospitality industry being in recovery.
- Frenzel requested that the Board decide on the aspects up for discussion and request Staff to bring a revised ordinance amendment to the Board at the next meeting.
- Erickson and Peterson expressed support for a permit fee of \$500. Staff noted concern over annual fee being enough to cover Staff's time to inspect and regulate.
- Prince noted support to increase initial and annual fees.
- Peterson noted that individuals would be required to pay hospitality tax and because his employer, Visit Bemidji, is a recipient of this hospitality tax he would have to abstain from voting on these matters.
- Fahrenbruch noted cases of takings where localities prohibited short term vacation rentals and expressed caution to Board members.
- Phillips noted that using the interim use permit would allow the Board to decide based on density, and would allow Staff to remove the proposed density regulation.
- Carlson expressed concern over varying from regulations within an IUP...
- Fahrenbruch noted that more localities issue permits as opposed to IUPs or CUPs in order to have more restrictions and regulations.
- Frenzel addressed that some of Board members concerns will be addressed by the permit regulations, such as parking, and number of people.
- Frenzel noted that this proposed ordinance amendment could initially be more restrictive with the option to relax regulations in the future.
- Frenzel and Erickson expressed support for a higher fee, and for a permit as opposed to an IUP. Erickson and Prince expressed concern over the additional work for Staff.
- Kelly noted his preference for an IUP as opposed to an administrative permit.
- Carlson inquired about Board members opinion on density. Board members expressed that

- density regulations would likely be difficult and may need to be left out of the permit process.
- Staff noted concerns over a 90-day maximum being part of a takings case and the difficulty in regulating. Board members expressed support for no regulations on maximum stay.
- Board members and Staff addressed concerns over the same difficulty in regulating a minimum stay.

OTHER BUSINESS

- Joint Planning Board Ad hoc Committee
 - Kelly and Erickson reiterated the purpose of the ad hoc committee. Erickson stated that there were three members. Kelly recommended that one member from each LGU and the Director should meet, and expressed that the Chair should be involved.
 - Frenzel noted that he is open to participating as the acting chair.

DIRECTOR'S REPORT

Carlson described year-to-date activity as well as completed, current and upcoming development projects. Carlson stated that Knudson had attended the Municipal Clerks and Finance Officers Association (MCFOA) conference last month and noted upcoming planning cases. Frenzel noted the development off of Whiting Rd NW.

Prince inquired if a complaint regarding a previously approved variance was addressed by Staff. Staff confirmed that they had responded to the complainant.

Fahrenbruch addressed current enforcement issues. Board members discussed enforcement and assessments for cleaning up properties.

UPCOMING MEETING DATES

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ADJOURNMENT

There being no further business, motion by Peterson, second by Prince, to adjourn the Joint Planning Board meeting at 8:05 p.m.

Motion carried unanimously.

Respectfully submitted,

Ainslee Knudson
 Planning & Building Administrative Assistant

JPB Minutes Approved and attested by:  8-12-21
 Joint Planning Board Representative