

# AGENDA

## GREATER BEMIDJI AREA JOINT PLANNING BOARD

Cisco Webex Video Conferencing / City Hall

(For log in information <https://www.jpbgba.org/planning-actions>)

Wednesday, October 14, 2020 REGULAR MEETING – 6:00 p.m.

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

Chair

### A. MINUTES

Chair

Approval of September 9, 2020 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. Northern Township - Resolution 2020-27 – CUP-20-31.02144.00 – Scott Reck  
(60-Day extension) JC
2. City of Bemidji - Resolution 2020-28 – V-20-80.01795.00 – Jody Grau JC
3. City of Bemidji - Resolution 2020-29 – IUP -20-80.03751.00 – Wesley Newell CM
4. City of Bemidji - Resolution 2020-30 – CUP-20-80.04944.00 – Hegna Properties, LLC CM

### E. OTHER BUSINESS

1. Resolution 2020-31 - Approval of 2021 Budget

Chair

### F. DIRECTOR'S REPORT

CM

### G. UPCOMING MEETINGS

Chair

1. October 22, 2020 6:00 pm JPC Regular Meeting
2. November 4, 2020 6:00 pm JPB Regular Meeting
3. November 19, 2020 6:00 pm JPC Regular Meeting
4. November 24, 2020 6:00 pm LGU Meeting
5. December 9, 2020 6:00 pm JPB Regular Meeting
6. December 17, 2020 6:00 pm JPC Regular Meeting

### H. ADJOURN

Chair

**GREATER BEMIDJI AREA JOINT PLANNING BOARD**  
**Meeting Minutes**  
**October 14, 2020**

Pursuant to due call and notice, a regular meeting of the Greater Bemidji Area Joint Planning Board, Beltrami County, Minnesota, was held on Wednesday, October 14, 2020, at 6:00 p.m. via video conference. Chair Meehlhause presiding called the meeting to order and roll call was taken.

Upon roll call, the following members were declared present: Albrecht, Erickson, Frenzel, Kelly, Meehlhause

Members absent: None

Staff present: Casey Mai, Jamin Carlson, Ainslee Knudson

Others in attendance: Ralph Vonasek, Muriel Gilman, Chris Hamilton, Jody Grau, Josh Almendinger, Patrick DeMarchi, Howie Zetah, Scott Reck, Howard Zetah, Matt Murray, Wes Hegna

Pledge of Allegiance was performed.

**AGENDA**

Motion by Albrecht, second by Erickson, to approve the agenda.

Motion carried unanimously.

**MINUTES**

Motion by Kelly, second by Frenzel, to approve the September 9, 2020 minutes as presented.

Motion carried.

**CONSENT AGENDA**

- 1) Bills for the total amount of \$30,797.15 were presented for payment.

Motion by Erickson, second by Albrecht, to approve the consent agenda.

Motion passed unanimously.

**VISITORS**

Ralph Vonasek approached the board and requested a Zoning Text Amendment refund from last month's planning case. He stated that he heard that this change was already being discussed by staff. Mai stated that staff was planning to bring it to the Commission and Board for discussion and there was no guarantee the change would have been made. Mai also stated that there is a process and cost associated with the case. Erickson asked for clarification of the fee. Mai stated that a zoning text amendment fee is \$550. Vonasek asked who would pay for the topic to be brought to the board if he had not paid for it. Mai stated that it would be a larger scale zoning ordinance update that is typically done annually, so essentially the board absorbs the cost. Mai reiterated that it was to be brought forth for discussion and the change was not guaranteed. Mai confirmed that the Applicant paid to expedite the change. Meehlhause asked the board if this item should be added to the agenda

for the next meeting. Frenzel stated he is willing to have policy discussion at a future meeting. Kelly stated staff makes clear the costs associated with a text amendment or zoning map change when brought forth by an individual, but he is willing to discuss. Erickson stated that she could see this issue added to the agenda if it is a discussion of a policy change. Erickson stated that she would not like to see it added to the next meeting's agenda if it is just the fee for a specific case and she is not in favor of a policy change at this time. No other board members stated their support of a future discussion at this time.

## NEW BUSINESS

### **RESOLUTION 2020-27 – CUP-20-31.02144.00 – SCOTT RECK**

Scott Reck is requesting a Conditional Use Permit (CUP) to expand the current mini warehouse storage complex (Northdale Storage) off of Fairgrounds Rd. NW in a B-1 Low Density Commercial Zoning District within Northern Township; parcel 31.02144.00.

### **BACKGROUND**

The Applicant approached staff with a request to add a new storage building to the existing Northdale Storage facility. The property does not have a current Conditional Use Permit (CUP) for a mini-storage facility and this is the reason a CUP is needed at this time. This type of land use requires approval of a CUP per Section 302 of the Zoning & Subdivision Ordinance (refer to hereinafter as "Ordinance"). This same parcel had just gone through the IUP process for the Verizon tower located on the northeastern part of the lot in early 2020.

### **Planning Considerations**

All Conditional Use Permits must follow the general requirements including process, criteria, and findings. A conditional use permit is recorded and runs with the land, not with the Owner/Applicant.

Per the Ordinance:

***CONDITIONAL USE:*** A land use or development as defined by ordinance that may be allowed only after an in-depth review procedure and with appropriate restrictions or conditions as provided by his Zoning Ordinance upon a finding that standards and criteria stated in this Ordinance will be satisfied. A conditional use must conform to the Greater Bemidji Area Land Use Plan and be compatible with the existing neighborhood.

### **Existing Conditions**

This parcel has three (3) existing mini-storage buildings, along with the propane storage facility, and MoeCO, a fire & safety business, on site. A Verizon tower is also scheduled to be built on the property that had just gone through the Interim Use Permit (IUP) process recently. This property abuts an open-water wetland to the northwest and must follow Section 1014 of the Ordinance.

### **Adjacent Zoning and Land Use**

The proposed development to the west is conservation with the noted wetland complex, to the north, east, and south is commercial zoning. To the southwest is a residential lot that is currently undeveloped. JPB staff does not anticipate mini-storage generating any issues on the surrounding properties and will be compatible with adjacent land uses.

### **Landscaping/Screening**

For the entire 7.1 acres identified, a total of 94 trees are required per Section 1006 of the Ordinance. Out of the 94 trees needed, 12 will have to be along the front of the property. Per Section 1002 & 1009 of the Ordinance, screening, whether it is a fence with opaque material

or landscaping/hedges are required when gravel is used as a maneuvering/driving surface. Staff did perform an approximate tree count on the parcel and counted over 60 trees in the front entrance and east sides of the property. The Applicant will be required to plant approximately 35 additional trees throughout the property and shall submit a landscaping plan to JPB Staff for review and approval.

### **Lighting**

All existing and proposed exterior lighting will need to be submitted for review by JPB staff, being downward facing and not projecting onto right-of-way or neighboring parcels following Section 1008 of the Ordinance. Staff did note that existing exterior lighting was out of compliance and will need to be brought into conformance with the Ordinance.

### **Signage**

The Applicant has not informed JPB staff that any additional signage would be created. If so a sign permit and fee would need to be submitted to JPB staff and follow Section 712 of the Ordinance.

### **Screening**

The Applicant has an existing perimeter chain link fence. The gravel areas would need to be screened from the ROW if the parcel continues to have gravel as its driving and maneuvering surface per Section 1005 of the Ordinance or would have to come into conformity with Section 1009 and have the surface paved with bituminous or concrete.

### **Hard Surfacing Requirements**

The Ordinance requires that all parking, loading, and driving areas be surfaced with bituminous pavement, concrete or an equally durable surface. Durable surfaces are required for multiple reasons including; stormwater management reducing the amount of sediments traveling to stormwater management areas; air quality reducing dust and fine particles entering the air effecting surrounding land uses; controlling the continuous expansion of parking areas; and to ensure parking areas are in aesthetically pleasing condition and not full of rutting, water pockets, and unwanted vegetation.

An exception can be made for outdoor storage areas in the B-1 low density commercial zoning district where Minnesota Department of Transportation (MnDOT) Class V Aggregate Base and other similar aggregate bases can be used within the defined outdoor storage area compliant with Section 1002 of this Ordinance, only as approved during the site plan approval, provided the site is completely screened in accordance with Section 1005 of this Ordinance. Dust control provisions including sealant must be applied at least twice a year or more often if needed.

### **Impervious Surface Coverage**

The site plans did not depict all the impervious surface coverage and JPB staff added the existing gravel surfaces to the calculation. The overall coverage within the outlined area is 3.15 acres of impervious surface coverage totaling 44%, which is under the 60% maximum.

### **Trash Handling**

Currently no dumpster is being provided at this location, if one is provided it will need to be screened complying with Section 1002 of the Ordinance.

### **Transportation**

The Beltrami County Highway Department does not have transportation concerns with this request.

## **Fire Department**

The fire department had no concerns with this request for fire safety.

## **Comprehensive Plan References**

### ***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.*

- 1. Promote flexibility for commercial and industrial redevelopment and encourage in-fill development. Allowing for in-fill development and redevelopment of existing commercial areas will ensure the current commercial and industrial areas remain vibrant, full, and diverse. In-fill and redevelopment will be encouraged before resorting to increasing commercial and industrial areas.***

## **Zoning Ordinance References**

Section 302: Land Use Matrix

Section 402: Minimum Lot Size Requirements and Bulk Requirements

Section 712: Signs Permitted in the (B-1) Low Density and General Commercial Districts

Section 1005 Screening Standards

Section 1006: Landscape Standards

Section 1008: Lighting Standards

Section 1009: Parking Standards

Section 1014: Sensitive Area Standards

## **RECOMMENDATION & FINDINGS**

JPC and Staff recommended approval of a conditional use permit to operate mini warehouse storage at parcel 31.02144.00 in the (B-1) Low Density Commercial Zoning District within Northern Township with the following conditions.

## **Conditions**

1. All exterior lighting on-site shall comply with Section 1008 of the JPB Ordinance; a lighting plan shall be submitted with final building plans for JPB review.
2. Final engineering, grading, erosion control and stormwater plans will need to be approved for review by JPB staff before any construction can commence.
3. A final landscaping plan shall be submitted to JPB staff for approval complying with Section 1006 of the JPB Zoning Ordinance.
4. A screening plan shall be submitted to JPB staff for approval complying with Section 1005 of the JPB Zoning Ordinance.
5. The developer/owner shall enter into a development agreement with the JPB prior to construction.
6. Any dumpsters brought on site shall be fully enclosed complying with Section 1002 of the JPB Zoning Ordinance.
7. A land-use permit shall be obtained for the storage building before any construction can commence on the identified property.
8. If the addition storage unit is not substantially started within twelve (12) months from its date of issuance, a CUP amendment will be required for any changes or additions with this property. 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.

At the September 9<sup>th</sup>, 2020 board meeting, the JPB extended the 60-day period to obtain additional information about the submitted plan that would satisfy their questions regarding septic, well, and use of structure.

### **BOARD DISCUSSION AND DECISION**

Board members had the following comments:

- Kelly stated that he has concerns regarding holding tanks and the proposed hookup to the well, and the impervious surface. Kelly stated that the site will work, but has concerns about the site continuing to sprawl and expressed his favor for a separate parcel. He also stated his support to bring the whole site into compliance.
- Frenzel asked staff about the holding tanks. Mai stated that per section 801 in the Ordinance, holding tanks are allowed, but only for infrequently utilized structures. Mai stated that according to the Ordinance and State Rules, a holding tank is required to have an alarm system, but if there is no one on site, how will the Applicant know when the alarm goes off. Mai clarified that if the Applicant decides to have floor drains, this will require a separate holding tank with either a flammable waste trap or an oil/water separator directing into a holding tank with an alarm system as stated in Condition 11.
- Frenzel stated his support for requiring paving. He also expressed support for a separate parcel, and requiring this specific parcel to come into compliance. Frenzel also stated that bringing all parts of the parcel into compliance may be too much at this time.
- Erickson asked what the intent of the site is. Carlson stated that this new storage complex is going to have bathrooms and the Applicant potentially plans to add floor drains so there will have to be two separate septic systems for the bathrooms and the floor drains. Carlson reiterated that the Applicant stated that an individual could work on their boat in a heated garage with a bathroom. Mai stated it is required to have a separate holding tank for floor drains and the Applicant has plans for two separate holding tanks, one for the bathroom and one for the floor drains. Mai stated that a yearly pumping report is required with a holding tank, but it is hard for people to remember to submit those and it's just another thing added to staff's duties. Mai stated that staff is not in support of the holding tanks, but he has no issues with the use. Mai stated that as long as there is no habitation or extra commercial businesses, staff is in support with the recommended conditions.
- Albrecht asked for clarification on number of holding tanks and where they would be located. Mai confirmed that there are two holding tanks on the plans and they would be located underground. Albrecht stated concern over storm-water runoff and drainage. Mai stated that there is a condition addressing this, and all commercial projects within Northern Township are required to submit engineering, storm water, and erosion control plans and those will be reviewed and approved by the city's hired engineering consultant. Albrecht expressed appreciation over the storage units being placed closer to the other storage units. Albrecht stated her support for a potential lot separation. Albrecht asked if there is an easement in place, specifically in regards to access to the rest of the parcel and the housing development. Mai stated that there is a private road that runs all the way through the development. Albrecht asked if this approval is just for the conditional use permit for this one use and not the entire lot. Mai confirmed that it is just for the conditional use permit for this storage unit.
- Kelly clarified that the plans include one holding tank for all five units and another holding tank for flammable waste for a total of two tanks. Kelly expressed concern over the landscape and drainage plan for the entire lot vs a plan for a separated parcel, and the potential cost to the Applicant. Mai confirmed that the proposal only includes two holding tanks. Mai stated that calculating required green space and impervious surface is difficult when there is the option to separate the parcel.

- Meehlhause asked for clarification on the difference between Resolution Options 1 and 2. Mai stated that Option 1 includes additional conditions 9-11, and Option 2 includes additional conditions 9-13. Kelly confirmed his support for Option 2.
- Howie Zetah clarified the usage of the site that it is for personal storage, for such things as boats or snowmobiles, and the bathrooms are there if an individual needs to be there for a long time. Zetah stated that the bathrooms are optional and another option would be one bathroom for communal use. Zetah also stated that separating the parcel is a reasonable request.
- Frenzel asked if the board could add a time requirement as a condition.
- Scott Reck stated that paving would not be easily doable with the amount of heavy truck traffic coming through the lot. Reck indicated that they are open to doing whatever is required of them.
- Mai stated that they can put in whatever conditions the Board requires. Mai stated there is a year time limit on landscape requirements, and that the JPB can collect escrows for this project.
- Frenzel stated that he is in support of adding a time limit to give the Applicant time to complete the requirements. Frenzel also stated that he is open to requiring the separated lot to come into compliance or if it is left as one parcel, bringing the entire lot into compliance.
- Albrecht stated appreciation for the Applicant's investment in the community and specifically for the storage units. Albrecht asked the Applicant what his thoughts are on separating the lot.
- Reck responded that he is not against separating the lot.
- Frenzel stated that if the Applicant chooses to put bathrooms in, then an SSTS would be required. Mai responded that an SSTS would be required for the floor drains so Condition 11 would have to remain as is.
- Kelly confirmed his support for Condition #13.
- Erickson, Meehlhause and Albrecht all stated their support of Option 2.
- Mai stated staff would like Board recommendation on a timeline for condition 12. Meehlhause responded that a year is the typical standard that the Board has used.
- Zetah asked for clarification on Conditions 12 and 13, if they are for the separated lot or the whole property. Staff stated that the requirements would just be for the separated lot.
- Mai recommended a timeline of one year.
- Zetah expressed concerns over the time constraints. Mai stated that civil drawings and a drainage plan would be required before a land use permit could be issued.

Motion by Erickson, second by Kelly, to approve Resolution 2020-27 for a Conditional Use Permit (CUP) to expand the current mini warehouse storage complex (Northdale Storage) off of Fairgrounds Rd. NW in a B-1 Low Density Commercial Zoning District within Northern Township; parcel 31.02144.00.

Approval recommended with the following conditions and findings of fact:

1. All exterior lighting on-site shall comply with Section 1008 of the JPB Ordinance; a lighting plan shall be submitted with final building plans for JPB review.
2. Final engineering, grading, erosion control and stormwater plans will need to be approved for review by JPB staff before any construction can commence.
3. A final landscaping plan shall be submitted to JPB staff for approval complying with Section 1006 of the JPB Zoning Ordinance.
4. A screening plan shall be submitted to JPB staff for approval complying with Section 1005 of the JPB Zoning Ordinance.
5. The developer/owner shall enter into a development agreement with the JPB prior to

- construction.
6. Any dumpsters brought on site shall be fully enclosed complying with Section 1002 of the JPB Zoning Ordinance.
  7. A land-use permit shall be obtained for the storage building before any construction can commence on the identified property.
  8. If the additional storage unit is not substantially started within twelve (12) months from its date of issuance, a CUP amendment will be required for any changes or additions with this property. 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.
  9. No human habitation shall be allowed within the storage units.
  10. No commercial or business use shall be operated out of the storage units.
  11. A septic (SSTS) permit shall be obtained with the JPB following submittal of proper design from licensed professional. This includes a septic system for all bathrooms and a holding tank with either a flammable waste trap or an oil/water separator directing into a holding tank with an alarm system.
  12. All parking, loading, and maneuvering areas shall be paved with either with concrete or bituminous complying with Section 1009 of the Ordinance within one (1) year of construction.
  13. A separate lot of record for the storage unit complex shall be subdivided from the main subject parcel complying with lot specifications per Section 402 of the Ordinance.

#### **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. Negative impacts are not anticipated with this conditional land use as long as conditions are in place to mitigate potential impacts and are followed.

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

No. No additional ingress/egress will be added to Fairgrounds Road NW and it is not expected to place a negative impact on the area transportation network

**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. Any future proposed uses or changes shall be reviewed in accordance with all zoning requirements and any change in use that requires an amendment to the CUP will be brought back to the Commission and Board for approval.

**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 Comprehensive Plan and Zoning Ordinance through an approved CUP.

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

Yes. An engineered plan will address drainage, and sewer and water are not proposed.



Ayes: Meehlhause, Kelly, Frenzel, Erickson, Albrecht  
Nays: None  
Absent: None  
Abstentions: None

Motion carried unanimously.

#### **RESOLUTION 2020-28 – V-20-80.01795.00 – JODY GRAU**

Jody Grau is seeking a variance in order to construct an accessory structure (detached garage) on a substandard lot of record located at 1101 Mississippi Ave NW; parcel 80.01795.00 within the City of Bemidji. This parcel is within the (R-4) Moderate Density Residential Sewered Zoning District. The requested variances are as follows:

1. A reduction in lot width of ten (10) feet from the required sixty (60) feet per Section 402.
2. A reduction of seven and three tenths (7.3) feet from the required 30 feet from the front yard (driveway) setback per Section 402 and;
3. A setback reduction of 14.7 feet from the required 20 feet from rear yard lot line (alley) per Section 402.

#### **BACKGROUND**

The Applicant met with staff on site to discuss building a detached accessory structure on the former site of a garage that was torn down a few years ago. Staff explained the 180 day rule to be able to rebuild in the same location and that time had passed. The Applicant stated the need for a garage at this location and would have liked to build the detached garage on the old foundation, but after reviewing the site, it would be well inside the setbacks.

#### **Existing Conditions**

The old garage foundation is still visible along with the driveway. A shed sits where the old garage once stood and the current fence along the east side. As this is a corner lot with an exterior side yard along with the utilities along the alley, this makes it very difficult to fit any kind of structure to be built within the required setbacks. Additionally, because of the requirements for a corner lot, a new structure could not be built on this property without a variance.

#### **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.

#### **Comprehensive Plan References**

##### ***Objective 4.1: Preserve the Quality Residential Neighborhoods***

*Thriving neighborhoods are important to a growing community as well as ensuring that existing neighborhoods are not consistently replaced with multi-family or commercial development that could increase rural sprawl. It is also important to allow existing non-conforming residential areas to be redeveloped.*

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

From the development team regarding this variance request.

Bryan Kerby, City Building Official stated:

*The City of Bemidji Building Department has not concerns on the variance request. Please note that all requirements of the 2020 MN State Building Code chapter 1309 MN Residential Code will need to be met and that construction documentation will need to be submitted for plan review, permitting and inspections IRC-4 Accessory Use structure.*

Craig Gray, City Engineer stated that he is ok with the variance request as long as the structure is at least five (5) feet away from the alley; however, would prefer seven (7) or eight (8) feet and would like to see something in writing from the Applicant addressing snow removal plan from the driveway. Where is the snow going to be plowed, because it can't go in the alley or across the road.

#### **Neighboring Property Input**

At the time of writing report, no comments had been received.

#### **Zoning Ordinance References**

Section 402: Lot Size and Bulk Regulations by Zoning District

#### **RECOMMENDATION & FINDINGS**

JPC and Staff recommend approval of the following variances for parcel 80.01795.00 in order to build a detached garage on a legal non-conforming lot with the City of Bemidji:

1. A reduction in lot width of ten (10) feet from the required sixty (60) feet per Section 402.
2. A reduction of seven and three tenths (7.3) feet from the required 30 feet from the front yard (driveway) setback per Section 402 and;
3. A setback reduction of 14.7 feet from the required 20 feet from rear yard lot line (alley) per Section 402.

Approval recommended with the following findings of fact and conditions:

#### **Conditions**

1. Detached garage 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. Snow removal for the driveway must not be located in the alley or ROW.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A building permit shall be obtained prior to construction.
6. 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.

Board members had the following comments:

- Erickson asked if this is a typical situation in this neighborhood with the garage being close to the alley. Carlson confirmed that it is a typical situation.
- Meehlhause commented that it is similar to many houses in this neighborhood, and he has no issues with it.

Motion by Erickson, second by Albrecht, to approve Resolution 2020-28 for the following variances in order to construct an accessory structure (detached garage) on a substandard lot of record located at 1101 Mississippi Ave NW; parcel 80.01795.00 within the City of Bemidji:

1. A reduction in lot width of ten (10) feet from the required sixty (60) feet per Section 402.
2. A reduction of seven and three tenths (7.3) feet from the required 30 feet from the front yard (driveway) setback per Section 402 and;
3. A setback reduction of 14.7 feet from the required 20 feet from rear yard lot line (alley) per Section 402.

Approval recommended with the following conditions and findings of fact:

1. Detached garage 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. Snow removal for the driveway must not be located in the alley or ROW.
4. JPB site verification form and fee shall be submitted prior to construction.
5. A building permit shall be obtained prior to construction.
6. The variance shall expire and become void if the project is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

#### **Findings of Fact**

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

Yes. The existing legal non-conforming lot of record on a corner lot which presents major difficulties to be able to build any structure. This detached garage proposal is reasonable and cannot be completed within current zoning standards.

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

Yes. The lot was created prior to today's zoning standards and this was not caused by the current owner. This parcel is a corner lot with several utility obstacles in the way, which makes it extremely difficult to be able to build within the setbacks and have a functional structure that also meets the minimum width standards, which, in this case cannot be achieved without 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. There are many garages in this area that are legal non-conforming structures on legal non-conforming lots. Building a detached garage would be keeping with the character of the neighborhood and does not compromise the spirit, purpose and intent of the Zoning Ordinance.

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

Yes. The proposed variance request would fit well within the surrounding area and would not alter the character. Other properties in this neighborhood have the benefit of a garage.

Ayes: Meehlhause, Kelly, Frenzel, Erickson, Albrecht

Nays: None

Absent: None

Abstentions: None

Motion carried unanimously.

## **RESOLUTION 2020-29 – IUP-20-80.03751.00 – WESLEY NEWELL**

Wesley Newell of SND Appliances is seeking approval of an Interim Use Permit (IUP) for Personal Service and Repair (10,000 sq. ft. or more) to operate an appliance repair facility in the former Coca-Cola building located at 601 Paul Bunyan Dr SE, parcel 80.03751.00. This parcel is located in the (B-2) General Commercial Zoning District and the Trunk Highway 197 Overlay District.

### **BACKGROUND**

The Applicant is looking to lease the former Coca Cola site at the intersection of Paul Bunyan Dr SE and Washington Avenue S, which is currently zoned (B-2) general commercial. This site has been vacant and for sale for the past three to four years. The original use of warehouse and distribution has ceased on the property and is no longer allowed to occur. Per Section 501 of the Greater Bemidji Area Zoning & Subdivision Ordinance (refer to herein as "Ordinance"), if a nonconforming use of land is discontinued for a period of twelve (12) months or longer, the subsequent use of the land or the structure shall be in conformity with the provisions of the Ordinance. Over the past year or two, several developers and/or companies have looked into purchasing this property for warehouse and distribution or a complete change in use; however, bringing the property and the building into compliance was deemed quite costly, steering potential buyers away from the site. This property, over the years, has utilized adjacent land to the southeast, under different ownership, for parking, maneuvering and access to and from the property.

At this time, the Applicant is seeking to utilize the structure/site for his business to repair and sell appliances. Per Section 302 of the Ordinance, Personal Service and Repair facilities greater than 10,000 square feet in size requires the approval of a CUP in the (B-2) General Commercial Zoning District; however, since the Applicant intends to lease the building at this time, an IUP is warranted as the permit runs with the lessee.

### **Planning Considerations**

All Interim Use Permits (IUP) must follow the same general requirements of a Conditional Use Permit (CUP) including process, criteria, and findings. The key difference between the two is that a CUP runs with the land vs. the IUP which runs with the Applicant/Owner and has an ending date or event which terminates the permit.

Per the Ordinance:

***INTERIM USE:*** A temporary use of property until a particular date, until a particular event, or until zoning regulations no longer permit it. Interim use permits are not recorded and do not run with the land upon transfer. All interim uses shall conform to standards listed in Section 1205 of this Ordinance.

***PERSONAL SERVICES AND REPAIR, LARGE:*** An establishment, containing ten thousand (10,000) square feet or more of gross floor area and generally having more than ten (10) employees on site at one time, that is engaged in the provision of informational, instructional, personal improvement, personal care, or similar services. Examples include, but are not limited to, catering establishments, custom dressmaking, film processing, garment printing and embroidering, licensed massage salons, optical and optician services, service and repair establishments, sun tan centers, appliance repair and service bicycle repair and rental, small craft rental, tailor shops, dry cleaning and laundromats.

### **Parking & Traffic**

Per Section 1009 of the Ordinance, personal services and repair is required to have one (1) space for each four hundred (400) square feet of gross floor area, plus one (1) additional space for each

employee on max shift. Based on the building size, this property would be required to have fifty-five (55) parking stalls. The Applicant has stated that hardly no parking is needed for his use as customers don't bring the appliances to him, whereas he goes to the customer's property to make the repairs. The Applicant is utilizing the proof of parking under Section 1009 of the Ordinance to eliminate the additional parking that is needed. There currently is a sea of asphalt approximately 100 feet by 125 feet (12,500 square foot) on the south side of the building, which shall be properly striped for the needed parking and maneuvering area.

Once the land to the south, adjacent of this property goes through the proper processes to be obtained, it shall be brought into compliance if it is continued to be utilized for access.

### **Landscaping**

Per Section 1006 of the JPB Zoning & Subdivision Ordinance, the site requires one (1) tree per fifty (50) lineal feet of street frontage along with one (1) tree for every 800 square foot of minimum required pervious site surface. A total of sixteen (16) trees are required throughout the property and a total of ten (10) trees within the front yard setback along the street frontage of Washington Avenue S and Paul Bunyan Drive SE. Applicant has indicated that they would be willing to add some greenspace to the property to help bring it closer to compliance. A final landscaping plan showing the type, size, and location of each tree to be planted shall be submitted for JPB staff approval. Staff would recommend the pavement be removed from the right-of-way (ROW) along Paul Bunyan Dr. SE and greenspace with the possibility of trees being added within the ROW with Beltrami County approval.

### **Lighting**

The Applicant has not indicated that there will be any additional lighting added to the existing structure. 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. All lighting shall be directed downward in order to minimize adverse impact on surrounding properties and rights-of-way. Note: staff did see parking lot lights that were angled greater than 90 degrees and will need to be adjusted to meet the Ordinance.

### **Signage**

At this time, no signage is being proposed. Any new signage would require a sign permit prior to installation and shall comply with Section 712 of the Ordinance.

### **Trash Handling**

No dumpsters currently are on site or indicated by the Applicant; however, according to the application, the Applicant intends to self-haul all generated waste from the property. Any 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.

### **MnDOT**

Minnesota Department of Transportation does not have any concerns with the Newell request to operate out of this building as long as no additional runoff enters the trunk highway right-of-way. See MnDOT's response in the attached letter from Jon Mason, District 2 Planning Director.

### **Beltrami County Highway Department**

Bruce Hasbargen, County Engineer of the Beltrami County Highway Department does not have any concerns with the Newell request.

### **Development Team (Public Works / Engineer; Building Official; Fire Department; GIS; &**

### **Community Development Director)**

No concerns from the Fire Department or the GIS Department.

Bryan Kerby, City Building Official, stated the following in regards to the existing building and the proposed use:

*The City of Bemidji Building Department has no concerns on the IUP planning case for the former Coca Cola building located at 601 Paul Bunyan Dr SE. The current accepted occupancies for this building are S2 Low Hazard Storage and B Business mixed use occupancy. Should the building need to undergo a change of occupancy to another classification such as M Mercantile or any other higher hazard class occupancy, the change would need to be documented under the 2020 MN State Building Code Chapter 1311 Conservation Code for Existing Buildings. Please note that the conservation code has several paths to compliance which may require significant building modifications such as sprinklering or separation into multiple compliant fire areas or removal of combustible materials to revert back to a less combustible construction type. The current IUP request does not require a change of occupancy classification as it is a continued use of the existing occupancy. Any building renovations will need to be submitted for plan review, permitting and inspection under the applicable 2020 MN State Building Code.*

Sam Anderson, Assistant Engineer, stated the following in regards to the proposed request:

*I don't have any major civil related concerns with this proposal, but I would ultimately like a site plan to show the intended parking areas and spaces along with how the semi-trucks mentioned in the proposal will function within the site.*

*If the building would require a sprinkler system to be installed, the Applicant will need to provide a utility plan completed by a licensed civil engineer showing how municipal water would be brought to this facility for City approval.*

*If any other site disturbance is proposed, these items should be detailed on the site plan for further approval.*

### **Neighborhood Comment**

No neighborhood comments were received at the time of writing this report.

### **Comprehensive Plan References**

The newly adopted Greater Bemidji Area Comprehensive Plan has identified the following objectives and strategies.

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

- 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.*

### **Zoning Ordinance References**

The following Sections within the Ordinance were referenced in order to make a recommendation for this proposed expansion:

Section 109: Definitions  
Section 302: Land Use Matrix  
Section 401: Minimum Lot Size Requirements and Bulk Requirements  
Section 402: Lot Size and Bulk Regulations by Zoning District  
Section 712: Signs Permitted in the B-1 and B-2 Commercial Districts  
Section 1002: Exterior Storage and Outdoor Display  
Section 1006: Landscaping Requirements  
Section 1008: Lighting  
Section 1009: Parking Standards  
Section 1205: Conditional Use or Interim Permits

### **RECOMMENDATION & FINDINGS**

JPC and Staff recommend approval of an Interim Use Permit (IUP) for Personal Service and Repair (10,000 sq. ft. or more) to operate an appliance repair facility in the former Coca-Cola building located at 601 Paul Bunyan Dr SE, parcel 80.03751.00.

Approval recommended with the following conditions and findings of fact:

#### **Conditions**

1. All existing and proposed exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
2. 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.
3. A sign permit shall be obtained prior to installation of any new signage and must comply with Section 712 of the Ordinance. All signage shall be included on the sign permit or will require another permit prior to being placed on the property at a future date.
4. A final landscaping plan with trees to be planted throughout the property shall be submitted for final approval to JPB staff complying with Section 1006 of the Ordinance.
5. All proper permits shall be obtained prior to construction, including a building, demolition, and mechanical permit from the City of Bemidji.
6. An erosion control permit shall be obtained with the proper mitigation installed prior to disturbance of soil.
7. A development agreement shall be entered into between the JPB, City, and Applicant to ensure all site construction is completed to a satisfactory condition.
8. This IUP shall be subject to a six (6) month review and annually thereafter to insure compliance with the Ordinance as well as protecting and preserving the natural environment. If staff observes violations or intensification of the use shall warrant a review and it will be brought to the Joint Planning Board for further action.
9. The interim use permit shall expire and become void if the use 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.

Board members had the following comments:

- Kelly asked for clarification on the use of the location. Mai responded that the Applicant has plans to keep their current location and keep the sales and customer traffic there and have only repair and storage at this location. Mai stated that the building official went onsite and if the use changed or the Applicant planned to intensify, the building would have to be brought

into full compliance. Kelly asked if a condition addresses if the Applicant were to intensify. Mai stated that Conditions 7 and 8 address that.

- Erickson indicated that she has no issue with this plan.
- Frenzel asked for clarification on the impervious surface requirements. Mai stated that staff will work the Applicant on exterior requirements and that will be all covered in the Developer's Agreement. Frenzel asked what the required greenspace is for this location and expressed concern over the Applicant being able to reach that. Mai replied that the requirement is 30% and staff will work with the Applicant to bring the site into further compliance.
- Meehlhause stated his appreciation that the building will be used after sitting vacant for three years.

Motion by Frenzel, second by Albrecht, to approve Resolution 2020-29 for an Interim Use Permit (IUP) for Personal Service and Repair (10,000 sq. ft. or more) to operate an appliance repair facility in the former Coca-Cola building located at 601 Paul Bunyan Dr SE, parcel 80.03751.00.

Approval recommended with the following conditions and findings of fact:

1. All existing and proposed exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
2. 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.
3. A sign permit shall be obtained prior to installation of any new signage and must comply with Section 712 of the Ordinance. All signage shall be included on the sign permit or will require another permit prior to being placed on the property at a future date.
4. A final landscaping plan with trees to be planted throughout the property shall be submitted for final approval to JPB staff complying with Section 1006 of the Ordinance.
5. All proper permits shall be obtained prior to construction, including a building, demolition, and mechanical permit from the City of Bemidji.
6. An erosion control permit shall be obtained with the proper mitigation installed prior to disturbance of soil.
7. A development agreement shall be entered into between the JPB, City, and Applicant to ensure all site construction is completed to a satisfactory condition.
8. This IUP shall be subject to a six (6) month review and annually thereafter to insure compliance with the Ordinance as well as protecting and preserving the natural environment. If staff observes violations or intensification of the use shall warrant a review and it will be brought to the Joint Planning Board for further action.
9. The interim use permit shall expire and become void if the use 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 of personal services and repair for appliance repair is not anticipated to adversely affect, nor create an unreasonable level of disruption or interference upon the surrounding area.

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



**streets and land.**

No. An increase in traffic or other negative impacts are not anticipated. On-street parking is not available and adequate off-street parking is provided on-site. Paul Bunyan Drive SE and Washington Avenue S are major collector roads and are designed to adequately serve this type of use and density.

**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. A Coca Cola distribution warehouse once occupied the parcel with constant traffic, this personal service and repair for appliances is expected to be less impactful.

**4. Whether the proposed use is in conformance with the community's Comprehensive Plan**

Yes. The proposed use is consistent with the goals and policies of the Comprehensive Plan as well as the Zoning and Subdivision Ordinance as long as the property is approved through a conditional use permit for personal service and repair (facility 10,000 square feet and larger).

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

Yes. The property is connected to city sewer, but it is served by a private well. Property would be required to connect to city water at the time of any building alterations or if/when the building is obligated to install a sprinkler system.

Ayes: Erickson, Frenzel, Kelly, Meehlhause, Albrecht

Nays: None

Abstentions: None

Motion carried unanimously.

**RESOLUTION 2020-30 – CUP-20-80.04944.00 – HEGNA PROPERTIES, LLC**

Hegna Properties, LLC is requesting approval of Conditional Use Permit (CUP) to install a drive-thru for a new restaurant onto the north side of the existing multi-tenant building located at 1008 Paul Bunyan Dr NW, parcel 80.04944.00. This parcel is located in the (B-2) General Commercial Zoning District and the Trunk Highway 197 Overlay District.

**BACKGROUND**

The Applicant has a purchase agreement in place for the Pine Ridge Center located at 1008 Paul Bunyan Dr NW. The purchase agreement is contingent on whether the conditional use permit (CUP) is approved for the use of a drive-thru restaurant on the north side of the existing building. Also, pending the CUP approval, the Applicant has a tentative agreement in place with KodaBank, located directly to the west for an egress easement through their property for the drive-thru. The easement would be required to be recorded with the property, upon approval.

The Applicant submitted a site plan along with the CUP application, which was then distributed to all the neighboring properties within a 350-foot buffer of the subject property as well as to all City Departments, Minnesota Department of Transportation (MnDOT) and other various agencies identified in the packet to gather comments and recommendations on the proposal. This initial plan received a great deal of opposition, primarily in large part due to the stacking of vehicles that would create a logjam at the access of Paul Bunyan Dr NW. The Applicant and his representative then submitted an alternative site plan, which was then resubmitted to all departments and agencies to gather new input and recommendations. Due to the short turn around and tight timeframe with JPC packets for distribution, it was difficult to coordinate and collect responses on

the new proposal. Those who were able to review and provided an answer back, acknowledged that the alternative plan was a significant improvement from the original plan; however, some departments still thought more could be done to eliminate congestion and to deter vehicles from creating safety issues.

Currently, this site is fully developed with the structure set up as a retail strip mall. The building received a variance in 2005 from the City of Bemidji for a side yard setback reduction to allow for the structure to be located approximately six (6) feet from the west property line. There is no room for expansion with this structure to either the north or the south as it currently sits at the thirty (30) foot front yard setback mark. The Applicant is proposing to alter the interior footprint of the building by rearranging the tenants and turning the front two (2) units into a restaurant with a drive-thru window. Prior to 2013, this structure once had a Subway restaurant in the front unit adjacent to the Trunk Highway 197, so this building has had a food establishment before. Currently, this building is home to eight (8) commercial units.

### **Planning Considerations**

All Conditional Use Permits must follow the general requirements including process, criteria, and findings. A conditional use permit is recorded and runs with the land, not with the owner/Applicant. All Interim Use Permits must follow the same general requirements of a Conditional Use Permit including process, criteria, and findings. The primary difference between the two permits is that a CUP runs with the land vs. the IUP, which runs with the Applicant/owner and has an ending date or event which terminates the permit.

Per the Ordinance:

***Conditional Use:*** A land use or development as defined by ordinance that may be allowed only after an in-depth review procedure and with appropriate restrictions or conditions as provided by his Zoning Ordinance upon a finding that standards and criteria stated in this Ordinance will be satisfied. A conditional use must conform to the Greater Bemidji Area Land Use Plan and be compatible with the existing neighborhood.

### **Parking & Traffic**

Currently, this site has sixty-seven (67) parking stalls; however, the Applicant would need to remove several stalls in order to install a new drive-thru for the proposed restaurant. There is a mutual easement agreement between the Pine Ridge Center and the adjacent Plaza 1000 Center located to the direct east that grants both parties to share the parking spaces as well as both the south and north accesses. This easement agreement was recorded with the properties in 2013 and shall run with the land, see attached a copy of the mutual easement agreement at the end of the packet.

Per Section 1009 of the Ordinance, restaurants, bars, taverns or cafes 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. Retail stores are required to have one (1) space for each three-hundred (300) square feet of gross floor area used for the sale of goods, plus one (1) space for each employee on max shift and professional/business offices are obligated to have one (1) space for each three-hundred (300) square feet of gross floor area used for the sale of goods, plus one (1) space for each employee on max shift.

While conducting a site observation over the lunch hour, staff witnessed a stacking issue from the adjacent Jimmy Johns sub shop that saw at most anywhere from five (5) to six (6) vehicles deep, lined up out to the Trunk Highway 197 access (see photo below). This caused congestion at the

entrance, creating a safety and a mobility concern as additional cars tried to enter, making cars within the Highway having to slow down to await vehicles to enter the subject property. The original site plan showed up to five (5) vehicles being able to stack in the proposed drive-thru lane prior to the vehicles encroaching into the Trunk Highway 197 access. This essentially had two (2) drive-thrus using the same entrance with stacking of vehicles coming from both directions creating a traffic log jam. This observation was shared with all City Departments and various agencies, with all having hesitation with the submitted plan.

Based on the concerning feedback, the Applicant submitted an alternative site plan that redirects the traffic through the property with the drive lane now running perpendicular with the building in between the parking areas. By having the drive-thru traffic redirected, the subject parcel should no longer have a stacking issue that lines vehicles out to the Highway. The proposed alternate plan may eliminate the drive-thru stacking issue at the entrance; however, all entering traffic is now required to enter and access on to the adjacent property prior to driving to the subject property. Staff has yet to hear back from the adjacent property owner to gather their take on the proposed site plan. It is also unknown whether that adjacent owner distributed the neighborhood packet to their tenants to gain their comments or concerns. Based on the alternative site plan submitted, the Applicant is preparing to eliminate a total of five (5) parking spaces in order to install a raised curb with vegetation to help with directing drive-thru traffic.

### **Landscaping**

Currently, this property is predominately covered with impervious surface with approximately only 1,395 square foot of greenspace existing on-site within the front yard setbacks, both to the north and the south. Per Section 1006 of the Ordinance, the site requires one (1) tree per fifty (50) lineal feet of street frontage along with one (1) tree for every 800 square foot of minimum required pervious site surface. A total of fourteen (14) trees are required throughout the property and a total of three (3) trees within the front yard setback along the street frontage of Paul Bunyan Dr NW and three (3) trees along the street frontage of 23<sup>rd</sup> Street NW. The Applicant has indicated that they would be willing to add some greenspace to the property to help bring it closer to compliance with some trees; currently the proposed alternative site plan shows three (3) trees to be planted off of Paul Bunyan Dr NW. A final landscaping plan showing the type, size, and location of each tree to be planted shall be submitted for JPB staff approval.

The Applicant is proposing a net gain of 1,453 square foot of greenspace in the front of the property to accommodate for the new drive-thru and directing traffic. This would bring the property's greenspace overall coverage up to 2,311 square feet or 13%.

### **Lighting**

The Applicant has not indicated that there will be any additional lighting added to the existing structure. 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. All lighting shall be directed downward in order to minimize adverse impact on surrounding properties and rights-of-way. Note: staff did see parking lot lights that were angled greater than 90 degrees and will need to be adjusted to meet the Ordinance.

### **Signage**

The Applicant is seeking to move the existing freestanding sign that resides on the north end of the property to the northwest corner of the lot to accommodate for the proposed drive-thru lane. The existing sign currently sits thirteen (13) feet from the ROW and is a legal nonconforming use as it doesn't meet the fifteen (15) foot setback per Section 712 of the Ordinance. The new proposed location will remain at that same distance of thirteen (13) feet away from the ROW;

however, just relocated and moved to the northwest of the property. Any new signage will require a sign permit and shall comply with Section 712 of the Ordinance.

### **Trash Handling**

This property currently has an easement agreement with the adjacent property to west for a shared trash enclosure. The Applicant intends to continue using that same location for dumpsters and does not plan to construct a new enclosure location on the subject property. If ever in the future a new enclosure is to be constructed, plans would need to be submitted to JPB Staff for approval and shall comply with Section 1002 of the Ordinance.

### **MnDOT**

Jon Mason, District 2 Planning Director of MnDOT distributed the original submitted site plan to MnDOT's District 2 Development Review Team on September 8<sup>th</sup> and per the layout of the proposed plan, they had some concern, in which Mason stated the following per the submitted letter:

*We feel the location of the proposed drive-thru lane positioned along Hwy 197 with a short corner clearance could result in stacking that extends into the functional area of the entrance intersection. Safety and mobility concerns could arise if additional vehicles beyond the five standard vehicles shown on the site plan were using the proposed drive-thru. This could result in vehicles blocking the shared entrance, blocking the sidewalk, or possibly extending into the eastbound Hwy 197 travel lane.*

The alternative plan was distributed to MnDOT's staff late on Thursday, September 10<sup>th</sup>, but due to the short turn around and the tight timeframe, Mason stated it was challenging to coordinate comments back from his team. Mason went on to provide his initial thoughts based on the submitted alternative plan:

*Have the other tenants within the Pine Ridge Center been asked about this? Is there a Common Interest Community (CIC) or any agreement in regards to the parking area with the Plaza 1,000 owner/business occupants? Seems like any approach at drawing this appears it would have an impact on others in the area. This does appear it would help alleviate MnDOT concerns with traffic from the new drive-thru backing up into the Hwy 197 access; however, there still seems to be a stacking issue from the current neighboring property.*

### **Development Team (Public Works / Engineer; Building Official; Fire Department; GIS; City Manager & Community Development Director)**

No concerns from the Fire Department or the GIS Department.

Bryan Kerby, City Building Official stated the following in regards to this request:

*The City of Bemidji Building Department has no immediate concerns on the CUP request for this property. Please note that this mixed-use occupancy property has been through many tenant modifications and alterations over the last 25 years. In some instances, permit requirements for inspection were completed and in other no inspections were documented. Any building permit plan reviews for this structure will be required to have a code review listing the currently existing occupancies and specifying any changes of occupancy for this structure according to the 2020 MN State Building Code. Changes to occupancy will need to be demonstrated as code compliant under the Chapter 1311 Conservation Code for Existing Buildings and be compliant with the mixed-use occupancy of the structure.*

Nate Mathews, City Manager, had the following comments in regards to the alternative site plan:

*In my opinion, I would say no. This is just as bad if not worse as it looks like we will be creating another Walmart parking lot fiasco. People will just cut across through vacant parking stalls 30-56 to avoid the horseshoe driving lane loop being created in the parking lot. Has this plan been discussed with the neighboring businesses or Jimmy Johns owner by the way, this would negatively affect those businesses.*

Craig Gray, City Engineer/Public Works Director, had the following comments in regards to both the original site plan as well as alternative site plan:

Original Site Plan comments:

*This does not appear to be a very good location or layout for a drive thru. The site plan that was submitted by the Applicant shows that there is only room for three (3) cars to order and queue. The plan shows five (5) cars but two (2) of them have already ordered. I think we need to look at how much room is available for people ordering and waiting to order – 3 cars. What happens if one or two of those are larger trucks? If a 4<sup>th</sup> vehicle pulls into the line it will likely cause traffic issues on Paul Bunyan Drive.*

*Another situation: Envision there is a car waiting at the driveway to exit the strip mall area and wanting to turn left onto Paul Bunyan Drive and there are also 3 or 4 cars in the drive thru. What happens when a car is on Paul Bunyan Drive and wants to turn right into the strip mall to go to one of the other businesses? How do they get around all these vehicles to get in? This photo was taken during lunch time the other day showing the queue space at the drive thru next door.*

Alternative Site Plan comments:

*At a minimum something like what Sam has drawn would need to happen (see Sam's comments and site plan edits in the planning case file). Although this still doesn't prevent the Wal-Mart scenario that Nate accurately described. Sam's option is definitely better than the previous two plans that has submitted. And the legalities of what Sam shows, of course, is up in the air as to Applicant's rights to the parking lot.*

Sam Anderson, Assistant Engineer, stated the following in regards to the proposed alternative site plan request:

*Base on the previous comments, I still can see this being a congestion issue if it's not policed properly. The pavement markings aren't going to deter cars from going where they want to go, unless something physically prevents them from doing so. Pavement markings fade and can be covered with snow and ice. What if in a few years they come to freshen up the private parking lot striping and now there's a drive-thru lane painted through spaces 22, 23, 55, and 56? How do we enforce this? Parking space 56 already looks to be too small for a vehicle to actually park.*

*Did the bank give permission to allow cars to exit the drive-thru onto their property?*

Based on Public Works comments, Staff would agree that having some sort of barrier would help direct traffic and define traffic lanes and parking areas. By having a greenspace island, the property would increase greenspace, bring the property closer to conformity as well as providing some shading to help break up the heat island effect from the large slab of bituminous that currently exists. However, by having the greenspace island, the subject property and the adjacent property to the east would lose approximately seventeen (17) parking stalls. Cement parking

bollards are not recommended as an alternate as they can be easily removed in the winter months for snow plowing, and often not returned once spring arrives.

### **Neighborhood Comment**

No neighborhood comments were received at the time of writing this report.

### **Comprehensive Plan References**

The newly adopted Greater Bemidji Area Comprehensive Plan has identified the following objectives and strategies in relation to this proposed use, although these aren't specifically related to drive-thrus in general.

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

- 3. 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 9.1 Design and Construct Transportation Facilities with Livability in Mind**

*Livable streets can be accomplished through improving multimodal transportation, including walkability through urban corridors. Corridors can be enhanced with arts and culture that match the character of the community. Livable street corridors can accomplish many other objectives, including interconnectivity of other land uses, increasing safety for users, promoting healthy lifestyles, and improving aesthetics.*

- 5. Develop traffic safety policy and guidelines to protect the transportation system.** *Development can impact the transportation system in positive and negative ways. It is imperative that traffic impacts are properly studied in coordination with development requests, and whenever possible development should improve the transportation system. Negative impacts such as increased vehicular traffic congestion can in turn create barriers for multi-modal transportation, when roadways become unsafe to share with vehicle traffic. Continue to develop a transportation grid system that connects all forms of multi-modal transportation.*

### **Zoning Ordinance References**

The following Sections within the Ordinance were referenced in order to make a recommendation for this proposed expansion:

Section 102: Intent and Purpose  
Section 109: Definitions  
Section 302: Land Use Matrix  
Section 401: Minimum Lot Size Requirements and Bulk Requirements  
Section 402: Lot Size and Bulk Regulations by Zoning District  
Section 712: Signs Permitted in the B-1 and B-2 Commercial Districts  
Section 1002: Exterior Storage and Outdoor Display  
Section 1006: Landscaping Requirements  
Section 1008: Lighting  
Section 1009: Off-Street Parking, Loading & Surfacing Standards  
Section 1205: Conditional Use or Interim Permits

### **STAFF RECOMMENDATION**

Staff had difficulties coming up with a definitive conclusion on this request as it is imperative to use best planning practices in the implementation of the Ordinance and to ensure it is in keeping with the spirit, purpose and intent of the Comprehensive Plan. The original site plan adversely affected traffic conditions and parking on adjacent streets and land and did not protect the public safety with the creation of vehicle stacking out towards Trunk Highway 197. The new alternative plan showed significant improvements for the subject property which reroutes the stacking of vehicles within the property and away from the Trunk Highway 197; however, the ingress and egress from the Highway was slightly altered, directing traffic onto the neighboring property to the east, which already has stacking issues because of the Jimmy Johns' drive-thru. Per Section 102 of the Ordinance, the JPB's responsibility to promote the beneficial and safe interaction between the use of land, buildings, and people for the circulation of vehicular, bicycles, and pedestrian traffic, including active transportation and complete streets, throughout the Greater Bemidji Area.

The Joint Planning Commission and the Joint Planning Board will have to decide whether or not they support a drive-thru at this subject location, and determine whether the Applicant has done enough to alleviate the congestion and stacking issues by rerouting customer traffic to other areas on the site. If a drive-thru does not properly function on this site, then a CUP denial should be considered. If the alternative plan works and allows the site to properly function with a drive-thru, then the Commission and Board needs to determine what conditions are warranted with a CUP approval.

Staff took an attempt at providing some findings of fact for both approval and denial, including some appropriate conditions attached, if approval is granted. The Commission and Board are encouraged to visit the site, especially during the rush hours to observe the traffic and how the properties function. Based on observation, the Commission and Board shall determine findings of facts that support their decision.

### **JPC RECOMMENDATION**

JPC recommended denial of a conditional use permit (CUP) to install a drive-thru for a new restaurant onto the north side of the existing multi-tenant building located at 1008 Paul Bunyan Dr NW, parcel 80.04944.00.

### **BOARD DISCUSSION & RECOMMENDATION**

- Erickson stated that she spoke to Craig Gray, City Engineer, and he stands by their original statement of not being in support of this drive-thru.
- Albrecht expressed concern over the challenge of this site as it's fully developed to the property setbacks. Albrecht questioned if all the alternatives have been considered and suggested putting the drive-thru on the south end of the building. Mai stated that putting the drive-thru on the south side of the building had been discussed, and further easements would be required or additional land would need to be purchased in order to install a drive-thru.
- Erickson indicated concern over the potential impact on the bank's property and their traffic. Mai stated that he visited the site and did not really see issue with the bank's traffic. Mai visited the site of a local Starbucks and observed 11 cars in the driveway at 2:30 PM. He also visited another site of a local Subway and observed six cars in the driveway. Mai stated that the Applicant had let staff know that the most cars he had seen in a drive-thru at one of his restaurants was 6-7 cars.
- Kelly expressed his concerns over the Commission not getting a chance to review the new sites plans. Kelly stated that he sees the site as a snowplow nightmare and he can see it causing issues for the neighboring properties.

- Meehlhause asked for clarification on the reason for the greenspace barrier on page 9 of the JPC Planning Report. Mai stated that City Engineers would require barriers or greenspace at a minimum within the parking area.
- Mai stated that regardless of any conditions, approving this plan will increase traffic issues on the neighboring property. Mai reiterated that the Board's responsibility is safety and the circulation of traffic.
- Frenzel asked staff if the parking is maxed out. Mai responded that there is a mutual easement for shared parking and accesses in place, and the properties currently meet the minimum parking standards. Frenzel questioned City Staff and MnDOT's stance on the proposed drive-thru. Mai stated that City Engineers would need at least the barriers or greenspace in order to be okay with it; however, they aren't in support of redevelopment at this site with it being fully developed.
- Erickson asked where customers would be exiting. Mai stated that an easement will be needed for a shared access as the restaurant's drive-thru traffic would exit along with the bank's drive-thru traffic. Mai also stated that KodaBank has a written agreement in place for the easement to be recorded if the Conditional Use Permit is approved.
- Kelly stated that he would like to see the 60-day rule invoked so the Applicant can come up with an alternative plan that works with the neighboring property owner.
- Albrecht reiterated that these plans do not resolve the issues that exist or that potentially could occur, and it's not the responsibility of the Commission nor the Board to design the site for the Applicant.
- Meehlhause questioned the CUP process, the 60-day rule, and whether or not the Applicant would have to resubmit if the Board denied this request. Mai stated that the Applicant is anxious to get construction started before snow falls. Mai noted the shared parking and access agreement, and is unsure whether the agreement needs to be amended by both parties or if there is a provision that would allow the Applicant to remove parking without approval. Mai referenced Section 102 of the Ordinance regarding the importance of providing proper safety and not diminishing the value of or hurting neighboring properties.
- Matt Murray stated that "Site Plan 1" is the proposed plan, and went on to say that the Applicant addressed the Commission's concerns by revising the site plan, and providing proper findings for approval with conditions. Mai stated proposed condition #9 by the Applicant draws some concerns in that busy drive-thru traffic issues or other safety hazards could occur in the evening or weekend hours when staff is unavailable or unaware. Murray stated that if the Applicant had a coffee or fast food drive-thru, this would be a different situation.
- Meehlhause questioned if an Interim Use Permit (IUP) could be utilized instead of a Conditional Use Permit (CUP) to allow the drive-thru to run with the business. Mai specified that an IUP runs with a leaseholder whereas a CUP runs with the land; in this case the Applicant would be the owner and has proposed particular conditions that would function similar to an IUP and would allow JPB Staff and the Board to review and revoke if necessary.
- Erickson expressed concerns over traffic issues and asked if the blocking of entrances from vehicle stacking occurs elsewhere in the area. Mai brought up the example of McDonalds and Burger King adding a second drive-thru lane for ordering; also noted local coffee shops such as Dunkin Donuts who has substantial vehicle stacking, and Dunn Bros. who has limited stacking space, causing traffic to backup into Highway 197, but specified that these other types of drive-thrus are faster paced.
- Kelly asked for clarification on what plans City Engineering and MnDOT reviewed and commented on. Mai noted that "Site Plan 1" and the "Site Plan Alternate" were submitted the morning of packet distribution and was circulated to all agencies and city departments for review; however staff received no additional feedback from MnDOT due to the short turnaround, and City Engineering did not alter their stance from the original plan.



- Kelly asked about the potential to extend the 60-day rule to get additional feedback. Mai stated that the only additional feedback that the Board would be waiting on at this point would be from MnDOT.
- Erickson stated that the access is not one specific property owner, both properties share the access through an easement agreement. Mai responded that the adjacent property owner would not be in support of amending the existing agreement to modify the site or eliminate parking.
- Frenzel questioned the difference between how the site looks today compared to what is proposed on the site plan. Mai specified that 67 parking spaces exist today, whereas 52 are proposed. Frenzel went on to say that he prefers to see this site increase greenspace despite the fact that parking would be reduced.
- Murray stated that the Applicant has substantial risk in this plan and the proposed condition #9 allows Staff and the Board to revoke the CUP at any given time when a safety hazard arises.
- Wes Hegna indicated that his franchiser would not approve the restaurant in this location if they didn't think it would work. Hegna also stated that he has never seen more than six cars in the drive-thru at one time.
- Kelly asked for clarification on what the Applicant's alternative options are if the permit is denied. He stated that he could not go against the current recommendation for denial, but would like to see the 60-day rule invoked since the board seems to be divided.
- Mai specified that the next Joint Planning Commission meeting is next week and there is not proper time to obtain needed feedback and to notify the public. Mai also stated that plan modifications need to go through the proper channels and there needs to be time to follow the process. Meehlhause asked for clarification on why this plan differed from the prior planning case that also invoked the 60-day rule. Mai stated that the Board asked for specific additional information on that case, and in this instance the Board is seeking a complete alternative plan in order to make a decision. Carlson stated that the other plan was a different situation as the Joint Planning Commission recommended approval, whereas the Commission recommended denial on this plan.
- Hegna indicated Site Plan 1 was designed to be accommodating to the neighboring property, and he believes the particulars of the easement agreement are not up to the Board to decide. With the easement agreement in place, the Site Plan Alternative fully allows his customers to access and drive across the neighboring property. Hegna articulates Site Plan Alternative shall be considered if the Board does not support Site Plan 1 as he feels he addressed the Commissions concerns with a concrete curb that provides a barrier between parking isles.
- Frenzel asked Mai for clarification on the specific issues for the Site Plan Alternative. Mai responded that he is unsure of the legal parameters for amending the easement and if modifications need to be mutually agreed upon. Staff believes any changes to the accesses or the elimination of parking should require an easement amendment.
- Kelly questioned if the concrete curb or barrier will prevent crossover traffic. Kelly inquired if Pat DeMarchi, neighboring property owner, was willing to comment. DeMarchi did not comment.
- Albrecht confirmed that she preferred Site Plan 1 over Site Plan Alternative, and that it appears to address the stacking issue that impedes customer parking from backing out and exiting. Albrecht suggested moving the greenspace bump-out on Site Plan 1 further south an additional vehicle length and stated the benefit of additional stacking with added greenspace and alleviating the issue of blocking the parking spaces. Albrecht also noted the bump-out could accommodate for the freestanding sign that is being proposed to move.
- Hegna expressed that he is open to the suggested modification to Site Plan 1 proposed by Albrecht. Hegna reiterated the preference of keeping the freestanding sign in front of the

building; however, relocating the sign further south in the bump-out area would be acceptable, if conditioned.

- Albrecht stated that using her suggestion would reduce parking further by an additional two parking spaces and questioned whether the Applicant would be satisfied with the reduction.
- Erickson asked about adding a double lane of service. Mai stated that could not happen because it would eliminate too much greenspace and stated concerns over MnDOT's long term plans for the Trunk Highway 197 Corridor.
- Kelly reaffirmed his stance that this planning case should go back through the proper channels for review and feedback.
- Erickson asked what the timeline would be for the 60-day rule.
- Mai explained that extending the 60-day would mean that the Applicant would come before the Commission at the November 19<sup>th</sup> meeting and would come before the Board at the December 9<sup>th</sup> meeting. Meehlhause stated that the Applicant would not have to pay the fees again.
- Hegna stated his concerns over the time constraints.

Motion by Erickson, second by Kelly, to extend the 60-day rule in order for the Applicant to submit an alternative site plan based on discussion and recommendations from the Board.

Ayes: Erickson, Frenzel, Kelly, Meehlhause, Albrecht

Nays: None

Abstentions: None

Motion carried unanimously.

#### OTHER BUSINESS

Staff presented **RESOLUTION 2020-31 – Approval of the 2021 Budget.**

Motion by Albrecht, second by Frenzel to approve Resolution 2020-31.

Ayes: Frenzel, Kelly, Meehlhause, Albrecht

Absent: Erickson

Staff discussed the status of the Joint Powers Agreement for Enforcement Services and hopes to have a draft of the agreement for the upcoming board meeting.

Kelly asked the Board about future in-person meetings. Meehlhause stated that COVID cases in the area are rising and the decision to meet in person should be left up to staff based on health department guidelines and recommendations.

#### DIRECTOR'S REPORT

Mai described the upcoming planning cases, year-to-date activity, as well as new and on-going development projects.

#### UPCOMING MEETING DATES

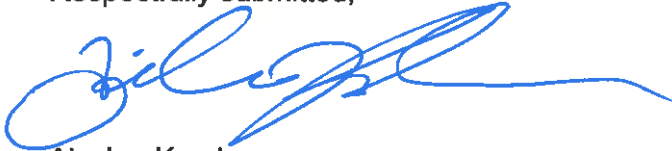
October 22, 2020	6:00 pm	JPC Regular Meeting
November 4, 2020	6:00 pm	JPB Regular Meeting
November 19, 2020	6:00 pm	JPC Regular Meeting
November 24, 2020	5:30 pm	LGU Meeting
December 9, 2020	6:00 pm	JPC Regular Meeting

ADJOURNMENT

There being no further business, motion by Frenzel, second by Kelly, to adjourn the Joint Planning Board meeting at 9:27 p.m.

Motion carried unanimously.

Respectfully submitted,



Ainslee Knudson  
Planning & Building Administrative Assistant

JPB Minutes Approved and attested by:

  
Joint Planning Board Representative