

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

**Thursday, October 22, 2020
6:00 P.M.**

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

AGENDA

- | | |
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| ➤ Call to Order/Roll Call | Chair |
| ➤ Pledge of Allegiance | |
| ➤ Approve Agenda | |
| ➤ Approve Minutes | |
| • Thursday, September 17, 2020 Regular Meeting | |

NEW BUSINESS

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

- | | |
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| 1. <u>City of Bemidji</u>: V-20-80.03010.00 – Bemidji Motel, LLP | CM |
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OTHER BUSINESS

- | | |
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| 1. Director's Report | |
| 2. Upcoming Meetings | Chair |
| • November 4, 2020 6:00 pm JPB Regular Meeting | |
| • November 19, 2020 6:00 pm JPC Regular Meeting | |
| • November 24, 2020 6:00 pm LGU Meeting | |
| • December 9, 2020 6:00 pm JPB Regular Meeting | |
| 3. Adjourn | Chair |

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

**October 22, 2020
6:00 p.m.**

**Cisco Webex
Video Conference**

CALL TO ORDER: Chair Don Heinonen called the regular meeting of the Greater Bemidji Area Joint Planning Commission to order at 6:00 p.m., roll call was taken and the pledge of allegiance was recited.

MEMBERS PRESENT: Berg, David, Faver, Heinonen, Lemmer, Miller, Granlund, Smith.

MEMBERS ABSENT: Steffen.

STAFF PRESENT: Casey Mai, Jamin Carlson.

OTHERS: Matt Murray, Murray Williamson, Kevin Williamson, Carol Olson.

APPROVAL OF AGENDA:

Motion by Granlund, second by Lemmer, to approve the agenda as presented.

Motion carried unanimously.

APPROVAL OF MINUTES:

Motion by Granlund, second by Smith, to approve minutes from the September 17, 2020, Greater Bemidji Area Regular Joint Planning Commission as presented.

Motion carried.

VISITORS:

None

NEW BUSINESS:

Public Hearing:

Mai presented the first case:

PLANNING CASE – V-20-80.03010.00 – BEMIDJI MOTEL LLP

Bemidji Motel LLP, located at 1815 Paul Bunyan Dr NW in (B-2) General Commercial Zoning District within the Airport Zone B and the Trunk Highway 197 Overlays. The Applicant is requesting multiple variances in order to subdivide the subject property that houses the Super 8 Hotel and the Super 8 Annex Building. The variances being requested are as follows:

1. A reduction of 1.37 acres for Proposed Parcel A from the building plot area to lot size ratio per Section 402 T. 2., as the minimum lot size is three (3) acres; and
2. A reduction of 2.09 acres for Proposed Parcel B from the building plot area to lot size ratio Per Section 402 T. 2., as the minimum lot size is three (3) acres.

BACKGROUND

The current parcel is approximately 2.55 acre in size and is located in the (B-2) General Commercial Zoning District within the Trunk Highway 197 Overlay as well as the Airport Zone B Overlay Districts. The current use of the property is a Super 8 Hotel with a detached annex building for additional rooms. Due to the lack of stays over the past few years, the Applicant is requesting to subdivide the property to separate the annex building from the primary hotel structure to allow the annex building to change uses to suit current needs. The Applicant is considering renovation of the annex building to allow for either professional/business offices or long-term stay for doctors and nurses. However, at this time the Applicant is unable to meet the minimum airport standards and is requesting a variance from those provisions.

MN Rules 8800.2400 AIRPORT ZONING STANDARDS are the governing regulations that the Greater Bemidji Area Joint Planning Board Adopted to be applied within the Airport Overlay zoning district. This overlay district has three zones: A, B and C. A is the most restrictive. This parcel and proposed lot split are within Zone B; which includes the following regulations:

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

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

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

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

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

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

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

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

Planning Considerations

Variations 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 variations. An applicant can demonstrate a practical difficulty when their proposal is reasonable, will not alter the essential character of the neighborhood, and is caused by a unique circumstance related to the property not directly caused by the land owner. Economics and cost can be a factor of consideration, but alone does not constitute as a practical difficulty.

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

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

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

For this proposed subdivide, no new construction is anticipated at this time. Whether the Applicant redevelops proposed parcel B or renovates the existing annex building, the property will be restricted to expansion or enlargement of the structure as well as population density. Per a lot size of 0.91 acres, this proposed property will be limited to a population density of no greater than thirteen (13) persons. To Staff's knowledge, there are currently thirty (30) units/rooms within the annex building.

Exterior Lighting

The applicant has not indicated that there will be any additional lighting added to the existing structure or the site. All exterior lighting existing and/or proposed for this structure shall meet Section 1008 of the Ordinance. A lighting plan showing fixtures and placement will need to be submitted for approval prior to a building permit being issued for renovation. All lighting shall be directed downward in order to minimize adverse impact on surrounding properties and rights-of-way. Note: staff did see the exterior lights on both buildings are non-compliant and one of the parking lot lights that was located along the east property line was angled greater than 90 degrees and will need to be adjusted to meet the Ordinance.

Trash Handling

Super 8 currently has a shared trash enclosure with Starbucks. Any new or additional dumpsters brought on site shall comply with Section 1002 of the Ordinance and be fully enclosed. Such areas shall be completely screened and enclosed on all sides, except the roof, with an enclosure or screening wall with durable and opaque material at a minimum of six (6) feet in height.

Parking

Per Section 1009, hotels/motels are required to have two (2) spaces plus one (1) space per rental unit. Business and professional offices are required to have one (1) space for each three-hundred (300) square feet of gross floor area, plus one (1) space for each employee on max shift. Currently throughout the entire property, there is a total of one-hundred and thirty (130) standard parking stalls as well as four (4) parking spaces for semi-trucks. If the variance for the lot division is approved, Proposed Parcel B would have a total of thirty-two (32) parking stalls throughout the property to serve that structure.

Landscaping

Per Section 1006 of the Ordinance, properties that lie within the Trunk Highway 197 Overlay are required to have a minimum of thirty percent (30%) greenspace, otherwise if outside the Overlay

then a minimum of twenty (20%) is mandatory. According to the submitted site plan, staff calculated approximately fifteen percent (15%) greenspace on Proposed Parcel A and two percent (2%) on Proposed Parcel B. Staff would strongly recommend that greenspace, at a minimum, be added to Proposed Parcel B as part of creating a new lot of record and the redevelopment of this parcel. Staff has prepared two (2) possible alternative options that shows the new parcel with added greenspace, bringing the property closer to conformity; see below.

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

Neither the GIS Department nor the Fire Department had any concerns regarding this variance/subdivision request. Engineering had no concerns with the lot split as long as the annex building only has internal renovations. If Proposed Parcel B is fully redeveloped, then a full set of civil drawings will be required for review and approval.

Bryan Kerby, City Building Official stated the following in regards to the variance for lot division:

The building department has no immediate concerns regarding the proposed lot split. It should be noted however, that the current occupancy classification for the buildings are R-1 Hotel/Motel which are considered transient in nature. If the occupancy classification for either building is changed to R-2 Apartment that is not transient in nature the buildings will need to undergo a change of occupancy per 2020 MN State Building Code chapter 1311 Conservation Code for Existing Buildings. A licensed design professional will need to provide a current code review for consideration in that instance.

Minnesota Department of Transportation (DOT)

Jon Mason, District 2 Planner for MnDOT had the following to say in regards to the variance request:

We have reviewed and it does not appear MnDOT permits are warranted as a result of this lot split. As you know, MnDOT has a planned project on State Highway 197 with tentative construction in 2027. Previous plans and the current engagement/planning process have considered different alternatives at the Hannah Avenue intersection that could result traffic control and access modifications.

Minnesota DOT Aeronautics & Aviation

Karen Weller, the Executive Director of the Bemidji Regional Airport Authority did not provide any feedback for this planning case request at the time of writing the report; however, the following statement is what was stated for an adjacent property that went through a similar variance request:

This proposed development lies in Airport Zone B and therefore is subject to airport zoning.

Zone B shall be restricted in use as follows.

- *Each use shall be on a site shall not be less than three acres.*
- *Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.*
- *Each site shall have no more than one building plot – that may have any number of structures but shall be a single, uniform and non-contrived area that does not exceed the minimum ratios as shown on Table 3-1 from the Airport Land Use Compatibility Manual (see attached).*

Airport zoning exists to protect the approaches to the runways as well as protecting people and property on the ground in the event that an aircraft accident occurs and every variance such as this one that is issued is a slow eroding of established and protected zones. If the

trend of issuing variances continues, this community will be in the same position it was in 2003 when the Airport Commission received a letter from the Minnesota Department of Transportation Office of Aeronautics (attached) that states they have "concerns about the accumulation of structures within the runway hazard areas and their impacts on public safety" and "state funding for construction and maintenance projects will be withheld from the Bemidji-Beltrami County Airport effective July 1, 2004, unless the airport is in compliance with safety zoning requirements at that time." This letter started a series of projects that took millions of Federal, State and Local dollars to shift the runway and associated safety area to bring the airport back into compliance. I have also attached a series of letters between the airport and Mn/DOT Aeronautics for further reference regarding the issue. I ask that you review the letter dated February 17, 2005 which states "As we agreed it places the responsibility on the airport and its sponsors (the City of Bemidji and Beltrami County) to assert the restrictions of the zones on new development, uses and properties not affected by previous litigation and settlements and not to approve non-complying uses of properties not covered by previous litigation or agreements."

It is our duty to protect the millions of Federal, State and Local dollars that have been invested in the Bemidji Regional Airport over the last 15 years to correct the issues that came to a head in 2003. We cannot afford to make decisions detrimental to the airport zoning and permit non-complying land uses that will interfere with airport operations, zoning and/or safety. While aviation is the safest form of transportation, accidents can and will happen. We must not put high density businesses and other structures directly underneath the approaches to our airport's runways as this puts those people on the ground potentially in harm's way. I implore the GBAJPB to put airport zoning and safety above economic development in this case.

Julie Carr, Aviation Planner and Zoning Administrator at MnDOT Aeronautics called and talked with Staff and stated that they would prefer to see no development at all in the area; however, economically that will not happen. Ms. Carr went on to say that since the lot is already developed, at a minimum, she would urge a change of occupancy from a prohibited use to a less denser use that is permissible or compatible to the airport zone.

Neighboring Property Input

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

Comprehensive Plan References

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

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

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

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

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

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

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

Zoning Ordinance References

Section 102: Intent and Purpose

Section 109: Definitions

Section 302: Greater Bemidji Area Land Use Regulation Matrix

Section 402: Lot Size and Bulk Regulations by Zoning District

Article V: Nonconformities and Substandard Lots of Record

Section 1006: Landscaping Requirements

Section 1008: Lighting

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

Section 1016: Special Provisions for Airport Protection Overlay

Section 1206: Variances, Appeals and Adjustments

RECOMMENDATION & FINDINGS

Staff recommends approval of the following variances for parcel 80.03010.00 in order to subdivide a property into two (2) lots of record within the City of Bemidji:

1. A reduction of 1.37 acres for Proposed Parcel A from the building plot area to lot size ratio per Section 402 T. 2., as the minimum lot size is three (3) acres; and
2. A reduction of 2.09 acres for Proposed Parcel B from the building plot area to lot size ratio Per Section 402 T. 2., as the minimum lot size is three (3) acres.

Approval recommended with the following conditions:

Conditions

1. A building permit and all other necessary permits shall be obtained from the City of Bemidji prior to construction or renovation.
2. All existing and proposed exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
3. 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.
4. An enhanced landscaping plan with a minimum of twenty percent (20%) green space shall be submitted showing along with size, type and location of at least ten (10) high quality significant trees to be planted throughout Proposed Parcel B, complying with Section 1006 of the Ordinance.
5. No future expansions will be permitted without an additional variance application.
6. A sign permit shall be obtained prior to any new or additional signs being erected on the properties per Section 712 of the Ordinance.
7. Proposed Parcel B shall be limited to a population density of no greater than thirteen (13) persons and if the site is fully redeveloped, a building plot area shall not exceed a 12:1 ratio

or 3,306 square feet.

8. Any redevelopment of either parcel will require final engineering plans to be submitted for approval by JPB staff and City of Bemidji Public Works staff before any construction can commence, this includes grading, drainage, stormwater and utility plans from a licensed engineer.
9. An erosion control plan shall be submitted and be in place before any construction commences on the property.
10. FAA height determination application must be approved prior to submittal of any building permits for site redevelopment of structures.
11. Parkland dedication fees shall be paid to the City of Bemidji for the creation of a new lot of record per Section 1115 of the Ordinance at the time of submitting a lot division application.
12. A development agreement shall be entered into between the JPB, City, and Applicant to ensure all site construction is completed to a satisfactory condition.
13. If the lot division is approved, the annex building on Proposed Parcel B shall no longer be used as a motel/hotel.
14. The variance shall expire and become void if the lot division is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the lot creation are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

* Staff noted at the completion of the planning case presentation that the Applicant and Representative submitted a letter, which was distributed to the Commission earlier in the day via an email, proposing modifications to conditions #4 and #13. The proposed modification would allow adequate time for the Owner to find an end user(s), explore options, create and finalize plans and then construct the project; this will allow the Owner to continue using the structure and not hinder it from sitting empty. Staff had no concerns with these amendments. The alternate conditions requested are as follows:

4. Within three (3) years of the date of issuance of this variance application, Parcel B shall be improved with a minimum of twenty percent (20%) greenspace and at least ten (10) high quality significant trees complying with Section 1006 of the Ordinance.
13. If proposed Parcel B is not redeveloped or repurposed within three (3) years of the date of issuance of this variance application, proposed Parcel A and proposed Parcel B shall be re-combined into one lot of record.

Commission members had the following comments:

Lemmer asked for clarification on the two (2) conditions that were requested to be modified. Mai summarized the two (2) alternative conditions. Miller questioned how the neighboring property, GoldPine Assisted Living, was able to expand. Mai noted they were located in Airport Zone C, a less restrictive zone. Smith inquired if the annex building will be able to continue as a motel after the lot division is completed and if it would need a new address. Mai explained that the new conditions would allow Super 8 to continue using this structure as a motel for up to three (3) years, then would have to either cease the use or would have to re-combine the two (2) parcels back into one (1) lot of record; as for the new address, Mai stated he would have to talk with the Fire and GIS Departments to see how the annex building would be addressed, assuming new address would come off of 28th Street NW or potential for a Suite A and B. Kevin Williamson mentioned the annex building already has its own separate E911 Address, 2700 Hannah Avenue NW. Faver questioned when the Super 8 was built and if the property was recently subdivided. Mai explained that this site has gone through a sub division process in the past for the Storage Unit Complex to the north as well as the

Starbucks parcel located to the southeast. There also appeared to be some lot combinations and/or lot realignments over the years as well.

Public Hearing opened at 6:34 p.m.

Matt Murray, representing the Applicant, referenced Minnesota Statue 360.067 in regards to this variance and how this request will bring the site closer to compliance along with meeting the goals of the Ordinance and the Comprehensive Plan. Kevin Williamson discussed the timeline of the project and noted that Super 8 is currently partnering with Beltrami County to utilize the annex structure as a COVID quarantine site.

Public Hearing closed at 6:39 p.m.

Motion by Smith, second by Miller, to recommend approval of the following variances for parcel 80.03010.00 in order to subdivide a property into two (2) lots of record within the City of Bemidji:

1. A reduction of 1.37 acres for Proposed Parcel A from the building plot area to lot size ratio per Section 402 T. 2., as the minimum lot size is three (3) acres; and
2. A reduction of 2.09 acres for Proposed Parcel B from the building plot area to lot size ratio Per Section 402 T. 2., as the minimum lot size is three (3) acres.

Approval recommended with the following conditions and findings of fact:

Conditions

1. A building permit and all other necessary permits shall be obtained from the City of Bemidji prior to construction or renovation.
2. All existing and proposed exterior lighting on the property shall be in full conformity with Section 1008 of the Ordinance.
3. 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.
4. Within three (3) years of the date of issuance of this variance application, Parcel B shall be improved with a minimum of twenty percent (20%) greenspace and at least ten (10) high quality significant trees complying with Section 1006 of the Ordinance.
5. No future expansions will be permitted without an additional variance application.
6. A sign permit shall be obtained prior to any new or additional signs being erected on the properties per Section 712 of the Ordinance.
7. Proposed Parcel B shall be limited to a population density of no greater than thirteen (13) persons and if the site is fully redeveloped, a building plot area shall not exceed a 12:1 ratio or 3,306 square feet.
8. Any redevelopment of either parcel will require final engineering plans to be submitted for approval by JPB staff and City of Bemidji Public Works staff before any construction can commence, this includes grading, drainage, stormwater and utility plans from a licensed engineer.
9. An erosion control plan shall be submitted and be in place before any construction commences on the property.
10. FAA height determination application must be approved prior to submittal of any building permits for site redevelopment of structures.
11. Parkland dedication fees shall be paid to the City of Bemidji for the creation of a new lot of record per Section 1115 of the Ordinance at the time of submitting a lot division application.
12. A development agreement shall be entered into between the JPB, City, and Applicant to

- ensure all site construction is completed to a satisfactory condition.
13. If proposed Parcel B is not redeveloped or repurposed within three (3) years of the date of issuance of this variance application, proposed Parcel A and proposed Parcel B shall be re-combined into one lot of record.
 14. The variance shall expire and become void if the lot division is not substantially started within twelve (12) months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the lot creation are mostly complete. The JPB may, upon written request of the owner, grant an extension to this deadline not to exceed an additional twelve (12) months.

Findings of Fact

1. Has the applicant demonstrated a practical difficulty?

Yes. A practical difficulty exists as this lot is an existing, previously built upon, non-conforming lot in the Bemidji Airport Overlay district. No addition to the structures or alterations to the lot can be permitted without approval of a variance. The existing subject property as well as the proposed lot division of the two proposed parcels conforms to the underlying (B-2) General Commercial zoning district.

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

Yes. A practical difficulty exists as this lot is an existing, previously built upon, non-conforming lot in the Bemidji Airport Overlay district. No addition to the structures or subdividing of the lot can be permitted without approval of a variance.

3. Can the variance be granted and that such action will be in keeping with the spirit, purpose and intent of the Zoning Ordinance?

Yes. The underlying zoning is B-2 General Commercial along Paul Bunyan Drive NW, which requires a minimum lot size of 7,500 square feet. The Airport Overlay District requires a lot to be no less than three (3) acres and would not permit hotels/motels or any use that generates a site population greater than fifteen (15) persons per acre within Zone B. The Applicant is seeking to subdivide a lot of recorder in order to change or add a use that is less dense in site population and that is compatible with the airport zoning.

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

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

Ayes: Smith, Miller, Lemmer, Heinonen, Granlund, Faver, David, Berg

Nays: None

Abstentions: None.

Motion carried unanimously.

OTHER BUSINESS:

DIRECTOR REPORT

Mai provided updates on last month's planning cases as well as proposed cases, year to date activities, and development project progress. Mai also anticipates that the November JPC meeting along with the LGU meeting will be held via Webex.

UPCOMING MEETING DATES:

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	JPB Regular Meeting
December 17, 2020	6:00 pm	JPC Regular Meeting

ADJOURNMENT:

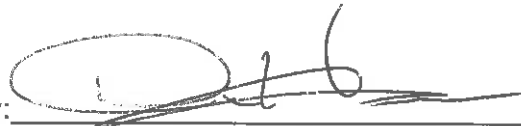
There being no further business, motion by Lemmer, second by Smith, to adjourn the Regular Planning Commission meeting at 6:50 p.m.

Motion carried unanimously.

Respectfully submitted,

Casey Mai
Planning Director

Approved and attested by:



Joint Planning Commission Representative