

CHARTER TOWNSHIP OF ORION PLANNING COMMISSION

******* MINUTES *******

REGULAR MEETING - WEDNESDAY, MAY 15, 2013

The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, May 15, 2013 at 7:00 p.m. at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

PLANNING COMMISSION MEMBERS PRESENT:

Carol Thurber, Chairwoman

John Steimel, BOT Rep. to PC

Karyn Pennington, Commissioner

Justin Dunaskiss, Vice-Chairman

Don Walker, PC Rep. to ZBA

Joe St. Henry, Commissioner

PLANNING COMMISSION MEMBER ABSENT:

Dick Christie, Secretary

CONSULTANTS PRESENT:

R. Donald Wortman (Township Planner) of Carlisle/Wortman Associates, Inc.

Jim Stevens (Township Engineer) of Orchard, Hiltz, & McCliment, Inc.

Tammy Girling, Planning/Zoning Coordinator

OTHERS PRESENT:

Damon L. Garrett

Fred Rafou

Matt Moore

Joe Latozas

Dale Charter

Gary Burkhart

Judith Gonzales

M. Gonzales

Pauline Eickholdt

Darrell Eickholdt

Curtis Phillips

Phoebe Schutz

1. OPEN MEETING

Chairwoman Thurber called the regular meeting to order at 7:00 p.m.

2. ROLL CALL

Secretary Christie was absent.

3. MINUTES

Moved by Commissioner Steimel, supported by Vice-Chairman Dunaskiss to approve the May 1, 2013 regular meeting minutes and the May 1, 2013, PC-2013-07, Orion Commons PUD Concept Plan Joint Public Hearing minutes as presented.

Motion carried 6-0 (Christie was absent).

4. AGENDA REVIEW AND APPROVAL

Moved by Vice-Chairman Dunaskiss, supported by Commissioner Steimel to

approve the agenda as presented. **Motion carried 6-0** (Christie was absent).

5. BRIEF PUBLIC COMMENT - NON-AGENDA ITEMS ONLY

No comments.

6. CONSENT AGENDA

None.

Chairwoman Thurber recessed the regular meeting and opened the PC-2013-11, Orion Sports Bar Outdoor Café Special Land Use Public Hearing at 7:05 p.m.

Chairwoman Thurber closed the public hearing and reconvened the regular meeting at 7:09 p.m.

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7. NEW BUSINESS

A. PC-2013-11, Orion Sports Bar Outdoor Café Special Land Use, 1172 S. Lapeer Road, Sidwell #09-14-201-009

Mr. Joe Latozas, of DesignHaus Architecture, 301 Walnut, Rochester, Michigan 48307, commented that he lives at 610 Pleasant Ridge, Lake Orion, Michigan 48362 and that he is representing Mr. Matt Moore, of Orion Sports Bar.

Mr. R. Donald Wortman (Township Planner), of Carlisle/Wortman Associates, Inc., overviewed their Special Land Use Review correspondence, dated May 6, 2013*. The Planning Commission should evaluate the proposed outdoor café in accordance with the standards of Zoning Ordinance No. 78, Sections 15.02.H and 30.02. In general, they believe that the proposed café is in compliance with these standards and will complement surrounding land uses. The site is unique in that it is triangular in shape and it does front on Lapeer Road. There is commercial to the north and to the south and non-residential use is also to the west of the site, so as such, the proposed use would not impact neighboring residential.

Chairwoman Thurber overviewed review correspondence received from Mr. Glenn R. Appel, P.E., Chief Engineer, of the Water Resources Commissioner office at One Public Drive, Building 95 West, Waterford, Michigan 48328, which in part noted that an application should be submitted to Orion Township for the required soil erosion permit*.

Chairwoman Thurber noted that there was a site walk report for this case included in this meeting packet as well for members' review*.

Chairwoman Thurber overviewed Special Land Use Review correspondence received from Mr. Bob Smith, Fire Chief, dated April 24, 2013*.

Chairwoman Thurber overviewed Special Land Use Review correspondence received from Mr. Bill Ireland, Township DPW Director, dated April 25, 2013*.

Chairwoman Thurber overviewed Special Land Use Review correspondence received from Mr. Gregg Payton, Service Planner, of Detroit Edison, NWP&D, 37849 Interchange Drive, Farmington Hills, Michigan 48335*.

Commissioner Walker inquired what the hours of operation would be and also what months of the year that the outdoor café would be open.

Mr. Matthew Moore, owner of the Orion Sports Bar, noted that their hours of operation would be to open at 11:00 a.m. for lunch and to close at 2:00 a.m. The outdoor café would be open in the Spring and close in the Fall according to the weather.

Members noted that they are in agreement with the proposed hours of operation since there are no residential properties near the bar.

Vice-Chairman Dunaskiss inquired whether there would be music playing outdoors.

Mr. Moore stated that there would be no music playing outdoors.

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Commissioner Walker noted that he would like to see the plans for the outdoor lighting.

Moved by Vice-Chairman Dunaskiss, supported by Commissioner Steimel regarding case PC-2013-11, Orion Sports Bar Outdoor Café Special Land Use, located at 1172 S. Lapeer Road, Sidwell #09-14-201-009, **to approve the special land use** based on the following findings of fact: 1)the site and the proposed use are compatible with the adjacent uses and is surrounded by restaurants and other like businesses in the area and is compatible with those; 2)it is compatible with the Township Master Plan; 3)there are adequate public services and utilities for the site as it is an outdoor site with no plumbing; 4)there wouldn't be increased traffic per se for this use and the impact on traffic would be minimal; 5)there are no detrimental effects from this proposed café 6)with the proposed landscaping and the materials that they will be using on-site, it will enhance the surrounding area; and, 7)it would not be isolating this particular use in that district. Roll call vote was as follows: Walker, yes; St. Henry, yes; Dunaskiss, yes; Steimel, yes; Pennington, yes; Thurber, yes. **Motion carried 6-0** (Christie was absent).

B. PC-2013-12, KPMF Investments USA, LLC Site Plan, 4367 Lapeer Road, Sidwell #09-35-400-045 and Sidwell #09-35-200-018

Mr. Dale Charter commented that he works for Kay Automotive Graphics, 57 Kay Industrial Drive, and that this will be a subsidiary of Kay Automotive Graphics, which has been here in Lake Orion for over 25 years and employs about 300 people. They also have facilities in Europe and Mexico. They expect to add about 50 employees in the next five years.

Mr. Gary Burkhardt, of Kirco Manix, 101 W. Big Beaver, Troy, Michigan, commented that they have been working with Kay Automotive on this project. He noted that Mr. Jim Butler, of Professional Engineering Associates, was not able to attend tonight.

Mr. R. Donald Wortman (Township Planner), of Carlisle/Wortman Associates, Inc., overviewed their Site Plan Review correspondence, dated May 6, 2013*. The site plan, as submitted is not in substantial compliance with the Township's ordinances. The following items would be addressed to the satisfaction of the Planning Commission prior to final site plan approval: 1)Provide additional information related to the "oxidizer" unit and remove the oxidizer building from the side yard setback; 2)Comply with Section 27.12, Tree and Woodlands Protection of the zoning ordinance standards by placing a note on the site plan denoting preservation of trees in greenbelt area and areas not used for site development; 3)The applicant should request that the Planning Commission consider waiving/reducing the parking setback along northern property line; 4)Review of site access and circulation by the Township Engineer; 5)Provide cross-access easement agreement prior to final site plan review; 6)Reduce light pole fixture height to twenty feet or less; and, 7)The safety path along Lapeer Road needs to be shown on the plans.

Commissioner Steimel inquired whether or not there is a plan to combine all three Sidwells. The reason he asked is because if these were combined, some of these issues would not apply anymore.

Mr. Charter noted that he is not sure what the petitioner wants to do.

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Planner Wortman noted that it is possible that the petitioner may want to keep these three parcels as separate entities.

Mr. Charter noted that Mr. Butler had informed him that the oxidizer unit is set back on the proposed pad, which meets the required setback. Regarding reducing the light pole heights, will increase the number of fixtures, but they will do what the Township says.

Mr. Jim Stevens (Township Engineer) of Orchard, Hiltz, & McCliment, Inc., overviewed their Site Plan Review correspondence, dated May 8, 2013*. In their opinion, the site plan, as submitted, is in substantial compliance with the Township's ordinances and engineering standards. However there are five items as listed in the letter that the petitioner must address.

Mr. Burkhart commented that Mr. Butler has acknowledged all the comments in the review letter and said that they will be incorporated in the construction plans.

Commissioner Steimel noted that he is concerned about the pressure on the wall of the detention basin to the south to where there would be soil shift.

Engineer Stevens noted that the basin is substantial and that the land around it will not be compromised.

Commissioner Steimel suggested they may want to join the two detention basins together to make a more aesthetically-pleasing feature and also that the safety path would be a nice feature for the public and even for their own personnel to enjoy on their breaks.

Engineer Stevens noted that if they want to do that, it could be included on the access agreements.

Chairwoman Thurber overviewed Site Plan Review correspondence received from Mr. Bob Smith, Fire Chief, dated May 1, 2013, in which he requested that an additional fire hydrant be added to the island at the northeast corner of the building next to where the emergency road connects to the parking lot. They also have concerns over the width and where the emergency drive connects to the parking lot. It is situated where it may become blocked either with storage or vehicles. He requested further input in the design and see if it's possible to make it a better connection to assure that it will not become blocked. They must also be compliant with the Michigan Building Code, local ordinances, and applicable Fire Codes*.

Commissioner Steimel suggested that if they would add extra striping, that would be a very visual solution and wouldn't cost a lot.

Planner Wortman agreed and asked if the petitioner would agree to the pavement striping and fire lane and no parking striping to ensure that there is complete and free access on that north side.

Mr. Burhart stated, sure.

Chairwoman Thurber overviewed Site Plan Review correspondence received from Mr. Bill Ireland, Township DPW Director, dated May 8, 2013. There is adequate water and sanitary sewer available for the project*.

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Chairwoman Thurber overviewed the Site Walk Report regarding the site walk for this project, which was done on May 7, 2013 at 7:00 p.m.*. While conducting the site walk, they witnessed local residents having to walk on the shoulder of Lapeer Road since there was no safety path for that area yet, so that is very important for that location.

Moved by Commissioner Steimel, supported by Vice-Chairman Dunaskiss regarding case PC-2013-12, KPMF Investments USA, LLC Site Plan, located at 4367 Lapeer Road, Sidwell #09-35-400-045 and Sidwell #09-35-200-018 to **waive the setback requirement for the northern boundary** since this borders the side of an existing building, which is just basically a service road, in order for the petitioner to put the service road as shown on plans date stamped received by the Township on April 24, 2013 and the setback deficiency is ten feet. Roll call vote was as follows: St. Henry, yes; Dunaskiss, yes; Steimel, yes; Pennington, yes; Walker, yes; Thurber, yes. **Motion carried 6-0** (Christie was absent).

Commissioner Steimel inquired whether the petitioner had any problems complying with the Fire Chief's review letter or with being compliant with the lighting ordinance.

Mr. Burkhart stated, no, I'm sure Mr. Butler will accommodate the plans.

Moved by Commissioner Steimel, supported by Commissioner Pennington regarding case PC-2013-12, KPMF Investments USA, LLC Site Plan, located at 4367 Lapeer Road, Sidwell #09-35-400-045 and Sidwell #09-35-200-018, referencing plans date stamped received by the Township on April 24, 2013, that in general the site plan as presented is generally in compliance with Township ordinances, however, we have noted a few exceptions and we would add these as **conditions to the approval of the site plan as presented**: 1)the petitioner shall show on the plans the safety path along M-24 (Lapeer Road) as per ordinance; 2)the petitioner shall add notes on the plans regarding having the cross-access easement details in the northwest corner to the property to the north; 3)the petitioner shall add the additional fire hydrant as discussed in the Fire Chief's letter, dated May 1, 2013, in the northeast corner; 4)the petitioner shall change the light poles to not be any taller than 20 feet to comply with existing ordinances; 5)the petitioner shall add a note to the plans with more description of the oxidizer not being a building structure, but actually being a concrete pad; 6)the petitioner shall stripe the parking lot to allow access for the fire department vehicles; 7)the petitioner shall add notes to the plans for the tree preservation; 8)the petitioner shall address the Township Engineer's comments in the conclusion of their review letter dated May 8, 2013 and per Engineer Stevens, his comments will be addressed in the engineering review, however, the petitioner shall show the looping of the water main on the approved site plan and also the proposed easement locations; and, 9)that the site plan will be approved when these conditions are met. Roll call vote was as follows: Dunaskiss, yes; Steimel, yes; Pennington, yes; Walker, yes; St. Henry, yes; Thurber, yes. **Motion carried 6-0** (Christie was absent).

C. PC-2013-13, Sonic Drive-In/Drive-Thru Restaurant Site Plan, east side of Baldwin Road between Jordan and Brown Roads, Sidwell #09-32-377-072

Mr. Damon Garrett, of Metro Consulting Associates LLC, 45345 Five Mile Road, Plymouth, Michigan 48170, commented that they are the engineers for the

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project. He then introduced Mr. Fred Rafou, of 2064 Long Lake Shore Drive, West Bloomfield, Michigan 48323, who is the developer of the project. He then noted that this is a challenging project due to many reasons, such as, the irregular shaped parcel; a low-lying area with standing water that needs to be addressed; there are access challenges on this piece along with some storm water. They met with the Road Commission for Oakland County (RCOC) and the access that they've shown on the plans is per the RCOC's recommendations. The requested hours of operation are from 6:00 a.m. to midnight. The maximum number of employees on the site will be eight at any given time. Deliveries happen twice a week between 8:00 a.m. to 10:00 a.m. There is no designated loading area, but there will be low site activity during that time. The semi-trucks will come in and drop off what it needs to drop off and leave. As noted in the consultants' review letters, there are some significant challenges.

Mr. Rafou gave a brief history of the Sonic Restaurant company. They like to give to the community as well as the schools.

Mr. Garrett noted that the subject site has standing water on it where there is a lot of peat that needs to be removed from the site. There is 12 to 15 feet that needs to be dug out, so they have to pump that down and do additional borings to determine where the limits of the peat are and then find a way to remove it. Drainage is another issue on the site since it is a low-lying area, so they need to significantly fill the site, so to do that they need to maintain the existing drainage patterns out there, underground detention. There is about a 20-foot grade elevation change from Baldwin Road back to the back of the site. They are willing to work with everyone to work out the issues.

Mr. R. Donald Wortman (Township Planner), of Carlisle/Wortman Associates, Inc., overviewed their Site Plan Review correspondence, dated May 8, 2013*. The submitted plan is not in compliance with the Township ordinance regulations. The applicant will need to revise the plans or seek variances from the Zoning Board of Appeals (ZBA). The following items need to be addressed: 1)Modify the location of the overhead canopy on the north side and comply with setback requirements or seek a variance from the ZBA; 2)Consider using a shared access from Baldwin Road with Taco Bell using one curb cut; 3)Explore a driveway connection with the eastern portion of the Taco Bell parking lot area; 4)Parking is located within ten feet of the north property line and does not comply with requirements in Zoning Ordinance No. 78, Section 27.04.A.2. The design will need to be modified or a variance sought from the ZBA; 5)Clarify areas for loading/unloading; 6)Use of loudspeakers is limited to between 7:00 a.m. and 7:00 p.m.; 7)Parking areas are within thirty feet of a residentially used property (Section 34.02.D). The design will need to be modified or a waiver sought from the Planning Commission; 8)Explore a shared use arrangement of the dumpster with Taco Bell; 9)Revise the photometric plan to address light levels that exceed ordinance requirements in Section 27.11; 10)Comply with screening requirement between non-residential use and residential uses and the thirty-foot buffer requirement in Section 34.02.R. A waiver can be requested from the Planning Commission; 11)Provide front greenbelt landscaping on Baldwin Road. Provide a twenty-foot wide buffer between Sonic and Taco Bell. A waiver can be requested from the Planning Commission; and, 12)Replace buffer plantings adjacent to residential property with evergreens, shrubs, and/or screening wall/fence.

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Mr. Jim Stevens (Township Engineer) of Orchard, Hiltz, & McCliment, Inc., overviewed their Site Plan Review correspondence, dated May 8, 2013*. In our opinion, the site plan, as submitted, is not in substantial compliance with the Township's ordinances and engineering standards. We recommend that the following comments be addressed: 1)The Planner's comments regarding setbacks and greenbelts be addressed; 2)The applicant consider revising the site layout by shifting the building to the north to improve site circulation, increase setbacks/greenbelts to the south, and minimize curb-cuts on Baldwin Road; 3)Provide preliminary details for the storm water treatment unit and outlet control structure; 4)Provide preliminary restrictor calculations and the proposed location; 5)Show and label the emergency overflow elevation and location; 6)Provide a capacity calculation for the existing four-inch storm sewer or up-size the storm sewer from the proposed manhole to the existing catch basin; 7)Re-grade the area near right-in only at the southwest corner of the site or add a catch basin; 8)Address cross-access drive widths and signage/pavement markings; 9)Provide general retaining wall details (calculations will be reviewed during the engineering review process); and, 10)Provide a copy of the temporary grading easement prior to final site plan approval.

Chairwoman Thurber overviewed Site Plan Review correspondence, dated April 29, 2013, received from Mr. Glenn R. Appel, P.E., Chief Engineer, Oakland County Water Resources Commissioner's office*. A storm drainage permit will not be required from their office. However the project does lie within the Brown Drainage District and run-off should be restricted to 0.1 cfs/acre. It shall be the responsibility of the local municipality, in their review and approval of the site plan, to ensure compliance with their run-off and detention requirements. Related earth disruption must conform to applicable requirements of Part 91, Soil Erosion and Sedimentation Control of the Natural Resource and Environmental Protection Act, Act 451 of the Public Acts of 1994. An application should be submitted to Orion Township for the required soil erosion permit.

Chairwoman Thurber overviewed Site Plan Review correspondence dated May 8, 2013 received from Mr. Bill Ireland, Township DPW Director*. Adequate water and sanitary sewer are available for this project.

Chairwoman Thurber overviewed Site Plan Review correspondence dated May 1, 2013 received from Mr. Bob Smith, Township Fire Chief*. There is a real concern of the width of the passing lane on the south side of the building and especially passing around the stacking area in the rear where the ordering speakers are. With a total of 25 feet for both stacking and passing it has been historically that the stacking vehicles do not stay tight to the curb, thus they end up blocking the passing lane causing a road jam that, during peak hours, has the potential for traffic to back out into the road.

Chairwoman Thurber overviewed the PC-2013-13, Sonic Restaurant Site Walk Report, which was conducted on Tuesday, May 7, 2013 at 6:00 p.m.*.

Commissioner Walker read aloud correspondence received from Gary and Jess Mardlin, of 4830 Georgia Drive, in opposition to this proposed project and noting all the negative effects that the next-door Taco Bell has done to their quality of life and their neighborhood*.

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Commissioner Steimel suggested possibly reconfiguring portions of the site plan to be more neighborhood-friendly.

Commissioner St. Henry inquired what types of community involvement and activities Sonic has done at stores here in Michigan.

Mr. Rafou noted that most of the activities are with the schools. They've sponsored high school sports. A special that they do on Tuesdays, which is selling five hamburgers for five dollars between the hours of 5:00 p.m. to 10:00 p.m. They give five percent of the proceeds for that day for elementary school teachers to buy school supplies for their schools. They have given deals on hamburgers at the schools.

Mr. Garrett noted that they don't want to get denied and go to the ZBA. They are open to further discussions to address the issues.

Chairwoman Thurber offered time for public comments on this case.

Mrs. Judith Gonzales, of 4884 Georgia Drive, commented in opposition to this project. She then reviewed all of the negative effects from the Taco Bell that is bordering the subject site. If the applicant had acquired the proper amount of property, there wouldn't be all these issues. It's too big for this small piece of property. The developer has the option to purchase the Gonzales' property. She asked that this proposed development be set aside until the developer can present a more compliant set of plans and resolutions to buffers and/or variances needed on what appears to be all sides. The 7-foot and a 9-foot easement indicated that would be needed, she suspects would be from their property. The dumpster placement does shake their home, which has caused cracks all along their bedroom from the big trucks emptying the dumpsters and dropping them onto the ground and shakes their home each time. The police can never get there in time to do anything about it. The loud noise every day does disturb their peace, especially in the late nights. She requested that since this site is abutting residential that no variances are given since the Township residents need protection from this, which would even further encroach on their safety, their right to a peaceful home and neighborhood, and everything that goes along with it.

Mr. M. Gonzales, of 4884 Georgia Drive, commented that he has lived there for 27 years and that ever since the Taco Bell went in, the water pools there now and if they elevate the subject site, then the water will come into their yard and then there would be another legal issue.

Mr. Curt Phillips, of 4894 Georgia Drive, commented that he lives next to the Gonzales' to the south of them and has lived there for 33 years. The traffic backs up on Baldwin Road, when people are trying to turn in to Taco Bell, which makes a severe traffic problem there already. If Sonic goes on that site, the problem will be even more severe and unsafe. He suggested that Sonic buy the Gonzales' property so they will have a large enough site for the restaurant to have a lot more room and to meet all the ordinance requirements and won't have to request any variances. Also, the parking would not be a problem anymore or any of the other items talked about. The excessive noise from the Taco Bell is so disturbing that they cannot even open their windows in their home to enjoy the springtime.

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Mr. Darrell Eickholdt, of 4834 Georgia Drive, commented that he would like to see Sonic buy the Gonzales' property to allow enough room for all the things that the applicant wants to put on the site and not have to ask for variances. He also noted how very unpleasant the Taco Bell has made their quality of living for their neighborhood since it went in. The mice are everywhere now due to the garbage dumpsters and scattered trash, where they did not have any mice in the neighborhood before. The garbage pick-up company comes throughout the night and not during the hours that Taco Bell agreed to on their site plan. The garbage trucks drop the dumpsters on the ground every time and literally shake the neighborhood in the middle of the nights. Also, wrappers, bags, and papers from Taco Bell's food blows all over the neighborhood, which the Township residents have to continually clean up.

Commissioner Steimel requested clarification on how the storm water management will work.

Mr. Garrett commented that according to the Oakland County GIS system and going back to the 1990's, the subject site is a low-lying area, but there was not standing water there until after the Taco Bell was developed.

Commissioner Steimel noted that that's not true and that there did used to be standing water there years ago and there was water and cattails, so they are correct about that. But then the neighbors at that time got together and there was something done and that allowed it to drain.

Mr. Garrett commented that as far as the storm water goes, Taco Bell has underground detention, so they would be proposing a similar thing. He also noted that the applicant is a franchisee of Sonic, so if the Gonzales' property were bought, he would have to be the one to buy it and not Sonic. To buy yet another piece of property would increase his costs.

Commissioner Walker noted that he believes that the proposed development is too large for this size of a piece of property.

Mr. Garrett noted that they are working toward a compromise.

Commissioner Steimel commented that since the applicant does not want to have their site plan denied in order to go to the ZBA to request variances, then the thing to do would be to postpone action on this case tonight.

Moved by Commissioner Pennington, supported by Commissioner Walker regarding case PC-2013-13, Sonic Drive-In/Drive-Thru Restaurant Site Plan, with the subject site located on the east side of Baldwin Road between Jordan and Brown Roads, Sidwell #09-32-377-072, referencing plans date stamped received by the Township on April 26, 2013, **to postpone action on this site plan**, because the petitioner has requested that we postpone so that they can go back and re-work their site plan to address the many deficiencies that were pointed out tonight and so that the Township consultants can review the revised plans before members' review of them. Roll call vote was as follows: Steimel, yes; Pennington, yes; Walker, yes; St. Henry, yes; Dunaskiss, yes; Thurber, yes. **Motion carried 6-0** (Christie was absent).

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8. UNFINISHED BUSINESS

None.

9. PUBLIC COMMENTS

Public comments were heard.

10. COMMUNICATIONS

None further.

11. COMMITTEE REPORTS

Chairwoman Thurber noted that there were two site walk reports that were included in tonight's meeting packets as mentioned earlier.

12. UPCOMING PUBLIC HEARING

There are no Planning Commission public hearings scheduled at this time.

13. CHAIRWOMAN'S COMMENTS

Chairwoman Thurber thanked the public for their input tonight. She also noted that the Dragon Dash will be this Sunday, May 19, 2013.

14. COMMISSIONERS' COMMENTS

Commissioner St. Henry commented that he appreciates everyone's input and participation going through the various projects.

15. ADJOURNMENT

Moved by Commissioner Pennington, supported by Commissioner Steimel to adjourn at 9:10 p.m. **Motion carried unanimously** (Christie was absent).

* Attachment