



CITY of NOVI CITY COUNCIL

Agenda Item F
June 2, 2014

SUBJECT: Approval of a request from Robertson Charneth Fen, LLC for a variance from Section 11-278(b)(5)) of the Design and Construction Standards, which requires sidewalks to be placed a minimum distance of five feet from the back of curb, to allow the applicant to construct the sidewalks at the back of curb for the Charneth Fen project (parcel number 22-10-426-001).

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division *BTC*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The developer of Charneth Fen is requesting a variance from Section 11-278(b)(5) which requires sidewalks to be placed a minimum of five feet from the back of curb. The original site plan for Charneth Fen was approved by the City in 2003. The construction of the original site plan was only partially completed over the following years. The new developer, Robertson Charneth Fen, LLC, has provided a revised site plan to complete the partially developed site. The plan was presented to City Council on October 28, 2013 (see attached minutes) for approval of the revised preliminary site plan with a PD-1 option. The City Council motion to approve the preliminary site plan requested that the developer work with City staff to provide a sidewalk connection between the proposed new housing units and 12-1/2 Mile Road.

The developer has provided a revised plan that includes a sidewalk along the east side of each of the internal roads across the frontage of the proposed units. However, the proposed design requires City Council approval of a variance for the location of the sidewalk relative to the existing curb.

The proposed variance was reviewed using the review standards in Section 11-10 by Community Development, the Landscape Architect, DPS Field Operations, DPS Engineering, City Attorney and Fire. Staff recommends approval of the request because the applicant is attempting to meet the goals of the Non-Motorized Master Plan by providing non-motorized access between the new proposed units and the main street which provides a safer environment for pedestrian than the alternative. Additionally, there is existing infrastructure in place that makes it difficult to meet the ordinance requirements for pathway location. In this case, the proposed pathway adequately meets the standard without requiring a redesign of the existing site.

RECOMMENDED ACTION: Approval of a request from Robertson Charneth Fen, LLC for a variance from Section 11-278(b)(5)) of the Design and Construction Standards, which requires sidewalks to be placed a minimum distance of five feet from the back of curb, to allow the applicant to construct the sidewalks at the back of curb for the Charneth Fen project (parcel number 22-10-426-001).

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

Charneth Fen Location Map



Map Author: A. Wayne
Date: May 23, 2014
Project:
Version #:

Amended By:
Date:
Department:

MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi.
Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 332 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

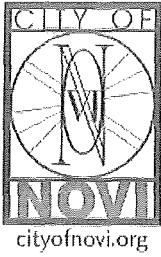


City of Novi

Engineering Division
Department of Public Services
26300 Lee BeGole Drive
Novi, MI 48375
cityofnovi.org



1 inch = 174 feet



Request for Variance Design and Construction Standards

Applicant Information

Name: James V. Clarke
Address: 6905 Telegraph Rd., #200
Bloomfield Hills, MI 48301
Phone No: 248-644-3460

Engineer Information

Name: Seiber, Keast Engineering, LLC
Address: 7125 Orchard Lake Rd.
West Bloomfield, MI 48322
Phone No: 248-562-7357

Applicant Status (please check one):

- Property Owner Developer Developer / Owner Representative
 Other _____

RECEIVED

MAY 5 2014

**CITY OF NOVI
COMMUNITY DEVELOPMENT**

Project Name Charneth Fen
Project Address/Location 12 1/2 Mile Road and Novi Road

Variance Request Sidewalk placement specified in Section 11-278(b)(5).

Justification (attach additional pages if necessary)

See attached letter to Kristen Kapelanski, dated April 18, 2014.

INTERNAL USE

Date Submitted: May 5, 2014
Code Section from which variance is sought: 11-278(b)(5)
Submittal Checklist: One (1) copy of plan on 8.5 x 11 size paper
 \$100 Filing Fee (No fee for driveway width variance requests)
Request Status: APPROVED DENIED
Authorized By: _____
Authorization Date: _____



April 18, 2014

Ms. Kristen Kapelanski AICP Planner
Novi City Hall
45175 Ten Mile Rd.
Novi, MI 48375

Re: Charneth Fen Sidewalk Variance Request

Dear Ms. Kapelanski,

The purpose of this letter is to request a variance to the City of Novi's sidewalk requirement for the Charneth Fen community, located at 12 ½ Mile Road and Novi Road.

By way of background, the Charneth Fen project was purchased out of foreclosure in December of 2011 by the Morley Group. When Robertson purchased the property from the Morley Group all of the horizontal improvements and roads were installed. At the October 28th City Council Meeting, approval of Robertson's revised plans was removed from the consent agenda so a condition could be added for the staff to establish a location for the addition of internal sidewalks to the community. The plan as presented represents the location Robertson worked out with staff.

At this time, Robertson is in the process of preparing our final Stamping Plans, and would like to request a variance to the requirement that sidewalks be placed a minimum of 5' from the back of the curb, as specified in Section 11-278(b)(5). Robertson's request is predicated upon the following facts:

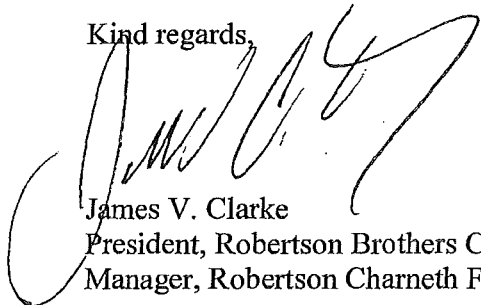


1. A literal application of the requirement would result in a practical difficulty due to the existence of all the installed improvements and the Robertson's desire to create a gracious landscaped courtyard between the two new buildings. The existing road pattern follows a serpentine pattern, and if the sidewalks are placed 5' behind the curbs and a twenty foot distance is maintained for guests to park on the drives, not only would the courtyard be compromised but some of the drives would become excessively long.
2. Placement of the sidewalks at the back of the curb on Traci Trail and Melanie Lane will not substantially change the functionality or usability of the walks from the ordinance requirement. The walks location still provides residents with direct pedestrian access to the walkway system on 12 ½ Mile Road which was the goal of the Council when this issue was discussed.
3. In granting this variance, as shown on the plans, the Applicant has preserved the maximum amount of existing landscaping located in the area between the curb and the property line. This area is steeply sloped from the back of curb to the property line and moving the sidewalk five feet will result in unnecessary additional grading and retaining.

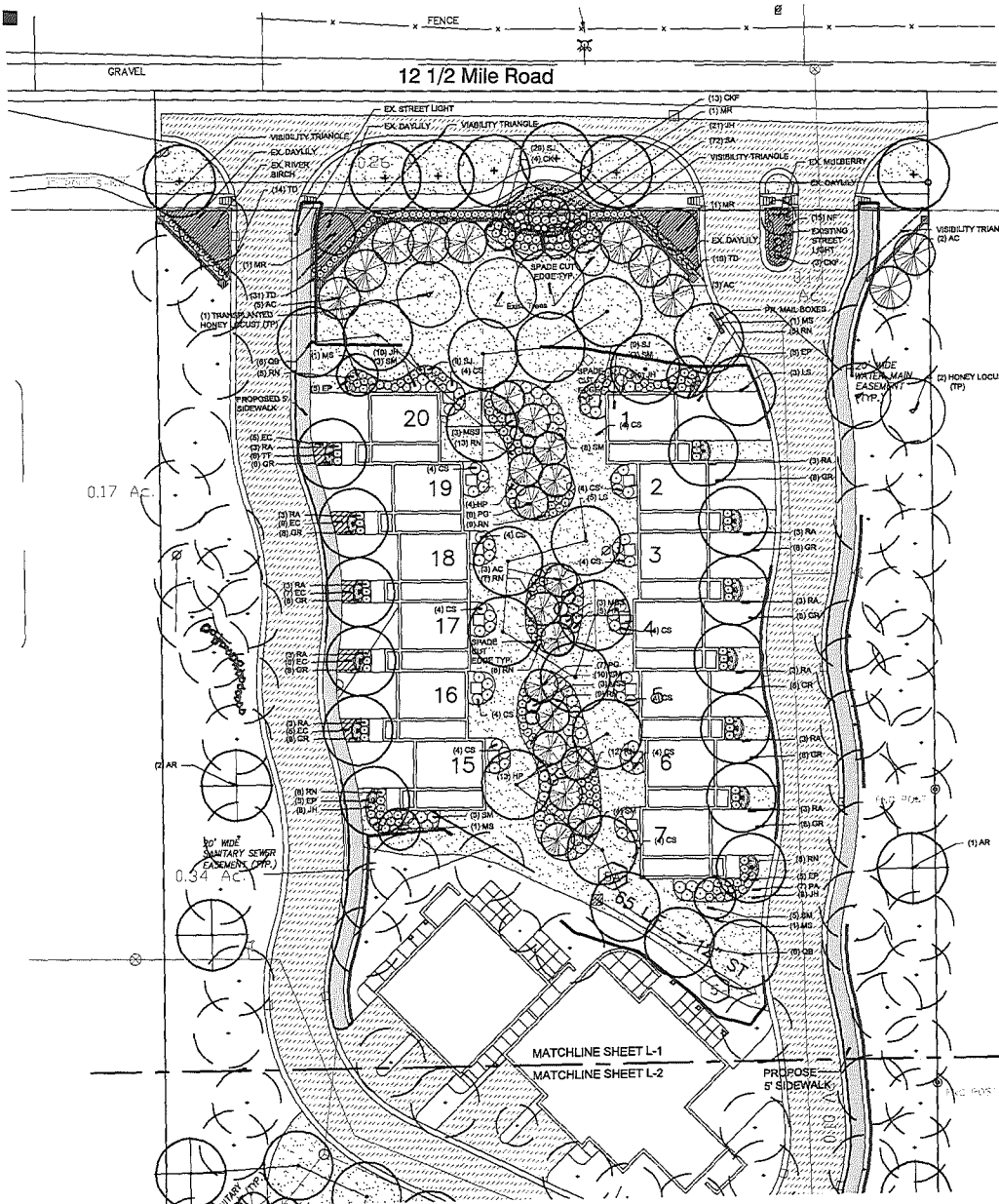
In summary, Robertson has worked with staff to creatively locate this desirable amenity, and we believe it is the best location for new and existing residents given the fact that the project was already improved at the time it was purchased.

Thank you for your consideration of this critical variance request.

Kind regards,

A large, stylized handwritten signature in black ink, appearing to read "James V. Clarke".

James V. Clarke
President, Robertson Brothers Company
Manager, Robertson Charneth Fen, LLC



LANDSCAPE REQUIREMENT CALCULATION

	Required Canopy / Evergreen	Required Sub-Canopy	Required Landscape Planting Beds (sq. ft.)	Canopy / Evergreen Provided	Sub-Canopy Provided	Landscape Planting Beds (sq. ft.) Provided
Adjacent to Public Rights-of-Way Masonry Wall provide in lieu of greenbelt/berm requirement. One canopy or large evergreen tree per 35 l.f. of right-of-way 280 l.f. / 35 =	8			8		
Two sub-canopy trees per 20 l.f. of right-of-way. (77) SA 280 l.f. / 20 =		14			8	
Area between sidewalk & curb - No Parking: One canopy tree per 45 l.f. of right-of-way 280 l.f. / 45 =	7					
Building Foundation Landscape Requirements Perimeter of buildings multiplied by 8 feet. 1,297 l.f. - 302 l.f. (drives) = 995 l.f. 995 l.f. x 8 =			7,960			5,537
Multi-Family / Attached Dwelling Units Three canopy or large evergreen trees per dwelling unit 200 U. x 3 =	60			60		
One canopy tree per 35 l.f. of interior roadway (including where adjacent to right-of-way, driveways, & parking structure drive.) 827 l.f. - 334 l.f. (drives) = 563 l.f. 563 l.f. / 35 =	16			10		
Additional Woodland Replacement Tree Requirements for Phase 1	4			0		
Required Total:	95	14	7,960	85	8	5,537
Provided Total:	78	8	5,537			
Woodland Replacement trees required for Phase 1	17					
Multi-Family / Attached Dwelling Unit trees required for Phase 1	29					
Total Tree Requirements for Phase 1	114					
Total existing trees from Phase 1	110					(3 Transplants Proposed)
Additional Woodland Replacement Tree Requirements for Phase 1	17					(Included in Plant List)

LAND
landscape architecture / land planning

18161 W. Thirteen Mile Rd, Suite B-4
Southfield, MI 48078
T: 248.584.3200
F: 248.584.3250

LEGEND

- PROPOSED SIDEWALK
- PROPOSED LAWN AREA
- PROPOSED CANOPY TREES
- EXISTING CANOPY TREES TO REMAIN
- WOODLAND REPLACEMENT TREES
- EXISTING STREET LIGHTS TO REMAIN
(* ALL EXISTING LIGHT POLES & BASES SHALL BE REMOVED & REPLACED WITH WALL MOUNTED BUILDING LIGHTS AS APPROVED WITH THE EXCEPTION OF THE TWO EXISTING ENTRY LIGHTS.)

sheet title:
Landscape Plan

project title:
Charneth Fenn

Novi, Michigan
prepared for:
Roberson Brothers
8905 Telegraph Rd.
Suite 200
Bloomfield Hills Michigan
Phone: 248.644.3460

job number: LMD18
date: 08.16.2013
drawn by: JLP
checked by: WTK



Revisions: Sidewalk Addition: 11.5.13
City Review Revisions: 11.20.13
Added Woodland Replacement Trees: 1.7.14
Construction Document: 2.14.14



sheet no.
L-2

LANDSCAPE PLAN (NORTH END)

These drawings are representations of services, rendered by LAND Design Studio, PLLC. Any changes, substitutions or omissions shall be the responsibility of the client. LAND Design Studio, PLLC



JOHNSON ROSATI SCHULTZ JOPPICH PC

27555 Executive Drive Suite 250 ~ Farmington Hills, Michigan 48331
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrslaw.com

www.johnsonrosati.com

May 20, 2014

Adam Wayne, Construction Engineer
City of Novi
45175 Ten Mile Road
Novi, Michigan 48375

Re: Charneth Fen – Pedestrian Safety Paths
Variance from Design and Construction Standards

Dear Mr. Wayne:

Our office has reviewed the proposed request for a variance from the City's Design and Construction Standards which would require the placement of the internal pedestrian pathways to be no closer than 5' from the back of curb. The property owner has requested a waiver from Section 11-278 (b)(5) of the City of Novi Code, which states in relevant part:

(b) *General.*

(5) Pedestrian safety paths shall be located within one (1) foot of future rights-of-way lines, unless otherwise directed by the city engineer, for the enhancement of natural resources, or when the topography, existing landscaping, or an existing residence warrants an alternate location. Pedestrian safety paths shall be located a minimum of five (5) feet from back of curb for a curbed roadway, or twelve (12) feet from edge of pavement of an uncurbed roadway. Pedestrian safety paths should be constructed no closer than three (3) feet from fences, trees or other permanent above grade obstruction, except as otherwise approved by the city engineer.

Section 11-10 of the Ordinance Code permits the City Council to grant a variance from the Design and Construction Standards when a property owner shows all of the following:

(b) A variance may be granted when all of the following conditions are satisfied:

(1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;

(2) The alternative proposed by the applicant shall be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and

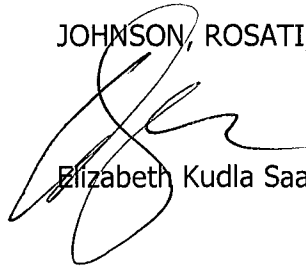
(3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

The applicant has provided reasons for the proposed variance including maintaining the integrity of the proposed adjacent courtyard, preservation of landscaping, elimination of the need for grading, and sustaining the functionality of the sidewalks. In the event that City Council finds that the standards for a variance or waiver have been met, our office sees no legal impediment to granting the variance, subject to the condition that the Engineering Division has also reviewed and approved the proposed plan.

If you have any questions regarding the above, please call me.

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.

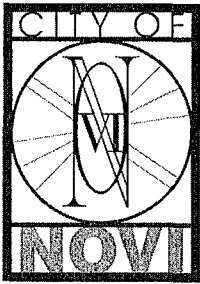


Elizabeth Kudla Saarela

EKS

Enclosures

C: Maryanne Cornelius, Clerk (w/Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Matt Wiktorowski, Field Operations (w/Enclosures)
Brian Coburn, Engineering Manager (w/Enclosures)
David Beschke, Landscape Architect (w/Enclosures)
Jeff Johnson, Fire Department (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)



cityofnovi.org

**CITY OF NOVI
Engineering Department**

MEMORANDUM

To: Charles Boulard, Community Development
David Beschke, Landscape Architect
Beth Saarela, Attorney
Jeff Johnson, Fire Department
Matt Wiktorowski, Field Ops

From: Adam Wayne, Engineering

Date: May 7, 2014

Re: Variance from Design & Construction Standards
Charneth Fen

Attached is a request for a Variance from the Design and Construction Standards Section 11-239(b). Please review for a future City Council Agenda. In accordance with Section 11-10 of the Ordinance, the following three conditions **must be met** for a variance to be granted by Council:

- 1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- 2) The alternative proposed by the applicant would be adequate for the intended use and would not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and,
- 3) The granting of the variance would not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property.

Following review of the variance, check the appropriate box below and provide your signature. If you have no basis for recommending either approval or denial, please check the "No Exceptions Taken" box. If you are recommending approval or denial of the request, **please also complete the matrix on the reverse of this form.** Please return to my attention by **Friday May 23th, 2014.**

ROUTING

Delivered To	Returned On	RECOMMENDED ACTION			Signature
		Approval*	Denial*	No Exceptions Taken	
Brian Coburn (Engineering)					
Charles Boulard (Comm Dev.)					
David Beschke (Landscape Arch)					
Beth Saarela (City Attorney)				✓	
Jeff Johnson (Fire Department)					
Matt Wiktorowski (Field Ops)					

*** SEE REVERSE**

If recommending approval or denial, please complete the following:

1. Would a literal application of the substantive requirement of the ordinance result in an exceptional, practical difficulty to the application? Yes No

Explain:

2. Would the alternative proposed by the applicant be adequate for the intended use and not deviate from the performance that would be obtained by strict enforcement of the standards? Yes No

Explain:

3. Would granting the variance not be detrimental to public health, safety, or welfare, and not injurious to adjoining or neighboring property? Yes No

Explain:

of any city now because of her. She also changed the way goal sessions worked. She was instrumental in using technology for the way goals are now reached. He stated Terry is a dedicated professional and he thanked Terry for all her work.

Member Margolis stated it had been a wonderful ride and she enjoyed her service on this Council. Mayor Landry was influential in convincing her to run. When we see people who would be good in civic duty, we need to ask them to step up and do that. The Library was her baby and she was pleased every time she drove by it. She was very pleased to be able take her grandson there. She thanked the City staff for everything they do. They are consummate professionals and they are owed a debt of gratitude. She thanked Council members noting it had been a pleasure. She thanked her husband who stood behind her every step of the way and also thanked her kids for their support.

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION:

- C. Approval of the request of Robertson Charneth Fen LLC for JSP 13-51 Charneth Fen Revised Preliminary Site Plan with PD-1 Option and Special Land Use Permit. The property is located in Section 10 of the City on the south side of 12 ½ Mile Road, west of Novi Road in the RM-1, Low Density Low-Rise Multiple-Family Residential District and totals 4.66 acres. The applicant is proposing an altered footprint and slightly altered layout for the site along with revised elevations and floor plans to complete the development of the site.

Member Mutch explained, when the project was approved in its original configuration in 2003, there were no requirements for sidewalks within the project. Now this project is being redeveloped without sidewalks and it is not acceptable to him. He feels that the Community does want sidewalks serving residential developments. It is a higher density area and thinks there is a need. He noted that snow in the winter makes it difficult to walk in a street. He would like the applicant to work with staff to provide a connection from the new residential units that are going in to the exterior sidewalk that is along 12 ½ Mile.

CM-13-10-145 Moved by Mutch, seconded by Staudt; CARRIED UNANIMOUSLY:

Approval of the request of Robertson Charneth Fen LLC for a Revised Special Land Use Permit for JSP 13-51 based on the following findings:

Relative to other feasible uses of the site:

- **The proposed use will not cause any detrimental impact on existing thoroughfares, as indicated in the traffic review letter;**
- **Subject to satisfying the requirements in the engineering review letter the proposed use will not cause any detrimental impact on the capabilities of public services and facilities because the plan adequately addresses and provides for water and sanitary sewer service and management of stormwater volumes;**

- The proposed use is compatible with the natural features and characteristics of the land, as no new impacts to natural features are proposed;
- The proposed use is compatible with adjacent uses of land, as indicated in the staff and consultant review letters;
- The proposed use is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use;
- The proposed use will promote the use of land in a socially and economically desirable manner;
- The proposed use is listed among the provision of uses requiring special land use review as set forth in the various zoning districts of this Ordinance, and is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located.

This motion is made because the plan is otherwise in compliance with Article 6, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance.

Roll call vote on CM-13-10-145

Yeas: Wrobel, Gatt, Staudt, Casey, Fischer,
Margolis, Mutch

Nays: None

CM-13-10-146

Moved by Wrobel, seconded by Staudt; CARRIED UNANIMOUSLY:

Approval of the request of Robertson Charneth Fen LLC for a Revised Preliminary Site Plan with a PD-1 Option and Section 9 facade waiver, based on and subject to the following:

- a. City Council finding that the standards of Section 2404.4.A of the Zoning Ordinance are adequately addressed, as identified in the planning review letter;
- b. Approval of an ordinance deviation for the deficient front yard building setback (75 feet required, 64 feet provided);
- c. Approval of an ordinance deviation for the deficient front yard parking setback (75 feet required, 65 feet provided);
- d. Approval of an ordinance deviation for the proposed building orientation (45° required, 90° and 180° provided);
- e. Approval of an ordinance deviation to allow driveways to abut residential units;
- f. Section 9 facade waiver for the underage of brick on the front and rear facades as:
 - The request is for a comparatively small deviation in the percentage of brick from the minimum amount required by the facade chart which is not significant when taken within the overall context of the design;
 - The proposed facades represent an enhancement in the overall composition and aesthetic quality as compared to the existing structures; and

- The request is generally in keeping with the intent and purpose of Section 2520;
- g. Applicant providing a materials sample board that demonstrates that the proposed colors will be harmonious with the existing building;
- h. The findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and items listed in those letters being addressed on the next plan submittal and subject to the applicant working with City Administration to provide sidewalk connection from the exterior sidewalk on 12 ½ Mile to the new housing units.

This motion is made because the plan is otherwise in compliance with Article 6, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance.

Member Margolis asked City Attorney Schultz if there would be an issue because this is a revised Site Plan from previous approved plans of adding the requirement for sidewalks. City Attorney Schultz said it is a Planned Development Option, so it is a discretionary form of approval. Council has the authority. He doesn't know the cost of it because it was not part of the review. Once the Administration decides what they would like to see, then there may be some opportunity for the property owner to say it is not a reasonable amount. He summarized that it is not a straight site plan, there is some discretion and the added language is permissible.

Roll call vote on CM-13-10-146

Yeas: Gatt, Staudt, Casey, Fischer, Margolis, Mutch, Wrobel
Nays: None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 7:49 P.M.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: November 12, 2013