CITY of NOVI CITY COUNCIL



Agenda Item F July 21, 2014

SUBJECT: Approval of a request from Theodore S. Andris, P.C. for a variance from Section 11-256(b) of the Novi City Code for the lack of a bicycle pathway along the frontage of East Lake Drive as part of the Sundance Grill and Cantina site plan (parcel 22-02-126-001)

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division AL

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

Theodore S. Andris, P.C. is the owner of Sundance Grill & Cantina at the corner of East Lake Drive and Fourteen Mile Road. Mr. Andris is proposing several site improvements, including a small addition to the existing building, outdoor seating area, and additional parking area. The site plan was approved by the Planning Commission on May 28, 2014 subject to a variance from Section 11-256(b) of Design and Construction Standards, which requires the construction of pathways along arterial and collector roads in conformance with the City's master plan. The Bicycle and Pedestrian Master Plan (attached) shows that an 8-foot wide pathway is required on East Lake Drive.

The applicant has requested the variance from the requirement to construct a pathway along the East Lake Drive frontage because of the location of the existing building in relationship to the right-of-way and the practical difficulty to construct the pathway as required. The applicant states that construction of a bicycle pathway is not feasible due to insufficient room within the existing right-of-way and the inability to provide a pathway easement due to landscaping requirements. The applicant has included a 6-foot wide sidewalk along the Fourteen Mile Road frontage, as required.

The proposed variance was reviewed using the standards in Section 11-10 (attached) by Community Development, the Landscape Architect, DPS Field Operations, DPS Engineering, City Attorney and Fire. Staff recommends approval of the request for the following reasons: 1) the applicant has demonstrated a practical difficulty in meeting the requirements given the location of the existing building and site configuration in relation to the right-of-way, 2) the existing bicycle lane on East Lake Drive provides a non-motorized connection to the rest of the pathway network and would continue to provide service in that capacity, 3) the granting of the variance will not be detrimental to public health, safety or welfare, nor injurious to adjoining or neighboring property. **RECOMMENDED ACTION:** Approval of a request from Theodore S. Andris, P.C. for a variance from Section 11-256(b) of the Novi City Code for the lack of a bicycle pathway along the frontage of East Lake Drive as part of the Sundance Grill and Cantina site plan (parcel 22-02-126-001).

	Γ	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				



Project: Version #: Amended By: Date:

Department: MAP INTERPRETATION NOTICE

Map Legend Proposed Development





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

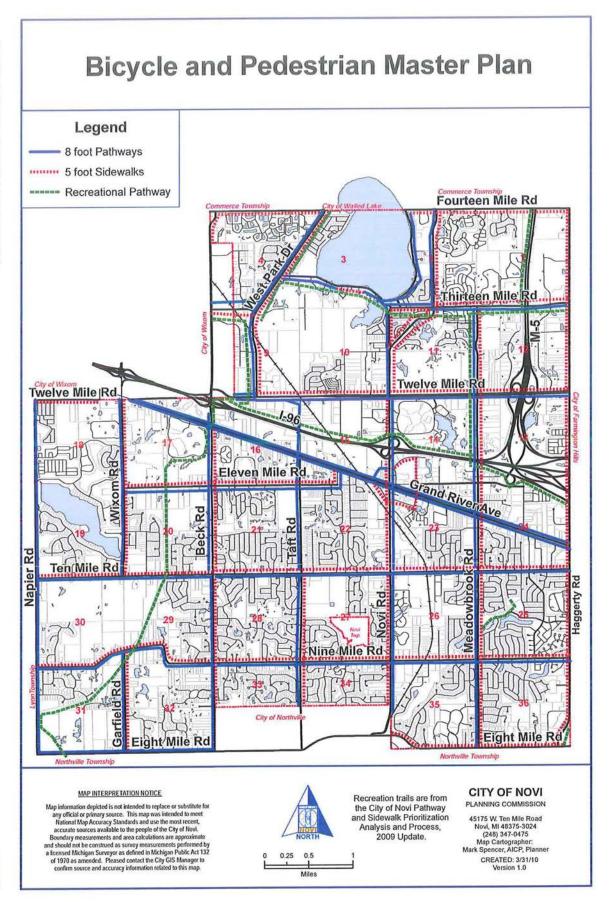
30 40 0 5 10

1 inch = 48 feet

Sec. 11-256. Scope.

- (a) This article establishes the minimum requirements for the design of bicycle paths within the city.
- (b) Bicycle paths shall be placed across the arterial and collector street system frontage for all projects in accordance with the "Master Plan for Bicycle and Pedestrian Safety Paths."

(Ord. No. 87-124.02, Pt. I, 11-9-87; Ord. No. 96-124.07, Pt. XXXXXI, 12-16-96; Ord. No. 97-124.09, Pt. I, 10-20-97; Ord. No. 97-124.10, Pt. I, 12-1-97; Ord. No. 99-124.11, Pt. XXXXI, 7-26-99)



page 101



Figure 55

Sec. 11-10. Variances.

- (a) Upon application, a specific variance to a substantive requirement of these standards may be granted, subject to the following criteria. Where the proposed activity requires site plan or plat approval, or otherwise involves the design or construction of a facility intended to be public, the variance application shall be to the city council. Where the proposed activity does not otherwise require site plan or plat approval, the variance application shall be to the construction board of appeals.
- (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.
- (c) The city council may, by resolution, establish an application fee for requests for variances from these standards.

(Ord. No. 86-124, § 16.01, 4-21-86; Ord. No. 87-124.01, Pt. I (16.01), 4-13-87; Ord. No. 91-124.05, Pt. I, 6-3-91; Ord. No. 93-124.06, Pt. V, 2-1-93; Ord. No. 99-124.11, Pt. III, 7-26-99)



Request for Variance Design and Construction Standards

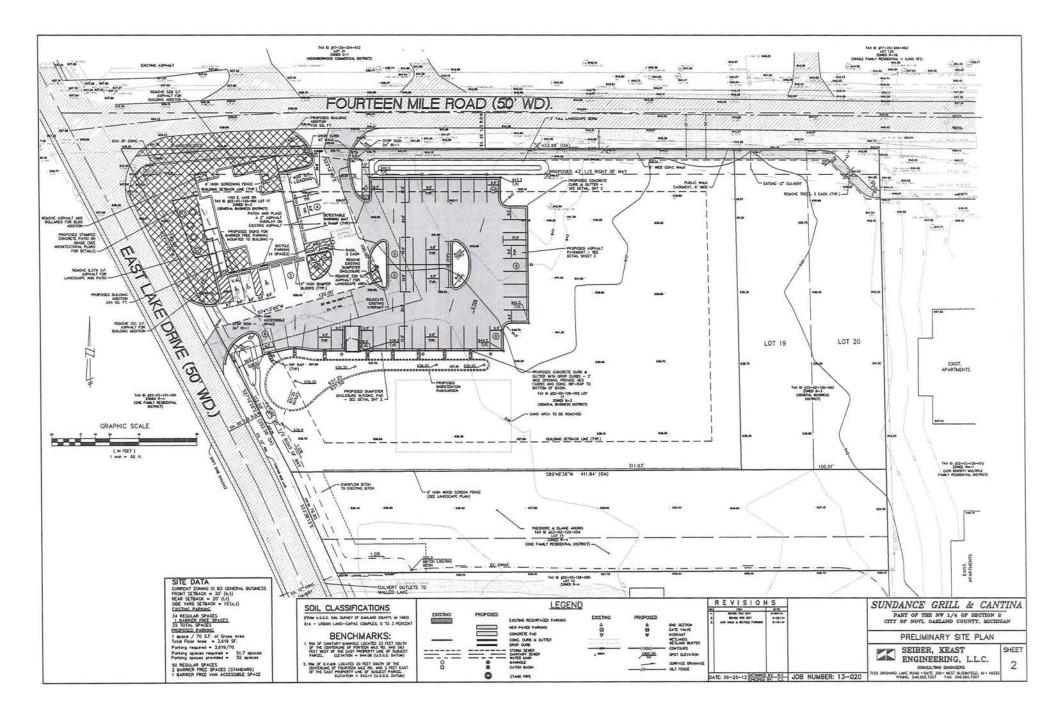
Applicant Information		Engineer Information			
Address: 24901 Northwestern Hwy., Suite 411		Address: Address: Address: Address			
Southfield, MI 48075		West Bloomfield, MI 48322			
Phone No:		Phone No:			
Applicant Status (please	check one):				
Property Owner	Developer	Developer / Owner Representative			
Other					
Project Name	Sundance Grill & Cantin	a			
Project Address/Location 1103 East Lake Drive, Novi, MI					

Variance Request ______ Section 11.256 (b) for lack of a bicycle path on East Lake Drive.

Justification (attach additional pages if necessary)

There is insufficient room within the existing road right-of-way to construct a path safely adjacent to the existing non-conforming building and because of the presence of an existing bicycle lane on East Lake Drive.

	INTERN	AL USE
Date Submitted: Code Section from wh	6/16/ Jo14 hich variance is sought:	11.256(b)
Submittal Checklist:	A. S. 1515 A.	n on 8.5 x 11 size paper
	🖾 \$100 Filing Fee (No	fee for driveway width variance requests)
Request Status: Authorized By:	APPROVED	DENIED
Authorization Date:		_



Facade	Approval recommended	04-30-14	Approval contingent upon the painting of the existing & proposed rooftop units to match the existing asphalt shingles
Fire	Approval recommended	04-29-14	No items need to be addressed

Motion sheet

Approval – Preliminary Site Plan

In the matter of Sundance Grill & Cantina, JSP13-56, motion to **approve** the <u>Preliminary</u> <u>Site Plan</u> based on and subject to the following:

- a. Zoning Board of Appeals variance for the front yard setback along East Lake Dr. which is supported by staff because the site is an existing nonconforming site that is being improved (30 feet required, 24 feet proposed); and
- Zoning Board of Appeals variance for the exterior yard setback along Fourteen Mile Rd. which is supported by staff because the site is an existing nonconforming site that is being improved (30 feet required, 3 feet proposed); and
- c. City Council variance from Section 11.256(b) of the Design and Construction Standards of the City Code for the lack of a bicycle path on East Lake Drive because this is an existing site that is being improved and there is not adequate room to provide this path safely adjacent to the existing non-conforming building and because of the presence of an existing bike lane; and
- d. The applicant installing a sidewalk along Fourteen Mile Road that connects the existing bike lane along East Lake Drive to the existing sidewalk east of the property, with support for an administrative variance from Section 11.278(b)(5) of the Design and Construction Standards of the City Code to permit a sidewalk to vary more than 1 foot from the future right-of-way; and
- e. Planning Commission waiver for same-side driveway spacing (185 feet required, 130 feet provided), which is hereby granted; and
- f. Planning Commission waiver to allow a 6 ft. wood screen fence in lieu of a berm along the southern property line as it will provide adequate and effective noise attenuation and screening while still maintaining a useable site; which is hereby granted; and
- g. Planning Commission waiver from the street tree requirements along both frontages because this is an existing non-conforming site that has limited space and the installation of street trees is impractical; which is hereby granted; and
- h. Planning Commission waiver to reduce the berm height (3 ft. required, 2 ft. recommended) along Fourteen Mile in order to allow the installation of a sidewalk; which is hereby granted; and
- i. All RTU's, exhausts fans and related ductwork be painted the same color as the trim to match the existing asphalt shingles; and
- j. The conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan;
- k. (additional conditions here if any)

(This motion is made because the plan is otherwise in compliance with Article 15, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance.)

SEIBER, KEAST ENGINEERING, LLC

7125 Orchard Lake Road, Suite 31 West Bloomfield, MI 48322 Telephone: 248.562.7357 E-mail: cs@seibereng.com

TRANSMITTAL

TO City of Novi 45171 W. Ten Mile Road Novi, MI 48375-3024

Attn: Adam Wayne

JOB # VIA Hand Delivered

DATE

June 16, 2014

PROJECT Sundance Grill & Cantina

WE ARE SENDING: X Herewith	Under Separate Cover
THE FOLLOWING:	ECEIVE.
 Preliminary Site Plan (sheet 2) (8-1/2"x11") Request for Variance Form for the Design & Const. Filing Fee in the amount of \$100 Copy of the Planning Department Motion Sheet 	ruction Standards

FOR YOUR:	X Approval	As Requested
	Use	X Review and Comment
	Other	
REMARKS:		
DI	1 1 6	

Please process these plans for review and approval and placement on the next City Council meeting agenda.

FROM: Clif Seiber, P.E.

Cc: Ted Andris, Lee Mamola



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@jrsjlaw.com

www.johnsonrosati.com

July 1, 2014

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

Re: Sundance Grille & Cantina

Variance from Design and Construction Standards

Dear Mr. Wayne:

Our office has reviewed the proposed request for a variance from Section 11-256 (b) of the City's Design and Construction Standards, which states:

(b) Bicycle paths shall be placed across the arterial and collector street system frontage for all projects in accordance with the "Master Plan for Bicycle and Pedestrian Safety Paths."

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 requested a variance from the requirement to construct a bicycle path on East Lake Drive in connection with the applicant's proposal to expand an existing Adam Wayne, Construction Engineer July 1, 2014 Page 2

restaurant and add outdoor seating. The application indicates that the location of the existing building does not leave room for construction of a bicycle path. In addition, an existing bike lane serves a similar purpose.

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 variances, subject to the condition that the Engineering Division and the Public Safety Department have also reviewed and approved the proposed plans from a public health, safety and welfare perspective.

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

Verx truly yours, OHMSON/ROSATI, SCHULTZ & JOPPICH, P.C. Elizabeth Kudla Saarela Enclosures 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)

EKS

C:



CITY OF NOVI Engineering Department

MEMORANDUM

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

From: Adam Wayne, Engineering

Date: June 23, 2014

Re: Variance from Design & Construction Standards Sundance Grill and Cantina

Attached is a request for a Variance from the **Section 11.256(b)** of the Novi City Code. 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 **Thursday July 3rd, 2014**.

Delivered To	Returned On	RECOMMENDED ACTION			Signature
		Approval*	Denial*	No Exceptions Taken	
Brian Coburn (Engineering)					
Charles Boulard (Comm Dev.)					
David Beschke (Landscape Arch)				/	$\langle \mathcal{A} $
Beth Saarela (City Attorney)					18 -
Jeff Johnson (Fire Department)					
Matt Wiktorowski (Field Ops)					

ROUTING

yards is necessary for security of the facility;

- c. Planning Commission determination that the number of parking spaces provided are adequate for the proposed use; and
- d. The conditions and items listed in the staff and consultant review letters being addressed on the Stamping Site Plan.

This motion is made because the plan is otherwise in compliance with Article 19, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance. *Motion carried 4-0*.

Moved by Member Anthony and seconded by Member Lynch:

ROLL CALL VOTE ON THE STORMWATER MANAGEMENT PLAN APPROVAL MOTION MADE BY MEMBER ANTHONY AND SECONDED BY MEMBER LYNCH:

In the matter of the West Park Storage Tank, JSP14-14, motion to approve the Stormwater Management Plan, based on and subject to the conditions and items listed in the staff and consultant review letters being addressed on the Stamping Site Plan. This motion is made because it otherwise in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 4-0*.

MATTERS FOR CONSIDERATION

1. SUNDANCE GRILL & CANTINA, JSP13-56

Consideration of the request of Theodore Andris, PC for Preliminary Site Plan and Stormwater Management Plan approval. The subject property is 1.89 acres in Section 2, located on the southeast corner of Fourteen Mile Rd. and East Lake Dr. in the B-3, General Business District. The applicant is proposing to construct a 693 square foot addition and a 526 square foot outdoor seating area at the existing Sundance Grille & Cantina.

Planner Roediger said the applicant is proposing to construct a small addition and outdoor seating area at the existing Sundance Grille & Cantina. The site is located on the southeast corner of Fourteen Mile Road and East Lake Drive and is directly bordered by vacant land but is in the general vicinity of single and multiple-family residences. The subject property and the parcel immediately east are zoned B-3 General Business with R-4 One-Family to the west and south and C-1 Neighborhood Commercial in Walled Lake to the north. The Future Land Use map indicates Local Commercial uses for the subject property and the parcel to the east with Single-Family uses to the west and south and Gateway Mixed Use in Walled Lake to the north. The site does not contain any regulated wetlands or woodlands.

The applicant is proposing to construct a 693 square foot addition to the existing non-conforming Sundance Grille & Cantina building and a 526 square foot outdoor seating area along the building's west side. Additional parking and site upgrades are also being installed. Because this site is an existing non-conforming site, the applicant will need to obtain a number of waivers and variances as proposed, including two Zoning Board of Appeal variances for the expansion of the building to not meet the front and exterior side yard setbacks along 14 Mile Road and East Lake Drive. Four Planning Commission waivers are being recommended for the same-side driveway spacing, to permit a fence in lieu of a berm along the southern property line, for the lack of street trees, and to permit a reduced berm height along Fourteen Mile Road.

In addition, a City Council variance is being requested to not provide the required pathway along East Lake Drive. Since the last Planning Commission meeting, the applicant has submitted an updated plan that includes a 6 foot concrete sidewalk along Fourteen Mile Road as requested. An administrative variance to allow the sidewalk to be located outside of the 1 ft. requirement from the future right-of-way line is required as depicted. Because the site is an existing nonconforming site that is being improved, staff supports the requested waivers and variances. All reviews now recommend approval of the plan, with the facade review noting that approval is contingent upon all RTU's, exhausts fans and related ductwork be painted the same color as the trim to match the existing asphalt shingles. As you may recall the applicant was here late last year regarding the paint color of their building and with this proposal, the applicant has since met all of the conditions of the agreed upon stipulated disposition. This evening the Planning Commission is asked to approve the Preliminary Site Plan and Stormwater Management Plan. I'm happy to answer any questions you may have.

Clif Seiber of Seiber-Keast Engineering said I really have nothing more to add. We made the addition of the pathway along Fourteen Mile Road as well as adding some dimensioning details for the bicycle parking. Otherwise, we're here to answer any question the commission may have.

Chair Pehrson said thank you very much. I appreciate you taking the time to act upon our request and make this right in our minds so we could all visually understand it.

Member Anthony said thank you for adding the sidewalk. It was important to our non-motorized master plan.

Moved by Member Anthony and seconded by Member Lynch:

ROLL CALL VOTE ON THE PRELIMINARY SITE PLAN APPROVAL MOTION MADE BY MEMBER ANTHONY AND SECONDED BY MEMBER LYNCH:

In the matter of Sundance Grill & Cantina, JSP13-56, motion to approve the Preliminary Site Plan based on and subject to the following:

- a. Zoning Board of Appeals variance for the front yard setback along East Lake Dr. which is supported by staff because the site is an existing nonconforming site that is being improved (30 feet required, 24 feet proposed);
- Zoning Board of Appeals variance for the exterior yard setback along Fourteen Mile Rd. which is supported by staff because the site is an existing nonconforming site that is being improved (30 feet required, 3 feet proposed);
- c. City Council variance from Section 11.256(b) of the Design and Construction Standards of the City Code for the lack of a bicycle path on East Lake Drive because this is an existing site that is being improved and there is not adequate room to provide this path safely adjacent to the existing non-conforming building and because of the presence of an existing bike lane;
- d. The applicant installing a sidewalk along Fourteen Mile Road that connects the existing bike lane along East Lake Drive to the existing sidewalk east of the property, with support for an administrative variance from Section 11.278(b)(5) of the Design and Construction Standards of the City Code to permit a sidewalk to vary more than 1 foot from the future right-of-way as illustrated in Sheet 2 dated 5-16-14;
- e. Planning Commission waiver for same-side driveway spacing (185 feet required, 130 feet provided), which is hereby granted;
- f. Planning Commission waiver to allow a 6 ft. wood screen fence in lieu of a berm along the southern property line as it will provide adequate and effective noise attenuation and screening while still maintaining a useable site; which is hereby granted;
- g. Planning Commission waiver from the street tree requirements along both frontages because this is an existing non-conforming site that has limited space and the installation of street trees is impractical; which is hereby granted;

- h. Planning Commission waiver to reduce the berm height (3 ft. required, 2 ft. recommended) along Fourteen Mile in order to allow the installation of a sidewalk; which is hereby granted;
- i. All RTU's, exhausts fans and related ductwork be painted the same color as the trim to match the existing asphalt shingles; and
- j. The conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan.

This motion is made because the plan is otherwise in compliance with Article 15, Article 24 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance. *Motion carried 4-0*.

Moved by Member Anthony and seconded by Member Lynch:

ROLL CALL VOTE ON THE STORMWATER MANAGEMENT PLAN APPROVAL MOTION MADE BY MEMBER ANTHONY AND SECONDED BY MEMBER LYNCH:

In the matter of Sundance Grill & Cantina, JSP13-56, motion to approve the Stormwater Management Plan, subject to the findings of compliance with Ordinance standards in the staff and consultant review letters and the conditions and the items listed in those letters being addressed on the Final Site Plan. This motion is made because the plan is otherwise in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance. *Motion carried 4-0*.

2. APPROVAL OF THE MAY 14, 2014 PLANNING COMMISSION MINUTES

Moved by Member Lynch and seconded by Member Anthony:

VOICE VOTE ON THE MAY 14, 2014 PLANNING COMMISSION MINUTES APPROVAL MOTION MADE BY MEMBER LYNCH AND SECONDED BY MEMBER ANTHONY:

Motion to approve the May 14, 2014 Planning Commission Minutes. Motion carried 4-0.

CONSENT AGENDA REMOVALS FOR COMMISSION ACTION

There were no Consent Agenda Removals.

MATTERS FOR DISCUSSION

There were no Matters for Discussion.

SUPPLEMENTAL ISSUES

There are no Supplemental Issues.

AUDIENCE PARTICIPATION

No one in the audience wished to speak.

ADJOURNMENT

Moved by Member Lynch and seconded by Member Anthony:

VOICE VOTE ON MOTION TO ADJOURN MADE BY MEMBER LYNCH AND SECONDED BY MEMBER ANTHONY:

Motion to adjourn the May 28, 2014 Planning Commission meeting. Motion carried 4-0.

The meeting was adjourned at 8:01 PM.