



**MINUTES OF THE REGULAR SESSION MEETING OF THE QUEEN CREEK  
PLANNING AND ZONING COMMISSION**

**Wednesday, November 9, 2011 7:00 P.M.**

**Council Chambers, 22350 S. Ellsworth Road, Queen Creek, AZ 85142**

1. **CALL TO ORDER** The meeting was called to order at 7:00 p.m. by Vice-Chairman Ingram.
2. **ROLL CALL** (one or more members of the Commission may participate by telephone).

**Present**

Vice-Chairman Steve Ingram  
Commissioner Jason Gad  
Commissioner Alex Matheson  
Commissioner Ryan Nichols  
Commissioner Debbie Reyes  
Commissioner Kyle Robinson

**Absent**

Chairman Steve Sossaman

**Staff**

**Present**

Planning Administrator Wayne Balmer  
Senior Planner Dave Williams  
Town Engineer Chris Dovel  
Engineer Marc Palichuk  
Development Services Assistant Laura Moats

**Absent**

Director of Development Services Tom Condit

**Others in Attendance**

Ralph Pew, Pew and Lake PLC  
Tyler Wright, Pew and Lake PLC  
Seth Kassells, Juwi Solar Energy, Inc.  
Pete Parkinson, Juwi Solar Energy, Inc.

3. **PUBLIC COMMENT**  
Members of the public may address the Commission on items not on the printed agenda. Please observe the time limit of three minutes. Speakers' cards are available at the door, and may be delivered to staff prior to the commencement of the meeting. There were no public comments.
4. **Consent Agenda:** Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are designated with an asterisk (\*). Prior to consideration of the Consent Agenda, the Chairman will ask whether any

member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Commission and/or staff may remove any item for separate consideration.

**a. Consideration and Possible Approval of October 12, 2011 Work Study and Regular Session Minutes;**

**Motion by Commissioner Gad to approve the Consent Agenda as presented, Seconded by: Commissioner Nichols. All ayes. Motion carried 6-0.**

5. **Public Hearing, Discussion and Possible Action on RZ11-040/SP11-070/CU11-041, “Siete Solar Facility”**, a request by Ralph Pew of Pew and Lake, PLC on behalf of Juwi Solar, Inc. to rezone approximately 160 acres from R1-43 Residential to I-2 Industrial and C-2 General Commercial, in addition to Site Plan and Conditional Use Permit approval for a solar power generation facility. The project is located in the vicinity of the northeast corner of Crismon and Queen Creek roads.

Senior Planner, Dave Williams gave a presentation, providing background information and explaining the applicant’s request for Site Plan, Conditional Use Permit and Rezoning. Mr. Williams provided an overview of the site and its surrounding uses and zoning designations. The surrounding uses include: Barney Sports Complex to the east; Langley Gateway Estates and Queenland Manor residential subdivisions to the southwest; a large greenhouse facility, which is an active agricultural use to the north; and additional agriculture/active farming uses to the east.

Mr. Williams made the Commission aware that the Town has received three separate applications for solar projects. This site is located in the center of the three. Mr. Williams pointed out the site location in comparison to Town Center and Queen Creek High School to the east and Germann Road on the north. He noted the land to the west of the site is zoned Medium High Density Residential (five to eight dwelling units/acre). The airport noise contour map was shown.

Mr. Williams illustrated photos of other photovoltaic solar facilities, specifically Iberdola Renewables’ Copper Crossing Solar Ranch in Florence, for which a dedication ceremony was held on November 8. For the proposed Queen Creek Solar project, the power output will be just under 20 Megawatts (MW). Mr. Williams explained the applicant is requesting three PAD deviations for 1) Open Space Requirements; 2) Landscaping percentage requirements, and 3) a reduction in the number of trees along Merrill Road, due to a Bureau of Reclamation irrigation easement located in this area.

Mr. Williams explained the design of the solar panels, which are approximately six to seven feet high, and how the power is transferred to the power grid and converted. He explained the main connection is an above-ground, aerial connection to 69kV lines, located off of Crismon Road. He explained there would be 90,000 individual panels that feed to smaller transformers, which then feed to a single, larger transformer, and then into the SRP power grid. There is an 85-foot Flood Control District of Maricopa County (FCDMC) channel proposed on the southern portion of the site, and on the east side is a 50-foot Bureau of Reclamation easement. The applicant is

proposing to improve to the full build-out Queen Creek Road on the south, and 660 feet of Merrill Road on the east. They are providing cash-in-lieu for Crismon Road, Ryan Road, and the remainder of Merrill Road, and full roadway requirements: roadway, curb and gutter, sidewalk and landscaping, and any other Engineering requirements. Mr. Williams explained the landscaping that will be installed, noting the proposed landscaping along Merrill Road will consist of a 40-foot right-of-way easement. The Bureau of Reclamation (BR) will not allow planting of any trees in this area; this landscaping will be shrubs only.

He noted Flood Control District's channel in the 85-foot easement is currently under study; therefore, the final condition of landscaping for this area is not yet known. Staff is supporting no landscaping in this area. There will be an additional 25 foot landscape buffer, as required in the Zoning Ordinance, north of the future 85-foot channel. As part of PAD off-sets, staff is stipulating an eight-foot decorative masonry wall around the perimeter of the site. A picture was shown illustrating what this would look like, facing west on Queen Creek Road. Mr. Williams noted the site will be pushed back from the main road.

Mr. Williams noted there has been recent industrial and residential development interest in the surrounding area. Staff felt the combination of industrial and residential uses warranted some type of visual barrier. There has also been interest in development north of the site.

Mr. Williams further explained the PAD deviations:

1. Open Space – definition does not make sense with the proposed use on this site;
2. Percentage of required landscaping: if this were a typical industrial site, such as Power Marketplace or Inverness Industrial Complex, 25 percent of the site would be required to be landscaped (i.e. trees planted every 500-square feet), and other significant improvements to the site. For a solar facility, the requirement may not be appropriate.
3. Reduction in trees along Merrill Road: Bureau of Reclamation easement, as stated earlier.

Staff's position is that these deviations are acceptable given the additional eight-foot decorative masonry wall around the perimeter of the site as an off-set.

#### COMMISSIONER QUESTIONS:

Commissioner Nichols asked if the landscaping in the 25-foot buffer meets the Zoning Requirements for the plant palette, number of trees and shrubs, etc. Mr. Williams responded, "yes", stating the plant palette meets the Arizona Municipal Water Users Association Low Water Plant Guide, to which the landscaping complies, as well as the number of plants being proposed.

Commissioner Gad questioned the site security and safety policies. Mr. Williams responded the site security is up to the individual property owner and/or leasee of the property. From staff's point of view, an eight-foot masonry wall is the standard for industrial complexes, both for security and screening. Given the overall design, the applicant has not indicated this is a defect in security. Mr. Williams deferred to the applicant.

Commissioner Robinson asked if the roadway improvements for Ryan and Merrill roads would be completed during construction. Mr. Williams responded the Ryan Road alignment improvements

would not be completed at this time, since there is no need to do so at this point; however, full half-street improvements on Merrill Road will be completed for the 660-feet which provide access to the site. The applicant will provide cash-in-lieu for Crismon Road. Commissioner Robinson asked how much the cash-in-lieu will be. Mr. Williams responded it is estimated at \$4 million; however, the exact amount is unknown because an Engineer's Cost estimate has not been completed.

Commissioner Reyes asked for clarification on the land use for the land between Queen Creek and Ryan roads. Mr. Williams responded the entire 160-acre site is currently zoned R1-43, which is what it was when it was annexed from the County. The General Plan Map shows Neighborhood Commercial (NC) and Employment Type-A, with Industrial Land surrounding the Neighborhood Commercial, and heavy industrial surrounding the rest of the site. Mr. Williams provided the zoning designations for the properties surrounding the project site.

Commissioner Nichols noted that part of applicant's request is the rezoning case, which is separate from the Conditional Use Permit application. He asked if the stipulations listed on the staff report are typical of what would be included in a rezoning case only. Mr. Williams responded all stipulations are standard requirements for any project being processed; staff reviews dedications of rights-of-way and right-of-way improvements, which are part of any normal rezoning case.

Commissioner Nichols referred to the grading and drainage of site, asking how much earthwork would be occurring on the site, and what the drainage concept is for draining water underneath the solar panels. Mr. Williams deferred to Engineering Staff to answer these questions.

Town Engineer Chris Dovel addressed the Commission, stating the site is broken into four quadrants; each quadrant is self-retaining. At this point the preliminary design shows the applicant will plant grass and that each of the four quadrants on the site will be self-contained and irrigated. This may change, as it is only a preliminary design. Mr. Dovel stated the entire area will be a large retention area, and there will be some berming if the applicant continues with the preliminary design. Based on the current design, the applicant will reach the 100 percent retention requirement.

Commissioner Gad asked about the potential economic impact of rezoning this site. Realizing the light industrial use is non-active, he asked if staff has done any economic analysis comparing this project to any other potential use. Mr. Williams responded the economic analysis was completed by the Assistant Town Manager; however, he does not have any specific numbers. Given the conversion of the Employment area to the requested use, which is low-intensity, there will be a loss in job potential for the area in the near future. It is anticipated there will be 200-300 jobs created during the eight to nine month construction period. Once finished, there will be one to two part-time employees per week on-site. Permitting is estimated to generate less than \$100,000. There will be a slight increase in valuation through the Assessor's office.

Commissioner Robinson asked what the value is with regards to power availability for Town residents. Mr. Williams responded the facility will generate 20 megawatts, equal to about 3,500 to 4,000 homes, depending on overall usage, per year. Power is currently being used by approximately 8,200 homes in Queen Creek. Commissioner Robinson asked if close to half the houses in the community would gain power from this, to which Mr. Williams responded, "yes".

Vice-Chairman Ingram noted there is not currently a "Ryan Road". Mr. Williams responded that is correct. Mr. Ingram asked if Ryan Road will be landscaped or if the applicant will provide cash-in-lieu of landscaping. Mr. Williams responded there will be landscaping improvements done at the time the road is constructed.

Ralph Pew of Pew and Lake, PLC addressed the Commission at 7:24 P.M., on behalf of Juwi Energy (Pete Parkinson, Project Manager and Seth Kassels, Director of Project Development).

Mr. Pew addressed the Commission, stating the rezoning request is consistent with Town's General Plan; the land uses fit into the Industrial/Commercial categories with Site Plan and Conditional Use Permit requests for a solar farm project.

Mr. Pew introduced the Director of Project Management for Juwi Solar Energy, Seth Kassels. Mr. Kassels addressed the Commission and provided an overview of the Juwi Solar Energy project. He stated Queen Creek Solar (Siete) is designed to be a 19 megawatt facility. The project was awarded through a competitive RFP process. The RFP was released in mid 2010. A power purchase agreement was signed in late Spring, 2010 with SRP. The agreement requires the project to sell the energy to SRP for a period of 20 years. The power plant connects to the 69kV transmission system. The energy goes into the grid, is stepped down, and is distributed to SRP customers. The SRP Board has set a goal to meet 20 percent of SRP's retail electricity requirements through sustainable resources by the year 2020. Part of SRP's plan is to procure 100 MW of power over the next two years. They are doing this through two RFPs, RFP A and RFP B. Juwi was selected in RFP A, which totals approximately 50 MW.

Mr. Kassels pointed out all of the energy SRP wishes to procure will not be obtained from one solar plant. SRP and other utilities are risk diverse and like to diversify their power generation. He explained the off-site improvements being undertaken by Juwi and stated there will be approximately 8.5 feet between each row of panels, and 20 feet from the panels to the wall.

Mr. Kassels explained the security, stating cameras will be placed strategically around the site. Additionally, an operations center is manned from sun-up to sun-down. There will be appropriate signage installed on walls indicating risk. There will also be ongoing maintenance and people coming through at a regular basis. Random security checks will be done if a problem occurs.

Mr. Kassels stated Juwi has plants throughout the country and has only experienced vandalism once, which consisted of teenagers throwing rocks at the solar panels. He provided pictures and measurements of the proposed solar panels for this site. There is no permanent infrastructure needed for this site, since there will be no buildings on-site.

Mr. Kassels showed a picture of a 16.5 MW project, pointing out this demonstrates how these plants can be fit into irregular-shaped parcels. He also showed panels adjacent to a residential subdivision in New Jersey. The houses sit approximately 75 feet from the facility. The other side of this site is an industrial site. He noted there is no glare from the panels, as they are less reflective than bodies of water, since they absorb the sun rather than reflecting it off the surface. For this reason, there is no concern for air traffic.

He noted Phoenix Mesa Gateway Airport had sent an email stating they have no issues or concerns with the project. Juwi has received FAA approval. He stated from a tax perspective, the School District will receive approximately \$150,000 per year. This solar project will offset 34,000 tons of Greenhouse gas emissions.

Mr. Ralph Pew addressed the Commission at 7:33 p.m. and gave a brief presentation outlining the applicant's request. He addressed the following issues: compatibility with surrounding neighborhoods; visibility to the site; dust control; drainage and retention; roadway improvements; and economic development.

Mr. Pew noted there will be almost no impact on Town services. The traffic impact is negligible since there will be one truck/day at the most scheduled to do inspections. There is no water or sewer connection, so there will be no impact on utilities. The applicant is developing the site as if it were a complete quarter-section of land being developed as an industrial campus. The applicant will be improving dedicated rights-of-way and improving Queen Creek Road, even though there will be just one to two trips per day to the facility. Mr. Pew pointed out the applicant is working with the Town's Engineering staff to calculate the exact costs to provide cash-in-lieu payments, giving the Town money to make payments to build the roads for future economic development.

Referring to dust control, Mr. Pew stated the applicant's original proposal was to install chain link fencing around entire perimeter with interior turf. The applicant would still like to do that but agreeing to install a block wall makes it difficult to irrigate and deliver water; therefore, it may be necessary to put decomposed granite on the interior, rather than turf. From a dust palliative point of view, there will be no dust generated from this site. Mr. Pew pointed out the minimal impact to surrounding areas and to the Town by showing examples of permitted uses in the I-2 and C-2 Zoning Districts, including:

- Hotels/Motels
- Health Club/Fitness Centers
- Convenience stores
- Shooting range
- Warehousing facilities
- Rental services

Mr. Pew noted it is unlikely any other solar sites will develop in this area since the two other applications received by the Town have not progressed past either a pre-application meeting or an initial technical review meeting.

Mr. Pew stated the drainage consists of a large, shallow retention area. Regarding the economic impact, Mr. Pew stated this project will have a positive impact in that it will allow Queen Creek to be on the fore-front of alternative energy sources. This is a good energy source which is clean and non-intrusive. He suggested if this project were not approved, then the owner of the property could continue to farm until economic development and employment uses mature in Queen Creek. Mr. Pew suggested it is not smart to hold onto the land and protect those uses for the future because this plan will help provide the infrastructure needed to develop the Barney Farms project.

Mr. Pew referred to the major transportation corridors planned by the realignment of Signal Butte to Meridian roads, stating the best way to open the northern tier for economic development for the Town is to get Queen Creek Road fully improved for the half mile and put money (Cash In Lieu) into Town funds to be available to improve Crismon, Ryan and/or Merrill roads when needed for development. Otherwise, the land will continue to be farmed, and the Town will not have funds for off-site improvements. Mr. Pew pointed out the stipulations related to the Engineering calculations are being discussed with Town Engineering staff.

Mr. Pew outlined the applicant's request to modify staff's Stipulation #1, which requires an eight-foot masonry wall be installed along the entire perimeter of the site. The applicant is requesting the stipulation be amended to state:

“The project shall be built according to the exhibits and narrative dated 10/25/2011, with the incorporation of a decorative eight-foot masonry wall **on the Queen Creek Road frontage, the Crismon alignment frontage, and 660 feet north of Queen Creek Road on Merrill Road. The balance of the site shall be perimetered by a seven-foot chain link fence without slats.** This decorative masonry wall shall be constructed prior to Certificate of Occupancy for the project”.

Mr. Pew stated Jason Barney is agreeable to the chain link fence, but does not want slats put in the fence due to wear and tear of the slats.

Commissioner Robinson stated this area is susceptible to high winds and micro-bursts, and asked what wind velocity the panels are designed to withstand. Mr. Kassels responded the panels can handle wind speeds up to 90 miles per hour, and will definitely meet the Town's requirements. The panels are actually designed for winds up to 150 miles per hour.

Commissioner Gad stated he is a big proponent of green energy and renewable resources. He cautioned that although this is a power-generating facility in Queen Creek, the power would actually be allocated across SRP's customer base. He emphasized the importance of not presuming the energy that would be generated would be destined for the homes in Queen Creek.

Mr. Pew responded Commissioner Gad is correct. This power is not designated for use in this vicinity. It enters SRPs grid and is allocated among SRP's customers.

Commissioner Matheson asked the applicant to address the differences in cost for the different wall/fence proposals discussed (block wall around the entire perimeter versus chain link fence for a portion of the site). Mr. Kassels replied chain link costs approximately \$17-\$25 per foot, whereas masonry costs approximately \$50-\$75. It is about three times more expensive for block wall than chain link fence.

Commissioner Nichols asked the following questions:

- 1) Will there be any energy storage, or will it be direct distribution?
- 2) Are there any requirements for grounding the chain link fence?

Mr. Kassels stated that no energy will be stored; the RFP requires SRP to buy power without storage. The chain link will be grounded per national electric code.

Commissioner Nichols said he thought this project could be touted as being a benefit to Queen Creek by making residents aware of alternative energy production. It could also be something the Town could be proud of for supporting renewable energies. But, if the site is surrounded by an eight-foot masonry wall, then no one will be able to see the project or what goes on behind the wall. Commissioner Nichols stated he does not like the idea of a chain link fence in an industrially-zoned area, stating this would not be permitted in a typical industrial district. He asked if the applicant considered installing a combination wrought iron fence and block wall to provide visibility; he noted it would not be as expensive as a full masonry block wall and would be more aesthetically pleasing than a chain link fence.

Mr. Kassels replied Juwi could discuss with staff the visibility of the site, and how to appropriately promote it. He referred to Juwi's other solar projects, which he stated are promoted by providing tours throughout the construction phase as an educational tool. He stated Juwi has had thousands of people tour their sites from elementary through high schools. He stated the combination fencing would be explored; however, after a year or so, the novelty wears off. It is something they can still consider depending on costs.

Mr. Pew added that the applicant has made a commitment to Roy Perkins, owner of the property on south side of this project, who wants the view obscured. The applicant does not want to violate that commitment. Mr. Pew suggested maybe the wall can be done differently on other areas of the property.

Commissioner Nichols asked if the landscape buffer zone is on a normal irrigation system, to which Mr. Kassels responded, "yes".

Commissioner Nichols asked if all the energy produced on this site goes directly to the 69kV lines, and not a substation. Mr. Kassels explained how the entire facility functions, including where cables run and how the energy is converted and transformed.

Commissioner Nichols asked if Juwi would possibly test the potential for future solar technology on this site. Mr. Kassels responded once the solar facility is constructed, it will remain the same for the 20-year lease. The facility has been designed to operate in the same manner for the next 20 years.

Vice-Chairman Ingram opened the Public Hearing at 8:00 p.m.

- 1) Myra K. Peric, 21663 E. Via Del Rancho, Queen Creek, addressed the Commission in opposition to the application. She stated she is a real estate broker, and understands property values. She feels this project will have a negative long term impact for every project surrounding it, especially the Medium High Density land uses. She stated potential developers coming in and seeing this will realize this project is not producing a positive fiscal impact. She referred to the applicant's slides which illustrated the Juwi solar site in New Jersey, which was built next to industrial uses on one side and homes on the other side. She stated the homes are most likely low- income. Ms. Peric stated she does not think



Queen Creek wants to be a town of low-income homes. She referred to the stretch of Ellsworth Road from Queen Creek to Elliot roads (going to the Santan Freeway), stating there is absolutely no residential development in this area because it is not compatible to the surrounding uses. Referring to the applicant's pictures of its solar site in Texas, she noted it abuts a freeway, but pointed out there is no "natural" easement along this freeway in Texas. There is no development potential of the land surrounding the solar site in Texas. She pointed out Texas has no zoning laws. In addition, the 3,400 homes for which this proposed site will generate power will not be getting free power; they have to pay for it. She feels the economic impact is negligible, and she urged the Commission to look ahead to what could potentially develop here in 20 years, and not to look at only the next 10 years.

- 2) Roy Perkins, Mr. Perkins owns property to the south of the project site. He stated the 20-year length of the land lease for this site has bothered him. He is hesitant to support something that lasts that long; however, he sees both sides of the issue. He deferred to the Town to make the decision, stating he "is leaving it up to the Town and the Barneys to do what they want."

Mr. Pew responded to Ms. Peric's comment about adjacent residential uses to the west, stating it is important to note the Jorde Family owns the property in question and the property to the west. They are not concerned about the potential diminution of their property values, and have no issues with this application.

There were no further public comments. Vice-Chairman Ingram closed the Public Hearing at 8:04 p.m.

Commissioner Robinson stated he thinks solar energy is a rare opportunity for this community. It provides food, shelter, transportation, power, and the opportunity to showcase the Town's desire to think longer than just in the short term regarding the care of the environment.

**Motion:**        Commissioner Robinson

**To recommend approval of RZ11-040/CU11-041/SP11-070, Siete (Queen Creek) Solar, as presented and subject to the Conditions of Approval listed in the Staff Report, with the exception of Stipulation #1, which the Commission recommends should be changed from "The project shall be built according to the exhibits and narrative dated 10/25/2011, with the incorporation of a decorative 8-foot masonry wall entirely surrounding the site. This decorative masonry wall shall be constructed prior to Certificate of Occupancy for the Project." to: "The project shall be built according to the exhibits and narrative dated 10/25/2011, with the incorporation of a decorative 8-foot masonry wall on the Queen Creek Road frontage, the Crismon Road adlignment, and 660 feet north of Queen Creek Road on Merrill Road. The balance of the site shall be perimetered by a 7-foot chain link fence without slats.**

**Seconded:**    Commissioner Matheson

DISCUSSION on the motion:

Commissioner Nichols stated he cannot support the chain link fence option, understanding it's an exception to the standard industrial zoning requirement. He stated the Town wouldn't normally grant this for any other industrial facility; he prefers to have four-foot block and four-foot wrought iron fencing installed in order to still maintain aesthetic qualities required for any other project that goes into Town.

Commissioner Robinson stated he would support a chain link fence around the entire perimeter of the site; however, he is cognizant of Mr. Perkins' request for all block wall.

Commissioner Nichols reiterated he wants to allow the option for the block/wrought-iron view combination.

Commissioner Gad stated the marketability of this is important and a great opportunity. He stated this project seems to benefit the property owner and the applicant. He acknowledged there is uncertainty in truth about property values. He stated he favors block walls to obscure visibility. He suggested the applicant consider installing the eight-foot wall across the major traffic sections of the site. He understands the applicant has made major concessions to facilitate growth in this area, and knowing this, thinks it is wise to allow them to reclaim some of their expenses by allowing them to put in chain link fencing as they have proposed. He feels there should be a balanced approach to working with the neighboring areas while at the same time facilitating economic growth.

Vice-Chairman Ingram stated he agrees this is a good project for the Town, in that it starts some type of development on this land.

**Voting on the Motion:**

**Roll Call Vote:**

**Voting Aye: Matheson, Gad, Robinson, Ingram**

**Voting Nay: Nichols and Reyes**

**Motion carried: 4-2**

**ADMINISTRATIVE ITEMS**

6. **Review** of next month's agenda items:

This item was discussed during Work Study.

7. **Report** on Town Council Action:

This item was discussed during Work Study

8. **Communication** from members of the Commission and Staff

Discussion took place about changing to electronic agenda packets. The Commission's preference is for electronic agendas, as long as it saves time and expenses for Town staff.

Commissioner Nichols requested that if anything changes between the time the electronic agendas are emailed and the date of the meeting, that the additional information be brought to the meeting in hard copy.

Commissioner Gad requested hard copy agendas be available at the meeting.

**9. Adjournment**

**Motion:**            Commissioner Nichols  
To adjourn.  
**2<sup>nd</sup>:**                Commissioner Gad    All ayes. Motion carried 6-0.

The meeting adjourned at 8:15 p.m.

**PLANNING AND ZONING COMMISSION**

By: \_\_\_\_\_  
Steve Ingram, Vice-Chairman

ATTEST:

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Laura Moats, Development Services Assistant

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I, Laura Moats, do hereby certify that, to the best of my knowledge and belief, the foregoing Minutes are a true and correct copy of the Minutes of the November 9, 2011 Regular Session Meeting of the Planning and Zoning Commission. I further certify that the meeting was duly called and that a quorum was present.

Dated this 9th day of November, 2011.

Passed and Approved this 11th day of January, 2012