

MACOMB TOWNSHIP PLANNING COMMISSION  
MEETING MINUTES AND PUBLIC HEARING  
TUESDAY, JUNE 7, 2016

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS  
54111 BROUGHTON ROAD  
MACOMB, MI 48042

PRESENT: CHARLES OLIVER, CHAIRMAN  
JASPER SCIUTO, VICE CHAIRMAN  
MICHAEL P. HARDY, MEMBER  
NUNZIO PROVENZANO, MEMBER  
AARON TUCKFIELD, MEMBER  
ROGER KRZEMINSKI, MEMBER

ABSENT: JULIANA PLASTIRAS, SECRETARY

ALSO PRESENT: Thomas Esordi, Township Attorney  
Patrick Meagher, Planning Consultant  
*(Additional attendance on file at the Clerk's Office)*

Chairman OLIVER called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was recited.

#### **ROLL CALL**

1. Member TUCKFIELD called the roll and Secretary PLASTIRAS was absent and excused.

Chairman OLIVER stated Secretary PLASTIRAS had called and is running late.

**MOTION by SCIUTO seconded by HARDY to excuse Secretary PLASTIRAS from all roll call votes.**

**MOTION carried.**

#### **APPROVAL OF THE AGENDA**

2. The agenda was reviewed and Member Tuckfield stated there was one (1) correction. Member Tuckfield informed the commission that at the last meeting a motion was made to discuss the Text Amendment for air conditioners and small equipment portion of the ordinance and wanted it noted that it would be agenda item #6.

Chairman Oliver stated let it be noted that the Text Amendment for air conditioners and small equipment would be item #6.

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**MOTION by TUCKFIELD seconded by SCIUTO to approve the agenda as amended.**

**MOTION carried.**

**APPROVAL OF THE PREVIOUS MEETING MINUTES**

3. The minutes of the previous meeting held on May 17, 2016 were reviewed and any additions, corrections or deletions were discussed and made.

**MOTION by PROVENZANO seconded by KRZEMINSKI to approve the minutes of the meeting of May 17, 2016 as presented.**

**MOTION carried.**

**PUBLIC HEARING**

**AGENDA ITEMS:**

4. **Ground Sign; ASI Equipment;** Located on the northwest corner of 23 Mile Road and Garfield Road; Section 18; Sign Fabricators, Petitioner. Permanent Parcel 08-18-400-009.

Patrick S. Meagher (Planning Consultant) stated that all the department had review the sign and find it to be in compliance with the Sign Ordinance. Mr. Meagher then informed the Commission that the NITS of the sign should not exceed eight hundred (800) night time and twenty-five hundred daytime NITS Mr. Meagher informed the Commission that the sign meets the requirements of the Sign Ordinance and he was recommending approval of the sign subject to the EMC meeting the specified NITS.

Bruno Fuciarelli (owner of Architectural Stainless – 16575 23 Mile Road, Macomb, 48042) was in attendance to answer question.

Vice Chairman Sciuto asked Mr. Fuciarelli if he had any problem with the NIT requirements for the sign as stated by the Planning Consultant. Mr. Fuciarelli stated they weren't aware of the requirements and will satisfy the requirements. Mr. Fuciarelli stated they could not find the NITS in the Code Book; therefore they did not put them on the drawings, and will provide what is needed.

**MOTION by SCIUTO seconded by PROVENZANO to grant approval of the ground sign for ASI Equipment; Located on the northwest corner of 23 Mile**

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**Road and Garfield Road; Section 18; Sign Fabricators, Petitioner; Permanent Parcel 08-18-400-009; pursuant to the Planning Commissioners recommendations.**

**MOTION carried.**

5. **Conditional Rezoning Request; Light Industrial (M-1) to Commercial, General (C-2);** Located on the south side of 23 Mile Road, ¼ mile west of Romeo Plank Road; Section 20; Elite Sport Ventures, LLC, Petitioner. Permanent Parcel 08-20-100-018.

Patrick S. Meagher (Planning Consultant) stated the applicant's request was to conditionally rezone the parcel of property from M-1 to C-2 and basically the site is the property behind the Foam Factory. Mr. Meagher mentioned the applicants conditions for the rezoning were generally for a sports and recreation complex that will include an air structure dome not to exceed, one hundred twenty-five thousand (125,00) square feet combined with a eight (8) to fourteen (14) thousand square foot building for offices, restaurant, concessions, fitness gym, coaching offices and similar uses that would basically be limited to this site if it was approve with a C-2 use. Mr. Meagher mentioned that Phase 2 would include walking trails, parking areas, 8-14 outdoor fields, four (4) temporary baseball diamonds, and a covered outdoor concession stand. Restrooms and a one to two thousand (1,000 – 2,000) square foot maintenance shed, and Phase #3 would include a building for indoor sports and recreation not to exceed four hundred thousand (400,000) square feet, Medical Offices, athletic conditioning and training. Phase #4 will consist of 8 acres of C-2 Commercial, retail, restaurant and a hotel. Mr. Meagher mentioned what they have pointed out were a list of question that would typically be ask during a rezoning process and at this time Mr. Meagher stated they were recommending denial based on the Master Plan calling for Industrial use of the property, there being no pattern of commercial development that exist which would support the commercial at this site, the potential impacts of the stated uses may have a negative impact on the neighboring residential uses and the current zoning is consistent with the Master Plan and there is no prevalent zoning pattern to support commercial uses at this location.

Tom Kalas (Attorney and representative for the petitioner- Elite Sport Ventures – 31350 Telegraph Road, suite 201, Bingham Farms) stated what the developer and petitioner has done for the property is to give the township a comfort level, Mr. Kalas mentioned the submittal of a conditional rezoning request under the statue specifically the Michigan Compiled Law No. 125.3405; this is a fairly new provision that came into play just before the crash of 2007 - 2008. Mr. Kalas stated what it generally does is allows them to do as a developer is to come in for a rezoning instead of asking for a C-2 General Commercial were allowed to ask for conditions as a part of the rezoning request to give the municipality the comfort level it needs to make an informed an adequate decision. Mr. Kalas then stated what they asked for

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was C-2, our intended use and requested use as noted in the Conditional Rezoning application and the draft of the Conditional Rezoning Agreement submitted that was prepared was a use plan showing the phases, although it's C-2 it's not a typical intense C-2 type use. Mr. Kalas mentioned this is going to be a development that is a sports and recreational project and there very excited to bring it to the township and there is such a demand not only in the township but in Macomb County in general for such developments. Mr. Kalas stated other municipalities in general have allowed such uses and have been met with great success and the residents have been extremely grateful and excited. Mr. Kalas stated they has proposed different uses for the different phases and anticipate a four phase development (a detail explanation of the phases was given by the representative) and a conceptual site plan of the development was shown. Mr. Kalas stated there will be open areas along the perimeter of the property so the residents to the south and east will have nothing back there abutting the property line, nothing offensive or intense and the residents to the east and to the south will be six (6) to eight (8) hundred feet from the nearest building. Mr. Kalas distributed copies of the actual development layout and wanted it to be a part of the record. Mr. Kalas spoke regarding phase 3 will consist of indoor sports and medical offices, spots therapy center and will not exceed four hundred thousand square feet (400,00) stating the uses they've looked at and studied are permitting are uses under C-2 or special land uses under C-2, and St. Johns to the east is very excited about this project and are on board and will occupy space in the building in addition to having naming right to the whole development. Mr. Kalas spoke regarding phase 4 on the north side of the property facing 23 Mile Road which will consist of restaurants, retail and a proposed hotel. Mr. Kalas said as he indicated before the request is for a C-2 zoning but these are not intense uses for a C-2 zoning, but if you were to leave it as M-1 zoning permitted uses that would be allowed under M-1 and read all the uses for the M-1 zoning district and stated the uses under the M-1 zoning are more intense then what they are proposing. Mr. Kalas stated they disagree with the Planner, stating their uses is more of a transitional use consistent with planning principles and although it goes against the Master Plan they feel it is important and appropriate for this piece of property. Mr. Kalas stated if the rezoning is approved it is approve with those conditions, and once the rezoning is approved it would have to proceed to Planning for site plan approval and he knows there are concerns with the building size, facade, distance, traffic pattern etc. those are issues the township has control over during the site plan approval process. Mr. Kalas spoke of their request that their conditional rezoning be granted from the M-1 zoning district to the requested C-2, and if there are any questions he along with the developer, engineer and representative from St. John is also present to answer the questions.

Vice Chairman Sciuto had questions for the petitioner inquiring about the hours of operations and the lighting of the sports and recreation facilities. Mr. Kalas stated those would be site plan issues and would be in accordance with the zoning ordinances and the lighting they intend to put on the field would be facing downward, it will be the latest technology lighting, and the lighting during the winter with no activity won't be utilized, only around the parking lots and buildings. Vice Chairman

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Sciuto asked why an inflatable dome and not a permanent building. Mr. Kalas informed the Commission that it is not really an inflatable dome, it's a sports dome it's on a permanent foundation and these structures all meet code, are the latest and greatest of technology and are used all over the country with great success.

Member Krzeminski asked what the hours of operations where and what is the latest time at night. Mr. Kalas stated the developer said the latest time would be 11:00 p.m. Mr. Kalas informed the Commission that Dominic Geric is here, he is a representative of the petitioner to answer questions. Member Krzeminski asked why St. Johns is interested in this development. Mr. Kalas stated that St. Johns would be occupying some of the office space and will have a physical therapy uses there also.

Member Tuckfield questioned the concept drawing compared to the written submission, in the written portion you note some fairly specific numbers as far as the soccer fields and the baseball diamonds which don't appear to match up with the concept drawing. Mr. Kalas stated when all is said and done there will be two (2) baseball diamonds, and the rest along the east and south will be soccer fields. Member Tuckfield stated part of his concern is he doesn't feel comfortable with this use in this area and he is not sure for a uses with this intensity and this much proximity that there's frankly enough detail. Member Tuckfield then he mentioned he understood Mr. Kalas's point that there is a site plan later, but if the Commission lets it in under the zoning district there is only so much control the Commission has over the site plan and he as a Planning Commissioner don't like dictating landscaping requirement any more than necessary and at the point of letting it in the zoning district he wants to feel comfortable with the use there regardless of any onerous things the Commission may have to put on you to make it fit. Member Tuckfield stated without more detail he is not comfortable, it is an intensive use and has many issues that could potentially happen with it and that there isn't enough detail for him to feel comfortable with it. Mr. Kalas stated to the Commission that he wanted to caution them that this is only a rezoning proceeding and that we should be focusing on the uses that are proposed and the drawings were prepared as conceptual drawings only and during your site plan review process you will have total control over how that site is developed and for right now this is a rezoning and they didn't want to give more detail because this is not a site plan review the focus is on the uses and they are extremely less intense then what you could put in there under the M-1 zoning. Mr. Kalas stated the petitioner felt with providing the material that they did it would help the Commission visualize and conceptualize how it's going to be laid out, but staying away from all the details that you would typically fine in engineering or a site plan review process which is irrelevant for purposes of why we are here tonight.

Thomas Esordi (Township Attorney) stated it's not irrelevant, because it plays into the agreement you proposed as a part of the situation (uses). Mr. Esordi stated if the Planning Commission wanted it to be more restrictive based on what your proposed use would be that would appropriately incorporated in the agreement further on. Mr.

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Esordi also stated I don't know that it's not relevant. Mr. Kalas stated the conditions are offered by the developer.

Member Tuckfield stated if this was a straight rezoning request he wouldn't support it., and the only reason he would consider it is because of some of the conditions you have put on it. Member Tuckfield mentioned he understood Mr. Kalas's point and he doesn't want to override the point here but the only reason why he would consider this is because of the conditions so to him they are extremely valid. Mr. Kalas stated he understood.

Chairman Oliver stated again this is a rezoning request and the petitioner has made that clear.

Kathy Dalliare, Sharon Martin, Gus Scibilia, Domenico Vecchio, and Juliana Bronson (residents of the Township) spoke regarding the project. The residents had concerns with regards to the noise that would come from the sports field, the lighting the proximity of the sports fields and facilities to their residences. They stated the subdivision that abuts the proposed development is mostly seniors who don't want people roaming around the homes don't want to hear the constant noise till eleven o'clock every night, they stated they do not want this development and ask the Planning Commission to please deny the request.

Brian Baker (Baker Auto Space located on the west side of the proposed development) stated he is totally in favor of this project and in fact he will probably go there himself, but has a concern with the high-low's and semi-trucks at his company and wants to make sure there are no kids or families around doesn't want any interaction between the properties and for safety and security reasons we don't want them parking in our lots. Chairman Oliver stated that would be worked out during site plan review.

Chairman Oliver asked with eight (8) sports fields, sports dome how on earth can you park everything. Mr. Kalas stated everything is staggered the events are not all at the same time they are all scheduled at different times and days. Mr. Kalas mentioned that one of the residents raised a good point that along the perimeter on the east and south they have proposed a fifty (50) foot green belt in that area with plantings and evergreen trees and they are aware that C-2 requires buffering and screening abutting residential uses and they have every intention of meeting those requirements and to satisfy the fears of the residents. Mr. Kalas stated they just want to come in and develop a project and a use that will benefit not only the Township but the residents around the development and work with them to calm the fears.

Residents Wendy Smith and Frances Savel had concerns with the traffic flow, the increase in traffic on 23 Mile Road that the development would produce many problems with trying to get out of there drives, accidents and trying to make turns. David Moran spoke stating he was a soccer coach, a high school coach and that he was in support of the development. Mr. Moran mentioned that phase 1 of the

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development there is nothing like that anywhere, yes there is a new facility on 23 Mile & Hayes but the space needed for a true soccer facility is what they have proposed. Mr. Moran thinks it's a good fit and a good use.

Member Tuckfield asked Mr. Meagher for clarification whether this was a recommendation or a decision. Mr. Meagher stated it was a recommendation to the Township Board, and the Board will make the final decision. Member Tuckfield mentioned he wanted to make a motion to deny and want to give his reasons why. Member Tuckfield stated this development could potentially be an asset to the township, but to him there are far too many questions, and understands there was a small the discussion regarding the difference between a rezoning and a site plan, and he stated he not saying he could never look at this again and find something he could vote for, and if the question was put to him right now with the information in front of him, he doesn't have the confidence that it could address the concerns that he thinks are valid. Member Tuckfield mentioned there are a lot of valid concerns that he doesn't see answers for and maybe there will be valid answers in the future

**MOTION by TUCKFIELD seconded by SCIUTO to recommend denial of the Conditional Rezoning Request; Light Industrial (M-1) to Commercial, General (C-2); Located on the south side of 23 Mile Road, ¼ mile west of Romeo Plank Road; Section 20; Elite Sport Ventures, LLC, Petitioner. Permanent Parcel 08-20-100-018; based on its impact on the surrounding community and based on the plans given to the Commission this evening.**

Member Tuckfield requested a roll call be taken.

**Ayes: Scuito, Provenzano, Oliver, Tuckfield, Hardy, Krzeminski**  
**Nays: None**  
**Absent: Plastiras**

**MOTION denied.**

Chairman Oliver stated he wanted to add to what Member Tuckfield had stated and doesn't think it's a disaster and it could work if it was done right. Chairman Oliver stated he thinks the people made valid points and the coach made a valid point that we do need this, but it has to be done properly and needs to fit the community so the residents can live here along with the sports facility can live here. We want to see something the community can live with. Mr. Kalas stated that's why they came in as a conditional rezoning so at least you would know what the uses would be and would be tweaked during the site plan and engineering review process.

Chairman Oliver asked if Mr. Meagher had anything to add and Mr. Meagher stated no that the Commission made the motion to recommend denial based on the reasons outlined to the Township Board.

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6. **Discussion of the Text Amendment for Air Conditioners and similar Exterior Equipment/Appliances**

Patrick S. Meagher (Planning Consultant) mentioned from the previous meeting the pool/general contractor and stated he was in attendance. Mr. Meagher stated there were concerns regarding limiting the locations of air conditioner units and other similar exterior equipment/appliances and in talking with the Building Director he felt they were having a problem with the current ordinance so we have brought that forward to the Commission and gave a preliminary change to that at the previous meeting for discussion. Mr. Meagher mentioned he wanted Mr. Maples and Mr. Dugan to come forward and explain some of their concerns they have. Mr. Meagher stated what he and Mr. Maples have put together today will take care of some of these problems, but during review they did discover a problem with some of the language and a new copy will be delivered at the following meeting.

Kerry Duggan (Wind Surf and Sail - 22250 Hall Road) stated one of the biggest problems with the ordinance is maintaining the distance for the opening windows and vents. Mr. Duggan stated most of the houses in Macomb Township are only fifteen feet apart, closer than is other communities and the city ordinance won't allow any building construction any closer than seven and a half feet (7 ½) from the property line that doesn't allow them to put equipment on the side as it did in the past. Mr. Duggan stated he has been a builder here for 36 years and all those year the code has been in effect but has been overlooked, and Mr. Maples is doing his job that he was hired to do to enforce the code but he thinks the code should be looked at. He also mentioned there are a lot of problems locating pool equipment in the rear of the yard. Mr. Duggan stated what he is proposing if allowed, is to install the equipment on the side of the house three and a half feet off the property line would give them ample area to install the pool equipment with a signed affidavit from the neighbor on that side stating they don't have a problems with the location and before final inspection that it be shrubbed or as Mr. Maples said maybe a small four (4) foot privacy fence around it so there not looking at an eye sore. Mr. Duggan passed out an information packet with ordinances, pictures of pool filter set ups and Placement Acknowledgement Form to the Commission. Mr. Duggan mentioned that there are concerns with the filters on the side of the house where the bedrooms are and he informed everyone that they are put on timer and they can be set to run while everyone is at work.

Vice Chairman Sciuto asked Mr. Duggan if when he gives a quote on a pool and you know the ordinance, you know it has to go behind the houses as far as our ordinance goes, correct. Mr. Duggan responded yes he knows the ordinance. Vice Chairman Sciuto stated when you do a quote, give a price, do a drawing and submit it to the building department the equipment is where it should be, Mr. Duggan stated yes. Vice Chairman Sciuto asked Mr. Duggan when he did the filter in this gentleman's back yard he knew it was going to be there, Mr. Duggan stated that was before Mr. Maples came on board, and the inspectors in the past, the code has always been there but never enforced. Vice Chairman Sciuto asked Mr. Duggan

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when he applies for a permit and submit it to the Building Inspector you can show the equipment on the side and he can yea or nay it, is that correct. Mr. Duggan replied, yes. Vice Chairman Sciuto asked Mr. Maples if that's how they approve or deny a permit, by how they submit it to the building department. Mr. Maples replied that is correct.

Chairman Oliver asked Mr. Duggan about the price of the filter and heater shown in his drawings and then asked Mr. Maples if it would be an issues to cover the filter and heater or put it in a unit, would that help, is this something we could look at. Mr. Maples stated he would have to talk with the manufactures to see if that would be allowed. Chairman Oliver asked if that would be a big thing going forward or would that just complicate things more. Mr. Maples stated he thinks with the current ordinance stated it has to be screened either with an opaque type of fence or landscaping. Chairman Oliver stated the biggest problem seems to be the noise and maybe the setbacks, it seems like nobody wants to hear the pump running, and with this neighbor signing and this neighbor is going to sign, that's all fine and beautiful until that neighbor sells the house and the new neighbor says I didn't sign anything.

Mr. Maples stated he didn't agree with having an affidavit or anything signed, we have problems with that, like privacy fences.

Mr. Esordi stated that his firm is never going to let or recommend you do something with a property restriction that has anything to do with the current owners, Property restrictions go with the property that's involved not with the ownership and the biggest mistake you can make is tying it to the ownership and not with the property itself.

Chairman Oliver this is something to look into as we are trying to change things.

Mr. Maples mentioned he could take a look into that, he stated he would like to look at the decibel level right now that these put out, and that he may be able to get that from Mr. Duggan.

Member Tuckfield had a question for Mr. Meagher and Mr. Maples this is principally for the noise, and the basic reasons we restrict this is because of the noise. Mr. Meagher stated when they were asked to put the ordinance together it was based on noise complaints, yes. Member Tuckfield mentioned he spends time in the backyard and in his personal opinion he is more annoyed with stuff in the rear yard then in the side yard, and he finds himself

very much in favor of giving as much leeway as possible and his personal opinion he thinks it would almost be better on the side than in the back. Mr. Meagher stated the reason this is back in front of you is there was a provision in place, the Township changed it, we got a number of complaints, the Township changed it back again and were at this point where we are getting complaints, we are just looking for the best way to regulate these appliances. Mr. Maples stated if you omit the pool equipment

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and the AC units from the side yard and the air conditioners are a lot quieter now than they were in the past.

Member Krzeminski asked Mr. Duggan if the heater system could be put in the rear yard. Mr. Duggan stated what they're usually doing now is butting up real close to the easement with the concrete, so that would be an easement encroachment. Mr. Duggan stated here in the township unlike other townships we have to do retainer walls dictated by Gerry Wangelin over at Water & Sewer, and really there's no room in the back of the yard.

Mr. Esordi inquired as to whether there was a distance where the filters, heaters and air conditioners lose their effectiveness. Mr. Duggan replies yes we call it heading in the plumbing industry, you never want to put it higher with an in ground pool and when we sell pools we take all that into consideration.

Vice Chairman Sciuto asked if it's just pool equipment, air conditioners, or generators, Chairman Oliver stated all three. Vice Chairman Sciuto stated then you need a six foot pad here a four foot pad and another four foot pad for a generator and now the whole side will be covered with equipment. Mr. Maples stated not all of it has to be in the side yard and you may have the same problem in the rear yard if people have door walls you can't have multiple units. Mr. Maples so if you there is a second option you can have to look at vents and operable windows, so if you had a second option you could have something in the side yard and with the reduced seven and a half yard setback to a three and a half yard setback that would makes sense also. Vice Chairman Sciuto asked the Building Department, Mr. Maples his opinion. Mr. Maples response was currently it does gives the Building Official the authority to make some determination in the code but it is limited because of the setbacks. Mr. Maples stated he would have no problem supporting a three and a half (3 ½) foot equipment setback to a side yard.

Mr. Meagher asked if he could suggest we have come up with a draft ordinance, we listen to some things that might prompt some other changes form the Commission but a public hearing hasn't been set yet, so if we could set a public hearing tonight so we can officially move this forward and in the meantime he and Mr. Maples can final out a copy and get with Mr. Duggan and his group, they can take a look at it and get that it published and get it back for a formal public hearing.

Mark Verdoodt (21189 Forest Villa, Macomb) spoke on how he has been impacted by the current ordinance with regards to the installation of a pool and filter system. Mr. Verdoodt stated he was for the change the Commission and Planning Consultant spoke about.

**Motion by TUCKFIELD seconded by HARDY to schedule a public hearing for the next available Planning Commission meeting based on current notification laws and to discuss the text amendment to the Appliance Ordinance.**

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**Motion carried.**

(Open for Public Comments)

None.

**PLANNING CONSULTANTS COMMENTS**

None.

**PLANNING COMMISSION COMMENTS**

Vice Chairman Sciuto asked Mr. Meagher the township has any way to tackle the weeds that are growing in the ditches and streams and are spreading like crazy in the township, do we have a plan of attack for something like this. Mr. Meagher stated it's been under a lot of discussion and with a lot of groups and the DNA is working with the County for noxious weed control. Mr. Meagher mentioned the Clinton River Water Shed Committee and the Drain Commission are very active in that and that he will look into this and he will give the Commission a report on what's being done, nothing is being done at the township level.

Member Tuckfield stated tonight's meeting was good with a nice balance.

Member Hardy informed the Commission that he had received his Citizen Planners Certificate.

Vice Chairman Sciuto stated four Commission Members have the Citizen Planners Certificate with on going for his Master Citizen Planner

Member Tuckfield also wanted to note that the township legal consul Mr. Esordi was a former instructor of the Citizen Planners program.

**ADJOURNMENT**

**Upon conclusion the meeting was adjourned at 8:38 PM**

Respectfully submitted,

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Charles Oliver, Chairman

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Juliana Plastiras  
Planning Commission Secretary