



SUMMARY MINUTES OF PLANNING COMMISSION ACTION HELD

June 6, 2023

Planning Commission meeting minutes are not an exact transcript and represent key points and the basis of discussion.

1. **CALLED MEETING TO ORDER– By Michael P. Griffith at 6:15 P.M.**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL OF MEMBERS**

Those present: Michael P. Griffith, Tom Aljinovich, Doug Magee, Steve Hannan

Motion to approve the absences of those missing

THOSE ABSENT

Andrew Gay, Tim Knapp, and Brandon Figliolino

ALSO PRESENT: Rob Smetana, City Planning Manager/Acting Director of Community and Economic Development; Emily Grogg, Sr. Ass't. City Attorney; Jacob Nitchals, Sr. Planner; Carol Ibanez, Sr. Planner; Jenny Wolfschlag, City Engineer; Kyle Gillitzer, Civil Engineer II; Heidi Van Gieson, Development Tech; Dixielee Rodriguez, Recording Secretary.

4. **APPROVAL OF MINUTES**

May 16, 2023. The minutes stand approved as printed.

5. **GENERAL BUSINESS:**

None

6. **REPORTS**

None

7. **PUBLIC COMMENT**

There was no one wishing to speak. Public Comment was closed.

8. **PUBLIC HEARINGS**

8.A. DA2021-0102 Conditional Use for West 53rd Avenue Townhomes project, approximately located south of the intersection of Field Cir and W 53rd Ave. (9030 W 53rd Ave)

Mr. Griffith swore in all guests that will be speaking.

Mr. Griffith opened the public hearing.

Mr. Griffith asked if all of the required documents were in order.

Mr. Nitchals stated the posting notice is in order, and public comments were received. Correction to the staff report: change from affordable multi family housing project to Market rate townhome project.

Ms. Grogg stated that the commission has received the public comments via email. Those are also part of the permanent record.

Mr. Griffith entered into the record the staff report for DA2021-0102 dated June 6, 2023, publication and all public comments received.

Mr. Griffith asked Mr. Nitchals to introduce the project.

Mr. Nitchals introduced the project. Stating that the request is being made for a conditional use for a 2-story townhome structures with attached garages, a total of 63 units on approximately 4.63 acres of land. He stated that the property has two ditches within the property with a 35 feet of slope change from one end of the property to the other end.

Ward Ritter with Chaptered Development Corp. 2555 49th St Suite 3 Boulder, CO 80301 representing the developer gave a presentation about the project stating that this is a challenging site to work with highlighting that there are Single family dwellings and two parks at either end of the property. Mr. Ritter highlighted that part of the improvements with this request will be a trail connecting with the two parks located nearby. Mr. Ritter continued to describe the look and feel of the townhomes and stated that it will be a contemporary Colorado townhome setting. The units will offer two and three bedrooms and bathrooms making these attainable when compared to a single family detached house.

PUBLIC COMMENT

Robert Glass - 9210 W 52nd Ave - just west of the complex. Lives at the intersection of 52nd and Garrison and is concerned about the traffic. How many cars are allowed on the streets? Tomlinson Park is behind his property. This park is not being taken care of, what else can Arvada do for that? How can the city help with the traffic? What can the city do to help take care of the park? How can the city help them?

Joan Gallagher - 5260 Garrison Street Unit 3- Ms. Gallagher's property backs up to this project. Not for or against, has concerns about the wildlife, where are they going to go. Ms. Gallagher had questions about the fire department access, is there enough room to get people out? How close are the new complexes going to be to Wooden Creek? How high are the new complexes going to be? Are they taller than her complex, are they overlooking her complex? Concerned

about the parking, where is everyone going to park? She feels a stop light is needed instead of a stop sign. Are we going to have access to the fence in the back of their property? Stop light at 52nd and Garrison, at least once a year there is a major crash.

Diane Brownfield - 5356 Field Circle - Ms. Brownfield is concerned about her exit from her cul-de-sac. She has listened to the train horn for two years, now they will have the construction noise. No one is using the traffic half circles correctly. Traffic is a major concern. People have to go through the neighborhood to get to the highway. Can the city put an overpass to help with traffic egress over the ditch? When a train comes through the traffic gets backed up. Also when the construction trucks are sitting there waiting it will block traffic is also a concern. She is not in favor of this project.

Jeffrey Echter - 9180 W 52nd Ave - Mr. Echter's family owns Echter's Nursery. Also concerned about the traffic in the area. He has grown up in that house. Concerned about parking, there is not a lot of parking in the area. Will they be fencing the east side of the property? Is concerned about the trail going through, it looks like it will be through his property.

APPLICANT REBUTTAL

Mr. Ritter stated that the trail does not go into the adjacent property. 45 Townhomes on the north side of the property, and 18 townhomes on the south side which are not connected because of the grade and the ditch. Mr. Ritter stated that in terms of fire safety, all units are fully fire sprinkled and have a 2 hour fire rating. Stated that the fence will be replaced. Traffic was noted in the public Meeting. This project would be less traffic than what the traffic would be if the lot was used for its intended use. This is lower intensity use for this site. Every townhome has a two car garage. Improving 52nd and 53rd widened as far as parking. This parking is not part of the project, this is extra parking. Regarding the traffic concerns explained that Echter's has a lot of traffic that it brings to the area.

Mr. Griffith closed public comment.

Mr. Griffith stated that he works for Kimley-Horn and has no knowledge of this project. He has no monetary gain from this project and can be impartial to the project.

QUESTIONS FROM THE COMMISSION

Mr. Hannan asked City Traffic Engineers if there was anything that can be done to improve the traffic at the intersection 52nd and Garrison?

Kyle Gillitzer stated that the developer will be adding striping to add a bike line and reduce westbound traffic approaching Garrison to a one lane traffic. All financed by the developer.

Mr. Hannan asked what level of service the street is?

Jenny Wolfschlag stated that they are level A and B. The City does analyze what improvements would need to be made with this improvement. Ms. Wolfschlag stated that this was the best solution for the project. She stated that they worked with the city's Traffic Engineering department during review of this project. This is a collector street.

Mr. Hannan asked how much it would cost to make this area into a park?

Mr. Nitchals stated that the average cost of a park per acre ranges from 475K to 650K for raw land. For this area you would be looking at a cost of 2 million plus to make this area into a park. This area already has two parks within walking distance.

Mr. Hannan asked the developer about the plan for the ditches during the construction.

Mr. Ritter stated that the ditches usually run from April to October. If it does happen during the flow, they stated that they have a backup plan for that. They hope to start construction outside of that window.

Mr. Hannan asked the developer did you look to try and contact the two half of the development through the ditch?

Mr. Ritter stated that with the two ditches and getting across the ditches is a challenge.

Mr. Hannan asked about working with the fencing with the neighbors.

Mr. Ritter stated that they are figuring that part out with the neighbors. Offered to replace the fence on the west side.

Mr. Nitchals stated that on the west side the fence is not required by code and hope the developer follows through with their word. On the east side it is required by code to have a fence.

Mr Aljinovich asked if the wall was going to be 4 ft tall.

Mr. Ritter the average wall height is 4 ft tall.

Mr. Aljinovich asked the developer what they are going to do to keep the kids safe from the wall. Will there be a fence?

Mr. Ritter stated that there are going to be guardrails along the wall.

Mr Aljinovich asked how deep is the detention pond going to be and can dogs and kids play in it and what are the safeguards?

Mr Ritter stated it is a little deeper than walking in. There are safety guardrails.

Mr. Aljinovich stated there are traffic issues in this area and what can the city do to be sure that will improve the lives of the neighbors in the area. Told the developer to put this in his tool box to help with this area too on the traffic issues.

Mr. Magee stated he appreciated that project narrative, and that it was nice to know that there was an apartment complex that was there that expired. Asked about the Colorado opportunity zone, how does that help you and the city and neighbors?

Mr. Ritter stated that there can be a tax incentive for this area. May shape things up with new neighbors. Allows an upgrade in the neighborhood.

Mr. Magee asked if these will be for rent?

Mr. Ritter stated that they have not decided and it depends on the nature of the cycle of the housing market.

Mr. Magee asked if there will be an office staffed by his people? What hours will they be available?

Mr. Ritter states it depends on where we are. Yes it will have staff available.

Mr. Magee asked about a concrete trail that runs around the outside edge.

Mr. Ritter stated yes there is a path along the outside around the west side and out edges.

Mr. Aljinovich states to the Developer that the project currently states that the units will be for sale, that should be fixed if it moves forward.

Mr. Magee asked staff how the entrance on 52nd and 53rd would work? Right in and right out?

Mr. Gillitzer stated that both entrances are allowed for full movement.

Ms. Wolfschlag stated that study analysis on this project will increase 3 percent traffic. Will not negatively affect this area.

Mr. Magee asked staff about 53rd being a dead end.

Mr. Nitchals stated that there is connectivity before it dead ends.

Mr. Magee asked if you could park on each side of the street.

Mr. Nitchals stated that with the improvement there will be parking.

Mr. Magee asked, you can build on top of a ditch.

Ms. Wolfschlag stated the ditch is located in an easement and that the ditch company has to approve any improvement in their area.

Mr. Ritter stated that there are ditch maintenance agreements.

Mr. Magee asked Mr. Nitchals about the zoning and that no single family homes can be built at this site?

Mr. Nitchals stated no that they are allowed but there are stipulation that have to be followed for single family homes that can be built

Mr. Griffith asked the man who had spoken out to state his question and that he would allow it. He swore him in.

Scott Staley, 5099 Garrison St. stated that he was concerned if this was democratic or not. You can throw out stats all you want.

Mr. Griffith asked when the traffic study was done?

Mr. Wolfschlag stated that the Traffic study was done in August 2021 and updated in June of 2022. The levels of service are based on National standards for vehicle wait times when signaled or un-signalized.

Mr. Griffith asked, were the findings the same? If there was a study due to the train.

Ms. Wolfschlag stated that this area is outside of the train area. The railroad also has criteria they need to meet and when they do traffic studies.

Mr. Griffith asked if there is crash data for this area?

Mr. Gillitzer stated that it is not one of the hot spots for crash areas.

Mr. Griffith asked if there was a Fire review?

Mr. Nitchals stated yes fire does their review. Just that fact of the sprinkler required for the northern half of the site. And fire did their turn analysis on the site.

Mr. Griffith asked if there were standards about construction that must be met.

Mr. Gillitzer stated that the development will need to meet the standards by the city. There needs to be access to streets at all times. City would never allow a street to be blocked, there are traffic control plans that would be in place.

Mr. Griffith asked if there is a problem with construction who would the public call?

Ms. Wolfschlag stated they would call the main Engineering Division office number to be contacted with the Inspector for this specific project site.

Ms. Grogg stated that Code Enforcement has a list of requirements for contractors that must be met during construction.

Mr. Griffith wanted to mention that Code Enforcement would also be who to contact for abandoned vehicles and broken glass.

Ms. Grogg stated that is correct.

Mr. Griffith asked how the development will be making sure that the cars are parked in the garages.

Mr. Ritter stated that they observe and enforce the parking regulations. "We are involved in our communities, we don't just build and walk away."

Mr. Griffith asked about encampments in this area. Are there any notes on that?

Mr. Nitchals states he has heard of activity but not the expert on this.

Mr. Grogg stated that Risk Management is in charge of camp cleanups. And we do not have the data for it.

Mr. Griffith wants the neighbors to know the resources that are available for this issue.

Mr. Magee asked how the city evaluates the validity of the neighborhood meeting that is two years old and traffic study that was done two years ago?

Nitchals stated that its the activity on this application. The applicant has been actively working on this project.

MOTION: Agenda Item 8.A

It was moved by Mr. Aljinovich that DA2021-0102 The Conditional Use for West 53rd Avenue Townhomes project, approximately located south of the intersection of Field Cir and W 53rd Ave. (9030 W 53rd Ave) in the City of Arvada,CO., be recommended to City Council for approval.

This motion is based on the findings of fact and approval criteria on Page(s) 8 of the Staff Report.

DISCUSSION OF MOTION

Mr. Hannan stated that this is better than many options that could go there. His experience with the intersection is different with the study that was done. He will be supporting this project.

Mr. Magee thinks that this is a good idea for this area and will be supporting the project.

Mr. Aljinovich stated that these people in the City are here to help the citizens, He will be supporting this project.

Mr. Griffith stated that this is a project that we need in the city. I think that there are some struggles with this area but they have made a good project.He will be supporting this project.

Those voting Yes: Griffith, Hannan, Aljinovich, Magee

Those voting No:

Those absent: Gay, Knapp, Figliolino

The motion carried: 4-0

8.B. DA2022-0048 A Major Modification from the Land Development Code on a 1.38 acre parcel of land generally located at 5525 Wadsworth Bypass, in the City of Arvada, CO.

Mr. Griffith opened the public hearing.

Mr. Griffith asked, are there any posting requirements?

Ms. Ibanez stated yes, the public hearing was published and noticed per Land Development Code.

Mr. Griffith asked staff to confirm that the required documents and notices were in order.

Ms. Ibanez confirmed that the published notices, and publication posting log were in order.

Mr. Griffith asked if there are any additional items received that need to be made a part of the permanent record?

Ms. Ibanez stated that there are no additional items. She does have a correction to the staff report requesting that the Major Modification from Subsection 4-5-3-6.C.2, which prohibits drive-through stacking lanes from being located within the front setback, which is 0/20 feet in the MX-T zoning district be removed.

Mr. Griffith stated that there are now going to be 6 major modifications instead of 7.

Ms. Ibanez stated that is correct.

Mr. Griffith entered into the record the staff report for DA2022-0048 posting of notice, publication, posting log, email and Staff report.

Mr. Griffith stated that he works for Kimley-Horn and this is a traffic related report and he is an urban designer. He has no monetary gain and his position will not affect his position in this case.

Mr. Griffith asked Carol Ibanez to introduce the project .

Ms. Ibanez introduced the project to the Planning Commission. There are 6 Major Modifications for this project.

Andrew Feinour - 5856 Corporate Ave Ste 200, Cypress, CA 90630 the project. Krispy Kreme doughnuts where they serve doughnuts, coffee and other drinks. Hours of operation 5:30 am to about 10pm. This will create 60 jobs depending on the volume. The building being proposed will look like a 2 story building with the windows but will not function as one. Will have a drive through which starts out as two lanes which feeds into one lane. Also has a patio area and bike racks.

PUBLIC COMMENT

None

IN OPPOSITION

None

IN FAVOR

None

APPLICANT REBUTTAL

Mr. Feinour wanted to offer a rebuttal to the public comment the city received via email. He stated it will be owned by a franchisee. They own all the Krispy Kremes in Colorado. If the city gives a tax break he refers this question to the city.

Ms. Ibanez stated no we don't.

Mr. Griffith closed public comment.

QUESTIONS FROM THE COMMISSION

Mr. Hannan asked what the 2nd Floor is going to be? What is the relation for the requirement for the 2nd story?

Ms. Ibanez stated this is a pedestrian street area and this would give more use to the building.

Mr. Feinour stated it is open space. Does not function as a traditional 2nd floor. The back half is storage space. We could put more glass on the west side of the building.

Mr. Hannan asked about what the applicant said "about they could put glass on the west side." This is not in the proposed plans at this time. What the commission is voting on is what is written in the report.

Ms. Ibanez stated that is correct, the commission is voting on what is in the report.

Mr. Magee asked about the new area south of 56th some of those restaurants are not 2-story. Why is that?

Mr. Smetana stated that the area was approved under PUD, not the current LDC requirements.

Ms. Ibanez stated that the City Council wants this area to be pedestrian friendly. To be able to walk from old Wadsworth to the new area. This area was approved under the new LDC (Land Development Code)

Mr. Magee asked if the 2nd floor is not going to function at all?

Mr. Feinour stated no it will not.

Mr. Aljinovich asked about the parking and it is available until phase 2? Then what happens.

Michael Hart from Kimley-Horn 6200 S Syracuse Way, Greenwood Village, CO 80237. Currently focuses on the major modifications that are being presented today. In the master development plan staff asked that a 2nd building be built.

Mr. Aljinovich asked what about the deliveries and how would they be managed, along with the delivery trucks and size of these trucks?

Mr. Feinour stated the schedule when deliveries would be made. Not during peak business times because of the manpower that is needed to help with the deliveries being unloaded. Would do their best not to have deliveries during peak hours but sometimes this cannot be avoided.

Mr. Aljinovich stated, based on the staff report this does not meet the requirements. What are we doing?

Mr. Smetana stated we are here to recommend for denial.

Ms. Grogg stated the developer can still proceed to City Council if they want with this plan or can make changes to their current plans.

Ms. Ibanez stated that the city has a master development plan; the developers proposal for that was also denied.

Mr. Gillitzer stated the concerns about the driveway location and how the vehicles will be entering into the driveway. Mr. Gillitzer identified staff concerns with parking and vehicles leaving. The semi that they proposed that they would be using for deliveries would not be able to engage in and out of the parking area. One parking section, including all ADA spaces, will have to cross the drive thru area to be accessed.

Mr. Griffith stated we don't normally see projects that don't comply.

Mr. Smetana stated an example of the drive thru area like In and out, and how it complied with what was being asked.

Mr. Griffith asked a question to the applicant: What is up? Why are you here? If you have been told they don't recommend this project for this site.

Mr. Feinour stated that the staff is to follow the letter of the law. We are looking at the spirit of the law.

Mr. Griffith asked a general question: is there another Krispy Kreme model that does not have the drive thru included?

Mr. Feinour: yes where the doughnuts are made elsewhere. But to be frank those models don't make as much money.

Ms. Ibanez stated they are looking at this site to make deliveries to other sites.

Mr. Aljinovich asked if their proposed site is the old Ruby Tuesdays. Asked for clarification of where the 2nd building will be going.

Ms. Ibanez stated with the proposal that Krispy Kreme would put a 2nd building in

Mr. Aljinovich asked why have the 2nd building if they have all this space? Can't they use the space better and make the entire site Krispy Kreme. Why can't they use the entire site just for Krispy Kreme?

Ms. Ibanez stated when doing infrastructure to put in all the utilities at that time then phase 2 a 2nd building can be put in. This area is a pedestrian land development area. Not an auto driven area.

Mr. Smetana stated when you have a site like this you have to meet street requirements.

Mr. Aljinovich stated he understands what the developer is saying about the spirit of the law but they are hired by the city and live by the law.

Mr. Magee stated the new town sub area plan is very car centric, how far north is it from costco? So are we getting away from that.

MOTION: Agenda Item 8.B.1.

It was moved by Mr. Magee, DA2022-0048, A Major Modification from the Land development Code Table 2-1-4-4.A, which requires that 60 percent of the frontage zone is occupied by a building, a 1.38 acre parcel of land generally located at 5525 Wadsworth Bypass, in the City of Arvada, CO. be recommended to City Council for denial.

This motion is recommended for denial based on the finding of fact based on criteria on Pages 8 & 9 of the Staff Report.

DISCUSSION OF MOTION

Mr. Griffith stated we typically see projects be recommended by staff, it is a challenge to see a recommendation for denial.

Mr. Hannan is recommended for denial. He loves doughnuts but this does not meet the criteria.

Those voting Yes: Griffith, Hannan, Ajinovich, Magee

Those voting No: None

Those absent: Gay, Knapp, Figliolino

The motion carried: 4-0

MOTION: Agenda Item 8.B.2.

This motion was removed from the Agenda.

MOTION: Agenda Item 8.B.3.

It was moved by Mr. Magee, DA2022-0048, A Major Modification from the Land Development Code Subsection 5-1-3-1.B.2, which requires that the building within the frontage shall have a height

of 25 feet with at least two usable floors for a 1.38 acre parcel of land generally located at 5525 Wadsworth Bypass, in the City of Arvada, CO, be recommended for denial.

This motion is recommended for denial based on the finding of fact based on criteria on Pages 8 & 9 of the Staff Report.

DISCUSSION OF MOTION

None

Those voting Yes: Griffith, Hannan, Ajinovich, Magee

Those voting No: None

Those absent: Gay, Knapp, Figliolino

The motion carried: 4-0

MOTION: Agenda Item 8.B.4.

It was moved by Mr. Magee, DA2022-0048, A Major Modification to the Land Development Code Subsection 5-1-3-1.B.6, which requires street facing facades that faces the street between two and 10.5 feet above grade, shall have 50 percent of wall to be occupied by windows and/or entry doors for a 1.38 acre parcel of land generally located at 5525 Wadsworth Bypass., in the City of Arvada, CO, be recommended for denial.

This motion is recommended for denial based on the finding of fact based on criteria on Pages 8 & 9 of the Staff Report.

DISCUSSION OF MOTION

Mr. Hannan stated that putting windows on the East side of the building would be great but that is not what they are voting on. So he will be voting on denial.

Those voting Yes: Griffith, Hannan, Ajinovich, Magee

Those voting No: None

Those absent: Gay, Knapp, Figliolino

The motion carried: 4-0

MOTION: Agenda Item 8.B.5.

It was moved by Mr. Magee, DA2022-0048, A Major Modification from Subsection 5-1-3-1.B.7, which requires the ground floor, shall provide a primary entrance within 50 feet of the street with a direct pedestrian connection from the priority street for a 1.38 acre parcel of land generally located at 5525 Wadsworth Bypass., in the City of Arvada, CO, be recommended for denial.

This motion is recommended for denial based on the finding of fact based on criteria on Pages 8 & 9 of the Staff Report.

DISCUSSION OF MOTION

None

Those voting Yes: Griffith, Hannan, Ajinovich, Magee

Those voting No: None

Those absent: Gay, Knapp, Figliolino

The motion carried: 4-0

MOTION: Agenda Item 8.B.6.

It was moved by Mr. Magee, DA2022-0048, A Major Modification from the Land Development Code Subsection 5-1-6-2.B.3.C, which prohibits drive-through lanes from being located between the building and an adjacent street, for a 1.38 acre parcel of land generally located at 5525 Wadsworth Bypass., in the City of Arvada, CO, be recommended for denial.

This motion is recommended for denial based on the finding of fact based on criteria on Pages 8 & 9 of the Staff Report.

DISCUSSION OF MOTION

None

Those voting Yes: Griffith, Hannan, Ajinovich, Magee

Those voting No: None

Those absent: Gay, Knapp, Figliolino

The motion carried: 4-0

MOTION: Agenda Item 8.B.7.

It was moved by Mr. Magee, DA2022-0048, A Major Modification from the Land Development Code Subsection 5-1-6-5.B.1, which requires trash enclosure to be at least 20 feet away from streets, sidewalks, and internal pedestrian connection a 1.38 acre parcel of land generally located at 5525 Wadsworth Bypass., in the City of Arvada, CO, be recommended for denial

This motion is recommended for denial based on the finding of fact based on criteria on Pages 8 & 9 of the Staff Report.

DISCUSSION OF MOTION

Mr. Hannan will be voting against the denial and feels this is a reasonable request.

Those voting Yes: Griffith, Ajinovich, Magee

Those voting No: Hannan

Those absent: Gay, Knapp, Figliolino

The motion carried: 3-1

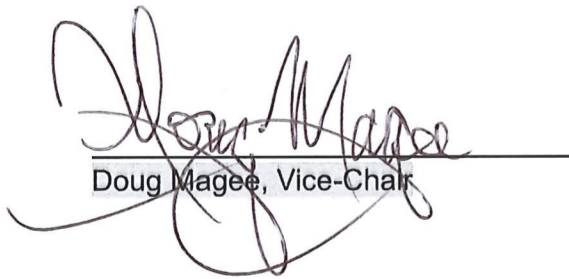
9. **OTHER ITEMS**

Mr. Smetana mentioned that we have items on the agenda for the June 20th meeting but July 4th is a Holiday. Then back on for the July 18th meeting.

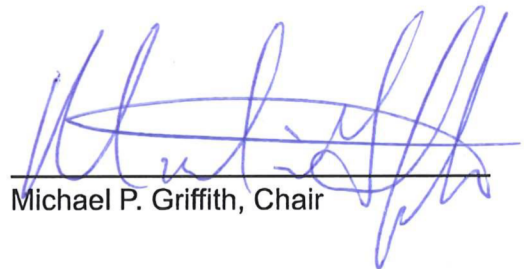
Mr. Hannan and Mr. Magee stated they will not be here for the June 20th meeting.

Mr. Smetana also let the staff know that Ryan Stachelski is no longer with the city and he is the Acting Director of Community and Economic Development.

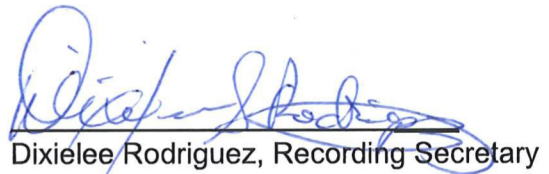
10. **ADJOURNED** at 8:38P.M.



Doug Magee, Vice-Chair



Michael P. Griffith, Chair



Dixielee Rodriguez, Recording Secretary