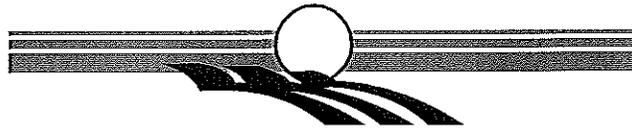


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Willard Rodarmel
Mayor Pro Tem
John Plourde
Council Members
John Gordon
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City of
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STAFF REPORT

Item # 6

To: Lemoore Planning Commission
From: Holly Smyth, Planning Director and Gloria Hobbs, Assistant Planner *HS*
Review Date: April 23, 2012
Subject: Initial Project overview of E.I.A #2012-03 /Zone Change 2012-02/Special Zone Exception #2012-01/ Conditional Use Permit #2012-01 Application by Montrio Capital Partners (excludes in-depth review of the Site Plan Review #2012-02)

A. General Information:

1. Applicant: Montrio Capital Partners, Paul Quiring
5118 E. Clinton Way, Suite 201
Fresno, California 93727
(559) 432-2800, (559) 432-6614 Fax
Email: pquiring@quiring.com
2. Property Owner: Heritage Storage Facilities – Lemoore LLC
549 Mercey Springs road
Los Banos, California 93635
(209) 829-0842
3. Engineer/Designer: Alan Weber, Weber Innes
6730 N. West #111
Fresno, California 93711
(559) 278-0900
4. Site Location: N of Railroad, E of Highway 41 and W of 19 ½ Avenue
5. Property Description: Assessor Parcel #023-460-010 & 023-460-011
6. Site Area: Approximately 11.05 total
7. Existing General Plan Designation: Professional Office
8. Existing Zone District: CH (Highway Commercial)
9. Proposed Zone District: PO (Professional Office) per 2030 General Plan
10. Special Zone Exception: From PO (Professional Office) to RM-2.5 or RMD (Residential Medium Density) under the new 2012 Zoning

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PLANNING COMMISSIONERS

Chairperson – Ronald E. Meade, Vice-Chair Jeffrey Garcia
David Brown, Bob Clement, Sharon Kendall, Jeffrey Garcia, Jim Marvin, Bill Wynne

11. Existing Use: Vacant Land
12. Proposed Use: 184 unit gated Multi-Family (RM-2.5) apartment community through Special Zoning Exception

B. Project Location & Description:

Montrio Capital Partners have submitted a Zone Change, Conditional Use Permit, Site Plan and Special Zoning Exception application to build a 184 unit gated multi-family apartment community in two phases. The proposed vacant area is a total of 11.05 acres described as Assessor Parcels #023-460-010 and 023-460-011 located north of the railroad tracks, south of vacant property and city limit line, east of Highway 41 and west of 19 ½ Avenue. The applicant proposes to change the Zone District from CH (Highway Commercial) to PO (Professional Office) to conform to the 2030 General Plan Designation of Professional Office, which is consistent with the recently adopted but not yet in effect 2012 Zoning Update. The Special Zoning Exception application is requested to allow for the zoning to change to RM-2.5 (Multi-family up to one (1) unit per 2,500 square feet of area) once the project is built as approved to reflect what would exist.

Phasing consists of 88 units in Phase I and 96 units in Phase 2. The project would provide 24 one-bedroom/one bath units at 650 square feet, 128 two-bedroom/two bath units at 925 square feet and 32 three-bedroom/2 bath units at 1,100 square feet. Apartments would be contained in two and three story buildings while the proposed recreation building would be single story. The project would incorporate a minimum 184 carports, 184 open stalls and a recreation area with an outdoor pool, outdoor cabana, entertainment area and full size washer and dryers. There are several tot lots and barbeque areas shown within the complex. Ingress/egress to the apartment complex will be from two drive approaches off of 19 ½ Avenue.

C. Environmental Impact Assessment:

A preliminary environmental impact assessment of the project was conducted by the staff in accordance with California Environmental Quality Act and is attached and labeled Environmental Checklist Form.

Traffic: Staff conducted a traffic analysis which is attached to the environmental checklist which shows that even though the project would generate more traffic than the General Plan originally anticipated the City Level of Service threshold of D could still be maintained at long-term buildout. However, Caltrans Level of Service thresholds of C in the current terms are being exceeded.

The City received a comment letter from Caltrans District 6 office on April 18, 2012 (see attached). They estimate the number of additional peak hour trips being more than 114 trips based on the ITE Trip Generation 8th Edition during the PM peak hour, believe the project will have a significant impact on the State Highway system and have stated "a traffic impact study (TIS) will be required."

In talking to a traffic engineer, staff believes that a TIS is not a reasonable request as the difference between the Professional Office trips analyzed in the General Plan EIR and the multi-family apartment trips during the pm peak hour is approximately 26 trips in the pm and 3 trips in the morning, which is fewer than what City staff estimated in the Environmental Checklist and is a negligible change (as these 26 additional peak hour trips over the estimated PO use are less than 3% of current traffic flows and 1% of future flows). As to the project's fair share towards improvements of State Highway facilities, the City has a Westside Streets and Thoroughfares impact fee in place that the project would pay into to offset improvements to City and State facilities.

Noise: A special noise analysis was conducted by Brown-Buntin Associates, as staff was concerned if portions of the project fell in the noise contours above 65 dBA CNEL, shown on Figure 8-4 of the General Plan. The study showed that future traffic noise experienced at the site would be just below 65 dBA CNEL at the worse location, and therefore, per General Plan Table 8.6 Land Use Compatibility for Community Noise Environments, Multi-Family Residential use at this location would be "normally acceptable". This was based on no sound wall being in place along the highway frontage as the highway is raised 20+ feet above the site level and would generally have no mitigation qualities. General Plan policy SN-I-35 requires that all new residential development achieve noise level reductions to meet the land use compatibility standards through acoustical design and construction of the building elements. The report summarized that to meet the City's policy, "the final project design would need to make sure mechanical ventilation or air condition be provided so that occupants may keep windows and doors closed for acoustical isolation purposes", and therefore this should be added to the mitigations and conditions of approval.

Caltrans comment's on the Noise study asked in Table 1 page 5 (see attached), why the study indicated a difference between the measured and predicted noise level as 3.9 and then adjust by -3.0. Additionally, Caltrans asked why the microphone height for measurement was 13' above the ground. Once Brown Buntin Associates replied that both were to account for worse case scenarios, Caltrans was satisfied with the noise study and had no further questions on it.

The San Joaquin Valley Air Pollution Control district has determined that the project is subject to Rule 9510 and may be subject to other Air District Rules (per their attached letter) and will need to coordinate with them prior to pulling City building permits.

The project proposes an onsite "Retention" basin which means that no storm drainage would leave the site or tie into adjacent City systems. According to the City Engineer's office, an onsite "Retention" basin would need to handle 9" of rain. In reviewing the rough cross section and layout of the Retention basin, our Engineer anticipated that the proposed basin would only handle 3.17 acre feet, which would need to be enlarged about 2.5 times to provide adequate capacity. Given Lemoore's shallow ground water table, it may not be feasible to dig deeper and make the pond work by itself. However, it appears the basin could be used as a "Detention" basin (which just handles a single rain event before water is pumped out to a City ponding "retention" basin) as it would only require 2.2 acre feet and an outlet. Therefore, the project would need to design an adequately sized storm water system to meet the City requirements to include a pipeline from onsite detention basin to City basin east of 19½ Avenue.

Other items are discussed in the checklist and its attached "explanation of other than no impact responses" page which discusses those items that should be the project mitigations. Staff has generally determined that the project could not have any significant adverse impacts on the environment as long as those listed mitigation measures are incorporated in the conditions of approval for the proposed project. When ready, the Commission should consider recommending that the City Council adopt a Mitigated Negative Declaration for the project pursuant to California Environmental Quality Act.

D. Compliance with General Plan/Zoning

The applicant has applied for a zone change for the entire 11.06 acre area from CH (Highway Commercial) to PO (Professional Office) to conform to the 2030 General Plan Designation of Professional Office (although the recently approved but not yet effective 2012 Zoning Ordinance includes a Zone change to PO for this project site but it was unknown if it would be in place prior to submitting their application). Therefore, the regular Zone Change request is consistent with the General Plan.

Property to the north of the site is designated Professional Office outside City limits, to the east is designated Industrial with an existing mini-storage facility, to the south is the railroad tracks and designated Regional Commercial vacant land, and to the west is Highway 41 with Light Industrial designated Leprino Foods West site on the westside of the highway.

General Plan: The General Plan describes Professional office as areas intended to provide an attractive work environment for those that work in Lemoore. Per the General Plan, typical uses include "administrative, financial, business, professional, medical, dental and public uses. Churches and places for religious assembly and compatible multi-family housing also are allowed. Complementary support services, such as copy shops and restaurants, also are permitted." Therefore, staff believes that multi-family housing could only be considered on a PO zoned property if it is determined that it is "compatible".

Our General Plan defines "compatible" as "capable of existing together without conflict or ill effects while our Zoning Code does not define. The American Planning Association's "A Planners Dictionary" book further defines "land use compatibility" as "the design, arrangement, and location of buildings and structures or other created or natural elements of the urban environment which are sufficiently consistent in scale, character, siting, coloring, or materials with other buildings or elements in the area so as to avoid abrupt or severe differences. The characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict. Some elements affecting compatibility include: intensity of occupancy as measured by dwelling units per acre; floor area ratio; pedestrian or vehicular traffic generated; volume of goods handled; and such environmental effects as noise, vibration, glare, air pollution, or radiation."

Intensity: The current General Plan and Zoning ordinance do not state an exact residential density to be used in a PO district; it just states that uses allowed in a R or RM district (which stand for single family and multi-family residential) are permitted. Based on allowances in these districts, density could range from as low as 1 housing unit per 10,000 square feet (4.34 units/acre), to a high of 1 unit per 2,000 (21.8 units/acre), which for this project could be from 48 to 241 units. The proposed project of 184 units on 11.05 acres constitutes 1 unit per 2,616 square feet or 16.65 units per acre which falls in the range of a RM2.5 use of one unit per 2,500 square feet. Staff has asked that a Special Zoning Exception be filed with the development application, to reflect the actual use that would be on the site after the project is constructed and is discussed further below.

Floor Area Ratio (FAR): Intensity is defined by FAR which Lemoore's General Plan defines as the maximum permitted ratio of gross floor area to site area (this is different than coverage outlined on the top of the Schematic Site Plan page). The Zoning Code defines FAR as "the ratio of total building floor area to the area of its zoning lot. Each zoning district has a FAR control which, when multiplied by the lot area of the zoning lot, produces the maximum amount of floor area allowable for all main buildings, accessory structures, and carports." The General Plan states a maximum .60 FAR intensity in a Professional Office designated district while a Medium Density Residential designation would allow up to .80 Floor Area Ratio per Table 2.2. In reviewing the project, 256,530 gross square feet of apartment unit spaces, recreation building, and carports are proposed over the 481,425 site area, equating to a .53 FAR which is within the City standards regardless of which of these two zone districts is applied.

Vehicular traffic generated by the project is discussed in the traffic section of the Environmental Checklist. In summary, the project would generate approximately 1,200 average daily trips, which is 553 more than what would have been anticipated for a professional office project at the site. The difference in peak hour traffic between the Professional Office use and the proposed project is 26 additional trips in the pm peak hour which is negligible. The overall peak hour Level of Service at General Plan build out with these updated traffic information does not cause the peak hour Levels of Service to go below D for the am or pm peak periods, and therefore the project would continue to meet City standard.

PedestrianConnectivity: The Lemoore Elementary School District Superintendant has reviewed the project and determined that improvements need to be made from the site to create a "Safe Route to School" travel path to make the project site compatible for the proposed use (see attached letter). Initially the K-6 children would be bused from the site as it is located outside the walking radius, however the future of bus transport is constantly in question, while the children going to Liberty Middle School would be required to walk to school as they are within that travel radius. Therefore, the District has requested the following:

- A bus pickup area be provided in front of the entrance to the complex on the westside of the street; staff believes this can be done through striping and not necessarily a separate turnout just north of the main entrance point
- A sidewalk on the westside of the 19½ Avenue to Bush Street intersection; staff believes this can be accommodated by the project's regular 6' sidewalk along their frontage and then an 8' asphalt path from the southerly edge of the site to Bush Street
- A crosswalk at Castle Way for those walking to Liberty Middle School; staff believes can be safely accommodated by providing an in-ground flashing sidewalk and an additional 60' or so of sidewalk, curb, and gutter to the north of the site to connect to the Castle Way crossing

Additionally, City staff believes that a pedestrian gate and entrance needs to be added to the southerly and northerly sections of the site to increase walkability and reduce jumping of the fence/walls where not pedestrian access is not available.

Odor: General Plan policy COS-G-13 states "Minimize exposure to toxic air pollutant emissions and noxious odors from industrial, manufacturing and processing facilities." It is uncertain given the prevailing Southeasterly wind, if this site would experience periods of time when they could smell odors from Leprino Foods. However, General Plan policy COS-I-49 "Requires tenants of all new development within one mile of industrial land uses to record odor easements attesting to the presence of nearby industry and acknowledging the right of said industry to emit odors that are not a threat to human health." Because the site is located within 1-mile of Leprino Foods' West plant, the developer would need to record an odor easement and provide disclosure to tenants.

Zoning: Current zoning regulations state that the Professional Office district is "intended to provide opportunities for the location of professional and commercial offices in close relationship to one another in areas designated for combined professional office and high density use by the General Plan; to provide adequate space to meet the needs of such offices for off-street parking and loading space; and to protect offices from noise, disturbances, traffic hazards and another objectionable influences which would adversely affect professional and business practices being carried on. This district is also intended for application to those areas of the City where it is necessary and desirable to encourage the full development of properties which lie between residential and nonresidential districts and which, because of excessive site area, poor platting or mixed residential and non residential land use, cannot be practically included with residential districts as provided by this Title. Any use permitted in any R or RM District are permitted uses under Professional Office."

Staff believes that the original intent of the PO district allowing R and RM uses was to accommodate the existing single family and duplex units surrounding downtown to allow for a slow conversion of the housing units into office space. The proposed new Zoning Code Allowed Uses Table 9-4B-2, which does not apply to this project, also shows multi-family residential potentially being permitted through a conditional use permit. The General Plan pre-empts the Zoning Ordinance and therefore the "compatible multi-family housing" determination must be made to allow for the multi-family residential on the Professional Office zoned property.

Jobs/Housing Balance: The General Plan designated land uses strive to create a jobs-housing balance of .95 (as the business/technology/industrial reserve area was eliminated thus reducing the 1.00 ratio to .95) citywide to reduce the reliance on automobiles and time spent on travel". At the time of General Plan adoption, the City had a jobs/housing ratio of .55. By utilizing the Professional Office designated land for apartments, professional office land uses or that portion of Mixed Use land anticipated to be professional office will be reduced by 14.2% (from 78 acres identified in Table 2.3 of the General Plan to approximately 67 acres). When the 2030 General Plan was adopted, the amount of Professional Office designated space was increased within the Urban Growth Boundary from 8 acres to 78 acres to accommodate a future 1,939 professional office jobs (which could be between 24.9 to 27.7 jobs per acre depending on the amount of existing PO designated land that was already providing some of the jobs). By utilizing the project site for apartments, approximately 275 - 306 potential jobs could be lost and the jobs/housing ratio number be further reduced. Based on Table 1.6 Jobs/Housing Balance in the General Plan, the ratio could drop to .92 - .94 depending on how one calculates the numbers.

Compatibility Determination: Based on the evaluation of project's impacts discussed above and locational characteristics of other apartment/multi-family complexes, the site characteristic's are somewhat similar to those of College Park Apartments and Daley Patio Homes. However, this site has vacant Professional Office designated land to the north, Industrial designated land with an existing mini-storage facility to the east, railroad tracks and vacant designated Regional Commercial to the south, and Highway 41 to the immediate west (with Light Industrial designated Leprino Foods directly opposite the site on the westside of the highway). It might be determined that the proposed mitigation measures and conditions of approval may appropriately offset the conflicts of the project site and might be considered "compatible" for multi-family residential on the Professional Office site. However, it is up to the Planning Commission and City Council to make the final "compatibility" determination for the proposed use, at the proposed location, given the site specific conditions based on the whole record.

D. Special Zoning Exception / Conditional Use Permit:

The purpose of a Special Zoning Exception is so that an area is guaranteed a specific project and not just multi-family zoning without a project tied to it.

Staff asked that the applicant to file for a Special Zoning Exception application to allow the Professional Office zoning to change to RM-2.5 where typical lot size for multi-family residential uses is 2,500 minimum site area per dwelling unit. The Exception is not required to construct the multi-family units on Professional Office piece if approval by the decision makers, it would just reflect what is constructed on the ground once completed.

The process for special zoning exception involves amending the zone district boundaries and the filing and granting of a Conditional Use Permit by the Planning Commission and City Council after public hearings before each body have been appropriately noticed and held. It requires that the site be developed in accordance with approved plans, for a particular purpose and within a prescribed time period. The actual zone change becomes effective only after the project has been completed within the set time period or any extension approval period granted by the City. Given the fact that the new Zoning Code will be in place well before construction could potentially begin, staff would recommend that the Zone Exception be to the new RMD (Residential Medium Density) designation which allows 12-17 units per gross area instead of the RM-2.5 (which is going away with the new Zoning Code). In the event the applicant fails to develop and use the property in accordance to the above mentioned sections and all its provisions, the application will be deemed to have been denied as of the date of the granting of said exception and the property would keep the PO designation.

The applicant's request for Special Zoning Exception and the Gated Community component also require granting of a Conditional Use Permit (CUP) as stated in the Lemoore Code based on the following criteria and findings:

Criteria 1: That there are circumstances or conditions applicable to the land, structure or use which makes the granting of a conditional use permit necessary for the preservation and enjoyment of a substantial property right.

According to the application, the applicant answered no to this question. Staff assumes that the applicant was answering the question in regards to the Special Zoning Exception component of the CUP and not the gated community component of the CUP.

The site is currently designated Professional Office (PO) in the 2030 General Plan and is intended for typical uses including research and development, administrative and general offices, corporate or regional headquarter offices, medical offices, professional services, light industrial uses, warehouse and distribution. A limited amount of retail and service activities is also planned to service employees and businesses in the area. This zone district also allows for R or RM district that is compatible. Therefore, the CUP tied to the Special Zoning Exception is not needed to enjoy the apartment portion of the project, as they could build in a PO district if compatible. The request for the Zone change of a special zoning Exception was only requested to reflect what was on the ground after constructed.

The applicant shows a 6' steel picket fence gating along their frontage with entry gates for autos and pedestrians on the Site Plan, has verbally stated that they want a gated community but do not discuss in the Conditional Use Permit Application. Staff assumes, based on conversations with the applicant, that the Gated Community component of the CUP is necessary to insure safety for the residents given its location that residents may not be able to enjoy without granting the gating.

Criteria 2: That the proposed location of the conditional use is in accordance with the objectives and purposes of the zone district in which is it located.

If the apartment use in the Professional Office (PO) zone district is determined to be a compatible use, then the Special Zoning Exception from PO to RMD (Residential Medium Density) would also be compatible and meet the purpose of that district.

General Plan policy CD-I-47 states to "Discourage gated communities that restrict public access to multi-family and single family residential areas but permit only if they do not result in cutting off critical access between neighborhoods in accordance with thresholds, standards, and design criteria and conditional use permit process described in the Zoning Ordinance consistent with other General Plan policies. Small Town character should remain an important factor throughout the design of any proposed gated community." Because the project site cannot physically connect past the highway or the railroad tracks it could not connect to adjacent sites or become a physical barrier between future neighborhoods.

Criteria 3: That the proposed use will comply with each of the applicable provisions of the City's Zoning Regulation.

The Site Plan Review approval would insure that the project is constructed to comply with the Zoning Regulations in place at the time there application was deemed complete. The site specific characteristics will be reviewed to ensure that the site characteristics meet City Standards.

Current Zoning Code Section 9-7A-7 Fences, Walls and Hedges requires Gated Communities to meet the following regulations, which are italicized, with the responses following:

Basic Threshold conditions:

a. *Development design should not become a physical barrier between neighborhoods, parks, or schools and cannot adversely affect vehicular, bicycle, or pedestrian connectivity in line with general plan policy CD-I-44.* Because the project site cannot physically connect past the highway or the railroad tracks it could not connect to adjacent site and become a physical barrier between future neighborhoods.

b. *At least two (2) but no more than four (4) ingress/egress roads must be provided into the gated community complex so that one may enter one gate and exit the other without turning around.* One full ingress/egress road is proposed for the project with a secondary access with egress only meeting this requirement.

c. *Stacking distance (also known as throat distance) between gates and localized streets shall be a minimum of forty feet (40') and eighty feet (80') on connector or major thoroughfares from the back side of public sidewalk to gates. Additional length may be required should the peak traffic flow into the complex or subdivision need additional stacking and/or high speed or high volume traffic flows on adjacent street require additional length for traffic safety and emergency vehicle access at the discretion of emergency services.* It appears that 85' of distance exist between the property line and the proposed fencing, meeting this policy.

d. *Drive entrances shall be wide enough to accommodate separate drive lane for visitors and room for a turnaround area for visitors and vehicles entering in error. The turnaround area shall not interfere with normal egress/ingress.* The main entrance accommodates this for visitors.

e. *No existing or future general plan proposed pedestrian walkways or bicycle paths shall be hindered or blocked with the design of a proposed gated community.* The General Plan designates a bikeway along the 19½ Avenue frontage which would be striped in the street and would not be hindered by the fencing.

f. *Streets, parks, landscape areas or other common spaces within a gated community may not be publicly owned facilities.* Because this is an apartment complex, all these listed spaces are within the site and privately owned.

Building and Traffic Related Conditions:

a. *Perimeter fencing shall follow general residential fencing policy requirements listed in this section in regards to height, setbacks and permeability and its design shall incorporate decorative fencing features in accordance with general plan policy CD-I-56. Policy CD-I-56 "limits the height of fences and walls to 3' for the primary street frontage, and five feet from secondary frontages". The Zoning Ordinance states that "front yard fences cannot exceed 3½' in front of the buildings, and solid or permeable fences or walls taller than three and one-half feet (3½') up to seven feet (7') may be located even with or behind the main building structure along the property line of single-family interior lots."* Given this conflict and lack of clarity as to apartment applicable, staff assumes that the proposed permeable 6' fencing proposed even with or behind the buildings meets the intent of these requirements. However the 6' masonry wall along the northerly and southerly perimeters that extends to the property line needs to be pulled back even with the building frontages and permeable fence. The design of the fence has not been provided and should be approved by staff separately with the construction drawings.

i. *Pedestrian walk-through gates shall be provided adjacent to all vehicular gates at a minimum with additional entry points provided for schoolchildren and parents as determined by the planning department to maintain adequate access to school designated bus stops, Kings area rural transit stops, and local amenities, such as shopping, and banking, within walking distance.* In speaking with the Police Department, Public Works, and the elementary school superintendent, two additional pedestrian gates will need to be provided, one at the southerly vehicle entrance which

may require the vehicle gate type changed to a swing gate in order to accommodate, and one added to the north, one building south of the property line.

The other sections 9-7A-7E-2 b through j (excluding i. discussed above) and 9-7A-7E-3 a through g will need to be met as they are standards, including that the gates be open during daylight hours.

D. Public Input:

Because the project includes a Zone Change, a Conditional Use Permit and Site Plan for multi-family containing more than four dwelling units, the Planning Commission is required to hold a public hearing and make a recommendation to the City Council via resolution or report. The Council is then required to hold a public hearing, make a special finding in writing as to whether the zoning amendment is required in order to achieve the objectives of the zoning ordinance and "approve, modify or disapprove the recommendation of the Planning Commission". A notice was published in the Lemoore Advance and notices were sent out to property owners within 300' of the project site to their mailing address of record, as kept by the Kings County Assessor's office. To date no property owner comments have been received.

Staff suggests that the public hearing be opened at the meeting and continued to the next meeting so that all the project components can be fully reviewed.

E. Comments from Other Agencies/Departments:

Referrals were made to various agencies and City Departments. Comments were received from the Public Works Director, City Engineer Quad Knopf, Fire Chief, San Joaquin Valley Air, Lemoore Union Elementary School District, Caltrans and their comments have been incorporated in this report.

F. Recommendation:

The Planning Commission should listen to the initial staff report, open the public hearing to take initial comments from the applicant and the general public, continue the public hearing to the May 14th meeting, and discuss the initial project overview. The remainder of the project's Site Plan review will be ready for further discussion at the next meeting.