

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
WEDNESDAY, MAY 11, 2005 – 6:30 P.M.  
CITY HALL  
CITY COMMISSION CHAMBERS – 1<sup>st</sup> Floor  
100 N. ANDREWS AVENUE  
FORT LAUDERDALE, FL**

**BOARD MEMBERS**

	<b><u>Present/Absent</u></b>	<b><u>Cumulative from January 2005</u></b>
Gus Carbonell	P	6-0
Don Larson	P	6-0
Scott Strawbridge	P	6-0
Fred Stresau	P	5-1
Binni Sweeney	P	4-2
E. Birch Willey	P	6-0
Patricia A. Rathburn, Chairman	P	4-2

**ALTERNATES**

Al Massey	P	5-1
Gerald Jordan	P	2-1

**STAFF**

Robert Dunckel, City Attorney  
Don Morris, Acting Zoning Administrator

Margaret A. D'Alessio, Recording Secretary  
Jamie Opperlee, Court Reporting Service

**GUESTS**

Charles Love	Ray Figueroa
John George	Tony Ferrari
Tom Gleason	Al Franco
Joyce Franco	Christa Baumgart
Donald Rotall	Heidi Davis
James McCulla	Vivian Godfrey
Jack Loos	Doug Bier

**CALL TO ORDER**

Chair Patricia Rathburn proceeded to call the meeting to order at approximately 6:37 p.m. and explained the procedure to be followed for tonight's meeting. The Board was then introduced.

## **APPROVAL OF MINUTES**

**Motion** made by Binni Sweeney and seconded by Don Larson to approve the minutes of the March 9, 2005 meeting. Board unanimously approved.

**Motion** made by Binni Sweeney and seconded by Birch Willey to approve the minutes of the April 13, 2005 meeting. Board unanimously approved.

Disclosure was made by Binni Sweeney that she had spoken with James McCulla regarding The Harbor Shops. Don Larson disclosed that he had spoken with Don Hall regarding The Harbor Shops. Chair Patricia Rathburn disclosed that she also had spoken with Don Hall regarding The Harbor Shops. Scott Strawbridge disclosed that he had spoken with James McCulla and Heidi Davis regarding The Harbor Shops. Birch Willey disclosed that he had also spoken with James McCulla regarding The Harbor Shops.

## **2. APPEAL NO. 05-16**

**APPLICANT:** Water Taxi, Inc.

**LEGAL:** **East Side – That portion of land underlying State Road A-1-A (SE 17<sup>th</sup> Street Causeway) in Sections 13 and 14, Township 50 South, Range 42 east, Broward County, Florida lying East of and adjacent to the Existing Right-of-Way for the Intracoastal Waterway**

**West Side – That portion of land underlying State Road A-1-A (SE 17<sup>th</sup> Street Causeway) in Sections 13, Township 50 South, Range 42 east, Broward County, Florida, lying West of and adjacent to the Existing Right-of-Way for the Intracoastal Waterway.**

**ZONING:** **RMH-60 (Multi-family Residential)**

**STREET:** **17<sup>th</sup> Street Causeway/East & West Intracoastal Waterway**

**ADDRESS:** **Fort Lauderdale, FL**

**APPEALING:** **Sec. 47-24.12A.6** - To permit a temporary non-conforming use approval for a marina.

**APPEALING:** **Sec. 47-5.21.A** – To permit a marina in RMH-60.

**APPEALING:** **Sec. 47-6.11.B** – To permit a conditional use marina in B-1.

**APPEALING:** **Sec. 47-20.3** – To permit parking reduction and exemption for 28 parking spaces.

**APPEALING:** **Sec. 47-24.2.c** - Exemption from Site Plan Level III.

**APPEALING:** **Sec. 47-20.4.B.1** – To allow off-street parking.

**APPEALING:** **Sec. 47-25.3.a.i.ii.b** – Exemption for lighting requirements.

**APPEALING:** **Sec. 47-21.3** – Exemption from landscaping requirements.

**APPEALING:** **Sec. 47-25.3** – Exemption from requirements of neighborhood compatibility.

Chair Patricia Rathburn stated that this item has been withdrawn by the applicant.

**ALL INDIVIDUALS WISHING TO SPEAK ON THE MATTERS LISTED ON TONIGHT'S AGENDA WERE SWORN IN.**

**1. APPEAL NO. 05-07**

**APPLICANT:** Tony Ferrari

**LEGAL:** "Lauderdale Isles No. 2", P.B. 41,  
P. 10, Block 12, Lot 18

**ZONING:** RS-5 (One-Family Detached Dwelling District)

**STREET:** 2606 Whale Harbor Land

**ADDRESS:** Fort Lauderdale, FL

**APPEALING: Sec. 39-275.3.C** – To allow a deck to setback 0' from the side and rear property lines where a 5' setback is required.

**APPEALING: Sec. 39-275(12)a** – To allow a dock to setback 10" from the side (south) property line and 7.5' from the side (north) property line where a 10' setback is required.

Chair Patricia Rathburn announced that this item had been deferred from the April 13, 2005 meeting.

Don Morris stated that when this item was deferred, it was requested that the applicant submit cross-sections of the dock in questions. He proceeded to distribute copies of such information to the Board.

John George, attorney, stated that he represented the applicant. He explained that this was an area that had been annexed by the City, but their Code has not been adopted for the area. County Code requires a variance to permit the building of this structure. He explained further that the dock would be at ground level and no higher than the thickness of the wood. The dock will only extend 3'. He stated the dock and the deck would run side-by-side the width of the back yard.

Chair Patricia Rathburn asked for some further clarification of the City's rules.

Don Morris stated that the dock is permitted under the City's rules, but the issue is whether or not they were going to adopt the rules for this area. At that point, they are not certain what the requirements would be for a dock because an agreement was made with the area that they are going to use "Save our Homes," which means unique development standards would be created for the neighborhood in order to maintain the character of the area.

Mr. George further stated that other docks in the area run the length of the properties. He explained there is opposition from property owners across the water who stated it would be difficult to navigate their boats through the area. One neighbor also opposed a wall that had been built. He clarified that everything Mr. Ferrari has done to improve his property was done with permits issued by the City.

Chair Patricia Rathburn proceeded to open the public hearing.

Ray Figueroa, President of the Lauderdale Isles Civic Improvement Association, stated he represented an area of 700 homes on 13 streets. He explained that 12 of the 13 streets were waterfront properties. He stated the homes had been built in the 1950's on smaller lots. Normally, the lots are 65' to 75' wide by 105' deep. He stated the lots originally came with 20' to 30' wide docks which were more than sufficient for a boat. He stated that many docks over the years had

been built illegally and defied Broward Codes. He stated further that dockage close to the Downtown has become very expensive and ranges from \$1.00 to \$1.50 per foot per day. People looking for cheaper dockage were moving up the River in these types of neighborhoods. Many homeowners applied for variances, extending their docks, in order to accommodate additional boats illegally. He stated they wanted to stop the illegally dockage and preserve the character of the neighborhood. He explained they did not want mini-marinas in the area. He explained that there was no need for docks to be larger than 20' to 30' long. He stated these size docks do not cause a hardship. He stated that if everyone put in such large docks, it would reduce the navigable space on the waterway and security for the area. He explained the canals in this area were smaller than in other parts of the City. He further stated that the Board would be on a "slippery slope" if they allowed this variance to be granted. He urged the Board to reject this application.

Binni Sweeney asked what were the setbacks in Broward County. Mr. Figueroa stated they were 10' from the property line to the dock. Binni Sweeney asked how many of the houses in the area belonged to the Association. Mr. Figueroa stated he did not have an accurate number, but would guess about half. Binni Sweeney asked if a meeting was held with the Board of Directors to discuss this application. Mr. Figueroa stated that a meeting was held with the property owners most affected, and a personal case was brought to their attention, and the Board decided to support their case, along with the larger picture in general.

Charles Love, Vice President of Lauderdale Isles Civic Improvement Association, stated that 8 permits had been granted to the applicant. He explained some were in question, non-compliance, and in violation of the standards. He further stated that the applicant had applied for a 6' wall on the south side of the property, but the wall was 7 ½'. Inspectors found the work to be inadequate. He stated there is no hardship at the property for a variance to be granted. He stated the permit the applicant has is for the repair of the seawall, but he has placed 8 or 9 piles with caps on the dock. He further stated that their Association was opposed to anything contrary to the County Code.

Joyce Franco stated that she lived across the canal from the applicant. She stated further that she also represented some of the surrounding neighbors. She added that she had written an article regarding preserving the uniqueness of Lauderdale Isles, especially the navigation of the canals. She continued stating that they wanted the character of their neighborhood to remain the same. She proceeded to read the last paragraph of her article as follows:

"Lauderdale Isle residents should be able to enhance their homes and the land around them, but there is no reason to have to extend the docks so much that they need a variance. Doing so only creates a hardship for their neighbors. We must remember that it is these neighbors who together formed this wonderfully unique community we wish to preserve."

Ms. Franco stated that it is all about being a good neighbor. She stated that she has letters from nearby residents opposing the variance request, along with 24 signatures. She added that some individuals had received notification of the meeting three weeks after it had occurred, and yet some people living on the canal had not received any type of notice at all. She stated that the places in Lauderdale Isles are destinations and not normal thoroughfares. She asked that the waterways not be interfered with.

Scott Strawbridge asked how many out of the 24 houses signing the petition were members of the Civic Association. Ms. Franco replied that she did not know the answer to that question. She stated that it was not important who belonged to the Civic Association, but that they were neighbors attempting to protect their community.

Scott Strawbridge stated that there was a setback for vessels in the City, and asked if there was a setback for boats.

Don Morris, Planning and Zoning, stated that the vessels had to meet the zoning for principal structures. Ms. Franco replied that the County requirements were 10' on each side.

Scott Strawbridge asked if the variance would permit the applicant to dock a boat from property line to property line, and would it have to be 20' shorter than the width of the property to meet the County Code. Don Morris explained that the boat would have to meet County requirements.

Chair Patricia Rathburn commented that everyone appeared to be addressing the issue of the dock, but no one had spoken about the deck.

Christa Baumgart stated that the applicant had placed compressed gravel against the concrete wall and it went above her carport and driveway. She explained that there was a drainage problem. She added that the swale was turned into a concrete slab 1' above the street and her driveway.

Chair Patricia Rathburn clarified that the applicant was requesting a variance to permit the deck in the backyard. She remarked that the problems regarding the front yard were a separate issue.

Ms. Baumgart further stated that if everything is the same level, there would be no drainage. Therefore, the problems they were having in the front yard would also occur in the backyard.

Al Franco stated that he had called the environmental people because the water was pouring down from the applicant's house into the canal, and there was a cover of oil and gasoline on top of the water. He believed it was coming off the road due to the raising of the swale. He further stated that the applicant had applied for a permit to repair a seawall that was not damaged, and pilings had been put in because he had planned to put a concrete dock on top, and then it would be higher than the seawall. This would cause a worse run-off problem for the site. He stated that a Code Inspector needed to revisit the site. He explained that he had been a Code Enforcement Officer in the Police Department, and remarked that this situation had not been handled properly. He stated the residents were asking for this situation to be reviewed. He added that a wall had been built around his entire house, and he did not feel that had been necessary. He further stated that they lived in a civilized Country and it needed to be kept that way.

Mr. George stated that many of the complaints recently voiced had nothing to do with the request for the variance. There were no code violations regarding drainage into the canal. The cross section provided indicated the exact height of the deck, and the rear property was sloped down below the property line mentioned by the next-door neighbor. He reiterated that they were not going as wide as permitted by both Codes. He further stated that there was no legal basis not to approve this request.

Chair Patricia Rathburn stated that the applicant had to show that he met the criteria for the granting of a variance in accordance with the City's ULDR. She stated that a hardship had to be shown and that unique and special circumstances had to exist.

Mr. George further stated that ultimately what they were seeking had been done in other instances and decks in the area did run from property line to property line and beyond. He stated that residents in the area were being hypocritical. He reiterated that the applicant was attempting to improve his property.

Chair Patricia Rathburn explained that if individuals built from property line to property line, then they violated the County Zoning Ordinance which had been in existence. She stated that she represented the Broward County Board of Adjustment, and that they would have had to come before that Board, and she did not remember many of such requests.

Mr. George stated there was no evidence that anyone violated any Code requirements. Chair Patricia Rathburn agreed, but stated that there was also no evidence that things were obtained legally either.

Gus Carbonell asked how the boats were regulated in the County.

Don Morris stated that he was not able to answer that question, but whatever was approved by this Board, the applicant would still have to meet the County's requirements. If a percentage requirement was to be met, that would have to be done. Nothing would be approved tonight that would be a variance to those requirements.

Mr. Love explained that at present the canal was 60' and the County code required 1/3, 1/3, and 1/3.

Gus Carbonell stated they had obtained a permit to repair the seawall, but it appeared the batter piles were placed further from the seawall than what was normally done.

Tony Ferrari, applicant, stated that his request had been approved by the Engineering Department, but they had not been aware that the area was to follow the County codes. He stated that an Engineer had visited the site, and Mr. Morris had told him that if the batter pilings were installed, he could then put in the dock.

Don Morris stated that he relied on the Engineering Department to regulate the codes, and he had nothing to say whether pilings had been installed correctly or not. He added that he did not recall asking Mr. Ferrari if he had installed his dock.

Gus Carbonell further stated that sometimes seawall repairs entailed putting in batter piles on an angle, and then pouring a new wall which was normally 2" in front of the face of the pilings and done for aesthetic purposes. He stated that he would consider reducing the width of the cap of the seawall in order to conceal the pile caps, and terminate the piles on either side instead of going to the property lines.

Mr. George reiterated that the applicant had relied on the City Engineers to approve the request. He stated that the wrong code had been applied, and it would be unfair to the applicant to tell him after the installation that they could not be used. Mr. Ferrari stated that there had been no problems with his seawall.

Gus Carbonell stated that the permit was for repairing a seawall, and he did not think it was for the installation of a dock. He believed the pilings could remain.

Scott Strawbridge asked what was the hardship for the variance and why was a 68' dock necessary.

Mr. Ferrari stated that he had received approval from the Engineering Department. Scott Strawbridge clarified that a visual hardship was involved. Mr. Ferrari agreed. Scott Strawbridge asked what the deck had to do with this issue. Mr. Ferrari stated that he had to put in a 3' wide footer next to the wall and no planting could be done in that area. Scott Strawbridge asked how they were preventing a reasonable use of the property.

Mr. George replied that the City had approved the design plans and construction commenced. After construction was well under way, the applicant had been informed that he could not build what he was attempting to do.

Scott Strawbridge asked if the City had approved plans for the dock and the deck or just for the seawall. Mr. George stated that plans had been approved for the dock, the deck and the wall. Scott Strawbridge asked if a permit had been approved for the building of the dock. Mr. Ferrari replied that the piles had been approved, but no permit had been issued for the dock or the deck.

Binni Sweeney asked for further clarification of the applicant's permits.

Mr. Love stated that the permit granted stated it was for "repair of seawall only." A copy of the permit was submitted to the Board.

Fred Stresau stated that the Board had nothing to do with the width of the seawall tonight. They were addressing the deck going to the property line, along with the length of the dock as it addressed the waterway. He reiterated that drainage was not being addressed, nor would they address the vertical wall. He stated further that throughout the City of Fort Lauderdale, according to the Code for decks, it stated: "At grade decks shall be permitted in all zoning districts within the front yard, side and rear yards." He continued stating that part of the Board's concern at the previous meeting was the elevation of the deck. The applicant had submitted information that the deck would not exceed 7" above the top of the seawall. He stated that the applicant would not necessarily have to prove a hardship regarding the deck because they were permitted in the City. He further stated that decks did not have setbacks and could run to the property line.

Fred Stresau continued stating that he had asked when the City was going to get to the zoning for the neighborhood, and the City did not know. He stated that no matter what was done regarding the zoning, they were not going to change the area any differently from other parts of the City. He felt it was clear they should approve the deck. In regard to the dock, he did not have any doubts that when the City did the zoning for the area that it would be the same as the rest of the City. He stated the boat behind the house would have to meet the required side yard setbacks. He stated there probably would be a 10' side yard setback for the boat being docked. He stated that he did not see why they would permit a dock to extend any further than up to the 10' side yard setback. He proceeded to read Section 47-19.3 of the Code: "Mooring structures shall not extend into a waterway more than 5' beyond the property line unless the waterway exceeds 50' in width, but in no case shall the dock or slip extend more than 10% of the width of the waterway." He stated they were well within the City's code for every waterway regardless of its location in the City in relation to the width of the dock.

There being no other individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Fred Stresau and seconded by Binni Sweeney to close the public hearing. Board unanimously approved.

Chair Patricia Rathburn stated that she agreed with Fred Stresau's comments regarding the deck, and that a base criteria was developed for annexed areas. If they were now in the City a variance was not needed if the Code requirements were met, and therefore, they would not be treated any differently than someone currently living in the City. She further stated that she also agreed

regarding the dock and that it was not permitted by either the County or the City, and that no hardship was presented.

Binni Sweeney asked about the commitments made to the annexed areas. Don Morris stated that when the Riverland area was annexed part of their agreement was termed as "Save Our Homes." He explained that the idea was that the residents of the area believed their neighborhood had unique characteristics that would be lost if City zoning codes were applied. Binni Sweeney asked for some examples. Don Morris stated that he did not believe any special examples had been cited. He further stated that during annexation such agreement was entered into. He continued stating that during annexation, they had to go through a Land Use Amendment. One of the requirements was that they had to study the area and figure out the density. They discovered the density was not what the County had issued, and they were now going through a process recently approved by the City Commission to re-land use the area. Once that was completed and the plan was re-certified, then they could begin the process of assigning zoning classifications to the area. He continued stating that one of the things they had committed to was working with the neighborhood to identify the unique characteristics, and to structure the zoning in a fashion to permit certain things under the new classifications.

Binni Sweeney clarified that regarding the density, they were going to retain it as it existed, opposed to what it would be correspondingly for the City. Don Morris confirmed and stated that was a challenge facing the City because they did not have a zoning classification which addressed the present density.

Gus Carbonell stated that he believed the City permitted docks to go from property line to property line, and the City and the County both regulated the distance of the boat from the property line. He reiterated the bigger the dock, the smaller the boat. He further stated that there were many seawalls in this area in disrepair and some were low, and he felt more of these types of requests would be coming before this Board and a precedent would be set in regard to what would take place this evening.

**Motion** made by Binni Sweeney and seconded by Fred Stresau to approve the request as presented regarding Sec. 39-275.3.C. Roll call showed: YEAS: Fred Stresau, Birch Willey, Gus Carbonell and Patricia Rathburn. NAYS: Don Larson, Binni Sweeney and Scott Strawbridge. Motion failed 4-3.

**Motion** made by Binni Sweeney and seconded by Birch Willey to approve the request as presented regarding Sec. 39-275(12) a. Roll call showed: YEAS: None. NAYS: Fred Stresau, Don Larson, Birch Willey, Binni Sweeney, Gus Carbonell, Scott Strawbridge, and Patricia Rathburn. Motion failed 0-7.

### 3. APPEAL NO. 05-17

**APPLICANT:** The Harbor Shops

**LEGAL:** Parcel P.B.C of Port Business Center, P.B. 170, P. 42 & 43,  
together with Parcel "A" 1301 Plat, P.B. 171, P. 60 & 61,  
together with Parcel "A", Dolphin Plat,  
P.B. 172, P. 138-140

**ZONING:** PEDD (Port Everglades Development District)



**STREET: 1800 S.E. Cordova Rd.**  
**ADDRESS: Fort Lauderdale, FL**

**APPEALING: Sec. 47-15.23 Table 1 Commercial and Industrial Signs – Occupant Identification** Building B: Fifteen signs exceed the 5' height requirement for occupancy identification signs and out of those 15 signs, 4 signs exceed the 15 sq. ft. aggregate requirement. Building C: 1 sign exceeds the 5' height requirement and the same sign exceeds the 15 sq. ft. aggregate requirement. The letters of the copy on the occupancy identification signs are 12" where 8" is required.

**APPEALING: Sec. 47-15.23 Table 1 Commercial and Industrial Signs – Directional or Informational** Requesting 2 directional signs that are not located at street access points. The directional signs exceed the 12 sq. ft. aggregate requirement and the 4' height requirement.

**APPEALING: Sec. 47-15.23 Table 1 Commercial and Industrial Signs – Ground** Requesting 1 ground sign, where ground signs are not provided for in the PEDD zoning district.

**APPEALING: Sec. 47-15.23 Table 1 Commercial and Industrial Signs -** Requesting 3 point of purchase signs, where point of purchase signs are not provided for in the PEDD zoning district.

Don Hall, attorney, stated that he was representing the applicant. He stated that James McCulla and Jack Loos were also present this evening. He explained that this application appeared complicated, and he hoped to explain why these requests were being made and why they should be granted.

Mr. Hall continued stating that this property is located south of 17<sup>th</sup> Street and consisted of over 19 acres in the Port Everglades Zoning District. He stated that about 4 years ago this Board granted a use variance for the property permitting construction of the Publix anchored shopping center. The variance was needed due to the fact that this zoning district did not permit retail as a primary use. He stated that when signage needed to be approved, many questions arose. He stated they were referring to Buildings B and C and the 2<sup>nd</sup> floor retail elements. He explained the first floor signage was permitted in accordance with the B-1 zoning requirements. They were under the impression that such requirements would also pertain to the second floor, but that was not the case.

Mr. Hall stated that apparently the City Code did not address second floor retail or its signage. He explained the applicant was requesting signage at the 2<sup>nd</sup> floor retail level, along with a directional sign and the 3 ground signs.

Mr. Hall stated that in staff's report under Sec. 47-15.23 Table 1, the final sentence read: "A portion of the occupancy signs for Charlie's Locker is 20."

Chair Patricia Rathburn asked if the applicant is requesting something greater than what had been advertised. Mr. Hall confirmed. He felt the subject matter and nature of the issue was addressed in the notifications.

Robert Dunckel stated that historically if the applicant requested more than what had been advertised for at the hearing, the Board did not have jurisdiction to hear such a request.

Chair Patricia Rathburn asked if the applicant wanted to proceed regarding the 12". Mr. Hall explained it would not do them any good in regard to Charlie's Locker or Blue Water Books.

Fred Stresau stated that the "C" in Charlie and "L" in Locker was about 21" and the remaining letters consisted of 12". Mr. Hall confirmed. Fred Stresau stated that about 10% of the total graphics consisted of the larger letters.

Robert Dunckel stated that in cases where this had arisen in the past, it was a situation where the total request for the variance had exceeded the requirements. In this case it was a proportionality issue. He stated that according to Fred Stresau's measurements, 95% of the letters met the 12" requirement, and 5% did not. Therefore, he would leave it up to the Board instead of laying down an absolute rule.

Photographs of the signs were shown to the Board.

Binni Sweeney stated that she had a problem of them not adhering to past policy. She stated that she had no objection to the signs, but something else had been advertised.

Vivian Godfrey stated that she was the Co-Owner of Blue Water Books and Charts. She continued stating that it was her impression that individuals suffering a hardship could bring such information forward to this Board.

Chair Patricia Rathburn stated the Board was presently discussing a procedural issue.

**Motion** made by Binni Sweeney and seconded by Scott Strawbridge to table this item until June 8, 2005 at 6:30 p.m.

Chair Patricia Rathburn stated that not all the signs were involved. She stated that the variance could be approved for 12", and then the applicant could reapply for something else.

James McCulla stated he was the owner's representative in regard to leasing and property management, along with some development matters. He continued stating that he had attended the meetings with City staff, and no dimensions had been submitted for the signs. He believed there was a Scrivener's error. He explained they had informed Staff that the standard second-floor signage would now be uniform as to size, letter, color and area. All but four would be 9' long or less, 1' high, and flower pot in color. Until today, they were not aware of the letter sizes for Charlie's Locker or Blue Water Books. He stated that for sign nos. 5 and 13, the areas had not been leased, and therefore, he did not know what those tenants might request. He stated further that in regard to sign no. 8, he was not aware of the tenant's sign proposal.

Chair Patricia Rathburn stated that if the sign proposal was not known, how could the applicant commit to what the signs would consist of.

Mr. McCulla stated they were not asking for approval for specific signs, but were asking for approval as to how they would seek permits for signs in general. He explained that in a retail zone, signs were determined by wall area.

Greg Brewton stated that the Code referred to signs for shopping centers, and is known as Shopping and Strip Center Store signs. He stated the applicant is attempting to have this Board grant them the allowance permitted under the Code for shopping centers. He stated there were no restrictions regarding the size of the lettering, and it only provided the aggregate area permitted to be covered and that it be uniform. He stated that when they came in for the signage, the second floor had not been included.

Binni Sweeney asked why the applicant was referring to 12" and 8" if there was no specific size requirement. Greg Brewton explained that under the PEDD section of the Code, there is a restriction regarding lettering.

Mr. McCulla stated that they had been counseled by staff to make the second floor signage so it would conform to the PEDD sign ordinance providing tenant identification. Greg Brewton confirmed. Mr. McCulla further stated that the ordinance allowed for 15 sq. ft. of signage with 8" letters no more than 5' off the ground. With the exception of the areas noted as "exceptional," they wanted to conform the second floor signage as close to the PEDD requirements as possible.

Binni Sweeney reiterated that she had a problem with the fact that the applicant was requesting something that had not been advertised. Mr. McCulla stated that only involved 4 signs. He suggested that the matter of the 4 signs could be tabled to a future date.

Chair Patricia Rathburn stated that she did not object to discussing the 12" signs, but she was uncomfortable in changing the Board's policy.

Jack Loos, owner of the shopping center, stated that he hoped this Board would consider that they had cleaned-up the Exxon tank farm site. He stated further that nothing in the Center was visible until one entered into the area. He did not feel the Board would be contradicting their existing precedent by moving forward on this matter. He stated they had been working with the City on this matter for 7 months, and they feel they had done something good for the City. He asked the Board to follow Greg Brewton's interpretation and permit the individuals to move forward. He reiterated that hardships were being imposed on the businesses.

Binni Sweeney asked if the Board deferred the matter for one month could the businesses continue their operations. Mr. Loos stated that there are no retail signs at the site.

Binni Sweeney withdrew her motion.

Birch Willey stated that the Board should not change their policy, and suggested that they move forward with the remaining signs, excluding the 4 exceptions, and that banners be used temporarily.

Scott Strawbridge stated that Charlie's Locker had put up a banner. He further stated that they were now doing something that was tenant specific, and granting the variance would be a general use variance for the site. Therefore, he was reluctant to move forward on this.

Chair Patricia Rathburn stated that based on comments by the Board, they could proceed with the application for the variance as it is currently written. She added that the applicant could return before the Board requesting larger letters. Robert Dunckel confirmed. Chair Patricia Rathburn stated they could also defer a portion of the request.

Mr. Hall stated that the official notice was the sign posted on the property, and the advertising was supplemental notice for the variance. The sign posted did not reference size of letters or the number.

Chair Patricia Rathburn stated that argument did not apply in this case.

Robert Dunckel stated if they did not specify the size of the letters, they would be stuck with 8" because that is provided by the PEDD. Mr. Hall stated that was the point of tonight's hearing.

Mr. Loos requested that this variance application be moved forward as written. Mr. Loos stated that it was not being granted to the tenants, but the featured areas in the shopping center.

Scott Strawbridge stated that if the Board moved forward, they would be approving 20" letters instead of the 12" as requested. He stated the right would not travel with the tenant, but with the landowner. Now, they were custom-tailoring something that could put the owner in a tougher spot in the future.

Mr. Hall asked if they could return before the Board again next month. Robert Dunckel confirmed.

Fred Stresau stated that tonight they could still discuss the advertisement regarding the 4 signs in question.

Patricia Rathburn stated that she would have preferred the section to be more specific in all matters and provide more information for the public.

Scott Strawbridge stated that one of his concerns was that the request was not specific enough. He stated that Greg Brewton suggested that the application of zoning criteria from another district would be the appropriate mechanism leaving the property owner with a long-term compass to steer by.

Mr. Loos stated they had been fairly specific due to their concern regarding the appearance of the Center. He stated they attempted to give the tenants on the ground floor the flexibility regarding their signs, but set in a picture frame with a back drop. The concept of the sign criteria was to maintain a continuity of sign locations and size as to location. He stated they wanted to restrict the tenants and had done it regarding the ground floor tenants. He stated they were proud of the shopping center and they wanted it to be nice. He further stated they had refused second floor tenants due to their non-adherence to sign requirements.

Fred Stresau stated he was not sure about the height of the letters and the area involved for signs on the second floor.

Chair Patricia Rathburn asked if the 5' height requirement was in regard to the height of the sign or how far above the ground it would be situated. Fred Stresau stated that it was in regard to how far above the ground it would be located.

Mr. Hall suggested that James McCulla give his presentation and possibly other questions would be answered through it.

Don Morris stated that they measured the signs by letters, and not by the backdrop to which it would be connected. Fred Stresau reiterated that they were measured by the aggregate. Therefore, he felt the other areas should be discussed later on in tonight's meeting. Don Morris stated that in discussing a tenant's backdrop and the uniformity, he reiterated they would only be measuring the letters on the backdrop. Fred Stresau stated that by putting up the wood frames, they had limited themselves to a specific sign.

Robert Dunckel stated that he also was concerned about the lack of specificity and the notice. He advised that he had spoken with Jim McCulla and Heidi Davis and requested that a matrix be provided to fill in the blanks. Heidi Davis proceeded to distribute copies of the requested matrix.

James McCulla stated that their approach had been to have sign criteria approved based on wall areas like retail centers, but they were pressured to be more specific. He stated they had attempted

to comply with such requests. He stated the schedule distributed described each of the 15 signs located on Building B and showed the building on the rendering. He proceeded to give the Board a pictorial walk through The Harbor Shops. He then proceeded to describe the proposed sign locations. He stated that renderings had been submitted to the Board regarding the buildings, along with the detail for the second floor signage being proposed. He explained that the standard sign background was 10'6" in length and 2'4" in height, and the circumference of each sign band was decorated with a molding feature, thereby reducing further the height for what would be available for signage. He further stated that each background had a feature at either end to attach to the wall and further limited the length of the signs. He explained the short version is that the largest sign that could be used would be 9' long and limiting the letters to 12". The standardized sign, therefore, would be 9 square feet in total area.

Mr. McCulla proceeded to refer the Board to the matrix that had been distributed. He explained that sign nos. 1, 3, 4, 6, 7, 9, 10, 11, 12, 14 and 15 were the standard second-floor signs, and were 9 sq. ft. and within one of the backgrounds previously described. He explained further they were between 27' and 32' off the ground and differed due to the architectural nature of the building. He stated he was not clear if tonight they were addressing the special nature of sign nos. 2, 8 and 13, or sign no. 16 in Building C. He explained they were the featured tenants. Fred Stresau stated that they were not discussing the featured tenants this evening.

Chair Patricia Rathburn reiterated they were discussing the size of the signs, but not the size of the letters. Fred Stresau stated that the applicant was supplying the City's aggregate size. Chair Patricia Rathburn stated that they were not going to consider the size of the letters within the square footage of the sign. Fred Stresau advised that the larger letters would generate the aggregate size. James McCulla stated that was not necessarily the case. Chair Patricia Rathburn stated such signs could be larger, but the letters could not be increased in size.

Birch Willey stated it was his understanding that they were looking at the whole thing on the basis that if and when things were approved, the applicant could return before the Board for additional requests since there had not been a denial.

Fred Stresau reiterated that he thought it was silly to approve something they were not going to build. Chair Patricia Rathburn stated they would be receiving some comfort level in the approval.

Robert Dunckel clarified that the size of the sign for a flat wall sign was judged by the circumference of the letters. He explained that in regard to a free-standing sign, they looked at the total sign structure minus the pole. A flat wall sign was reviewed regarding the letters.

James McCulla stated that as an example in sign no. 8, the background was 50 sq. ft. and they were suggesting the sign within the area be limited to 33 sq. ft., and similarly the size of the plaque for sign no. 2 was also 50 sq. ft., and they were suggesting limiting the sign area to 30 sq. ft. with the additional condition of 12" letters. Therefore, if the Board approved what had been advertised, such signs would be approved for larger areas with 12" letters.

Fred Stresau stated that was what was being inferred, but he did not agree with it because additional words could be added using 12" letters. He did not feel that was the applicant's objective, but it could be someone else's in the future.

Chair Patricia Rathburn suggested that when the applicant returned before the Board requesting larger letters that such a condition be placed on the variance. She stated they would need to be specific in what they were willing to give up in order to be granted larger letters.

Robert Dunckel stated that regarding sign no. 2 and the 30 sq. ft. were the larger letters "C" and "H" taken into account. Mr. McCulla confirmed. Robert Dunckel stated that he did not see any harm in moving forward.

James McCulla stated they were not applying for tenant or name specific signs, but wanted a criteria passed, along in dealing with the gaps between the two zoning districts.

Fred Stresau stated that the signs for Charlie's Locker and the Blue Water Books should be a model for what should be used regarding the graphics. He further stated that in approving the square footage, they would be approving the fact that if curves were included with larger letters, the entire word could be spelled out with the curves, rather than with the capital letters. James McCulla stated that at the moment they were limiting letters to 12". Fred Stresau reiterated that the four signs were distinctly different from the second-level 12" signs. He further stated that the bulk of the letters going on the featured tenant signs should be the larger letters. He felt a good example was the liquor store on the west side which used all large letters over the 12". He further stated that it appeared they were approving whatever could be placed within the 30 sq. ft. sign.

Mr. McCulla stated that was true in a manner of speaking, but regarding the size that was not inconsistent with the occupant identification signs accepted in the PEDD district.

Fred Stresau stated that tonight or next month they were approving signs they felt would be better than what the sign code currently permitted.

Mr. McCulla went on to state that the PEDD identification signage permitted 15 sq. ft. of 8" letters, and therefore, there was essentially the same condition as it existed in the Code at this time.

Mr. Loos stated that they would return next month before this Board regarding the height of the letters.

Mr. McCulla further stated that sign no. 16 was the sign for Blue Water Books, and they were asking for a proposed area of 26' versus 15', but limited to 12" letters.

Chair Patricia Rathburn proceeded to open the public hearing.

Doug Bier, Charlie's Locker, stated that he was in favor of the variance being requested, and he appreciated everyone's hard work. He reiterated that Jack Loos and Jim McCulla have done a great job in having this be a beautiful shopping center, and none of their intent was to put up ostentatious signs.

There being no other individuals who wished to speak on this matter, the public hearing was closed and discussion was brought back to the Board.

**Motion** made by Fred Stresau and seconded by Don Larson to close the public hearing. Board unanimously approved.

**Motion** made by Binni Sweeney and seconded by Birch Willey to approve the request regarding Sec. 47-15.23 Table 1, Commercial and Industrial Signs – Occupant Identification, including the matrix submitted. Roll call showed: YEAS: Fred Stresau, Don Larson, Birch Willey, Binni Sweeney, Gus Carbonell, Scott Strawbridge, and Patricia Rathburn. NAYS: None. Motion carried 7-0

James McCulla stated that he wanted to highlight some further detail regarding the directional and informational signs. He explained that the front of the fountain was about 200' from the property line, and the directional signs were an additional 40' farther from the property line. He stated that the signs would not be eyesores in relation to Cordova Road since they were going to be further back.

Mr. Loos stated that the shopping center consisted of slightly less than 20 acres. He stated that tenant signs were not visible as one drove in, and therefore, way finding signs were necessary.

Scott Strawbridge stated that comments were made that the signs would not be visible from 17<sup>th</sup> Street, but he was confused because the request stated this was the only way to direct visitors to the site. James McCulla stated that the language should state "within the property." He further stated that the ground sign was intended to announce the property and direct people to it. The signs further in the property line were intended to direct individuals once they were on the site.

Mr. Hall stated that the signs were directional signs and not only for the convenience of the shoppers at the site. A safety factor was involved and they did not want individuals driving through the center looking for directional signage.

Fred Stresau reiterated that this was a self-contained shopping center, and he believed their best intentions would not work in this case. He felt people would stop and search for the location they desired, thereby hindering the flow of traffic.

Robert Dunckel stated that in anticipation of a motion, he wanted the matrix to be incorporated.

Birch Willey asked for further clarification of what was being approved. James McCulla stated they were requesting approval of 40 signs.

**Motion** made by Fred Stresau and seconded by Don Larson to approve the request regarding Section 47-15.23 Table 1 Commercial and Industrial Signs – Directional or Informational, including the matrix submitted. Roll call showed: YEAS: Fred Stresau, Don Larson, Birch Willey, Binni Sweeney, Gus Carbonell, and Scott Strawbridge. NAYS: Patricia Rathburn. Motion carried 6-1.

**Motion** made by Fred Stresau and seconded by Don Larson to approve the ground sign regarding Sec. 47-15.23 – Ground, including the matrix. Roll call showed: YEAS: Fred Stresau, Don Larson, Birch Willey, Binni Sweeney, Gus Carbonell, Scott Strawbridge and Patricia Rathburn. NAYS: None. Motion carried 7-0.

James McCulla stated that point of purchase was terminology contained in the Shopping Center Ordinance for signs. He explained their architecture did not facilitate signs large enough to put two points of purchase, plus the way the building was featured it would look funny if they requested two points of purchase to be displayed on either side of the pop-out giving the appearance that something was missing. He stated this tenant was using 3 bays, and they were asking for 3 independent point of purchase signs each containing one description of what was being sold on each side. He stated the hardship for the tenant was in regard to how the building had been designed.

Chair Patricia Rathburn asked if the tenant moved out and the new tenant required less space. Mr. McCulla stated they would be given fewer signs. Chair Patricia Rathburn stated it would provide that a single user would occupy the three bays. Mr. McCulla stated that such condition could be provided to 1865 Cordova Road which was the area involving the 3 bays.

**Motion** made by Binni Sweeney and seconded by Gus Carbonell to approve the request for a variance regarding Sec. 47-15.23 for point of purchase signs, subject to the 3 bays at 1865 Cordova Road. Roll call showed: YEAS: Fred Stresau, Don Larson, Birch Willey, Binni Sweeney, Gus Carbonell, Scott Strawbridge, and Patricia Rathburn. NAYS: None. Motion carried 7-0.

Mr. Loos thanked the Board for their approval.

**“For the Good of the City”**

Fred Stresau stated that he had asked staff to bring back a case that had been heard in November, 2003, regarding a two-story building on Sunrise where lettering was requested for the second floor. He asked if the new sign code considered second or third floor signage.

Greg Brewton stated that it was his understanding that the new language did take into consideration several issues, and such signage was included. He stated that if it was not included, then it could be added in the future.

Don Morris stated that at the April 13, 2005 meeting of this Board, two members declared conflicts of interest. He stated that the form required him to read who the individuals were, and why they had declared such conflict of interest. He explained that Gus Carbonell had recused himself regarding Bank Atlantic because he was the architect (Case 05-15), and Fred Stresau also declared a conflict since his firm was employed by Bank Atlantic.

**Case No. 04-48 – The John Needham House**

Robert Dunckel stated that this afternoon he had received the recorded Deed of Conveyance, and the title was no longer invested in Dawn Doyle. He stated this closed the circle on this and recommended that the Chair execute the draft Order since the subject was now moot.

Birch Willey stated that part of the situation involved historic designation. Robert Dunckel reiterated that the property was being used as a residence.

**Motion** made by Don Larson and seconded by Fred Stresau to adjourn the meeting.

There being no further business to come before this Board, the meeting was adjourned at approximately 9:02 p.m.

Chair

\_\_\_\_\_  
Patricia Rathburn

ATTEST:

\_\_\_\_\_  
Jamie Opperlee for Margaret A. D’Alessio  
Recording Secretary

A mechanical recording is made of the foregoing proceedings, of which these minutes are a part, and is on file in the Planning & Zoning Offices for a period of two (2) years.

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