

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
WEDNESDAY, APRIL 14, 2010 – 6:30 P.M.  
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA**

	<b>Attendance</b>	<b>Cumulative Attendance 6/2009 through 5/2010</b>	
		<b>Present</b>	<b>Absent</b>
<b>Board Members</b>			
Diane Waterous Centorino, Chair	P	8	2
Caldwell Cooper	P	10	0
Gerald Jordan	P	9	1
Michael Madfis	P	10	0
Bruce Weihe	A	9	1
Birch Willey	P	9	1
Henry Sniezek	P	8	2
<b>Alternates</b>			
Mary Graham	A	5	4
Karl Shallenberger	P	9	1
Leo Hansen	P	3	0

**Staff**

Bob Dunckel, Assistant City Attorney  
Cheryl Felder, Service Clerk  
Terry Burgess, Zoning Administrator  
Yvonne Blackman, secretary  
Mohammed Malik, Chief Zoning Plans Examiner  
Dennis Girisgen, Public Works Department  
B. Chiappetta, Recording Secretary, ProtoType Services

**Communication to the City Commission**

None

**Purpose: Section 47-33.1.**

The Board of Adjustment shall receive and hear appeals in cases involving the ULDR, to hear applications for temporary nonconforming use permits, special exceptions and variances to the terms of the ULDR, and grant relief where authorized under the ULDR. The Board of Adjustment shall also hear, determine and decide appeals from

reviewable interpretations, applications or determinations made by an administrative official in the enforcement of the ULDR, as provided herein.

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2.	<b>10-10</b>	Millennium Plaza Acquisition	2	<b><u>12</u></b>
3.	<b>08-06</b>	Bay Colony Exxon, Inc.	1	<b><u>13</u></b>
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**For the Good of the City**

**Call to Order**

Chair Centorino called the meeting to order at 6:34 p.m. She introduced Board members and described the functions of the Board and procedures that would be followed for the meeting.

**Approval of Minutes – March 2010**

**Motion** made by Mr. Jordan, seconded by Mr. Cooper, to approve the minutes of the Board's March 2010 meeting. In a voice vote, motion passed unanimously.

Board members disclosed communications they had regarding items on the agenda.

**All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.**

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1. **Appeal No. 10-09**

**APPLICANT:** **The Housing Authority of City of Fort Lauderdale**  
**LEGAL:** "Dr. Kennedy Homes Plat", P.B. 15, P. 70, Block 1  
**ZONING:** RMM-25 (Residential Mid-Rise Multifamily/Medium High Density)  
**ADDRESS:** 1004 W. Broward Boulevard  
**DISTRICT:** 4

**APPEALING: Section 47-20.2.A (TABLE 1: Parking and loading zone requirements)**

Requesting a variance to allow 149 residential parking spaces, where Code requires 255 residential parking spaces.

Mr. Robert Lochrie, representative of the applicant, explained that this variance would allow the site to be developed with more than twice the existing parking.

The development partner was Carlisle, a leader in affordable housing statewide, and a leader in Green building. Mr. Lochrie gave a PowerPoint presentation on the project, a copy of which is attached to these minutes for the public record.

Mr. Lochrie went through the variance criteria to describe how the request met all of them:

- a. That special conditions and circumstances affect the property at issue which prevent the reasonable use of such property

The site had been used for affordable housing since 1941 and would continue to be used so into the future. The site was owned by the Housing Authority.

- b. That the circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district

This was the only property zoned RMM along Broward Boulevard. There were also no other affordable housing projects on Broward Boulevard.

- c. That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district. It shall be of no importance to this criterion that a denial of the variance sought might deny to the owner a more profitable use of the property, provided the provisions of the ULDR still allow a reasonable use of the property

If this property were located in the northwest section of the City, they could proceed with a parking reduction, but the location of this site and the fact that the housing was affordable did not allow for that.

- d. That the unique hardship is not self-created by the applicant or his predecessors, nor is it the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations

The project was designated affordable and would continue to be.

- e. That the variance is the minimum variance that will make possible a reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.

This variance was the minimum to make reasonable use of the property. The parking consultant would explain this.

Mr. Joaquin Vargas, parking and traffic consultant, presented the results of a parking study that had been created for Kennedy Homes and compared the results to two other similar developments. He stated if the variance were granted, there would be no shortage of parking at the development.

Mr. Matt Greer, CEO of Carlisle Development, explained that they partnered with community groups and housing authorities to help them accomplish their goals. They had worked with the Housing Authority to secure federal funding for the redevelopment of Kennedy Homes, and had successfully secured \$26 million in federal funding. Mr. Greer stated the units would be larger, there would be full-sized, energy-efficient appliances and more than sufficient parking.

Regarding the variance, Mr. Greer asked the Board to consider whom the project was serving in what their needs were. He explained that transportation costs were the number one expense for low-income residents, and this was why sought locations near mass transit. Mr. Greer said the real question was whether there was enough parking on the site. He acknowledged the proposed number of spaces was lower than required by code. Mr. Greer said their parking ratios in other comparable developments were significantly lower than what they were requesting this evening, but they were not under parked. He noted that residents in these buildings sought to use public transportation rather than bear the cost of owning a car.

Mr. Greer explained that Carlisle put its reputation on the line that their projects would succeed so they would be invited back for future projects. One of the ways they did this was to take responsibility for the quality of the units and the grounds and how they were maintained over time.

Mr. Willey said one of his concerns had been how to "tie you up so you couldn't go do something really dumb later." Mr. Greer said the land use specified the units could never be flipped for condos. He stated the Housing Authority's mission did not include selling the land or allowing the land to be used by higher income people.

Mr. Cooper, asked about the variations in rents residents would pay, relative to their income. Mr. Greer said the government standard for "lower income" was less than 60% of Average Median Income for the area. Everyone on this site would be at or below 60% AMI. Mr. Greer explained that lower income residents would much rather use public transportation than own their own vehicles. He confirmed that no one would live in the property who made more than 60% AMI.

Mr. Shallenberger asked Mr. Greer on how many occasions Carlisle had been forced to take back the properties from other agencies such as housing authorities. Mr. Greer said they were already taking responsibility for the properties and for serving a specific community. He said there was "not a lot of room for them [the Housing Authority] to have a chance to get anything wrong."

Mr. Greer confirmed for Mr. Dunckel that there were conditions attached to the financing for the project. One condition was that 100% would be used for affordable housing. Mr. Greer said the Average Median Income figure referred to Broward County. Mr. Dunckel asked what would occur if the conditions on the financing were not met, and what happened to the conditions once the loan was paid. Mr. Greer explained that Carlisle's guarantee was to meet the state and federal government conditions, such as taking financial responsibility for construction completion, and renting the units to the right people. Mr. Greer said Carlisle took the responsibility for compliance and for recording who was living in the units, what they were earning and how many people there were.

Mr. Dunckel asked what would happen if Carlisle ended up in default of the conditions, and what would happen after 50 years. Mr. Greer said there was no traditional default, since there would be no debt on the project. In the event of failure to comply, the federal government would step in and replace Carlisle, to ensure the building was run for the benefit of the low-income people for whom it was built. Mr. Dunckel asked if it was possible federal government would "surplus" the property later on. Mr. Greer could not say.

Mr. Lochrie stated there would be a deed restriction on the plat with Broward County restricting the property to low-income and very low-income housing.

Mr. Willey was concerned about granting a variance that set the maximum number of parking spaces that would ever be required on this piece of property. He wanted to know who owned the land and what would happen to the variance or how it would be used after 50 years. Mr. Willey wanted to ensure that if, after 50 years, this was no longer an affordable housing operation, the variance would go away. Mr. Lochrie said they had no objection to tying the variance to this project and to the affordable housing element.

Mr. Sniezek asked about language for this restriction and Mr. Dunckel suggested stating 100% of the units must be occupied by low/moderate income people, which would require their income level to be 60% at and below the Average Median Income for Broward County.

Mr. Jordan asked for a project timeline. Mr. Greer anticipated breaking ground in a few months, and completing the project in less than two years.

Chair Centorino opened the public hearing.

Mr. Wilbert Ponder, Vice President of the Tenants Association of Dr. Kennedy Homes, said he was present on behalf of the tenants and asked the Board to approve the request so they would have an increased number of parking spaces. Mr. Madfis asked if Mr. Ponder believed 149 spaces would be sufficient and Mr. Ponder said it would be enough parking spaces was once the new project was built.

Mr. Shallenberger asked Mr. Vargas, if he had noticed a problem with parking when he was on the property. Mr. Vargas described the different times and days when they had conducted the research and stated he had never seen all of the parking spaces taken. He explained that the parking spaces would not be assigned to specific units.

Mr. Shallenberger asked about the increase or decrease in green space for this project. Mr. Lochrie did not know, but stated the new project would be 54% landscaped area. Mr. Greer said the green space would be greater with the new project.

Mr. Cooper asked if Mr. Vargas had observed other areas in the neighborhood where residents might be parking. Mr. Vargas said they had identified vehicles parking on Southwest 2nd Street; he believed this was been done for convenience. He pointed out that in the new plan, all units were in close proximity to parking so he felt there would be less on-street parking. Mr. Vargas described how they had surveyed parking in the area.

Mr. Paul Bogges, President of the Trust For Historical Sailboat Bend Inc., stated the community opposed this project and the Historic Preservation Board unanimously disapproved of this project. Mr. Bogges said he opposed the reduction of parking and did not believe there was a hardship.

Mr. Charles Jordan, Sailboat Bend resident and Chairman of the Board of Directors for the Trust for Historic Sailboat Bend, read a list of objections to the project from attorney Ralph Brooks on behalf of Mark Kerr, who had a property across the street from Kennedy Homes and on behalf of the Trust for Historic Sailboat Bend. The objections included:

- a negative impact on Mr. Kerr's property from overflow parking that could not be accommodated on the site, and because the variance would allow new development to utilize off-site street parking on Mr. Kerr's Street
- new development must comply with City parking requirements, unless no reasonable use could be made of the property without a parking variance
- ample space exists on the site to accommodate parking for the new development
- the number of dwelling units could be reduced if parking could not be accommodated on-site
- parking should not be varied to a larger development scheme simply because parking was not provided by the development
- the request was not the minimum variance that would allow reasonable use of the property
- there was no demonstration of hardship; there were alternatives that would allow continued use of the property within the zoning code
- there was no demonstration of hardship because grandfathered parking existed and would be allowed to continue for rehabilitation of existing units
- there was no demonstration of hardship because the applicants could build a smaller project on a neighborhood scale that would be more compatible with surrounding uses and would not require as many parking spaces
- other types of parking had not been explored, requested or denied before seeking the variance
- parking was required and may operate as a constraint on the size and scale of a development project that could be accommodated on a particular property in a particular neighborhood
- the size of the project should be controlled by application of the City code, including on-site parking requirements to ensure compatibility

Mr. Charles Jordan said the Trust For Historical Sailboat Bend Inc. objected to the variance because the request did not meet the variance criteria, including hardship as noted above. The variance would not be needed if the Kennedy Homes were rehabilitated instead of demolished, pursuant to the decision of the City's Historic Preservation Board, which had denied the request for Certificates of Appropriateness for demolition and redevelopment of the complex. The City Commission's reversal of the Historic Preservation Board's decision was currently on appeal with the Circuit Court.

Mr. Charles Jordan stated if someone was going to appeal to the Board of Adjustment, "It doesn't matter how nice the project is; it doesn't matter whether the goal is laudable; it doesn't matter what they are doing if they're not doing it within the context of this ordinance." He encouraged the Board to deny the variance.

Mr. Madfis asked Mr. Jordan if the traffic study had confirmed the adverse effects he had spoken of regarding Mr. Kerr's property. Mr. Charles Jordan said he had spoken with a representative of the Housing Authority and informed him that demolishing the Kennedy Homes would not be acceptable because it was an integral part of the community. Mr. Jordan stated Kennedy Homes was a very important historical asset that should be preserved and this redevelopment project was not compatible with the historic district.

Mr. Charles Jordan explained that the Kennedy Homes units had been subdivided in the 1960s, increasing the density of the project; the actual number of units was in the low 90s. He noted that parking would be better without the subdivision.

Mr. Charles Jordan reminded the Board that the Housing Authority had supported the creation of the historic district and the inclusion of Kennedy Homes in the district. He pointed out that other residents of Sailboat Bend must live by the rules.

Ms. Donna Isaacs, Secretary for the Trust for Historic Sailboat Bend and LEED professional, said she had attended a Kennedy Homes meeting and heard residents discussing parking difficulties on the property. Ms. Isaacs said as a Green builder she would normally agree there should be less parking and mass transit but the Housing Authority was asking for variance to go into an historic district and demolish 40 buildings, which equated them with a normal developer. She felt the Housing Authority should not receive a parking variance because they were not honoring the history of the area or the site itself.

Mr. Madfis said they might be upset that an historic property was being demolished, but he did not feel that buildings in Florida proved to be conducive to adaptive reuse. He acknowledged there might still be a parking problem after the project was redeveloped but he felt it would be because people parked where they wanted to park, not because there was insufficient parking. Mr. Madfis pointed out that the variance would save them a huge amount of asphalt that deteriorated the environment and the project was increasing trees that could help reduce carbon.

Mr. Madfis added that, "With 132 units of low-income housing, 149 units of 1.1 or better per unit is what the parking in the urban village where they have people paying \$300,000 a unit. So if they can accept it down there on a quarter of an acre of land, I don't see what we can't do it here on much larger property."

There being no other members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Mr. Lochrie noted that neither Mr. Kerr nor his attorney was present so the Board was unable to ask any questions.



Mr. Lochrie said it was important to note that the people from the Sailboat Bend Trust had filed a lawsuit against the City regarding the Certificate of Appropriateness and he believed their arguments this evening pertained to the certificate.

As Mr. Madfis has pointed out, Mr. Lochrie said in this zoning, the property could produce 211 residential units. Regarding Mr. Jordan's suggestion that reducing the number of units would reduce the need for parking, Mr. Lochrie said the proposal was to stay with 132 units; they had no intention of reducing the number of affordable units, because they did not believe it was the right thing to do. He reiterated that this was the only RMM-25-zoned property on a major thoroughfare that had access to mass transit.

Mr. Greer said they considered every project as a rehab, but there was an imperative to provide housing to people who already lived there, not to inform people they must find new housing. Since the City Commission had issued the Certificate of Appropriateness, Mr. Greer said he was not here to address the issues brought up by the Trust for Historic Sailboat Bend. The question this evening was whether or not there was enough parking. If the variance were not granted, the site would stay the way it was, they would lose the funding, and at some point in the future the Housing Authority would have the option to build on the site, and may choose to build to the maximum. Mr. Greer believed this was a great opportunity to redevelop the site and asked the Board to approve the request.

Regarding the on street parking, Mr. Cooper asked if this would be metered or if the spaces would "have some type of signage on them." Mr. Lochrie explained that the City usually waited to see if it would make sense to install meters. Mr. Cooper was concerned that if the spaces were metered residents would park across the street where parking was free.

Mr. Dennis Girisgen, Engineering division, said the City and their consultant believed 149 spaces was sufficient parking for the site. He said he had considered the availability of mass transit and other factors.

Mr. Cooper asked where the remote parking was located. Mr. Lochrie referred to a survey of the site and drew the Board's attention to the three parking areas on the current site. He noted that the proposed new parking was much more user-friendly for all units. Mr. Cooper asked if there was room on the property to install additional parking spaces. Mr. Lochrie said there was none on the project as designed because the remaining space was landscaped area. Mr. Cooper said he wanted to approve the variance, but was questioning whether there would be room for additional parking in the future if this parking turned out to be insufficient. Mr. Lochrie explained if it was determined later on that there was insufficient parking he was certain this could be done.

Mr. Girisgen explained to Mr. Dunckel that his opinion regarding the parking did not take into account the variance criteria; it was based on reasonable evidence and observation of other sites.

Mr. Greer explained to Mr. Gerald Jordan that the State was providing the \$26 million for redevelopment not rehabilitation. He explained that, "We wouldn't be getting funding for that at this time, and we won't be getting funding for it in the future as far as unless all of the rules of the games change at the State and federal level." HUD's position was that they would be failing to maximize the number of units they had per zoning. Mr. Jordan was concerned that a 40% parking reduction would result in the residents' parking in Sailboat Bend for free, not using metered parking.

Mr. Madfis felt the new parking configuration would be an incentive to keep residents parked on site and off the street. Mr. Charles Jordan said he did not see a significant parking issue. He said the application for the funding had been filed as a new construction project, but this did not mean an application could not have been filed for rehabilitation or could not be filed in the future for rehabilitation. He said the developer had made a choice to demolish the historic property and build new, but they could have gone another route. Mr. Madfis believed Mr. Jordan was making assumptions, and the Board did not know enough to rely on what he was saying.

Mr. Tam English, Executive Director of the Housing Authority, informed Mr. Dunckel that the fee simple title to the property was listed solely to the Housing Authority.

Mr. Cooper asked that the motion include the condition that the variance existed only as long as the property was under the control of the City of Fort Lauderdale Housing Authority. He also wanted a condition that if extra parking were needed in the future there would be funding, and it would be built. Mr. Dunckel suggested making the conditions that the property was *owned* by the Housing Authority and that 100% of the units were used for affordable housing, which was defined as 60% at or below the Average Median Income for the relevant statistical area. The variance could also be tied to the site plan. Mr. Dunckel believed the condition regarding additional parking would be a challenge regarding legal enforceability. There must be objective criteria against which to measure the need.

**Motion** made by Mr. Madfis, seconded by Mr. Sniezek, to approve, with the condition that the variance was contingent upon 100% of the units being used for affordable housing, which was defined as 60% at or below the Average Median Income for the relevant statistical area.

Mr. Willey suggests the following conditions for granting the variance:

- ownership of the property must be held by the Fort Lauderdale Housing Authority

- the development must be no more than 132 residential units
- 100% of the units must be used for affordable housing, which was defined as at or below 60% of the Average Median Income for the relevant statistical area
- the variance and the parking may be adjusted if the Board of Adjustment heard a case and determined more parking was needed

Mr. Lochrie explained there would be 132 residential units in the redeveloped buildings, and they would save three of the existing buildings for non-residential uses. Mr. Lochrie said the parking must be based on what they had showed this evening because they could not anticipate changes that could occur 30, 40 or 50 years in the future. Mr. Dunckel suggested the language state that either residential units would be eliminated or parking spaces would be increased to meet the additional needs. Mr. Lochrie said they were making a commitment for 132 units. Mr. Madfis said they must make their decision based on current requirements. He believed the most important condition was that 100% of the units must be for affordable housing.

Mr. Dunckel said, "Under the guise of neighborhood compatibility... you could reserve jurisdiction to revisit that upon somebody bringing a motion that the parking is not adequate." If the Board made a determination that parking was inadequate, they could require additional parking to be placed on site or off-site. Mr. Madfis pointed out that a different solution might present itself if problems occurred.

Chair Centorino said she was very bothered as a taxpayer that the application had not been put in to remodel the property instead of redevelop it. She was concerned about losing the historic buildings and the trees. Chair Centorino understood the City's wanting to take advantage of the \$26 million funding. She said she had seen boards determine that there was adequate parking, only to realize later on that there was not. The applicant had requested a 42% parking reduction and she felt it was not fair to the citizens to reduce parking by this amount unless there was some kind of trigger that would allow the Board to revisit this decision.

Mr. Shallenberger was torn as well. He acknowledged that something must be done with Kennedy Homes, and said he would not tie up a project that definitely needed to be done because a parking problem that *might* occur sometime in the future.

Mr. Dunckel suggested adding a condition to the granting of the variance that the Board of Adjustment reserved jurisdiction to revisit the question of the adequacy of the parking and if the Board found by clear and convincing evidence that the parking was inadequate for the site, the Board could require additional parking on-site, off-site or by some other alternative mitigating measures.

Mr. Greer said they would do everything and anything needed to make sure that the Board's concern regarding parking were addressed, but he wanted to be sure that they

did not jeopardize the funding by encumbering the project with “an insurmountable cost to somehow reconfigure an already built project to accommodate extra parking places.” Since this would be a revenue generating operation, Mr. Greer suggested that if the Board of Adjustment determined more parking was needed, they could specify that revenue must be used to create additional parking. Mr. Dunckel believed this condition was not appropriate; the proper mitigating measures were a factor the Board should take into consideration when considering the need for additional parking in the future.

Mr. Willey restated the conditions he wanted to attach to Mr. Madfis’ motion:

- ownership of the property must be held solely by the Fort Lauderdale Housing Authority
- the development must be no more than 132 residential units, per the approved site plan
- 100% of the units must be used for affordable housing, which was defined as at or below 60% of the Average Median Income for the relevant statistical area
- The Board of Adjustment reserves jurisdiction in the event a motion is brought by any party with standing that parking on the site is inadequate. In the event the Board determined by clear and convincing evidence that the parking was not adequate for the site, the Board may require additional parking on-site or off-site or some alternative mitigating measure(s)

Mr. Madfis and Mr. Sniezek accepted the amendments to the original motion.

Mr. Lochrie was concerned that the fourth condition would present a financing challenge, which could stop the project. He agreed to work with the City if a problem arose. Mr. Lochrie said he would prefer a condition that was quantifiable.

Mr. Greer suggested that at any point the Board deemed reasonable, if they determined the project was short on parking spaces, the Housing Authority would pay \$10,000 per space by which they were short into a transportation mitigation fund or they would provide shuttle service on-site for residents or they would mitigate the problem by building additional parking. Mr. Lochrie noted that any change the parking configuration would need to be approved by the City Commission first.

Mr. Lochrie agreed they would create an additional 30 spaces if the City determined it was necessary and if the City Commission determined it was appropriate. Mr. Dunckel suggested amending the fourth condition to indicate that if the method of alleviating parking inadequacy was on-site parking, it would also be subject to City Commission approval. He advised that if this condition began to impair the funding analysis in DC, Mr. Greer and Mr. Lochrie could return to the Board. The Board agreed to Mr. Dunckel's amendment of the fourth condition.

In a roll call vote, motion **passed** 6 - 1 with Mr. Jordan opposed.

The Board took a 10-minute break.

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## 2. Appeal No. 10-10

**APPLICANT:** Millennium Plaza Acquisition  
**LEGAL:** "Melva Plat", Tract "A", P.B. 113, P. 34  
**ZONING:** B-1 (Boulevard Business)  
**ADDRESS:** 1479 N. Federal Highway  
**DISTRICT:** 2

**APPEALING:** Section 47-22.3.P (General regulations - Shopping center or strip store signs)

Requesting a variance to allow three (3) wall signs above the ground floor, where Code requires that "No sign will be permitted above the ground floor level where the structure exceeds one (1) level in a shopping center or strip store."

Mr. Lou Fenkell from Art Signs stated tenants located behind the tower features were at a disadvantage because there was no area for signs to appear on the lower level for their businesses. Currently two of the towers had signage that had been permitted by the City in error. Mr. Fenkell said the request pertained to not just the tenant but to the entire Plaza. So if this came up in the future any tenant located behind one of the tower features would have the right to put the sign higher up on the feature.

Mr. Fenkell had spoken with the tenant across the street, who expressed no objection to this request.

Chair Centorino opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

**Motion** made by Mr. Cooper, seconded by Mr. Jordan, to approve. In a roll call vote, motion passed 7 - 0.

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## 3. Appeal No. 08-06

**APPLICANT:** Bay Colony Exxon, Inc.  
**LEGAL:** All that part of the W ½ of the E ½ of the W ½ of the NE ¼ of Section 13, Township 49 S, Range 42 E, lying E of the E right-of-way line of U.S. Highway No. 1, as more particularly

**described in the application for a variance for Appeal No. 08-06, on file with the Clerk of the City of Fort Lauderdale Board of Adjustment**

**ZONING: B-1 (Boulevard Business)**  
**ADDRESS: 5556 N. Federal Highway**  
**DISTRICT: 1**

**APPEALING: Section 47-23.9.A.1 (Interdistrict Corridor)**

Refer to variance granted in Appeal No. 08-06. Appeal No. 08-06 requested a variance to allow the construction of a retail development along Federal Highway interdistrict corridor with a 10 foot yard, where Code requires a minimum 20 foot interdistrict corridor yard along Federal Highway.

This matter is referred to the Board of Adjustment for a determination as to whether the variance granted February 13, 2008, Appeal No. 08-06 is still valid in light of the fact that the site plan currently under consideration is for a Burger King but the variance granted February 13, 2008 was tied to a Starbucks site plan and to further consider whether amendment of the variance granted February 13, 2008 is in order.

Mr. Dunckel explained that the Planning and Zoning Board had heard this last month, and the Board of Adjustment granted a variance regarding stacking of the vehicles last month as well. In February 2008, the Board of Adjustment had granted a variance reducing the 20-foot requirement in the interdistrict corridor to 10 feet with the condition that the variance allowed "encroachment of parking spaces only to the exclusion of any other improvements along the Federal Highway interdistrict corridor with a 10-foot yard where the code requires a minimum 20-foot yard to include parking and landscape. Variance to expire with the demolition of this (Starbucks) Building."

A question had been raised at the Planning and Zoning Board whether the variance was still valid. Staff had reviewed this and decided to present it to the Board of Adjustment.

Mr. George Morgan, Morgan Property Group, the developer of the Burger King project, reminded the Board that the Starbucks project had the support of the neighborhood association, but the residents had expressed concern about noise generated by the drive through. Since this would now be developed as a Burger King, they desired to increase the stacking by moving the building to the streetside and locating the drive-through to the Federal Highway side to eliminate concern about noise coming from the drive-through. This new site configuration meant they no longer needed parking in the front area, but instead needed room for the drive through, which would still be asphalt.

Mr. Morgan asked the Board to modify the variance to delete the reference to Starbucks and/or to delete the reference to parking and change this to "drive aisle" or to approve the variance under the current plan.

Mr. Cooper referred to the ULDR 47-21.10.b.6, which stated the first 20 feet of the yard fronting streets subject to the interdistrict corridor requirement must be landscaped, and no paving, parking or walkway was allowed in this area. He said the plans indicated a drive-through, a monument sign, a light pole and a dumpster enclosure would now be located in this right-of-way, and he was opposed to granting a variance based on the plans before the Board this evening. Mr. Shallenberger agreed.

Mr. Jordan remarked that this was a difficult site, but the City needed businesses.

Mr. Morgan said they had been through staff review and Planning and Zoning, and he did not think signs or light poles were considered an obstruction. He said the issue was whether or not they could have a drive-through instead of parking spaces on that area of the site. Mr. Morgan agreed to move the dumpster enclosure if staff agreed this needed to be done.

Mr. Morgan pointed out that the variance should have expired due to the lapse of time except for the action of the Florida Legislature passing the two-year permanent extension. The City Attorney and staff had determined that this project met the guideline, and he had a letter from Terry Burgess stating the variance was still valid, and they were operating under this assumption.

Mr. Dunckel said the first question was whether or not the Starbucks variance was still valid. If the Board determined it was not valid, they would have the option to modify the variance to accommodate the Burger King. Mr. Dunckel confirmed that Mr. Morgan had been granted a two-year extension, but this is not the same thing as saying. The variance was valid for Burger King as opposed to Starbucks. It was now up to the Board to determine whether the variance was still valid in light of the conditions that were appended.

Mr. Madfis said the previous variance had been tied to a Starbucks, which was a very different footprint and site plan from the Burger King, so this previous application expired with the Starbucks design. Mr. Madfis felt the Board had been misled by the previous application regarding stacking, which failed to mention the interdistrict corridor.

Mr. Madfis believed there were "too many loose ends to even consider it" and suggested the applicant return with a clearer presentation. Mr. Madfis suggested Mr. Morgan start over with the variance process and return with an application that was clear and eliminated some of the objections the Board had discussed this evening. Mr. Dunckel noted that inherent in this remark was the determination that the old variance was no longer valid.

Chair Centorino opened the public hearing.

Mr. Tim Lindgren, neighbor, said this was a surprise to the residents; they had anticipated a Starbucks, which was high-end with reduced hours and traffic. Mr. Lindgren said this would destroy the neighborhood's quiet.

There being no other members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Mr. Morgan stated the site plan had been approved by the Planning and Zoning Board less than four weeks ago and they had gone through the entire planning process with the County and FDOT and the City. Mr. Morgan said this use was permitted within this zoning. He said they had found a "good national tenant" and he was asking for the same constraints to be transferred to this tenant.

Mr. Dunckel asked Mr. Stresau [Planning and Zoning Board member] if the Planning and Zoning Board had approved this site plan subject to the determination of whether the variance granted to Starbucks was still valid. Mr. Stresau did not recall. Mr. Dunckel said the consequence of this Board's deciding that the variance was not valid was that Mr. Morgan's site plan approval would be invalid unless he obtained a variance specific to the Burger King. Mr. Morgan said this would force him to start all over again.

Mr. Cooper asked if Mr. Morgan had met with the neighborhood associations. Mr. Morgan said they had letters from both nearby associations approving this request. There was one question regarding the lighting, and the Planning and Zoning Board had determined it was not necessary to reduce the pole height, provided the lighting was properly shielded.

Chair Centorino felt "hoodwinked" that the Board had made a decision based on the Starbucks site plan. She recommended a motion questioning whether the variance for Starbucks was transferable to Burger King.

**Motion** made by Mr. Cooper, seconded by Mr. Jordan, to transfer the variance from Starbucks to Burger King.

Mr. Shallenberger remarked that the Board had specified Starbucks in the previous variance approval.

In a roll call vote, motion **failed** 0 - 7.

Mr. Morgan asked if the Board could rule on a variance for the existing site plan.

Mr. Dunckel explained the Board could decide to entertain this request or not. Mr. Cooper felt the Burger King could be laid out differently to accommodate the



requirements of the interdistrict corridor. Mr. Dunckel advised Mr. Morgan that the better option might be for him to walk away with the Board taking no action tonight.

Mr. Dunckel asked the Board to make a motion that variance 08-06 had expired by virtue of the fact that it was no longer a Starbucks; it was a Burger King.

**Motion** made by Mr. Cooper, seconded by Mr. Madfis, to declare that variance 08-06 had expired by virtue of the fact that it was no longer a Starbucks, it was a Burger King. In a roll call vote, motion passed 7 - 0.

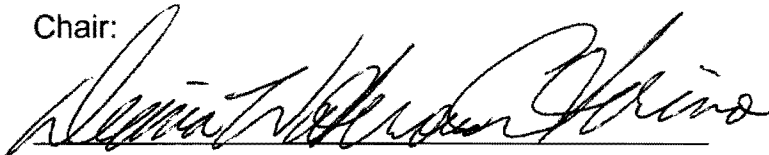
**Report and for the Good of the City**

Index

None.


There being no further business to come before the Board, the meeting was adjourned at 10:03 p.m.

Chair:



Chair Diana Waterous Centorino

Attest:

  
ProtoType Inc

A digital recording was made of these proceedings, of which these minutes are a part, and is on file in the Planning and Zoning offices for period of two years.

Minutes prepared by: J. Opperlee, Prototype Services



# *Dr. Kennedy Homes*



*Housing Authority City of Fort Lauderdale + Carlisle Development Group*  
*glavovic studio inc.*

# Housing Authority of the City of Fort Lauderdale



Established 1936

Governance: Board of Commissioners

HACFL Mission: To assist low-income families with safe, decent, and affordable housing opportunities as they strive to achieve self-sufficiency and improve their lives

# Team Introduction



The Housing Authority of the City of Fort Lauderdale

Carlisle Development Group

Glavovic Studio Inc, Architecture + Design Consultant

Stresau, Smith and Stresau, Landscape Architect

Ellen Uguccioni, Historical Consultant

Janus Research, Architectural Historian

HSQ, Civil Engineer

Jacobs Engineering Group, Inc, Parking Consultant

Lighting Dynamics, Lighting Design

# Carlisle Development Group



- **Leader in Affordable Housing**
  - 59 developments with 7,343 Total Units statewide.
  - 990 units developed in Broward County since 1999.
- **Leader in Green Building**
  - Florida's first Affordable Housing Developer to Attain LEED Certification.
  - Carlisle CEO Matthew Greer sits on the Board of the South Florida chapter of the U.S. Green Building Council.
- **Leader in Preservation of Historic Properties**



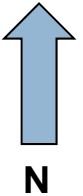
# Aerial View of Site



# Dr. Kennedy Homes: Existing Condition



# Aerial View of Site



N



# Existing Project Statistics

- Size of Site: 8.45 acres
- 132 Units: 50 efficiencies, 34 1BRs, 36 2BRs, 12 3BRs
- Parking Provided: 71 spaces
- Income Target: Low Income / Very Low Income
- Typical Setbacks: 5-7 feet
- Average Unit Size: 725 SF (2BR)

# Goals for Redevelopment

- Enhance tenant quality of life
- Increase setbacks along Broward and create a safe environment for the residents
- Provide variety of places within site to increase community interaction
- Provide sufficient parking and amenities for residents
- Maintain cost efficiencies and design goals
- Preserve existing trees to the greatest extent possible

# Kennedy Homes: Existing Interiors



# Dixie Court: Interiors



# Site Conditions



# Dixie Court



# View from site



# City Commission Approved Site Plan

1 - 8: New Residential Buildings  
9 - 11: Adaptive Use Community Facility Buildings





# City Commission Approved Development



# City Commission Approved Development



# Major Benefits to Tenants

- New units average 23% larger than existing units.
- Same # of units with 78 (110%) more parking spaces.
- Community center with exercise room, library and computer lab; playground.
- Full-size, energy efficient appliances including dishwasher and microwave as well as room for a washer and dryer.
- Energy and water efficient fixtures, along with modern windows and insulation will reduce utility costs.

# Side-by-Side Comparison

## Existing

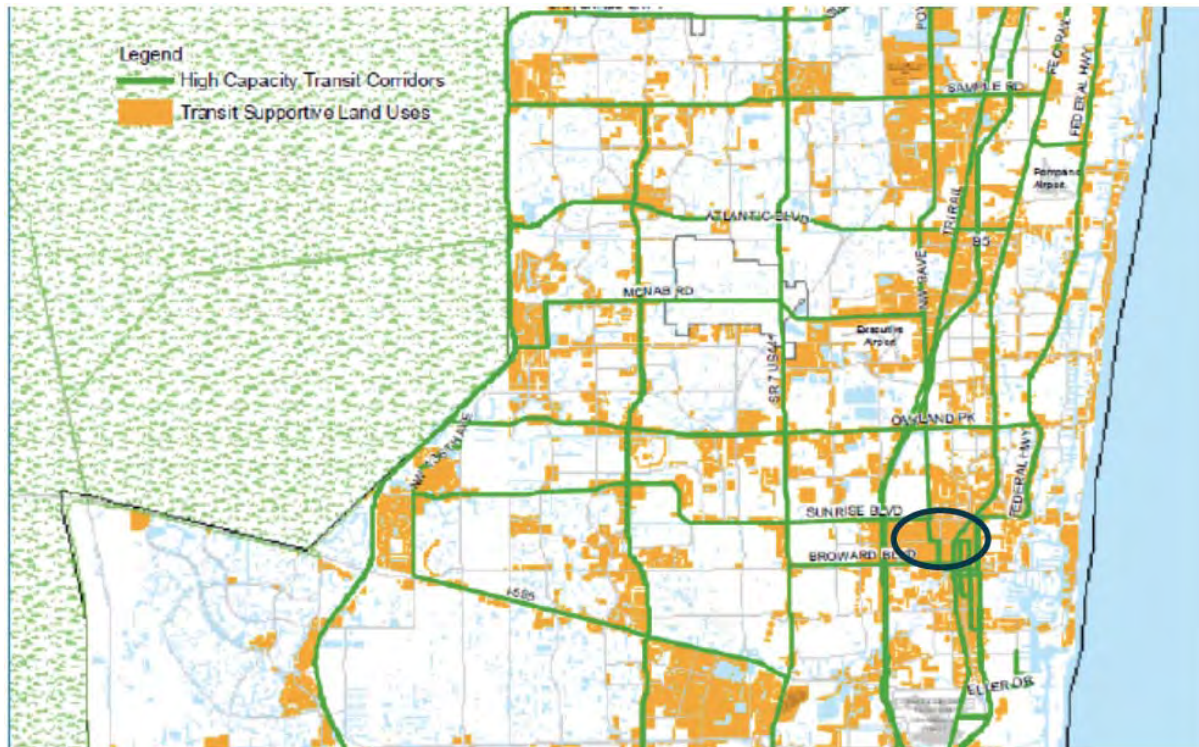
- 132 Units
- 71 Parking Spaces
- No designated on-street parking
- 31% more parking than current demand

## Proposed

- 132 Units
- 149 Parking Spaces
- 24 on-street parking spaces
- 176% more parking than projected demand

# Resident Parking Survey Results\*

- Only 38% own vehicles
- 58% Use Public Transportation



\*73% or 96 Units Responded

# Parking Observation

<b>Property</b>	<b>Kennedy Homes</b>	<b>Sailboat Bend Apartments</b>	<b>Sunnyreach</b>
Maximum Observed Parking Demand	2009 = 53 occupied parking spaces 2008 = 54 2006 = 53	38 occupied parking spaces	65 occupied parking spaces
Maximum Parking Ratio	.41 parking spaces per unit	.37 parking spaces per unit	.50 parking spaces per unit



# Comparable Properties FTL

Property	Sunnnyreach	Sailboat Bend
Number of Units	129	104
Parking Spaces	90	42
Parking Ratio	.69	.40
Demographic	Low-Income	Low-Income
Location	Fort Lauderdale	Fort Lauderdale



# Comparable Carlisle Developments

<b>PROPERTY</b>	<b>LOCATION</b>	<b>DEMOGRAPHIC</b>	<b>PARKING RATE</b>
Dr. Kennedy Homes	Fort Lauderdale	Low-Income and Very Low-Income	1.13
Santa Clara	Miami	Low-Income and Very Low-Income	.97
Village Patricia	Miami	Low-Income and Very Low-Income	.75
Amber Gardens	Miami	Low-Income and Very Low-Income	.68
Metro	Miami	Low-Income and Very Low-Income	1.16





# Committed Federal Funds

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- \$21,507,200 Low Income Housing Tax Credits
- \$5,000,000 Federal TCEP grant



# Affordable Housing Restrictions

- **Extended Low-Income Housing Agreement (Florida Housing Finance Corporation):** for **50 years** the project must be leased to "Extremely Low-Income Tenants" (income at 33% of the area median income) to "Low-Income Tenants" (income at 60% of the area median income).
- **Declaration of Restrictive Covenants for AHP County Loan:** For **50 years** rents must remain restricted to households whose total annual income does not exceed 120% of the area median income, and that the rent paid must not exceed thirty percent of the household's income.
- **Plat:** Will restrict the site specifically to the following mix - 64 garden apartments (57 low income and **7 very low income**) and 68 midrise apartments (61 low income and **7 very low income**).

# Affordable Housing Restrictions (Cont.)

- **Declaration of Restrictive Covenants (for Impact Fee Waiver):** Broward County recorded document ensures that affordable housing units are rented or sold to persons meeting the income limitations defined in Section 5-201 of the Broward County Code of Ordinances
- **Land Ownership:** The Housing Authority cannot divest land without HUD approval
- **These legal restrictions ensure Dr. Kennedy Homes will be limited to occupancy by low income households.**



# *Dr. Kennedy Homes*



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