

**CITY OF FORT LAUDERDALE, FLORIDA
REGULAR MEETING OF THE PLANNING AND ZONING BOARD
CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE**

**WEDNESDAY, JANUARY 22, 2004
6:30 P.M.**

<u>Board Members</u>	<u>Attendance</u>	(P)	(A)
Barbara Curtis, Chair	P	20	0
Gerry Cooper	P	18	2
Carolina Wiebe	P	18	2
Kenneth Hawkins	P	16	4
Mary C. Fertig	P	20	0
Alan Gabriel	P	18	2
James McCulla	A	17	3
Charlotte Rodstrom	P	11	1
Judith Hunt	P	3	0

Planning Staff: Chris Barton, Liaison to the Board
 Jimmy Koeth, Principal Planner
 Tony Longo, Planner III
 Don Morris, Planner III
 Liz Holt, Planner III
 Angela Csinsi, Planner II
 Kevin Erwin, Planner I

Legal Counsel: Sharon Miller, Assistant City Attorney

Court Reporting Service: Margaret D'Alessio

**NOTE: ALL INDIVIDUALS WHO PRESENT INFORMATION TO THE BOARD
DURING THESE PROCEEDINGS AFFIRM TO SPEAK THE TRUTH**

Chair Barbara Curtis called the meeting to order at approximately 6:35 p.m. with Kenneth Hawkins leading in the Pledge of Allegiance.

Chair Barbara Curtis proceeded to introduce the Board Members, along with City staff present at tonight's meeting. She also introduced Clara Bennett, Acting Director of the Executive Airport.

Carolina Wiebe entered the meeting at approximately 6:36 p.m.

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

11. City of Fort Lauderdale Don Morris 4-T-04

Request:* Amend ULDR Section 47-1.12 *Effect of Annexation on property* to allow legally permitted

Existing uses on annexed properties to remain legal and permitted after rezoning to a City zoning classification, subject to certain restrictions regarding reconstruction and prohibiting the use if discontinued or changed to a permitted use in the new City zoning district.

Chair Barbara Curtis stated that this item had been withdrawn from tonight's agenda.

Approval of Minutes – December 17, 2003 Meeting

Motion made by Gerry Cooper and seconded by Alan Gabriel to approve the minutes of the December 17, 2003 meeting. Board unanimously approved.

- Calvary Chapel** **Kevin Erwin** **11-Z-03**
Request:* ** Rezone Airport, Industrial Park (AIP)
to Community Facility (CF)
Harris Corporation, P.B. 100, P. 15
A portion of Tract A
Location: 2401 N.W. 62 Street (Cypress Creek Road)
- Calvary Chapel** **Kevin Erwin** **12-Z-03**
Request: * ** Rezone Airport, Industrial Park (AIP)
to Community Facility (CF)
Vantage Industrial Park, P.B. 89,
P. 1, A portion of Parcel A
Location: 2401 N.W. 62 Street (Cypress Creek Road)
- Calvary Chapel** **Kevin Erwin** **15-Z-03**
Request:* ** Rezone Airport, Industrial Park (AIP)
to Community Facility (CF)
Harris Corporation, P.B. 100, P. 15
A portion of Tract A
Location: 2401 N.W. 62 Street (Cypress Creek Road)

Chair Barbara Curtis announced that these 3 items were quasi-judicial, and that this Board would also serve as the Local Planning Agency. She advised that these three hearings would be heard together, but separate votes would be taken.

Sharon Miller, Assistant City Attorney, explained that certain items on the agenda were considered quasi-judicial which meant that the items were treated similar to Court matters, but with less formality. She further stated that the case would be presented, and individuals wishing to speak on such items would be sworn in, and the Board would disclose any communications or site visits in regard to the property. She also advised that anyone testifying could be cross-examined, and that exhibits used in the presentations would remain as part of the record.

The Assistant City Attorney proceeded to explain that the City Commission was required by Statute to appoint a body to act as the Local Planning Agency that would review land development regulations and comprehensive plan amendments. They would then proceed to make decisions as to whether amendments were consistent with the Plan. The Planning and Zoning Board had been appointed to act as the Local Planning Agency.

The following disclosures were announced by the Board as follows: Charlotte Rodstrom stated she had been to the site. Carolina Wiebe stated she had been to the site. Gerry Cooper stated that he had spoken with Robert Lochrie. Kenneth Hawkins stated that he had been to the site. Mary Fertig stated that she had been to the site, and had spoken to Commissioner Hutchinson and Robert Lochrie. Judith Hunt stated that she had been to the site and had spoken with Commissioner Hutchinson. Barbara Curtis stated that she had been to the site, spoken with a resident of Palm Aire Village, and had spoken to Commissioner Teel, Mr. Alfieri, Mark Davis and Robert Lochrie.

Robert Lochrie, attorney for the applicant, proceeded to thank the City staff and City Attorney's office, Clara Bennett and her staff, and the outside consultants for their time and effort in regard to this matter.

Mr. Lochrie proceeded to show a zoning plan of the Harris tract that was owned by Calvary Chapel consisting of their main headquarters located on Cypress Creek Road. He further stated that in 1999 the applicant had requested the City to rezone this area from AIP to CF that had been done. He explained that the areas shown in white on the map had been rezoned. He explained further that one portion of the property had been conveyed to the City, and then they had rezoned it from AIP to Park. Since then, Calvary Chapel had purchased property to the west of the current site.

Mr. Lochrie explained that the applicant was requesting a rezoning of the portion of the property in the northwest corner from AIP to CF, and a rezoning of the corner of the southwest corner to CF, along with portions of the property on the southeastern portion of the property. He explained that the property was unique due to its closeness to the Executive Airport, and in that regard several restrictions applied to the property.

Mr. Lochrie stated that over portions of the property previously owned by Harris was a deed restriction put into effect by the City when first conveyed. He explained this put the owner on notice that there were aviation and airport activities in the area, and a covenant existed not to sue the airport for certain nuisances caused from the Airport. He explained there were two levels of Federal and State protections, including restrictions on the types of activities that could occur in the airport noise contours. He proceeded to show a graphic of the relevant noise contours. He stated the "dashed" line was the current adopted noise contour, and the "dark bold" line was the 2002 proposed noise contour that had not yet been accepted. He stated for their purposes they had accepted this as the noise contour to be utilized. Mr. Lochrie explained that the noise contour line did cut into a portion of the property to be rezoned, but did not cut into the southeast corner.

Mr. Lochrie advised there was a State restriction regarding the types of uses that could occur in the Airport Land Use Reserve Area or Runway Protection Area. He explained

that in order to arrive at such areas, they had taken the extension of the runway, which in this case was a cross runway that did not get as much use as the main runway, and came up with an area based on the dimensions and length of the runway extending out to 5 miles for which they wanted to restrict certain activities.

Mr. Lochrie stated they had also agreed to enter into a covenant with the City and make an amendment to the current declaration that would put further restrictions on them.

He explained this would restrict the property to types of uses which would be permitted in the area, and not allow incompatible uses.

Mr. Lochrie stated that minor revisions had been made in staff's report regarding noise contours and how they affect certain areas that Kevin Erwin would explain.

Kevin Erwin, Construction Services, stated that the main property had originally been purchased by the Harris Corporation, and sold to Calvary Chapel in 1996. He explained that the main portion had been rezoned in 1999. He stated that the City then decided they wanted more protection for the Airport regarding this parcel of land. He stated that 4 different levels of protection were sought which were: (1) Aviation Easement over the entire parcel, (2) Covenant Not to Sue, (3) Prohibited Uses Within the Airport Hazard Area, and (4) Airport Noise Compatible and Non-Compatible Land Uses for the Noise Contour.

Mr. Erwin continued stating that the applicant was requesting a rezoning for 3 properties from AIP to CF. He explained one parcel was located in the southwest corner, one in the northwest corner, and one in the southeast corner. He stated that two of the parcels fell within the noise contour line, and entirely within the Runway Hazard Area. The third parcel was not affected.

Alan Gabriel stated that on page 3 of the report it stated:

“The City's Airport Consultant has reviewed these requests for rezoning and recommends that the applications be denied or if that is not feasible to obtain an aviation easement from the applicant....”

Mr. Gabriel asked if they were saying that the Board should deny this request. Mr. Erwin replied that was the original report, but he believed they had revised it based on the final copy of the Aviation Easement.

Clara Bennett, Acting Director Executive Airport, stated that when the City sold the property to the Harris Corporation certain restrictions had been included in the deed, including the right-of-flight by aircraft operating at the Airport over the property, and the right to cause noise inherent with the Airport operation. When such restrictions were put in place, it was contemplated the property would be used as AIP, which was consistent with Federal Aviation Regulations Part 150 and compatible with airport operations. She stated since the applicant had requested this rezoning, they felt it appropriate to negotiate with them and identify the permitted uses within the Community Facilities zoning that would be an issue for the City in terms of its Part 150 efforts, and the commitments made to the FAA in terms of protections required for this property.

Ms. Bennett explained they had presented a recommendation to the Aviation Advisory Board in September after becoming aware of this request, and recommended that the Board approve that staff work with the applicant, along with the City Attorney's office, in order to develop an amendment to the covenant that would incorporate the uses in CF zoning which were an issue in terms of Part 150. She stated that the amendments provided the City with suitable protection, while still promoting compatible uses with the property consistent with the City's goals in regard to Part 150. She felt with the easement in place, they had accomplished those goals.

Chair Barbara Curtis asked for an explanation of the permitted uses.

Ms. Bennett stated that they had identified some specific uses that would be permitted in CF zoning, but that would be considered incompatible with the FAA guidelines, such as residential uses, congregate care facilities, social service residential facilities, family care and group care facilities, manufactured dwellings, multi-family dwellings, dormitories, and shelters. She advised that educational uses were also limited. She stated that AIP zoning did allow for vocational and adult-type education type classes. She stated that Chapter 333 had been applied to relate to Pre-K through 12 classes. She added that other uses not permitted would be child and adult day care centers, hospitals, medical and health clinics, detention centers, psychiatric hospitals, or orphanages. She stated the main concern was exposure on a continuous long-term basis to noise and the flight path of the Airport. She added that they had also looked at wholesale trade, petroleum bulk stations and terminals which would be considered a potential hazard to the Airport, along with hazardous and radioactive waste transportation, and solid waste disposals.

Chair Barbara Curtis asked if the consultant could explain the task they had been assigned to do, along with their level of comfort regarding the language in the easement.

Ted Baldwin, Consultant, stated that he had been the City's Airport noise consultant for the last 20 years. He announced they had conducted 3 Part 150 studies, and he congratulated the City for doing that, and making sure that the noise contours were accurate and up-to-date. He stated they had gone through a relatively protracted process that had taken about 5 months. He felt it was an example of successful land use compatibility planning.

Mr. Baldwin explained that for the City it provided them positive assurances that the land would be developed in a way which would be compatible with the Airport noise as it presently existed, and as it would exist into the future. He stated it also provided the City with protection as required under the State Statute, and in compliance with the restrictive covenants for the land.

Mr. Baldwin further explained that for the applicant, it gave them an explicit list of specific uses for which they could develop the site. They could, therefore, plan for the property and do their master planning with reasonable assurance that such plans could be implemented with compatible and beneficial uses, or in areas where identified uses which were marginally compatible had provided appropriate levels of sound attenuation in the easement language making them compatible.

Mr. Baldwin advised that a preliminary report had been prepared in August recommending that the City either deny the application or approve it with an easement. A revised report had been prepared on January 13, 2004 due to negotiations whereby they had summarized the results of the process used, and recommended adoption of the change with the easement.

Mr. Baldwin further stated that the land uses were only restricted in 2 areas. From a noise perspective, they had an Airport Noise Compatibility Matrix included in the easement that identified specific land uses which were permitted within the contour lines. He stated it not only included the 65 contour, but there was a tiny portion of a 70 contour, and a higher contour as well. In addition, there was the Runway Land Use Restriction Area that dealt with another specific list of uses which was inconsistent with Chapter 333 of the Florida Statutes. He advised that Chapter 333 addressed residential and educational restrictions, but in working with the City Attorney's office and the applicant, they had identified more specific uses. He advised they did want to prohibit residential uses and any overnight uses of permanent dwelling units, along with educational uses except for adult education. He stated that wholesale trade and other uses dealt with safety related issues. He announced that on pages 11 and 12 of their report were the Land Use Airport Noise Compatibility Matrix that was consistent with Part 150 as adopted by this City.

Judith Hunt stated that they had looked at Noise Attenuation Studies up to the year 2002, and asked if that had incorporated the County's study that they had proposed for the expansion of the north runway. Mr. Baldwin stated he had taken that into account and announced that he was also the County's noise consultant. He explained their noise contours did not extend within miles of the Airport. He reiterated it had been taken into account, but did not have an affect on those lines. Ms. Hunt stated if the north runway was to be built, many of the small aircraft locations parallel to the north runway would be relocated and assumed they would relocate to this Airport. Mr. Baldwin confirmed and stated it was a concern for the City. He stated they had assisted in preparing comments on the north runway alternative that the County was not pursuing as their prime alternative. He stated they were concerned that it would disrupt general aviation activity on the north side of the Airport. He added that one of the provisions of this was that the City would update the noise exposure maps as required by the Federal regulations when conditions changed.

Ms. Hunt asked if he had a high level of comfort that if such change occurred, there would be no detrimental affect on any hearing losses or potential injuries to individuals participating in any activities in the area. Mr. Baldwin stated he was comfortable saying that and stated that the kinds of noise issues involved would have no health affects or cause any hearing affects. He stated they did affect potential appropriate uses of the land that would deal with annoyance, sleep interference, speech interference, but no health affects. Ms. Hunt asked if an indemnification existed. She stated that the School Board had received some lawsuits that they had not been successful in defending in regard to noise for students in Edgewood Schools. She believed the City would have the liability for the site.

The Assistant City Attorney stated she believed there was an easement against that type of lawsuit which acted as an indemnification agreement for the City.

Mr. Lochrie stated that the agreement provided a covenant whereby they agreed and acknowledged that the property was within the close proximity to an airport, and acknowledged that there would be aircraft activity, and agreed they would not sue the City based on the results of the aircraft activity.

Ms. Hunt stated she was not talking about the applicant suing, and asked if they were indemnifying the City for anyone in attendance at Calvary Chapel who might have a loss.

Mr. Lochrie stated they were not indemnifying the City against claims brought on by third parties to the site. He stated that currently a warehouse was in the area and people assembled there before the applicant had purchased the property, as was the entire area as shown on the graphic. He stated the property was adjacent to an industrial park and a residential area. He further stated that the types of uses the applicant would have at this site would provide less risk to the City, than would many other uses which would be permitted at the site.

Ms. Hunt stated she was not comfortable in approving this application unless the applicant was willing to do an indemnification to the City in regard to any third-party liability.

Chair Barbara Curtis stated the Board was only looking at 3 parcels, and they had agreed not to place schools in the area. Therefore, the chance of someone having a hearing loss by attending a one-hour service in the church in a different area would be very slim.

Ms. Hunt reiterated that if they engaged in adult education in the area, she believed that would result in more than one hour of time.

Chair Barbara Curtis stated adult education was permitted in AIP.

Mr. Lochrie further stated that one of the reasons that this made sense from the City's perspective was that with this easement, the City had certain rights over the entire property that did not exist today. Therefore, the City was gaining something with this rezoning.

Ms. Bennett stated she understood the concerns being raised and that was why they began the process. One of the assurances they gained was that in the portions of the property that were subject to the continuous noise exposure, there would be sound attenuation required. She stated that the school uses and other facilities constructed would be required to include sound attenuation and noise level reduction of either 25 or 30 from indoor to outdoor depending on the type of use they would be constructing on portions of the property that were under the contours.

Ms. Hunt reiterated that the only way she would support this application would be if there was a third-party indemnification.

Chair Barbara Curtis proceeded to open the public hearing.

Mr. Lochrie stated that he understood the concerns being raised regarding the third-party indemnification, but they were not in the position to be able to provide that at this point. He stated further that based on things they heard from the Airport in regard to the type of activity which went over this part, they did not believe that would be a significant concern. He stated it involved a small portion of the property with day activity single twin-engine prop planes, and they did not anticipate any issues regarding noise activity. He further stated that some of the uses for the area would include a gymnasium, and the noise consultant had pointed out that the noise generated in such an area would far exceed the noise that would come from the planes.

Mr. Lochrie continued stating that noise was important in regard to the existing school. He stated that due to classes being held down the hall from band classes, they had to provide sound attenuation between classrooms that far exceeded the levels of noise generated in the schools.

Chair Barbara Curtis asked if the consultant could provide some further information regarding sound attenuation and noise based on his education and experience.

Mr. Baldwin stated that he had a Civil Engineering Degree and a Master's Degree in City and Regional Planning. He stated that he had spent the last 27 years of his career in the field of airport noise abatement planning starting as an airport noise officer for Boston Logan International Airport, and then as a consultant for the last 22 years in an acoustical consulting firm. He stated that he had personally consulted for approximately 70 airports in the United States and abroad doing this type of work. He stated that based on his experience and education, he knew of no studies of any type which would indicate that the type of noise exposure that this parcel would be exposed to due to aircraft over flights would ever cause hearing loss. He stated this was the short runway at the Airport and jet operations were extremely rare and only occurred when the main runway was shut down for maintenance that was usually during the night hours. He reiterated this was a short runway and the jets preferred the longer runways.

Mr. Baldwin stated this was a win for both sides because it provided the City with a strong level of assurances of compatible land use development, while giving the Chapel a list of permitted uses in planning for their property.

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

The Assistant City Attorney stated that the Board should vote on the 3 items separately.

Motion made by Alan Gabriel and seconded by Gerry Cooper to approve the application as presented, including staff's recommendations for Item 11-Z-03. Also, as the Local Planning Agency this complied with the City's Comprehensive Plan. Roll call showed: YEAS: Mary Fertig, Alan Gabriel, Kenneth Hawkins, Gerry Cooper, Carolina Wiebe, Charlotte Rodstrom, and Barbara Curtis. NAYS: Judith Hunt. Motion carried 7-1.

Motion regarding the northwest parcel was made as follows:

Motion made by Alan Gabriel and seconded by Gerry Cooper to approve the application as presented, including staff's recommendations for Item 12-Z-03. Also, as the Local Planning Agency this complied with the City's Comprehensive Plan. Roll call showed: YEAS: Mary Fertig, Alan Gabriel, Kenneth Hawkins, Gerry Cooper, Carolina Wiebe, Charlotte Rodstrom, and Barbara Curtis. NAYS: Judith Hunt. Motion carried 7-1.

Motion made by Alan Gabriel and seconded by Gerry Cooper to approve the application as presented, including staff's recommendations for Item 15-Z-03. Also, as the Local Planning Agency this complied with the City's Comprehensive Plan. Roll call showed:

YEAS: Alan Gabriel, Kenneth Hawkins, Gerry Cooper, Carolina Wiebe, Charlotte Rodstrom, Mary Fertig and Barbara Curtis. NAYS: Judith Hunt. Motion carried 7-1.

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| 4. | <u>Temple Bat Yam of East Fort
Lauderdale, Inc.</u> | Tony Longo | <u>100-R-03</u> |
| | Request:** | Site Plan Approval/Conditional
Use/RMM-25
Coral Ridge Isles, P.B. 45, P. 47
A portion of "Parcel C" | |
| | Location: | 5151 NE 14 Terrace | |

Chair Barbara Curtis announced that this matter was quasi-judicial.

The Board announced their disclosures as follows: Judith Hunt stated that she had been to the site, and had received a copy of a letter from the Coral Ridge Isles Homeowners Association. Mary Fertig stated that she had received an e-mail. Alan Gabriel stated that he was a member of this Temple. He added that he had been to the site many times and had conversations with Rabbi Litmann and Jeffrey Monback, President of Temple Bat Yam. He stated that he received no financial gains due to being a member of this Temple, and therefore, had no conflict of interest in this matter. Kenneth Hawkins stated that he had received a copy of a letter from the Coral Ridge Isles Homeowners Association. Gerry Cooper stated that he also was a member of this Temple and had discussed the matter with Sharon Miller, Assistant City Attorney. Since he received no financial gains from being a member of this Temple, there would be no conflict of interest. He added that he had also spoken with Rabbi Litmann, been to the site numerous times, and had also received a letter from the Coral Ridge Isles Homeowners Association. Carolina Wiebe stated that she had been to the site and had received a letter from the Coral Ridge Isles Homeowners Association, and spoke with Mr. Masulo. Charlotte Rodstrom stated she had also received a letter from the Coral Ridge Isles Homeowners Association. Barbara Curtis stated she had been to the site and had also received a letter from the Coral Ridge Isles Homeowners Association. She added that she had also received an e-mail from Mr. Masulo.

Joe Masulo, architect, stated that the facility was a Temple and pre-school. He stated this facility had a conditional use, and advised there were no changes being proposed to the facility. He advised they were renovating a sanctuary and social hall in the interior. He added they were proposing to add a storage room on the north side, a vestibule enclosure on the south side, along with a canopy entrance and plaza. He proceeded to

show a drawing of the site. He also stated that landscaping would be added to what already existed.

Tony Longo, Construction Services, stated that the applicant was requesting a conditional use. He continued stating that the district allowed a House of Worship as a conditional use subject to ULDR Section 47-18.17. He stated that the proposal met the requirements of the ULDR, and had been reviewed by the Development Review Committee on Wednesday, October 4, 2003, and all comments had been addressed. He stated that staff agreed with the applicant and recommended approval subject to the conditions listed by staff in their memorandum.

Chair Barbara Curtis proceeded to open the public hearing. There being no individuals who wished to speak on this item, the public hearing was closed and discussion was brought back to the Board.

Motion made by Alan Gabriel and seconded by Gerry Cooper to approve the application per staff's recommendations. Roll call showed: YEAS: Kenneth Hawkins, Gerry Cooper, Carolina Wiebe, Charlotte Rodstrom, Judith Hunt, Mary Fertig, Alan Gabriel, and Barbara Curtis. NAYS: None. Motion carried 8-0.

5. **Robert Martin Lee/Bob's Speed Products** **Jimmy Koeth** **53-R-03**
Request:** Parking Reduction/I Progresso,
P.B. 2, P. 18, Block 281, Lots 25
& 26
Location: 702 NW 6 Avenue

Chair Barbara Curtis announced that this item was quasi-judicial. She also stated that there had been a prior request that had been approved in 2001, and was listed as Case No. 150-R-98.

The Board made the following disclosures: Gerry Cooper stated he had been to the site. Judith Hunt stated she had been to the site. Mary Fertig stated that she had been to the site. Kenneth Hawkins stated he had been to the site. Barbara Curtis stated she had been to the site, and had reviewed the minutes of the Planning and Zoning Board meeting of February 21, 2001 when this item had been previously approved.

Don Arpin stated they were back before this Board due to their having been a lapse of more than one year between the time the request had been approved, and the time construction documents had been submitted. He referred the Board to page 2 of the documents they had received, and stated there was an existing one-story building to the north end of the new project. He explained there was only 324 sq. ft. to be added to the bottom floor. The bulk of the space was dead storage that was located above the existing facility. He explained this would be used for the storage of engines and personal effects of Mr. Lee. He stated there would be no increase in the area of activity on the bottom floor to increase production.

Mr. Arpin further stated that due to the "0" lot line ability, the owner was on the southern end of the warehouse complex of bays which opened to the east and west. Therefore, his property had cars parked on it by individuals working in other bays north of the site.

He stated there was an alley in the back that had limited parking. He stated that his property was congested with those cars and since he could build to the lot line, those cars would be eliminated. He also stated that there were no sidewalks in the area at this time, and would now be installed with the improvements. The City Engineer stressed the need for a sidewalk at the southern end of the building.

Mr. Arpin continued stating that there were about 6-8 trips made a day to the site with a 30-minute stay. He stated they were requesting a parking reduction for 3 spaces, and they would be providing 7 spaces. He remarked that only 2 individuals worked at this site that was father and son, and probably could carpool.

Jim Koeth, Planning and Zoning, stated that the applicant was providing 7 parking spaces where 10 were required. He explained this was a 30% reduction and their study had been based on shared parking and carpooling. He stated that the DRC Engineering Representative concurred with the findings of the parking study. Two conditions were put on this application which were: (1) That a parking agreement be executed and recorded in the Public Records, and (2) a building permit be applied for within 18 months of final approval and obtained within 24 months.

Mary Fertig asked if the parking reduction would go with the land. Mr. Koeth stated that the reduction would run with this particular use. He stated that the cars in the area were not patrons for this business, and were the source for some of the parts. He remarked that this was a specialized high performance business dealing with race engines. He stated that the parking study had been based on this type of use, and unless someone came to the site wanting to perform the exact type business, they would have to start over and come before this Board with a new study based on their use for the site.

Gerry Cooper remarked that this area was the worst for parking, and added that he did not think he and his son would carpool and felt that was a stretch of the imagination. He stated there was a ULDR requiring 10 spaces, and he felt more should be provided. He stated that he was not in favor of this request and did not see a reason for the reduction. He felt this would only add to the problem in the area.

Barbara Curtis stated that in the minutes of the February 2001, meeting, Mr. Barton had explained that the variance would run with the use, and if the use changed to a more general automotive shop, the parking reduction would not carry. She asked if that was correct. Mr. Barton confirmed and stated it would have to be a similar business for it to carry over to the new business. Ms. Curtis clarified that staff had requested that 2 spaces be removed for the purpose of landscaping.

Mr. Koeth stated that from the original site plan approval submitted at the end of 2000, they had parking in some areas that staff asked to be removed for landscaping. He added that traffic did not circulate correctly. Mr. Barton added that the original plan had not shown any sidewalks, nor the landscaping that was being introduced. Engineering determined that sidewalks were important and the landscaping was necessary.

Ms. Fertig asked if any general automotive repair was done at this site. Mr. Arpin replied that the work related to high performance engines and modifications for street and racing use. He stated the owner had his own racing vehicles on the site. He added that the

other 2 bays were to the north that the applicant occupied and were part of this study. He explained that most of his customers brought engines and cars to him to be worked on. He stated this addition would help to eliminate cars on the site because they would have to park illegally on the sidewalk. He continued stating that the base of the business was in relation to high performance and race engines. Individuals could bring their cars in for repair work. He explained there was room for 2-3 cars in the bay at this time. He stated there was a machine shop in the bay, along with a 250 sq. ft. office in the front. The use of the building would not change at this time.

Carolina Wiebe stated they appeared to be moving away from the description of the business as provided in the backup material. She quoted from the October 18, 2000 letter from Mr. H. Burton Smith to Scott Miller, City of Fort Lauderdale, as follows:

“The majority of the space, in all 3 bays, is occupied by the owner’s personal race cars and warehouse area for the storage of the numerous engine parts. “

She further quoted from page 2 of that letter as follows:

“The owner is desirous of constructing a second floor over the end bay, which is the one he owns. This will enable him to move his race cars and engine parts into his own building and reduce his overhead by eliminating the rent for the other two bays.”

She also quoted again from page 1 as follows:

“This is a very unique business in that it has no walk-in traffic. The customers typically call in their requests with a detailed description of the proposed engine specifications. Most of these engines will be manufactured for competition and, therefore, built to the specifications of a particular racing class.”

Ms. Wiebe stated this was giving a totally different image of the business.

Mr. Arpin stated there was conflicting evidence and stated that when this was done in 2000 as to how the individual’s business had evolved. He stated it was predominantly working on racing engines. He stated that in honesty, the other 2 bays were used for the cars, if necessary. Mr. Arpin reiterated that the owner had not experienced any increase in walk-in traffic.

Ms. Wiebe asked about the cars parked in the area that were used to supply engines and parts. Mr. Arpin stated that the cars were mostly from individuals who parked in the area. He reiterated there was increased congestion in the back of the property that would be eliminated by this project. He stated this was a blighted area and these improvements would only enhance the neighborhood, while reducing off-street parking. Ms. Wiebe asked when the parking study had been done, and if it had been based on the information supplied to the Board.

Mr. Koeth stated that the study had been done on December 19, 2000. He stated that DRC based their decision upon the same study that had been furnished by H. Burton Smith. He further stated that the last page clarified what items from the ULDR the study had been based upon.

Charlotte Rodstrom asked what type of race cars were being worked on at the site. Mr. Arpin stated they were high performance street cars and drag cars.

Chair Barbara Curtis stated that in light of the slightly different description they were hearing regarding the business, she asked if staff was comfortable saying that the ULDR criteria were being met for a parking reduction. Mr. Koeth stated he was not an engineer, and it would be Tim Welch's call, who was presently out of town.

Gerry Cooper stated this had been presented as a business handling high performance racing engines, but now he was hearing they worked on high performance street cars. He stated that he wondered where the fine dividing line was, and felt there could be problems in the future. He believed that a racing engine was finely tuned and not driven on the street, but felt that high performance street cars "opened the barn door." He

asked how the two could be differentiated. Mr. Koeth reiterated that he was not an expert in this matter. Mr. Cooper stated if staff were not experts, then how could the Zoning Department figure this out years down the road in case the property was sold. He further asked why the applicant had not towed the cars off his property that did not belong there.

Mr. Arpin stated the applicant was trying to be a good neighbor and did not want to be harassed by the locals. With this project, he emphasized the unwanted cars would not be on the applicant's property and would be ticketed. He remarked that there would be a chain link fence that would protect the spaces owned by the applicant. He added that the property would be like a compound.

Mr. Cooper remarked that he was still not sold on this project.

Ms. Rodstrom asked if this area was the only one to be getting sidewalks. Mr. Koeth stated that any redevelopment was being asked to install sidewalks. Ms. Rodstrom remarked that this would be one of the first areas to have sidewalks. Mr. Koeth confirmed and stated that he felt sidewalks were good for pedestrian safety.

Judith Hunt stated that the City was doing road construction in the area and she felt it added to the area's problems.

Chair Barbara Curtis proceeded to open the public hearing.

Mr. Arpin stated that he had a letter from the owner regarding the unnecessary congestion in the area. He added that if the Board wanted to table this matter for further clarification regarding the parking study, it could be considered an option.

Mary Fertig asked how the parking for the other 2 bays was going to change with this proposal. Mr. Arpin stated that it would eliminate the cars from the applicant's property, but he did not know where they would park.

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 Charlotte Rodstrom and seconded by Judith Hunt to approve the request per staff's recommendations.

Ms. Fertig stated she was going to suggest tabling this matter in order to obtain a more accurate description of the business. She stated what had been supplied in the Board's backup did not match what had been stated.

Motion made by Mary Fertig and seconded by Gerry Cooper to defer this matter until February 18, 2004.

The Assistant City Attorney stated that a motion to defer to a date certain would take precedence over the previously made motion.

Chris Barton, Planning and Zoning, stated that staff would recommend this matter be deferred until the March meeting because additional time would be needed if the applicant was going to update the traffic study.

Motion was amended as follows:

Motion made by Mary Fertig and seconded by Gerry Cooper to defer this matter until March 17, 2004.

Ms. Fertig stated that besides the parking study, she also wanted to have the backup reflect the actual business being done at the site.

Roll call showed: YEAS: Gerry Cooper, Carolina Wiebe, Charlotte Rodstrom, Judith Hunt, Mary Fertig, Alan Gabriel, Kenneth Hawkins, and Barbara Curtis. NAYS: None. Motion carried 8-0.

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| 6. | <u>Georgian Oaks at La Preserve</u> | Angela Csinsi | <u>1-ZPUD--03</u> |
| | Request:** | Rezone Residential Single-Family and Duplex/Medium Density (RD-15) to Planned Unit Development (PUD)/ Site Plan Approval Acreage In 16-50-42 | |
| | Location: | 1600 SW 20 th Street | |
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 | | | |
| 7. | <u>Georgian Oaks at La Preserve</u> | Angela Csinsi | <u>9-P-03</u> |
| | Request:** | Plat Approval/"Georgian Oaks At La Preserve"/Acreage in 16-50-42 | |
| | Location: | 1600 SW 20 th Street | |

Chair Barbara Curtis announced that Item Nos. 6 and 7 would be discussed together, but votes would be taken separately. She stated that the items were quasi-judicial, and that the Board would also be acting as the Local Planning Agency.

The Board made their disclosures as follows: Kenneth Hawkins stated he had been to the site. Mary Fertig stated that she had been to the site and had received a letter from the Civic Association. She stated that she had also spoken to Courtney Crush and Commissioner Hutchinson. Judith Hunt stated she had been to the site and had also spoken with Commissioner Hutchinson, and had received a letter from the Civic Association. Gerry Cooper stated that he had spoken with Courtney Crush. Carolina Wiebe stated she had been to the site. Charlotte Rodstrom stated she had received a message from Courtney Crush. Barbara Curtis stated that she had been to the site.

Don Hall, attorney, stated that he had various individuals present with him this evening as resources for the project, if the Board had any questions.

Mr. Hall further stated that a letter had been given to the Board from the River Oaks Civic Association dated January 17, 2004 stating that they were in support of this project by a vote of 33-0. Mr. Hall stated that a memorandum had been sent from Kathy Connor, Parks Supervisor, to Angela Csinsi who recommended approval of this project.

Mr. Hall proceeded to show a photograph of the 1-acre park that would be dedicated to the City if this project was approved. He stated that staff's report was comprehensive and he wanted to emphasize the main points of that report. He then proceeded to show the site plan.

Mr. Hall continued stating that the 1-acre park was an active nursery at this point in time, but would be conveyed to the City and would be the first real park in the neighborhood. He stated that this site consisted of 8.05 acres and was presently zoned RD-15 which permitted a variety of uses, including cluster homes. He stated they were proposing a single-family neighborhood consisting of 35 homes. He stated that all lots fronted a tree-lined private roadway. He stated that the applicant would also be creating a wetlands area immediately north of the park that would serve as a buffer between the park and the neighborhood. He remarked that all improvements would be maintained by the Homeowners Association.

Mr. Hall explained that the typical lot size would be 5,000 sq. ft, and the RD-15 zoning permitted 3,000 sq. ft. lot sizes. He stated that the site was surrounded mostly by residential, along with some commercial. Staff had found, and they agreed, that this proposal was consistent with the City's Land Use Plan and compatible with the surrounding neighborhood. He explained that the proposed housing would be buffered from the existing homes with a series of landscape easements, including the wetland area and the park. He stated that on the west there was a 25' unimproved dedicated right-of-way which would be turned into a walkway at the developer's expense. He explained that to the north was a 30' right-of-way which would be dedicated by plat, and to the east was a 13' strip of property owned by the City.

Mr. Hall stated that part of their proposal was that the 13' strip of property be conveyed to the applicant. The Property and Right-of-Way Committee unanimously approved that request and recommended approval. He explained that the property appraiser had valued this strip at about \$19,000 and had no value to the City since it was undevelopable. He stated that the property had been received from the County who had obtained it due to a failure to pay taxes. He felt over time there was a more valuable

consideration of the City regarding this conveyance which was that the 13' strip permitted this project and the ad valorem taxes from the homes in the area would more than compensate the City.

Angela Csinsi, Planning and Zoning, stated that this application was to rezone 8 acres of property from residential single-family duplex/low medium density to a PUD. She added the proposal was to develop 35 single-family homes. She explained that the PUD was intended to provide locations where development could incorporate planning initiatives achieving unique or innovative development that would not otherwise be permitted under traditional zoning districts and development standards. She stated that she had listed the 4 criteria which the applicant had met regarding this project in her memorandum which were as follows:

1. Creates compact building forms that utilize land resources more efficiently.
2. Preserves natural resources by retaining large native trees and creating open spaces and wetlands.
3. Provides pedestrian walkways.
4. Brings houses closer to the street which encourages interaction with the neighboring properties.

Ms. Csinsi stated that due to the long narrow shape of the property, there were significant constraints under the existing RD-15 zoning regulations. Specifically, if the 75' width were followed and the standard roadway width applied, there would be less lots and the park dedication would not be feasible. She added that this proposal was consistent with the City's Comprehensive Plan, and specifically the Land Use Element Objective 19 that stated:

"In existing neighborhoods, development shall be compatible with present neighborhood density and with specific plans for redevelopment and revitalization."

Ms. Csinsi stated that it was also consistent with the housing element goal #1 which was to preserve, enhance, and revitalize the City's existing neighborhoods. She stated that it also met two other housing element purposes that were: "to improve the quality of the existing housing stock and to provide safe and adequate housing for all residents."

Ms. Csinsi stated that if this project was approved staff recommended four conditions, along with conditions suggested by the Parks and Recreation Department. She stated that the conditions submitted by the Parks and Recreation Department were as follows:

1. The parking lot for the site would be built for the City at no additional cost to the City, and the land for the park shall be transferred to the City of Fort Lauderdale as a deeded park by ordinance, and shall be maintained by the City for the community as a neighborhood park.
2. The western right-of-way shall be improved by the developer for use by the community to access the park at no cost to the City and would be maintained by the City of Fort Lauderdale for the community.
3. The wetland area shall be built and maintained as common green space for the new development by the property owners in the new development.

4. The eastern surplus land strip is an area that shall be maintained by the development as a landscape buffer yard.

Ms. Csinsi stated that in regard to the plat, the applicant wanted to develop 35 single-family lots that would range from 5,000 sq. ft. to 9,000 sq. ft. in area. She explained if this project were to be developed under RD-15, the standard 75' lot width would be required with a minimum of 7500 sq. ft. lot size. This Board had the authority to vary these requirements as to carry out the spirit and purpose of the subdivision regulations. She stated that lots in the surrounding area had been platted as 50' lots.

Ms. Csinsi advised that the applicant was requesting a private street as recommended by the City Engineer and City Surveyor because it did not meet the minimum center line radius of 150' for a turning radius. She stated that the applicant added that the roadway had been designed to calm traffic and mitigate any adverse visibility impacts.

Ms. Csinsi stated that if this Board approved the plat, staff suggested 3 conditions as follows:

1. The plat shall be reviewed by Tony Irvine, City Surveyor, prior to submittal to City Commission.
2. The disposition of ownership of the 13' wide surplus sections shall be resolved prior to submittal to City Commission.
3. Final DRC sign-off.

Chair Barbara Curtis stated that in accordance with Section 47-37.3.D, Conditions for PUD Rezoning, who had unified control of the entire tract. Mr. Hall stated that today the entire tract was under the control of Georgian Oaks, LLC, and the 13' strip was under the unified control of the City of Fort Lauderdale. Chair Barbara Curtis asked if Glenwright Construction was the principal and the LLC. Mr. Hall replied that Georgian Oaks LLC was a limited liability company of which Messrs. Goldstrum and Mr. Wright were principals.

Chair Barbara Curtis further stated that she did not see a wall being proposed on the site plan. Mr. Hall confirmed. Chair Barbara Curtis asked if the individual homeowners would be allowed to erect walls around their properties so the neighborhood would not be able to enjoy the ambiance available. Mr. Hall stated there would be no wall, but a shadow box fence would be erected around the perimeter of the property. He proceeded to show where such fence would be located on the map.

Trish Schweitzer advised there would be a 6.5' shadow box fence that would begin at SW 23rd Street and go around the perimeter stopping at the end of Lot #31. It would then again pick up at the backside of Lot #32 and go to SW 23rd Street. She further explained that the 13' strip would be located on the inside of the fence.

Chair Barbara Curtis further asked if the park impact fee had been waived. Mr. Hall replied that he was not sure. Ms. Csinsi stated that instead of paying a fee, they were donating the land. Chair Barbara Curtis asked what would the impact fee be for 8.5 acres. Mr. Barton explained it would not be based on the 8.5 acres, but only on the 35

residential units. Ms. Csinsi stated that the impact fee would have been \$73,500. She explained there was a factor used in the formula of 5 people per unit which has been used since the early '90's, along with a factor of 3 acres per 1,000 residents and \$140,000 per acre of land. Mr. Barton explained that the factor of 3 acres per 1,000 residents was stated in the City's Comprehensive Plan.

Chair Barbara Curtis stated that on page 3 of staff's report it stated:

"Sidewalks will be provided throughout the site and along external roadways (where sufficient right-of-way exists) for pedestrian use."

Chair Barbara Curtis asked why sidewalks would not be provided around the entire perimeter. Ms. Csinsi replied there was not sufficient right-of-way available on SW 20th Street. Chair Barbara Curtis stated that was a heavily traveled street in the neighborhood, and asked why sidewalks were not being recommended. She further asked if sidewalks were only being required if there was a right-of-way. Mr. Koeth stated that when there was a question as to whether there was right-of-way or not, they left it to the City Engineer's discretion who considered the amount of traffic in the area. Mr. Barton stated that if during DRC review, they had not determined that sidewalks were needed or warranted, they were not asked for. In this case it appeared that staff had not recommended sidewalks, but if the Board wished to impose such a condition, they could do so. He stated that perhaps staff had not recommended sidewalks because there were no existing sidewalks on the south side at this time. Chair Barbara Curtis stated that she felt the City was not being consistent regarding such requirements.

Chair Barbara Curtis asked if the wetland area would be part of the drainage for the project.

Glenn Hanks, Project Engineer, stated that the wetlands would provide drainage for the project, and drainage would also be provided with on-site exfiltration systems and on-site driver tension systems.

Charlotte Rodstrom asked where SW 17th Avenue was located on the photograph being shown. She stated that she was under the impression that was the walkway with the trees. She asked if it was next to the road or in place of it.

Mr. Hall replied that it was a right-of-way that had never been opened and today was right-of-way by dedication only and was not an active roadway at that point. He added that the roadway was not paved.

Mr. Barton stated that the roadway was 25' wide and was unimproved. He added that the stretch from SW 21st Street to SW 20th Street was unpaved, but cars did pass through. He explained that south of SW 21st Street it was unimproved and heavily wooded. He stated that the Parks Department wanted to have the applicant develop that section as a greenway. He stated that the City's minimum standard for a right-of-way at this location would be 50', and therefore, this was half of what was normally needed.

Mary Fertig stated they were discussing having a sidewalk along SW 20th Street on the north, and asked for that area to be shown on the map. She further asked if it was possible to construct a sidewalk in that area.

Ms. Schweitzer replied that SW 20th Street was heavily traveled on the north end, and the portion of the property that abutted that street dead-ended a couple of hundred feet towards that leading to the marina. She further stated that sufficient right-of-way did not exist from the property line to the edge of pavement to install a sidewalk.

Chair Barbara Curtis asked if Ms. Schweitzer was testifying that there were no houses further west. Ms. Schweitzer confirmed. Chair Barbara Curtis stated there were houses further west. Ms. Schweitzer confirmed. Chair Barbara Curtis stated there was a marina on the north, and asked if a sidewalk was located on the north side. Ms. Schweitzer stated that to her knowledge none existed. Chair Barbara Curtis asked if Ms. Schweitzer was testifying that the road was not heavily traveled. She added that the road was heavily traveled due to marina traffic.

Molly Hughes, Traffic Consultant, stated she was not going to say that people did not travel the roadway, and she stated that she would not say that there would not be more individuals in the future, but based on her experience with another project on the roadway nearby, Mr. Welch did not recommend sidewalks because there was a safety factor involved. She explained that when a sidewalk was a short distance and not connected to another, it was not the City Engineer's practice to ask for a sidewalk. He did not perceive the possibility through a long-term course of development that sidewalks would be added and be continuous. She stated that the public would not use such a short sidewalk. As a matter of safety, normally pieces of sidewalk were not provided unless it could become continuous.

Chair Barbara Curtis stated that in the letter from the River Oaks Civic Association they had stated:

"In addition to Glenwright Construction donating the park, they planned to improve the lighting and façade at our neighborhood Quick-Mart on SW 20th Street at S.W. 15th Avenue."

Chair Barbara Curtis asked if they could assume that the developer wanted people to use the Quick-Mart from this development. Mr. Hall stated that he would not assume that, and this had been a neighborhood request. He stated that his client had a substantial investment in the neighborhood and felt it was a reasonable request, and therefore, volunteered to bear the cost.

Ms. Hughes stated that she was a technician and received her information from research, and therefore, had no such information available. She added that this had nothing to do with her technical area.

Chair Barbara Curtis stated she was concerned that there was no sidewalk even though one was going to be provided on the west side. She felt they would be drawing residents from the neighborhood down S.W. 17th Avenue to the park, and thought it was reasonable that if the Quick-Mart was improved people would walk there, and yet there

would be no sidewalk at S.W. 20th Street. She asked if Ms. Hughes had an opinion regarding the S.W. 17th Avenue sidewalk.

Ms. Hughes stated that if this Board preferred a sidewalk, they should indicate that if technical staff agreed, it would be safe that one should be added. Otherwise, the Board would be legislating a sidewalk that staff was not comfortable with for the area.

Chair Barbara Curtis reiterated that was the problem because staff was not present to give their opinion regarding that matter. Ms. Hughes stated it was not difficult because Mr. Welch was very comprehensive and would have recommended a sidewalk if he would have been comfortable with that suggestion.

Ms. Fertig stated that reference was made to the fact that the developer had other projects in the neighborhood that were east of this site. Mr. Hall confirmed.

Carolina Wiebe asked for a better description of the shadow box fence and where it would be located.

Ms. Schweitzer explained that the fence would run along the outside edge of the landscape buffer abutting 20th Street. She proceeded to show its location on the map provided.

Ms. Wiebe asked for some further clarification regarding the green belt.

Mr. Hanks explained that the houses along the west property line of the Georgian Oaks property had front doors oriented to the north and south. He stated that regarding the pedestrian walkway along the half right-of-way for S.W. 17th Avenue, they were attempting to direct the pedestrian traffic from the existing neighborhood towards the dedicated park and help them enjoy the park. He stated there was no reason to go on S.W. 20th Street because there were no real destinations located there.

Ms. Wiebe asked what type of landscaping was to be used along the green belt and how would they secure the area. Mr. Hanks replied that in order to make it secure, they would be selecting the plantings and removing invasive weeds. He added that the visibility would be improved and the weeds were to be replaced with native species that would be more manageable.

Ms. Wiebe stated if the voluntary wetlands were used for retention, would they still be considered a wetland. Mr. Hanks stated that he had discussed the implications and drainage requirements with staff, and explained they were providing the dry free treatment required in the exfiltration trenches and in the center median prior to discharge into the wetland areas. He stated it would be receiving the required water quality treatment before the stormwater entered into the area.

Ms. Wiebe asked for a further description of the central dry retention area, and what the profile was for such area. She asked if that would be the retention area for the entire facility.

Mr. Hanks explained that they were containing 100% of the stormwater on site. He explained further this was a zero discharge system that meant whatever rainfall that occurred on the property would stay on the property.

Ms. Wiebe asked for a description of the profile of the green space in the center of the development. Mr. Hanks stated that along the road was a crown section with a type "F" curb with a 2' horizontal planting area, and a 4-1 slope down to an elevation of 3 which was one foot above water table meeting the criteria of dry pre-treatment. He explained the area would be planted with appropriate native species that would be compatible with that type of hydrologic environment. Ms. Wiebe asked what elevation the road was at the curb. Mr. Hanks replied that the road elevation at the curb was approximately 5.4. He stated they were dealing with a 2.5' drop. Ms. Wiebe remarked that it would not be a true livable park. Mr. Hanks replied it was not intended to be a park, and added it was providing stormwater treatment for the roadway. Ms. Wiebe added that the intent and purpose of a PUD expected it to be treated as one.

Ms. Wiebe stated that under Section 47-37.1 was a list of criteria for a PUD. She stated that Item A stated: "There are unique aspects of the proposed PUD that achieve the intent and purpose of the PUD." Ms. Wiebe stated that she was having a hard time envisioning this as a PUD as described under the intent and purpose. She stated that Sec. 47-37.1 (b) stated: "(b) promotion of development that (1) encourages interaction with the street and with neighboring properties...." She stated that was the problem she had with the shadow box and the "so-called" gated community concept that had been approved in the past. She felt the shadow box fence did not encourage interaction with the street, nor with the neighboring properties. She felt it was clear that this project did not meet that requirement.

Ms. Wiebe stated that she wanted to continue to enumerate her concerns, and then ask how the applicant felt the project was complying with the intent and purpose of the PUD.

Ms. Wiebe continued stating that Section 47-37.1(b)(3) stated: "...required that the development provide alternate opportunities for easier movement and interaction." She stated that she did not feel that a gated community would create easier movement and interaction because the movement would be narrowed down to 2 basic entry points. Mr. Hall explained it was not gated, but it was a private street.

Ms. Wiebe further stated that Section 47-37.1(b)(5) stated: "...alternate routes that disperse, rather than concentrate, traffic congestion...." She proceeded to quote Section 47-37.1(b)(6) as follows: "...integrating development and land use with transit routes and stations." She continued quoting from Section 47-37.1(b)(7) as follows: "...the development standards review process and development standards so that developers are encouraged to apply the principles stated above." She stated she was having a hard time understanding how this project met the requirements of the PUD. She stated that a quick description had been provided for a beautiful development, but, in her opinion, it was not one that satisfied the requirements of the PUD.

Mr. Hall stated that the principles were introduced by the purpose and intent and proceeded to read from the ordinance as follows:

“The PUD zoning district was intended to provide locations that allow development incorporating planning initiatives that achieve unique or innovative development that is not otherwise permitted under traditional zoning districts and development standards.”

Mr. Hall stated that the criteria enumerated by Ms. Wiebe followed, but were proceeded by the statement as follows:

“These planning initiatives may include....”

Mr. Hall stated they were not requirements and were simply examples of what could be considered. In this case, he stated this irregular piece of land presently zoned RD-15 could contain cluster homes, but the developer wanted to create a small community of single-family homes. He felt that was innovative, and added that they had also decided to do something for the neighborhood by donating a park with improvements and creating a greenway. He stated all that would not be achievable under traditional zoning districts. He felt for those reasons alone, this application met the intent and purpose of the PUD zoning district. He stated the neighborhood was in support of this project, along with the Parks and Recreation Department.

Ms. Wiebe stated that one of the criteria in regard to public open space was that the amount of dedicated public space was to be 20% of the total area of the property.

Don Morris, Planning and Zoning, stated that the conditions for PUD allowed for other amenities to be provided in areas that had more challenges for redevelopment. He stated that one of the amenities was 20% of the open space, and that was if they did not meet the 2-acre requirement. He stated that Section 47-37.3 referred to the minimum area of the PUD, and if that area was not met, then any one of the three criteria could be applied.

Chair Barbara Curtis proceeded to open the public hearing.

Mark Hemmerlee, resident, stated that he owned property on the portion of S.W. 17th Avenue which was now vacated, and informed the Board that he had applied for the vacation. He proceeded to show that area on the map. He continued stating that the vacation was between S.W. 20th and S.W. 21st Streets, and the reason for the vacation was for traffic calming purposes and the stopping of illicit activity in the area. He explained that the portion of S.W. 17th Avenue between S.W. 21st and S.W. 22nd Streets was unimproved and was currently used very little. He stated it served no purpose for the neighborhood, and they initially had wanted the entire portion vacated, but were not able to do that. He felt a sidewalk would not be helpful in the area of S.W. 20th Street, and felt the idea of a green belt would encourage people to stay off S.W. 20th Street.

Chair Barbara Curtis asked if a sidewalk would not be helpful which could be added to during redevelopment. Mr. Hemmerlee stated that on the north side of 20th Avenue, there was an easement area of about 10', but felt it was not comfortable to walk in the area.

Penny Snyder stated that she owned Lot No. 8 and the alleyway was presently used by lot owners 8 and 9. She stated they were concerned about their patio and shed in the area.

Mr. Barton stated that if the shed and patio were within the City's right-of-way, then it would have to be removed for this development. He added that perhaps something could be worked out where it could go around those structures, but presently it was a violation. He stated this was not an unusual circumstance when they had unimproved right-of-ways within the City. In this case, the right-of-way would be improved to a certain level.

Ms. Snyder stated that the patio went to the edge of the property of the nursery. Mr. Barton stated it would have to be removed in order for this project to move forward. Ms. Csinsi stated it would have to be removed, unless the developer offered to work around it. Ms. Snyder asked if she had time to vacate the alleyway. Mr. Barton stated that they had the option to apply for vacation of a portion of the right-of-way. He stated that it was a City street and not an alley. He mentioned that it was a substandard street and an unimproved one, but it was a right-of-way. Ms. Snyder asked if she paid the \$100 down and the \$3,000 for the alleyway and the developer took it over, would she get a reimbursement. Mr. Barton replied she would not get a reimbursement. Ms. Snyder stated that when her husband bought the property, the patio and shed existed.

Mr. Cooper asked if the patio had been poured with a permit. Ms. Snyder stated that she did not know. Mr. Cooper added if there was a permit, they might be grandfathered in. He suggested that Ms. Snyder check on that matter.

Mr. Barton reiterated that it might be possible to work with the developer to have them build a new patio on their property and move it over a few feet, and possibly even move the shed.

Richard Snyder stated that he was concerned about a sidewalk being put in beside his yard which would be inviting people into the area. He felt the City would be opening itself up to possible litigation.

Ms. Fertig asked if Mr. Snyder belong to the area homeowners association. Mr. Snyder replied that he did not attend those meetings.

Chair Barbara Curtis asked if the people west and east of the parcel had received notification through the mail about this project. The Assistant City Attorney explained they would have been notified if they were located within 300' of the site.

Charlotte Rodstrom stated that she was concerned about the individuals living along the 25' right-of-way, and she assumed that taking down the fence would be worse than erecting the shadow box fence. Mr. Snyder remarked there was presently a chain link fence and the foliage in the area was nice, and breezes went through the property.

Gerry Cooper asked why Mr. Snyder felt that litigation would be possible if people walked through a public walkway. Mr. Snyder replied that litigation would be involved if

someone was injured on City property, and presently there was no reason for individuals to walk through the area.

Kathy Connor, Parks and Recreation, stated that she understood the concerns of the neighborhood which always happened when attempting to make a change. She stated that the department had tried to purchase the property, and they had been concerned about the uses of the nursery. She stated that when putting greenways in the area, this was a use that the area previously had and they were actually improving the pedestrian access. She stated that they were improving the access and it would not be in the resident's backyard, but there would be a landscaped buffer on either side of a 7' pathway that would allow the neighborhood to enter the area. She stated there was always opposition to the public because of the perception.

Chair Barbara Curtis asked if they anticipated people on the north side of 20th Street walking to the park, and asked if it would not be nice if a sidewalk was started in that area. Ms. Connor confirmed that individuals from the area would be walking to the park, but in looking at this area and consulting with the City Engineer, there was not sufficient room on the one side for sidewalks, but there was room on the other side. Chair Barbara Curtis stated that on the site plan it stated "10' landscape easement," and she felt that a 5' to 7' sidewalk could be constructed, but instead a fence was being put on the outside. Ms. Connor stated that the sidewalk could be a condition placed on the applicant by this Board.

Mary Fertig clarified that they were suggesting a different type of travel for the roadway. Ms. Connor stated they were changing the use from vehicular to pedestrian.

Judith Hunt stated that Commissioner Hutchinson had conversations with residents in the area and had informed her that they were pleased with this development and felt it would be an enhancement to the neighborhood.

Charlotte Rodstrom stated that it seemed the right-of-way owned by the City was now going to be designated as part of the development, and she asked why had that right-of-way not been improved with City funds and kept as City property. Mr. Barton stated it was not to be part of the development, but would be adjacent to it. He explained it was a City right-of-way that had not been developed since the park was not in existence, but had been a private nursery. Now that the developer was going to provide a one-acre park, there was a need to develop the 25' strip along the west side in order to provide access for that portion of the neighborhood to the new park. There had been no request to develop that piece of property.

Ms. Rodstrom continued to ask who would maintain the ownership of the right-of-way. Mr. Barton stated that the right-of-way on the west would remain a 25' right-of-way for pedestrian use, and its status would not change except for the fact that they would develop it as a green walkway. He added that the City would maintain the right-of-way.

Chair Barbara Curtis asked for some further clarification regarding notification. Ms. Csinsi stated they had evidence that Mr. Snyder had been mailed notification regarding this project. She added that individuals within 300' of the site would have been sent such

notification. She remarked that she had a list of 100 addresses that had been sent such notification.

Ms. Hunt stated that she had been informed that such mailings were not required to be certified, and therefore, there would be no receipts. Mr. Barton pointed out that the applicant had to provide a sworn affidavit stating that they had mailed such notifications.

Mr. Hall stated they had spent a great deal of time discussing a sidewalk to the north of the site, and advised that there was no easement or right-of-way on the applicant's property. If they required a sidewalk on the street, they would be taking away the right-of-way. If that area was used, they would be violating the buffer requirements of the PUD. He stated that since there was sufficient right-of-way on the north side of the street, they could construct a sidewalk to "nowhere," if the Board made that a condition.

Mr. Hall continued stating that they felt they were providing an enhancement to the neighborhood regarding the pathway, but did not realize that some people might be offended. He stated they were willing to work with those individuals, but if it was going to be a "sticking point," they would eliminate it from the project.

Mr. Hall further stated that staff was recommending that ownership of the 13' strip be obtained prior to submittal, but he felt that did not make sense and requested that it be changed to prior to approval by the City Commission of the rezoning and the plat. He stated the City Commission would not transfer the parcel in the abstract, and therefore, that condition could not be met. He further stated that the dedication of the park site "prior to submittal" as suggested by staff could not be conveyed until the ordinance and plat were approved. He stated they would supply a deed in escrow.

Chair Barbara Curtis asked if the Assistant City Attorney would comment on the ownership of the 13' strip and the dedication, and asked if the deed in escrow would be sufficient.

The Assistant City Attorney stated they would ensure that everything would be in effect simultaneous with the rezoning. She did not think that submittal was a required condition. She added that the same applied to Item No. 2.

Chair Barbara Curtis asked for Mr. Barton to comment on the sidewalk on the north side being depending upon City right-of-way.

Mr. Barton stated that it was not uncommon for the City to require the developer to put a sidewalk on their own property adjacent to a right-of-way, and in some cases they were required to provide a pedestrian easement. In this case, the fence could be moved in to the south within the landscape easement and a sidewalk constructed, but he did recall a discussion with Mr. Welch during the DRC review where he declined to do that due to safety reasons. Mr. Welch had also been concerned about the volume of vehicular traffic on S.W. 20th Street. He stated they had not explored the possibility of constructing a sidewalk on the north side of S.W. 20th Street. Since there was no existing sidewalk north or south on S.W. 20th Street with no hope of redevelopment in the near future of any of the homes in the area since it was an established neighborhood, Engineering decided that sidewalks should not be installed.

Mr. Barton continued stating that during the same discussions, they had asked about moving the fence back from the right-of-way, and would the developer be permitted to erect a continual fence or leave an opening. He stated that the thought had been that individual homeowners would erect fences around their properties, and they felt that a uniform fence constructed by the developer would give a more unified look to the area.

Chair Barbara Curtis stated the Code presently required that landscaping be placed on the outside of a fence. Mr. Barton stated he did not think that was correct in the residential areas, but he would check on the matter.

Mr. Barton stated that in Section 47-19.5, Residential Zoning, it stated that if a fence was 4'4" to 6'6" the minimum average setback was 3'. Therefore, the fence along S.W. 20th Street would have to be set back 3' from the property line, and so would the fence along the west side. He stated the area on the east was not a City right-of-way, and therefore, it could be located on the property line.

Mary Fertig asked for further clarification regarding the landscaping along the outside of the fence.

Mr. Barton stated that in that same section it stated under (e) that landscaping was required between the property line and the accessory structure. He stated that landscaping could consist of low ground cover.

Dave Gennaro, Chief Landscape Examiner, stated that landscaping was required on the street side of a fence which could consist of hedges, ground cover, or other types of shrubbery material.

Chair Barbara Curtis asked if the residents along S.W. 20th Street decided to erect a fence would they have to have a 3' wide landscape strip between the fence and the street. Mr. Gennaro replied that they had to meet the requirements of Code as stated by Mr. Barton, but he could provide information as to what type of material could be used if adjacent to a street right-of-way.

Charlotte Rodstrom asked about the prices of the homes that were to be built. Mr. Hall stated that they had not yet been priced.

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 Mary Fertig and seconded by Gerry Cooper to approve the site plan as presented per staff's recommendations, and that a sidewalk be constructed if staff deemed it appropriate, and landscaping added in accordance with Code requirements.

Carolina Wiebe stated that other projects had come before this Board that she felt had better met the PUD requirements. She felt the intent and purpose of the criteria suggested a development that integrated more with the community, and projects enclosed by gates segregated themselves from the community. She felt that a project not meeting 5 of the 7 criteria listed should not be considered by the Board. She asked

the Board to consider her comments and stop the precedent they were establishing by approving PUD developments that in essence appeared to be gated communities.

Kenneth Hawkins stated that he wanted to offer the following amendment to the motion whereby the conditions suggested by Parks and Recreation be included in the motion. Ms. Fertig and Mr. Cooper agreed to the amendment.

Chair Barbara Curtis stated she would be in favor of the project if the sidewalk issue was resolved in general. She further stated that it had been her impression that there was no fence or wall around the site, and that it would be opened to the community. She stated that she was not in support of the project as presented.

Ms. Fertig stated that she did not think the unified fence would be preferable to the people, and further stated that she was not an advocate of gated communities. She did feel that if there was no plan set forth, they could end up with something worse.

Ms. Wiebe stated that it was more than putting up a fence or not, but was the overall urban design as to how they would integrate the existing streets into the planned development being proposed, and give the green space to the community for their use.

Judith Hunt stated that she was an advocate of homeowners associations and communities, and since there was such a unanimous cry from that group for this project, she felt it was important to include the feelings of the residents of the area. She felt by the community coming to such an agreement gave them the continuity to their neighborhood. They would not just be considering what one or two individuals desired for the area.

Charlotte Rodstrom stated that sometimes the homeowners associations took a vote and such vote did not always represent the entire group, nor did it represent the best interest to move forward on that basis. She stated the associations did not always come and speak at these meetings and air their concerns, and only letters were sent to this Board.

Chair Barbara Curtis stated that she was concerned about the discussion regarding what Glenwright Construction had provided to the Association. She further stated that she did not think that decisions should be based on such activity.

Mary Fertig stated that she would not base her decision on the lighting of the store, but wanted to say that she wanted to see developers do something for a community.

Motion made by Gerry Cooper and seconded by Judith Hunt to call the question.

Roll call showed: YEAS: Judith Hunt, Mary Fertig, Alan Gabriel, Kenneth Hawkins, and Gerry Cooper. NAYS: Carolina Wiebe, Charlotte Rodstrom, and Barbara Curtis. Motion carried 5-3.

Motion made by Alan Gabriel and seconded by Gerry Cooper to approve the plat as presented per staff's recommendations.

Chair Barbara Curtis asked if it was appropriate to list the name of an individual on a condition being recommended. The Assistant City Attorney stated that the words "City Surveyor" should replace the individual's name, and would be more appropriate.

The motion was amended as follows:

Motion made by Alan Gabriel and seconded by Gerry Cooper to approve the plat as presented per staff's recommendations, excluding the name of Tony Irvine and replacing such name with the words "City Surveyor."

Roll call showed: YEAS: Charlotte Rodstrom, Judith Hunt, Mary Fertig, Alan Gabriel, Kenneth Hawkins, and Gerry Cooper. NAYS: Carolina Wiebe and Barbara Curtis. Motion carried 6-2.

8. **City of Fort Lauderdale** **Liz Holt** **3-T-04**
Request:* Amend ULDR Section 47-21
 Landscape and Tree Preservation Requirement, to make the City's tree preservation requirements more stringent by including additional methods of trimming as tree abuse and updating current definitions to reflect other methods of tree abuse in response to a request by Broward County that the City amend its Landscape and Tree Preservation Ordinance to be consistent with,

 and at least as stringent as, the County's Tree Preservation Ordinance.

Chair Barbara Curtis stated that this Board would be acting as the Local Planning Agency in regard to this matter.

Liz Holt, Planning and Zoning, stated that the request summarized the changes being proposed to the ULDR regarding tree preservation and tree trimming. She advised that when the County had adopted their tree preservation ordinance required that all cities had an ordinance at least as stringent as the County's. Since the County had made some changes to their ordinance, the City was required to update the City's ordinance in order to be consistent with the County. She stated that her memorandum described the changes being proposed.

Dave Gennaro, Chief Landscape Plans Examiner, stated that the County required the City to update such ordinances. He stated the City was required to be recertified. He added that the County ordinance required that all tree services be licensed by the County, and he felt that it did reduce the amount of tree abuse in the areas.

Gerry Cooper stated that they used to trim the trees at 1 and 11, but now they were required to trim them at 3 and 9. Mr. Gennaro stated that the County required that the trees be pruned at a level no lower than the point where the palm frond met the trunk which had not been required in the past. He stated there were some horticultural

principles as to why that had been suggested. He stated there had been studies that showed that the lower palm fronds were active producing mechanisms in the photosynthesis process, and cutting off such fronds reduced the ability of the frond to produce nutrients. He stated that Mr. Cooper might be referring to hurricane cutting. Mr. Cooper stated that it had been done for centuries and never appeared to have hurt the trees. Mr. Gennaro stated there were differences of opinions, and reiterated that he agreed with the County.

Chair Barbara Curtis proceeded to open the public hearing. There being no individuals who wished to speak on the matter, the public hearing was closed and discussion was brought back to the Board.

Motion made by Alan Gabriel and seconded by Gerry Cooper to approve the application as presented.

Roll call showed: YEAS: Charlotte Rodstrom, Judith Hunt, Mary Fertig, Alan Gabriel, Kenneth Hawkins, Gerry Cooper, Carolina Wiebe, and Barbara Curtis. NAYS: None. Motion carried 8-0.

9. City of Fort Lauderdale **Tony Longo** **2-T-04**
Request:* Amend ULDR Section 47-31.3
Memberships, Meetings and Procedures,
in response to Florida Statute 163.3174 that
requires the City to include a representative
of the school district to serve on the Local
Planning Agency to attend meetings considering
comprehensive plan amendments and rezonings

that could increase residential density.

Tony Longo, Planning and Zoning, stated that Chris Acabusso from the School District was present to answer any questions the Board might have.

Mr. Longo proceeded to read a prepared text as follows:

“The purpose of this request was to consider amending Section 47-31.3 of the ULDR in response to the Broward County Interlocal Agreement for Public School Facility Planning Agreement which specifies the appointment of an ex officio, non-voting School Board representative to our Local Planning Agency to review items that increase residential density. The origin of the Broward County Interlocal Agreement stems from Senate Bill 1906 which amended Florida Growth Management Laws. The bill mandates that local governments and school districts to enter into a collaborative interlocal agreement to coordinate on development issues and procedures, such as student population projections, where new schools would be located, and coordination of information of facilities, including closures and major renovations. To this extent, as required by Section 163.3174 Florida Statutes, the interlocal agreement provides a mechanism to assist in achieving on-going communication between the Broward County School District and each respective municipality. An agreement was reached between 26 of 30 Broward County municipalities, including Fort Lauderdale and the School Board

prior to the legislative mandate deadline of May 1, 2003. At its April 3, 2003 meeting, the Fort Lauderdale City Commission voted on Item M-29 approving the Broward County School Board Interlocal Agreement.”

Mr. Longo stated that a copy of such agreement had been provided to the Board. He stated that Article 7, Section 7.1, it stated: “...the School Board shall appoint a School District staff member(s) to be its representative on the County and each respective Municipality’s local planning agency.”

Mr. Longo proceeded to read from his text as follows:

“The ex officio, non-voting School Board member would review City comprehensive plans and rezoning permits that would, if approved, increase residential density for the property that was the subject of the application. Examples include changes in land use that increase density, provisions for mixed-use that seek additional allocation of increased flex units, and rezonings. In addition the School Board representative would provide input into developments of regional impact and other residential or mixed-use development projects where the residential component, if approved, may increase residential density and affect student enrollment projections for school facilities. Therefore, the City of Fort Lauderdale requests approval to amend Section 47-31.3, Memberships, Meetings and Procedures requiring the addition of a School District representative of the Broward County School Board as a non-voting, ex officio, member to our Local Planning Agency and forward to our City Commission.”

Gerry Cooper felt it would be helpful if staff could distribute a copy of the student generation rates so they could review such information.

Motion made by Mary Fertig and seconded by Alan Gabriel to approve this request.

Mary Fertig felt this was necessary and stated that the lack of such presence at the meetings resulted in their 10-year projections showing declining growth in the City’s schools.

Roll call showed: YEAS: Mary Fertig, Alan Gabriel, Kenneth Hawkins, Gerry Cooper, Carolina Wiebe, Charlotte Rodstrom, Judith Hunt, and Barbara Curtis. NAYS: None. Motion carried 8-0.

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| 10. | <u>City of Fort Lauderdale</u> | Don Morris | <u>1-T-04</u> |
| | Request:* | Amend Section 2-216, <i>General Power to Create Advisory Boards</i> , deleting Chapter 21, Planning and Development, of the Code of Ordinances of the City of Fort Lauderdale, Florida, and Amend Section 47-30, <i>Planning and Zoning</i> , of the Unified Land Development Regulations of the City of Fort Lauderdale, Florida, to provide that members of the Planning and Zoning Board and Board of Adjustment may only be removed for good | |

cause based on the affirmative vote of four members of the City Commission and to delete repetitive provisions.

Don Morris, Planning and Zoning, stated that this was in response to City Commission direction that the ULDR be amended, along with the Code of Ordinances. He referred the Board to Exhibit 1 regarding Code changes, and stated that under Section 2-216, General Power to Create Advisory Boards, they added the following language:

“(d) ...except as provided herein, the City Commission may at any time, with or without cause, unless otherwise provided by law, by an affirmative vote of three (3) City Commissioners remove any advisory board member from their board. The City Commission may at any time remove a member of the Planning and Zoning Board or Board of Adjustment only for good cause shown by the affirmative vote of four (4) members of the City Commission.”

Mr. Morris stated that in Section 47-30.2, the same language had been included, and they were attempting to clarify any confusion regarding the removal of board members. He advised that items E and F under Section 47-30.2 would be deleted, and adding a section pursuant to the Legal Department’s recommendation as follows:

“E. The provisions of Section 2-216 applicable to advisory boards, including but not limited to, the removal of board members shall apply to the Planning and Zoning Board as provided therein.”

Chair Barbara Curtis recognized the Acting City Manager at 10:01 p.m.

Motion made by Mary Fertig and seconded by Gerry Cooper to approve the request as presented.

Chair Barbara Curtis stated that she was in support of this item because she believed it was the same as it had always been.

Roll call showed: YEAS: Alan Gabriel, Kenneth Hawkins, Gerry Cooper, Carolina Wiebe, Charlotte Rodstrom, Judith Hunt, Mary Fertig, and Barbara Curtis. NAYS: None. Motion carried 8-0.

“For the Good of the City”

Chair Barbara Curtis stated that in regard to environmental impacts on the beach, she was informed that they would be forwarded to the City Commission based on the Board’s minutes.

Mary Fertig stated that she was asking that it be added as a consideration, the same as neighborhood compatibility.

Chris Barton stated that he had spoken about that with Cecelia Hollar, Director of Construction Services, and stated that in the Adequacy Requirements, Section 47-25.2, any proposal in which this applied, they did go through a wide range of environmental

issues, but most of those issues were addressed before the items came before this Board. He stated references in those requirements were made in regard to County regulations. He asked if there was something specific regarding environmental concerns, other than the normal litany of water and sewage, that Ms. Fertig wanted addressed.

Ms. Fertig stated that she wanted it listed like neighborhood compability so similar discussions could be held.

Mr. Barton suggested that the Board review Section 47-25.2. He further stated that there was the Coastal High Hazard Construction Line which was enforced by the County and the State, and was routinely reviewed at the DRC level, as well as the City's Land Use Plan. He stated such plan was reviewed every 6-7 years and then recertified by the County.

Ms. Fertig stated the Board had the opportunity to review neighborhood compatibility, she felt they needed to be more aware of environmental impacts. She reiterated that she felt it was equally important.

Chair Barbara Curtis stated that she wanted to state that site visits were important and encouraged the Board to do so when possible.

Motion made by Alan Gabriel and seconded by Mary Fertig to adjourn the meeting.

There being no further business to come before this Board, the meeting was adjourned at 10:13 p.m.

CHAIRMAN

Barbara Curtis

ATTEST:

Margaret A. D'Alessio
Recording Secretary

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