

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

**WEDNESDAY, JUNE 16, 2004  
6:30 P.M.**

<u>Board Members</u>	<u>Attendance</u>	<u>Cumulative Attendance</u>	
		<u>From 6/16/04</u> (P)	(A)
Gerry Cooper	P	1	0
Mary C. Fertig	P	1	0
Alan Gabriel	P	1	0
James McCulla	A	0	1
Charlotte Rodstrom	P	1	0
Judith Hunt	P	1	0
Randolph Powers	P	1	0
Maria Freeman	P	1	0
Edward Curtis	P	1	0

**Planning Staff:** Bruce Chatterton, Planning and Zoning Services Manager  
Jim Koeth, Principal Planner  
Tony Longo, Planner III  
Mark McDonnell, Planner III  
Liz Holt, Planner III  
Angela Csinsi, Planner II  
Christine Fisher, 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**

Temporary Chair Gerry Cooper called the meeting to order at 6:30 p.m. He proceeded to then introduce the members of the Board.

**Introduction of New Members**

Temporary Chair Gerry Cooper stated that Maria Freeman was appointed to the Board and was a general contractor and land developer, as well as a licensed real estate broker.

Temporary Chair Gerry Cooper then introduced Ed Curtis, Esquire, who had been appointed to this Board, and stated he was in Civil Trial Practice for Aviation, Personal

Injury and Wrongful Death, and in Products Liability Insurance Business and Commercial Litigation since 1977.

Alan Gabriel proceeded to lead everyone in the Pledge of Allegiance.

Temporary Chair Gerry Cooper proceeded to announce staff that was present for tonight's meeting.

**1. Sunrise Middle River Hotel 33-R-02**

Request:\*\* Site Plan Approval/Waterway Use/B-1  
Acreage in 36-49-42  
Location: 2025 NE 10 Street

**Deferral was requested for this item.**

**2. Sunrise Middle River Hotel 30-P-02**

Request:\*\* Plat Approval/"Sunrise Middle River Hotel"/  
B-1, Acreage in 36-49-42  
Location: 2025 NE 10 Street

**Deferral was requested for this item.**

**Election of Officers**

Election of Chair

Judith Hunt nominated Mary Fertig as Chair of the Planning and Zoning Board.

Charlotte Rodstrom nominated Ed Curtis as Chair of the Planning and Zoning Board.

There being no other names offered, nominations were closed.

**Motion** made by Judith Hunt and seconded by Alan Gabriel to close the nominations for Chair of the Planning and Zoning Board. Each candidate proceeded to give a profile of themselves. A show of hands was taken as the vote for Chair and the results of such vote were as follows: Those in favor of Mary Fertig as Chair were: Judith Hunt, Mary Fertig, Alan Gabriel, Gerry Cooper and Maria Freeman. Those in favor of Ed Curtis as Chair: Ed Curtis, Randy Powers and Charlotte Rodstrom.

Mary Fertig was elected as the new Chair of the Planning and Zoning Board.

Election of Vice-Chair

Gerry Cooper nominated Alan Gabriel as Vice-Chair of the Planning and Zoning Board.

No other nominations were made regarding Vice-Chair, and therefore, the nominations were closed. Alan Gabriel was elected unanimously as Vice-Chair of the Planning and Zoning Board.

**Approval of Minutes – May 19, 2004 Meeting**

**Motion** made by Gerry Cooper to defer the approval of the minutes for the May 19, 2004 meeting due to the fact that they had not been included in the Board's package. Board unanimously approved.

**3. City of Fort Lauderdale**

**50-R-03**

Request: \* \*\* Public Purpose Use/Replacement of Second Avenue Storage Tank and Pumping Station  
Progresso, P.B. 2, P. 18.  
Block 321, Lots 1 through 11  
Location: 631 N.W. 2 Avenue

Chair Mary Fertig stated that this item had been deferred from the April 21, 2004 meeting. She stated that the item was quasi-judicial and that the Board would also serve as the Local Planning Agency.

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.

Sharon Miller further stated that this Board would also act as the Local Planning Agency that was governed by a State Statute that stated they had to make sure whether an application met the City's Comprehensive Plan or Land Use Plan.

The Board proceeded to make their disclosures as follows: Judith Hunt stated that she had been to the site, and had spoken with Commissioner Hutchinson, along with a resident. Alan Gabriel stated that he had been to the site. Charlotte Rodstrom stated that she had been to the site, and had also spoken with Commissioner Trantalis. Randy Powers stated that he had been to the site. Maria Freeman stated that she had been to the site, and had spoken with Commissioner Moore. Ed Curtis stated that he had been to the site. Mary Fertig stated that she had also been to the site. Gerry Cooper stated that he had been to the site.

Maurice Tobon, City of Fort Lauderdale, stated that two months ago the City was before this Board in order to seek approval for the replacement of the 2<sup>nd</sup> Avenue storage tank. At that time the Planning and Zoning Board had voted to defer this item so that staff could meet with the community and the Utility Advisory Committee. He stated they had done so and was going to give a quick overview of what had been presented at the Utility Advisory Committee meetings.

Mr. Tobon proceeded to show photographs of the tank and the site.

Mr. Tobon stated that other alternatives had been reviewed. He continued stating that one of the concerns about the tank was in regard to the need and location. He explained that water storage tanks, in particular this tank and the Poinciana tank, were used for several reasons, such as maintaining system pressure during high demands and safety issues. He stated that these tanks were used to supply the system during emergencies. In addition, he stated that there were regulations that required the City to maintain a certain amount of water storage within the system. He proceeded to show a geographical map of the site that had been taken from the 2000 WasteWater Master Plan update. He stated at that time they had reviewed the needs of the City for the next 20 years.

Mr. Tobon further stated that the red area in the graphic showed below 45 PSI in pressure that was low for a system of this size. He added that presently both tanks were off line. He stated that the pressure was lower in the southeast part of the City. He explained that this graph was to represent the year 2020, but the scenario had actually occurred 3 weeks ago due to a delay of the rainy season. He explained that the water treatment plant at Fiveash was pumping at maximum capacity, along with the Peele-Dixie plant. He stated that the master plan had been done 4 years ago, but they were now seeing the effects of growth and additional growth not anticipated.

Mr. Tobon stated that the Poinciana tank had been approved by this Board two months ago. He stated that another scenario was having this tank on line and the 2<sup>nd</sup> Avenue tank off line. As shown on the graphic, there was less red area because there was an increase in pressure and more water in the system. He stated there were still issues regarding pressure in the southeastern portion of the City.

Mr. Tobon stated that another scenario involved turning the 2<sup>nd</sup> Avenue tank back on. He stated that pressure increased in the system and there was no red on the graphic, and the pressure read at above 50 PSI. Even though the tank was located north of the Downtown area, its affect was wide-ranging. He added that this did not account for any emergency that could have occurred. He explained during a fire 5,000 gallons of water were required per minute. He reiterated that any type of emergency in the Downtown area, north of the New River, water would come from the 2<sup>nd</sup> Avenue storage tank.

Mr. Tobon further stated that the other issue regarding the need for the tank had to deal with the regulatory issues. He stated that the Florida Administrative Code and the Health Department required a certain amount of water to be stored within the system. He explained that even with these tanks being operational, the City would still be short storage. He read from the Florida Administrative Code that the requirement was 25%. He stated that the 2000 WaterWaste Master Plan had a list of priorities and needs for the City's water system. He stated that replacement of both tanks was being shown as an immediate need. He further stated they had hoped that these tanks would have been in service by this time, but they had been delayed for over a year on the projects.

Mr. Tobon continued stating that during the first meeting with the Utility Advisory Committee, the neighborhood had also attended and submitted a document to the City describing their needs, issues and concerns regarding the tank. He stated they took the

information supplied under advisement and attended a second meeting with the group. He stated they had provided costs to the options proposed. He explained these would be costs in addition to what had been budgeted for the site.

Mr. Tobon explained they had looked at 3 options. The first option was to construct 2 smaller tanks surrounded by a building, and that option had been drawn up and presented by a neighborhood resident. He stated that a recommendation was made to take the tank and bury 1/3 of it. The other option was to build a square tank at the site.

Mr. Tobon proceeded to show a diagram of two smaller tanks. He stated that option would cost \$1.6 Million in addition to the amount previously budgeted for the project. Another option was to bury 1/3 of the tank that would cost an additional \$1.2 Million. He stated it would require an excavation of 125' x 125', 15'-20' deep, 20' of sheet pile, extensive dewatering, and difficult construction due to the high water table. He stated that normally tanks were round because it was the cheapest way to build a tank. The third option was the square tank that would cost an additional \$750,000 to \$1 Million.

Mr. Tobon explained they had also looked at off-site options and their costs. One suggestion had been made to relocate to a junkyard located 2-3 blocks to the east of the site. He stated they had also looked at taking the existing tank that was 46' in height and reducing it by 15', thereby reducing its capacity by 500,000 gallons.

Mr. Tobon proceeded to show the location suggested in regard to the junkyard area that consisted of 1.26 acres. He stated they had not yet discussed anything with the owner of the site, but some residents had spoken with the owner in regard to a ballpark figure, and numbers were quoted from \$2 Million to \$3 Million clean. He explained that since it was a junkyard, there was a pollution liability issue. He stated the site would require some redesign, surveys, and water main construction site preparation work, which would cost another \$650,000.

Mr. Tobon explained the other option was to build a smaller tank on site that would be reduced by 1/3, which would also reduce the capacity of the tank. He stated actually that was the size of the present tank, but they needed to consider future growth. He explained they would still be low on storage, and they would have to locate another site for additional storage and that cost was unknown at this time depending on land costs.

Mr. Tobon stated that during the second meeting of the Utility Advisory Committee, there had been a consensus taken, but not a formal vote, that the City should relocate the tank to the junkyard. He explained that the money was not available for that recommendation, and stated their budget to replace the tank was \$3 Million. He reminded everyone this option would require an additional \$2.5 Million to \$3 Million depending on land costs, plus associated fees.

Gerry Cooper asked when the existing tank had been built. Mr. Tobon stated the tank had been built in the early '60's. Mr. Cooper asked if it was working at this time. Mr. Tobon explained it was in disrepair, and there were issues regarding the structural integrity of the tank. He stated that a report had been done stating that the tank alone needed \$1 Million for rehabilitation. In addition, he stated it was 40 years old and was a

steel tank. He explained they would have to scrape off lead-based paint and repaint it and maintenance would then be an issue.

Judith Hunt asked if any testing had been done on the junkyard site, and if the owner had been advised that the site was contaminated. Mr. Tobon stated it was an assumption that the site was contaminated due to the use of the land. If it was purchased, there would be a condition for it to be clean. Ms. Hunt asked if any reports had been made to the State or the Federal Government to make an evaluation. Mr. Tobon explained that they had not seen anything, nor had they asked for anything, and were not aware of any report. He stated that in his discussions with representatives in the area, it was stated there was some sort of remediation or involvement with local authorities in regard to contamination of the site.

Charlotte Rodstrom asked if the facility took into effect the new growth happening in the Downtown and Beach areas. Mr. Tobon explained that when the Master Plan had been prepared in 2000, they had looked at water demands for the next 20 years. He stated that the additional units that had been in the newspaper recently had not been taken into account. Ms. Rodstrom asked if they had considered the idea of condemnation of the junkyard so the City could go through that process and pick up the land, and possibly build a larger tank on that site. Mr. Tobon stated they had not done that at this time.

Chair Mary Fertig proceeded to open the public hearing.

Bunney Brenneman, Chair of the Utility Advisory Committee, stated that at their last meeting on May 25, 2004, they did not have a quorum, and she had discovered that timely notices, agendas, and minutes had not been sent or received by more than half the Committee members. She stated that no official position could be taken by the Committee. She stated further they had been asked by the Acting Utilities Director not to hold a meeting this month due to problems with City staff and the budget. She added that this matter could not be discussed until the July 27, 2004 meeting.

Craig Canning, Water Facilities Manager for the City of Fort Lauderdale, stated that a few weeks ago when it was hot and no rain had fallen, he had seen each morning between 5:30 a.m. and 6:30 a.m. that they were down about 35 pounds of pressure at Harbor Beach. He recommended that a 1.5 Million gallon tank be installed at the site, along with Poinciana. He stated that he had gone to the site and in looking out of the windows at some of the homes being constructed, he saw an ugly tank with a rusted-out bottom. He felt the new tank would benefit both the neighborhood and the City.

Richard Barrett, homeowner and member of the Utility Advisory Committee, stated that some of the things discussed at their meetings dealt with the availability of other options for the need. He stated that they did not dispute that the City needed water. He stated they were attempting to put a huge round tank in a small rectangular hole. He stated that the junkyard option was better because they would have a larger piece of property that would accommodate the structure, and possibly a larger one. He added that the City over the last 15-20 years had removed 3 water towers because they didn't need them, could not fill them, or there was not enough pressure. He stated that one of the sites was still owned by the City and it happened to be located on the Beach.

Mr. Barrett stated that since FPL wanted to co-locate, possibly something could be arranged with the City. He felt more discussion was needed in regard to this matter. He explained at the meetings, they had been told this was it because there were no monies available for anything else. He stated that he did not feel there was anything wrong with the existing tank. He explained it had been built in 1951 and felt the tank could be revamped.

Judith Hunt stated that in listening to the last two members of the Utility Advisory Committee, she felt that more discussion was needed.

**Motion** made by Judith Hunt and seconded by Gerry Cooper to defer this matter until the September 15, 2004 Planning and Zoning Board meeting.

Mr. Tobon stated that the applicant was requesting that this Board vote on this matter at this time. He stated they had met both with the neighborhood and the Utility Advisory Committee, and had presented the options along with their costs. He further stated that the options would require additional funding which would have to come from the elected officials. He stated there were things that could be done with the existing site. He explained they could add landscaping and reduce the height of the tank. He further stated that to have the item discussed even further and investigate the junkyard site, he felt they would be putting the City at risk the longer this item was delayed.

Ed Curtis asked what was the urgency and why could the City not wait until the July 26<sup>th</sup> meeting.

Mr. Tobon explained that this tank was part of a project to replace both tanks, the Poinciana and 2<sup>nd</sup> Avenue tanks. He stated there was to be one contractor, and resources and financing had been allocated in such a manner. He explained that by delaying it, they were delaying both tanks which was critical in meeting the water needs for the City. He felt that any solution from the Utility Advisory Committee would require additional funding.

Roll call showed: YEAS: Judith Hunt, Gerry Cooper, Charlotte Rodstrom, Randy Powers, and Maria Freeman. NAYS: Alan Gabriel, Ed Curtis, and Mary Fertig. Motion carried 5-3.

**4. City of Fort Lauderdale**

**12-R-04**

Request: \* \*\* Public Purpose Use/Replacement of  
Fire Station 47 – Acreage in 8-50-42  
Location: 1000 S.W. 27 Avenue

Chair Mary Fertig announced that this item was quasi-judicial.

The Board made the following disclosures: Charlotte Rodstrom stated that she had been to the site. Randy Powers stated that he had been to the site and had spoken with Elizabeth Hayes. Maria Freeman stated that she had been to the site. Ed Curtis stated that he had been to the site. Judith Hunt stated that she had been to the site and had spoken with Joan and Peter Sheridan, Dr. Ronald K. Wright, Craig Canning, Mr. Natale, and Commissioner Hutchinson. She added that she had also received a communication from Elizabeth Hayes. Alan Gabriel announced that he had received an e-mail from

Elizabeth Hayes. Gerry Cooper stated that he had been to the site and had received an e-mail from Elizabeth Hayes. Mary Fertig stated that she had been to the site and also had received an e-mail from Elizabeth Hayes.

Bruce Chatterton, Planning and Zoning Services Manager, stated that he was replacing Chris Barton for tonight's meeting. He stated that this matter had come before this Board in April, 2004, and the item had been deferred in order for the City to work with the community, and explore alternative design treatments for the Fire Station. He stated that the City's Design Architect had met with the area representatives and would be presenting his report.

Mr. Chatterton stated that the applicant was the City's Engineering Division who was proposing to demolish the existing fire station, and replace it with a new facility. He explained that the site was zoned CFHS which did not allow fire facilities as a permitted use. He also stated that by today's standards the site was quite small for a current state-of-the-art facility. He stated the applicant was seeking approval through the public purpose provision of the Code that would allow this permitted use, and also allow some relief from the dimensional requirements. Since it was a small site, he explained that the applicant was also requesting relief from the parking requirements, along with some landscaping requirements. He explained that the public purpose use required review and approval of the site plan that was a Site Plan Level IV.

Mr. Chatterton continued stating that they were requesting a parking reduction, a change in permitted use, and yard modifications listed on page 3 of staff's report. He stated that changes were being requested in the setbacks. He stated that the permitted use and yard modifications were approvable as part of the public purpose provision of the Code, as well as the Site Plan Level IV. He proceeded to show a photograph of the site.

Judith Hunt stated that she also had some photographs of the site and the existing fire station. She stated that two of them were of the front of the station on 27<sup>th</sup> Avenue. She stated there were no signs in front of the station. She remarked that the public notice had been tucked behind a pipe. She stated that she was not looking to make a motion to defer, but it occurred to her that if they expected other applicants to follow the rules regarding signs and postings, then perhaps the City should also follow the same rules and establish a leadership role. She stated that she wanted to submit these photographs for information.

Gerry Cooper stated there was a ULDR and standards had been set, and when private contractors came in trying to do things, the Board beat them over the head to meet the existing standards. He stated that last month there had been a case where the sign had not been placed in the right place, and the item had been deferred. He stated that now the City was the applicant and was requesting many things that a private developer would not be granted, and yet they did not prominently display the sign correctly. He felt if the sign was not posted properly, then there should not be a hearing.

**Motion** made by Gerry Cooper and seconded by Ed Curtis to defer this item until September 15, 2004 at 6:30 p.m.



Terry Schechter stated that signs were posted and he had personally erected them. He stated that he had received a call from Chris Barton informing him that one sign had been removed. He stated they reposted the sign at the site. He explained that one was behind the pipe because it was always getting blown down. He stated that one had been posted facing 27<sup>th</sup> Avenue.

Ed Curtis stated that he had been to the site today and could not find any signs.

Roll call showed: YEAS: Alan Gabriel, Gerry Cooper, Randy Powers, Ed Curtis, Judith Hunt, and Mary Fertig. NAYS: Charlotte Rodstrom and Maria Freeman. Motion carried 6-2.

**5. Bank Atlantic Branch Bank**

**2-ZR-04**

Request:\* \*\* Rezoning w/Site Plan/Bank Facility  
w/drive-thru/CB-B-1  
P.B. 2, P. 18, Block 232, Lot 5  
And Lot 20, less South 22 feet and  
Block 232, Lot 4 and Lot 21

Location: 1750 East Sunrise Boulevard

Chair Mary Fertig stated that this matter was quasi-judicial and that the Board would also be acting as the Local Planning Agency.

Chair Mary Fertig announced that this item had been deferred from the May 19, 2004 Planning and Zoning Meeting.

The following disclosures were made by the Board members: Judith Hunt stated that she had been to the site and had spoken with Robert Lochrie. Alan Gabriel stated that he had been to the site and had spoken with Commissioner Teel. Gerry Cooper stated that he had been to the site and had spoken with Robert Lochrie. Charlotte Rodstrom stated that she had been to the site. Randy Powers stated that he had been to the site. Maria Freeman stated that she had been to the site. Ed Curtis stated that he had been to the site. Mary Fertig also stated that she had been to the site.

Chair Mary Fertig reminded everyone that if they were lobbyists, they needed to be registered with the City.

Robert Lochrie, attorney, stated that he was representing the applicant and proceeded to introduce Seth Wise and Dana Young of Bank Atlantic. He stated that the request this evening was for approval of a zoning and site plan of a portion of their property. He stated that the property on the south side of Sunrise Boulevard had served as their headquarters for many years, and were now in the process of moving their headquarters and bringing all services to the area on Cypress Creek. He stated that their current plan was to continue bank use on Sunrise Boulevard, and utilize the remaining of the property as a traditional townhouse development that would be consistent with the current zoning code. He proceeded to show graphics of the site.

Mr. Lochrie further stated that the bank itself sat on the portion of the property that was actually currently zoned as commercial. He stated that the remainder of the property was zoned residential, but there was a parking lot that was a legal non-conforming use to serve the commercial use. He explained that about 10 years ago the Planning and Zoning Board, along with the Commission, had applied commercial flexibility to a portion of the site where the drive-thru tellers had been located. He stated they were now going to remove the drive-thru teller from the portion of the property that encroached into the neighborhood. He then proceeded to show an outline of the property as it existed.

Mr. Lochrie continued stating that in order to develop the site into a new commercial use, they were reducing the site from 100,000 sq. ft. to 4,000 sq. ft., and were requesting that a portion be rezoned and that commercial flexibility be applied so they could utilize the site as a bank site, and the remainder as a residential project. He proceeded to show an overall site plan that indicated the new facility which was to be a typical drive-thru facility. He explained this was a prototype that they wanted to use around the State. He explained there would be a buffer of about 70' from the building to the residential development. He then proceeded to show a more detailed view of the site. He stated they were working with the Victoria Park Homeowners Association and their various committees. He stated they had met with the Aesthetics Committee and the General Membership Committee, and had a letter of support for the project. He stated the President of the Association was unable to attend due to work concerns, but Katherine Moss, Chair of the Planning Committee, was present tonight. He proceeded to submit the letter of support to the Board.

Mr. Lochrie stated that several changes were made to the plan. One of the changes was that they had added more detailing and different species of landscaping on the buffer due to concerns by the Association. He stated they had also agreed to add entry features which would be keeping within the Association's Master Plan, and other pedestrian amenities had been added along the residential portion of the project, including benches, water fountains and other water features, and stated that they had also committed to continuing to work with them on the Master Plan as the project proceeded forward.

Alan Gabriel stated he was confused because he thought they were reviewing the bank application, yet they were now mentioning a townhouse development. Mr. Lochrie reiterated that the townhouse project was not before the Board at this time. He clarified that the rezoning and the bank itself were to be reviewed this evening by the Board. He explained that the townhouse project would not come before this Board because it was keeping within the zoning category, and was significantly lower in density and height than what was actually permitted. He stated that had been mentioned for illustrative purposes. Mr. Gabriel stated that modifications had also been made regarding entry features and landscaping. Mr. Lochrie confirmed and stating the modifications being discussed were actually on the bank parcel. He stated that one addition requested by the neighborhood were breaks within the wall. He explained that the changes made had not been deemed significant enough to be made on the Board's drawings. He stated that he could explain them since they were minor in nature and would be forwarded with the project to the City Commission.

Mr. Lochrie stated that the wall at the southern end of the bank property had originally been straight, but they were now proposing several breaks in the wall. He further stated that the Victoria Park columns featured in their entryways would be placed on either side of the project, and they did not object to that being a condition of the approval.

Mr. Gabriel asked if signage was also being approved at this time. Bruce Chatterton stated that a signage package was required to be submitted for site plan approval, but it did not constitute a sign permit. Mr. Gabriel stated that the signs had not been addressed and he did not know if they met Code or not, and he wanted to make sure they were in compliance. Mr. Chatterton stated that even though this was not a sign permit per se, the zoning representative, Terry Burgess, had reviewed the plan and had signed off that Code had been met. He stated this was a conceptual look at the total package. Mr. Gabriel stated he did like the project, but wanted to make sure what he was approving. Mr. Chatterton further stated that signage was like many aspects of what they asked for in site plans and what Code required. Other aspects such as landscaping, detailed elevations, and roofing materials would have to receive building permits later on. He stated that the site plan was a way to see how things fit together. Mr. Gabriel stated they were also showing colors. Mr. Chatterton stated that even though they did not regulate color, they would have to abide by the colors shown.

Mr. Lochrie stated they had been asked by staff to include colors and signage, and they would acknowledge this evening that if it did not meet Code, they would not state they had site plan approval.

Gerry Cooper stated that he was concerned about a phrase included in the letter that had been submitted. He explained the letter was dated June 15, 2004 from the Victoria Park Civic Association to Bank Atlantic that stated: "...and also provide future support for VPCA Master Plan goals." He asked if they were going to do additional landscaping on the site or were they going to support the Association's goals off Bank Atlantic's property. Mr. Lochrie stated that they had added additional landscaping on their property, and had agreed to assist the Association with other master plan goals in the general area around the property as well. He further stated that they were committed to giving approximately \$40,000 to the Master Plan they were working on. Gerry Cooper asked if the Association could spend that money anywhere they wanted. Mr. Lochrie replied they could spend it within Victoria Park. Mr. Cooper stated it would be unfair to say the Association had received \$40,000 to write the letter of support. Mr. Lochrie stated it would be unfair to make such a statement.

Kevin Erwin, Construction Services, stated that Bank Atlantic was proposing to demolish a 100,000 sq. ft. office building and bank, and rebuild a 4,026 sq. ft. bank with 4 drive-thru lanes. He explained the existing drive-thru would be demolished after the bank was constructed. He stated the primary reason this matter was before this Board was for the application of commercial flexibility in a residential land use and the rezoning of the RMM-25 portion. He proceeded to show a diagram of the site to be rezoned.

Mr. Erwin further stated that they had received commercial flex at the western portion of the property, and were now requesting commercial flex for the eastern portion where it was now zoned RMM-25. He stated that according to the ULDR, they were required to submit a site plan that was tied to the rezoning.

Alan Gabriel clarified that the townhome development was not to be located where they had received commercial flex already. Mr. Erwin explained the townhomes would be on the portion of the site that had received commercial flex. He stated that was not part of this application. He stated they would probably have to take away the commercial flex on the residential land use because they were now doing a residential development.

Mr. Lochrie explained that the underlying land use was still residential, along with the zoning, and therefore, they were able to build the townhouse project on the site notwithstanding that commercial flex had been applied because that had been allowed so the applicant could obtain a variance for the drive-thru. He stated when the drive-thru disappeared so would the variance, and the commercial flex would be given up and it would go back. He stated they were actually giving up the remainder of the commercial flex that could be returned to the pool when the residential use was developed.

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

**Motion** made by Alan Gabriel and seconded by Randy Powers to approve the application subject to staff's conditions, as well as the condition for the additional landscaping and the wall modifications on the southern boundary as identified by the applicant's counsel, and that the site plan approval did not include signage approval.

Gerry Cooper stated that this was a good project, but he was uncomfortable about paying a neighborhood \$40,000 because who knew what the next neighborhood would ask for. He stated the monies would probably be well spent and the improvements would enhance the neighborhood. He reiterated that he was uneasy about this, and evidently it was legal or the Assistant City Attorney would comment on the issue.

Roll call showed: YEAS: Gerry Cooper, Charlotte Rodstrom, Randy Powers, Maria Freeman, Ed Curtis, Judith Hunt, Alan Gabriel, and Mary Fertig. NAYS: None. Motion carried 8-0.

**6. Archdiocese of Miami/St. Jerome Catholic Church**

**27-R-04**

Request:\*\* Site Plan Review/School Addition with  
Athletic Field/CFHS  
Acreage in Sec. 21-50-41  
Location: 2601 S.W. 9 Avenue

Chair Mary Fertig announced that this item was quasi-judicial. The Board made the following disclosures: Randy Powers stated that he had been to the site. Judith Hunt stated that she had been to the site and had also spoken with Commissioner Hutchinson. Mary Fertig stated that she had also been to the site.

Frank Shropa stated they were now zoned as CF and that St. Jerome's had been at this site since 1960. He remarked that they were an asset and good neighbor to the community. He stated that the maintenance building on the site had to be replaced and consisted of about 1400 sq. ft., and stated that the new building would be the same

dimension. He added that the athletic fields and basketball court also had to be upgraded, and therefore, they were going to relocate the basketball court. He stated they were going to redress the soccer field and also relocate the baseball field. He stated there were also adding 1300 sq. ft. to the pre-kindergarten building, along with a second floor to the existing school building.

Kevin Erwin, Construction Services, stated that they wanted to add 9 additional classrooms to the existing school that was over 10,000 sq. ft., and required a conditional use approval. He stated they were also proposing to add approximately 10,793 sq. ft. to an existing 20,317 sq. ft. school building. He further stated that changes were also going to be made to the baseball field and the basketball court. He added they were also going to replace a maintenance building. He stated they met the requirements of the ULDR, and staff recommended the following conditions:

1. The applicant be required to install landscaping in the 10' landscape area adjacent to the buffer yard wall.
2. The basketball court be rotated 90 degrees, relocated on site, or removed from the plans so the backboard would not be located within the required 20' rear yard.
3. The proposed development is in an area that has the potential to generate impacts from construction debris due to high winds and close proximity to existing uses. As such, in order to ensure that construction debris remains on site and does not become a nuisance to neighboring properties, prior to application for a building permit, a Construction Debris Mitigation Plan shall be submitted to include, but not be limited to, the requirements of the Construction Debris Mitigation Policy as attached, and as approved by the City's Building Official.
4. All construction will require approval from all pertinent environmental review agencies.
5. Site plan approval shall be valid as provided in ULDR Section 47-24.1.M.
6. Final DRC approval.

Mr. Erwin stated that an update from the Board of Adjustment indicated that the applicant had received 2 variances. The 3<sup>rd</sup> variance for the photometric diagram had been denied, and therefore, was an additional condition to be provided.

Alan Gabriel clarified that there were to be no additional students, and the improvements were not providing room for additional students. Mr. Erwin explained that they were trying to keep pace with the public school system because they had been mandated through legislative action to reduce class size. Mr. Gabriel asked if there was adequate parking for the square footage of the new areas if students were added. Mr. Erwin confirmed and stated that parking was based on classrooms and more than adequate parking was provided.

Chair Mary Fertig proceeded to open the public hearing.

Mr. Shropa clarified that at the Board of Adjustment meeting, it was stated that they did not have to do a photometric study of the entire parking lot, and the study was to be limited to the area allocated for the new construction.

Mr. Erwin stated that he was not clear on the information, but had been informed that they had been denied regarding the photometrics. Typically, he stated they had to provide site lighting for all paved areas and minimum light levels had to be achieved. He explained that at the residential property line, they could not be over .5' candles, and stated that was what they would be most interested in.

Mr. Gabriel clarified that the condition suggested was in regard to a photometric study since they had not received the requested variance. Mr. Erwin confirmed, and explained that the requirement in the Code only applied to the minimum lighting area for the paved areas, and at the residential property line the maximum light level. He reiterated that he had not attended the Board of Adjustment meeting, but would check on such information. He suggested that the Board could make the condition that the study be as approved by the BOA.

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 application as submitted per staff's recommendations, including the condition that a photometric study be done as requested by the Board of Adjustment. Roll call showed: YEAS: Charlotte Rodstrom, Randy Powers, Maria Freeman, Ed Curtis, Judith Hunt, Alan Gabriel, Gerry Cooper, and Mary Fertig. NAYS: None. Motion carried 8-0.

**7. Inwood Property Investments/R-O-W Vacation**

**10-P-03**

Request: Right-of-Way Vacation(RMM-25)  
A portion of S.E. 18 Avenue, AKA,  
Hendricks Isle Drive  
P.B. 16, P. 33  
Block 4, Adjacent to Lots 1,2,3,4  
East 5 feet of S.E. 18 Avenue  
Location: 60 Hendricks Isle

Chair Mary Fertig announced that this item had been deferred from the May 19, 2004 meeting.

Scott McLaughlin, engineer, stated that this was a vacation of a portion of Hendricks Isle Drive. He explained this was an older neighborhood and the original 75' right-of-way had been platted in 1929, and consecutive platting done in 1940 by Victoria Isles that had dedicated a 60' right-of-way. He explained further the applicant was requesting a vacation of the 5' that the prior property owners had dedicated back in 1929 to the City that was not being used. He proceeded to show a graphic of the site.

Kevin Erwin, Construction Services, stated that the right-of-way narrowed in front of their property from 60' to 50'. He stated if this Board approved the request, staff was suggesting the following conditions:

1. The entire vacated area be retained as a utility easement.

2. That all utilities that are required are to be relocated at the applicant's expense.
3. Final DRC approval.

Mr. Erwin stated they had demonstrated that they had met the conditions of the ULDR for a right-of-way vacation.

Gerry Cooper asked why the City should give away part of a City street that was currently used by traffic. Mr. McLaughlin stated he did not believe it was being used by City traffic, and explained that it was more of a swale area. He stated that the first ¼ to 1/3 of Hendricks Isle had a 70' right-of-way, and the remaining area had a 60' right-of-way. He explained that the property line jogged 5' on either side. Mr. Cooper stated that according to the information distributed to the Board, the reason the property owner wanted the 5' vacation was so he could develop a 16 unit condominium project. Mr. McLaughlin confirmed. Mr. Cooper asked if the vacation was not granted could the owner just build a 14 unit project. Mr. McLaughlin asked what purpose did that area serve with the jogging property line. Mr. Cooper reiterated that it was City property.

Mr. Cooper asked the developer if the vacation was not granted could he just build less units. Geigel Sir, representing the developer, stated that they were allowed to build 23 units according to zoning, but they were only going to build 16 units. He stated they were requesting the vacation so as not to ask for a setback. Mr. Cooper asked if the vacation was not granted could he still build the 16 unit complex. Mr. Sir replied that he would have to do something "funky," but they could still be built. He further explained that he would have to do something with the structure in order to offset the 5', but he felt it would not be attractive.

Ed Curtis asked what would happen south of the 5'. Mr. Erwin explained that the right-of-way ran north/south and was the eastern portion of the right-of-way. Mr. Curtis asked if they were going to give away the 5' all along the street eventually. Mr. Erwin stated it would be up to this Board depending on the applications being presented. He explained that it narrowed down to 60' north of the property and was a dead-end located on an island. He reiterated that it was not a through street, and it would probably never be developed where there was a 70' right-of-way all up and down Hendricks Isle.

Mr. McLaughlin further stated that there was a certain reasonable use of land that a homeowner was entitled to, and if the City had asked for and taken right-of-way at one point in time and the land was not used, reverting it back to the property owner if he could reasonably use the land for a project that would benefit the City would only be prudent. He felt that more such applications would come before this Board in the future.

Chair Mary Fertig 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 Charlotte Rodstrom and seconded by Alan Gabriel to approve the application as presented.

Gerry Cooper stated it was becoming obvious that this would be a “domino effect,” and he was not in support of this request.

Charlotte Rodstrom stated that the property had to be left opened for easements, and they were only getting use of the property similar to the swale situations. Mr. Cooper disagreed and stated that the developer’s agent was going to use the area as part of the setback for the project.

Alan Gabriel stated he was uncomfortable taking pieces of property and granting vacations, and if something was going to be done in an area, he felt they should look at it as a whole. He stated this was an issue he was constantly facing and without knowing what was going to happen to the south, he felt it was just a piecemeal procedure. He advised that he was not in favor of this vacation.

Roll call showed: YEAS: Maria Freeman and Charlotte Rodstrom. NAYS: Randy Powers, Ed Curtis, Judith Hunt, Alan Gabriel, Gerry Cooper and Mary Fertig. Motion failed 2-6.

**8. Prestige Builders II, L.L.C./Seaside Villas 26-R-04**  
Request:\*\* Site Plan Approval/Waterway Use/RMM-25  
Lot 8N20, 9-12 Nurmi Isles Island No. 4  
P.B. 24, P. 43  
Location: 55-79 Isle of Venice Drive

Chair Mary Fertig announced that this matter was quasi-judicial and the following disclosures were made by the Board members: Maria Freeman stated that she had been to the site. Ed Curtis stated that he had been to the site. Randy Powers stated that he had been to the site. Charlotte Rodstrom stated that she had been to the site. Mary Fertig stated that she had been to the site.

Michael Schiff, representing the applicant, stated that the property presently housed 30 residential units, and the owners wanted to demolish them and construct 16 multi-family units. He stated that the zoning was RMM-25 which provided that the owners could build 28 units. He proceeded to show the site plan for the property.

Mr. Schiff further stated that the tallest building was 4-stories using a setback portion on the roof in order to lower the scale of the project. He stated they were talking about 3-story units with a roof access. He stated the total height of the building was 44’ and zoning permitted 55’. He explained that the parking ratio was being met and there was to be a 2-car garage for each unit, along with guest spaces. In addition, he stated that behind each unit was a driveway providing for 2 additional parking spaces even though the City did not count those spaces. He stated that this project would be consistent with the neighborhood.

Angela Csinsi, Planning and Zoning, stated that this application was before this Board as a waterway use, and was also requesting yard modifications. She stated the applicant wanted to build 16 units. She stated there was an error in staff’s report where she had stated 14 units instead of 16 units to be built. She explained that in RMM-25 there was a minimum yard requirement of half-the-height of the building on the side and rear yards.



She stated that the applicant was requesting 7'2" for each side, and 2'2" in the rear, but were not proposing to build any pools in the rear yard. She stated that the following criteria had to be met according to Section 47-25.2 – Adequacy Requirements, Section 47-25.3 – Neighborhood Compatibility, Section 47-23.8 – Waterway Use, and Section 47-23.11 – Modification of yards. She stated that if this Board approved the project, staff was recommending the following conditions:

1. A Construction Debris Mitigation Plan shall be submitted to include, but not be limited to, the requirements of the Construction Debris Mitigation Policy as attached, and as approved by the City's Building Official.
2. All construction will require approval from all pertinent environmental review agencies.
3. Site plan approval shall be valid as provided in ULDR Section 47-24.1.M.
4. Final DRC approval.

Alan Gabriel stated that in regard to waterway use, it was his understanding that they were required to have a 20' landscape yard between the water and the development, and that was why the pool had been mentioned. Ms. Csinsi stated that they were supposed to have 20' clear which they did have, but due to half-the-height requirement they had to request an additional 2'2". Mr. Gabriel stated that within the 20' area there were separation walls and asked if some further clarification could be provided. Ms. Csinsi stated that she would go back and look at the plan. Mr. Gabriel further stated that they were supposed to look at the waterway elevation, and stated that nothing had been provided showing from the dock to the 20'. He felt the plan was deficient and would consider deferring this matter.

Mr. Schiff stated that the waterway elevation was to show what the building was to look like from the waterway. He stated the docks were on the site plan.

Ms. Csinsi stated that they would have to request a yard modification for the wall since it was located within the 20' area. Mr. Gabriel clarified it was to be a clear landscaped area. Ms. Csinsi confirmed. Mr. Gabriel asked if every unit had a separation wall.

Mr. Schiff explained that the intent of the design was to grant privacy between the units. He stated further that the wall was landscaped and would not be seen.

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

Charlotte Rodstrom stated that she wanted to compliment Mr. Schiff on the design of the building and felt that he produced a beautiful product. She stated that she liked the Mediterranean style and felt it was a way to kick-off doing something on that parcel of land. She felt these types of buildings would only enhance the area, and reiterated that they were not adding individuals to the area.

Maria Freeman asked for further clarification regarding the 20' setback. Ms. Csinsi stated that the Board was to consider it because the applicant was now requesting walls within that area. She further stated that in regard to waterway use, there was a 20'

requirement that was to be free and clear of any structures, including walkways and pools. She explained there was to be a tranquil waterway. She stated that if someone wanted to propose something within that waterway, they had to request approval from this Board.

Ed Curtis stated it was his understanding that they would have to have an exception to the rule in order to allow the walls in that area. Ms. Csinsi stated that as part of the request for modification, it would be an exception. Mr. Curtis further stated that in addition to shortening it by 2', the walls were to be added inside the setback. Ms. Csinsi confirmed. Mr. Curtis asked if the wall went all the way to the water. Ms. Csinsi stated it only went part way.

Mr. Schiff explained that the wall began 10' back from the waterway as required by the Code. He believed the wall was permitted to be 3' in height within 10' of the waterway, and then could increase in height, thereby allowing views down the canal from adjacent properties. He stated that they did permit landscaping in the area that grew tall and prohibited views.

Mr. Curtis asked where on the plans did it show that the wall was 10' back or staggered. Mr. Schiff explained that he was stating it for the record. He further stated that the rear yard modification was due to the 4-story building because of the roof that was back from the requirement. He explained that the only portion that required the 2' modification was far enough back not to require it, but the City did not consider the "wedding cake" effect.

Gerry Cooper stated that he also admired Mr. Schiff's work, but he was confused. He stated if the Code did not permit a wall in the rear yard setback area, and they were stating that they complied with the Code by installing the wall, he did not understand that statement and asked for some further clarification. Mr. Schiff explained they were asking for the wall as part of the modification. He stated they were not allowed to theoretically have pools in the setback either, but many times pools were approved. Mr. Cooper reiterated that the applicant stated they were going to comply with the Code, but the Code stated nothing could be in the rear yard setback. Therefore, how could they have the walls and still be complying with Code. Mr. Schiff further stated that they were asking for a modification to permit the wall, and the way the wall would comply with Code, if the modification was granted, was that the wall within 10' of the waterway would not be taller than 36". He stated that the other 10' could be higher. Therefore, if the modification was granted, it still had to comply with Code in terms of height.

Alan Gabriel stated he was under the impression that type of wall would be for side yards.

Bruce Chatterton stated that if this Board granted the yard modification, it could be done.

Jim Koeth, Planning and Zoning, stated that he was going to read into the record the applicable section of the code in regard to the 20' landscape yard required adjacent to the existing bulk head line.

"The required 20' yard shall not be used or developed for any purpose other than landscaping in the minimum amount of driveways or walkways reasonably necessary to

serve permitted non-residential or multi-family waterfront uses unless specifically approved by the Planning and Zoning Board.”

Mr. Chatterton further stated that in deciding whether or not to grant that yard modification, there were criteria that should be reviewed.

Mr. Gabriel further stated that in looking at the plan his focus was on the waterway, and he was unable to tell from the drawing how many docks there would be, or if they would be along the seawall. He added that he could not tell those things from the artist's rendering either. Since these things were not clear to him, he would not be able to vote in favor of this application. He added that he liked the project and felt it had merit, but he had the concerns that he had addressed.

Mr. Schiff proceeded to explain the site plan. Mr. Gabriel stated that he did not think all documents had been submitted to the Board. Chair Mary Fertig explained that this Board had adopted the policy that all drawings were to be submitted in advance and not handed out at the meeting. She stated that Mr. Gabriel was stating that it would have been an advantage to have the renderings submitted previous to the meeting.

Mr. Gabriel stated that he was concerned about the walls and in putting the entire package together, but he could not discern everything from the drawing he had reviewed. Mr. Schiff stated if the Board desired, he would withdraw part of the walls from the site plan approval, and if they wanted them in the future, then they would come back with such request to this Board.

**Motion** made by Charlotte Rodstrom and seconded by Alan Gabriel to approve the project with the stipulation that the walls were not to be included in the 20' landscape area. Roll call showed: YEAS: Maria Freeman, Ed Curtis, Alan Gabriel, Gerry Cooper, Charlotte Rodstrom, Randy Powers and Mary Fertig. NAYS: Judith Hunt. Motion carried 7-1.

**MEETING RECESSED AT 8:30 P.M.**

**MEETING RECONVENED AT 8:40 P.M.**

**9. Jeff Hendricks Homes**

**105-R-03**

Request:\*\* Site Plan Approval/3-story Cluster Homes  
Coral Ridge North Addition,  
P.B. 24, P. 5  
Block 4, Lot 14  
Location: 2718, 2720, 2722 N.E. 20 Court

Chair Mary Fertig announced that this item was quasi-judicial, and the Board Members made the following disclosures: Charlotte Rodstrom stated that she had been to the site. Randy Powers stated that he had been to the site. Maria Freeman stated that she had been to the site. Ed Curtis stated that he had been to the site. Gerry Cooper stated that he had been to the site and had spoken with Brian Leary of the Civic Association. Alan Gabriel stated that he had been to the site. Mary Fertig stated that she had been to the site and had a message from Brian Leary of the Civic Association.

Gus Carbonell, architect, stated that this project consisted of 3 cluster homes.

Gerry Cooper stated that the Chair had recited previously the Board's standards that information was not to be distributed at the meeting, and he remarked there were a lot of renderings being put before the Board at this time. He further stated that he did not recall seeing such renderings in the information distributed previously to the Board. Chair Mary Fertig stated that she did not recall seeing the renderings previously either. Mr. Cooper stated that was not fair, and therefore, wanted the item deferred.

**Motion** made by Gerry Cooper to defer this item. Motion died for lack of a second.

Mr. Carbonell explained that the renderings were included in the Board's materials that had been previously distributed.

Mr. Carbonell continued stating that 20<sup>th</sup> Court was a one-block long street that had split zoning. He stated that the western half beginning at Bayview Drive was zoned as RD-15 that allowed single-family homes, duplexes or cluster homes. He stated that the balance of the property to Intracoastal Drive was zoned for single-family homes. He stated that many of the structures in the neighborhood dated back to the '50's and '60's and some were single-family homes and some were duplexes. He stated that this would be the first cluster home development on the street. He stated these homes would consist of 3 bedrooms, 2 ½ baths, and each would have a 2-car garage. He further stated that the cluster ordinance was very specific and restrictive, and had been created for in-fill developments adjacent to residential neighborhoods with single-family homes in order to protect them. He stated that they met all requirements of the ULDR, and in many cases exceeded such requirements. He added that they had also met with the neighborhood association and a letter of support had been submitted to the Board.

Mr. Carbonell stated that the main reason they were before this Board was due to the compatibility issue. He explained the structures were of a Mediterranean Revival design that was similar to the new construction in the area, along with some existing homes. He stated that comments were made about the structures being 3 stories. He explained the structures had a high-pitched roof and proceeded to show a diagram of the structures, along with a typical 2-story home with an attic. He explained that the third floor was reduced as a "wedding cake" effect to have less impact on the surrounding properties. He stated that most people used their rear yards, and that was the purpose of giving the most room to the neighbors. He explained the required yard was 15', and they were giving 36 ½' for the backyard. Mr. Carbonell stated further that the ordinance required a lot of architectural features.

Jeff Hendricks, owner/builder, stated that he was a small builder and did about 2-4 projects per year, and most had been located in Coral Ridge. He stated that within 2 weeks of purchasing this property, he had received numerous letters and phone calls from code officials and the police department in regard to the disrepair of the buildings. He stated that he was encouraged to demolish the structures immediately. He stated that he had gone door-to-door to meet with the residents before approaching the Homeowners Association, and 4 main areas seemed to be of concern to everyone. One area was what the project would look like in regard to the elevations and architectural

features. Another concern was the landscaping, and added that an article had been published in the Home Fort Lauderdale magazine recently which addressed a project he had completed in Victoria Park which highlighted the landscaping he had used in a project. He further stated that other concerns of the area residents were the building height and setbacks. He explained that the building height of a single-family home, a townhouse, cluster home or duplex were all 35'. He stated there was new construction located along the Intracoastal, but not on this particular street. He added that renovations were also taking place that were adding two stories to existing structures. He stated that the basic comment in the end was that wherever there was new construction heights were 35' and over, and were compatible with the neighborhood, but not compatible with homes which had been built in the '50's.

Mr. Hendricks further stated that they had gone to great lengths regarding the footprint of the building. In looking at the footprints, he explained that he looked at life styles and most individuals spent their time in their backyards. He stated they reduced the width of the building significantly so as to have larger backyards consistent with the neighborhood and providing privacy to the adjoining lots. He stated he had met with the Homeowners Association and had gone through an exhaustive review, and a letter of support had been submitted from that group. He proceeded to read from that letter as follows: "The Association passed a resolution to accept the above project as consistent and compatible with the surrounding nearby neighborhood given its unique location." He stated that he had read that statement because of the words "unique location." He explained there were 6-7 properties from Bayview to the change in zoning and he was in the middle of the area. Further in the letter, he stated it implied that if he had been closer to the residential properties, it might have been viewed differently.

Gus Carbonell stated the information being distributed described how the developer had gone to great lengths to save trees.

Gerry Cooper asked if the picture shown was accurate in every detail. Gus Carbonell stated that one detail had been changed to improve the project, which was the railing on the side of the building. He stated that during the DRC review, they had commented that the railing had to be moved back in order to meet the setback requirements. He stated the actual architectural plans and elevations were accurate. Gerry Cooper asked if it was Mr. Carbonell's testimony that the rendering was accurate in every detail other than the rendering. Mr. Carbonell confirmed and stated the landscaping was the artist's conception. He remarked that their landscaping was more lush.

Tony Longo, Planning and Zoning, stated the proposal was for a 3-unit, 3-level cluster development located in RD-15 zoning. He stated that staff had determined that the applicant had met the minimum/maximum requirements of the ULDR. He explained the area was comprised of a mix of both single-family detached dwellings and duplex residential dwellings. He stated further that the zoning designation changed to RS4.4 about 6 lots down from Bayview Drive. He explained that the property south of the development was in RS4.4 and consisted of single-family, single-story dwelling units. Staff determined that the applicant had met the adequacy and cluster development criteria, but staff was requiring that this Board consider neighborhood compatibility. He suggested that the Board consider the following factors when determining whether the

project complied with neighborhood compatibility, such as height, mass, scale, site arrangement, architectural features, and character.

Mr. Longo stated that photographs had been submitted of the project and a letter of support from the Coral Ridge Neighborhood Association President. However, additional information had been received since staff had submitted their report. He explained they had received calls from residents within the Coral Ridge neighborhood voicing their concern about the project, and also had enclosed a letter of concern from a Ms. Susan Washburn located east companion project 106-R-03. He proceeded to show photographs of the area.

Chair Mary Fertig reiterated that the Board's policy was not to accept additional materials from the applicant the night of the meeting. She felt the article was additional information.

Chair Mary Fertig proceeded to open the public hearing.

Greg Martin, 2834 NE 20<sup>th</sup> Court, stated the issue before this Board was compatibility. He stated that prior to the demolition of the structure at the site, the entire street had been single family homes. He agreed that the zoning permitted different types of development, but he wanted to discuss compatibility. He stated they were now at risk of having a cluster home development or multi-family dwellings that he felt were incompatible with the area. He stated that there had been some great redevelopment done in the area, but he stressed that this would not be compatible with the neighborhood. He stated they wanted the street to remain one of single-family homes.

Gerry Cooper asked if Mr. Martin was a member of the Coral Ridge Association, Inc. Mr. Martin confirmed. Mr. Cooper read a portion of the letter whereby they had accepted this project for the neighborhood stating it was compatible with the surrounding and nearby neighborhoods. Mr. Martin stated that Coral Ridge was very large and he felt the zoning was incompatible with their neighborhood. He stated it was the Board of Directors' job to speak for the entire Association, but the redevelopment which had taken place in the area had been great, but he emphasized that 12 single-family homes were demolished and no multi-family component existed at this site until now. He asked for Mr. Cooper to read the last sentence of that letter, and stated that while they were supporting redevelopment in the neighborhood, he felt the wording was very vague. Mr. Cooper proceeded to read from the letter as follows: "Any project in the same zoning district which was adjoining, across a waterway from, or otherwise closer to a single-family use would be subject to a much stricter standard." Mr. Cooper asked if Mr. Martin felt that at the regularly scheduled meeting of the Board of Governors that only 7 people voted on the project. Mr. Martin stated if the Board was attempting to rope him into saying that the Coral Ridge Association encouraged and supported a developer that had done great redevelopment in the neighborhood, then he would agree. He stated he had not attended the meeting in question.

Randy Powers asked if the community had been notified of the subject meeting. Mr. Martin stated that Mr. Hendricks had never knocked on his door or maybe he was not home.

Charlotte Rodstrom stated that sometimes when there was a Board of Directors meeting, it was only opened to those individuals and not necessarily publicized to the entire Association.

James Efron stated that he had taken pictures of every home on 20<sup>th</sup> Street, 20<sup>th</sup> Court, 21<sup>st</sup> Street, and 21<sup>st</sup> Court that was adjacent to the properties. He remarked they were all single-family, single-story homes, and there had only been one 2-story home that was under renovation located on the opposite side of 21<sup>st</sup> Street. He reiterated that compatibility was the absolute issue in this matter. He stated that Mr. Hendricks was asking for the maximum things allowed, including height, setbacks and the footprint. He explained that each house in the development had between 15' and 20' between each other. He stated that this applicant was requesting 6. He stated their homes had 25' setbacks from the street, and they were asking for 20' setbacks. He stated the other issues were bulk and mass, and he stated the impact to the neighborhood would be great.

Mr. Efron further stated that electricity for the area was inadequate for the 24 families living in the area, along with the water pressure. He stated that by adding another 16 homes to the area, traffic would also increase.

Brian Phegley, 2001 Intracoastal Drive, stated he lived in the neighborhood for the last 20 years. He stated this was a chance for the Board to undue what had been a mistake made by the City regarding zoning. He stated the zoning should be single family. He stated further that this was the first high level density project in the area, and once this started there would be an opening of "Pandora's box." He felt the impact on the neighborhood would be tremendous. He continued stating that the other multi-zonings were on Bayview. He added that he had not been contacted about the development, and the first they knew about it was the sign posted on the property.

Steve Freedland, homeowner, stated there was a saying known as NIMBY meaning "not in my backyard." He stated further that the President of the Homeowners Association did not live on his street. He continued stating that if one read the last paragraph of that letter closely, he was saying NIMBY. He remarked that height did matter and they were proposing that someone would be living on the 3<sup>rd</sup> floor of the structures, and they would be able to look down into everyone's homes and backyards. He reiterated that there would be a tremendous loss of privacy. He stated he did not care if they used the "wedding cake" effect because it was still going to impact his life.

Claudia Galloway stated that her home was probably going to be the most adversely affected by this project. She explained that she would have a townhouse to her left, one across the street, and soon another on the east side. She explained further that she was basically going to be sandwiched in between townhouses. She stated that she had lived there for the last 12 years and enjoyed her southeast tropical breezes, along with the sunshine and the great skyline. She stated that she did not want that environment taken away from her. She stated further that she understood Mr. Hendricks had the right to build, but since she was there first she felt she also had the right to maintain her present environment.

Ms. Galloway asked if the developer could not extend the side setbacks so the buildings would not be right on top of her and overshadowing her entire house. She asked if he should not be required to provide ample trees to buffer the massive look of concrete, while providing her with a natural screen for light to filter through. She felt with such compromises, it would be a more palatable transition for her and the neighborhood, while still remaining a happy homeowner.

Eve Prochaska stated that she had lived on NE 20<sup>th</sup> Court since 1964 and felt that everyone in the area attempted to maintain their properties. She stated that a lot of comments had been made regarding the letter from Brian Leary, and in the last paragraph she felt there was some discrimination stated. She felt one could not get closer than the 5'. She stated they did not want to see their nice block inundated with multiple family dwellings because it would be a drastic change.

Cindy Bossarta proceeded to have the Board review the placard showing photographs of the houses in the area, and stated that what they were planning to do did not fit in with the area. She also pointed out that they did not have any sidewalks in the neighborhood, and the developer had showed a sidewalk on his rendering.

Tammaura Schechter stated that she lived on 21<sup>st</sup> Street and felt when one drove or walked into a neighborhood, a feeling was transmitted, and the feeling in this neighborhood was similar to where she had grown up, and the area was full of single-family homes. She remarked that even the few duplexes that existed resembled single-family homes. She stated the project looked nice but did not fit in with the neighborhood. She stated that she spent a lot of time in her front yard and felt that this project would greatly impact her.

Zake Zikeria stated that Mr. Hendricks had bought a lot of property in the area, and had attempted to buy his. He stated that it got to the point where he asked Mr. Hendricks not to come onto his property any more. He remarked that Mr. Hendricks was very aggressive and that his property had been littered by the workers on the projects. He reiterated that the workers had trespassed onto his property many times. He added that he was not a member of the Association, but did know that Brian Leary was also very aggressive and was a real estate agent. He added that Mr. Hendricks had also made contributions to the Coral Ridge Homeowners Association, and he felt that was why his projects were being supported. He asked the Board to take into account the value they were using to judge whether this project was compatible or not for the area. He stated if the value was to have Mr. Hendricks make a maximum amount of money, then things were moving in the right direction. He did not think that was the value either. He believed the value should be the quality of life for the people in the neighborhood. He stated that an elderly lady who lived behind the project in a single-family home was against this project and had stated she had bad experiences with the developer in regard to a fence. He urged this Board to vote against this project.

Frank Corigliano stated that he was asked to attend this meeting by two owners who had property at 1910 Intracoastal Drive. He stated that house was built in the 1950's and was clustered in the middle of two huge single-family homes. He stated if this meeting was about uniformity, then this trend was not being caused by Mr. Hendricks alone, but was something that was just happening. He stated the '50's home had probably doubled in



value. He stated that he had been asked to attend this meeting as an advocate for what the developer was doing for the neighborhood. He stated there were also accolades from the community on the other side of Bayview and along the water side of Bayview for his projects. He remarked that the individual living in those dwellings were professionals and family oriented.

Charlotte Rodstrom asked Mr. Corigliano how long he had lived in the neighborhood. Mr. Corigliano stated he did not live in the neighborhood, but lived for the last 7 years in Fort Lauderdale.

Jerry Schechter, native Floridian, stated that there were no three-story dwellings north of 15<sup>th</sup> until one got south of Oakland Park and east of Bayview. He reiterated there was nothing this massive in the area, and remarked there were a couple of 2-story homes in the area. He stated that this was an isolated neighborhood with no canals and no through traffic. He felt this project would change the entire neighborhood.

Susan Smith stated that she lived on NE 20<sup>th</sup> Court and had bought her home 17 years ago, and had purchased it because she liked the lifestyle of the neighborhood. She added that it was a single-family neighborhood with '50's and '60's homes. She stated that she enjoyed her pool and yard and entertaining her friends there, but with this project she stated she would be living in a "fish bowl" with no privacy. She stated that her quality of life was going down the drain. She stated that she realized the lots had been zoned duplex and she had no problem with that, but she was requesting that the dwellings be limited to 2 stories. She stated that she preferred they be rezoned for single-family use, but realized that was probably unrealistic. She stated that two-story structures were within the call of this Board, and she felt that was what the neighborhood needed.

Frederick Washburn stated that he had recently bought the house east of one of the empty lots. He added that his family would be greatly affected by the overbearing 3-story building being proposed. He stated that his side yard held his pool and there would only be 5' between the building and his property, and he did not have a back yard. He reiterated that they were not happy about this project, and were moving here from Los Angeles in July. He added that his wife had written a letter against this project, and asked if the development could be limited to two-stories.

Gus Carbonell stated that economics would play a role for the future for this street. He stated that most of the duplexes were obsolete and most structures would be demolished and rebuilt, but they would not be single-family homes. He stated they felt the project would create new development for the area.

Gerry Cooper stated that in a previous case money had been given to a homeowner's association for a letter of recommendation, and he asked if Mr. Hendricks or his company had made any promises to the Coral Ridge Association, Inc. or to Brian Leary for additional help in the neighborhood.

Mr. Hendricks stated that after the letter had been written, he had approached them about planting trees. He continued stating that he had been informed that they had a master plan, and they preferred he either make a money contribution or contribute work

associated with any of their initiatives. He stated that there was a project on Bayview where the road was being raised and a park was being created on the east side and was open to the canals, and they had stated that he could contribute \$3,000 to \$4,000 to that project.

Ed Curtis asked why it was significant to Mr. Hendricks to build this project on Lot #14 as opposed to Lot #11. Mr. Hendricks explained there were 6 homes from Bayview that were in the RD-15 zoning, and questions were asked where the project was to be built. He stated comments had been made that if it was built more to the east, then it would come under greater scrutiny. Mr. Curtis added that if they were to build on Lot #8 or Lot #11, then possibly the Association Board might not have approved the project. Mr. Hendricks replied that might have been a possibility. Ed Curtis asked how that would affect compatibility. Mr. Hendricks explained that there was a buffer zone between one zoning and the next, and the neighborhood wanted to keep that and had recognized that one butting to the other might be more difficult than butting up to itself. Mr. Curtis asked Mr. Hendricks how many lots he owned on that street. Mr. Hendricks replied that he owned 4 lots.

Maria Freeman asked for a show of hands as to how many individuals in the audience lived in the RD-15 area. She reiterated that area was zoned duplex even though they had single-family homes in the area.

Frederick Washburn stated that the vacant lot at the north side of 20<sup>th</sup> Court had a duplex east of it that was his property, and it had been converted into a single-family unit.

Maria Freeman further stated that the zoning probably never should have been zoned for duplexes, but it could be rezoned back to single-family if there was a consensus of homeowners who owned properties in the area. She felt at some point there would be other developers going into the neighborhood to build structures similar to Mr. Hendricks' project. She stated that it appeared some of the residents were agreeable to a duplex, but they did not want 3-story structures. She asked if economics were driving the floors of the structure. Mr. Hendricks stated the issue was to provide enough living space, along with a 2-car garage in the 3-units. He stated 3 stories were necessary in order to provide more than 1800 sq. ft. of living space.

Chair Mary Fertig stated that she had driven through the area and asked if any trees had been saved at the site. Mr. Hendricks replied there were no trees of value at the site. He reiterated that at some of his other projects, he had gone to great lengths to save and relocate trees.

Chair Mary Fertig asked about the zoning behind the proposed project. Mr. Longo replied that it was RS4.4 that was residential with low density.

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.

Charlotte Rodstrom stated that she commended the residents of the neighborhood for attending tonight's meeting and voicing their opinions. She felt that if they kept doing this

while attempting to get their zoning changed, they would be able to protect their neighborhood. She clarified that Brian Leary lived north of Oakland Park Boulevard off Bayview, and did not live near the site. She added that the homes Mr. Hendricks was building in the nearby areas were very nice, but she did not feel this project was compatible to the neighborhood, and therefore, would vote against the project.

**Motion** made by Gerry Cooper and seconded by Alan Gabriel to approve the application as submitted. Roll call showed: YEAS: Judith Hunt and Maria Freeman. NAYS: Ed Curtis, Alan Gabriel, Gerry Cooper, Charlotte Rodstrom, Randy Powers, and Mary Fertig. Motion failed 2-6.

**10. Jeff Hendricks Homes**

**106-R-03**

Request:\*\* Site Plan Approval/3-Story Cluster Homes  
Coral Ridge North Addition, P.B. 24, P. 5,  
Block 5, Lot 4

Location: 2727, 2729, 2731 N.E. 20 Court

Chair Mary Fertig announced that this matter was quasi-judicial.

Gerry Cooper stated that possibly the handwriting was on the wall, and they should give the applicant the option to withdraw this item.

Jeff Hendricks, developer, stated that after listening to the homeowners on the previous item, he would request to withdraw this item from tonight's agenda.

**11. Kim and Margaret Nothard/R-O-W- Vacation**

**1-P-03**

Request: Right-of-Way Vacation (RMM-25)  
A portion of S.W. 14 Way, aka, Kenilworth Place  
P.B. 10, P. 3, Block 2, Adjacent to Lots 1 and 2

Location: Adjacent to 215 S.W. 14 Way

Margi Glavovic-Nothard, owner, stated that they were making an application to vacate a portion of the street opposite their home. She announced that they were the only home on the street. She proceeded to show the site plan and diagram of the area. She stated that the City owned the property to the east. She further stated that the County was acquiring the City property and the area was going to be called Sailboat Bend Preserve that was to be a conservation area. She stated there was currently 600' of public access to the canal. She advised that their application had met all the requirements of the ULDR. She announced that this portion of the street had never been used by the public, and their house had been built in 1969 by Bill Bigeny, and it had been used as a private driveway. She stated that there had been a sign out front stating that it was a private drive. She further advised that they had purchased the property 6 years ago. She proceeded to show photographs of the street. She advised further that there was bird life and wildlife in the area. She stated that she maintained the street herself. She stated there would be no adverse impacts since no one used the street. She added there were only 3 other houses on the other street. She stated further that the utility companies had no objections to the vacation. She stated that other issues to be considered were that 5 letters had been submitted in support of this vacation, including the Sailboat Bend Civic Association.

Ms. Nothard stated that when they began going through the DRC approval, the County had not yet began acquiring the land, and concerns were raised that there would be restrictions to the public access for the canal. She reiterated there was over 600' of public access to the canal. She advised that Parks and Recreation were in support of this vacation as part of their plan to acquire County land.

Kevin Erwin, Construction Services, stated that this was a 50' right-of-way that had never been developed into a roadway and dead-ended at the canal. He stated the applicant was requesting to vacate the area. He stated that staff had review the request and the Public Franchise Utilities had also reviewed the request and had no objections. He stated that the City's Engineer Design Manager had reviewed the application, and even though the City did not have any facilities in the area, he was not in support of this application due to possible future dredging in the area. He stated there was City-owned property to the east of the right-of-way and on the north side of the canal which could be used for dredging purposes.

Mr. Erwin further stated that Parks and Recreation were part of the negotiations for obtaining the land for a park, and were in support of the vacation. He stated that the planning staff had reviewed the waterway master plan, and that document had stated that these types of roadways were to be reserved for access. He advised that such plan had been adopted by the City Commission in 1991.

Mr. Erwin continued stating that staff had determined that the applicant complied with all criteria, except that the right-of-way no longer served a public purpose because it could be used for access to the waterway even though there were other access points adjacent to the site. He stated that the engineer felt that the area might be needed for future dredging.

Chair Mary Fertig clarified that the City had reservations about the future use of the property. Mr. Erwin stated that internally the City did not always agree. He advised that the Property and Right-of-Way Committee had heard this matter before the plan for the park had come to fruition. He explained that staff's determination was based on the fact that the Property and Right-of-Way, along with the Engineering Design Manager, were not in favor of this vacation. He added that it was heavily wooded and if the City wanted to use the property, they would first have to remove the vegetation.

Gerry Cooper stated that on one hand it was stated that the property might be needed in the future for dredging purposes, but the homeowner who had a vested interest disagreed. Mr. Erwin confirmed. Mr. Cooper stated the Board had to decide who to believe. Mr. Erwin added that 5 letters had been received from the neighborhood in support of the application. Mr. Cooper stated maybe they needed to weigh why they should give the property away if some of the City staff felt the property might be needed. Mr. Erwin agreed.

Maria Freeman asked to see the picture of the roadway. Ms. Nothard explained that in order to get to the area to dredge, they would have to knock down about 8 trees. Ms. Freeman clarified that this roadway was used to enter their property. Ms. Nothard confirmed and stated that this was a unique area and that was why the County was

interested in acquiring the land as part of their parks bond. She stated this would create a green zone for the area, especially since 217 units were going to be built in the area and impact Sailboat Bend. She reiterated that they had no intentions of paving the roadway. Ms. Freeman asked why they could not leave the area as it existed. Ms. Nothard explained that they had two children and sometimes people got lost and many times had driven over her children's playground and if she erected a fence, she would not be able to get access to the turn. She explained further that the front garage entrance was on the north side. She stated that she wanted to enclose their property and make it safe for the children.

Charlotte Rodstrom asked for further clarification of the 600' available for access to dredge.

Mr. Erwin stated that the City owned the property directly to the east and there was a part on the north side of the canal. Ms. Nothard explained that they had dredged last year and had accessed it from the park that the City owned.

Alan Gabriel asked if the property next door was going to be a park, but that had not been in place when this had originally been reviewed. Mr. Erwin replied it was not in place when the Property and Right-of-Way had done their review. He stated that it came to light during planning staff's review. He stated the concern was the dredging aspect. Mr. Gabriel stated that during a previous case this evening, there had been a suggestion to make a utility easement out of the right-of-way being vacated, and asked if that could be done in this case for dredging purposes. Mr. Erwin stated it was his understanding that had never been suggested in this matter. Mr. Gabriel reiterated that it would address the concerns of the City, and still provide the applicant the opportunity to secure the property as they wished. He asked if that could be done.

The Assistant City Attorney stated it could be done if there was evidence that it was needed. Mr. Chatterton clarified that instead of a utility easement, an access way for maintenance possibly could be provided. Mr. Gabriel confirmed. Mr. Chatterton stated there would be issues regarding the need for equipment to traverse the land that would be under private ownership, and could possibly be impeded by improvements to the property.

Mr. Erwin explained that typically when someone built improvements within an easement, the City required an affidavit that the owner would be willing to remove such improvements and replace them, at their own expense, should the City require access. Mr. Gabriel stated that he thought the applicant had stated that the area was going to be utilized as access into the property, along with the construction of a fence.

Ms. Nothard stated that by the nature of enabling them to have such an easement, she would be concurring with the idea that 8 trees would have to be removed. Mr. Gabriel stated he was not sure that the applicant would be agreeing to the removal of such trees, but would be giving them the ability to access the property as it exists today in order to perform dredging. He stated that members of staff were suggesting that this application not be approved due to the perceived City need, and he felt it put the Board in a precarious position.

Mr. Chatterton stated that he wanted to point out that the trees were no more in danger with a maintenance easement, than they were now in being what could be called a thoroughfare. He stated that the Assistant City Attorney informed him that the Board could condition the vacation to provide for a maintenance easement.

Ms. Nothard stated that this part of the street was the 25' on the other side, and most of the wooded area was where they were stating the City might require access. Mr. Gabriel stated he did not know if the entire area would be needed, and possibly it could be reduced to a smaller portion. Mr. Chatterton explained that possibly the condition could read that the specifics of the maintenance agreement would be worked out with the Engineering Department.

Chair Mary Fertig stated that it sounded what was being proposed might require additional research before this could be done.

Mr. Erwin pointed out that since the City owned the property to the east, then half of the vacated right-of-way would go to the City.

Charlotte Rodstrom stated that it had been mentioned that this was City property that the County was acquiring for the park, and she asked what happened to that section. Would the County acquire it from the City, was it the applicant's property, or the City's right-of-way, along with a County park. Mr. Erwin replied that whoever owned the property at the time of the vacation would have rights to the 25' section on the east side. If the City chose to sell it to the County, then he assumed they would be selling their half. Ms. Rodstrom asked what type of necessity would the City have for the small section of property between the applicant's property and the County Park. She asked if the City would not be able to access through the County park when necessary. Mr. Erwin stated he could not speak on behalf of the Engineering Design Manager or the individuals doing the dredging.

Judith Hunt stated that she felt staff had clarified the situation, and if they chose to vacate the property, then half of it would go to the City and half would go to the applicant. She hoped the trees would be preserved and the ambiance retained.

Gerry Cooper clarified that if this was vacated only half would be on the applicant's side, and he asked what they were going to do with that portion. Ms. Nothard replied that they were going to enjoy it and they wanted to construct a fence in order to provide a safe environment for her family. She stated that if the park proceeded forward, she believed that part of the proposal was for the County to erect a fence. Mr. Cooper stated if the County was going to erect a fence on their half, and if the area was vacated with a utility easement which implied that it could not be built on, he felt the applicant would be in no worse shape than they were now, and possibly in a better position. Ms. Nothard stated that she disagreed.

Chair Mary Fertig proceeded to open the public hearing.

Don Wilkin stated that he owned properties in the area that consisted of Lots 3-8, and the properties across from those consisting of 4 other lots. He stated that he lived in the area since 1985 and nothing had taken place in the area. He explained that the City had

never gone down that road for dredging because it was done from another access located at the end of SW 14<sup>th</sup> Avenue. He stated when they dredged the canal, they had used SW 14<sup>th</sup> Avenue, and when they dredged the River from Broward Boulevard to this point and beyond to the swing bridge, they had also used that location. He added that Lennar properties who was developing the School Board site had asked to vacate the street end which had been done, and half was dedicated back to the City as an easement for dredging purposes. He stated there would never be a need for the City to come to this point for dredging, and stressed that it had never been done. He stated that he was confused that the engineer would have addressed that situation. He continued stating that the home had been built in 1968 or 1969 and the area had been maintained as it existed, and the roadway had always been dirt.

Mr. Wilkin further stated that he was in the process of selling some of his properties to the County so the entire parcel could become a park and that SW 2<sup>nd</sup> Court would be vacated as well. He stated that a condition he had in regard to selling his property was that it would be fenced off so there could be a buffer against anyone using the park, and so individuals would not be able to wander onto his property. He stated that he was negotiating that point with the City since the County was unable to do that. He stated that staff had been instructed by the City Commission to look into the issue, and a plan had been arrived at regarding a cul-de-sac with two options. One of the options was that it be placed at the end of the street, and the other option was that it be placed at the intersection in order to preserve the trees in the area. He did not think there would be a need to access from this point, and he hoped the Board would approve this vacation.

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.

Ms. Nothard stated that the green portion on the map was already an existing park that was used in the area.

**Motion** made by Judith Hunt and seconded by Charlotte Rodstrom to approve the application as submitted.

Gerry Cooper stated that the City Design Engineer stated that the area might be needed for access for dredging, and then citizens came forward stating that was incorrect. Therefore, he stated that he weighed such statements in favor of the professionals. He further stated that staff informed the Board that the street provided access to the waterway for the public, and he felt that was an important factor. He stated he would not have a problem voting for the vacation as long as a utility easement would be provided and that public access would be permitted. Without such a condition, he stated that he could not support this vacation.

Chair Mary Fertig stated that she agreed with Mr. Cooper and stated further that she had concerns about there not being any easements provided because she had seen other access points to the waterway closed, and then ultimately sold. She stated that she realized this was a unique situation due to the configuration of the property, but she believed that a compromise had been suggested regarding the providing of an easement.

Ms. Hunt stated that the only issue she had was in regard to access to the waterway, but due to the large parcel next door being a park, it would be designed for such access and maintained in such a way that it would be safe for public use. She felt that would provide ample access to the waterway.

Roll call showed: YEAS: Judith Hunt, Charlotte Rodstrom, Randy Powers, and Maria Freeman. NAYS: Alan Gabriel, Gerry Cooper, Ed Curtis, and Mary Fertig. Motion failed 4-4.

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Bruce Chatterton announced that this would be Kevin Erwin's last meeting. He stated that Mr. Erwin had been with the City for 18 years and was now going to the town of Royal Palm Beach. Chair Mary Fertig stated that the Board would miss him and he had done a great job.

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**12. City of Fort Lauderdale**

**8-T-04**

Request:\* Discussion of ULDR Amendments to Yard Modification Regulations (Sec. 47-23.11) and Community Compatibility Criteria (Sec. 47-25.3.A.3.e.iv) for the Barrier Island

Chair Mary Fertig announced that the City would be serving as the Local Planning Agency in regard to this item.

Christine Fisher, Construction Services, stated that this was a discussion item for the Board to provide input and direction. She explained this was Phase I of the Barrier Island ULDR Amendments regarding revisions to the yard modifications threshold and criteria, along with community compatibility criteria. She stated that the background on the issues was in regard to meetings held with the community. She further stated that the multi-family districts were changing, and the buildings were becoming more massive. She stated they were proposing various recommendations as discussion items.

**Yard Modifications**

Ms. Fisher stated that as of 1973, the setbacks for multi-family districts were ½ the height of the building when they were greater than the minimum yards of the zoning district. She stated that it also established a yard modification process with the specific purpose of allowing either an adjustment to the location of structures on a development site to preserve a public open space, land or water, or an adjustment of yards between structures on a development site if a superior site plan was provided as relating to shadow impacts and as long as light, air, and views were maintained. She noted that parking structures and other specific encroachments were exempt from ½ the height of the building. She advised that in 1994 amendments had been made to the setbacks to allow adjustment to the actual structure itself into the yards. She stated the yards could be adjusted and it was no longer just the matter of moving the building footprint around on the site. She stated that was done through a yard modification process where 3 of the



5 criteria had to be met. She stated the impact was that architects had chosen to provide certain architectural features on the buildings in order to obtain a larger footprint.

Ms. Fisher stated their recommendation for change was that the current criteria that allowed for an adjustment to the location of a building should be expanded to include protection for historically designated properties as well. She explained that currently there was protection for public amenities. Secondly, she stated that on the Barrier Island criteria that permitted for an adjustment to the location of principal buildings on a development site should be modified to protect neighboring properties with specific height limitations on the portion of the building encroaching into the required yards. She referred the Board to Exhibit 2 that consisted of graphics for this recommendation. She explained they would first have to meet the threshold of protecting a public amenity or a historically designated site. She added they would be able to move the location of the structure around on the site, but if they were encroaching into a yard that is abutting or separated by a minor local road from a single-family district, then the impact would have to be mitigated and the height encroaching into the yard could not be greater than 2 times the maximum permitted height of the single-family district. That would be 70'.

Ms. Fisher continued stating that the next recommendation addressed the moving of a building on the Barrier Island when abutting multi-family and/or non-residential districts only or separated by an arterial roadway from single family districts. She stated they would first have to meet the threshold of being able to protect the public amenity or historically designated property, then any part of the structure that would encroach into the yard could not be greater in height than the average permitted height of the surrounding properties.

Ms. Fisher stated that in regard to adjustment of yards on the Barrier Island, they believed it should only be permitted if something was being given back to the City, such as work force housing, variety of housing types, and quality development consistent with good urban design and smart growth principles. She explained that any encroachment into the overall open space would not only have to meet these thresholds, but would be limited in height and other dimensional regulations, such as a maximum height of 35'.

Ms. Fisher explained that the next recommendation was in regard to where developers had obtained a lease for properties that did not abut the subject property, and thus were able to include the additional site in shadow calculations, effectively distributing the shadow impact over a larger area. The recommendation is that if there was a right-of-way separating the sites, they would not be able to include that property or the right-of-way in the calculation.

She stated they needed to not only protect the shadow on the Beach, but also had to protect the swimmers. She stated they were suggesting that no more than 25% of the submerged land from the high tide line out to 100' beyond could be shadowed during the same time frame the shadow calculations were made for the Beach which was March 21<sup>st</sup> between 9:00 a.m. and 5:00 p.m.

Community Compatibility Criteria

Ms. Fisher stated the community compatibility criteria were adapted from the 1988 Fort Lauderdale Beach Revitalization Design Guidelines for the Central Beach Area, and were not originally intended for the North Beach. She explained that in 2000, an ordinance codified the Design Guidelines, and now the Central Beach, as well as the multi-family residential districts had to comply with this criteria. She stated that in 2001, non-residential on the Barrier Island had been included. She explained that the problem was that many of the criteria were specifically geared towards promoting retail, plazas, and active pedestrian areas. She stated that was a direct conflict with the vision of the multi-family residential area on the Beach.

Ms. Fisher stated they were suggesting that they separate out the community compatibility criteria into multi-family residential on the Barrier Island, the Central Beach Area, and the non-residential on the Barrier Island. She referred the Board to Exhibit 3 and stated that it described the specifics.

Neighborhood Compatibility Criteria

Ms. Fisher stated that Phase II related to changes they foresaw for the future and one of those was neighborhood compatibility. She stated they felt several things should be changed, including the reformatting of the neighborhood compatibility section, and separating requirements into neighborhood compatibility for the City, Central Beach, Barrier Island non-residential, Barrier Island multi-family, as well as other special districts they might have such as the Downtown. She stated they felt a solid definition was needed for the term "neighborhood," and what areas they would be comparing against.

Ms. Fisher continued stating that modifying the neighborhood compatibility criteria based upon its revised format to provide greater protection to surrounding neighborhoods, they might possibly provide 2 sets of compatibility requirements that could be adjacency review and neighborhood review.

She stated they believed the proposed changes should be done in phases.

Ms. Fisher advised they had spoken with the Beach Redevelopment Advisory Board regarding this issue, and their interest was focused on the Central Beach Area. She stated the Board asked for staff to hold back on any recommended changes for that area until a workshop was held in the Fall and staff agreed.

Ms. Fisher stated that the last portion of staff's memorandum summarized the actual changes being proposed. She reiterated that staff was seeking direction and input from the Board at this time.

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

**Motion** made by Gerry Cooper to defer this item.

The Assistant City Attorney stated that before work was put into the ordinance, they wanted to give a general outline and idea so the Board could vision and provide ideas. She stated the matter did not have to be deferred, and in fact, the Board did not have to do anything unless they did not want an ordinance at the next meeting and still wanted to discuss the matter further.

Mr. Cooper stated that he wanted to hear some public input on the issues. He felt the architectural community, land developers, builders, and attorneys should participate in the discussion.

Courtney Crush, attorney, stated she felt the development community and other individuals wanted the opportunity to sit down with staff and receive all the information so they could review it and then workshop it. She stated that she represented some property owners who would be impacted by both phases of this issue.

Ed Curtis asked what was the purpose of all this. The Assistant City Attorney explained that this Board needed to be on the ground floor of what appeared to be a complicated subject, before an ordinance was developed or implemented. Mr. Curtis asked if there would eventually be a public hearing. The Assistant City Attorney confirmed. She added that this meeting had been advertised 10 days in the newspaper.

Chair Mary Fertig suggested that community groups also be invited to provide their input on this matter.

Liz Holt, Planning and Zoning, stated that could be done. She verified that this discussion had been ongoing for about 3 years, and several public meetings had been held with the professional community. She stated such input had been incorporated into the recommendations, and reiterated that they were not opposed to having additional workshops. She stated that she wanted further guidance on who the Board felt should be included in such discussions. She added that probably more than 50 individuals had attended the meetings in the past.

Mr. Cooper suggested that a list be made of the professional community who would be interested in the matter. Ms. Holt asked in what form should the public be invited.

Judith Hunt stated that the issue involving the development community and attorneys could be handled in a way that the group could provide input. She felt the second part was that the Commissioners maintained a list of homeowners associations, and those individuals should be given the opportunity to attend such a forum.

Charlotte Rodstrom suggested that the minutes of those meetings be available to the Board so they could review the information.

Mr. Chatterton clarified that no action needed to be taken by the Board this evening, and a consensus was given regarding input and they would bring the matter back.

**“For the Good of the City”**

Judith Hunt stated that in light of the fact that the City Commission took the month of August off, this Board continued to meet 12 months out of the year, and asked if anyone was willing to not meet in July or August. She stated it had been her impression that this Board had done that in the past but had stopped due to having a crowded agenda.

Gerry Cooper stated that he had been on and off this Board for about 10 years, and he did not remember the Board ever taking a month off.

The Assistant City Attorney stated that she was not aware of the Board ever having taken a month off, and explained that there would have to be a Code Amendment in order to do that.

**Motion** made by Gerry Cooper and seconded by Ed Curtis to adjourn the meeting.

There being no further business to come before this Board, the meeting was adjourned at approximately 10:40 p.m.

CHAIRMAN

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Mary Fertig

ATTEST:

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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.**