

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

**WEDNESDAY, JULY 21, 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	2	0
Mary C. Fertig	P	2	0
Alan Gabriel	P	2	0
James McCulla	A	0	2
Charlotte Rodstrom	P	2	0
Judith Hunt	A	1	1
Randolph Powers	P	2	0
Maria Freeman	P	2	0
Edward Curtis	P	2	0

Planning Staff: Chris Barton, Liaison to the Board
Don Morris, Planner III
Angela Csinsi, Planner II
Michael Ciesielski, Planner II

Legal Counsel: Sharon Miller, Assistant City Attorney

Court Reporting Service: Margaret D'Alessio

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

Chair Mary Fertig called the meeting to Order approximately 6:33 p.m. and proceeded to introduce the Board members, along with staff who were present this evening.

Approval of Minutes - May 19, 2004 Meeting

Motion made by Gerry Cooper and seconded by Alan Gabriel to approve the minutes of the May 19, 2004 meeting. Board unanimously approved.

Gerry Cooper proceeded to lead everyone in the Pledge of Allegiance.

Approval of Minutes – June 16, 2004 Meeting

Motion made by Gerry Cooper and seconded by Alan Gabriel to approve the minutes of the June 16, 2004 meeting. Board unanimously approved.

Chair Mary Fertig proceeded to explain the procedure that would be used during tonight's meeting.

September Meeting

Chris Barton stated that due to the holiday in September, the Planning and Zoning Board meeting needed to be rescheduled. He announced that the following dates were available for the meeting: Tuesday, September 14, 2004 and Thursday, September 23, 2004.

Gerry Cooper asked if the Board was permitted to meet on other days besides Wednesdays.

Sharon Miller, Assistant City Attorney, explained that the Code stated that the regular meeting was to be held on the third Wednesday of the month, but the Chairperson could designate special meetings at other times. She further stated that it had been the practice of this Board that on certain holidays (even though they were not legal holidays) the Board could agree to a different date, and the Chair could then call that meeting.

Motion made by Alan Gabriel and seconded by Gerry Cooper to hold the September Planning and Zoning Board Meeting on Tuesday, September 14, 2004 at 6:30 p.m. Board unanimously agreed.

- 1. Premiere Developer III Associates/Aquatania 30-R-04**
Request:** Site Plan Review/Waterway Use/IOA
Birch Ocean Front Subdivision
P.B. 19, P. 26
Block 7, Lots 4, 5 and 6
Location: 529-545 Bayshore Drive

Chair Mary Fertig announced that a deferral was being requested regarding this item.

Motion made by Alan Gabriel and seconded by Gerry Cooper to defer this item until September 14, 2004 at 6:30 p.m.

Gerry Cooper asked if many items had been scheduled for the September meeting. Chris Barton replied that there were two items that had been deferred previously, one of which might get deferred again.

Board unanimously approved the motion.

- 2. William Vaccaro 20-P-03**
Request: (a) Vacate a portion of NE 15 Avenue
Lying west of and adjacent to Parcel "A",
"Raybohr Plat," P.B. 93, P. 44

(b) Vacate a portion of NE 8 Street
Lying at the intersection of the southeast corner
Of NE 8 Street and NE 15 Avenue and including

A portion of NE 8 Street adjacent to Parcel "A",
"Raybohr Plat, P.B. 93, P. 44
Location: That easternmost portion of NE 15 Avenue and a
Section of the southernmost portion of NE 8
Street immediately adjacent to 1500-1504 NE 8 Street

Gerry McLaughlin, McLaughlin Engineers on behalf of the applicant, stated they agreed with staff's recommendations that included the landscape buffers, easements, and the cost of relocating the utilities. He proceeded to show a diagram of the site. He explained they were asking for a realignment of the right-of-way lines at the corner of the intersection of NE 8th Street and NE 15th Avenue. He explained that at one time there had been a plan to line up 8th Street going east/west, and the City had determined that the right-of-way in such a configuration was no longer needed. He explained they were asking to vacate a portion that was cross-hatched on the sketch leaving a standard 50' corridor on 8th Street and a 60' corridor on NE 15th Avenue.

Michael Ciesielski, Planning and Zoning, stated that this matter had been reviewed and approved by the Property and Right-of-Way Committee. Additionally, the request had been reviewed by the DRC and those comments had been addressed. He stated that he had been in contact with the Victoria Park Civic Association and had made sure that they were on-board with this request. Subsequent investigation of the site noted that the southeast corner had been landscaped under a grant by Broward Beautiful. He stated that if these vacation requests were to be approved by the Planning and Zoning Board, then staff recommended the following conditions:

1. The cost of relocation of any utilities within the subject rights-of-way would be borne by the applicant.
2. The applicant would be required to obtain and record, at his own expense, any utility easements made necessary by the relocation of the utilities.
3. The landscape easement be retained for that portion of the subject right-of-way that was improved by the Victoria Park Civic Association through the Broward Beautiful grant. This easement shall run along the east side of NE 15th Avenue south from the intersection a distance of approximately 25', and along the south side of NE 8th Street east from the intersection a distance of approximately 15'. The depth of the easement from the new property lines shall be at least 4'. This easement agreement shall state that the property owner, developer and subsequent owners of the property at 1500-1504 agree to maintain this subject area, and continue to maintain the plants that exist there, i.e. Spider Lily or Day Lily, and if necessary, replace these plants with plants of the same or higher quality as determined by the City's Chief Landscape Plans Examiner. The landscape easement area is to be approved by the City Surveyor prior to these vacations proceeding to City Commission.
4. That the owner, prior to City Commission submission, was to provide the City with a new legal description that would include the requested landscape easement.

Gerry Cooper asked why should the City give the applicant part of NE 8th Street and NE 15th Avenue, and asked if the development could not proceed without that area.

Gerry McLaughlin stated it was the Board's option, but his client felt that it was surplus right-of-way and that it would realign the area, and make things more standard. Gerry Cooper asked how many years had that area been that way. Mr. McLaughlin replied that the way the road was presently built was how they were asking for the right-of-way to be vacated. He proceeded to show a diagram of the area they were requesting for vacation. He explained there was 22' of asphalt centered on the 55' right-of-way they were asking for. Gerry Cooper proceeded to ask why the developer wanted the area vacated. Mr. McLaughlin stated that the site was an irregular shape. He added that he was going to redevelop a single-family home.

Joe Barna, architect and part owner of the project, stated that he had some presentation boards to show to the Planning and Zoning Board. He explained that with the vacated piece of property, they were planning to do a beautiful project, improve the community, and improve the corner. He stated they had met with the Civic Association who had agreed with their concept. He stated they would maintain the landscape easement and incorporate what had already been done on the corner. He stated they felt the area would never be used as intended, and by vacating the property they were able to do a nice development that would be cost effective, while improving the neighborhood. He proceeded to show a rendering of the project.

Gerry Cooper asked if the project could be built without the vacation. Mr. Barna replied it could not and that they were planning on building 6 townhouses. He stated that without the vacation, they would only be able to build 3 townhouses. He further stated that the City was getting a beautiful project in return for the land, and the corner at the site was being addressed.

Randy Powers asked what street the elevation being shown was facing. Mr. Barna replied it was facing 8th Street. He proceeded to show the elevation facing 15th Avenue where there was a similar arcade in the front, with garage doors on either side. He explained that the other 4 garage doors would face the alley that was adjacent to 8th Avenue. He stated further that on the southeast side they had used the same arcade and balcony bringing the scale down to the project. He explained it was inherent to the design to address the corner.

Mr. Barna proceeded to show pictures of the materials they were going to use in the project. He explained these pictures were a project of similar style and the same detailing was being used, minus fewer ornaments on the façade. He stated they were attempting to get a mahogany look on the windows. He explained it was costing more money to do all this work.

Randy Powers asked where the landscaping was going to be located on the site that Mr. Barna had referred to. Mr. Barna replied that the Civic Association had previously spent some money in putting in some trees and landscape materials on the corner. He explained that on the site plan they worked around the trees and shrubs that had already been planted at the site. He showed a diagram of the site. He reiterated that they had no intention of changing what had already been done, and were going to add to the theme that had already been established.

Charlotte Rodstrom asked how many garage doors were going to open onto 15th Avenue. Mr. Barna replied that 2 doors would open onto that roadway, and the remaining would open facing the alleyway adjacent to 8th Avenue. He stated they were going to add moldings making the doors appear smaller to make the front façade appear less massive. He stated that from that corner, the project would appear more residential.

Gerry Cooper asked if the rendering being shown was an accurate one. Mr. Barna confirmed and stated they had brought with them plans that had been computer generated. Gerry Cooper asked what was the roof height on the building being proposed. Mr. Barna stated the high roof was 35' to the top, and that was the maximum height permitted in that area. He stated for all intents and purposes, the project would resemble a two-story building.

Alan Gabriel stated that the vacation area was what the Board was to be focusing on. He asked how they were going to incorporate the right-of-way area into the site plan. Mr. Barna proceeded to show on the map how they would lose 3 units if they did not build according to the proposed site plan. Alan Gabriel further stated that the site plan had not been submitted to the Board, and therefore, they had not had the opportunity to review it. He continued stating that there were 6 criteria to be followed in granting a vacation, and asked if they had considered such items. He asked how pedestrian traffic would proceed through the area. Mr. Barna stated they were providing a sidewalk and they were going to relocate the utilities.

Charlotte Rodstrom felt they would not be doing their due diligence if they were approving a vacation and had no idea what was to be built at the site, and it would have been nice had they known prior to this evening what the project was to consist of.

Chair Mary Fertig explained that this Board had decided previously that they would not accept any additional information, excluding letters from the public, at the meeting.

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

Mr. McLaughlin reiterated that in the planning process, this project would be presented to the Board for their approval, aside from this presentation regarding the vacation. He believed that was the reason for not furnishing copies of the site plan.

Chris Barton stated that he needed to correct that statement. He stated that 5 residential units or more required a development permit under Site Plan Level II, which was staff's review at the DRC level. Since these were townhouses, the matter would not be presented to this Board, but had it been designed as a multi-family, then it would be presented for approval. He further stated that the building proposed might never be built, and therefore, the Board should judge the request as to whether it met the criteria for a vacation. He explained that staff believed all criteria had been met. He believed the Property and Right-of-Way Committee voted unanimously. He stated that they saw this as a traffic calming element to straighten out the intersection.

Motion made by Alan Gabriel and seconded by Maria Freeman to approve the request to vacate a portion of NE 15th Avenue per staff's recommendations.

Gerry Cooper stated there were speed humps on NE 15th Avenue and he did not think anyone would be speeding, along with 4 STOP signs. He felt the only reason for the vacation was to have the developer build 6 townhouses instead of 3 in a neighborhood where there were too many townhouses, and the single-family homes were disappearing. He stated he did not think land should be given away in order to enrich a developer.

Alan Gabriel stated that he appreciated Mr. Cooper's comments, but the problem as to whether the City was entitled to enumeration was not part of their consideration. He felt maybe the ordinance should be changed. He reiterated that this Board was to decide if the request had met the 6 criteria listed, and he stated he would have preferred not to see the proposed building. He stated he did not like it at this location, and was not happy that it appeared to be right up to the property line. He explained that in looking at the criteria for a vacation, they needed to decide if it was appropriate for recommendation purposes.

Gerry Cooper further stated that he was going to vote against this vacation. He stated that more and more developers were requesting such vacations. He felt it was wrong. Alan Gabriel stated that one of the criteria to be reviewed was the proposed use for the vacated right-of-way.

Chair Mary Fertig stated that the proposed use was one of the 6 criteria to be considered.

Roll call showed: YEAS: None. NAYS: Alan Gabriel, Gerry Cooper, Charlotte Rodstrom, Randy Powers, Maria Freeman, Ed Curtis, and Mary Fertig. Motion failed 0-7.

Motion made by Alan Gabriel and seconded by Maria Freeman to vacate a portion of NE 8th Street per staff's recommendations. Roll call showed: YEAS: None. NAYS: Gerry Cooper, Charlotte Rodstrom, Randy Powers, Maria Freeman, Ed Curtis, Alan Gabriel, and Mary Fertig. Motion failed 0-7.

3. Perry Krape/Broward Development II, LLC

16-P-03

Request:** Plat Approval/Commercial Development/B-2
Barrett's Subdivision – Acreage in 21-50-42
P.B. 1, P. 46 Public Records of Miami-Dade County
Location: 1870 West State Road 84

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

Sharon Miller, Assistant City Attorney, explained that certain items on the agenda were considered quasi-judicial which meant that the items were treated similar to Court matters, but with less formality. She further stated that the case would be presented, and individuals wishing to speak on such items would be sworn in, and the Board would

disclose any communications or site visits in regard to the property. She also advised that anyone testifying could be cross-examined, and that exhibits used in the presentations would remain as part of the record.

The Board proceeded to make the following disclosures: Ed Curtis stated that he had been to the site. Randy Powers stated he had been to the site.

ALL INDIVIDUALS WISHING TO SPEAK ON THIS ITEM WERE SWORN IN.

Michael Madfis, architect, stated they were applying for a plat in order to do storage consisting of approximately 70,000 sq. ft.

Angela Csinsi, Planning and Zoning, stated that this was a request to plat a 31,063 sq. ft. parcel located off State Route 84 (service road) west of SW 18th Terrace and north of SW 28th Street. She explained this was reviewed by the Development Review Committee on October 28, 2003, and all comments addressed. She stated there was a limitation of 70,000 sq. ft. commercial, as noted on the plat. She stated that staff found that the proposed plat met the requirements of the ULDR, Section 47-24.5 – Subdivision Regulations.

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 and seconded by Alan Gabriel to approve this application. Roll call showed: YEAS: Charlotte Rodstrom, Randy Powers, Maria Freeman, Ed Curtis, Alan Gabriel, Gerry Cooper, and Mary Fertig. NAYS: None. Motion carried 7-0.

4. Progresso Lofts, LLC & Maison Saint Antoine, LLC I-ZPUD-04

Request: ** * Rezone General Business (B-2) and Residential,
Multi-Family Mid-Rise/Medium High Density (RMM-25)
To Planned Unit Development (PUD) Site Plan
Approval Progresso
P.B. 2, P. 18
Block 286, Lots 1 through 10 less the East
15' and Block 286 Lots 39 through 48

Location: 767 North Andrews Avenue

Chair Mary Fertig announced that this item was quasi-judicial and that the Board would also be serving as the Local Planning Agency.

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.

ALL INDIVIDUALS WISHING TO SPEAK ON THIS ITEM WERE SWORN IN.

The following disclosures were made by the Board: Maria Freeman stated that she had been to the site and had spoken with Robert Lochrie. Alan Gabriel stated that he had spoken with Robert Lochrie and Dennis Mele. Gerry Cooper stated that he had spoken with Dennis Mele. Randy Powers stated that he had been to the site. Ed Curtis stated he had been to the site.

Dennis Mele, attorney, stated that he was filling in for Robert Lochrie who was presently on vacation. He proceeded to show graphics of the site. He explained the site consisted of car lots at this time, and then proceeded to show graphics of the project superimposed over the aerial. He explained there was a lot of articulation in the building in order to not present a flat front to Andrews Avenue. He proceeded to show another view of the site going west to east. He then showed the face of the project.

Mr. Mele further stated that in the backup there was some discussion regarding the 1' encroachment into the right-of-way that was the very top of the red and green tower. He explained it was a white cap that stuck out approximately 3', and there was also an awning over the front entry into each tower which extended into the right-of-way. He explained this type of encroachment was normal, especially on Andrews or Third where buildings were up to the sidewalk line. He proceeded to show an example of signage for the site. He also proceeded to show photographs of the townhomes.

Mr. Mele explained that in the staff report, an issue regarding setbacks and the standard zoning issues had been mentioned, which in this case was the B-2 zoning district. He explained they wanted to rezone to PUD. Staff's report had mentioned the varying of setbacks. He proceeded to show drawings regarding the project and the setbacks. He explained that in certain places the setback was anywhere from 1' to 8'. He stated that 5' was the normal setback for this zoning district. He stated that only on 12.8% of the frontage of the building were they less than 5'. He stated they met the 5' setback on 32.52% of the building. The 7' setbacks were on 54% of the building. Overall, he stated that the average setback exceeded the 5'. He explained if they did a flat wall, they could meet the 5' setback, but that was not what everyone wanted. He stated this building was to be close to the street in order to encourage pedestrian interaction. He proceeded to present a diagram showing the encroachment of the right-of-way. He stated they had met with the County Engineers regarding the encroachments and had been told that as long as the awnings were removable in case they had to do work on the right-of-way, they were all right. He further stated they had to do a License Agreement with the County in order to occupy the area, but he reiterated this was not unusual.

Mr. Mele proceeded to show a diagram of the maximum height in the district. He continued stating that they were building to half the height permissible. In the RMM-25 district, they were permitted 75', and this building was less than 30'. He stated that staff reviewed the criteria for a PUD, and this project consisted of mixed-use while incorporating pedestrian friendly elements. He explained that the bus stop existed, but the shelter would be erected in the future. He stated they had two curb cuts with one being at the service drive off 1st, and another one at 8th. He stated that the Fire Department had requested a second means of access that was not unusual.

Mr. Mele continued stating that they had 4 support letters from the neighboring residential areas. He stated that one was from the Flagler Village Civic Association

which had met in June and it stated: "We find this loft style development to be entirely consistent with the goals and objectives of the Downtown Master Plan, as well as those of their Association." He stated they also urged everyone to vote in favor of this project. The second letter was from the Progresso Retail Merchants Association dated June 14th that stated: "The officers and membership of the PRMA endorse your project. If there is anything we can do further for approval of the development, please let us know." He stated that the third letter was from the Progresso Village Civic Association signed by J. J. Hankerson also recommending approval. He stated that they also had a letter from the CRA Director giving the position of the CRA Board Advisory Members. He proceeded to submit such letters to the Board.

Don Morris, Planning and Zoning, stated that he wanted to make 2 corrections. He stated that Phase II of the development included 10 units, and after the DRC review the Fire Department had required that a second curb cut be provided on 8th Street. He stated that 8th Street was not going to be a heavy pedestrian roadway compared to others, and therefore, there would not be any adverse impacts. He stated their argument regarding it being pedestrian friendly still stood. He stated that staff felt this complied with the Comprehensive Plan Objective #6 which was to continue the redevelopment and revitalization of the blighted areas of the City and to facilitate desirable redevelopment revitalization projects and programs through innovative land development regulation techniques. He stated that staff recommended approval of this proposal. He stated that if the Board decided the application met the criteria for the rezoning, the recommendation would be forwarded to the City Commission for consideration. He stated if the Board decided that the criteria had not been met, the Board should deny the application and procedures for appeal to the City Commission were provided in Section 47-26.b. He reminded the Board that they were also acting as the Local Planning Agency, and the motion should include a finding regarding compliance with the City's Comprehensive Plan, along with the criteria for rezoning.

Gerry Cooper asked if the letter from the CRA had been signed by the Director. Mr. Mele confirmed. Gerry Cooper asked if a landscape design professional was involved with the project. Mr. Mele replied that Fred Stresau would be doing such work and was present this evening to answer any questions. He further stated that the County required an additional right-of-way dedication. He explained they were not encroaching on the current right-of-way, and only encroaching the small area in the future right-of-way. He stated that they had to dedicate 9'.

Ed Curtis asked if the consistency with the development plan included violation of the setback requirements. Mr. Morris explained that this was not in violation of the setback requirements. He explained that one of the things for the PUD was to facilitate development in the CRA. Therefore, there were certain issues involved and parameters were set, such as allowing the developer to build on less than 2 acres. He also stated that the PUD was designed for redevelopment. He stated that in the RMM-25 and B-1 districts, the land would be undevelopable because of the width of the property. He explained this was an innovative way to allow quality redevelopment to take place in the area by allowing the setbacks to be different than what was required in a typical zoning classification. Ed Curtis asked for further clarification regarding the setback requirements. Mr. Morris stated they were not being proposed with the development and it was consistent with the plan because there was to be an innovative design.

Chris Barton stated that this was a rezoning to the PUD district, and therefore, they were leaving the strict geometric rules and going to the more flexible rules allowed in the PUD. He explained the rules were open for proposal by the developer, and if good design was shown the Board could approve down to zero.

Mr. Morris explained that unless they asked for a different setback than what was required in a typical zoning classification, they would then apply the requirement. In this case one of the things they were supposed to do was to point out where they did not meet the ordinance, if traditional zoning was in place. By doing that, they could see where the differences were, and whether what they were proposing to do was meeting the standards in place for approval to be recommended to the City Commission.

Ed Curtis clarified that there was a standard that would not apply unless the developer desired it to apply. He asked if they were guidelines or standards.

Mr. Barton clarified that the PUD ordinance provided the City the flexibility to accept innovative design. It also allowed the developer to propose such innovative design. He stated that in this case the 5' setback was shown as the existing standard, and Mr. Mele pointed out that in accordance with the chart it was 1' to 8'. He stated they had pointed out that they were trying to meet the intent of the 5' even though a portion of the building was less than that, but some portions were greater. He reiterated that it gave the City the flexibility to accept something other than the strict 5'.

Ed Curtis asked if they were looking at B-2 zoning that anything from 1' to 8' would meet the 5'. He asked if that was the intent of the setback. Chris Barton replied that in his professional design opinion, the 1' to 8' as described appeared to meet the intent of the 5' setback because only a small percentage of the façade was back 1' from the property line. If it was averaged, he stated it was probably close to the 5'. Ed Curtis asked if the zoning stated an average of 5'. Mr. Barton stated it did not state an average and it gave this Board and the Commission the right to consider an alternative design.

Ed Curtis asked what was the significance of the right-of-way intrusion, and asked why it was being argued or presented. Mr. Mele stated that it had been presented because it had been described in the report and he wanted the Board to understand where it was located. He stated the other reason he showed it was because if there was another right-of-way intrusion going to the ground and sticking into the road, then it would impede traffic. He further stated that in a PUD the applicant proposed what they wanted the regulations to be and then the City would respond. He pointed out that while they were asking for setbacks between 1' and 8' on Andrews instead of 5', by adopting the zoning the way it was, they were also restricting themselves. He explained that once they rezoned to PUD, their maximum height on the face of the building would be 79'. Ed Curtis stated that even though 5' was a standard or rule, if the design was innovative that would not have to be considered. Mr. Mele explained that every zoning district had certain regulations and PUD did not have pre-set numbers, but a developer proposed a design. He explained they had to point out every place they were deviating from what the Code was if it was not rezoned.

Charlotte Rodstrom stated she did not think that 5' was enough, and asked if the tower was the closest point to the street. Mr. Mele confirmed. Ms. Rodstrom asked what was

the setback. Mr. Mele stated the towers had 1' setbacks, and everything else was 5' to 8'. Ms. Rodstrom asked what was in the towers.

Rene LePine explained that the towers were the stairwells. Ms. Rodstrom asked how large was the right-of-way from the street. Mr. LePine stated it was about 20' to 22' to the curb.

Ms. Rodstrom asked why they had put the tallest part of the building closest to the road. Mr. Mele stated they tried to make the tallest part of the building, the smallest area. Mr. LePine stated if one looked at it from the street, the closest parts to the street were the lowest and it built itself back. The two entrances were a design element to create a focal point as one entered the building.

Alan Gabriel stated they were talking about a 1' setback area, but the aerial showed a sidewalk and landscape area from the road which was greater than 1', and he wanted a clarification of the distance from the maximum height area to the roadway. Mr. Mele stated the distance from the base of the tower to the street was 22'. He added they were dedicating an additional 9'. Mr. LePine corrected the footage and stated it was actually 18'.

Chair Mary Fertig asked what impact this project would have on the schools. Mr. Mele stated they were working with the School Board and had a letter from them stating they were still working on the estimates. One estimate had been given stating one student. He explained that recently the School Board had formulated a draft policy they were finalizing that whenever a land use amendment or rezoning was done, it would increase residential units thereby increasing the number of students. Therefore, the developer had to agree to pay the actual cost of the facilities to house those students. He explained that he was not referring to the school impact fees, but an amount which exceeded those numbers. He stated they had agreed with the School Board that once the numbers were computed, they would pay the student station fee for such students.

Chair Mary Fertig asked about the 10' landscape buffer. Don Morris explained that when B-2 zoning was abutting RMM-25 zoning, one of the requirements was that a 10' landscape buffer had to be supplied pursuant to the neighborhood compatibility requirements. He stated it would then make it impossible for them to provide the rear access, and then curb cuts would have to be provided for every unit along the street. Chair Mary Fertig clarified that they were not going to provide the 10' landscape buffer. Mr. Morris confirmed.

Chair Mary Fertig proceeded to open the public hearing.

Ed Curtis asked what standard the Board should apply. Mr. Mele referred the Board to Page 3 of the staff report under criteria, and reiterated those were the standards in regard to a PUD. Ed Curtis asked where in those standards did it say they could look aside at the setbacks and apply an innovative design. Mr. Mele stated it was in the PUD District.

Chris Barton stated that such information was in Section 47-37.1, page 562 of the Code. He explained that the intent and purpose was pretty clear.

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 Gerry Cooper and seconded by Alan Gabriel to approve the application in compliance with the City's Comprehensive Plan. Roll call showed: YEAS: Randy Powers, Maria Freeman, Ed Curtis, Alan Gabriel, Gerry Cooper, Charlotte Rodstrom, and Mary Fertig. NAYS: None. Motion carried 7-0.

5. City of Fort Lauderdale/Riverbend Corporate Park

I4-P-03

Request** Plat Approval/Corporate Office Park with Retail
Uses/B-1
R.E.B. Plat – Acreage in 5-50-42
Location: 2201-2401 West Broward Boulevard

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

The Board made the following disclosures: Ed Curtis stated that he had been to the site. Randy Powers stated that he had been to the site. Gerry Cooper stated that he had been to the site and had spoken with Charlie Ladd and Dennis Mele. Maria stated that she had spoken with Commissioner Moore and had been to the site.

ALL INDIVIDUALS WISHING TO SPEAK ON THIS ITEM WERE SWORN IN.

Dennis Mele, attorney, stated this was a plat of the Konover property which was owned by the City, and the City had done an RFP to redevelop this property. He stated this was a boundary plat and access was off Broward Boulevard. He explained there would be no access from the road to the west. He stated that the staff report had mentioned a request from Engineering that they dedicate an additional 5' for the NW 25th Avenue right-of-way. He stated they were not putting any driveways onto NW 25th Avenue. He further stated that 25th Avenue was not within the City of Fort Lauderdale, and was in unincorporated Broward County. He proceeded to show on the map where the City limits were located.

Mr. Mele further stated that the Code stated if a road was going to serve a commercial, office, industrial or high density residential area it needed to be 60', and low density residential areas it had to be 50'. He stated the road would not serve the property because there would be no driveways. Secondly, the road was not in the City and was in unincorporated Broward, and therefore, they did not believe the City standard applied to this. Finally, he stated that plats had to be reviewed and approved both by the City and the County. He stated they had the County Development Review Report which the County generated on every plat, and they were not requesting the right-of-way for the road either.

Angela Csinsi, Planning and Zoning, stated that this was a request to plat an 18.16 acre parcel of land to be developed as a corporate park. She stated the property was limited to 60,000 sq. ft. for retail, and 256,000 sq. ft. of office use. She stated the Development and Review Committee had reviewed the plat on October 14, 2003, and there was one issue that existed. She explained that the Subdivision Regulations required a dedication

of a 60' right-of-way for minor business streets, and since it was next to a business use so an opening onto the street was required.

Gerry Cooper stated that Mr. Mele had remarked that the street was in the County. Ms. Csinsi explained that it abutted a City property, and therefore, City regulations were applied.

Alan Gabriel asked if the County was aware that the City was requesting the additional area. Mr. Mele stated that the County report was written on April 22nd and he was not sure if they were aware of it or not. Normally, he stated such comments were attached to the report and referenced.

Tim Welch, City Engineer, suggested that they would check the County's requirements because they might be similar. He stated if it existed at 50' and that was what was required, then the developer would dedicate whatever was required. He further stated if it was to be 60', then they would take the additional 5' for the half-section.

Gerry Cooper clarified that the City would accede to the County's requirements. Mr. Welch replied if it was a County road.

Chair Mary Fertig proceeded to open the public hearing.

Alan Gabriel stated he was not sure if he understood Mr. Welch's response, and asked for some further clarification. Mr. Welch stated that at this time he could not determine the accuracy of Mr. Mele's investigation, and he was not sure if it was not the City's right-of-way. He stated that he would check on the matter.

Mr. Mele stated that Mr. Welch would check and if the road was not in the City, then he would go along with the County's requirements. He stated that he agreed to that, but if it was in the City, then he could not argue about it and they would have to deal with it in a different manner.

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

Motion made by Gerry Cooper and seconded by Alan Gabriel to approve the application subject to the confirmation that the subject road was located in the County.

Mr. Mele clarified that if it was in the County that would be the end of the issue, but if it was in the City, then they still had Tim Welch's recommendation. Mr. Mele reiterated that their research showed it was in unincorporated Broward County.

Roll call showed: YEAS: Maria Freeman, Ed Curtis, Alan Gabriel, Gerry Cooper, Charlotte Rodstrom, Randy Powers, and Mary Fertig. NAYS: None. Motion carried 7-0.

"For the Good of the City"

Chris Barton stated that earlier today he had discussed with the Chair comments from the public regarding the Board members using their cell phones at the March or April

meeting during a presentation. He stated that he also received a call from a representative of a neighborhood group complaining that while they were speaking during a presentation, various Board members were on their cell phones. He felt the Board should discuss whether some type of policy was necessary regarding this issue. He stated that he had discussed with the Assistant City Attorney as to whether this was a violation of the Sunshine Law. The Assistant City Attorney stated if they were talking to a citizen about a given topic at the meeting, then it could be a violation of such law. Such conversation would have to be disclosed.

Gerry Cooper stated that he took the lead from the City Commissioners. He stated if the Commissioners could speak on the phones, then he could too. If it was not appropriate for the Commissioners, then he would abide by such standard.

Chris Barton stated that the Commissioners did use the phones to call the various department heads in the room on matters being discussed. Gerry Cooper asked if the public felt that was less rude. Chris Barton stated he did not know, but was expressing views from citizens who felt slighted.

Ed Curtis stated it did not matter what the Commission did, and this Board's standard was the public perception of them. If the public felt such action was inappropriate for lack of attention, then they should stop doing it.

Charlotte Rodstrom stated they should possibly work out a schedule for breaks during the meeting and then calls could be made by the Board members. Chair Mary Fertig stated that normally this Board did break at 8 and 10.

Alan Gabriel stated that the Board members should pay attention to the presenters, but sometimes calls had to be taken and made from a practical standpoint. He stated that lately some people have gotten carried away. He felt that common sense should apply. He stated he would be offended if he was told he could not accept an important phone call. He suggested that possibly if they received an important call, then they should step out of the room to accept it. He asked if that would be a better procedure. He did not think rules should be passed to prohibit such use of the phones.

Chair Mary Fertig stated that if the call received had anything to do with the items being discussed, then the call should be disclosed. She stated that could be the reason for the calls so that disclosures would be made.

Charlotte Rodstrom further stated that if someone from the public took the time to make such a complaint, then she felt the matter should be considered. She stated the work done by this Board was important.

Gerry Cooper further stated that the reality was if someone spoke on the phone, it was normally for a brief period of time. He stated he did not know how distracting that was, but there were legitimate complaints. He stated what was more disturbing to him was that a Board member could participate by phone when not present at the meeting. He felt it was like a "voice from afar." The Assistant City Attorney explained that presently that was no longer permitted. Gerry Cooper stated that if calls were taken they should be brief, and that common sense should apply.

Chair Mary Fertig reiterated that she did not like when members of a board walked out when she was addressing them, and sometimes they were not paying attention. She felt if everyone did their best to listen, the occasional call could be taken outside of the room, if everyone was agreeable. She further stated if a call was received regarding a matter being discussed, then such call had to be disclosed. The Board agreed.

Chair Mary Fertig announced that the Board's next meeting would be Wednesday, August 18, 2004, at 6:30 p.m.

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

There being no further business to come before this Board, the meeting was adjourned at approximately 8:15 p.m.

CHAIRMAN

Mary Fertig

ATTEST:

Margaret A. D'Alessio
Recording Secretary

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