

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

**TUESDAY, SEPTEMBER 14, 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	4	0
Mary C. Fertig	P	3	1
Alan Gabriel	P	4	0
James McCulla	P	2	2
Charlotte Rodstrom	P	4	0
Judith Hunt	P	3	1
Randolph Powers	P	4	0
Maria Freeman	P	4	0
Edward Curtis	P	4	0

Planning Staff: Chris Barton, Liaison to the Board and Principal Planner
Angela Csinsi, Planner II
Don Morris, Acting Zoning Administrator
Ella Parker, Planner I
Mark McDonnell, Planner III
Lois Udvardy, Planner II
James Cromar, Planner II

Legal Counsel: Robert Dunckel, 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 6:30 p.m. and proceeded to introduce the Board members who were present this evening. She then began to explain the procedures that would be followed in regard to tonight's agenda.

- 2. 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 there had been a request for deferral of this item until October 20, 2004.

Chris Barton explained that there had been a request for deferral regarding this item. He stated that staff had meetings scheduled with neighborhood representatives, but due to the recent hurricane such meetings had not all been held. Therefore, a request was made to defer this matter until October 20, 2004.

Motion made by James McCulla and seconded by Judith Hunt to defer this item until October 20, 2004 at 6:30 p.m. Board unanimously approved.

Registered Lobbyists

Gerry Cooper asked the recording secretary if she had reported to the City Clerk's office the individuals from the last meeting who had not been Registered Lobbyists. The Recording Secretary replied that she had done so, but would follow-up with that office to make sure all information necessary had been received.

No minutes would be approved at tonight's meeting.

Sign Issues

Judith Hunt stated that in visiting some of the sites connected with tonight's agenda, she noticed that some signs were still up, but others had been down. Due to the hurricane, she asked if it would be appropriate to just proceed with the agenda for tonight and not worry about the signage.

Chris Barton stated that only 6 cases were to be heard this evening, and the others had requested deferrals. Judith Hunt reiterated that she wanted everyone to be treated fairly. Chris Barton advised that affidavits regarding the signs were in the appropriate files, but due to the hurricanes most had come down and then had to be reposted.

Chair Mary Fertig stated that she believed one item on the agenda this evening did involve a sign issue. She suggested they just proceed with the agenda.

- 3. 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 the applicant had requested a deferral of this item.

Chris Barton explained that the applicant had not specified a time certain for the deferral due to the nature of the project, and their need to address the neighborhood and the City. Therefore, staff was recommending that this matter be deferred until November 17, 2004.

Gerry Cooper asked if this item had been previously deferred. Chris Barton replied that this item had been deferred at the July 21, 2004 meeting at the request of the applicant.

Motion made by James McCulla and seconded by Judith Hunt to defer this item until November 17, 2004. Board unanimously approved.

4. **Magna Case/Marbella Place Condominiums** **13-R-04**
Request:** Site Plan Review/37-Unit Condos
Birch Ocean Front Subdivision
Block 4, Lots 4, 5, 6, 7,
P.B. 19, P. 26
Location: 501, 519 and 527 North Birch Road

Chair Mary Fertig announced that there was a request made to defer this item.

Chris Barton stated that the representatives of the Central Beach Alliance wanted to review the plans at their October 14, 2004 meeting. He advised that the applicant was agreeable to such a request, and therefore, staff recommended that this matter be deferred to October 20, 2004. He advised that the results of such meeting would not be included in staff's report, but the applicant would be able to provide a verbal report at the October 20, 2004 meeting.

Motion made by Judith Hunt and seconded by James McCulla to defer this item until the October 20, 2004 meeting. Board unanimously approved.

6. **Pat Patel/MaCabi Cigars** **60-R-04**
Request:** Parking Reduction/Change of Use from
Retail to Bar (B-1)
Portion of Lot 13, Block 26 of Colee Hammock,
P.B. 1, P. 17 of the Public Records of Broward
County, Florida
Location: 1221 East Las Olas Boulevard

Chair Mary Fertig announced that there was a request for deferral of this item.

Chris Barton stated that staff was requesting deferral of this item because City personnel had instructed the applicant to place their signs for September 15, 2004, and had not been aware of the change in the date for the Planning and Zoning meeting. He explained that the City Attorney's office had advised that the matter be deferred.

Motion made by Judith Hunt and seconded by Alan Gabriel to defer this item until October 20, 2004. Board unanimously approved.

Chris Barton proceeded to introduce City staff who were present at tonight's meeting.

1. **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 announced that this item was quasi-judicial, and that the Board would also be acting as the Local Planning Agency.

Robert Dunckel, Assistant City Attorney, explained that quasi-judicial meant that the matter called for the swearing-in of testimony and speakers. The Board was then to evaluate the facts and evidence submitted against the criteria that were in the ULDR. Cross-examination was permitted, and the Board had to reveal any ex-parte communications regarding this matter outside of these proceedings, including any visitations to the site.

Robert Dunckel, Assistant City Attorney, proceeded to explain the Board's role as the Local Planning Agency. He stated that the Board, as the Local Planning Agency, had to make a determination with regard to consistency with the Land Use Plan.

The Board proceeded to make the following disclosures: 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. Gerry Cooper stated that he had spoken with Fred Stresau and another individual regarding this matter. (Name was given from the audience but undiscernible on the tape or at the meeting.) Judith Hunt stated that she had been to the site. Maria Freeman stated that she had been to the site. Mary Fertig stated that she also had been to the site.

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

Maurice Tobin, City of Fort Lauderdale, stated that the City was the applicant in this matter. He advised that this was the third time this matter was being brought before this Board. He announced that a presentation had been made to the Board on April 21, 2004, and the Board had deferred this matter at that time so City staff could discuss the issue with the Utilities Advisory Committee. He explained that a meeting had been held with such Committee on April 28, 2004 and May 26, 2004 to discuss the tank and pump station as designed. He stated that residents of the area had attended those meetings and lengthy discussions ensued regarding the matter. He explained that their concerns had been explained and suggestions made as to what they wanted on the site. He further stated that they had also provided some off-site options to staff.

Mr. Tobin explained that they had investigated all off-site and on-site options as presented. He advised that on June 16, 2004, staff once again appeared before the Planning and Zoning Board regarding this matter. At that time, the Board had voted for the City to once again return to the Utilities Advisory Board and obtain a formal vote regarding design. He stated that on July 27, 2004, the City had gone back to the Utilities Advisory Board and a vote was taken of 7-0 against the tank and pump station as

designed. He explained that at that time the Board had requested that staff return and investigate some off-site options.

Mr. Tobin continued stating that two off-site options had been suggested by the Utilities Advisory Board and the residents of the area. He stated that the first option was regarding the foam factory site that was directly across from the existing tank. He proceeded to show the site on the map. He explained the other option was the junkyard site that was adjacent to the railroad tracks. He then proceeded to show that site on the map.

Mr. Tobin explained they had contacted the owner of the foam factory to discuss the property and its disposition. He stated the property had been bought and sold twice within the last year and was presently being planned for a multi-story development project. He stated further that the purchase of that site would be unrealistic at this time based on the budget.

Mr. Tobin further stated that they had been unable to contact the owner of the junkyard site at this time, but previous discussions with the neighborhood representatives and the owner revealed that there was a possibility to acquire this site. He added that the issue would be cost. He advised that the owner had mentioned a figure of \$2 Million to \$3 Million for acquisition of the property.

Mr. Tobin further explained that the present budget for this project was \$2.8 Million as designed on site. He stated they did not have the available funds, nor the approval, to go and seek other properties that would probably double the budget. He explained that they needed to move forward on this matter. He reiterated that they did not have authorization to acquire other properties or spend any additional funds. Therefore, they were requesting this Board make a decision tonight regarding this project. He explained they were willing to work with the neighborhood and do something at the existing site. He stated the neighborhood had proposed that they build a structure around the tank, along with other features. He continued stating that they had checked on the cost for such suggestions, and the cost and time required would be beyond the budget.

Mr. Tobin explained that to enclose the existing tank with a building would cost \$1.5 Million, and cause an 18-month delay for the project. At this time, he stated the only thing the City could do to move the project forward would be to lower the height of the tank. He stated they were proposing to take the tank that was 46' in height and lower it by 1/3 which would reduce the capacity of the tank from 1.5 million gallons to 1 million gallons, and reduce the height to 32'. He proceeded to show pictures of the proposed tank and explain where the height of the tank would be if lowered.

Mr. Tobin stated that this was their only option that would not require a substantial amount of funds. He stated further that in order to move forward with this project, they were willing to lower the tank by 1/3. He advised that other minor things could also be done, such as additional architectural features on the tank, along with additional landscaping. He explained that the Commission had approved this tank and pump station at \$2.8 Million, and the master plan had been approved. He requested that this Board proceed with their vote and a determination made regarding this project.

Gerry Cooper stated that a comment had been made that they were willing to reduce the height of the tank in order to gain neighborhood support. He asked if the neighborhood had been contacted regarding such a proposal. Mr. Tobin confirmed and stated that he had spoken with several representatives of the neighborhood, but they had not been in favor of the recommendation.

James McCulla asked if they knew what was the sale price for the foam factory. Mr. Tobin stated they did not have such information. He advised that the site was not quite double the size of the existing station, and he believed the adjacent warehouse was included. James McCulla asked what was the size of the existing station. Mr. Tobin explained that it was 175' x 140'. He added that the junkyard site was about 40,000 sq. ft. James McCulla stated that in considering their budget constraints, if they were to purchase one of the off-site properties, they would then be able to sell the existing site. Mr. Tobin confirmed that would be an option. James McCulla explained that would reduce the budget overrun substantially. Mr. Tobin stated that one of the issues regarding the junkyard site was that in looking at the numbers they would be paying about \$40 to \$50 per sq. ft, and he asked if that was reasonable in today's market. He then asked if they would be able to get such a price for the existing site. Mr. Tobin added there was also the issue of contamination in connection with that site, and asked if the City would be willing to take on that liability.

James McCulla stated that they would not be paying \$2.5 Million for a contaminated site, and the price would be negotiated down with the owner being responsible for the costs. He stated the numbers would further go down when the City sold the existing site, and therefore, there would not be a \$3 Million overrun. Mr. Tobin reiterated that would still be funds that had not been allocated at this time or in the budget. He stated that the best case scenario was possibly \$1 Million additional.

Judith Hunt asked if they had returned before the Utilities Advisory Board after the site had been modified. Mr. Tobin stated they had failed at that Board based on the proposed design. He explained that they had spoken with the neighborhood regarding the modified design and those residents had attended the Board's meetings. He stated that the Board recommended that an off-site location be investigated. He stated they had done that, and based on those findings, along with discussions in the neighborhood, they had decided that an off-site location would not be practical at this time. Therefore, the only thing left to do was lower the height of the tank. Judith Hunt clarified that they had not then gone back to the Board. Mr. Tobin confirmed they had not returned with the modified design.

Judith Hunt further asked who they had spoken to regarding whether additional dollars would be available in the budget for the project. Mr. Tobin stated that he had discussions with Paul Bohlander. Judith Hunt asked if the discussions had only been within the department or had they moved into another level of the government.

Paul Bohlander stated that the next step in this matter would be to go before the City Commission, and ultimately, they would decide whether additional funds should be allocated to the project.

Judith Hunt asked if this issue had been discussed with the City Manager in regard to the additional funding. Mr. Bohlander stated that they had not done so. Judith Hunt stated that she had a concern in regard to how the process had moved. She felt the employees were deciding what to do, and the only person asked was the department head who already liked the idea.

Charlotte Rodstrom stated that the last time this issue was presented to this Board, they had asked about the capacity of the tank and how many residences would be served. She stated they had also asked if it was up-to-date for the individuals scheduled to move into the area, and staff had replied it would be sufficient but it was capped at that capacity. Mr. Tobin confirmed that such discussions had been held in that regard, but one of the things they were going to do next year would be a master plan update to take into account the new water demands of the new residents and other development that would be coming in. He stated that he was not sure how the results would look. He reiterated that this tank was needed and it supplied the Downtown area. Charlotte Rodstrom further stated that if the 13,000 new units were approved would the tank be obsolete to furnish those residents. She asked what would then happen after this tank was built. Mr. Tobin explained that the size of this tank had been based on the 2000 Water and Wastewater Master Plan. He stated that when the 2005 update was being done, they would probably see that they needed this tank, plus additional capacity. He stated where the additional capacity would come from would be the next step.

Charlotte Rodstrom asked if it would not be better to plan for the additional capacity instead of building something that would be obsolete by the time it was completed. She suggested that they look at another site and build a tank that would be large enough to facilitate all the residents. She felt that would be less wasting of money. Mr. Tobin stated that there was an existing tank on site and they were just replacing what was there at this time, and any additional capacity would come from other areas in the City. He explained they were not sure if they could get anything in the Downtown area or where it was really needed. He stated further they might just have to put more capacity at the treatment plants which was not an ideal situation because that would not help with issues regarding fire flow and pressure for the Downtown area. He reiterated they wanted to replace the existing tank, and stated this would help serve the Downtown area. He stressed that this might be all they had and maybe they would not be able to find anything in the Downtown area. Charlotte Rodstrom stated that by replacing this tank at the existing site was this the best use for the site, when there was a railroad track close by that might be better served with this type of building.

Gerry Cooper stated that a comment had been made that staff was unable to contact the owner of the junkyard site. He stated that he had made a call and discovered that the owner was Jack Johnson. Mr. Tobin stated they had that name and his phone number. He explained that the City's real estate office had been attempting to contact him, but he had been out of the country for a while. He explained that the neighborhood had previous discussions with him. He stated they were not making deals at this time and were only making general inquiries regarding the property. He added that he was not given the authority to begin negotiations regarding the site, and that would have to come from the Commission. Gerry Cooper clarified that unless this Board turned the item

down, they were not able to go before the Commission. Mr. Tobin stated he could go to the Commission if the item was denied with an appeal.

Chair Mary Fertig reiterated that staff wanted this Board to make a decision regarding this project tonight so they could then move forward with the project to the Commission. Then, they would be able to go outside of the parameters that had originally been set. Mr. Tobin stated that the elected officials would then have to decide where the funding would come from. Chair Mary Fertig clarified that certain parameters had been given to staff that they were working within, and the only body who had the authority to change those parameters was the City Commission. In order to get to that level, this Board needed to make a decision regarding the project. Mr. Tobin confirmed.

Ed Curtis asked if staff was asking this Board to deny the request.

Mr. Bohlander clarified that they had an unpopular project, but they felt it was a technically reasonable one, and they believed they had made some reasonable concessions. He explained they had considered other locations, but it was their understanding that such locations would be extremely expensive to purchase. He added that there was also a contamination issue regarding the junkyard site. He stated further that even though this tank at a reduced size of 1 Million gallons would have a reduced impact in regard to providing fire flow to the Downtown, the existing infrastructure was already in place. Therefore, the smaller tank at this site would still serve a purpose most likely over a long term, and that was the reason they wanted to build the concrete tank as opposed to maintaining the elevated storage because there would be increased costs associated with such maintenance. He felt they had a good reasonable and technically sound solution to the problem of providing fire flow to the Downtown. He stated they attempted to make reasonable concessions and felt there were architectural features on the tank and in the pump station that would help the project. He reiterated that they had proposed a reduced height. He remarked that one of the main issues discussed at the UAC meetings was the mass of the tank. He stated by reducing the height by 1/3 they had reduced the cross section by 1/3. He stated that beyond that, the project's scope changed very significantly that they would have to return to the Commission regarding the associated costs.

Chair Mary Fertig stated that the issue before this Board had been clearly defined in the backup documents. She felt they needed to stay on track when discussing the issue.

Judith Hunt stated that she wanted to make a point of clarification because she heard some misinformation. She stated that in reading the City's Charter, staff was to report to the City Manager, and that had been her concern in regard to staff not going through such process. She stated she did not necessarily believe that the next step was the Commission, but felt it was a management decision to move forward or not. She stated she did not want to vote against this project just because those steps had not been taken in this matter.

Paul Bohlander explained they had been in a transition period, but he assured the Board that they would contact the City Manager regarding this issue.

Chair Mary Fertig proceeded to open the public hearing.

Ron Centermore stated that he lived directly across the street from the existing tank. He stated that no one from the City had approached him regarding the changes being proposed. He reiterated that they did not object to the tank or the need for it, and added that the tank would not serve them directly but the Downtown area, along with the beach area. He stated they were not saying to remove it from the neighborhood because they knew it was needed. He reiterated that they were only asking for certain concessions. He continued stating that if they built a 1.5 million gallon tank and did it in two tanks, then they could place a façade around the tanks to make it look more like a building. He stated they did not want round tanks in their front yards, but wanted them hidden from full view. He explained that at the Utilities Advisory Board meeting it had been stated that this would cost an additional \$1.5 Million, and the cost regarding such funding had also been discussed. He stated if there was a 1% increase in the water rate that could raise an additional \$400,000 per year, and this project could be paid for in 4 years. He felt a 1% increase in the water rate would not be a lot and estimated that in his case such an increase would be about \$.90 per month. He asked this Board to deny the application.

Patrick Singh stated that he lived across the street from the existing tank. He stated that Progresso Village was a nice neighborhood and he was horrified about the thought of this monstrosity being built in their neighborhood. He stated that he objected to the project.

Andrew Schenfield stated that he had not been contacted by anyone regarding the design of this project. He stated whether there was a new piece of property purchased to expand the capacity of the tower or not, it could be in the neighborhood but should be conducive to its surroundings. He stated that none of the suggestions had been shown on the drawings tonight that had been made by the residents. He reminded everyone that this neighborhood had come a long way, and they did not want to stop now in their progress. He felt this was a short-term fix for a long-term project. He also felt this would be a bad move financially for the City and the community, when more study could be done regarding the matter and the City could make a better investment for themselves and their citizens.

Craig Allison stated that his unit was almost completed and they would be moving in about two weeks. He stated that he would be facing across from the tank. He stated that the City needed to see what all was to be impacted by this project. He further stated that the momentum they were seeing Downtown and in this area was finally revitalizing the neighborhood, and such momentum could be quelled if they stuck with the original design. He stated they had not yet begun this project, and they were beginning to discuss future projects. He felt they needed to consider what other impacts would be felt down the road on other areas of the City. He reiterated that the assessed value in one year had grown substantially in this area.

Julia Parker stated that she lived on NW 1st Avenue, and asked this Board to deny this application. She felt what was being proposed was absolutely horrible. She stated that she was a single parent and worked hard to afford her first home. She reiterated that this

project was a monstrosity. She felt it was high time that the City looked at their neighborhood because it had been deprived for a long time.

Fraser Barnfather, Sturgeon Creek Development, stated they were building in the area and joined the Association about their concerns. He explained they were upgrading the neighborhood and were taking extra steps to see that happen, and they believed the City should be doing that as well because property values would be affected. He stated they felt the City was not taking such extra steps that could be done easily.

David Richardson stated that he lived to the north of the existing water tower. He stated that the tower needed to be reviewed more closely. He felt installing a façade around the tower would be a great help. He felt more work should be done by the City in regard to the design. He asked the Board to oppose this project.

J. J. Hankerson, President of the Progresso Village Civic Association, stated that he had lived in the community since 1974 and he had seen some very hard times for the area, but they had stuck things out. He reiterated that crime was heavy at one time, but things were improving. He stated they wanted the best for their community. He stated that they were proposing that the tank be conducive to the neighborhood. He suggested that a tower be built that would be accepted by the community. He explained that they had fought with FPL and things had worked out, but now they were facing this problem. He asked the Board to place themselves in the community's shoes, and he felt they would agree to want the best for the neighborhood.

James McCulla asked if the Association had other specific ideas other than enclosing the structure in a building facade. Mr. Hankerson stated that nice homes were being built in the area, and they wanted the entire community fashioned in that way so it would be safer and nicer. He stated that one option would be to relocate the tank to another site, if possible. James McCulla asked how Mr. Hankerson felt about the tank being reduced in height. Mr. Hankerson stated that he had only heard about that option this evening, and therefore, the Association and community had not yet had the chance to discuss the matter. He further stated that he would prefer the façade around the structure, and the community had accepted such a recommendation. James McCulla asked if the community had seen any of the proposed additional architectural features being proposed to soften its look. He added that he did not notice any on the photographs. Mr. Hankerson stated that he had not seen anything regarding the architectural features. He added that the photographs being shown were not accurate because the landscaping would be different.

Chair Mary Fertig proceeded to welcome Commissioner Cindi Hutchinson to the meeting.

Rene Lepine, Developer, stated that he had worked with the City in connection with the sewers, and was building homes in the subject area. He stated that he was also speaking as the President of the Homeowners Association. He advised that J. J. Hankerson was President of the Civic Association that consisted of all 16 blocks, and he represented the 50 new homeowners. In that capacity, he stated that he was sold out but the new residents had asked him to speak on their behalf. He stated the bottom line

was that this was a very utilitarian design, and the architectural features mentioned were the bands around the top. He stated that was as elaborate as it would get, and it had been explained to them that the structure could not be totally hidden with landscaping because of the homeland security issues involved. Also, they would have to be able to access the tank in regard to its maintenance. He stated that no matter what the height of the tank was, they would not be able to conceal it totally from view.

Mr. Lepine stated that he wanted to address the process that this project had gone through over the last 3 years. He stated that one of the problems was that they were always looking at alternative solutions one year too late. He reiterated that he had spoken with Jack Johnson many times in an attempt to purchase his property, and it was a moving target. He stated that a lot of issues were involved, and he did not think any type of deal would ever be consummated due to the character of the owner. He explained that the foam factory had been for sale for over 3 years, and was recently sold. He stated the new owner was now trying to purchase the property adjacent to the site because he was planning a 10-story building at that location. He advised that there were a lot of vacant lots in the adjoining industrial area, and he believed that eventually a developer would purchase the land by the time the City decided to look at it.

Mr. Lepine explained that the reason they opposed this project was not due to the quantity of the tank they were installing, but the quality of the project. He further stated that they were trying to have a residential neighborhood. He stated he could have built a cheaper development, but all the added features were what made everyone believe in the neighborhood and purchase the homes. He stated that the duplexes were priced in the range of \$250,000 to \$350,000. He asked why should the 30 residents pay in reduced land value when the tank was going to serve the 100,000 citizens of the City. He felt everyone should pay and the burden not be placed on the immediate residents of the area. He believed there would be a cumulative effect of millions of dollars.

Mr. Lepine further stated that it was obvious that any solution would cost additional monies, and he gave credit to staff because they had designed the most technically cost efficient tank as possible. He reiterated that it was the ultimate drum with two different colors of paint, and barreled tile being placed around the pump building. For a multi-million dollar project, he thought it did not make sense. He stated that when the budget had been planned 5 years ago this made sense, but now they had to adapt to the changing times and the changing neighborhood. He explained that they had done a calculation. He explained further that when he began purchasing this land 2 ½ years ago, the assessed value of Progresso Village consisting of 16 blocks was about \$3 Million. He explained that by the summer of next year due to the new housing, such value would rise in excess of \$50 Million. He stated that last night the Commission had approved Progresso Lofts that was their next project which would consist of another \$17 Million of value for the area. He felt that within 2 years, they would have about \$40 Million in value. He stated they were in the CRA and TIF financing was for such projects to help the neighborhood improve. He stated they were proposing that the CRA become involved and help finance the cosmetic difference.

Mr. Lepine asked this Board to deny the modification as proposed.

Gerry Cooper asked if Fred Stresau, who was a member of the Utilities Advisory Board, could come forward and express their concerns and opinions.

Fred Stresau stated that he had volunteered to attend tonight's meeting because the Utilities Advisory Board felt there was a simple solution to this problem. He stated that this structure did not meet the threshold of the Planning Director's definition of community compatibility. He explained that this Committee had worked for about 2 years with FPL to get them to design a substation at Orchid, and today it looked and felt just like its surrounding neighborhood. He explained further that Paul Bohlander did not have that opportunity or the money, and not even the site. He stated there was no opportunity to add additional vegetation because an access road was needed to go around the structure. He stated it did not matter the height of the tower, they would not be able to cover it up. He stated that even if they brought the new proposal of 35' to the Utilities Advisory Committee, they would not feel any differently about the project. It just didn't fit into the neighborhood. He stated that Commissioner Teel had been at the meeting and he had asked her if there was some way that this could be short-circuited to go before the Commission, but she replied that it had to come before this Board and be voted on. Then, it could be forwarded to the City Commission.

Maria Freeman stated that she was hearing words such as "façade and blending in" and wondered if the developer had any opportunity to work with the City in order to come up with an exterior façade. Mr. Lepine stated that one of the speakers tonight lived next door and was a designer had made a drawing that was now being shown. He explained this was a second draft and they were proposing this as a solution to the problem. He stated this proposal would cost an additional \$1.5 Million to the project, but it would meet the 1 ½ million gallon target. Maria Freeman reiterated that the purpose of the TIF was to create development for certain areas, and possibly if this went back to the Commission that issue could be addressed. She stated that it appeared the City was saying there were not enough funds available. She remarked that evidently the City had not come up with a good design to satisfy everyone. Mr. Lepine stated that the structure they were proposing would end up resembling an old school building which would be conducive to the area. He stated that possibly an architectural competition could help in this matter. He stated they needed something that would be aesthetically pleasing to a residential neighborhood.

Mr. Lepine stated that one day the CRA would want to develop the warehouses to the south of this site fronting Sistrunk Boulevard because the plan was to connect both Downtowns, and asked how that could be done if they would do this project. He felt everyone's values would be hampered.

Mr. Tobin stated that Mr. Lepine was correct and they had looked at the option which was the one presented by the neighborhood. He stated that their Program Estimator had worked on this and had arrived at a reasonable cost estimate. He stated that another issue involved in this matter was the time delay. He explained they were looking at a redesign and going through the process with it. He reiterated that the area was zoned RMM-25 so a substantial time delay would be involved. He reminded everyone that the cost was also an issue since they did not have the available budget, nor the authority to expend such funds.

the south, 8' on the north, and 18' on the waterway. He proceeded to show photographs of the site.

Mr. Lochrie further stated that the Code permitted 25 units per acre that would equate to about 14 units on this site with a maximum height of 55', and maximum building length at 200'. He stated they exceeded the standards that were required for this project. He explained that this project would consist of 12 residential units at a height of 50'. He stated that some of the buildings on the street went to 65' true measure. He explained that the City measured a building to the top slab, but the Code required that all architectural features be included that would hide all mechanical equipment, and such elements were not counted towards the overall height. In reality, structures were on top of buildings that could bring the height to 65'. He stated that on this project they were keeping such elements lower than 55' in height.

Mr. Lochrie stated that the Code allowed an applicant to request yard modifications. He stated they had redrawn their plans and resubmitted them, and they meet all requirements. He explained they were providing a front setback of 25', 25' on sides, and 27' in the rear next to the waterway. He stated that another important element was building length. He further stated that the maximum length permitted in this area was 200', and this building was designed at 149'.

Mr. Lochrie further stated that they were requesting to place a pool in the rear yard. He explained they were not requesting a variance, nor were they asking for anything unusual, and it was standard to have a pool in a rear yard. He proceeded to show the site plan. He explained they were asking that a relatively small portion of the overall landscaped area be included into a pool deck, with a pool placed in the center. He stated it was a small pool, and a majority of the rear yard was still a grassed area with landscaping. He further stated they were not providing any pagodas or other types of shade structures in the yard. He explained it would be an area for individuals to congregate around the pool. He stated they felt this was an important element of the project.

Mr. Lochrie advised they would be providing docks along the waterway that would be specifically for use by the residents, and live-aboards would not be permitted at the site. He explained that the existing properties presently had back-out parking and no sidewalks along Hendricks Isles, nor any landscaping. He stated it would be significantly enhanced with landscaping, sidewalks, and enclosed parking. He stated the design was a modern twist on contemporary Florida themes. He proceeded to show photographs of the proposed structure. He added that other buildings directly across the street to the west exceeded the height of this building. He then proceeded to show photographs of the building looking to the east. He stated they had met all the intents of the Code, and they believed this would be a significant enhancement over the existing properties. He added that the project had also been enhanced through landscaping, and he proceeded to mention some of the vegetation that would be planted.

Mark McDonnell, Planning and Zoning, stated that there were 25 parking spaces required and those had been provided. He added that there were to be no live-aboards. He explained that this Board was to make a finding of neighborhood compatibility, and

various exhibits had been provided in the back-up material to address that issue. He referred the Board to Exhibit 1, and then showed on the map where the subject site was located. He further explained that the exhibit was color coded and showed the buildings along Hendricks Isles which had been approved and/or constructed, or were under construction, ranging from 1-5 stories. He stated that the exhibit also showed the massing and orientation for each individual property. He added that the applicant had provided a context plan on the Isle of Venice that was across the Rio Grande canal that was 164' in width. He explained that the context plan showed separation distance, illustrating height and street façade frontage.

Mr. McDonnell continued stating that a shadow study had also been provided stating that a shadow over a public waterway would not exceed 50% on March 21st between 9:00 a.m. and 5:00 p.m. He stated that DRC had reviewed this application on March 23, 2004, and all issues were substantially addressed. He stated that the overall neighborhood was comprised of buildings consisting of various sizes and heights, along with architectural styles and site arrangements.

Mr. McDonnell stated that if this Board approved the application, staff recommended the following conditions:

1. A Construction Debris Mitigation Plan.
2. Environmental Agency review.
3. Site plan approval shall be valid as provide din ULDR Section 47-24.1.M.
4. Final DRC approval, including the following minor plan revisions:
 - List the amount of VUA landscaping "provided" as 3,060s.f.
 - Dimension the proposed setback of the pool/deck area from the seawall.
 - The existing dock extending from the northernmost property line may continue and be shown on all plan sheets.
 - Sheet A-Ren2 must be revised to remove the corner cornices on the west side of the roof to be consistent with sheet A-Ren1, and must also have the end covered parking/second floor terraces removed.
 - The covered parking/second floor terraces must be removed from the SS-1 Shadow Study plan sheet.
 - Sheets A-2 through A-6 must have the footprint removed that indicates the parking spaces that extend beyond the covered parking.

Maria Freeman asked if this matter was before the Board due to the request for construction of a pool.

Mr. Lochrie stated that any multi-family project over 3 units or commercial property on the waterway had to come before this Board for review regarding general neighborhood compatibility. He also explained that in order to place the pool and patio area within the 20' and 25' rear yard, the matter had to be brought before this Board.

Alan Gabriel stated that he always raised the waterway issues, and he wanted to commend this applicant in this instance. He stated further that it appeared they had gone through great pains to provide for a real landscaped yard area on the waterway.

Mr. Lochrie stated that the 25' yard in most cases went to the balconies, and the remaining portion of the structure sat back farther.

Chair Mary Fertig proceeded to open the public hearing.

Margaret Nusser stated that her neighbor Cindy Eden could not be present this evening, but had asked her to read some comments into the record. She added that by Ms. Eden not being present this evening, she was unable to see the modified plans which had been presented. Therefore, some of her comments were not applicable. The following information from a letter dated September 14, 2004, was read:

"Planning and Zoning Board, City of Fort Lauderdale
Via: e-mail delivery to Dennis Nusser for distribution to the Board on 09/14/04

"Dear Members of the Planning and Zoning Board,

"I urge you to deny the petition of Grand Palazzo III/Gardens of Hendricks Isle this evening. They are requesting both North and South side yard modifications as well as a rear yard modification to allow for a swimming pool.

"The request before you violates the spirit and intent of our codes. Approximately eight years ago, I participated extensively in the rewrite of our new ULDR. I can say with absolute certainty that the rewrite was intended to provide for architectural elements, such as balconies and porches, in order to eliminate the construction of square cinder block buildings. It was never intended to provide covered parking for the owners and guests of the proposed building.

"In order to ensure that the code following the intent, the code established that for an applicant to receive a yard modification, the applicant must have approval of the Planning and Zoning Board. I request that this board review the intent of the regulations and deny this request.

"Thank you for your consideration.

"Sincerely, Cindy Eden."

Dennis Nusser stated that this project had originally been scheduled for this Board to hear last month, but had been pulled from the agenda due to some issues that had to be further discussed. He further stated that the Code expressed the intent of not having square cinder block buildings. He felt that balconies helped a little, but terracing and other architectural features would be more in line. He stated that in the past side yard modifications had been granted, and builders were permitted to go to the limit and beyond, and now they were beginning to resemble Galt Ocean Mile, but these buildings were being placed in the middle of residential neighborhoods. He felt this project could be "tweaked" further architecturally. He felt this project still did not meet the intent of what everyone wanted for this area in regard to redevelopment. He stated they needed to encourage the developers to come up with something more aesthetically pleasing

than the boxes they were proposing. He reiterated that this project only had 25 parking spaces for 12 units, and one handicap space.

Brett Turner stated that he represented Casa Grande Condominium Association, and they opposed any type of ordinance that would grant code modifications. He explained their building was constructed in the '50's and consisted of two stories with open breezeways. He stated they did not want to see boxed high-rises come into the area that caused overflow parking into the streets. He asked that the Board deny any variations to the plans.

Frank Amedia stated that he wanted this Board to consider some items. He explained that he owned several properties in the area and managed more tenants on the Isles than anyone else in the room, and had been doing so for the last 5 years. He continued stating that the live-aboard problem was real, and they had elected to remove those individuals on their properties because the sewage could not be controlled. He stated it was not regulated or disciplined and was a real issue. He commended this project for addressing the issue.

Mr. Amedia further stated that backing out into the streets was a problem. He stated there were 8 ½ parking spaces at this time serving 10 units, but this project was going to supply 25 spaces for 12 units, and he felt that was a plus for the area. He remarked that during heavy rains, the problem grew worse. He felt the comment about cars going into the streets due to these developments was erroneous. He further stated that he understood Victoria Park was a residential group which was to the west of these Isles, but the district had been approved for buildings of 55' in height and 200' in length with 25 units per acre. He stated that the prices of land had tripled.

Maria Freeman stated that she had voted in error on a project that had come before this Board last month. She further stated that she had spent more time recently going through the Isles, and stated there was a mix of 50-year old buildings, along with new construction. She continued stating that she questioned the compatibility of what existed and what was presently being built. She further stated that in driving through the area, she had noticed a lot of parked cars, but with the new development she was noticing more controlled parking that was being concealed.

Mr. Lochrie stated that they had considered all concerns raised by the neighborhood and this Board and had incorporated them into the plans. They felt the end product was a beautiful building with a lot of articulation, nice balconies, and lower in height than existing buildings. He stated this was a beautiful yet workable project that met the half-the-height around the building with significant 25' yards. He reiterated that they were not requesting such yard modifications.

Ed Curtis asked how they would get around Section 47-19.2.C.c which stated: "A swimming pool when accessory to a multi-family dwelling shall be subject to the minimum yard requirements of the zoning district in which it is located." Mr. Lochrie stated they got around that with a yard modification. Ed Curtis asked how this Board had the power to get away from the word "shall." Mr. Lochrie explained that the pool itself, even though not above grade, was required to meet the yard requirements. He stated

they were asking for a reduction in such required yard. He explained they were going down to a different standard for the required yard only for the pool, and therefore, since the yard was getting smaller, the pool was no longer in that yard. Ed Curtis stated that in reality they were saying that on the one side, if they complied with swimming pools the setback would be less than 5'. Mr. Lochrie confirmed and stated that the yard being provided in the rear was 5', but the Board would also be approving a site plan and the building was 25' from the wet face. He stated there was no way they could then go in and build a building 5'. In order to construct the pool, they were requesting a yard modification.

Chris Barton referred everyone to Section 47-23.8, Waterway Use, Item B.1, and explained that such section gave the Board the authority to grant this. Ed Curtis stated that he understood that and the matter had been discussed at the last meeting, but it seemed that if that section was interpreted as the City interpreted it, that made the "shall" meaningless. Chris Barton stated that was not correct, and stated that anyone who wanted to request such a modification had to go before this Board. Ed Curtis further asked what standard the Board was to apply in doing that in light of the "shall meet the minimum setbacks." Chris Barton stated that the Code was silent in that respect, and it only applied in regard to waterway use.

Robert Dunckel stated that he did not know if he agreed with the answer regarding the Code being silent on the criteria, but he felt they also needed to look at adequacy and neighborhood compatibility. If the Board was then satisfied, then they had license to grant the modification of yards. He explained that the Code spoke in terms of "shall," but the Board of Adjustment could grant variances. In this case, they deferred to the Planning and Zoning Board and it was referred to as a modification of yards. He further stated that it could be stated that the threshold was a lesser one than required to meet for a variance with a hardship. He stated that "shall" was subject to qualifications for a variance and modification of yards.

Ed Curtis stated that neighborhood compatibility would then be the issue. Robert Dunckel confirmed.

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 James McCulla and seconded by Alan Gabriel to approve the application per staff's recommendations.

Charlotte Rodstrom stated that the neighborhood considered this a "boxy" type of construction, and she asked if there was any possibility of adding decorative elements or architectural flavorings to the front of the building. She specifically referred to the garage doors on the structure.

Chair Mary Fertig reminded the Board members that the public hearing was closed, and therefore, they should move forward and vote on the motion.

Roll call showed: YEAS: Alan Gabriel, Gerry Cooper, James McCulla, Randy Powers, Maria Freeman, Ed Curtis, and Judith Hunt. NAYS: Charlotte Rodstrom and Mary Fertig. Motion carried 7-2.

7. Pelican Beach Hotel/LTD

6-R-01

Request:** Site Plan Approval/Amendment to
Previously Approved Yard
Modification (RMH-60)
Lauderdale Beach, P.B. 4, P. 2
Block 19, Lots 8 through 15
Location: 2000 North Atlantic Boulevard

Chair Mary Fertig announced that this item was quasi-judicial. The Board proceeded to make the following disclosures: Maria Freeman stated that she had been to the site and had spoken with Neal Kalis and Lois Udvardy. Judith Hunt stated that she had been to the site and had spoken with Commissioner Hutchinson. Alan Gabriel stated that he had spoken with Neal Kalis. Gerry Cooper stated that he had spoken with Neal Kalis. Randy Powers stated that he had been to the site. Ed Curtis stated that he had been to the site. Mary Fertig stated that she had also been to the site.

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

Neal Kalis, representing Pelican Beach Hotel, stated that this project had originally been before this Board about 3-4 years ago. He explained they were presently requesting a yard modification. He stated that the hotel was to be completed within the next 30-45 days and had been a vision of a family. He stated they had begun acquiring property on the beach about 15 years ago on North Atlantic Boulevard. He further stated the family wanted to have a family-owned, operated and built hotel on Fort Lauderdale Beach. He explained this was a culmination of their vision. He proceeded to show a rendering of the structure.

Mr. Kalis continued stating that the purpose of the yard modification request was two-fold. He explained that one item did not require approval by this Board. He stated that the issue was a veranda running the entire length of the hotel in the rear. He explained that when the approval had been granted for the hotel, along with the yard modifications, there had been an approved setback of 20' from the property line for what was to be the ceiling or roof of the garage that was at ground level, and was also the floor of the veranda. He stated that at that time, it had not been realized that the yard modification for the setback for the building itself would show that the veranda roof did not line up with the veranda floor. He explained that the approval for the building itself had been at 25.5', and a discrepancy existed of 5.5' that had been discovered during the construction drawing phase of the project.

Mr. Kalis further stated that in truth this discussion began over a year ago, and meetings had been held with the City Commission and staff. He explained that other issues were also discussed, such as the triangular piece of property owned by FDOT that might be conveyed to the City. He stated it was only coming to this Board now even though the

piece of property owned by FDOT might come before this Board later on. He proceeded to show a view of the back of the structure, and distributed copies of such to the Board.

Chair Mary Fertig explained that normally this Board did not accept information once the meeting began.

Mr. Kalis then proceeded to show a picture of what would have occurred if the veranda roof had been constructed at the 25.5' setback. He also distributed copies to the Board of such information. He then showed a picture of where the veranda roof should be which was the same point as the setback for the floor of the veranda. He also distributed copies of that information.

Mr. Kalis continued stating that the other item before this Board dealt with a ground level sign of 5' in blue and gold at the southwest corner of the property. He stated that ground lights would shine on the sign. He explained that the genesis of that was that the plans showed a sign on the south face of the building at about the 9th or 10th floor, but the plans had not shown that the sign was to be lit. Concerns had been raised by the residents of the neighborhood, and a meeting was held, whereby the hotel agreed to disable the lighting of the sign. In exchange for that sign, they were proposing a ground level sign that the residents had agreed to. He further stated that concerns were raised regarding the fiber optic lighting on the turrets of the building, but meetings were held with the residents and staff, and they had agreed that if they wanted such lights an application would be filed in the future. He asked for the Board to approve this project.

Lois Udvardy, Planning and Zoning, stated that this was a request for an amendment to a previously approved yard modification. She explained this Board had previously approved the yard modifications on July 18, 2001. She stated that the revised modification was required to accommodate the veranda roof along the east property line, and for the observation deck. She stated that Mr. Kalis had described in detail the modification, and she would provide further explanation if necessary.

Ms. Udvardy stated that the applicant had not indicated that the wall sign on the south elevation was to be lit, and concerns had been raised by the neighbors to the west of the project. She stated that there was to be fiber optic lighting around the turrets that also caused some concern to the residents. She explained that a field survey had been done and lighting experts had been involved, but they had decided not to light such sign or install the fiber optic lighting. If they wanted such lighting in the future, they would have to return before this Board.

Ms. Udvardy stated that if the Board approved this application, staff recommended the following conditions:

1. A Construction Debris Mitigation Plan shall be submitted as approved by the City's Building Official.
2. The wall sign on the south elevation shall not be lit and any electrical mechanisms shall be removed from the sign.
3. The fiber optic lighting around the turrets shall be disabled and cannot be lit without a separate request being submitted.

4. Site plan approval shall be valid as provided in ULDR Section 47-24.1.M.
5. All construction will require approval from all pertinent environmental review agencies.
6. Final DRC approval.

Ms. Udvardy proceeded to show a photograph of the wall sign at the south elevation that would not be lit. She explained there would be a ground sign on the south portion of the property which would be lit, but would only be 5' in height and was also setback 5'.

Gerry Cooper asked if the roof had currently been built all the way out or only partially out. Ms. Udvardy explained that it was currently all the way out. Gerry Cooper clarified that even though there was no approval, they had constructed the roof all the way out. Ms. Udvardy confirmed. Gerry Cooper stated that even though they did not have approval for the wall sign, they went ahead and lit it. Ms. Udvardy stated there was approval for the sign, but it had not shown that it was to be lit. Gerry Cooper reiterated that even though approval had not been granted to light the sign, they proceeded forward and lit it. Ms. Udvardy confirmed, but stated that the owner was not aware that they had to show the lighting for the sign. Gerry Cooper asked if the elevated wall sign was currently lit. Mr. Kalis replied it was unlit at this time. He further stated that the sign was shown as being lit on the construction plans which had been approved, but on the plans for planning and zoning, the sign had not been shown as lit. He agreed that there had been some confusion regarding the issue.

Gerry Cooper asked if the fiber optic lighting around the turrets had originally been approved. Mr. Kalis stated that it had been shown on the construction plans, but not on the set that were given to planning and zoning. Gerry Cooper asked if the plans approved by this Board, then became the working drawings for a project. Mr. Kalis stated that construction plans were then drawn, and in this case a lighting expert had been hired who had professed to getting all appropriate permits. The client believed that what had been done was appropriate, but in retrospect, there had been an issue which had immediately been addressed with staff and the residents. Gerry Cooper stated that he had been on and off this Board for a long time, but he had never heard a story of this type before. He asked if the fiber optic light was currently lit. Mr. Kalis replied it was not.

Charlotte Rodstrom asked if this was a Best Western sign. Mr. Kalis confirmed. Charlotte Rodstrom stated that this was a national hotel chain and most of their signs were lit. She felt that this caused the confusion.

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 Judith Hunt to approve the application as submitted per staff's recommendations.

Gerry Cooper stated that this was a beautiful project, but he was concerned about the veranda being built without approval.

James McCulla asked where the responsibility was within the City to make sure that the building plans submitted for a permit went through exhaustive multi-disciplinary review, and ultimate approval for the issuance of a building permit. He asked who reviewed the site plan conditions for the projects.

Chris Barton explained that the review of site plan conditions occurred at the DRC, Planning and Zoning Board, and City Commission levels depending on the nature and location of the project.

James McCulla asked if DRC reviewed the intimate details of a construction plan. Chris Barton replied they did not, and stated that site plan approval drawings typically represented from 10% to 50% of the total project. Once site plan approval had been approved by either staff, Planning and Zoning Board, or the Commission level and final DRC approval had been signed off, the plans were then stamped punched as approved with all conditions having been met. Then, the applicant had to take 3 sets, one for the City, one for the applicant, and one to be used in applying for a building permit. Before applying for such a permit, they had to contract with their architects and engineers to develop construction documents that were more developed and included the electrical, plumbing and structural systems. He explained those were the real plans in terms of how to put the "nuts and bolts" of a structure together. He explained further that when the applicant applied for the building permit, the building department sent them to the Zoning Plans Examiner that were part of the Building Department. The plans were reviewed to make sure that the punched set and site plan approval were there, and that the plans were consistent with what had been approved at the planning and zoning stage. In some cases, changes were not always noticed, such as an addition of a light on a sign. In this case such lights had not been caught. He further stated that during the construction of the project, the City Building Plans Examiner looked at the plans, and the construction examiners went to the site to make sure they were meeting Code.

James McCulla stated that somewhere in the process the veranda roof should have been identified. Chris Barton stated that the Building Examiner may at some point have noticed that it was not in accordance with the plans. James McCulla stated that a floor was further out than a roof in this case, and logic would say that did not make sense. He reiterated that this was part of a national hotel chain with a sign that was to be lit unless someone specifically said it could not. He felt they were not in the position, nor were they charged with the responsibility, of reviewing detailed plans. He reiterated that they were more concerned with the site plan. He stated that he was not sure if anyone actually proceeded with something they were not supposed to do. Evidently, one set of plans said one thing versus what the building permit stated. Chris Barton explained that the Zoning Plans Examiner was the bridge between the Planning and Zoning Division and the Building Division. James McCulla reiterated that this had just been missed. Chris Barton confirmed. James McCulla stated that he was not insinuating that someone needed to be hung, but was addressing the fact that they had not approved or disapproved whether the sign was to be lit or the fact that fiber optics were to be placed on the turrets. Chris Barton reiterated that a standard DRC comment was that notations were to be on the plan of every exterior light, no matter what type. He explained they then reviewed those lights from a photometric standpoint, along with neighborhood compatibility. He stated the concern at the planning stage was how it would affect the

area. He remarked that the Zoning Plans Examiner in this case had not reviewed such detail.

Chair Mary Fertig stated that regardless of what had occurred, the Board was to approve or disapprove the modification as corrected. Chris Barton confirmed.

Ed Curtis asked if in regard to the 5' roof that both sets of plans had been approved by the City. Chris Barton stated that he did not know if the construction plans had shown the larger roof as it existed today. He felt it would seem so since it had been built that way. James McCulla asked if the applicant would testify to that.

Stephen Kruse, owner and contractor of the project, stated that the error regarding the veranda had been discovered on the structural plans that had gone to the Building Department as it was built. He continued stating that they immediately met with the City Commission and staff explaining the situation. A foundation permit had been pulled to begin the project, but when they got to that point the error had been discovered when the structural engineer had asked why the columns on the plans had been in two different locations. He stated that they could have stopped the project knowing that it would take 3-4 months to be placed on this Board's agenda. He reiterated that they had moved forward because the foundation had already been poured based on the approved plans. He further stated that the only lighting provided on the plans, which had gone before the DRC, were photometrics for the garage which had been requested. He explained that no exterior lighting had been shown on the site plan.

Mr. Kruse stated they were not large contractors and they attempted to comply with the law and requirements. Every time they had been requested by DRC to do something, they had done it. He stated they worked with the neighborhood in order to have a good project. He further stated that the fiber optic lights had been submitted to the State and were approved by the Department of Natural Resources. He stated they also had to focus on the turtle issue since it was a sensitive matter at the beach. He further stated that there were 3 sheets of fiber optic lighting information submitted in the plans. He remarked it was not an after thought, and a professional lighting designer had been hired since lighting was critical for a commercial project. He apologized to the Board for what had happened, and reiterated that it had not been intentional. He stated that they had met with the Commission who had no problem regarding the veranda. He stated they volunteered to take care of Willingham Park and the triangle for the City. He explained that they were willing to re-landscape it and were working with the City in that regard. He reiterated that they had made a mistake in trying to do everything at once, and things got bogged down in the process.

Chair Mary Fertig thanked the owner/contractor for responding and explained that normally they did not accept testimony once the public hearing had been closed. She stated that she appreciated the explanation that had been provided, but she wanted to refocus the Board on the issue before them which was to modify the previous approval.

James McCulla stated that he realized it was unusual to keep asking questions at this time, but a comment had been made which the Board also needed to think about. He further stated that if the Board took a "no" vote and stated that he had to do a lesser

veranda and put the columns in the middle of the floor, they might not be able to do that due to the foundation. He asked if that was a correct understanding of the situation.

Mr. Kruse stated that the foundation had been approved, and they would have had to cut the roof off. James McCulla asked if the foundation would structurally support the columns where they were submitted in the narrower roof. Mr. Kruse replied they would not, and it would impact the parking below because they would have to place a structural column underneath it. James McCulla clarified that it was physically possible to do so, but it was a monumental task. Mr. Kruse reiterated that they would have to cut off the veranda roof.

Gerry Cooper stated that he could live with the lighting, but in hearing the testimony it appeared they realized the supports for the veranda were in the wrong locations, and had just decided to move them with approval of the Commission. He reiterated that he did not know if the Commission had such authority to do so. Now, they were appearing before this Board after such work had been done.

Chair Mary Fertig stated that she realized they had gone ahead with the work, but she was happy to see that they were appearing before this Board in an attempt to correct what had happened during the process. She felt that people actually ran businesses and did not appear before the Boards until they had been reported. She stated it was her understanding that they had self-reported the situation and had attempted to correct the situation. She clarified that the Board was being asked to discuss the modification itself, which she felt was in keeping with the plans as presented.

Roll call showed: YEAS: James McCulla, Charlotte Rodstrom, Randy Powers, Maria Freeman, Ed Curtis, Judith Hunt, Alan Gabriel and Mary Fertig. NAYS: Gerry Cooper. Motion carried 8-1.

MEETING RECESSED AT 8:43 P.M.

MEETING RECONVENED AT 8:48 P.M.

8. **Steve Halmos/McCrory's Building/Halmos Properties** **104-R-04**
Request: Signage Review (RAC-CC)
Block 26, Lots 22, 23 and 24 and a
Portion of Lots 19, 20 and 21
Town of Fort Lauderdale
P.B. "B," P. 40, Public Records of
Miami Dade County, Florida
Location: 221 South Andrews Avenue

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

Michelle Balfourt stated they were requesting that the McCrory's letters on the McCrory's building on Andrews Avenue be retained as part of the building signage. She stated that this building had been part of the City's history for over 75 years, and had stood as a

landmark and subtle reminder of its past history. Historically, she stated that McCrory's Buildings had always been located in a City's downtown center. She further stated that the building had sister branches across the US. She advised that several of the buildings were still in existence in New York, Pennsylvania, Ohio and Florida. She stated that they all still had the original McCrory's letters even though some were abandoned or had other tenants. She reiterated that they were similar in that they retained the McCrory's original letters on the building. She stated that all of the buildings had certain historic or architectural features. She announced that a lot of them had the red marquee and some had the art deco detailing. She stated that they felt that McCrory's was such an icon and was as important as other architectural features.

Ms. Balfourt further stated that this request was for Halmos Holdings to place their signage on the building. She stated that they were requesting to retain the McCrory's letters.

Steve Halmos, owner of the building, stated that he was confused why they were here this evening. He stated that he bought the building and it possessed the McCrory's letters. He did not feel it should be considered a sign, and stated that he viewed it as an architectural feature. He explained that he liked old buildings and had renovated several of them. He stated that he wished to retain the architectural feature of the McCrory's signage. He proceeded to show photographs of the building. He explained that they had painted over the letters in order to make them appear more subtle. He stated that he had moved his sign to around the corner of the building, and explained that it had been on the plans that had been approved. He explained it had not been placed on the building until they had received a permit. He proceeded to show photographs of the building. He stated they agreed that if this Board felt it was inappropriate to retain his sign that it would be removed or they would remove the McCrory's letters. He felt it was in the community's best interest to retain the letters and reminded everyone that the City did not have many of these buildings left.

James Cromar, Planning and Zoning, stated that he also served as the Liaison to the Historic Preservation Board. He further stated it was a question as to how they had received a permit to put up their sign, and yet were now coming before this Board.

Mr. Cromar explained that the applicant had requested permission to install the Halmos Holdings signs on the east and north facades, in addition to the McCrory's sign on the east façade. He stated that the ULDR only permitted one building identification sign. He reiterated that the applicant had painted the McCrory's letters so as to not stand out or compete with the new building sign. He explained that one of the signs would have to come down, if permission was not granted tonight. He pointed out that in addition to the Halmos Holdings sign, there was also a new sign above the McCrory's sign that said "C. 1921." He stated the applicant had received a permit to put up such sign. He stated that his initial report had been incomplete based on an electronic file in the office versus the hard copy of the file.

Mr. Cromar further stated that in regard to the historic preservation issues, this building had come up previously, but it was unclear where the 1921 date came from. He stated the building had historic character and there had been previous recommendations for

this building to be historically designated. He stated there might have been other options for the applicant had the building been designated, but since it was not, the applicant had been denied permission for the two signs based on Section 47-22.4.A.2 of the ULDR. He added that in Section 47-22.4.C.13.I gave this Board the authority to issue a Site Plan Level III permit for signs which did not comply in all respects with the requirements for signs in the Downtown. Therefore, this Board could approve the Site Plan Level III permit or approve it with modifications, or deny it.

Maria Freeman asked if the Board was being asked to approve two signs for Halmos Holdings. Mr. Cromar explained that the question dealt with the building identification sign. He stated that the applicant viewed the McCrory's sign as an architectural feature, but the zoning reviewer saw it as a building identification sign. Therefore, the second sign for the Halmos Holdings identified the business located in the building. He stated the request would be for the Board to grant permission for the two signs to be on the building. Maria Freeman clarified that the existing sign was located on the east side of the building. Mr. Cromar confirmed. Maria Freeman asked if the applicant wanted another sign on the north side of the building. Mr. Cromar confirmed and stated that the applicant had requested that Halmos Holdings signs be placed on the east and north facades. He stated that he believed such sign was now on the east side of the façade, along with the McCrory's sign, but not yet on the north façade.

Maria Freeman stated that if the request was granted, they would see three signs on the building. Mr. Cromar stated that the Code allowed for signs on multiple facades, and therefore, the Halmos Holdings signs would be considered as one building identification set of signage.

Chris Barton explained they were permitted to have the identification on more than one façade. He stated the issue was that they had two building identification signs on the east façade.

James McCulla asked if McCrory's was a tenant in the building would they be permitted to have two signs on the façade. Mr. Cromar confirmed and stated the Code permitted multiple tenant signage, but there were criteria, including ground level similar lettering. The way such signs were now configured was not permitted.

Gerry Cooper felt that Mr. Halmos had done a beautiful job with the building and wondered why he was here also. He asked if the owner wished to place a bronze landmark plaque from the Historical Society on the building, would he also have to obtain such approval. Mr. Cromar stated he believed there was a section of the Code that listed signs that were exempt from approval. He stated that plaques and memorial signage were permitted. Gerry Cooper stated if such signage had to receive approval, he wanted to know before the Board voted. He stated that this was a great project. Mr. Cromar informed the Board that there was such language that addressed plaques and memorial signage.

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.

Randy Powers asked if the Halmos Holdings signs were lit. Ms. Balfourt confirmed.

Motion made by Gerry Cooper and seconded by Maria Freeman to approve the Site Plan Level III permit. Roll call showed: YEAS: James McCulla, Charlotte Rodstrom, Rand Powers, Maria Freeman, Ed Curtis, Judith Hunt, Alan Gabriel, Gerry Cooper and Mary Fertig. NAYS: None. Motion carried 9-0.

9. Andrews 117 LLC

19-P-03

Request: ** Plat Approval/Andrews Avenue/
N.E. 17 Court Plat
Acreage in 34-49-42
Location: 1720 North Andrews Avenue

Chair Mary Fertig announced that this item was quasi-judicial. The Board proceeded to make the following disclosures: Ed Curtis stated that he had been to the site. Maria Freeman stated that she had spoken with Angela Csinsi and had been to the site. Judith Hunt stated that she had been to the site.

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

Scott McLaughlin, Engineer, stated that this was for a plat of 0.733 acres on Andrews Avenue and N.E. 17th Court. He explained it had been a gas station that had been out of business for over 10 years. He stated that the client wanted to plat the property for future development.

Angela Csinsi, Planning and Zoning, stated that this property was located at the northeast intersection of N. Andrews Avenue and N.E. 17th Court. She stated that the plat was proposed for 8,000 sq. ft. of commercial use. She advised that it had been reviewed by DRC on December 9, 2003, and all comments had been addressed. She further stated that the plat complied with 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 Alan Gabriel and seconded by Gerry Cooper to approve the application as submitted. Roll call showed: YEAS: Charlotte Rodstrom, Randy Powers, Maria Freeman, Ed Curtis, Judith Hunt, Alan Gabriel, Gerry Cooper, James McCulla, and Mary Fertig. NAYS: None. Motion carried 9-0.

10. Koll Bren Fund VI, L.P., Atrium 2000

79-R-04

Request:** Parking Reduction/Conditional Use (AIP)
Vocational School
Fort Lauderdale Industrial Airpark
Section 1, Lots 3, 4 and 5
P.B. 63, P. 10
Location: 2000 N.W. 50 Street

Chair Mary Fertig announced that this item was quasi-judicial. The Board proceeded to make the following disclosures: Judith Hunt stated that she had been to the site. James McCulla advised that he had received an e-mail from Holland & Knight stating that they were representing the applicant. Alan Gabriel stated that he had spoken with Janna Lhota and Commissioner Teel. Ed Curtis stated that he had spoken with Mr. Gustafson. Mary Fertig stated that she had also received an e-mail from Holland & Knight.

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

Janna Lhota, attorney, stated that this application was seeking a conditional use approval to allow the use of the Atrium 2000 building for a vocational school, namely for City College. She proceeded to show an aerial photograph of the site. She further stated that to the north of the site was Fort Lauderdale Executive Airport, abutting the property immediately to the north was Commercial Boulevard, and located to the west was N.W. 21st. She stated that the area was characterized to the east, west and south by similar zoning with an underlying land use of an employment center, and to the north the Fort Lauderdale Executive Airport.

Ms. Lhota stated that City College was a well-known and respected vocational school offering career-based instruction in areas such as broadcasting, medical administration, electronics, computer and engineering technology, and business. She stated that the intent of this application was to allow City College to relocate its existing Fort Lauderdale campus at 1401 W. Cypress Creek Road to the Atrium 2000 building. She stated that the school was constrained in regard to space at its existing location, and relocation would provide additional space with potential for future expansion. She explained that such relocation would allow them to move to the south towards the center of the City, and allow them to own and occupy the building where their campus was located. In addition to this application for conditional use, they were also seeking approval of a related parking reduction which would allow occupancy up to 46,367 sq. ft. of the Atrium 2000 building for a vocational school with the provision of 470 parking spaces, where the ULDR would require 494 spaces. She stated that the total percentage of the parking reduction was 5% or 24 spaces.

Ms. Lhota further stated that if this application was approved, it was the applicant's intent to purchase this building. She explained there were existing lease commitments that extended into 2008 for the remaining 50% of the building which would preclude their occupancy and that was why the parking reduction was just for a portion of the building. She stated that when City College was ready to occupy the remaining portion of the building, the intent at that point was to return to the City for either a parking reduction or a possible off-site parking agreement. If warranted, there could be a proposal for construction of additional parking on the site.

Ms. Lhota continued stating that in criteria Section 47-24.3 for conditional use, they provided to staff Exhibit 1 which was a memorandum outlining the criteria and their response as to how this application met such requirements. She explained that staff had concurred with the assessments made by the applicant. Also, in the application and

staff's report, it was acknowledged the use for the property for a vocational school was consistent with the underlying land use designation of employment center.

Ms. Lhota stated that in respect to the issue of adverse impacts to the surrounding properties, they noted that at the school's current location they were within the AIP zoning in an office complex. She explained that the relocation would keep the school in the same environment. She further stated that they did not believe there would be any adverse impacts to the area. She noted that no additional construction to the building was being proposed at this time.

Ms. Lhota further stated that staff had received a letter from Spherion Corporation indicating their support for this application. She stated that this was significant because they owned a 125,000 sq. ft. office building located immediately south of the Atrium 2000 building, and were the single largest tenant remaining in the building.

Ms. Lhota continued stating that the school, prior to filing their application, had met with Airport staff and had received their support regarding the relocation. She further stated that the existing campus was located in an AIP zoning district and would be relocating to the same type of environment, and she added that the area was characterized by light industrial and office, and the City had previously approved vocational schools in such district. She added that another significant factor regarding the parking reduction was how the student population attended school at the campus. She stated that 67% of the students physically attended classes at night. She reiterated that there was a compatibility of uses. She remarked that there was an explosion of on-line courses or distance learning whereby the students attended the first week at the school, and the remaining courses were done on-line.

Ms. Lhota stated that in connection with the application, they had retained the services of Mike Miller Planning Associates who had prepared a parking study reviewed by City staff and a consultant hired by the City, Jose Rodriguez of Keith & Schnars. She explained that Mr. Rodriguez prepared a letter stating that he had agreed with the parking study, and that the 470 parking spaces being proposed were sufficient to meet the parking demands.

Ms. Lhota stated that the parking study had accounted for various things. She stated that although 46,000 sq. ft. would be used for City College, in actuality a smaller portion of that area would be used for classroom space. Some of that area would be used for administrative offices, laboratories, libraries, storage, and maintenance. She stated that another factor taken into account was that with the mix of students and how the school was used, there was a compatibility with surrounding uses. She proceeded to show the site plan for the project.

Ella Parker, Planning and Zoning, stated that the applicant was seeking a conditional use approval with site plan review, and a 5% parking reduction. She stated that the intent was to utilize 50% of the existing building as a vocational school, and 50% would remain as office space. She added that a 5% parking reduction was equivalent to 24 spaces and was needed to accommodate such use. She advised that vocational schools were permitted as conditional uses in the AIP district. She stated that the applicant had

addressed adequacy, conditional use requirements, and the parking reduction criteria, and had provided a narrative regarding neighborhood compatibility for this Board's review. She stated that 494 parking spaces were required for such use, and 454 currently existed, while the applicant proposed to provide 470 spaces. She stated that the traffic study provided by the applicant had been reviewed by the City's Traffic Consultant who concurred with that report on the condition that the spaces would apply to the maximum 50% school use.

Ms. Parker further stated that if this application was approved, staff had the following recommendations:

1. As per the City's Traffic Consultant, if a parking reduction is granted, the applicant must assure that the minimum parking stall dimensions for this site and use should be provided for all spaces.
2. Should a Parking Reduction request be granted, a Parking Reduction Order must be executed and recorded in the public records of Broward County at the applicant's expense prior to Final DRC, and a copy provided to the City.
3. Site plan approval shall be valid as provided in ULDR Section 47-24.1.M.
4. 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.
5. Final DRC approval.

Alan Gabriel stated that in the memorandum provided in the back-up stated that there was an offer as part of the conditional approval that the applicant was willing to limit approval "...to the entire building with the understanding that City College would not occupy more than 50% of the building until the parking deck was constructed or a further parking reduction approved by the City." He asked why this had not been included as part of staff's conditions.

Ms. Parker stated that they had only reviewed Phase I of the project. She stated that the applicant had indicated that after 3 years, they might want to utilize additional space of the building for the school, and at such time they would have to amend their site plan to include additional parking, or request a greater parking reduction.

Alan Gabriel asked if staff was comfortable that the applicant would not utilize more of the building area without a condition being incorporated into the approval. Ms. Parker stated it would be part of the conditions.

Ed Curtis asked if the parking study reflected the parking as it presently existed, or as it was being reconfigured. Ms. Parker stated that it took into consideration what they were proposing regarding the 470 spaces. Ed Curtis asked if the reconfiguration was a condition of approval. Ms. Parker confirmed and stated that it would be listed as a condition of approval.

Judith Hunt stated that she had been at the site today at about 3:15 p.m., and it appeared that parking was limited at that time. She stated that they tended to give parking reductions and then find out that someone else moved into an adjacent building,

and then the parking problems increased. She stated that based on her observations, she opposed the parking reduction.

Ms. Lhota urged the Board to approve this application.

Alan Gabriel asked if the applicant was agreeable to adding the condition regarding the 50% requirement. Ms. Lhota confirmed and stated it was her understanding that it would be presumed in the approval.

Ed Curtis clarified that the reconfiguration of the parking lot would also be included. Ms. Lhota stated that it was included within the site plan approval that was before this Board.

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 per staff's recommendation, along with the adding of the two stipulations regarding the reconfiguration of the parking lot and the agreement not to use more than 50% of the building at this time unless a parking deck was constructed or a modification made to the approval.

Chair Mary Fertig stated that she felt the 5% reduction was a reasonable first step to see if they could accommodate the traffic since they were only going to utilize 50% of the building.

Roll call showed: YEAS: Randy Powers, Maria Freeman, Ed Curtis, Alan Gabriel, Gerry Cooper, James McCulla, Charlotte Rodstrom, and Mary Fertig. NAYS: Judith Hunt. Motion carried 8-1.

"For the Good of the City"

Maria Freeman asked if it would be possible to include phone numbers on staff's reports so they could be contacted. Chris Barton stated that the Board would be supplied with the phone numbers of various staff.

Charlotte Rodstrom asked if the Board's phone numbers could also be provided.

Chair Mary Fertig advised that the Board's next meeting would be held on October 20, 2004.

Motion made by Gerry Cooper and seconded by Alan Gabriel to adjourn the meeting.

There being no further business to come before this Board, the meeting was adjourned at approximately 9:30 p.m.

CHAIR

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.

