

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

**TUESDAY, OCTOBER 20, 2004
6:30 P.M.
DRAFT**

<u>Board Members</u>	<u>Attendance</u>	<u>Cumulative Attendance</u> <u>From 6/16/04</u>	
		(P)	(A)
Gerry Cooper	P	5	0
Mary C. Fertig	P	4	1
Alan Gabriel	A	4	1
James McCulla	P	3	2
Charlotte Rodstrom	P	5	0
Judith Hunt	P	4	1
Randolph Powers	A	4	1
Maria Freeman	P	5	0
Edward Curtis	A	4	1

Planning Staff: Chris Barton, Liaison to the Board and Principal Planner
Ella Parker, Planner I
Mark McDonnell, Planner III
Michael Ciesielski, Planning and Zoning
Tim Welch, Engineering

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 at approximately 6:30 p.m. and Charlotte Rodstrom led everyone in the Pledge of Allegiance. Chair Mary Fertig then proceeded to introduce the Board members who were present this evening. Chris Barton then introduced City staff that was present at tonight's meeting. Chair Mary Fertig then began to explain the procedures that would be followed in regard to tonight's agenda.

Approval of Minutes – August 18 and September 14, 2004 Meetings

Motion made by Gerry Cooper and seconded by Charlotte Rodstrom to approve the minutes of the August 18, 2004 meeting. Board unanimously approved.

Motion made by Gerry Cooper and seconded by James McCulla to approve the minutes of the September 14, 2004 meeting. Board unanimously approved

Chair Mary Fertig reminded everyone that individuals representing an applicant had to be registered lobbyists with the City Clerk.

- 9. City of Fort Lauderdale 8-Z-04**
Request:** Site Plan Review/Rezoning (RAC-AS)
Acreage in 10-50-42
P.B. 152, P. 32
Location: 400 S.W. 2 Street

Chair Mary Fertig announced that a request for deferral had been made regarding this matter.

Chris Barton stated that this was a site plan review and rezoning for the New River Trading Post. He explained they were seeking a rezoning from H-1 to RAC-AS. He explained that representatives for the applicant had phoned him and requested additional time regarding their proposal. He added that staff was also requesting a deferral to November 17, 2004.

Motion made by Judith Hunt and seconded by James McCulla to defer this item until November 17, 2004 at 6:30 p.m. Board unanimously approved.

- 1. 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 stated that this was a quasi-judicial matter.

Sharon Miller, Assistant City Attorney, stated that quasi-judicial matters were treated similar to a Court hearing. Individuals were sworn in and could be cross-examined. All evidence presented would be part of the record, along with the case file from the planners and City staff. She further stated that such information would be used as the basis for the Planning and Zoning Board to decide whether the application met the criteria according to the ULDR.

Dick Coker, attorney, stated that he was representing the applicant. He advised that this matter had come before this Board in August, 2003, but questions had arisen regarding the parking study and how the data had been calculated, along with the distances and how they were measured to the surrounding parking areas. He stated that this Board had denied the application. He further stated that he had reviewed the parking study and it was not clear to him, and therefore, he decided to obtain an interpretation from City staff as to how to calculate distances. He advised that there was a question regarding the measurement and whether it was done "as the crow flies," or through a safe pedestrian route. He stated that a request had been made for an interpretation from the

Zoning Administrator and the Assistant City Attorney, and it was stated that it should be measured from a safe pedestrian route that was different than what the original traffic study had shown. He advised that the Traffic Engineer had originally reviewed this thinking the 700' "as the crow flies" was the appropriate criteria to be followed.

Mr. Coker stated that a new parking study was done using the new criteria to measure the 700' along a safe pedestrian walkway. He advised that the parking study had been updated with graphics to make it clear to the Board how a pedestrian would walk safely from the subject site to any parking places listed as available. The City Engineer and Traffic Engineer had determined the study to be in compliance with the standards of the Code. He stated that the Code to be followed was Section 47-20.3 – Reductions and Exemptions from Parking. He explained that section provided that the City's parking requirements had to be met unless they felt their use required a number of spaces as required by Code and the applicant could show they met the criteria, and therefore, receive a parking reduction. He explained that they could show that within the 700' distance, there were sufficient parking spaces available.

Mr. Coker further stated that this was a cigar shop between 12th and 13th Avenues on the North side of Las Olas. He continued stating that it was in an area where parking was always available. He explained that the traffic study had shown where parking was available, and that between 30 to 59 spaces were available at all times. He advised that the peak hours for this use would be between 7:00 p.m. and midnight on the weekends. He stated that the owner of this business wanted individuals to be able to smoke their cigars on the site, and he wanted to serve wine.

Mr. Coker explained that the present Code did not have a classification for this type of business that was very low key, and therefore, it was classified as a bar. He further stated that as such a retail establishment would require 3 parking spaces. He explained that a bar required 1 space per 65 gross square feet that would require 11 parking spaces. He reiterated that they complied with all requirements of the Code. He added that the graphics had been prepared by Don Zimmer who would provide more detail regarding the analysis.

Don Zimmer, architect, stated that this was a simple request in terms of square foot analysis because the footprint of the building had not changed, and there was zero parking provided on site in that area. He stated further that he would be happy to answer any questions the Board might have for him.

Emtes Ahmed, Traffic and Professional Engineer, stated that he had followed the City's procedures, and explained that they had measured the 700' distance from the business. He explained that they had also done a license plate analysis for the vehicles parking within that radius. He stated that the results indicated that there were adequate parking spaces available to service this business.

The following disclosures were made by the Board. Charlotte Rodstrom stated that she had been to the site. Gerry Cooper stated that he had been to the site and had received a letter from an individual opposing the application. Maria Freeman stated that she had been to the site. Judith Hunt stated that she had been to the site. James McCulla stated

that he had received an e-mail from Colee Hammock. Mary Fertig stated that she had been to the site and had also received 2 e-mails from Colee Hammock.

Mr. Coker stated that members of the Colee Hammock Civic Association had attended the DRC meeting and objected to the application because they did not want any parking reductions granted for the area. He said this was a small use and he did not believe it impacted the area. He asked for this Board to review this application based on its merits, and not according to a principle being brought forth.

Chris Barton, Planning and Zoning, explained that this application had been before this Board in August, 2003, and it had been denied 0-6. He stated that staff agreed with what Mr. Coker essentially had stated regarding what the request had been based upon which was Section 20-3.A.5.3 which was the proximity to the adjacent or nearby public parking spaces. He advised there were a number of on-street public parking spaces in the area, along with several City-owned lots within the prescribed 700' as one would walk on a clear pedestrian path. He added that the applicant had also used criteria listed in (e) which was as follows: "...2 or more different users sharing the same parking space..." whereby customers would park in the area for one business and walk to another establishment without moving their cars.

Mr. Barton stated that the study had been provided to the City Engineer who gave it to one of the City's consultants, Walt Keller, and he had indicated there was sufficient parking to accommodate this proposal. He further stated that there was a limited problem on Las Olas Boulevard and in other older areas of the City, and buildings had been built when parking was not in as great a demand. Therefore, the problem was whether they have to be demolished or should a parking reduction be granted to allow a new use. He stated that this store had always been used as retail that had a small parking requirement of 3 spaces. He continued stating the proposed use of a conversion into an establishment to serve wine and cigars would cause the patrons to stay longer and could exacerbate the parking situation.

Mr. Barton further stated that in the last 2 days staff had received approximately 20 faxes and e-mails from residents in the area who were opposed to a parking reduction due to the fear of late night use and added congestion. He stated that in Section 47-20.3 of the Code, Item #6 stated: "Conditions may be required on the site where the parking facility is to be located, and that the site which the parking facility is intended to serve (he remarked there would be no parking facility at this site), if such conditions are necessary to preserve the character and integrity of the neighborhood affected by the proposed reduction and mitigate any adverse impacts which arise in connection with the approval of a parking reduction." He stated this gave the Board the authority to consider possible conditions and grant the reduction with the imposition of certain operational constrictions upon the applicant. He stated that at this time staff had no proposed conditions to offer. He explained they were not sure how conditions could be applied short of limiting their hours of operation which would defeat the purpose of what the applicant wanted to do.

Gerry Cooper asked if individuals were turned down by this Board was there anything to prevent them from returning until they received a favorable answer. Mr. Barton explained that they could continue to apply.

Gerry Cooper asked if Mr. Ahmed was a registered lobbyist. Mr. Ahmed replied he was not.

Gerry Cooper asked if Mr. Coker had ever visited this establishment. Mr. Coker replied he had been at the site and stated they were not presently operating a bar. Gerry Cooper reiterated that he had been to the site and he had been asked if he wanted a drink. Therefore, he believed the bar was working. Mr. Coker replied that he had never seen that occur when he was there and was not aware of it happening. Gerry Cooper stated that he was uncomfortable with people who were violating the law.

Gerry Cooper proceeded to state that one of his concerns regarding this establishment was how the spaces were counted. He asked if they were possibly double-counting spaces and was any type of record being kept.

Chris Barton replied there was a record of parking reductions, but whether the City Consultant or City Engineer looked to see if other reductions had been granted in the area, he did not know.

Mr. Coker reiterated that it did not matter because it was taken into account when the counts were done. He further stated that the impact of prior parking reductions were already taken into account in the current counts. He added that the study had been done in March, 2004.

Charlotte Rodstrom clarified that the peak hours were from 7:00 p.m. to 10:00 p.m. Mr. Coker confirmed and explained the City Engineers had determined those were the most appropriate times. Charlotte Rodstrom asked if the establishment was only going to be opened in the evening. Mr. Coker explained that was not the case but that in doing this type of analysis, the City preferred a worst case scenario. Charlotte Rodstrom asked if a parking reduction was granted, would the applicant still continue to operate a retail store and would he be adding the element of serving wine. Mr. Coker stated that both operations would occur at the establishment. Mr. Coker suggested that the appropriate condition would be to limit the site to this type of use and not a bar.

James McCulla clarified that the study concluded that 64% and 58% of the spaces were used. In counting the spaces did they go into the Colee Hammock neighborhood to uncover parking spaces. Mr. Ahmed stated that he had gone on the streets located in the table that were within the 700'. He further stated that he had gone onto Las Olas Boulevard on the north and south sides, SE 2nd Court, SE 12th Avenue, Tarpon Drive and SE 13th Avenue. James McCulla asked how far into the neighborhood had they gone in counting spaces. Mr. Ahmed reiterated that he stayed within the required 700' and referred the Board to the information supplied in the back-up material. He proceeded to explain the map provided of the site and the area measured for parking spaces.

Gerry Cooper asked if the engineer's testimony was that spaces were counted on SE 2nd Court because they were legal or because they were legal and marked. Mr. Ahmed replied they were legal. Gerry Cooper asked if the spaces had to be marked. Mr. Ahmed

reiterated that the spaces also had to be legal. Gerry Cooper clarified that staff had stated that they were entitled to count marked spaces.

Chris Barton clarified that the general practice was that they counted marked spaces, but it was unclear whether anything along a swale or curb could be counted. Such questions had never arisen. Gerry Cooper clarified further that the spaces did not have to be marked and they could just be located in someone's front yard if they were legal. Mr. Ahmed confirmed, but stated he would not count the space if it blocked a driveway.

Chair Mary Fertig stated that in regard to keeping track of the other reductions, conversations had been held previously regarding construction in the area that had been approved by this Board, along with reductions, and she wanted to make sure both were being considered. Mr. Coker stated that the construction was providing for parking in the area.

Chair Mary Fertig further clarified that the consultant's review had been based on the survey presented to them.

Tim Welch, City Engineer, confirmed and stated that they did not count a lot or two which could have been counted. He further stated that it was his opinion that spaces only marked and within public parking lots or on the street be counted towards a parking reduction because it was the only way staff or the consultants could validate what was being presented. Otherwise, other evaluations and judgments came into play.

Chair Mary Fertig stated that staff review was based on the applicant's study, and if unmarked spots were taken into account, then it would impact things. Mr. Welch confirmed.

Mr. Coker asked how many spaces were on SE 2nd Court. Mr. Welch replied there were 8 metered spaces, and 10 unmetered spaces.

Chair Mary Fertig asked if it was proper procedure to allow the applicant to question the City Engineer.

Sharon Miller, Assistant City Attorney, explained that cross examination was permitted, but how and when the Board allowed it was up to them.

Mr. Coker continued stating that 18 spaces were located on SE 2nd Court, and the parking study showed that during peak hours there were 30-59 parking spaces available. Mr. Welch confirmed and stated they were metered and marked spaces. Mr. Coker clarified that if the 10 spaces were taken out, they were still well within the parameters of the Code. Mr. Welch confirmed. Mr. Coker further stated that there was a public parking lot within 700'. Mr. Welch confirmed and stated that one public lot had not been counted.

Chair Mary Fertig asked if staff had reviewed the applicant's report. Mr. Welch stated that the City had a consultant that reviewed their report, and staff also had reviewed it. He added that the City had not done an independent report. Chair Mary Fertig stated that there were excess metered spaces and asked if they were being added into the total

of unmarked spots in the neighborhoods. Testimony had been that they counted metered marked and unmarked in front of homes. Mr. Welch confirmed and stated that the study had also been based on metered and marked spaces. She felt the report was confusing because it had been based on all three types of spaces. Mr. Welch further stated that when he said they should accept marked spaces toward the parking reduction that had been his professional opinion, and it was not to state that the report had only counted marked spaces. He added that this issue had not been addressed in the past, and possibly should be addressed in the future.

Chair Mary Fertig proceeded to open the public hearing.

Tom Welch stated that correspondence had been sent from homeowners in Colee Hammock regarding this application. He further stated that their Association had prepared a letter. He added that the Co-Association President of Beverly Heights had prepared a letter and proceeded to read it into the record as follows:

“Dear Chair and Board Members. This is truly an exciting time to live in Fort Lauderdale. Downtown is growing rapidly and Las Olas Boulevard is more popular than ever. We are becoming a truly 24-hour city with all the amenities. Unfortunately, along with this comes the impact of increased traffic and parking problems. The east community area planning cap initiative has identified these as court issues to be addressed. Since the residential neighborhood surrounding Downtown are the last source of free parking, those seeking it are becoming more of a burden for us. Residents and our guests are finding it increasingly difficult to park near our own properties. Waste collection is hampered and there is more noise and trash. The recent increases in parking rates and enforcement efforts have exasperated the situation. Our quality of life is suffering. The Beverly Heights Association continues to oppose any request for parking reduction along the Las Olas Corridor and within RO zoning until: (1) a proper accounting of past reductions is made; (2) a comprehensive analysis of parking inventory and demand has been completed; and (3) an effective residential permit parking program is instituted. Additionally, together with the Colee Hammock Homeowner’s Association, we are developing a list of recommendations which include: (1) increase the street parking opportunities along main roads such as Broward Boulevard; (2) changing engineering standards to allow parking on both sides of residential streets; (3) updating RO on-site parking requirements to consider staffing levels and customer based, not just building square footage; (4) updating multi-family on-site parking requirements to increase guest parking; (5) supporting employer efforts to supply employee parking solutions; (6) developing effective way-finder signage to direct non-residential traffic to destinations and parking; (7) identify neighborhood routes and parking opportunities that support alternative transit; and (8) revisiting the Las Olas Community Transportation Plan. In the meantime, it is important that everything be done to protect residential neighborhoods. The City of Fort Lauderdale is going through incredible changes, and we need the leadership from this Advisory Board. I respectfully ask that you do not support any applications for parking reductions at this time. (Signed by) Richard Mancuso.”

Mr. Welch stated that he felt this letter had totally covered the situation, and added that in regard to the parking study, he did not feel there was a firm handle on it. He further

stated that part of their dilemma was that people did not want to pay for parking. It was an inherent way in which people operated. He stated that having people return to their cars late at night caused excess noise and trash in the areas. He asked for this Board not to approve the application.

Gerry Jordan stated that he lived in the neighborhood for over 24 years, and the parking garage mentioned on 13th Avenue was more than 700' away from the site. He further stated that this establishment would impact the neighborhood because there was no available parking in the area. He continued stating that the new condominium in the area had 41,000 sq. ft. of office space, along with 8,000 sq. ft. of restaurant opening within 2 months. Also, 9 townhomes on 1.17 acres. He stated that the City had said that they needed over 280 parking spaces and the amount had been reduced to about 227. He stated that parking in the area was very inadequate to handle these establishments. He stated that the Board had reallocated parking over and over again in the area. He felt this would cause a ripple effect in the area and other requests would be made. He urged this Board not to approve the application.

Chair Mary Fertig stated that at one point the metered spaces had disappeared, and she wondered if they were still available. Mr. Jordan stated there were no spaces in the area around the construction. He further stated that the survey in 2003 had included spaces on 11th Avenue.

Gerry Cooper stated that in checking the record, Mancini's had to have a private parking lot. He stated that he did not know if they were using the lot or not and that was one of his concerns in regard to cross parking agreements. Somehow they appeared to vanish.

Joe Santore stated that he was new to the community, and that he and his wife walked through the community and liked to go to the subject establishment and meet with the other residents of the neighborhood. He felt they were not concerned about building a community place, and emphasis was more on commercial property and bringing in additional revenue. He stated that most people who visited this establishment went to other businesses as well in the area.

Gerry Cooper asked if Mr. Santore currently had been served wine at this site. Mr. Santore replied he had not, but would like to do so since it was after the dinner hour.

Dan Rossinova stated that he lived off Las Olas for about one year, but he only had to park in the lot on 13th Avenue twice because both sides of Las Olas were empty after 9:00 p.m.

Mike Dirk stated that he lived directly behind the subject establishment and stated that he had been a patron of the business for several years. He added that he had not noticed any parking problems in the site. He stated that it was his understanding that Colee Hammock now wanted to enact parking permits for the streets. He asked if further clarification could be provided on the subject. He stated that he was in favor of this application and did not want to see another business being driven out of the City. He added that he was tired of his taxes being raised.

Chair Mary Fertig explained that she believed it was a proposal being made for the City to further study.

Don Zimmer, architect, stated that Mr. Coker had to leave for another meeting. He stated there was some confusion in regard to the parking study. He proceeded to explain the parking lot on the map that had not been included in the study, and added that it was beyond the 700' requirement. He stated that the parking lot that he had counted was a City metered lot and consisted of 32 parking spaces. He further stated that 23 spaces in the area were unmetered. He remarked there was no way to keep the neighborhood happy on how to keep the public from parking in the neighborhood. He contended if there were metered or marked spaces on the street, they were public spots and anyone could park there. He stated that if residents had complaints, then possibly there were code enforcement issues involved. He reiterated that the applicant should be able to count the marked parking spaces that had been documented.

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 James McCulla and seconded by Gerry Cooper to approve the application as submitted.

James McCulla stated that if Las Olas Boulevard was a shopping center, the owner would be required to provide parking for the uses for the site, and they would have to monitor the absorption of such uses. He stated that Las Olas Boulevard should be considered in the same way and the parking should be reviewed as to shared use. He further stated that there appeared to be empty spaces within the 700' requirement, and he found it difficult why they should deny this request. He stated they should be encouraging staff to commission a study of the area as a whole so they could determine the adequacy of parking along Las Olas Boulevard, and work towards a solution to the problem, rather than this aggregious process being used to deal with the 8 spaces discussed. He stated they were not going to solve Colee Hammock's process in this way.

Maria Freeman stated that she had visited the site last month at about 9:00 p.m. and there were quite a few of empty metered spaces in the area. She stated that she sympathized with the neighborhood's concerns, but there appeared a need for communication with the City to institute permit parking in the area and enforce it. She stated that tickets were the penalty one paid for illegal parking. She added that she had mixed feelings because the business community should not be penalized due to a lack of parking in the area, but neither should the residents be penalized. She felt they needed to reach a happy medium in this matter. She reiterated that parking was an issue on Las Olas.

Gerry Cooper stated that shopping centers did have certain requirements, and he added that the ULDR set up the criteria. He felt the Code was relevant and not whether someone drove through the area and noticed ample parking spaces being available or not. He reiterated that he did not know if it was appropriate for cars to go into residential neighborhoods and park in front of homes. He further stated that the owner of this

business knew what it was when he took it over, and he would not vote in favor of expanding this business.

Roll call showed: YEAS: James McCulla and Maria Freeman. NAYS: Judith Hunt, Gerry Cooper, Charlotte Rodstrom and Mary Fertig. Motion denied 2-4.

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
3. **City of Fort Lauderdale** **14-P-04**
Request:** Plat Approval
Acreage in 8-50-42
Location: 1000 S.W. 27 Avenue

Sharon Miller, Assistant City Attorney, explained that in certain cases this Board was appointed to act as the Local Planning Agency, and in that role two jobs were done. One was the Planning and Zoning Board, and they reviewed the application to make sure it was consistent with the City's Comprehensive Plan, and in particular, the Land Use Plan.

The following disclosures were made by the Board: Maria Freeman stated that she had been to the site, spoke with Mr. and Mrs. Sheridan, Mr. Natale, Commissioner Hutchinson and the City Manager. James McCulla stated that he had met with the Fire Chief and the Engineer in the Fire Department and had received an e-mail from a neighborhood Association. Charlotte Rodstrom stated that she had been to the site. Gerry Cooper stated that he had met with Otis Latin, spoke with Terry Steniger, and had received a letter from a neighborhood Association. Mary Fertig stated that she had been to the site, received an e-mail from Elizabeth Hayes, and had spoken with Commissioner Hutchinson.

Gerry Cooper asked if Items #2 and #3 should be combined on tonight's agenda.

The Assistant City Attorney stated the presentations could be made together, but separate votes could be taken.

Frank Snedaker stated that they had been before this Board previously, and they had been instructed to return back to the neighborhoods and work with them regarding the design process. He stated that had been done. He continued stating that the existing location for the new fire station currently had an existing station that was over 40 years old. He remarked that it was in extensive disrepair and needed to be replaced. He further stated that the situation had been identified by the Fire Department many years ago. He announced that studies had been done of the nearby areas regarding properties that would be suitable for the new station, and retaining the old station until the

construction would be completed. He advised that no sites were available in regard to response times. The decision was then made to demolish the existing building and construct a new one.

Mr. Snedaker stated that due to changes as to how fires were fought and the stations were staffed, along with the equipment necessary, the proposed fire station was approximately twice the size of the old one. A two-story station was being proposed consisting of 3 apparatus bays. He advised that since there were now women firefighters, the station had to be designed as co-ed and required additional facilities. There were also larger living quarters and communication centers. He stated they were putting a larger station on the site and really a larger site was needed, but none were available or suitable. Therefore, they were asking for relief on a number of issues such as setback requirements and parking. He stated that the parking ordinance did not separate fire stations from municipal buildings. He announced that the station would be staffed with a 7-person crew and might expand to a crew of 10 in the future. He stated that they operated on 24-hour shifts, and 17 parking spaces were being provided at the site. He advised that it allowed for guest parking also.

Mr. Snedaker further stated that the property had never been platted and part of the requirement for site plan approval was that it be platted, and they would have to give up 10' of potential right-of-way on the west side of the property abutting 27th Avenue. He stated that the physical building would not be any closer to the road than what it was now. He advised that they had met with the neighborhood association and a compromise had been reached. He stated the site was surrounded by other public entities, such as a park and schools.

Jim Kahn, Keith and Schnars, stated that this was a straight forward plat required by the new land development codes. He advised that they had to relinquish 10' because it was on a traffic way.

Chris Barton stated that there was "peace in the valley" regarding the appearance of the building. He stated that staff concurred with the description of the project. He further stated that everyone needed to remember that this was a public purpose use, and that this recommendation would move forward to the City Commission. He stated that the City was asking for relief from the use category of CF-HS that did not list fire facilities as a use. He further stated that the setbacks could not be met due to the size of the new facility and the platting requirement seeking the additional 10' ROW on S.W. 27 Avenue. He added that staff felt the application met the requirements for a public purpose use application.

Chris Barton stated that he needed to make a correction in the staff report regarding the platting. He explained that under "Property Project Description" it should read: "A fire station is a community facility which is not permissible in the CF-HS zoning district."

Gerry Cooper stated that he supported the Fire Department, but what would they tell a private developer when they requested additional feet for a project. He reiterated that the ULDR had been developed and should be followed. Chris Barton stated that was why such matters came before this Board and a recommendation was made to the

Commission. He explained if the Board felt the percentages were too great, then they could make a negative recommendation, and if the Commission agreed, then the architects might be requested to design a different building and reduce the footage being requested. He stated that the public purpose use provision was set up for all governmental entities to use, which was the fundamental difference between the type of use and a retail business. He reiterated that they did it on a case-by-case basis. He explained that the private sector would then have to go before the Board of Adjustment and show a hardship. He stated that in this case the fire facility was unique, and the type of use and activity associated with such a use was different from a retail business.

Gerry Cooper reiterated that these were large dimensional changes. Chris Barton stated that on the front and west yard, it was a 48% reduction request, but it was because of the additional 10' being requested for platting purposes. He explained that the property line was moving, but the relationship of the proposed building to the roadway was not changing. He further stated that the likelihood of 27th Avenue being widened in the near future was not high. He stated that the south side was a bit of a problem, but the closeness was considered and it abutted the school property, and there were a series of portable classrooms that backed up to the property line. He remarked that it was a benign or inactive side of the fire station. Gerry Cooper asked if staff felt that the school might expand in the future. Chris Barton stated that it was possible they could expand, but then they would be looking at a wall of the Fire Station.

Gerry Cooper stated that the fire department was asking for some leniency, but they were not shy in citing individuals regarding code violations. He stated that he understood about the front yard due to the platting issue, but could they change the size of the building and not have their dream building or was the proposed size needed.

Mr. Snedaker stated this was not a "dream building," but from a standpoint of size they had been sensitive and attempted to make it as small as possible. Ideally, he added that they would prefer some additional space in certain parts of the building. The apparatus bays were minimal size. He stated that in regard to the fire department citing businesses and individuals for violations that was being done in an effort to promote safety. He added that the fire station was being built in an attempt to promote safety, and in both cases things were being done for the good of the public.

Chair Mary Fertig proceeded to open the public hearing.

Joan Sheridan, Chair of the Southwest Coalition of Civic Associations, stated that she had a letter she wanted to read into the public record that she had written to Marc LaFerrier with a copy to Chief Otis Latin. The letter was read as follows:

"October 18, 2004. Dear Mr. LaFerrier: At a special workshop meeting on October 6, 2004, the City of Fort Lauderdale Design Staff presented the revised plans of the Fire Station No. 47 to the members of the neighborhood associations in the fire district served by this fire station. After reviewing the plans, Ms. Betty Hayes, representative for River Run, said the only comment her community had at her neighborhood meetings was to have the letters of the building, FS 47, changed to Fire Station 47 or Station 47. The representatives present from Tula Vista Isles, Flamingo

Park, Lauderdale Isles, Melrose Park, and River Run reviewed the plans, and since there were no additional comments, they unanimously gave their support for the revised design plans. The community representatives then requested that the southwest coalition send a letter of support, along with individual support letters from each of the civic associations. We would like to take this opportunity to let you know that we approve the new design and support all conditions represented under public purpose use. We would also like to thank the entire City of Fort Lauderdale Design Staff for including the community in the decision making process, and we are looking forward to working together on additional projects in our community.”

Ms. Sheridan explained they had met with City Staff several times before reaching agreement on the final design. She urged the Board to approve this application because the community needed a new fire station.

Elizabeth Hayes stated that an e-mail had been sent to all members of this Board, but she wanted to read part of it. It read as follows: “On June 15th, most of you had received an e-mail from me regarding the plans and designs of Fire Station 47. Since that time City staff had met with the community on a number of occasions. I attended two meetings with City staff at City Hall. One in the summer, and the second more recently to see the revisions requested by the community. The revised plans were available for discussion at the October meeting of the River Run Civic Association, and Monday night the revised plans were again displayed and discussed at the Southwest Coalition Meeting. The River Run Civic Association was very enthusiastic about the appearance and improvements, and so were members of the Southwest Coalition. Thus, this e-mail was to encourage you for your support and approval of the plans for Station 47. We needed a new station on 27th and hope you can approve whatever adjustments are necessary to get this station built.”

Ms. Hayes remarked that there were a lot of adjustments being made and were necessary, but the station supplied a good part of service to I-95 and was very active. She added it was difficult to try and find another site that would be suitable for the station and yet still provide the good response times needed.

Michael Natale, Vice President of Tula Vista Isles and Co-Chair of the Southwest Coalition, stated that he wanted to commend this Board for sending this issue back to the neighborhood. He added that he also wanted to applaud Mr. Snedaker for working with the residents and arriving at designs they were more pleasing. He stated that in regard to the station itself, he had visited the site and seen the conditions that the men had to live in and it was disgusting. He recommended that this Board approve the subject application. He added that Tula Vista Isles was a newly annexed area, and they had been courted about improved safety.

Mr. Snedaker stated that the process worked well and they had gained the full support of the community.

Judith Hunt asked if the change from FS to Fire Station 47 or Station 47 had been incorporated into the new design. Mr. Snedaker replied that they had agreed to the change and it could be included in the motion made by 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 Maria Freeman and seconded by James McCulla to approve the public purpose use and replacement of Fire Station 47.

Gerry Cooper stated that he would support this request and he was pleased that the applicant had met with the community. He added that they had a great Fire Chief and great Fire Department, but he felt getting things done by saying it was public purpose should be used very carefully. He felt there should be good reason for such variances being requested, and in the future he stated that he would continue to ask the question about the same rules applying for a private developer.

Judith Hunt stated that the standards had to be the same for everyone regardless of who was playing. She asked if the maker of the motion and the second if they would consider a friendly amendment and include in the motion that the letters FS be deleted and Fire Station be included.

Chair Mary Fertig stated that such amendment would be included in the motion.

The motion read as follows:

Motion made by Maria Freeman and seconded by James McCulla to approve the public purpose use and replacement of Fire Station 47, and that the letters FS be deleted and Fire Station be included.

Chair Mary Fertig stated that she agreed about the broad use of the term "public use," and she felt one thing that distinguished this item was the fact that it involved public safety. She added that Riverland Elementary did not anticipate expansion in the near future. She thanked the applicant for working with the community.

Roll call showed: YEAS: Gerry Cooper, James McCulla, Charlotte Rodstrom, Maria Freeman, Judith Hunt and Mary Fertig. NAYS: None. Motion carried 6-0.

Motion made by Gerry Cooper and seconded by Judith Hunt to approve the plat request as submitted.

Roll call showed: YEAS: James McCulla, Charlotte Rodstrom, Maria Freeman, Judith Hunt, Gerry Cooper and Mary Fertig. NAYS: None. Motion carried 6-0.

MEETING RECESSED AT 8:20 P.M.

MEETING RECONVENED AT 8:30 P.M.

10. **City of Fort Lauderdale**

11-T-04

Request:* Amend ULDR Section 47-5.31, *Table of Dimensional Requirements for the RS-8 district*, to

Increase the minimum required side yard from 5 feet to 7.5 feet specific to the Bermuda-Riviera neighborhood.

Location: Bermuda-Riviera Subdivision of Galt Ocean Mile
P.B. 38, P. 46, Blocks A, C, D, E, F, G, H
Bermuda-Riviera Subdivision of Galt Ocean Mile,
First Addition
P.B. 40, P. 12, Blocks J, K, L, M

Chair Mary Fertig stated that a discrepancy had occurred over time, and she asked if anyone objected to taking this item out of order. No one objected.

Mark McDonnell, Planning and Zoning Department, stated that this was an application to amend the ULDR in regard to Section 47-5.3.1 with regard to the dimensional chart for the RS-8 zoning district. He remarked that this applied to the lots in the Bermuda-Riviera Subdivision. He remarked that opinion surveys from the property owners had been provided that indicated support for the amendment, along with a survey provided by the neighborhood that showed 2 properties would become non-conforming in regard to side yards slightly less than the 7.5', which would be 6.8' and 7'. He stated that similar zoning text amendments were done for Gramercy Park and the Coral Ridge Country Club Estates neighborhoods in 1999. He advised they had been done to preserve neighborhood character created by the original deed restrictions.

Mr. McDonnell added that zoning in progress had been enacted on September 4, 2002 and the 7.5' minimum setback had been enforced since. He stated that this amendment was consistent with the goals, objectives and policies of the Comprehensive Plan, particularly with Goal #1 – Preserve and Enhance and Revitalize the City's Existing Neighborhoods, and Objective 1.1 – Enhance Neighborhood Preservation Goals, and Policy 1.1.1 – To Continue to Utilize Community Design Standards to Enhance Neighborhood Preservation, and Policy 1.1.3 – To Ensure Stability of Existing Neighborhoods. He explained that the Planning and Zoning Division would review future rezonings for impacts on neighborhood quality in accordance with the adopted neighborhood Master Plans. He stated that this Board was also acting as the Local Planning Agency and needed to determine that the proposed amendment was consistent with and furthered the goals, objectives and policies of the City's Comprehensive Plan.

Mr. McDonnell advised that this Board could approve the proposal, make modifications, or deny the request.

Chair Mary Fertig proceeded to open the public hearing.

John Aurelius, representing Bermuda-Riviera Homeowners Association, stated that they had been working on this for two years, and were present tonight to answer any questions.

James McCulla asked what would happen to the two non-conforming homes. Mr. Aurelius stated that according to the City Attorney, they would be grandfathered in, but if

there was mass destruction, they would then have to conform to the existing Code. He added that the value of the homes in the area had appreciated substantially.

Sharon Miller stated that the legality was that unless there was a public purpose for the two homes to be treated differently than the other homes in the area, everyone needed to be treated the same.

Gerry Cooper asked if the two concerned homeowners had been specifically noticed. Mr. Aurelius explained that every homeowner had been contacted several times and understood the process involved. He stated they had been noticed by meeting notices and a hand survey. Gerry Cooper asked if the City Attorney's office was comfortable with the process used. Sharon Miller confirmed.

Judith Hunt stated that she was uncomfortable with the notice that had been provided, and she felt there needed to be a level of documentation. In regard to the affected homeowners, she felt it was inappropriate to take away their right to rebuild their property without better notification. She stated there needed to be a way to exempt those properties.

Sharon Miller stated that she did not have anything to offer at this time.

Chris Barton stated that he did not recall any property that had been exempted. He advised that they were legal non-conforming and would remain so. He stated that any building destroyed in the City by more than 50%, they could not re-establish.

Judith Hunt remarked that they were changing the rules of the game after the house had been built, and no documentation had been provided showing that the homeowners had been properly notified of the situation. Chris Barton replied that staff had testimony that the property owners had received some sort of notice.

Mr. Aurelius stated that under the Code and the 50% rule, he had seen quite literally where an entire house or building had been demolished with only the slab remaining, and the Chief Building Official had stated that in figuring the cost of the slab and the underground infrastructure, it comprised about 60% of the structure and it would take a large major destruction to occur in order for the Code to kick in.

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

Motion made by James McCulla and seconded by Maria Freeman to approve the application as submitted.

James McCulla asked if the applicant would consider adding a condition requiring them to notify the two concerned homeowners of the situation. Mr. Aurelius stated that they were imposing additional requirements of notification. He stated proof had been submitted to the City of notification to the homeowners, and every hurdle had been gone through with the residents, but it was up to the Board. He personally felt that they

needed to encourage proper zoning, and this would just be what had been there and nothing was being changed, except for the two subject properties.

Jerry Cooper stated that originally he had thought this was easy, but he was concerned because he had been a member of the Code Enforcement Board, and one of the things they stressed was good notice. He reiterated that he was not comfortable about this situation because he did not know that sufficient notice had been provided to the homeowners. He stated that he was not opposed to this, but he wanted to make sure that the two concerned property owners were aware of the situation.

Motion made by Gerry Cooper and seconded by Judith Hunt to have this item deferred until November 17, 2004, so specific notification could be provided to the two affected property owners.

Mr. Aurelius clarified that the Board was requesting notice to be made to the two affected property owners. He stated that there had been an embarrassing time lag in this process, especially deferring it. He suggested that if the deferral was approved, they would return with the same information that was being heard tonight. To move the matter forward subject to approval of notification being given to the two affected homeowners would keep the project progressing.

James McCulla asked how they would describe adequate notice. Gerry Cooper stated that notice should be given through Certified Mail, Return Receipt Requested. James McCulla asked if it was sent in that manner and returned saying that the addressee had not received it, then what would happen. Gerry Cooper remarked that at least attempt was being made to notify those owners, and then it would be up to the City Attorney's Office to determine what was good notice. James McCulla stated that telling them it was moving forward to the City Commission would serve the same purpose.

Roll call showed: YEAS: Charlotte Rodstrom, Maria Freeman, Judith Hunt, Gerry Cooper and Mary Fertig. NAYS: James McCulla. Motion carried 5-1.

Mr. Aurelius asked if the homeowners' association was under any directive from this Board, or was staff taking care of the matter. Chair Mary Fertig stated that she believed this would be staff directed.

Sharon Miller explained that staff had provided legal notice in accordance with the requirements, and if additional conditions had been made then it was the applicant's obligation to comply. Mr. Aurelius pointed out that the applicant was the City of Fort Lauderdale.

Chris Barton confirmed that the City could arrange to have Certified Mail sent to the two affected homeowners.

4. **Magna Case/Marbella Place Condominiums**
Request:** Site Plan Review/37-Unit Condos
Birch Ocean Front Subdivision
Block 4, Lots 4, 5, 6, 7, P.B. 19,

13-R-04

P. 26
Location: 501, 519 and 527 North Birch Road

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 Courtney Crush. Judith Hunt stated that she had been to the site and had also spoken with Courtney Crush. She added that she had also received a letter from the Britannia Condominium Homeowners Association. James McCulla announced that he had spoken with Courtney Crush and had received a rendering, along with a copy of the letter from the Britannia Condominium Homeowners Association. Charlotte Rodstrom stated that she had spoken with Mel Rubenstein, Steve Glassman, Chris Barton, Courtney Crush, and had the packet of information delivered and visited the site several times. Gerry Cooper stated that he had spoken with Courtney Crush and had received the rendering. Mary Fertig stated that she had been to the site and had spoken with Courtney Crush.

Courtney Crush, attorney, stated that the applicant was proposing a 37-unit condominium located at 501, 519, and 527 Birch Road. She proceeded to show an aerial of the site. She stated that the site was located at the northwest corner of Rio Mar and Birch Road in the NBRA Zoning District. She stated that this district was one of 6 within the City's Central Beach permitting heights of 120' with density of 32 units to the acre with varying setback and parking requirements. She stated that the project was before this Board tonight in accordance with 3 Code provisions. They were asking whether it conformed with the NBRA zoning requirements, a site plan level IV review, and for the Board to decide whether the project was neighborhood compatible.

Ms. Crush proceeded to show a rendering of the project consisting of 2 buildings each which were 7 stories in height with one submerged level of parking, along with a common access point which receded into a garage below grade with one level of parking, and then 6 levels of residential. She continued stating that the first stepback was at 58', and 85% of the mass of the building was below the 58' in height. She explained that the building then stepped back to 82' in height to the top of the beam on the roof. She explained that was how staff measured height. She added that there were 1-2 rooftop features that were 97' in height and comprised about 1% to 2% of the service area of the building and were ornamental in nature. She further stated that the setbacks of the building were to the south and were 40' where 20' was required by Code. She stated that since they were on two intersections, there were two front yards. She advised that there was a pool within the 40' setback and they were requesting to come to 10' which was permissible. On the east was another front yard, there was a 20' setback and that was required by Code. She further stated that on the north the setback was 27'. She remarked that staff had not done the wedding cake analysis. She added that they were actually 47' back from the property line that was an excess of half-the-height requirement. She added that on the west, the setback was 25', and therefore, they were seeking a 16' reduction.

Ms. Crush continued stating that they felt this was an extremely responsible project located in the Central Beach. She added that this was an interior corridor of multi-family,

residential and bed and breakfast establishments. She further stated that the applicant had met with the community and decided it would be beneficial not to build a tower on a pedestal. She stated that each building was 150' in length and were separated by 28'. In terms of parking and other requirements required by the NBRA zoning regulations, along with adequacy and neighborhood compatibility, massing guidelines, overall height, corner height, street level activity, vehicular circulation, paving, screening, and extra wide sidewalks, staff concluded that the project met such requirements. She stated that the Board needed to determine whether the project met the compatibility requirements of the Code. Ms. Crush proceeded to read the concerned section of the Code as follows: "Section 47-25.3.A.3.e.i requires that the development be compatible with and preserve the character of adjacent neighborhoods, and that the development include improvements to mitigate adverse impacts, such as traffic, noise, odors, shadow, visual nuisance or any similar adverse affects to adjacent neighborhoods."

Ms. Crush further stated that traffic was not added to the site by this project. She stated that there were 37 existing apartments on the site, and they were replacing those units with 37 condominium units. Staff concluded that this was a residential use and there were no odors, and a shadow study was done and was not an issue. She further stated that in looking at the surrounding neighborhoods, there were many buildings within the NBRA, IOA, and the ABA which greatly exceeded the height and scale of this building. She stated that 11 buildings in the area were 5-7 stories in height. She advised that immediately to the east, there was going to be Fortune House about 2 blocks down. She proceeded to show a context map to the Board which had been based on staff's report, and described the buildings in the area.

Ms. Crush explained there was a scattering within the NBRA and the adjoining districts of buildings of varying heights. She stated that this building was going in the direction of what the community wanted from developers. She advised that they had met with the Central Beach Alliance, and had met with their Board also. She stated that Mr. Kane was opposed to this project because it would block his view. She reiterated that the proposed building would block views of any buildings to the west. She stated that a comment had been received from Mel Rubenstein who had indicated that the NBRA was comprised of many two-story buildings and provided a list of 11. She stated that they had provided a list of buildings more than two-stories and they had arrived at 11 buildings. She reiterated there was a mix in the area, and what was important was that the zoning code and ULDR were in place for a reason, and the zoning requirements could not be subverted and no rezoning could take place just because the word "compatibility" was thrown into the mix. She stated that the Code explained that compatibility meant adverse impact. No adverse impacts had been found in regard to this building, and no fact-based findings had been found that could be mitigated. Therefore, they presumed it was compatibility. She asked for the Board to approve the project.

Ms. Crush stated that they had received letters in support of the project, but she did not know if copies had been distributed to the Board. Chair Mary Fertig asked for the letters to be given to Chris Barton who would check if they had been copied for the Board or not.

Chris Barton stated that the letters were dated today, and therefore, the Board had not received copies. He further stated that this was a Site Plan Level IV review proposed for a 37-unit multi-family project. He stated that traffic would not significantly change in the area since the units were the same as those presently existing. He stated that currently there were 3 buildings on the site, consisting of 1, 2 and 3 story residential buildings constructed in the early '50's. NBRA allowed 120' in height, and the overall height would be 82.' He stated that they were below the density permitted for the area. He explained there would be 3 access points from the road system. One would be off Birch Road between the two proposed buildings, another at the north end of the project, and a private alleyway on the west side in the setback area. He stated that the entrance to the alleyway was off Rio Mar. He believed the drive was one-way north coming out.

Chris Barton advised that the applicant was providing the exact number of parking spaces required which was 78 spaces. Landscaping was being provided. He advised further that they were seeking a reduction of the required yards for the rear property line, and Code required 41' or half-the-height of the building. The applicant was proposing 25' or a 39% reduction in that yard. He stated that in regard to the side property line on the north side, a common property line with their neighbor to the north, they were proposing a 27' yard with a driveway going through which was a 34% reduction. He stated the real issue was whether or not this Board believed the applicant met the neighborhood compatibility requirement.

Chris Barton stated that they concurred with the applicant's proposal as shown on the graphic presented. He continued stating that there were large structures immediately to the west, a 9-story structure to the southeast, a 20-story Capri Hotel would wrap around this condominium, and the Fortune House was to be over 20 stories. He added that the Atlantic and the Gold Coast were slightly further north. He explained that the neighborhood had a mixed look. He added that there were also a number of 4-6 story structures in the area, along with some having 12 and 15 stories. Architecturally, there was a wide variety in the area.

Chris Barton further stated that no letters had been received previously in support or in opposition of this project, until the letters that had been submitted this evening. He also pointed out that the color rendering shown did incorporate some changes that were different from what had been previously submitted. He explained the changes were exclusively ornamental, and normally staff did not like to see last minute changes that had not been reviewed by staff or the Board. The changes were in response to neighborhood requests and included changes in the railing on the balconies, a pre-cast stone center façade on various parts of the building, stone casings surrounding the windows in the center façade, adding stone finials to the top, adding faux stone on the cornices, and awnings. He stated that additional banding had been added in the color treatment, and decorative detailing in the stucco panels. He continued stating that there were changes in the general detailing which had not been originally seen, but they were strictly cosmetic and would improve the general appearance of the building.

Charlotte Rodstrom asked if some of the buildings and comparables used had been used in other zoning districts besides the NBRA. Chris Barton confirmed and explained that once one crossed Birch Road, they were in the ABA District.

Chair Mary Fertig asked about further clarification regarding the placement of the pool. She asked if other options had been available.

Ms. Crush stated that the pool was at the southern portion of the property and proceeded to show a rendering. She further stated that in response to comments from some residents, Mr. Mancini had explored and was willing to slide the building about 15' to 16' to the south. She added that the building was oriented to the east, and the other building was oriented to the west. She stated they were not making such a proposal this evening, but they were explaining what had been discussed. She added that she did not know if such a proposal was acceptable to Mr. Kane.

Chris Barton further stated that from a pure site planning standpoint, the area chosen for the pool was one of the better places for it, and whether or not it was closer to the building within the plaza was up to the Board to propose as a condition. In terms of solar gain and shadows this was the ideal location for the pool, outside of placing it on the roof.

Ms. Crush remarked that Rio Mar was a people street and the Code encouraged such active uses.

Chair Mary Fertig proceeded to open the public hearing.

Ina Lee, Chair of the Beach Redevelopment Advisory Board, stated that she was also the founding Chair of the Beach Council of the Greater Fort Lauderdale Chamber of Commerce. She stated that the Beach Redevelopment Advisory Board had seen this project, but they were not able to take action. She advised that she was present tonight and empowered by the Beach Council of the Greater Fort Lauderdale Chamber of Commerce who had unanimously approved this project. They felt it was what they were looking for on the Beach in terms of fulfilling the 2020 Vision. It was neighborhood compatible and the applicant had proposed a project that would enhance the Beach for residents and tourists alike. She urged the Board to approve the project. She added that they also wanted to acknowledge the developer and all the individuals who had worked on the project in continuing to upgrade and fulfill the Beach as a world class destination.

Roger Handevitd stated that he had been in the area for over 25 years and had served on the Beach Redevelopment Advisory Board for 6 years and was involved in having the Beach redeveloped, especially the NBRA area where his property was located. He continued stating that it was exciting to see such a project proposed for the area, and no two buildings in the area were alike. He further stated that all the buildings were still square boxes, and the project proposed had personality. He felt this would be a good example of what could be done and possibly higher standards could be set for the neighborhood. He stated they were not adding additional units to the area, and it would not take away car trips of any future development. He stated further that he was in support of the project, and most people in that portion of the NBRA area were waiting a long time for such a project.

Bill Kane stated that he was opposed to this project and had sent the letter today to the Board from the Britannia Condominium. He continued stating that he wanted this Board to carefully consider the impact of this proposal on the residents of this condominium. He explained that they were a 7-story building that had been built in the middle '70's. At that time such a building was unusual for the area, but there was no concern about over-development on the beach that was a serious concern at this time. The lot to the east at that time consisted of a 1-story motel that he believed was known as the Panoramic Motel that still existed. To the north and south were low rise buildings, and across Birch Road to the Beach there were low-rise buildings. The result was that the individuals on the east side of the Britannia Building had a clear view up to the Beach. He stated that the floors of their condominium had large balconies and there was a large open deck on the roof. For the last 30 years, the residents had enjoyed spectacular views from the balconies and enjoyed sunshine and breezes, along with privacy. Now, everything was going to change and a giant wall was going to face their building. He reiterated that they would lose privacy on their balconies and decks due to windows that would now be facing them.

Mr. Kane further stated that the impact on their condominium was so severe that he urged this Board to deny the application.

Gary Mercado stated that he owned a resort consisting of an older 3-story hotel in the area. He believed the project was what the neighborhood needed, and individuals not living on the Beach should not expect to have a view of the Beach forever. He stated that he was in favor of the project, and he believed it would increase the value of the properties located in the area.

Adam Bernolio stated that he owned a motel in the area and was in support of the project.

Nick Motwani stated that this was a great project and exactly what the neighborhood needed. He believed it would increase the value of the properties in the area and would help the City financially.

Ms. Crush proceeded to once again mention buildings that were located adjacent to the subject site. She reiterated that in the NBRA area, there was a sporadic mix of buildings. She stated that in regard to views being blocked, Mr. Kane was correct that his view would be hampered and the building would begin mid-point from his balcony. She further stated that it was a fact that development within the NBRA area would have a visual affect on some people, but it was not an adverse impact. She stated they believed this project was a responsible one and would enhance the area.

Charlotte Rodstrom asked if Ms. Crush was aware of the vote taken in the Central Beach Area on October 14, 2004 consisting of 136 people against the project. Ms. Crush confirmed but stated there had not been 136 people. She advised that they had presented to the group and when the meeting concluded, there had been about 20 people or more. In the CBA anyone who represented a building had 10 votes. She stated that she was aware the vote had been unanimous. Mr. Glassman had indicated to her that Mr. Rubenstein had been the only individual who had spoken about the desire to

retain 2-story buildings in the area. Mr. Glassman had also indicated there had been some sympathy in regard to the individuals living in the Britannia Condominium whose views would now be blocked.

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.

Charlotte Rodstrom stated that she realized they were following the ULDR which did permit the height, but she was concerned in regard to the intent and purpose regarding Section 47-12.2 wherein it stated: "The NBRA District is established for the purpose of encouraging the preservation, maintenance and revitalization of existing structures and uses that make up the distinct neighborhood that occurs in the center of the North Beach Area. Existing residential and transient accommodations represent a substantial resource of the CBA to be protected, preserved and enhanced."

Motion made by James McCulla and seconded by Judith Hunt to approve the application as presented.

Charlotte Rodstrom asked for a comment to be made from the Attorney for the application in regard to Section 47-12.2 – The Intent and Purpose of Each District.

Ms. Crush stated that she agreed that the mentioned section discussed the preservation of the district and proceeded to show photographs of what existed at the site. She stated that the general consensus of the CBA was that there was nothing worth preserving at the site. She added that Mr. Mancini had difficulty renting the existing apartments given to their location and the tenants. She stated that he had made a Herculean effort. She continued stating that the intent and purpose also spoke to revitalization that was very important. She stated that this area was subject to the Beach Revitalization Plan and the NBRA was created to revitalize the area. She further stated that this Board who served as the LPA had determined at that time that to revitalize they were to attempt to protect and preserve what was appropriate, but in revitalization there also needed to be development that was of a different scale. She felt this was a perfect example of the implementation of the Revitalization Plan.

Charlotte Rodstrom reiterated that it did not mention revitalization of new development, only existing structures. Ms. Crush stated that the intent and purpose needed to be read in conjunction with the zoning district requirements and the Revitalization Plan. She stated it was adopted as a whole. She further stated that in reviewing some older staff reports, the first line in those reports to the year 2000 had been that this development represented a significant redevelopment and revitalization effort in the CBA. She stated that appeared to be the primary focus from 1997 to the year 2000. Charlotte Rodstrom asked if Ms. Crush believed there were other zoning areas in the Beach that could have new development and larger buildings versus revitalizing existing structures. She added that was what made this area unique. Ms. Crush disagreed and stated she did not feel it made it unique, and if they looked at the IOA Zoning District, it had the same preamble, along with the same height. She remarked that area had development that came in to revitalize the area.

Roll call showed: YEAS: Maria Freeman, Judith Hunt, Gerry Cooper, James McCulla and Mary Fertig. NAYS: Charlotte Rodstrom. Motion carried 5-1.

5. **Publix Supermarket, Inc./Publix #101** **9-P-04**
Request:** Platt Approval/Demolish Existing
Structure and Rebuild (CB) Acreage
In 18-50-42 Pearl Estates, P.B. 40, P. 42
Location: 3500 Davie Boulevard
6. **Publix Supermarket, Inc./Publix #101** **6-ZR-04**
Request:** Site Plan Approval/Rezoning with Commercial
Flex Allocation Acreage in 18-50-42 Pearl Estates,
P.B. 40, P. 42 Breezy Way Manor
Block 1, Lot 14, and portion of Lots 13 and 15,
P.B. 28, P. 18
Location: 3500 Davie Boulevard

Chair Mary Fertig stated that Items No. 5 and 6 would be presented together. She stated that the items were quasi-judicial.

The following disclosures were made by the Board as follows: Gerry Cooper stated that he had been to the site. Maria Freeman stated that she had been to the site and had spoken with Commissioner Moore. James McCulla stated that he had been to the site. Judith Hunt stated that she had been to the site and had spoken with Ms. Sheridan, Michael Natale and Commissioner Hutchinson. Mary Fertig stated that she had spoken with Commissioner Hutchinson and had been to the site, and received an e-mail from Dr. Hayes.

Barney Danzansky, Equity Ventures Realty, stated that he was representing Publix. He explained that this was a 2.73 acre project along Davie Boulevard with remote parking across the street bringing the total acreage to about 3.0 acres. He continued stating that the site had been used by Publix and Eckerd's. Eckerd's had vacated the site a few years ago and had moved across the street. He explained that the present development was comprised of about 33,000 sq. ft. and the new development would be about 6700 sq. ft. less in intensity. He stated that Publix had been built in 1964 and had an old façade. He explained that it was also an old facility requiring high maintenance. In September, 2003, Publix had taken the site to the Real Estate Committee who owned the property and a decision was made to make a significant investment back into the area with a new facility. They were working diligently to bring such a project to fruition.

Mr. Danzansky further stated that they had submitted the project to DRC in March, 2004, and had received their approval in August, 2004. He proceeded to show an aerial of the site. He explained they were adding new landscape islands, and bringing the site up to Code without seeking variances. He explained further that they were complying with all zoning issues, except for the need for rezoning of a small portion of the site. He added that they were reducing parking by a few spaces, but they still had sufficient parking spaces according to Code. He stated they were adding elements to the site such as pavers, bus shelter, pedestrian crosswalks, and they had met with the area homeowners

association, including the Southwest Coalition, Riverland Village Civic Association, and the Sunset Civic Association in an attempt to gather the community's comments and address their needs. In response to such comments, they had relocated their truck wells from the rear to the side, and they were increasing the size of the masonry wall that was on the south from 5' to 8' to help buffer the residential area that was presently adjacent to the loading docks. He added that a new masonry wall would be constructed on the north side next to the remote Church lot, and they had complied with the requirements of FDOT to work with the Church on the west in closing an access point to improve safety. He stated it was their understanding that FDOT was in the process of doing a safety and traffic improvement plan and study for the area. He explained that their improvements coincided with the plans.

Mr. Danzansky stated that they were seeking two approvals from this Board. The first was a site plan approval, and the second was for a rezoning and an application for flex units. He further stated that during discussions with the homeowners associations, the design originally offered was not necessarily in line with the association's future vision for the corridor. Therefore, they were suggesting a different look than what had previously been presented, which was now more of a Mediterranean design and feel. He proceeded to show a rendering of the project. He added there was no official requirement for them to proceed under such terms with the homeowners associations, and they had complied with the City's requirements. He stated they were happy to accommodate the residents, and were asking for this Board's approval.

Gerry Cooper asked if staff had seen the new design and had approved it.

Chris Barton replied that they had arranged a meeting with the homeowners association because the neighborhood wanted changes made to the general appearance of the building. He advised they were cosmetic changes. He suggested that if they were going to move the building and affect the site plan, then he would recommend a deferral, but with cosmetic changes, even though staff had not yet seen them, the Board could entertain approval and have them revise the drawings before staff moved them forward to the City Commission.

Judith Hunt clarified that the parking, nor the height of the building, was being changed, and they were only making cosmetic changes to the façade of the building. Mr. Danzansky confirmed and stated that the features proposed in the submitted elevations were the same. He added that the roofing materials, the banding and the colors had changed.

Ella Parker, Planning and Zoning, stated that this was a request to plat 2.711 acres to allow up to 33,500 sq. ft. of commercial use. The proposed plat was to be reviewed together with the corresponding site plan that included a request to rezone a small portion of the site from RS-8 to CB with allocation of .16 acres of commercial flex. If granted the entire site would have commercial zoning which would allow the proposed grocery store to exist at the site. She stated that the applicant had addressed rezoning criteria, adequacy requirements, and had provided a narrative regarding neighborhood compatibility for the Board's review. She stated that the project generated a requirement of 130 parking spaces, and 138 spaces were being provided. She advised that the

applicant had provided a traffic study that was reviewed by the City and they concurred with the following added conditions which were also part of staff's recommended conditions:

1. Per the City's Traffic Consultant, a signal warrant study coordinated with city, county, and state traffic specialists is required to determine if signalization at the intersection of Davie Boulevard and S.W. 35th Avenue will need to be implemented. The signal warrant study should be conducted between ninety (90) and one hundred and eight (180) days from the completion of the improvements.
2. As per the City Traffic Consultant's recommendation, the applicant shall conduct a more detailed analysis to determine the combined signalization of the two S.W. 35th Avenue intersections.
3. As per the City's Engineer Design Manager, the owner shall supply a bond, with sufficient security to fund the necessary warrant study and any required signal and intersection improvements to be required as a result of the study to the office of the City Engineer prior to the issuance of a certification of occupancy for the project. The bond amount shall be authorized by the Broward County Traffic Engineering Division following submittal of a certified engineer's construction cost estimate.
4. Site plan approval shall be valid as provided in ULDR Section 47-24.1.M.
5. 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.
6. Final Development Review Committee approval.

Chair Mary Fertig proceeded to open the public hearing.

Michael Natale, Co-Chair of the Southwest Coalition and Vice President of Tula Vista Isles, stated that a presentation was made of the previous version of the project which was a cookie-cutter design. Due to recommendations made, the applicant made changes per suggestions of the community, and the new design was done. He explained that the Mediterranean design coincided with the Davie Boulevard Master Plan which was in its infant stage at this time. He urged the Board to approve this project.

Elizabeth Hayes stated that she had been involved with Davie Boulevard for the last 4-5 years, and the store was too small and items were all stacked. People were requesting a new store for a long time, and due to the development of the Master Plan, this project was important to the process. She proceeded to read into the record part of an e-mail sent to members of this group as follows: "At Monday night's Southwest Coalition, we saw the plans for the new Publix on Davie Boulevard. The plans were enthusiastically received, but there were some questions regarding the outside appearance of the store. A number of people expressed a desire to see the façade reflecting more of a Mediterranean theme that many were envisioning for Davie Boulevard. The Publix representative was receptive to our ideas. Most of us wholeheartedly endorsed a new Publix on Davie Boulevard and hope you can support the adjustments that may be necessary to bring this vision to fruition."

Joan Sheridan, Chair of the Southwest Coalition, stated that at their October 18th meeting, representatives of the following civic associations were present and had reviewed the plans, such as River Run, Melrose Park, Tula Vista, Sunset, Broadview Park, and Lauderdale Isles. She stated that at the meeting, they had been impressed with the presentation, and the only concern they had was in regard to the façade. She explained the community was involved in the decision making process regarding the changes. She stated they had done the changes quickly. She announced that she had lived in the area for over 40 years, and reiterated how important this revitalization was for the area. She stated that she served on the Steering Committee for the Master Plan which they were attempting to implement since 1995. She urged the Board to approve this project.

Roger Suarez, Sunset Civic Association, stated that the presentation was very good and the applicant had been very responsive. He added that they looked forward to the project and supported it wholeheartedly. He urged the Board to approve the project.

Mr. Danzansky apologized for the last minute substitution since they had not had the opportunity to review the changes. He stated that the hurricanes had caused some delay in holding their meetings to address the neighborhood's concerns. He explained they had gone through an arduous project with the City in meeting the requirements. He felt they had met all the criteria and requested that no more delays be placed on the project. He asked for this Board to support the request.

Judith Hunt asked if the applicant had any objections if this Board requested that the final condition that the community groups, approval be sought for the last minute façade changes prior to submission to the City Commission. Mr. Danzansky confirmed and perhaps staff would have the final approval and could receive the feedback from the different organizations, and therefore, they would only have one person to deal with regarding the changes.

James McCulla asked if the applicant could provide further detail regarding the proposed changes.

Mr. Danzansky proceeded to explain that the changes involved the roofing materials and color being changed from a Florida cracker style to more of a Mediterranean feel. He stated the metal roofs were going to be clay tiles. He stated that some of the features pictured over the roof were going to be changed from a more shuttered feel to a flat Mediterranean sunken feel. He stated they had added some decorative emblems on the exterior and they would also do so around the entire building as the previous plans had depicted.

James McCulla clarified that no changes were made which would affect the site plan. Mr. Danzansky confirmed.

Charlotte Rodstrom stated that she wanted to make sure the process would not be further delayed if the condition mentioned would be added to the motion because the area did need the store. Mr. Danzansky confirmed there would be no delay.

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

Diane Russo, Lauderdale West Homeowners Association and member of the Steering Committee for Davie Boulevard, stated that she was in favor of the project. She stated that in the past there had been traffic issues at the site, and the traffic consultants had promised to address certain issues but they never did. She reiterated the area had some safety problems. She stated that she did not want the traffic issue to get lost in addressing the cosmetics of the building.

Chris Barton stated that he had extensive discussions with FDOT on the matter and on the plans themselves, the ingress and egress point on Davie Boulevard had been designed as a right-turn only in for eastbound traffic, and right exit only for egress. He stated that a similar requirement was being made for the two northern entrances on 35th Avenue. He stated that they could exit straight across at the southern portion. He stated this was an opportunity to clean up a dangerous situation on a road that had increased traffic over the years.

Chair Mary Fertig clarified that the traffic problems had been addressed in the site plan. Chris Barton confirmed. Mr. Danzansky stated that as part of FDOT's safety improvements, they had requested that the entrance referenced by Ms. Russo be closed. He added they were also relocating a curb cut farther to the west.

Motion made by James McCulla and seconded by Gerry Cooper to approve the plat and demolish the existing structure and rebuild the store. Roll call showed: YEAS: Judith Hunt, Gerry Cooper, James McCulla, Charlotte Rodstrom, Maria Freeman and Mary Fertig. NAYS: None. Motion carried 6-0.

Motion made by James McCulla and seconded by Gerry Cooper to approve the site plan as submitted, along with the rezoning with commercial flex allocation. Roll call showed: YEAS: Gerry Cooper, James McCulla, Charlotte Rodstrom, Maria Freeman, Judith Hunt and Mary Fertig. NAYS: None. Motion carried 6-0.

7. Vincent Fazio/Park View Lots

8-P-04

Request:** Plat Approval/90 High Rise Units
(RM-15 & CB)
Acreage in 35-49-42 & 34-49-42
H.C. Brock's Subdivision, Lots 1 & 2
P.B. 3, P. 24
Location: 1347 N.E. 7 Avenue

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

The following disclosures were made by the Board as follows: Gerry Cooper stated that he had spoken with Vincent Fazio. Charlotte Rodstrom stated that she had been to the site. Judith Hunt stated that she had been to the site.

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

Paul Lovesky, McLaughlin Engineering, explained that this was a 4-unit townhouse development that was within the confines of the zoning districts. He remarked they were seeking plat approval at this time.

Michael Ciesielski, Planning and Zoning, stated that this was a request for plat approval for a 4-unit townhouse development that was permitted in the area. He stated that all comments made by DRC had been addressed. Staff recommended approval. He added that the plat was consistent with the City's land use element, as well as Broward County's regulations for platting. He stated that staff recommended approval with the following condition:

1. That the applicant would be required to pay a park impact fee of \$3,024, and that it must be paid prior to final sign-off by the Planning and Zoning Board Chairman.

The following disclosures were made by the Board as follows: Charlotte Rodstrom stated that she had been to the site.

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 Maria Freeman to approve the application as presented per staff's recommendation. Roll call showed: YEAS: Charlotte Rodstrom, Maria Freeman, Judith Hunt, Gerry Cooper, James McCulla, and Mary Fertig. NAYS: None. Motion carried 6-0.

"For the Good of the City"

Chair Mary Fertig stated that she wanted to request that the Board receive copies of the parking recommendations brought forward by the Colee Hammock Homeowners Association. She felt it would be useful to begin a process to put something in place so they would not find them in this circumstance again.

Chair Mary Fertig proceeded to thank Margaret D'Alessio for her work with this Board. She stated that she had done a wonderful job, and unfortunately this was Margaret's last meeting and the Board would miss her. Margaret D'Alessio announced that she was relocating north. Chair Mary Fertig stated that she had done an incredible job in collecting the Board's many thoughts and motions.

Chris Barton proceeded to thank her for six good years of excellent service. He stated that another person had been recommended to take over by Margaret and Deborah Ghietbrock would be taking her place.

Motion made by Gerry Cooper and seconded by James McCulla to adjourn the meeting.

There being no further business to come before this Board, the meeting was adjourned at approximately 10:20 p.m.

CHAIRMAN

Mary Fertig

ATTEST:

Margaret A. D'Alessio
Recording Secretary