

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

**WEDNESDAY, NOVEMBER 17, 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 | 6 | 0 |
| Mary C. Fertig | P | 5 | 1 |
| Alan Gabriel | P | 5 | 1 |
| James McCulla | P | 4 | 2 |
| Charlotte Rodstrom | P | 6 | 0 |
| Judith Hunt | P | 5 | 1 |
| Randolph Powers | P | 5 | 1 |
| Maria Freeman | A | 5 | 1 |
| Edward Curtis | P | 5 | 1 |

Planning Staff: Chris Barton, Liaison to the Board and Principal Planner
Mark LaFerrier, Director Planning and Zoning Services
Mark McDonnell, AICP, Planner III
Don Morris, Planner III
James Cromar, Planner II
Angela Csinsi, Planner II
Ella Parker, Planner I
Yvonne Redding, Planning Assistant

Legal Counsel: Sharon Miller, Assistant City Attorney

Court Reporting Service: Debra Giehtbrock

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

Assistant Chair Alan Gabriel called the meeting to Order at approximately 6:30 p.m. Assistant Chair Alan Gabriel requested the Board members who were present this evening to introduce themselves. Assistant Chair Alan Gabriel led the Pledge of Allegiance. Mr. Gabriel then introduced the City dignitaries present, Mayor Jim Naugle and City Manager, George Gretsas. 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 – October Meeting

Chris Barton stated that the October 20, 2004 minutes had not been perfected and would be submitted for approval at the next meeting.

Chris Barton proceeded to introduce the City staff present.

Chair Mary Fertig arrived at approximately 6:37 p.m. and proceeded to chair the meeting.

Chair Mary Fertig announced that there were 10 matters before the Board and no one had requested a deferral. Chris Barton indicated that there was one verbal request for deferral from Item #1 and we have been asked to proceed on Item #1 as scheduled.

Chair Mary Fertig stated that no applicants had requested additional time for their application and therefore each applicant will have 15 minutes to make their presentation followed by Staff report. After staff from Planning has had an opportunity to ask the applicant staff questions, public input will be taken. Members from the public will have 3 minutes to speak; members of homeowner's associations will have 5 minutes to speak. The applicant will then have an opportunity for final comments, the Public Hearing will be closed and the Board will consider the item.

Chair Mary Fertig reminded everyone that individuals representing an applicant and are here in a paid capacity for the applicant must be a registered lobbyist with the City Clerk and should have taken care of that before the meeting.

Chair Mary Fertig then stated that members of the public here to address the board were to print legibly their name and address on the sign in sheet at the recording secretaries table while the previous person is speaking to insure an accurate recording.

The next item was to reschedule the January 2005 meeting. Chris Barton stated that because of the Martin Luther King Holiday, the City Commission would be meeting in this room on the Planning and Zoning regularly scheduled meeting date of January 19, 2005. The room is available for the previous evening, Tuesday January 18, 2005 or the following Wednesday, January 26, 2005. The members of the Board were polled and the January meeting will be held on January 18, 2005.

Chair Mary Fertig then stated the order of two items on the agenda had been changed to accommodate two requests. Item 1, Premier Developers III Associates/Aquatania Case No. 30-R-04 will be moved to item 3. Items 2 and 3 will be moved up Case 8-Z-04 will become Item 1 and Case 3 Item 11-T-04 will become Item 2.

Gerry Cooper stated that the agenda should not be changed at the request of one person and that the agenda should proceed as published. Chair Mary Fertig asked that Chris Barton respond.

Chris Barton explained that the Director of Planning, Mr. LaFerrier asked that the City Manager had requested that Item 3 be moved to accommodate his need to be present at another meeting on the 8th Floor.

Gerry Cooper stated that if the individuals present for Item 1 were going to request a deferral, they be permitted to do so in order to move the meeting along.

Chair Mary Fertig indicated that the previous month, Item 3 had one technicality that they wished to address but had waited a considerable amount of time to do so. Ms. Fertig had promised that item would be Item 1 at this meeting. Chris Barton had informed Chair Mary Fertig that Mr. Gretsas was going to be here and had another meeting to attend. At that time Aquatania was in an on again/off again status so in an effort to hear brief matters, it was in the best interest to move two items up on the agenda. Chair Mary Fertig asked if the Board members would be agreeable to that but if a deferral was to be requested than it could be heard.

Gerry Cooper suggested that the City Attorney be consulted on the order change rather than the City Manager. Chair Mary Fertig requested that the Board consider the request for deferral before proceeding because it is a verbal request that had not been submitted as of Monday.

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| 1. | <u>Premier Developers III Associates/Aquatania</u> | Don Morris | 30-R-04 |
| | Request:** Site Plan Level IV Approval/IOA Birch Ocean Front Subdivision, Block 7, Lots 4, 5 and 6 P.B. 19, P. 26 | | |
| | Location: 545 Bayshore Drive | | |

DEFERRED FROM AUGUST 18, 2004 REGULAR MEETING

Aquatania representative 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.

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, stated that the reason for the verbal request was because this project has been in the application process, it has received a great deal of attention and a good amount of time has been spent meeting with the beach residents, City staff and with the City's informal design review team in coordination with Commissioner Hutchinson. He further indicated that they had met with District Commissioner and the elevation and skin of the building has evolved to address some of City staff's concerns, however they were not able to complete all the elevations and give City staff a chance to review the plans before tonight. In addition, they have been able to put under contract some additional land that changes the acreage and actually changes the site. City staff would not have the benefit of that review. Mr. Crush indicated that it would seem inefficient to review the existing plan tonight because with the recommendation to the Commission for the good of the city, the first question would likely be 'what did Planning and Zoning say' and you would not have had the opportunity to review the plan. All plans have been completed at this point so Aquatania was requesting one additional deferral in order to have the opportunity to take the plans to the proper individuals for review.

Chair Mary Fertig asked if this was the third deferral and Mr. Crush replied that it was. Ms. Fertig then stated that it had first come before the Board in July. Cortney Crush stated that putting in the additional land, negotiating with people and the sensitivities of people on the beach have made this something they are working very hard at and something they will continue to work on but are ready to bring to you plans the staff has not had the opportunity to review.

Chair Mary Fertig asked Chris Barton for comment. Chris Barton stated that because no additional plans or written requests although there have been additional discussions and negotiations we are prepared to go forward with the July submittal. However, in light of the information just received, if the Board wishes to defer, Staff would recommend that you defer for no less than 2 months until the January meeting to allow time for Staff to review the new plans.

Edward Curtis stated that he sees neighbors that have been here 3 times and thinks it unfair for Aquatania to come in at the last minute and 'say we don't give you anything in writing, we don't give you the chance to take it off the agenda and notify the neighbors and we are going to submit new plans tomorrow'. Edward Curtis would not be able to vote for a deferral. Courtney Crush then stated that in fact the new plans had been submitted twice to the Central Beach Alliance to get their reaction and they have been working with the neighbors. They did not want to come back to staff with something that was still in progress.

Gerry Cooper stated that they had a set of plans from July that were the last update from Aquatania. Mr. Crush indicated that he had informed Steve Glassman, President of the Central Beach Alliance when finally these were the plans they wanted to go with as well as the property owners wanted to go with. Courtney Crush apologized for not keeping the Board updated. As of October the plans had changed that the Board.

MOTION: Gerry Cooper made a motion to defer the item to the January meeting seconded by James McCulla.

Chair Mary Fertig commented that this is 3 times after reviewing the plans given to us in July, that it is fair notice to this Board to provide us with correct plans or provide notice of a request for deferral.

Courtney Crush responded that the contract on the additional piece of land was not finalized until the last week or 10 days. Chair Mary Fertig indicated that when she had met for the pre-agenda meeting we did not know that there was additional land under contract or new plans and express concern that coming in for the 3rd time having done the preliminary work. Mr. Crush indicated that he understood and it would not happen again.

Roll call showed: YEAS: Judith Hunt, James McCulla, Gerry Cooper and Alan Gabriel and NAYS: Randolph Powers, Edward Curtis, Charlotte Rodstrom and Mary Fertig. Motion failed 4-4.

Chair Mary Fertig then suggested that they begin with the City of Fort Lauderdale/New River Trading Post as Item 1.

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| 1. | <u>City of Fort Lauderdale/New River Trading Post</u> Request:** * Rezoning from H-1 to (RAC-AS) Acreage in 10-50-42 P.B. 152, P. 32 Location: 400 S.W. 2 Street | Chris Barton | 8-Z-04 |
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DEFERRED FROM OCTOBER 20, 2004 REGULAR MEETING

Chair Mary Fertig stated that the Applicant was the City of Fort Lauderdale and the requester. Ms. Fertig stated that this was quasi-judicial matter and asked the Assistant City Attorney Sharon Miller to explain the process. Ms. Miller explained that certain items on the agenda have double asterisks, which means they are quasi-judicial which the process they must follow is. This is similar to a court hearing that you may be familiar with but not with so much formality. Everyone that speaks on an item is sworn in and those persons can be cross-examined. Also all evidence that is submitted must go into the records, the boards and pictures etc. must be left or a facsimile there of. Each board member will let you know if they visited the site or had any ex-party communication outside of this hearing. This will be made a part of the record so everyone will know what that is about. Once all the facts are heard, the Board will determine whether or not the application meets the criteria of the Uniform Land Development Regulations.

Chair Mary Fertig then proceeded to ask the Board members to make disclosures starting with Mr. Curtis. Edward Curtis indicated that he had made a site visit and spoke with Robert Lochrie. Judy Hunt, James McCulla, Gerry Cooper also made site visits, Alan Gabriel spoke with Mr. Lochrie. Charlotte Rodstrom had spoken with Barbara Keith from the Stranahan House, Chris Eck, and Commissioner John Rodstrom.

Chair Mary Fertig asked Sharon Miller to swear in anyone wishing to speak on the matter and they were asked to state their name for the record.

Marc LaFerrier, Director, Planning and Zoning, stated that he had received a letter from Chris Eck, representing the Broward County Historical Commission requesting a deferral to the January meeting.

MOTION made by Charlotte Rodstrom and seconded by Edward Curtis to defer this item to the January 18, 2005 meeting.

James McCulla stated that he did not know why the Board was being requested to defer the item.

Gerry Cooper stated that the last he heard that a judge decided compliance with the ULDR and now County staff is requesting deferral so he does not understand it either.

Charlotte Rodstrom indicated that she believed the letter came from the vote that was taken last night at the City Commission meeting regarding the Stranahan House and the preservation of H-1 zoning areas in the City of Ft. Lauderdale. Ms. Rodstrom believed that this was one of the last parcels of H-1 that belonged to the old Stranahan subdivision from years ago. This, she believed, was why the letter came so late and was of importance. Charlotte Rodstrom then stated that she didn't believe that there was a rush or that there was a time certain with the development. She believed that the idea was to defer until after the holidays so that the Board would have time to discuss it further.

Chris Barton indicated that he had not seen the letter and suggested that they hear from Mr. Eck to see why he wished to defer.

Robert Lochrie indicated that he had read the letter and was dismayed that he had seen Mr. Eck at lunch earlier and nothing was said. Mr. Lochrie then stated that they had been working on the project for over 4 years, the project was awarded for over 2 years, have a lease with time certain that were signed and approved unanimously by the City Commission and contemplated exactly what was being done tonight. He added, "We have those lease obligations and would like to proceed". Robert Lochrie stated that approval from this Board was not the final decision but a recommendation to the City Commission who would make the final decision about the rezoning. Any concerns that should, can and will be addressed should be done so before the vote is taken. Mr. Lochrie further stated that this item had been discussed before the Historic Preservation Board of which Mr. Eck is a member. Mr. Eck's comments were made at that time and although we are getting this letter at the last minute it should be noted that Mr. Eck had requested we do an archeological study of the site that has been performed and submitted to the City. Mr. Lochrie felt that they were ready to proceed. He indicated that if this were a final vote or an actual vote on zoning by the City Commission perhaps there might be some place for deferral. Robert Lochrie indicated that he was in a unique position representing the tenant with a signed lease. The City Manager and Mayor are present representing the property owner as well.

Charlotte Rodstrom requested that the Board consider the deferral because there are not that many H-1 parcels left, there have been new discussion and a vote was taken by the City Commission last night that has impacted the Stranahan House. There has been talk about moving the building and if that were ever

an option, once the zoning has been changed it would be more difficult for the Stranahan House to hold on to the historic designation. Ms. Rodstrom was in favor of the deferral.

Judy Hunt wanted to make a quick note that she wanted to concur with Mr. Lochrie that this Board is an advisory board and that if there is any impact on the decision on the future of the Stranahan House, it could be handled at the City Commission level. Ms. Hunt suggested that the item should be heard.

Gerry Cooper asked if Mr. Eck was present and he was not.

Chair Mary Fertig requested roll call be taken.

Roll call showed: YEAS: Judith Hunt and Charlotte Rodstrom and NAYS: James McCulla, Gerry Cooper, Alan Gabriel, Randolph Powers, Edward Curtis, and Mary Fertig. Motion failed 2-6.

Robert Lochrie then appeared on behalf of the applicant New River Trading Post, LLC displayed a view of the property in question from the Riverwalk as it currently exists. Mr. Lochrie introduced Alan Hooper who is one of the partners in this project and has been responsible for redeveloping and restoring historical homes in Rio Vista neighborhoods. More recently, Mr. Hooper was responsible for restoring the Bryan homes, which are adjacent to this site, and is a co-owner of the Riverhouse Restaurant. He has also built, owns and assists in operating other properties in this direct area specifically along 2nd Street, the Himmarshee Restaurant and Tarpon Bend. Mr. Lockery also indicated that Mr. Hooper also developed the Avenue Lofts Project that is located in Flagler Heights north of Broward Boulevard and has recently received a State award for most creative redevelopment project for that project. Another partner in the project present is Tim Petrillo, the co-owner and operator of Tarpon Bend, Himmarshee Restaurants and Riverhouse Restaurants and in addition to the restaurants he operates in Ft. Lauderdale, he has taken these concepts and operates similar restaurants in Weston and Coral Gables. Mr. Lochrie indicated that another partner present was Kelly Jerome along with his family owns the 15th Street Fisheries and Lauderdale Marina. His family is a pioneer in Fort Lauderdale and his grandfather; Former Mayor Bob Cox is the impetus behind the Maritime Museum that is an integral part of this project. He operates a similar maritime museum in New York and will be the founding father of the Maritime Museum that will be part of this project. Steve Halmos couldn't be at this meeting but operates several businesses in the Ft. Lauderdale area. Also noteworthy, Mr. Halmos has been the person that has redeveloped and restored both the McCrory's Building on Andrews Avenue and historic Bryan Office Building on Brickell Avenue.

Robert Lochrie spoke to the history of the property and elaborated on views of the project from Riverwalk and Esplanade Park. The property has served many purposes from a post office originally to an A&P grocery store, then back to a post office. For the last 8 years it has remained vacant. At one time, it was the proposed site of the New World Aquarium and in fact the City and County approved a plat for the area which would have been a much more significant commercial development and aquarium that what is being proposed in this project. The City began again to look at this project in 1998. It took several years for any development projects to come along. In February 2001, the City Commission asked staff to develop and release an RFP for the post office. The City Commission considered proposals including this proposal in December 2001 and decided to go forward with a full RFP for the post office site. After many proposals were submitted, there were several public hearings, this being the 15th time it has been on an agenda for one City Board or another. There have been a number of press releases through the process. In September 2002, the City decided to move forward with the two proposals, of which one is before the Board this evening. The City voted to move forward with the New River Trading Post proposal in October 2002. It has taken about 2 years to get to this point; the negotiation of the lease took several months and was approved unanimously by the City Commission in the summer of 2003 and signed in December 2003. It has been going through the DRC and Property & Right-of-Way process and are here

tonight with the actual rezoning. One of the questions is why is this property being rezoned? One reason identified for a number of the projects is that the H-1 zoning district which is not only applicable to the surrounding properties here but also several properties in Sailboat Bend and elsewhere is extremely restrictive and would actually create a non-conforming use situation for many of the existing historic buildings. In order to build a new facility at this location, the property has to be rezoned. The maximum height in the zoning district is 30 feet and the maximum building length is 100 feet long. This building has components of it that exceed both these measurements, so the City staff in conjunction with the City Attorney's office identified that this would be a prime application to rezone this small portion of the property to RAC-AS (Regional Activity Center-Arts and Science). The underlying land use of this property is a regional activity center. The Arts and Science aspect is the Museum of Discovery and Science catty-cornered across the street, the Performing Arts Center and Esplanade Park adjacent to this property.

Robert Lochrie stated that preserving the existing building on the site was contemplated and there were some proposals submitted for active reuses of the building. Those reuses did not make sense, one of which is the parking lot that is located on 2nd Street. This would become a void between the Esplanade Park, the Performing Arts Center, and the more active uses further down the street. One of the components that the neighborhood and the City Commission identified as important is a retail store front edge directly on 2nd Street rather than a large parking lot separating retail uses from the street. Significant sidewalk improvement will be incorporated on 2nd Street and on 4th along Esplanade Park as well as significant enhancements to the Riverwalk area. Mr. Lochrie indicated that he had the notes of the Riverwalk Design Committee that reviewed and endorsed the project and handed them in for the record. The Committee motioned in support of the project.

Robert Lochrie then stated the essential components of the project to include a Maritime Museum, located on the Riverwalk, providing a new very active use for this portion of the Riverwalk, connecting Esplanade Park in the direction to the west with the Riverhouse Restaurants, crossing over the railroad tracks to the rest of the Riverwalk. This is possibly the more problematic area of Riverwalk because it is narrow and there is a massive parking lot to the back of the building that is currently their today. The intent with the Maritime Museum is to have large sliding glass doors that front out onto the Riverwalk and to have opportunities for educational/academic experiences in this area along with the Jazz Festivals and other events that could be provided along the steps of the Maritime Museum. Along Esplanade Park, live-work units are being proposed with offices below, residential units above, turning the corner, retail and restaurants along 2nd with offices above. Mr. Lochrie stated that at one point they were questioned as to whether offices would work in this area and the little known fact is that all the retail/restaurant units in this area do have offices that are well received.

Robert Lochrie stated that the zoning is consistent with the underlying land use and does allow these types of structures and uses. The historic district does not provide for these types of structures but permits residential units that are in a single-family townhouse development, not a mixed-use project such as this. The plan is to move along with this project pursuant with the requirements of the lease that requires this area to be rezoned as approved unanimously by the City Commission.

Chair Mary Fertig thanked Robert Lochrie and asked for a staff report.

Chris Barton, Planning and Zoning staff, stated that the City concurs with Mr. Lochrie's assessment of the proposed project. He stated that it was important to note that in the agenda, the item was stated as a Site Plan Review and Re-zoning when in fact this is only a request for re-zoning. The proposed plan stays outside of the New River Corridor of 60 feet and does not need to come before the Planning and Zoning Board for review so we are here just to consider the re-zoning. However, in this case the

proposal is part of a "Ground Lease Agreement" that the applicant has signed with the City so it is important to understand what the site would be limited to the proposed site plan.

Chris Barton also wished to correct the portion of the staff report that stated that there would be 10 live-work studios when there will only be 8. Staff concurs that New River Trading Post LLC requires either a change in H-1 zoning or a rezoning of the site in order to accommodate a new 2-story structure, where one of the proposed new buildings would exceed the 25' height limitation of ULDR Section 45-16.5(1)(a), and two (2) of the three (3) new buildings would exceed the limitation of building size restricted to 100' by any dimension of ULDR Section 47-16.5(1)(b). This is the recognized reason that this would have to come out of H-1 and in the discussions of City staff prior to coming to Planning and Zoning, it was deemed that RAC-AS is the most practical reason; otherwise this may be considered as spot zoning.

Chris Barton stated that should this request to rezone be approved, the development of the site is subject to that as described in the Ground Lease Agreement between the New River Trading Post Development LLC, the tenant Mr. Lochrie is representing, and the City. Staff determined that this proposal was reviewed by the DRC and all comments have been addressed. Staff finds that the criteria for rezoning have been met and recommend approval.

Chair Mary Fertig asked if there were any questions of the Board before she opened the Public Hearing. There being none, Chair Mary Fertig opened the Public Meeting and requested that anyone desiring to speak on the issue come to the podium.

John C Kleinedler, President of the Sailboat Bend Civic Association, stated that he was here to make a statement for the record on this particular case. At the November 15, 2004, Sailboat Bend Civic Association meeting, a resolution to oppose this project was passed. The primary thrust of this was what was to become of the old post office building on the site. Mr. Kleinedler noted that he understood Ms. Rodstrom to mention something about moving the building, which is apparently new information. He clarified with Ms. Rodstrom that she was not necessarily referring to the post office building but in keeping with the H-1 zoning which would allow for historic building to remain there as opposed to new buildings. He mentioned that there was other residents that needed to be sworn in that wished to speak on the issue and that he would also like to speak on the matter of parking. John Kleinedler stated that the overflow parking in the Himmarshee District has been invading the Sailboat Bend neighborhood for quite some time. He was aware that there was enough parking in the Himmarshee District area but it was not utilized for some reason. He did not think that this project seemed to address this desire for a resolution to the problem in the neighborhood.

George Gretsas introduced himself as City Manager and indicated that he appreciated the welcome from everyone. Mr. Gretsas read a brief statement:

The City Commission solicited proposals for redevelopment of this site over 3 years ago. This is a site that the City believed was in need of revitalization and redevelopment. As a result of that process, many projects were considered. The Commission preferred the New River Trading Post's proposal and approved the lease with this development team to move forward with this project. As a part of this project, the Commission recognized that the property would need to be rezoned to the RAC-AS zoning district and in fact signed a lease stating that the City would participate as a co-applicant in this request. The developers of this project are long time City residents and have successfully developed projects in the vicinity of this site. The City believes that their experience with the area and with similar projects will promote the project's success. The project incorporates improvements with the Riverwalk that will enhance the Riverwalk and provide a link between Esplanade Park and the Himmarshee Village Entertainment District. The projects active ground floor uses will encourage the public's use and enjoyment of the Riverwalk,

which is an important City goal. A crucial component of the project is the inclusion of the Maritime Museum; given the City's status as the Venice of America, this will be a wonderful addition to a neighborhood that already includes arts and entertainment venues including other museums. The live-work units component of the project will also contribute and enhance the neighborhood.

The City's goal with this project is to help revitalize the neighborhood in a manner that is consistent with its other uses with a modest project that adds to its appeal. The City Commission obviously believes this is the right project for the neighborhood and hopes you will as well.

George Gretsas stated that in observing the 2nd Street and Riverwalk area and in speaking with the City Commissioners, he had identified a variety of things that needs to be worked on as a City. Some of these are enforcement issues and quality of life issues in this area. Mr. Gretsas indicated that he is working on a plan to deal with these issues. This area needs some help and it is a work in progress. He believes this project is part of that effort to make this area as excellent as it can be. Mr. Gretsas indicated that he would not be there unless the City Commission wasn't unanimous in the support of this project. Mr. Gretsas wanted to make sure that he went on the record as supporting this and thanked the Board for their time.

Chair Mary Fertig asked for questions from the Board. There was none and she asked for the next speaker.

Chuck Willard introduced himself as a resident at 425 SW 14th Avenue. and a member of the board of the Sailboat Bend Civic Association. Mr. Willard indicated that he could not speak out against all the people that support this project and is not speaking against the project but would like to call attention to a couple of facts. First, this building does exist in historic Sailboat Bend. The border on the east is the railroad track and it appears that the people of Ft. Lauderdale have moved the border without the residents consent to 7th Avenue. Although the building doesn't lie in the historic overlay, the residents feel that it is a historic building. If the decay were peeled away, you would see that the building is a beautiful, artistic, historical structure. Mr. Willard stated that originally, as he understood it, the building was supposed to be 3 stories and if you looked at it as it was designed, it would be a magnificent part of the area in which this project is going to occupy. He wanted to ask the designers of the project if they had looked into incorporating the work of this architect into the project.

James Carras introduced himself as the President of the Himmarshee Village Association, the principal of Carras Community Investment, an urban development community economic development consulting firm, an office tenant in Himmarshee Village since 1995 and a professor of the urban planning program at FAU. Mr. Carras provided his brief resume to the Board to give context to some of his comments. He wanted to say emphatically that the Himmarshee Village Association, which is comprised of all the businesses, located on 2nd Street and 2nd and 3rd Avenues as well as all the cultural and non-profit institutions have voted unanimously in support of the project as outlined by Mr. Lochrie earlier.

Mr. Carras stated that this project has been under discussion for a number of years and has generated considerable concern on the reuse of the property. He indicated that from the perspective of the Association, this has been a most sensitive response to the multitude of needs within the area, the City's overall economic development as well as being complimentary to the historic nature of the district. James Carras stated that when he moved to the area in 1995, there were only 2 or 3 establishments operating. During that time, the first pioneers from a commercial point of view were Tim Petrillo and Alan Hooper. Today, they are still the model operators of businesses in the area and they have replicated their business model in other parts of the County and now into Miami-Dade County as well. Mr. Carras said that the membership of his organization is totally supportive of the venture they have put forward

including the development in the architectural design of this project. Mr. Carras indicated that they are also sensitive to the urban fabric and the buildings are complimentary to the area and uses and they pay close attention to the environment in which the projects are located. James Carras stated that in reference to a comment made earlier that Himmarshee Village was impacting Sailboat Bend, the Himmarshee Association has been very supportive of Sailboat Bend in the past and has worked closely on their annual historic events that have been held. Mr. Carras thought this was the first time he had heard that Himmarshee Village parking challenges had spilled over to Sailboat Bend. He would welcome any opportunity to meet with Sailboat Bend Association representatives to discuss the problem.

Mr. Carras stated that he would use this project as a "Poster Child" for any of his classes on urban development. This is a project that is extremely sensitive to the growth of downtown Ft. Lauderdale as an exciting place to live and visit and it should be approved and be allowed to move quickly because seven years have been spent waiting for this project to take place.

Chair Mary Fertig stated that she wanted to make sure that any speakers that had come in had been sworn in. Two additional speakers were then sworn in.

George Counts introduced himself as the President of the Marine Historical Society and one of the founding members of the Marine Museum Committee, one of the first to recommend this site as a Marine Museum. He recommended approval of this project because it would upgrade the Riverwalk area and provide another place for our tourists to go as well as our school children.

Don Wilkin introduced himself as a resident of Sailboat Bend and had a personal question as to what he would need to do to opt out of the historical district since it appeared to him that this was what was being considered this evening.

If there were no other speakers, Chair Mary Fertig asked Mr. Lochrie to make final comment.

Robert Lochrie then commented that in reference to the parking issue, the H-1 zoning and RAC-AS are parking exempt district so the rezoning does not in anyway affect parking. Mr. Lockery indicated that they are working with the DDA garage to utilize it during the day when it is rather empty.

Robert Lochrie indicated that he wanted to address the concerns regarding the Francis Abreu style. He indicated that the easiest thing would have been to come in with a project that copied the Francis Abreu style, throw on some Mediterranean style and go forward with that. This would not have been in keeping with the Francis Abreu style and would not have done it any justice. His style along with the material available at the time could not be copied. Michael Krutnic by this project was designed and the developers looked forward to the day when this would be looked at as a historical area because he had designed it.

Gerry Cooper asked if the lease had been executed and was told that it had. Mr. Lochrie stated that they had a 50-year lease with the City and this is what they have. They cannot change it or build something different. The developers are bound to the lease. Mr. Cooper asked if the lease was conditioned on rezoning. Robert Lochrie explained that as a condition of approval the building will be razed and this building will be built, the only way to do this is through the lease. Mr. Lochrie indicated that there was a time schedule attached to the lease, which had rezoning as one of those elements.

Chair Mary Fertig asked if there were any other questions before closing the Public Hearing. She then proceeded to close the hearing and asked the Board if there were any motions.

MOTION was made by Gerry Cooper and seconded by Edward Curtis that the request to rezone from H-1 to RAC-AS-Acreage in 10-50-42 P.B. 152, P. 32 at 400 S.W. 2 Street be approved.

Roll Call showed: YEAS: Alan Gabriel, Judy Hunt, Gerry Cooper, Randolph Powers, Edward Curtis and Mary Fertig. NAY: Charlotte Rodstrom. Motion carried 7-1.

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| 2. | <u>City of Fort Lauderdale</u> | Mark McDonnell | 11-T-04 |
| | Request:* | Amend ULDR Section 47-5.31, <i>Table of Dimensional Requirements for the RS-8 district</i> , 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 | |

DEFERRED FROM OCTOBER 20, 2004 REGULAR MEETING

Chair Mary Fertig asked Sharon Miller to explain the Local Planning Agency (LPA) items. Sharon Miller stated that the cases marked with one asterisk, the Planning and Zoning Board acts as the Local Planning Agency (LPA). By State law recommendation of approval will include a finding of consistency with the City's Comprehensive Plan and the criteria for rezoning (in the case of rezoning requests).

Mark McDonnell stated that this case was before the Board in October 2004, and was deferred to the November 17, 2004, meeting with the instruction to staff to send notice letters to 2 specific property owners by certified mail. Mr. McDonnell stated that this was done and the signed certified receipts have been received.

Gerry Cooper asked if the property owners had signed for the letters. Mr. McDonnell indicated that C Cruise signed the letter to Mr. Lumpkin and the other signature for the letter sent to Mr. Ferber was illegible.

John Aurelius, on behalf of Bermuda-Riviera Subdivision, stated that he had received a copy of the letters sent and made the representation that the letters had been received. Mr. Aurelius did not want to make an official statement that the property owners had no objection but because he did not have anything in writing but they had indicated they knew what was going on. The property owners were not present at this meeting.

John Aurelius proceeded to provide a summary of the history on the request. In 2002, Commissioner Kates took this before the City Commission that unanimously adopted zoning in progress. The Planning department made several requirements including sending surveys to the property owners by mail. Every home that was impacted received an original deed from Steve Colder/Jane Hunt and every deed had the 7.5" setback. Due to time and the Marketable Title Act, neither the City or Bermuda-Riviera Subdivision Cannot enforce the deed restrictions. The City has agreed to go back to the way this was without taking any rights from the property owners.

MOTION was made by James McCulla and seconded by Alan Gabriel to 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.

Roll call showed: YEAS: Alan Gabriel, Randolph Powers, Edward Curtis, James McCulla, Gerry Cooper and Mary Fertig and NAYS: Judith Hunt and Charlotte Rodstrom. Motion carried 6-2.

Chris Barton, Liaison to the Board and Principal Planner, stated that it has come to Staff's attention in the last 20 minutes that Item 5, while we have received the site affidavit from the applicant, it appears that someone in their office placed the signs at the wrong location. The signs have not been posted on this site and we will have to defer this item until the December 15, 2004, meeting.

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| 5. | <u>Bentley at Riverside Park, LLC</u> | Yvonne Redding | 10-R-04 |
| | Request:** | Site Plan Level III Approval/9 Cluster Units (RD-15), Riverside Addition to Fort Lauderdale, Block 5, Lots 10 through 18 P.B. 1, P. 13 | |
| | Location: | 623 S.W. 12 Avenue | |

MOTION made by Alan Gabriel and seconded by Gerry Cooper to defer until the December 15, 2004, meeting.

Charlotte Rodstrom stated that it was a hard street to find, she looked for the sign and no sign was posted.

Board unanimously approved.

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| 3. | <u>Premier Developers III Associates/Aquatania</u> | Don Morris | 30-R-04 |
| | Request:** | Site Plan Level IV Approval/IOA Birch Ocean Front Subdivision, Block 7, Lots 4, 5 and 6 P.B. 19, P. 26 | |
| | Location: | 545 Bayshore Drive | |

Chair Mary Fertig stated that this items, previously on the agenda as Item 1 would be heard as Item 3. She requested disclosures.

Judy Hunt stated she had visited the site. James McCulla stated that he had received a phone call that afternoon from Courtney Crush about the deferral.

Applicants wishing to speak on this item approached the podium, were sworn in and introduced themselves.

Continuing with disclosures Alan Gabriel and Edward Curtis stated they had spoken to Geri Manning-Udel and visited the site.

Charlotte Rodstrom stated she had received e-mail from Geri Manning-Udel, a phone call from Courtney Crush, visited the site, spoke with property owners, received items in the mail and spoke with City Commissioners as had been disclosed in previous meetings.

Gerry Cooper spoke to Dr. Manning, Gordon Deckelbaum and Courtney Crush, visited the site, had a question for Assistant City Attorney regarding a possible conflict and had been advised there was none.

Chair Mary Fertig stated she had visited the site, received numerous e-mails, spoke with Commissioners Teal and Hutchinson, Courtney Crush, spoke with property owners, and received postal mail.

Bradley Deckelbaum introduced himself as one of the principles of Premier Developers III Associates, the developer and property owner. He stated he would like to give a brief history of the project and that the application was first made in February 2004 and first scheduled to come before this Board in July 2004. During the time prior to the July 2004 meeting, his firm began substantive discussions with City Staff, City Commissioners, Neighborhood Associations and neighbors regarding the design elements of the building particularly the rooftop features and entryway. Commissioner Hutchinson had recommended that we meet with the downtown design review team informally and accept their suggestions and design changes. The firm met with them between July and September to redesign some aspects of the building and have brought them to the Central Beach Alliance and several neighbors of the building for comment. During this time, Premier Developers III Associates acquired an adjacent piece of property for expansion of the site and dedicate land to the City's public parks and green space.

Mr. Deckelbaum stated that Courtney Crush had spoken earlier requesting deferral in order for us to provide the revised plan with changes to the elevation and skin of the building. These plans have been had the opportunity to review the plans and update the staff recommendation. The changes address Staff's initial concerns and those of many of the neighbors.

James McCulla asked a point of order and voiced concern because the rule of this Board is that you cannot bring new items that Staff has not reviewed. You stated that you had a better plan. Is what you are showing now, the plan Staff has reviewed or the better plan? Mr. Deckelbaum stated that the smaller depiction is the site plan in Staff's report. The larger depiction is the result of the work completed since the report was written. This depiction has been reviewed by many members of City staff but was not referred to in the report before you now.

James McCulla asked Chris Barton if the small depiction is the one staff has reviewed in its report, however, Staff had not reviewed the larger one. Chris Barton stated that Staff is a large organization and a number of people have reviewed the larger depiction. The Design Review Committee consists of 9 disciplines and most of the members that would review plans have not seen this plan. A few members of the Planning staff may have had discussions and have seen this design. We did ask for something to be turned in for review in a timely manner so that it could be taken through DRC review and the applicant has failed to do that. Chris Burton stated that the plan you have before you is the review of the plan submitted in July. Therefore James McCulla stated that anything that staff has not reviewed or reported on should be removed or permission from the Board to provide a different presentation given in advance.

James McCulla's second question was that if votes were taken on the presentation reviewed by Staff, and the vote was not favorable, would the applicant be able to start over again and come back in another month or two. Chris Barton stated that the applicant would need to submit a new plan of a different building; perhaps the one they have been discussing with a few staff members sent the original plan was submitted in July. Another option would be for the Board to review the plan submitted in July and then defer to see what the applicant proposes.

Don Morris stated that this was a site plan level 4 that means your decision would be a recommendation that goes to the City Commission. This does not mean that you deny the application and they have to appeal.

James McCulla asked if the site plan that is being reviewed today is going to be changed to incorporate the newly acquired lot and the changes to the building. Courtney Crush indicated that they had not been

told they would need to go through the DRC process again with the revised elevation and were advised that if there were only changes to the skin and no changes to the building footprint but which were only to address staff's comments on façade and roof treatments so it was basically the same building and would continue forward. The question comes in that with the purchase of an additional parcel and that parcel is used for public purpose, and the discussions with Staff members have not been determinative, as to whether that constitutes a part of the site or how you actually treat that. We would certainly like that to be a consideration as we go forward through the process, whether Staff determines that is part of the site or site plan, Ms. Crush could not answer.

James McCulla asked if the Board would need to review a revised site plan whether this plan was approved or not. Ms. Crush indicated that was correct.

MOTION made by James McCulla to defer. Gerry Cooper stated that this motion had been made, seconded and failed and did not think it appropriate to redo the motion without new information. Chair Mary Fertig conferred with Sharon Miller, Assistant City Attorney that someone on the prevailing side must move to reconsider.

Chair Mary Fertig stated that when she had met to discuss the agenda, she was told that this project had been through the process and that the City was ready to move on the project. Chris Burton replied that the Planning staff was ready to go forward on the original plan. The applicant has not presented any new plan or revised plan different than was present in July although they have discussed a number of things with some members of Staff.

Courtney Crush stated that they had several discussions with residents but were not aware they needed to go back to DRC for a change in elevation. She reiterated that it is not a different plan but a different façade and the purchase of the adjacent parcel.

Judy Hunt stated that she was in attendance at many meetings where community compatibility are discussed and how we believe that every structure must be massaged, and people have to interact, people have to visit and we must revisit the shell and the plans etc. and hours and hours are doing that and an applicant comes that is doing that and we decide we don't like that process anymore and we should stop the process. If an applicant comes back 2 times, 3 times or 5 times asking for a deferral and we believe this is about community compatibility, then we should encourage the applicants to spend a vast amount of time with people and should be encouraging the applicants to spend more time with City Staff to make sure that projects that finally come to us have been through everything needed. Ms. Hunt stated she believed that by voting on this project without giving them that opportunity, we are denying them their rights. This would be setting a very dangerous precedent.

Charlotte Rodstrom stated that the deferral was based on the Staff's July recommendation, and Staff finds that the proposal fails to comply with the ULDR, and cites several sections of the ULDR including several different sections of the ULDR including urban compatibility, height, density, width, length, etc., and that none of those things have been changed in the new site plan, we must stick to the deferment and speak directly to the July site plan.

Chris Barton stated that what normally happens in a review process, is when someone applies to the staff level of the DRC at level two process, we review it and scrutinize it very carefully and go through a sign-off process where all members of the DRC who commented are satisfied that the plans they are reviewing meet the code standards and are ready to go forward. They sign off and let it go forward. Mr. Barton believed that in this case the plan had not been signed off in July but the applicant wished to go forward to the Planning and Zoning Board. We the Staff do not normally allow someone to go forward or make application to the Planning and Zoning Committee unless we believe it is ready to do so. In this

case, I believe the applicant chose not to do that. They came before the Board in July and for some reason, once the Staff report was written, the applicants changed their mind as to what they wanted to propose and entered into this series of deferrals and negotiations with some members of the staff. Mr. Burton stated that the proper thing would have been to withdraw their application to the Planning and Zoning Board but not their application for the project. They may go back to where they were in July with their DRC submittal and continue to work through the comments they received back in February and March, then bring forward to this Board the project they believe they are ready to bring forward. They have only brought forth the project from July that they wish to change.

Courtney Crush wished to clarify that if the applicant brings the plans tomorrow to the DRC with the comments changed from July, which the Board is not looking at, would that be the appropriate thing to do. Chris Burton replied that they need to withdraw their application, figure out what they wish to build, and resubmit.

Chair Mary Fertig apologized to the audience for the unusual situation where there is a split Board. This is not normal but they have an applicant appearing before the Board hearing that they are working with their neighbors, redrawing their plans, etc. Ms. Fertig stated her concern for fairness to the public similar to Ms. Hunt's process and concern for the applicant. Chair Mary Fertig indicated that you continuously make presentations, deferral requests and constantly place notification signs, the signs becoming part of the landscape, the neighbor's number dwindle and this has been done 3 times, Mr. Barton has given you a possible solution and the applicant is not prepared to address his suggestion.

Chair Mary Fertig stated she had very specific questions. She asked if the applicant expected a change to the request that the side yards are reduced to 40 and the rear yards be reduced to twenty. Ms. Crush stated they did not. Ms. Fertig asked if they anticipated a change to the request that the side yards be reduced to 10' for the amenity building. Courtney Crush clarified the request by saying that this request depended on how the Board would treat the additional open space as a park. Ms. Crush stated that this decision would then change the side yards.

Chair Mary Fertig stated that the applicant does not own the parcel and Courtney Crush replied that they had the right to purchase the property under their contract. Ms. Crush further stated that the setbacks were as requested on the original plans submitted with an additional 100 foot lot. Chair Mary Fertig asked if the requested side setbacks for the original building have been reduced 47.55% and asked has that changed. Ms. Crush stated they had not with the same caveat

Chair Mary Fertig asked if the height of 150' had changed. Courtney Crush stated that it had not. Ms. Fertig had other questions to determine if the Board needed a motion to reconsider. Chris Burton stated that the Staff's concerns were those just expressed by Ms. Fertig. Mr. Burton stated that the plans on file with the City are the ones submitted in July and any citizen that came into review the plans only saw those previously submitted. No one visiting the City to review plans had seen what the applicant wishes to submit. Mr. Deckelbaum responded that several people at this meeting, several from neighborhood groups and some members of City staff had seen the plan's he wished to submit.

Chris Barton indicated that while this may have been the case, this new plan was not on file with the City. Citizens have not been able to see the new plans because they are not there. Mr. Deckelbaum stated that he agreed this is why they had requested an additional deferral.

MOTION was made and seconded to rescind the motion approved earlier. Sharon Miller stated that this type of motion was in a class that may be renewed which means it doesn't have to go through the rescission or reconsideration process if enough business has gone on that makes it a new question. The Board could motion to defer to a time certain. Mr. McCulla stated there were members of the public here

to speak some of which had seen one plan, some had seen the second plan and perhaps some had seen something in between. He would not be sure what anyone would be commenting on. Mr. McCulla stated that the Board could debate that the applicant should have done one thing or another but even if the plan that was submitted in July were approved, that is not what they would want to build. Mr. McCulla strongly urged that should the vote to rescind be affirmative, he would then motion to defer.

Mr. Curtis stated that Mr. Barton may be correct that this is a notice issue and not a situation where the Board could allow the applicant to come at the last minute with new plans when we have half of the community here that has seen or relied on one plan or another. Mr. Curtis further stated that fairness starts with the right to know what is going to be voted on. Chris Barton had provided a solution either to withdraw the plan or have the Board vote on the plan submitted in July.

Sharon Miller stated that there may be confusion on the withdrawal. She elaborated that the suggestion is to withdraw the plan from Planning and Zoning. She stated that there are actually 2 applications required, one to the DRC and one to Planning and Zoning. She asked if the applicant would like to withdraw from Planning and Zoning. This would not be a withdrawal to start over but would allow them to go back to the DRC with the same application, the same application number etc.

Chris Barton stated that they need a set of plans that would be routed through the DRC Committee members, be reviewed and then be signed off with recommendation that the plan go to the Planning and Zoning Board when the applicant is sure what he wants to build and we have had an opportunity to review it and make a staff report on what the applicant plans to build. The Board could then see what you want to build and discuss it properly.

Chair Mary Fertig stated that she understood Mr. Barton to say he had allowed the item to be placed on the agenda in July even though it didn't have final sign offs. This allows the applicant to return to DRC to get the final sign offs and then come back to Planning and Zoning.

Courtney Crush stated that they would like to go back to DRC, get the proper signatures and return to this Board with the presentation of what they would like to build.

The motion and second to rescind the motion to defer was withdrawn. Chair Fertig then suggested the Board take a 5 minute break.

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| 4. | <u>Riverbend Corporate Park</u> | Angela Csinsi | 12-P-04 |
| | Request: Vacation of Right-of-Way (B-1) The R.E.B. Plat, P.B. 74, P. 43 | | |
| | Location: Portion of N.W. 2 Street South of N.W. 25 Avenue and North of N.W. 22 Avenue | | |

The Board reconvened at 8:15 p.m. with Item 4.

Robert Lochrie representing the applicant stated that this property was formerly owned by the City, subject to a developers agreement with the City executed in September 2002 and closed in December 2003. The applicant was now going through the process of site plan approval and had appeared in front of the City Commission the previous evening for a new plat of the property. As part of this process, this is a vacation of the right of way that previously existed. This was a residential development owned by the City with residential streets no longer in use. The new plat approved by the City Commission does not have a roadway crossing through there. The site plan for the property that has been through the DRC

review will be in front of this Board very shortly because it is a project technically located on the waterway. This project will have a new office and retail building with surrounding parking and with the roadways as outlined and designed by the City engineering staff for the project as a whole. The existing right of way which is no longer there in the form of a road, no longer serves any public purpose and is being replaced with a new plan asking for a vacation of the right of way so the can move forward with the County for a new plat and come before the Planning and Zoning board with a site in the coming months.

Staff report was provided by Angela Csinsi as a request to vacate the right of way located at NW Second Street located south of NW 25th Avenue and north of NW 22nd Avenue off of Broward Boulevard. This was part of a residential neighborhood that has since been demolished and is no longer in use but is actually fenced in as part of the construction site. Ms. Csinsi stated that this application had been reviewed by the DRC on June 8, 2004 and the Property Right of Way Committee on May 20, 2004. The applicant must demonstrate that the criteria found in ULDR Sec. 47-24.6 Vacations of Rights of Way have been met and Staff has determined that the criteria has been met and should the request be approved, recommends the following condition: All utilities that must be moved because of this request be done at the applicant's expense.

Mr. McCulla asked if the applicant owned all of the adjacent property to the roadway and wishes to vacate. Mr. Lockery replied that they did both north and south.

MOTION to approve was made and seconded to vacate of Right-of-Way (B-1) R.E.B. Plat, P.B. 74, P. 43 located as Portion of N.W. 2 Street South of N.W. 25 Avenue and North of N.W. 22 Avenue.

Roll call showed unanimous approval.

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| 6. | <u>All Saints Episcopal Church</u> | Angela Csinsi | 139-R-02 |
| | Request:** | Site Plan Level III Approval/Waterway Use Expansion to Existing Church (CF-H and RS-8) All Saints Episcopal Church Site, Tract A, P.B. 60, P. 24, together with Himmarshee Park, Lots 6, 7, 8, P. B. 1, P. 20 | |
| | Location: | 333 Tarpon Drive | |

Disclosures were stated as follows: Mr. Curtis – site visit; Ms. Rodstrum – site visit; Mr. McCulla – site visit and discussion with Mr. Lockery; Ms. Hunt site visit; Mr. Gabriel spoke with Mr. Lockery; Mr. Cooper – site visit and Chair Mary Fertig stated she had visited the site and was a member of the church which had previously been disclosed. Ms. Fertig further indicated she had no involvement with the church board and no part in planning the application. Mr. Barton stated he had spoken to the City Attorney and Ms. Fertig did not have to step down.

Robert Lockery representing the All Saint's Episcopal Church and stated that this was one of the oldest churches in Ft Lauderdale founded in 1912 and occupied this location since 1951. This location is in Cooley Hammock off of Las Olas along Tarpon Drive. The current facility occupies approximately 27,000 sq. ft. divided between several entities. The property is comprised of a large parking lot by the New River, the sanctuary centered on the property and the Parrish hall closer to Lao Olas, and a single-family structure used as a rectory located next to the new project developed by Ed Smoker and fronts Las Olas and includes townhouses and parking. The church faces several challenges with its existing facilities and potential code violations typical of older buildings built in the 1950s. The intent is to renovate the facility to consolidate several facilities in one location on the site. This would include removal of the

Parrish hall and administrative offices and consolidate these functions around the central sanctuary in a more aesthetical and functionally pleasing manner. In addition to increasing the landscaping and providing additional parking in the area along Las Olas and Tarpon Drive making access easier for those driving along Tarpon Drive and no longer necessitating parishioners coming to the church to drive through single-family residential neighborhoods to get to the facility itself. In addition the public gathering areas where the congregation enters and leaves the building will be enlarged and include a partially covered lanai area. The total net increase to the net building area is only 4,000 sq feet with approximately 7-8,000 sq. ft. satisfied by the new code for new circulation space, additional lobby space not required by the code, additional mechanical space, restroom space required by ADA, etc. The net build able space of 4,000 sq. ft. is less than required by the new code. The floor area ratio has changed very little as Staff report indicates and we continue to meet all code requirements exceeding the setback requirements from the New River where you would have a 20' setback we have a 170' setback. We are in excess of the landscaping requirements; we provide more parking that is required however not so much as to become a large parking lot. We are required to have 136 parking spaces and we provide 150. Renderings of the elevation of the building from across the street, the actual facility with sanctuary, Parrish hall and administrative offices shown as you enter the new facility were reviewed. This project has been going through the churches planning committee for about 3 years and meetings have been held with the Cooley Hammock neighborhood association and went before the Board of Adjustments last month and received two variances to exceed the 10,000 sq. ft. maximum square footage requirements for churches. One request of the Board of Adjustment we will provide is secured gates for the parking area when the church is not open. We have included a wall berm and landscaping adjacent to the parking area along Tarpon Drive so the at the properties across the canal are protected. We have added new additional trees and landscaping exceed the number of trees and landscaping currently on the site.

There are a number of trees and shrubs along the Himmarshee canal and fronting on the New River there are another 12 trees plus the existing trees. Along the other side of the canal they are relocating additional trees. Mr. Wilkins indicated that going down the river it would be better to see a tree lined edge of the property rather than a grassy area. Mr. Gabriel would like to get Mr. Wilkins to commit to the number of trees so he could be comfortable with what was going to be there so he doesn't have to object or raise any further questions. The site plan shows a very nice landscaped area along the Himmarshee waterfront area and that is what he is looking to see duplicated by the New River. If you can commit to that, Mr. Gabriel stated he would be satisfied. Mr. Wilkins stated the site plan shows 36 trees located along the edge of the Himmarshee and New River. Chair Mary Fertig stated that Mr. Gabriel was asking how many trees were along the New River specifically. Mr. Wilkins stated that there would be 20 trees along the New River. Mr. Lochrie stated that the plan was going beyond 30 trees but he had spoken to the church planning committee and understood what they wanted. The number of trees located along the Himmarshee canal is not what they wanted along the New River. The landscape and buffer along the Himmarshee is to block the view both ways but the concept along the New River although they are moving trees to that location is not to put a wall of landscaping there. The plan is to enable individuals leaving the church to be able to look out onto the water; to keep that area open space as it is today rather than just putting up a wall of trees so that even the people on the boats see just the landscaping without the open space. Had that been done, theoretically, they could have pushed the building other there as well. The concept was not to do that but leave that area open. Alan Gabriel stated his purpose was not to request a wall of trees or hedges but to elaborate on the site plan where there were no green areas. Mr. Gabriel asked what types of trees are planned there. Mr. Wilkins stated they would be large shade trees, a Mahogany, a number of Palms, Coconut Palms, some Buttonwoods, and a number of Royal Palms.

Edward Curtis asked if the Board was voting on the landscaping on sheet L2. Mr. Lockhrie affirmed and Chair Mary Fertig indicates this accurately portrays the relocated trees as was just put on the record.

Judy Hunt asked Staff if grass parking lots are permitted everywhere in the City and was advised by Chris Barton that only houses of worship have that option.

Chair Mary Fertig proceeded to open the public hearing.

Mark Sheridan introduced himself as the resident directly across the canal and stated he had a couple of concerns with the second story of the church. He thought the plans indicated classrooms along the second floor. He stated his home has a history known by church members with an elaborate pool photographed in the past. Mr. Sheridan stated he has lived there 7 months and has been approached by well-known risky magazine companies that would like to continue to do filming there. It is not Mr. Sheridan's desire to permit that however should he sell the home someone else may be tempted to do that and his concern is that if you have children in Bible study classes on the second floor looking right down there, that is a moral and ethical concern that a church members should be concerned about and aware of. Mr. Gabriel asked if the house was in a residential area and advised that it was illegal to have such ventures in a residential neighborhood.

Chair Mary Fertig asked Mr. Lockery if he would to respond to anyone or had anything else to say. The second story is being located further away from Mr. Sheridan's property than the existing second story with Bible study classes. Chair Mary Fertig proceeded to close the public hearing.

MOTION was made and seconded per Staff recommendations for the Site Plan Level III Approval/Waterway Use Expansion to Existing Church (CF-H and RS-8) All Saint's Episcopal Church Site, Tract A, P.B. 60, P. 24, together with Himmarshee Park, Lots 6, 7, 8, P. B. 1, P. 20be approved with Staff conditions.

Roll Call showed Board approved unanimously.

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| 7. | <u>John W. McGinnis/Bronwyn Batiste Plat</u> | Ella Parker | 3-P-04 |
| Request:** | Plat Approval (RM-15/CB) Portion of SE ¼ Acreage in 34-49-42 Portion of SW ¼ Acreage in 35-49-42 | | |
| Location: | 668 N.E. 14 Court | | |

Gerald Allen McLaughlin of McLaughlin Engineering on behalf of the applicant was sworn in as were those planning to speak.

Charlotte Rodstrom, Alan Gabriel and Chair Mary Fertig made disclosures of site visits.

Mr. McLaughlin stated that they were present for approval of a plat being prepared at NE 7th Avenue, which is Dixie Highway and NE 14th Court. He indicated that this is currently sectionalized land, we concur with Staff's comments and my client has agreed to pay the park impact fee prior to final sign off. Gerry McLaughlin agreed to answer questions from the Board.

Ella Parker stated that this was a request to plat 1.93 acres of land to allow 14 multi-family units and 21 townhouses or a total of 35 residential units located at 668 NE 14th Court. The corresponding site plan to the proposed plat will be forthcoming to the board. This plat was reviewed by the DRC on March 9, 2004, and all comments have been addressed. Sign offs were obtained from the City Surveyor and City Engineering Design Manager. The applicant will dedicate the necessary right of way and necessary easements. Staff recommends approval of the plat with the requirement that the applicant will be

required to pay a park impact fee of \$26,460 and that this impact fee must be paid prior to final sign off by the Planning and Zoning Board Chairman.

Chair Mary Fertig proceeded to open the public hearing, rebuttal and then proceeded to close the public hearing.

MOTION to approve was made by and seconded by for plat approval per Staff recommendation.

Roll call showed unanimous approval by the Board.

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| 8. | <u>DVNY Development, Inc./Park View Lofts</u> | Angela Csinsi | 3-ZR-04 |
| | Request:** * Site Plan Level III Approval/Rezoning from RM-15 to CB 90 Multi-family Units Acreage in 35-49-42 (CB & RM-15) | | |
| | Location: 1301 through 1325 N.E. 7 Avenue | | |

Disclosures included site visit by Dominic's wife, Mr. Lochrie, question of Assistant City Attorney Sharon Miller and his closest building is 150 feet away. The record reflects Mr. Cooper was cleared to vote by Ms. Miller.

Site visit

Spoke with Mr. Robert Lockery and Chair Mary Fertig visited the site.
Disclosed at lunch he had spoken with Mr. M. T. Chaney.

Robert Lochrie introduced himself as representing DVNY Development, Inc. He indicated that this was a parcel located on 13th Street just off of 7th Avenue known as Old Dixie Highway next to the Middle River Terrace Neighborhood Park; essentially it is an awkward L-shaped property that fronts on 13th Street and comes back behind. The request it to rezone to the City's CB zoning district, the allocation of commercial flex in order to do that and then the allocation of 90 residential units for a mixed use loft residential project. Mr. Lochrie provided a couple of different views as to how it sits on the site, a graphic of 13th Street to the south and Old Dixie to the north. The concept is to have active retail on the corner on 13th Street drawing up all the way to the park and then wrapping the corner to a public and private drive aisle entering into the site itself also providing for parking for the City park to the north. When they looked at the site, they did not want to have access in any other location besides the north end of the site because it breaks up the entrance and exit and breaks up the retail which was something the City and the neighborhood was very interested in preserving and also because it would break up the structural design of the project. The entrance at the north end of the site enters into a two-story garage and exiting out into a drive aisle or onto a one-way out on 13th Street. However, the Engineering Department pointed out that the City has a park with a similar entrance to its park on the south side of its property that goes to a small City parking lot that serves the park. The applicant then worked with the City Parks Department for a number of months and arrived at a solution that the parks and engineering departments are happy with which combines the park entrance and our project entrance into this street which makes sense keeping with the new urbanism concept of having streets dedicated to both retail and restaurant uses as well as city park uses and also provides the City with more parking available with this portion of that property than was previously located in the small parking space area. In addition, the project calls for re-landscaping the parking area turning it into additional green space.

Mr. Lochrie provided other renderings of the site and stated that the site steps back and steps forward at various different locations specifically along the retail area along Old Dixie. There are two stories all along the length of that and the building then steps back and goes to three, four, five, six stories and at the center of the building goes up to 8 stories. The CB zoning district allows structures up to 150 feet in height and the tallest structure is 84 feet and far in excess, almost triple, of VUA landscaping which is required to be at 1,300 sq. ft. for a project of this size and we have 4,800 sq. ft. The square footage of the units requires 400 sq. ft. minimum and we are at 762 sq. ft. to 1,200 sq. ft. The open space required is 13,500 sq. ft. and we exceed that with 16,649 sq. ft. Specific recommendations have been met including restaurant uses in the facility itself. It is for that reason that we are also asking for a parking reduction, which will complement the residential component with not only residents using the restaurants but surrounding, neighbors as well. The retail and restaurant areas will not be open or utilized at the same time. The types of restaurants that would probably go into this would probably be more active in the evening and the retail would be active during the day.

Staff report by Angela Csinsi indicated that this was a request for approval for a mixed-use project to include a 90 multi-family units and 8,435 sq. ft. of retail and restaurant uses with an allocation of commercial flexibility. A portion of the site is zoned RM15 and is proposed to be rezoned to CB Community Business. This project to be known as Parkview Lofts must meet the requirements of a number of sections of the ULDR including adequacy, neighborhood compatibility, mixed-use, rezoning, conditional use, parking reduction and flexibility requirements.

Ms. Csinsi further stated that the northeast section of the site is zoned RM15 and is proposed to be rezoned to CB the applicant is able to construct the building as a unified project without buffer yards between the commercial and residential boundaries. It also allows for an additional number of residential units to be built. In order to rezone from residential to commercial, an allocation of commercial flexibility is required. The project will also need flexibility units in order to construct residential units in an area with a commercial land use designation. The applicant has submitted narratives addressing the adequacy and neighborhood compatibility as well as conditional use, parking reduction and the flexibility requirements. The applicant states that the form and mass of the building have been designed to be sensitive to the one and two-story residential neighbors to the west. The building at the 15' setback from the property line is only two-stories. An additional 20' is the first residential floor. The entire building adheres to ULDR code 47-25.3.a.3.c where the building continues to step back at a one to one ratio. Finally, the applicant must demonstrate that the criteria for rezoning have been met that is:

1. The zoning district proposed is consistent with the City's comprehensive plan.
2. Substantial changes in the character of development in or near the area under consideration supports the proposed rezoning.
3. The character of the area is suitable for the uses permitted in the proposed zoning district and compatible with the surrounding districts and uses.

The applicant meets all the technical requirements of the ULDR. It is for the Board to decide whether or not the project is appropriate based both on location of where this project is being proposed and its relationship to its surroundings such as existing neighborhood character, existing properties, and its relationship both to the zoning district the project is in and the land use designation.

Edward Curtis asked Ms. Csinsi if he understood correctly that we believe this neighborhood is going to go to this type of use, is it what she meant when she said that this was substantially consistent with the neighborhood and is being encouraged? Ms. Csinsi replied that this was whether it was compatible with what exists and existing neighborhood character. Mr. Curtis then stated that if this is the case and we think there is going to be more of this type of development and we're going to allow a 65% parking reduction, what do we do with the next one coming in next door? Is there going to be another 17th Street

problem where we give the first one a 65% then the next one a 65% reduction etc. Ms. Csinsi couldn't answer the question so Mr. Curtis asked the applicant to address the issue.

Mr. Lochrie stated that the Board would not like to see every project ask for a parking reduction although in certain areas of the City there are no parking requirements and the market ends up providing parking for those spaces for those facilities. Mr. Lochrie indicated that they are starting to find a lot of the residential projects that have already been approved are actually over parked. Some of the issues that address this are there is on street parking, not available everywhere, we have a neighborhood that will support this which doesn't exist everywhere, and there is no precedent set by granting this parking reduction at this location. We are asking for this reduction at this location for the specific reason of getting restaurants as well as general retail. Once this is accomplished it will further the area.

Allan Tinter, President/Owner of Tinter Associates, Transportation Engineers, stated that because of the mixed-use nature of it there are a number of ways to look at the parking and code permits shared parking analysis to be used for this type of development. Sharing of parking occurs when you have different peaking characteristics meaning that residential peaks occur in the evening, restaurant peaks occur earlier but have a secondary peak in the evening, the retail peaks earlier in the afternoon. There is a certain reduction in the demand for parking that is created. A reduction in parking also occurs as approved by code based on alternate modes of transportation, everyone that comes to this area will not be coming by single-occupant vehicles rather some will be coming by bus, there are 3 bus lines that serve the area, some will be walking as this is an area that is very pedestrian friendly, and there is a combination of trips, people go to the retail facilities and also to the restaurant. As a result the demand for the individual uses based on code requirements over estimates the number of parking spaces that are required by about 22 parking spaces. We are asking for a reduction of 40 spaces, however, the code also allows that you can count in your supply, those parking spaces that are public parking spaces within 700' of the site which are available and unoccupied that can be used by the property. In conjunction with this development, 18 spaces will be striped on Dixie Highway and 6 additional spaces will be striped on 6th Avenue for a total of 24 spaces available on site and 22 fewer spaces required by the shared parking phenomenon, equate to the 40 space parking reduction requested. Furthermore there are 24 parking spaces constructed on site on the driveway entrance primarily to provide parking for the park located immediately north; 12 of which are to replace the 12 spaces that will be removed from the park itself while 12 are additional spaces not counted in the supply being provided. Mr. Tinter stated that they believe there are more than adequate spaces to meet the demands for the site.

Edward Curtis asked that within 700' of the site there are 24 street parking spaces and was advised that there will be when the project is finished. Mr. Curtis asked what happens to the next guy that comes along and comes to the Board and states he wants to use the 24 street parking spaces. Mr. Tinter stated that if they are using the spaces that are constructed on site within the right of way and the next applicant comes in, those spaces do not exist today so they are unoccupied. He would then have to do another study to see what spaces are available within 700', and another study to see what the occupancy rates are within those 24 parking spaces and if there were some available, he could come to the board and petition you to count them as part of his supply.

Mr. Curtis asked if the code was wrong when requiring 60 spaces for this project. Mr. Tinter indicated that the code is more wrong in the calculation of parking spaces for the residential portion of this development. You are requiring 1.75 parking spaces for one-bedroom and 2 parking spaces for a two-bedroom unit. He had done studies on at least 4 condominiums that showed the demand to be closer to 1.3 parking spaces per unit. They have looked at the recently published ITE material – a parking generation manual that calculates that this facility would require 10-12 fewer spaces than what your code requires. There may be other non-residential areas that the code requirements may be out of line with what is reality.

Edward Curtis stated that if the Board utilized Mr. Tinter's formula, they would still be 29 spaces short. Mr. Tinter agreed stating that would be correct if you did not count the 24 spaces onsite where the park is and the on street parking as well.

James McCulla asked if the Staff report states that the total parking spaces available should be 135, which assumes that, the project be totally self-parked on site. Mr. Tinter agreed if the sites were freestanding units, retail on one site, residential on another. It simply combines the requirement without a use of the shared use component that is prevalent in a mixed-use setting. Mr. McCulla stated that although code allows this, what it doesn't do is calculate it. It simply adds the uses together and says if you had 2, 3 or 4 buildings standing next to each other, added the necessary parking together, its 235 and it doesn't deal with the fact that some people are going to take the elevator to go to the restaurant.

Alan Gabriel stated that the double dipping on parking spaces concerns him when he sees a traffic study about parking, it says there are plenty of spaces but when you go there, they are not there when you need them. With respect to the on street spaces, Mr. Gabriel asked where are they going to be and how many will there be. Mr. Tinter indicated that along Old Dixie Highway there would be 8 parking spaces on the western curve line immediately adjacent to the property, 10 additional spaces on the west side of Dixie Highway north of the entrance to the park and the site and 6 on 6th Avenue on the back side of the park. Mr. Gabriel asked Mr. Tinter to point them out on the site plan. Mr. Gabriel asked if the assumption was that someone would walk through the park to the apartment building. The average tenant would probably not walk through the park at night to their residence. Mr. Tinter stated that the 24 spaces along the common driveway could be used and are not counted in the allocated available spaces. Mr. Gabriel also asked if the spaces put on Dixie Highway, west of the roadbed on additional asphalt, would be metered or un-metered. Mr. Tinter indicated that would be determined by the City and parking authority. Mr. Gabriel pointed out that most residents do not want to put money in a parking meter for their overnight parking. Mr. Gabriel asked if the parking spaces would be 24/7 spaces and was told they would.

Mr. Gabriel then addressed Robert Lochrie about his statement that some residential properties were over parked, and asked where they were? Mr. Lochrie stated that Sunrise Harbor has been mentioned frequently and specifically there are one or two parking levels that are empty. Mr. Lochrie editorialized that condominiums being build downtown, which are free market costing considerable money, do not have the parking the City would require.

Mr. Gabriel stated that it was not generally known if the residents of the condominiums downtown were flying in and out of the area, not requiring parking spaces. This factor was known as it pertained to this project. Mr. Gabriel disagreed with the premise that only 1.75 spaces would be required, that some of them would be shared and patrons may use the elevator. With respect to the shared spaces, Mr. Gabriel asked if there would be lease restrictions on the type of retail operation or type of restaurant with respect to the hours of operation to increase the time-share factor. Mr. Lochrie indicated that this was not there intent; they believed the people would find a place to park to use the restaurant or go somewhere else. The purpose of the parking reduction is for the restaurant as there are enough spaces for the project itself with retail space without a restaurant. Robert Lochrie indicated that this park is troubled in the evening and by putting this kind of use at this facility is somewhat risky, but there should be a drastic difference in the neighborhood.

Charlotte Rodstrom asked if lots 1, 2, 3, 4, 5, 6 and 7 were on NE 13th Street. She thought this project was going to be on the corner of NE 13th Street and 7th Avenue and it is not. Mr. Lochrie indicated that the rezoned portion is the portion next to the park but that the project itself was going to be on 13th Street.

Judy Hunt asked what the school mitigation was based on that you anticipated a total of 6 students for the elementary age and 2 high school students out of the 90-unit development. Mr. Lochrie stated they had a letter from the school board dated August 11, 2004, with the analysis that this will not have a negative impact on the schools. The rate was calculated by the County and School Board standard school generation rate this is quantified under the Broward County Land Development Code. This rate does not distinguish between neighborhoods because the schools generation calculation indicated that these units would not generate students. Mr. Lochrie further indicated that these types of units do not generally appeal to families but would be more suited to young couples, single people etc.

Mr. Gabriel clarified that Mr. Lochrie had a letter from the school board stating that there is not a need for voluntary mitigation. Mr. Lochrie agreed and indicated that they had gone to the school board and asked if mitigation was needed and the response was no, it was not needed.

Chair Mary Fertig opened the public hearing.

Mark Hartman introduced himself as Vice President of Middle River Terrace Neighborhood Association and was there to present a letter of full support from the neighborhood for the project that is being discussed. Mr. Hartman asked to read the letter into the record and is made a part of these minutes.

Gerry Cooper stated that he realized the \$25,000 was not an inducement to write the letter but he is always concerned when developers pay neighborhood associations and get recommendations. Mr. Cooper asked if the money was earmarked for anything special. Mr. Hartman stated the money was not payment for the letter but would like to see it used for the parking, upgrades to the park, perhaps a playground for the park. There has been a lot of discussions about the park because it is distressed, needs a lot of lighting, upgrades, landscaping etc. as well as programs and staffing. Mr. Hartman has worked closely with Mr. Thomburg, the Parks and Recreation Director to evaluate the park and the developer has been very supportive of some of the needs in the park.

Mr. Cooper stated that the developers had already stated they were going to light the park so the assumption is that this is not what the money would be used for. Mr. Hartman agreed that the lighting would be separate. Mr. Cooper thought there was mention of a meeting room available for the residents or the general public. Mr. Hartman was not aware of that fact. Mr. Cooper also inquired as to the reduced sale price of \$199,000 for some units and what the method would be to determine who would be able to purchase those units. Mr. Hartman was unable to speak to that process but the concern of the residents was to get some affordable housing into the neighborhood. Mr. Lochrie stated that the purpose was for affordable housing but would not impose any deed restrictions. With respect to a meeting room, Mr. Lochrie stated they had committed to one of the spaces to be open in the evening and would prefer it be a restaurant. Mr. Hartman stated the letter had referred to at least one enterprise in the project that would be open in the evening hours to provide public community gathering commerce in the 8,155 sq. ft. of community business space of the project.

Mr. Curtis asked for clarification on the \$25,000 as to who paid what to whom. Mr. Lochrie stated that the developer would pay to the neighborhood for improvements in the park, specifically intended to be for lighting. The developer would contribute playground equipment as well.

A 5-minute break was then taken for audio recording purposes.

Portia Williams, a resident at 539 NE 13th Ct, introduced herself as a rental resident in favor of the project because she is a single parent and the price range is comparable to what she could afford and the

probable positive changes to the park as well as amenities available on site. She believes this to be a positive change for the neighborhood.

Steve McKinney, a resident of less than a year at 1344 NE 4th, has been complaining about the neighborhood since day one. The park is terrible and although he is used to walking everywhere, this area needs desperate help in the form of life in the neighborhood, new people, new faces, etc. He would like to see amenities within walking distance as he hated driving to get a cup of coffee. He would like to raise a family in a more positive environment.

Charles Fishman, a business/homeowner in the area, stated that he thought this was a great project presented to the community that will affect it in a positive way. The concerns regarding the park would be addressed with the project being there and would enhance the area.

Harry Thomas Jones, a property owner in the neighborhood for 36 years, stated that this would uplift the area, is a positive improvement and is what the neighborhood needs. He responded that parking was readily available in his building and he would gladly provide it if needed.

Mr. Cooper stated that he had 2 issues of concern. One would be affordable housing as there is a tremendous need for it in Broward County and would like to see a standard imposed so that the property truly goes to individuals that need it. For the developer to give up making money on these units just for someone can enrich himself or herself doesn't benefit the neighborhood for affordable housing and doesn't benefit the developer. There are standards set for affordable housing in Broward County that is a percentage of median income. Mr. Lochrie stated that they would agree to work with staff to utilize the standards for people to pre-qualify for affordable housing. His second concern was when a promise was made to the neighborhood association for money and if that is going to be for lighting, don't deceive them and let them think they have some voice on how the money is spent. The intent is for the money to go to lighting and park improvements.

Judy Hunt's concern is that the neighbors would like to see some playground equipment in the park and asked if the applicant would accept this stipulation as part of the approval process. Mr. Lochrie agreed and indicated they would work with staff on a tot lot facility with playground equipment within the park.

Ms. Rodstrom asked if the developer was installing lighting in the park or paying up to \$25,000 for lighting in the park. Mr. Lochrie stated that they were in discussions they agreed to providing money to the neighborhood association for improvements such as lighting in the park. The developer's intent is to provide funding for lighting the park no matter who provides the lighting, the City or residents as well as other amenities. The developer would pay the total cost of the lighting. Ms. Rodstrom asked if the school board had been informed about the availability of the affordable housing and was told they were not. They will work with the school board to mitigate school impact if it should occur.

Randolph Powers asked if the park was a City park and if so why would the money go to the neighborhood association. Mr. Lochrie indicated that in other areas, donations have been given to neighborhood associations who have then used those monies as matching grants to get additional monies for the park and then contributed those monies to the City for the park or playground equipment. This was essentially where this was headed.

The public hearing was closed.

MOTION was made and seconded to approve per Staff recommendations and per commitment by the attorney for affordable housing and lighting and playground equipment.

Chris Barton made a point of clarification that Staff recommendation includes the four conditions listed at the end of the report as well as the condition to add playground level, condition to provide lighting for the park, and work with City or County staff to provide 10% of the units as affordable housing and the four recommendations regarding this parking. It was agreed that this was included as part of the motion.

Gerry Cooper stated that although this development is essential and needed by the neighborhood but thought it a bad route to follow reducing parking requirements and rely on street parking and for that reason he would not be able to support it.

Mr. McCulla stated that it was important to focus on the fact that 135 spaces are required by code which is a simple accumulation as if these were free standing uses and it does not deal with the alternate use of night time restaurant use versus day time store versus residents going down an elevator to the restaurant and this is where the shared parking formula has come from and been used for two decades. The calculation is used for mitigating circumstances when seeking a parking reduction but is not used when coming up with the original number.

Judy Hunt stated that almost unanimous approval has been given for parking reductions for schools and other locations but what was favorable about this project is that in the interest of community compatibility the developer was bowing to the wishes of the community. Ms. Hunt stated that if the developer was moving in the direction of providing community compatibility and working with the community to develop something they want and because the project is so needed in the community, she would support it.

Mr. Cooper asked if any spaces would be designated for any particular use. Stewart Robin, architect, stated that the way it was set up is the second floor of the garage would be designated one for each residence with the overflow would go into the remainder of the second floor. The first floor would have two major parking areas, one for residential, one for mixed-use commercial and overnight guests. During the day the commercial spaces would be used for the commercial components and in the evening it would be for the restaurant and overnight guests.

Mr. McCulla reviewed the gross floor space of the commercial units and restaurant area with Stewart Robin, architect that revealed the site met the required 60-space requirement.

Chris Barton clarified what was spoken as incorrect. The drawings before you indicate that the retail gross floor area is 3,000 sq. ft., which would require 20 spaces, and the restaurant gross floor area is 4,000 sq. ft and would require 40 spaces. They are required to provide 60 spaces for the retail and restaurant combined. The plan goes on to say they are only providing with public access 21 spaces in the first floor of the garage floor space so they are short 39 or 65%. At the same time they are providing 24 spaces for the park just across the driveway. The question remains if the restaurant and retail are successful and are busy and full, the logical place for people to go is into the park parking or into the 24 spaces on the street. Mr. McCulla added that would be assuming the retail and restaurant would be full at the same hours of the same day which is what shared parking calculates.

Mr. McCulla asked the applicant again, how many spaces in the parking lot are allocated to the restaurant and commercial use. Mr. Lochrie stated there were two different things going on here. For purposes of code section, we are meeting the residential code and providing fewer spaces than the code requires for commercial and restaurant. However, from a design standpoint we do not segregate between the residential spaces on the ground floor and the commercial and restaurant spaces on the ground floor. The ground floor has 60 spaces, which would serve the commercial and restaurant. Mr. Barton stated that if you do that you are not adequately parking the residents.

Mr. Curtis commented that he would like to hear the rest of Mr. Barton's statement. If we count these parking spaces as commercial, then they do not meet the residential requirements. Mr. Barton stated that was his point. If the 60 spaces are not designated in any way or are open for commercial and restaurant, are some of those 60 spaces being used to satisfy the residential requirement? Mr. Lochrie stated yes causing the request for a parking reduction. The point further states that since the residential cannot be reduced so the commercial restaurant requirement needs the parking reduction.

Mr. Barton then addressed Mr. Curtis' concern that when a parking reduction is granted, what keeps the next applicant from requesting a reduction and when is it double dipping, when does the next guy get to claim the same spaces. In the past, Staff has not kept up with parking reductions as they are granted in a certain area. We are developing a listing of all parking reductions that have been granted and this will be taken into account. Mr. McCulla asked if shared parking would be taken into consideration. Mr. Barton will make other applicants and parking engineers aware that parking reductions have occurred within that same 700' and they will have to take it in account when they are adding them into their numbers.

Chair Mary Fertig stated that the need to come up with some type of policy or amendment to govern the lack of parking and what is going to be done in the neighborhoods will be coming up in about a month. This is a wonderful project but are we going to have a business owner come down the line and neighbors stating they don't want that person to have a business in that neighborhood because there is not enough parking.

Roll Call showed: YEAS: Judith Hunt, Alan Gabriel, Gerry Cooper, James McCulla, Charlotte Rodstrom and Randolph Powers. NAYS: Edward Curtis and Mary Fertig. Motion carried 6-2.

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| 9. | <u>435 Bayshore, LLC</u> | Angela Csinsi | 91-R-03 |
| | Request:** | Parking Reduction (B-1) Portion of Block 6, Herzfeld's Addition to Lauderdale Harbors, P.B. 35, P. 22 | |
| | Location: | 1501 S.E. 17 Street | |

The Board made the following disclosures: Mr. Curtis stated he had made a site visit; Mr. Cooper visited the site and spoke to Mr. Lockery, and Chair Mary Fertig visited the site.

Robert Lochrie on behalf of the applicant indicated that this is a piece of property that is the old Arby's on 17th Street which is being redeveloped as a restaurant with several retail uses. The request is to add a small area to be used as an ice cream parlor and for that they are requesting a parking reduction.

Cathy Sweetapple, transportation consultant for the applicant, stated that there were several differences between the prior application and this one. A parking reduction is being requested in the amount of 5 spaces. According to code, 52 parking spaces are required and we have provided 47 spaces on site. A huge amount of pedestrian traffic is already on 17th Street that walks to and from the hotels from the office buildings, from the culinary school, from the art institute and the convention center. This parking reduction is authorized under section 47 20 of the code and meets the criteria where two or more users will visit the same location and share the same parking space. It also meets the standard where the peaking characteristics of the two uses occur at different times. Pedestrian counts have been done at lunchtime as well as dinnertime so that the amount of pedestrians could be documented. There are almost 200 pedestrians in a 30-minute timeframe during lunch walking east and west bound on 17th Street crossing to south port, visiting the Arby's and other retail establishments. A recommendation of

approval letter has been received from Staff, we have used ULI standards to document the reduction along with the pedestrian survey helped us achieve the reduction justification. This location has already received building permit approval as only retail. We are trying to add a coffee shop and ice cream parlor and for that they needed the parking reduction.

Ms. Sweetapple indicated that they had not included 5 parking spaces adjacent to the site on SE 15th Avenue. This was not considered as part of their application. She also pointed out that today the Arby's site has 45 parking spaces on its site and we will have 47 parking spaces on site when this property is constructed. There will be a reduction in traffic impact going from fast food to specialty retail.

Chair Mary Fertig asked for Staff report provided by Angela Csinsi. Ms. Csinsi indicated that this is a parking reduction retail plaza proposed at 1501 S.E. 17 Street. This was reviewed at the April 13, 2004 DRC meeting and all comments have been addressed. The applicant has complied with the adequacy requirements and has satisfied the parking reduction criteria. Mr. Welch in the civil engineering office has review Ms. Sweetapple's analysis and recommends approval as well.

Chair Mary Fertig indicated that she is in the area frequently and she knows there is typically not enough parking in adjacent restaurants and where you are changing the use from fast food where today there is quite a bit of parking, you would be using that parking when you open your new business. In every direction, while you have done a pedestrian analysis and certainly there are a lot of people walking, would you agree that every parking place is taken in the neighboring centers at lunch and dinner times of day?

Ms. Sweetapple stated they had looked at the parking in the surrounding centers, she also looked at the accumulation over the intervals of time during the lunch and dinner hours as well as the pedestrian traffic, although they reached capacity, on the days she surveyed they did not exceed capacity but she did find the adjacent sites also reached capacity. Those sites were built with a prior version of the code and are adhering to stricter standards at this point. ULI has told them that the retail peaks at 1:00 pm and at 1:00 pm she would need 43 spaces, she is providing 47. The ULI tells them that any restaurant use would peak at 7 or 8 pm, requiring 49 spaces but with the pedestrian reduction has reduced that by another 3 spaces. If one of the retail businesses closes at 6 pm there is a different dynamic and ULI says she would only need 43 spaces. Not only did they look at what is happening on neighboring sites but also looked at hours of operation of the small retail tenants that occupy the shops. Frequently they do not have operating hours past 6:30 pm.

Mr. Gabriel asked Chris Barton about the particular uses, which is what the reduction is based on, the conditions do not address the uses nor any restrictions based on that, if the parking reduction was granted that it has a condition of use or is that something not to be worried about? Mr. Barton stated they were proposing to build about 6,000 sq. ft. of retail and about 2,000 sq. ft. of coffee/ice cream shop. Should that be changed, they would have to amend the site plan approval and the parking reduction.

Ms. Csinsi advised Mr. Gabriel that whenever Staff does a parking reduction order it would state the uses being proposed and if they changed the uses they would have to come back.

Mr. Cooper asked Ms. Sweetapple if when she stated that the parking lots reached capacity but did not exceed capacity. How would it be determined if they exceeded capacity? Ms. Sweetapple stated exceeding capacity would have occurred if people visiting the center were not able to find parking and would leave the center because of lack of spaces. Mr. Cooper stated that the ULDR is an enforcement nightmare. Mr. Lochrie stated they were not asking for a waiver of the code but are using the code designed to take this type of situation and make it flexible to meet the needs of the actual use.

Mr. Curtis stated he understood the compromise for the new pioneer coming into a village, spending his money and does the good deed of upgrading the neighborhood. This is certainly not the case, this is nothing new and you cannot park over there anywhere between 11:00 am and 2:00 pm. Parking is not available and therefore could not support a parking reduction.

Ms. Rodstrom asked where the 5 on street parking spaces were. Ms. Sweetapple stated they were adjacent to the Arby's on the east side of 15th Avenue.

Mr. McCulla asked if they had not counted the 5 spaces within 700' of the site but added them in, they would have the required 52 spaces and not need a parking reduction. He further stated that they have spent hours and hours encouraging this pedestrian friendly retail space concept and when presented with an expert who tells us that a portion of the patrons are going to be derived from pedestrian traffic, we are going to say that they do not know what they are talking about and say the applicant doesn't need the parking reduction which is available on the street. He found that fascinating.

Ms. Judy Hunt left the meeting and was not available for the vote.

MOTION was made and seconded to approve the parking reduction requested for Parking Reduction (B-1) Portion of Block 6, Herzfeld's Addition to Lauderdale Harbors, P.B. 35, P. 22

Roll call showed: YEAS: Alan Gabriel, James McCulla and Randolph Powers. NAYS: Gerry Cooper, Charlotte Rodstrom, Edward Curtis and Mary Fertig.

Motion failed 3-4.

- 10. **City of Fort Lauderdale, Parks and Recreation Department** **Angela Csinsi 27-P-04**
Request: Vacate a Portion of SW 2 Ct./RML-25
Location: SW 2 Ct., between SW 14 Ave. and SW 14 Way,
South of the North Fork of the New River

Kathy Connor, Parks and Recreation Department, stated that this project is unique in that we are asking to vacate an unimproved right of way to help consolidate some parcels to create a park. Ms. Connor provided a rendering of the site with explanation. Parcels have been acquired by Broward County including parcels, 10, 9, 8, 7, 6 and 5. The crosshatch parcels 1, 2, 3 and 4 are in the process of being acquired by Broward County from Mr. Wilkins. The City of Ft. Lauderdale already owns the other parcels. The streets in the middle include a proposal to do a cul-de-sac turnaround. There is also a water main in the area so a utility easement will be maintained. The area is also a conservation area so it will be fenced for conservation uses and open to the public during certain hours.

Angela Csinsi stated that this is a request to vacate a portion of SW 2 Ct between SW 14 Ave. and SW 14 Way. The plan was reviewed by the DRC and by the property and right of way committee and they recommended approval with some conditions. Staff has determined that criteria are met in section 47-24.6 should this request be approved, recommend the following conditions:

1. The entire vacated area be retained as a utility easement
2. All utilities that are required to be relocated be done so at the applicant's expense
3. The City dedicate a portion of the area to be a turnaround area
4. The City and/or the County acquire the remaining privately held land located in Block 4

5. The Wilkins who own property in Lot 1 Block 4 of Riverland Heights Plat Book 10 pg 3B dedicate a portion of their property in Block 4 as right of way for the turnaround area.

Mr. Cooper asked Ms. Connor the display with the crosshatches. Ms. Connor provided explanation as to the sites were owned by Mr. Wilkins and acknowledged that if this area were shut down, it would be a disadvantage to Mr. Wilkins. She further clarified the area owned by the City. Ms. Connor stated that Broward County owns Lots 8, 9, and 10 and will quit claim it to the City as part of the Land Preservation Bond. Mr. Cooper asked who the City could ask a private owner to donate part of his land. Ms. Connor stated that a condition to vacating the property would be contingent on the sale of the property to the City. Mr. Cooper asked if the request should come after the sale of Mr. Wilkins property is closed. Ms. Connor stated that Mr. Wilkins had sent a letter to Broward County conditioning the sale of his property on the City vacating SW 2nd Court. The City is conditioning the vacation of the property based on him selling and closing on the property.

Mr. McCulla clarified his understanding that the sale is conditioned upon the vacation of the land and the sale cannot take place unless the vacation is approved so if Mr. Wilkins and the County do not come to terms than the property remains a right of way. Ms. Connor stated that was correct.

Mr. Wilkins provided a colored site rendering and the history of the sale for a better understanding of the situation. As part of the agreement to sale this property to achieve more green space, a larger buffer is desirable. This would enable to the County to triple the size of the open space which is supported by the residents. His presence is to request that this vacation not take place unless these properties are purchased by the County.

Mr. Cooper clarified that this would not put pressure on Mr. Wilkins in the sale of the property and he replied that he had brought the condition as part of the agreement.

MOTION was made and seconded to approve the request to Vacate a Portion of SW 2 Ct./RML-25 SW 2 Ct., between SW 14 Ave. and SW 14 Way, South of the North Fork of the New River.

Roll call showed unanimous approval 7-0.

11. For the Good of the City

Chair Mary Fertig stated that at last month's meeting the suggestions for dealing with parking issues brought by homeowner's associations near the cigar store would be reviewed. Ms. Fertig suggested that Chris Barton provide the suggestions in the packet next month for review prior to the meeting so that an agreement could be submitted to the City for implementation.

One letter was in the packet and another was received that was lengthy and because of a short agenda there would be time to pursue discussion.

MOTION to adjourn was made, seconded and approved to adjourn the meeting at 10:57 p.m.

CHAIR:

Mary Fertig

ATTEST:

Debra Giehtbrock