

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

**WEDNESDAY, DECEMBER 15, 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	7	0
Mary C. Fertig	P	6	1
Alan Gabriel	P	6	1
James McCulla	P	5	2
Charlotte Rodstrom	P	7	0
Judith Hunt	P	6	1
Randolph Powers	A	5	2
Maria Freeman	P	6	1
Edward Curtis	P	6	1

Planning Staff: Chris Barton, Liaison to the Board and Principal Planner
Don Morris, Acting Zoning Administrator
Yvonne Redding, Planner I
Angela Csinsi, Planner II
Mike Ciesielski, Planner II
Tim Welch, Engineering Design Manager

Legal Counsel: Sharon Miller, Assistant City Attorney

Court Reporting Service: Debra Giehtbrock

Guests: Michael Miller Daniel A. Fee
Chris Novack Michael Sultsky
Frank Perez
David Marshall

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

Chair Mary Fertig called the meeting to order at approximately 6:30 p.m. Chair Mary Fertig introduced the Board members. Chris Barton then introduced City staff present. Chair Mary Fertig then explained the procedures that would be followed with regard to tonight's agenda.

Approval of October 20 and November 17, 2004 Meeting Minutes

Chris Barton stated that the November 17, 2004 minutes had not been perfected and would be submitted for approval at the next meeting.

MOTION to approve the minutes of the meeting held October 20, 2004 was made and seconded. Approval was unanimous.

Chris Barton announced that the change to the January meeting date made at the previous meeting should be changed again because the City Commission had rescheduled their meeting for the same time and location. Therefore it was necessary to reschedule the Planning and Zoning Board meeting to its regular time and location that would be January 19, 2005, at 6:30 p.m. in the first floor City Commission Chambers.

Gerry Cooper asked for a point of order on the matter because a motion had been made the previous month to move the meeting to Tuesday, January 18, 2005, and asked if the previous motion should be rescinded. Sharon Miller indicated that the proper procedure would be to make a motion to change the meeting from the scheduled Tuesday, January 18, 2005 to Wednesday, January 19, 2005.

MOTION was made Edward Curtis and seconded by Charlotte Rodstrom to change the next meeting to Wednesday, January 19, 2005. Roll Call showed: YEAS: Judith Hunt, James McCulla, Alan Gabriel, Edward Curtis, Charlotte Rodstrom, Maria Freeman and Mary Fertig. NAYS: Gerry Cooper. Motion carried 7-1.

Chair Mary Fertig stated that if anyone was at the meeting to represent an applicant they should be registered as a lobbyist with the City and asked Sharon Miller to explain this process.

Sharon Miller explained that the City of Fort Lauderdale had adopted a process known as Lobbyist Registration Ordinance. A lobbyist is anyone except someone representing them self personally or representing a non-for-profit or other entity without compensation. Lobby is defined as standing up in front of a group; City Staff, Board, City Commission to represent a corporation or another entity or person. Any lobbyist must submit an application by completing a registration form with the City Clerk swearing who they are representing and annually file any expenses incurred for that job.

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| 1. | <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 | | |

Chair Mary Fertig announced that this was a quasi-judicial hearing and asked Sharon Miller to explain the process.

Sharon Miller stated certain matters on the Planning and Zoning agenda are considered quasi-judicial that means the process or hearing of an application is somewhat like a court proceeding, people are sworn in, they can be cross-examined, evidence is given to the Board, the Board makes their decision based on that evidence and any outside communication or site visit that the board members have had that might influence their decision making must be announced tonight so anyone here for an application may hear about that. Any exhibits that are presented should be made part of the record and shall be left here or a facsimile of it. Anyone wishing to speak must be sworn in and should sign in for the record.

Chair Mary Fertig asked Board Members for disclosures. Maria Freeman and Judy Hunt each made site visits. James McCulla, Alan Gabriel and Gary Cooper had no disclosures. Charlotte Rodstrom visited

the site and received a letter from Riverwalk Park. Edward Curtis tried to find the site but was unsuccessful and Chair Mary Fertig visited the site.

Frank Perez, Perez and Associates Architects, representing Bentley at Riverside Park, LLC stated that the project was a 9-unit cluster home development on SW 12th Avenue. The concept is to build a 3-story 9-unit townhouse development around a central courtyard site. The design of the complex was planned with the homeowner's association and you should have a letter of full support in your package. All code requirements have been met with respect to landscaping and open space. He stated he had a rendering for the overhead projector and boards of the complex for review and a representative from the homeowners association was present for comment as well.

Charlotte Rodstrom disclosed that she had received a letter from Riverside Park.

Yvonne Redding made a Staff report reiterating the applicant's statement that this was a cluster development meeting all ULDR codes as it applies to the RD-15. It meets the density requirement, it doesn't exceed the height or setback requirements of the code and though it is not well represented in the neighborhood at this time, there is no dominant style in this neighborhood. It is an eclectic mix of density massive structures and landscaping. Ms. Redding hoped they had or would read the adequacy and neighborhood compatibility issues and would vote for this project.

Chair Mary Fertig proceeded to open the public hearing.

Dave Marshall, President of Riverside Park Residence Association, stated he had sent a letter of support for the developers. Mr. Marshall indicated the Association had met with the developers as a Board as well as the general membership multiple times and found them very accommodating. The developers had altered their design based on feedback from the neighborhood and on October 3, 2004, general meeting and based on the recommendation from their Board of Directors and their own opinions from seeing the presentation from the developer, their general membership voted unanimously to support the project. Mr. Marshall stated he would be happy to answer any questions and that he did live in the vicinity of the project.

Charlotte Rodstrom asked how close Mr. Marshall lived to the proposed development and how many members were present at the meeting when they took the vote. Mr. Marshall stated he lived within ¼ of a mile of the project and there were approximately 35 members at the meeting. Ms. Rodstrom also asked how many people belonged to the association. Mr. Marshall replied there were approximately 150 members that fluctuated throughout the year depending on when they remembered to send in their renewals. Charlotte Rodstrom asked if this was the first development to go up in the neighborhood on that street. Mr. Marshall, a resident of 8 years, stated that this was the first multi-unit in the area; that there had been single-family residences that had been torn down and rebuilt in that vicinity and there is a larger project underway in the western section of the neighborhood.

Gerry Cooper asked if the developer had offered any remuneration to the neighborhood association. Mr. Marshall stated they had offered to contribute for a neighborhood compatibility study which they felt appropriate since they were coming into the neighborhood and there would be a variety of issues coming up in particular the neighborhood is concerned about the preservation of tree canopy and expect to do a study that focuses on that. Mr. Cooper asked how much they had contributed and was told the developer had agreed to support as much as \$10,000 for the study, not in support of the Association, but directly for the study.

Alan Gabriel entertained the motion to close the public hearing in Chair Mary Fertig's momentary absence. All approved.

MOTION was made by Gerry Cooper and seconded by James McCulla to approve the site plan request.

Charlotte Rodstrom asked the architect if SW 7th Street on this plan ran all the way through because it looked as though it didn't. Frank Perez indicated that there was a utility easement that is part of the process of approval. A sewer line needs to be relocated and is being designed for implementation before the project is started.

Charlotte Rodstrom stated that the part showing on the blueprint was not SW 7th Street. Mr. Perez stated that when the vacated half goes to the developer with the other half going to the adjacent property the street would be opened as part of the development process. She then referenced the other drawing showing the elevation of 3 stories, are the 3 stories going to be facing the south side with the residences looking out at the 3 stories. Mr. Perez stated that was the case but there was a staggered setback of 22 feet required in the Code. Ms. Rodstrom expressed concern because she had seen similar things happen in Victoria Park and other neighborhoods and when she looked at the blueprint it didn't appear that it was staggered. Mr. Perez further stated that there would be a large 20' - 30' area of green space and a larger buffer there because of the vacated space.

Charlotte Rodstrom then stated for the record that she disagreed that the neighborhood has a very distinct character, an old South Florida style, with them being the first to come into the neighborhood maybe setting a precedent.

Chair Mary Fertig called the question.

Roll call showed: YEAS: Judith Hunt, James McCulla, Alan Gabriel, Edward Curtis, Maria Freeman, Gerry Cooper, and Mary Fertig. NAYS: Charlotte Rodstrom. Motion carried 7 – 1.

Chris Barton proceeded to announce that the applicant for item 4 was going to request a deferral because their signs were not properly posted and perhaps it could be dispensed with in case there was anyone in the audience waiting for that item.

MOTION was made by James McCulla and seconded by Judith Hunt to defer the item to the Wednesday, January 19, 2005 meeting. Gerry Cooper inquired as to the length of the meeting in January and Chris Barton stated that this would be the 8th item on the agenda.

Roll call showed unanimous approval to defer.

2.	<u>Bridgeview at Sailboat Bend/Conor McLoughlin</u>	Mike Ciesielski	16-P-04
	Request: Plat Approval/Waverly Place Block 102, Lots 1, 2 and a portion of Lot 3 P.B. 2, P. 19 Dade County Records		
	Location: 425 S.W. 11 Avenue		

Individuals wishing to speak were sworn in.

Dan Fee, CDI Engineering and Planning, representing the property owner Dr. McLaughlin applying for a plat to subdivide the property, a 6.55-acre parcel, located in Sailboat Bend into 3 single-family lots the smallest being 7,700 sq. ft. and the largest being 10,600 sq. ft. of the 3 lots. They have gone through

DRC review, had several DRC comments, complied with all of them, and worked everything out with the exception of one issue, the payment of the park impact fee requirement and staff's condition that it be paid prior to the DRC signoff on the final plat. Mr. Fee stated that once there is approval by the City Commission and final sign-off by DRC, they still have a substantial way to go in obtaining the County platting process, recording the plat, and that still doesn't represent the time of the actual impact to the development being created because it doesn't necessarily mean a building permit will be pulled anytime in the near future. Mr. Fee felt that a more appropriate time to assess the payment of the impact fee would be at the building permit. Mr. Fee stated he had several conversations with Planning staff and that Sharon Miller informed him tonight that it is more of a technical issue in the way the City Code is worded and offered a suggestion that the City could form an agreement that has been done in the past. The City would not be opposed to executing an agreement to defer the payment to the time of the building permit.

Michael Ciesielski presented staff report as a request to re-plat a parcel of land for the purpose of constructing 3 single-family dwelling units. An additional note has been placed on this plat that states that this site has been determined to be an archeologically significant area that it rests immediately next to the New River and because of that prior to any demolition construction or substantial ground disturbing activities the applicant must meet the adequacy requirements which may include an archeological survey. Mr. Ciesielski stated that regarding the applicant's concern regarding the \$2,520 is requested to be paid for this re-plat towards the parks and open space impact fee which is also an adequacy requirement. This re-plat was reviewed by the DRC and meets all those conditions and meets all the conditions from Planning and is consistent with the Broward County regulations for planning. Staff recommends approval of the plat request with the condition of the requirement that the applicant will pay a park impact fee of \$2,520 and that the applicant must pay this fee prior to final DRC sign off by City Engineering, City Surveyor, City Parks and Recreation Planner and the Planning Department. Mr. Ciesielski displayed photographs of the site.

Alan Gabriel asked Sharon Miller about the Park Impact Fee. She stated that it is required under the adequacy requirements and by Code once you receive your development permit you have to meet the adequacy requirements. After City Commission approves the plat and approves the development permit making sure all the conditions are met, we require that payment then. That, Sharon Miller believed, is what the Code provides. There have been different interpretations in the past and she has been in positions where, per agreement of the City Commission, the payment of the impact fee is deferred until the building permit because that is when the impact occurs. Ms. Miller stated that when it is collected now, the impact fee cannot be spent and must wait until the impacts occur and if for some reason the applicant voids his permit or does not go forward, it would have to be repaid.

Alan Gabriel confirmed that this is a Code requirement and the Planning and Zoning Board does not have the authority to modify it or revise it.

Chair Mary Fertig asked for any further comments or statements from the applicant. Mr. Fee stated he would be more than happy to work with staff to complete any form that has to be taken so that we can request deferring the payment of the fee so that it can be taken with the plat application to the City Commission.

Gerry Cooper suggested that as he understood it the Planning and Zoning Committee was not going to make any suggestions for an agreement, it's a part of the Code and if City Commission wants to do it they have the authority but the Board does not.

Sharon Miller stated that their objection was on the record.

MOTION made by Alan Gabriel and seconded by Gerry Cooper to approve per staff recommendations. Roll call showed: YEAS: Judith Hunt, James McCulla, Gerry Cooper, Alan Gabriel, Edward Curtis, Charlotte Rodstrom, Maria Freeman and Mary Fertig. NAYS: None. Motion carried unanimously.

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| 3. | <u>Broward County/Port Everglades Department</u> | Angela Csinsi | 90-R-01 |
| | Request:** | | |
| | DRI Amendment/Northport – Broward County Convention Center | | |
| | DRI Notice of Proposed Change (NOPC) to amend boundary line/ A portion of Parcel A, Port Everglades Plat No. 2, P.B. 108, P. 31 | | |
| | Location: | | |
| | 1950 Eisenhower Boulevard | | |

Chair Mary Fertig announced that this item was quasi-judicial and asked for disclosures to be followed by the swearing in of anyone who intended to speak.

Maria Freeman, Charlotte Rodstrom, James McCulla and Mary Fertig had none. Ms. Hunt stated she had been to the site. Alan Gabriel had been to the port. Edward Curtis had been to the site. Gerry Cooper had been to the port.

Michael Miller, a planning consultant representing Broward County as it related to the petition. He stated that the nature of the request is a small adjustment to the boundary of the North Port Broward County Convention Center DRI. This property was granted DRI status in 1989 and development has continued within the confines of the port area. The Convention Center is within the boundaries of the DRI as are Terminals 1 and 2 and the commercial building along 17th Street. The plan is to build a new parking garage south of the current DRI boundaries and a small portion of the garage would encroach into the boundary of the DRI. The choices are to go through a long process to amend the DRI to add structures and parking garages or to move the boundary up slightly to allow the garage to proceed in a timely manner. The primary purpose of the garage is to serve Terminal 4 however individuals from Terminals 1 and 2 could use the garage as well. The application submitted met the criteria that went to the DRC meeting and they have responded to concerns raised on traffic flows etc. that were raised; however this is an adjustment to a boundary.

Angela Csinsi stated that this was a request to amend the southern boundary of the existing North Port Broward County Convention Center Development of Regional Impact. In order to relocate out of the site the proposed 1,600 pace parking garage for Port Everglades. The DRI site will be reduced in size by 1.10 acres by adjusting the southern boundary northward approximately 75’.

Ms. Csinsi advised that the applicant has demonstrated that this change will not create a substantial deviation in accordance with Florida Statute Chap. 380.06 subsection 19e 2i. The Planning and Zoning Board sitting as the local planning agency must determine if this application meets the criteria and recommend approval or denial to the City Commission.

Charlotte Rodstrom asked if there would be any compensation for the 12, 540 sq. ft. of land. Chris Novac, Broward County, stated that the land referenced was owned and operated by Broward County, both the DRI site and the area vacated.

Chair Mary Fertig proceeded to open the public hearing. There were none. She then asked for final comments. The public hearing was closed.

MOTION was made by Alan Gabriel and seconded by Judy Hunt to approve this matter.

Roll call showed: YEAS: Judith Hunt, James McCulla, Gerry Cooper, Alan Gabriel, Edward Curtis, Charlotte Rodstrom, Maria Freeman and Mary Fertig. NAYS: None. Motion carried unanimously.

- 4. D. Dettman Rev. Trust and Andrews Ave. Properties**
North Broward Hospital District Medical Office Building Jimmy Koeth **66-R-02**
67-R-02

Request:** Site Plan/Parking Reduction Approval
Extension Parcel 1: Croissant Park, Lots 11
and 12, Block 35, PB 4, P 28; Parcel 2:
Re-subdivision of Block 38, all of Lots 1-8,
and all of Lots 25-30, PB 52, P 8; Parcel 4:
Croissant Park, Lots 13-18, Block 35, PB 4,
P 28 of the public records of Broward County
Location: 1523 South Andrews Avenue

DEFERRED TO THE JANUARY 19, 2005 MEETING

- 5. For the Good of the City**
Parking Reductions and their Cumulative Effects

Chris Barton presented information as requested by the Board and acknowledged that when a parking reduction or a series of them occur in a given area and as an area thrives, comes back and has success the granting of a parking reduction has to take into account on a case by case basis the overall parking requirements of a given area. In the review of a given parking reduction, the study that is provided by the applicant and the review that is done by the Cities' Engineering or Parking consultants in theory take into account the fact of what the parking count is at this point in time because that is when the study is done. It has been asked in the past "is staff aware of" and "the Boards want to be made aware of" previous or existing parking reductions in a given area.

Mr. Barton stated they do have a list, and have at times kept a list of all known or enforced parking reductions. We are working to update that list and when we do review a reduction request at the DRC level, known reductions are pointed out and we do pass that information on to their engineering or parking consultants as they develop their methodology and do their analysis on a given case.

Chris Barton indicated he knew the Board did want to talk about what else might need to be changed, any proposed Code amendments and further discussions as to how we can keep up with and track the level of parking reductions that have been given in a certain area.

Edward Curtis asked how they prevented the problem they have on Las Olas and 17th Street when we know businesses are over and over again using the existing on-street parking to justify a parking reduction and how do we know, if we can do that statistically, how do we know that we are fair to all of the applicants not just the first applicant to allow the parking reduction. Mr. Curtis asked how did they get there and if it took a Code change than he thought they should address that.

Chris Barton stated they could possibly have a Code change or have Staff pass the information on to the applicants so they could incorporate that information into their thinking or analysis. Mr. Barton indicated that if an applicant along Las Olas comes seeking a reduction, and we are aware of several other reductions, or more importantly such as has happened along the 17th Street Corridor, and we know of situations where we have a lot of non-conforming situations, for instance older buildings that have been approved with less parking than the code would require today; we make the applicant aware of this. This is true along Oakland Park and Commercial Boulevard and other areas of the City where business were built when there wasn't a parking requirement or much less of a requirement. That has as great an impact as any reductions that may have been given. How we convey this information on to their parking analysis/traffic engineers needs to be considered in the DRC level before it comes to this Board. Mr. Barton indicated that whether or not the code needs to be changed to put in some specific limitation to how much or whether or not specific public spaces can be counted over and over for several individuals that may be counting the same spaces to justify their reduction is open to discussion. He indicated that this would be an extremely difficult thing to track because each business is located at a different location and we go out 700' from that location and as you move down the street that radius changes.

Edward Curtis stated that as he understood if the applicant was not entitled to a parking reduction but it is a discretionary action on the part of the Board or City Commission. Mr. Barton agreed as stated based on the criteria in 47.20.3, provided in your package. Mr. Curtis stated that they could prevent all the problems if the Code were strictly enforced.

Sharon Miller asked if they are recommending that they revoke the right to apply for parking reduction which property owners have the right to apply for and to receive if they meet the criteria. She stated we could revoke that right but right now it is a development permit that a person can apply for and as you have done recently, they can be denied because the criteria are not met and the City Commission can also deny those parking reductions.

Edward Curtis stated that Mr. McCulla had raised an important issue with a big development where Mr. Barton stated that we needed to reward the entrepreneur that goes out into the new area and spends his dollar and the parking code was not interpreted for that type of use. Mr. Curtis asked if Mr. McCulla was correct and we should be reviewing whether or not this needs to be looked at all over again or do we have something that is just the matter of an interpretation of what we have. If we strictly enforce the code we do not have to worry about the fact that they have extra parking within 700' that has been used before.

Chris Barton stated that the comment about a pioneer that comes into an area for the first time to seek to redevelop an area that is in need of redevelopment, the rewarding of that is inherent in the process. If you have an area that is not as active as it could be that is in need of reinvestment and redevelopment and some sort of stimulus, the public parking that exists in the area and the need for the reduction or the need for parking in general in the area, is already there. The surplus or the availability of public parking is usually present and that parking is not being utilized anywhere near its full capacity. As the area is successful, a year or two later when the next applicant asks for a reduction and bases the request upon the use rates of those existing public spaces, those spaces would at that time be more heavily used. On a case-by-case basis, it's inherent in the process and the availability of public parking decreases as an area redevelops.

Edward Curtis then stated that this applies a different standard to each developer. Mr. Barton agreed that was the case unless two developers were to come in at the same time next door to each other. Mr. Curtis thought that to be an inherent unfairness, that we are judging the applicants on the basis of whether we like it or not as opposed to some standard. Mr. Barton suggested that it does not apply a

different standard to a different developer; it applies the same standard to two different developers at two different points in time in two different situations.

Edward Curtis stated that the Committee has to do one of two things either strictly enforce the Code and not allow an application for reduction or allow the pioneer to use the public parking, the second applicant a little less and perhaps the third none at all. Mr. Barton stated that this is what their parking engineer or planner preparing the report analyses; what are the utilization rights of that public parking at that point in time. The City's consultants either agree or disagree. If the utilization rights in 1990 are 15%, yes, maybe they should get the parking reduction but in the year 2000 those same spaces for the person next door that wants to utilize those same spaces that are now being utilized at a 50 or 60% rate may not be able to do so. It is the amount of the capacity that exists within that 700' at a given point in time that is most important in each case. That is what this Board has to consider based upon what their traffic experts and our traffic experts agree to or disagree to.

Chair Mary Fertig then stated that she thought the proposals that came before them tonight came on a well-established area. She stated she had some concrete proposals in front of them if anyone would like to comment on those and notes on some that have been suggested at other meetings that we might not have.

Gerry Cooper stated that some of the points brought out that impressed him were that we should protect our neighborhoods and just because you can stick a few more cars in front of someone's house is not fair to count. Other discussion included did they have to be marked, did they have to be metered and the neighborhood spaces are really for the neighbors and if you have a couple of guests over. He did not like putting commercial property in the neighbor's space. Some people are very neat and clean and others are not. The Planning Department is well intentioned but their ability to track over a 10 or 15-year period what spaces on streets are used or not used is not 100% accurate. Most businesses regardless of what they tell us at some point they become successful or sell to someone who is successful. Mr. Cooper stated that he goes to very few places that are successful that he can find parking spaces. When he votes for a parking reduction, whether it is shared or whatever term is used, eventually it comes to hurt people when you see cars parked on the grass and cars parked in the neighborhood or in the mail slot so he agrees with Mr. Curtis on this issue. Basically, if you need to develop something, you need the parking spaces and perhaps the code is too easy on parking.

Maria Freeman stated that when Mr. McCabi came to the Board in September or October for a parking reduction there was a question as to whether the City would conduct a study on the maximum amount of parking that can be utilized in any particular area such as Las Olas Boulevard. She agreed with Mr. McCulla that you start to penalize entrepreneurs or businesses that come in an area that is still not quite developed. She recalls when she went to McCabi's on a Friday or Saturday night, she never had a problem finding parking. She understood the concerns of the residents as far as parking in the neighborhood but that becomes an enforcement issue. If you're not supposed to be in those spots in the evenings, then enforcement needs to be notified. No one seems to know how much parking these areas can actually handle. What is the maximum capacity and what is there right now? Is there a study being entertained by the City to answer these questions?

Chris Barton was not aware of any but the parking reduction process begins if the applicant uses criteria 5C; the one that uses available municipal or public parking within 700', which is one of 7 criteria, that they can base their request upon. At that time, their parking consultant makes that count, talks to the City Parking Manager, and finds out what the use rates are for metered spaces which are tracked. Parking observation is done and even with metered spaces, they have to look at the space for a period of time because Saturday night is different from Saturday morning or from Monday morning. James McCulla agreed that was usually in the report

Maria Freeman stated that was why she asked if there was a study to determine what the maximum capacity is for different corridors because they will still have the same question; how many times a space has been counted. It is possible that they may look at putting in a parking garage for some of the areas that are still being redeveloped.

Chair Mary Fertig stated she was keeping a list so that if they were going to make recommendations about actions that we would like to see followed up so they could put it in one motion.

Chris Barton stated the other question is how to stimulate redevelopment and reinvestment in parts of the City that need it such as along Sistrunk Boulevard or along Oakland or Commercial Boulevards where we have the older, smaller buildings on the older, smaller sites and there is not a lot of room left for parking without going into a major program of buying land to develop public parking. There are areas where there is a certain amount of deficiency and other problems areas such as Las Olas that have achieved a great success rate and they might have had more public parking on the lots behind but they may have reached a saturation point which is a different problem then trying to stimulate reinvestment on some of the streets where we would like to see reinvestment.

Charlotte Rodstrom asked if the suggestion of one of two things either strictly enforce the Code and not allow an application for reduction or allow the pioneer to use the public parking, the second applicant a little less and perhaps the third none at all. Mr. Barton stated that the Board always had the option to deny a request for reduction if it does not meet the criteria the applicant is basing their request on. Ms. Rodstrom asked if it could be changed to specify certain areas if we don't want to hear requests at all. Mr. Barton stated that if the Board wanted to stipulate that no further parking reductions could be requested in certain areas, they could be designated as overlays and that would require a code change.

Mr. Curtis asked Mr. Barton that if the applicant meets the requirement of a parking reduction statute we must give them the parking reduction. Mr. Barton stated not quite that if the Board determines that the applicant meets the requirements then you should give them the reduction. Mr. Curtis asked if this was totally up to this Boards or the City Commissions discretion. Sharon Miller stated that it was not, these are development permits that property owners are allowed to apply for and if they meet the criteria, no one can act arbitrarily to deny it if they meet the criteria.

Sharon Miller read the ordinance passed by the City Commission 4720.3 notwithstanding the off street parking requirements provided in this section 4720 a parking reduction may be approved in accordance with the provisions of this section. Legally we cannot act arbitrarily to deny someone who has met the criteria of this code without a code change.

Mr. Curtis asked if the opinion in the Aquatania case say that the may means that discretion lies with the Board or the City. Sharon Miller stated that was based on compatibility criteria whether it was met or not but again she had not studied the use of the word discretionary and the law generally regarding development permits that Boards and Commissions are not permitted to act arbitrarily and must follow the code.

Chair Mary Fertig stated they had not been arbitrary but would want to guard against that in the future by not passing any amendments to this that they need to do. Sharon Miller stated she would talk to the attorney that dealt with Aquatania.

Mr. Curtis stated that the fact that they are having that discussion, it means they have a problem with the code. He has always taken the road that if you have a rule you have exceptions to it. If there is a parking requirement, a parking reduction is an exception and they are interpreted differently. Exceptions are

strictly construed so it seems the use of the word may and the ruling on the Aquatania case, gives the discretion to the Commission that it is only a violation of the ULDR if the Commission does not approve.

Judith Hunt stated that one of the points missing was one heard from the community that borders Las Olas Boulevard and that was that when you go two streets in the parking in front of their house is free so therefore they park their cars in front of a house and there is no way to enforce that. The Citizen groups want some sort of a parking pass, a zone, where you need a pass to park in a residential area, which is what she hears time and time again and no one has done anything about it. There are parking passes for residents and guest passes they can purchase.

Alan Gabriel stated that parking is calculated based on the uses that are being placed on the property so the uses can change on a regular basis so when they do a study, the study is based upon the maximum use permitted on an area. When dealing with areas where there are business opportunities, we are pushing mixed-use areas everywhere. This restriction will not be successfully used because it is going to apply everywhere. The issue is not whether they want the businesses to thrive because if you take away the ability to park you take away the business opportunities that exist and risk the opportunity for business and businesses are going to stay vacant because they will not be able to be utilized because they will not be able to lease them for any purposes. This issue needs to be protected. The answer is to enforce the code as it is and pay attention to the code that particularly says in one of the criteria is that when you are approving a modification that you are to look to the required parking that is compatible and does not adversely impact the character and integrity of surrounding properties. This gives you the right to look at how the approval will affect the neighboring community. It allows you to make restrictions on that approval if you wish. Changing the code can be more problematic than enforcing the code as it exists.

Chair Mary Fertig stated that she does see the parking department enforcing the code and issuing citations. She summarized that they got to that point because a particular neighborhood association brought us a list of very specific suggestions that we asked to have brought back and we have heard some suggestions from the audience as well as proposing some our self. One was brought up quite frequently was increasing guest parking with respect to multi-family areas where you have one guest spot when there is the assumption that for every unit that exists, you may have one or two guests and that may be something to be considered. Also, some of the things that come before the board come in the summer and the situation is different from they way it would be found in September. Availability is also seasonal and we need to be cognizant of that when making these resolutions. Developing signage directing non-residential traffic to destinations and parking which may be easy to do and the Board just needs to find a way to do them. Identifying neighborhood routes and businesses that support alternative transportation.

Chair Mary Fertig summarized the suggestions given and other things that they are going to consider.

Alan Gabriel stated that the fact that they are having the discussion and acknowledging/recognizing that a potential problem exists is something that is going to help deal with the problem because when a matter comes before the Board and they do not have this collective thought about an issue then they don't realize individually that a problem exists. One person may have an issue but the rest may not focus to it. Discussing this now and going through it as they are makes everyone sensitive to the issue as a whole which will help address the problem generally and we might notice that reductions are more difficult to get.

Chair Mary Fertig stated that they had a number of neighborhoods come before them and if they don't want to be in a position to constantly have to say no to everything but maybe not solve the problem, some specific recommendations need to be made.

Judy Hunt suggested that perhaps we should approach this so that it is a series of steps and what she has heard from every single homeowners association that borders Las Olas is that they need some immediate relief. They need this as a top priority now in the winter season.

Gerry Cooper suggested that they make a motion for the following items to be included and take each item then vote on each item or did they just want to say, we as a Board have met and these are the items we discussed. Why is it necessary to get majority approval?

Chair Mary Fertig suggested they go through the list, and then if there is something someone really objected to, they should request it be removed.

1. Permits and parking passes – James McCulla stated he was very opposed to taking public parking on public streets into essentially private parking for the neighborhood. Las Olas Boulevard is a heavily traveled, tourist destination, restaurant, shopping Mecca and it was built that way many years ago. It was encouraged to expand, get busier and become more of a magnet that was successfully done. On street parking was created and metered and on street parking also exists 1-3 streets away. It is not right to take my right as a citizen of the United States or Broward County and say you can not park on a public street. It is saying that you are going to extend the private driveway of anyone that lives on those streets and if they don't want to live in that setting perhaps they should seek an alternative. Mr. McCulla stated he was opposed to speed humps on public streets. These streets were designed as thoroughfares as opposed to the secondary streets that have now turned the thoroughfares into difficult things to traverse.

Mr. Curtis stated that the balance becomes the right of the property owners to the peace and quiet of the property owners and their right to enjoyment of their personal property as opposed to the commercial rights of the business owner who has built his business without enough parking on Las Olas with the approval of Boards and City Commissions. We are imposing upon the rights of individual property owners and subsidizing businesses when we do so. The neighborhoods are not the same as when purchased 50 years ago and the businesses do not have the right to run their businesses at the expense of the public. Code says they are supposed to provide their own parking.

Chair Mary Fertig then took a straw vote on this item. James McCulla and Edward Curtis were opposed.

2. Study of parking on Las Olas Boulevard – Chair Mary Fertig stated that this was a good suggestion that the City does their own study to determine if there was a need for a parking garage. Alan Gabriel asked if there wasn't a lot approved in the past. Chris Barton stated that there was a request to vacate or use a stub end of a street that goes into the water. Straw vote showed 3 opposed; Alan Gabriel, Judith Hunt and Gerry Cooper. This suggestion will be forwarded on.
3. Moratorium on parking in neighborhood streets – Sharon Miller stated that was an overlay problem. Straw vote showed 4 opposed; Alan Gabriel, James McCulla, Judith Hunt and Edward Curtis. Suggestion failed.
4. Review parking requirements for future developments – (amended as discussed) Straw vote showed unanimous approval.
5. Directing traffic with signs for the most efficient use of travel routes. Straw vote showed unanimous approval.

6. Identify with signs locations for parking in commercial areas. Straw vote showed unanimous approval.
7. Increasing parking opportunities on the street (main thoroughfares). Straw vote showed unanimous approval.

Chair Mary Fertig polled Board members to forward the list of 7 items individually discussed to the City Commission for consideration. Approval was unanimous.

Neighborhood Compatibility

Gerry Cooper asked for a definition of neighborhood compatibility because he does not fully understand it or how it applies. Chris Barton stated they had handed out statements in the past, statements made by the Director that have detailed this information and that he again will pass this request for information on to the Director. Chair Mary Fertig suggested this could be on the agenda in February.

James McCulla suggested a workshop to handle this type of information as opposed to a late night agenda item because it is also an exposure issue for arbitrary adjudication.

Chris Barton stated he would discuss this with staff and provide additional information.

Hours of Operation for Construction Projects.

Chris Barton stated that at the end of the last meeting, Edward Curtis provided a letter he had received a copy of from Mr. Charles Copley to the City Manager complaining about a construction project that started at 4:15 a.m. Also included in the agenda packet was the section of the City Code 17.10 4A prohibiting or causing the operation of construction equipment limiting the operation to 7:00 a.m. and 8:00 p.m. It allows special permits to be granted by the City Manager for periods of up to 30 days based upon the necessity or in the interest of public health. Mr. Barton had spoken to the City Engineer and wasn't made aware of how often that may be done. There are strict reasons for providing this permit one of which is cutting into the street and if it is a busy roadway, sometimes the work has to be done at night. The hours of construction activity is already covered in the code.

Edward Curtis suggested the Board recommend to the Commission review the standard and procedure for which these permits are granted. Chris Barton said he would pass the suggestion to the City Engineer.

MOTION was made by Edward Curtis and seconded by Charlotte Rodstrom that the process be reviewed and a standard created for granting of these permits. Motion carried 6 – 2.

Gerry Cooper noted that Edward Curtis had a copy of the Aquatania decision and requested Sharon Miller to send a copy to the Board members.

MOTION was made by Edward Curtis and seconded by Gerry Cooper to adjourn the meeting at 8:05 p.m. All approved.

Chair Mary Fertig

Attested to by:

Debra Giebtrock
Recording Secretary