

**CITY OF FORT LAUDERDALE
 PLANNING AND ZONING BOARD
 WEDNESDAY, FEBRUARY 16, 2005
 City Hall
 City Commission Chambers
 100 North Andrews Avenue
 Fort Lauderdale, Florida 33301
 6:30 P.M.**

<u>Board Members</u>	<u>Attendance</u>	<u>Cumulative Attendance from 6/16/04</u>	
		(P)	(A)
Gerry Cooper	A	7	2
Mary C. Fertig	P	8	1
Alan Gabriel	P	8	1
James McCulla	P	7	2
Charlotte Rodstrom	P	9	0
Judith Hunt	P	8	1
Randolph Powers	P	7	2
Maria Freeman	P	8	1
Edward Curtis	P	7	2

Planning Staff: Chris Barton, Liaison to the Board and Principal Planner
 Michael Ciesielski , Planner II
 Ella Parker, Planner II
 Greg Brewton, Deputy Planning and Zoning Director

City Legal Advisor: Sharon Miller, Assistant City Attorney

Other City Staff Present: Tim Welch, Engineering Design Manager

Minutes Reporting Service: Debra Giehtbrock, Recording Secretary

Guests:

Nectoria Chakas
 Kevin Martin General Contractor
 Linda Brown
 Joe Barna, Architect
 Linda Strutt

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

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

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

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Chris Barton stated he had a personal note. He announced sadly that this would be his last meeting with the Board as Liaison. He is leaving the City and taking a position with the Engineering Firm of Kimley, Horn and Associates starting on March 15, 2005. He had enjoyed his time there and wished the City and the Board good luck. Mr. Barton said he would see them again hopefully within a few months from the other side.

Chair Mary Fertig stated thank Chris Barton for everything he had done she had really enjoyed working with him. They were going to be glad to see him back there.

1. **Bank of America, N.A./Bassett Furniture Store** Michael Ciesielski 145-R-04
Request: ** Parking Reduction
Retail Furniture Store (B-1)
Block S, Coral Ridge Country Club Subdivision,
Portion of Lots 15 and 16, P.B. 36, P. 30
Location: 3600 North Federal Highway

DEFERRED FROM THE JANUARY 19, 2005 MEETING

Ms. Nectoria Chakas, Attorney with Ruden McClosky stated she was there at the request of the applicant. They were requesting a deferral because they were trying to resolve some issues with the site plan and expect to have those results shortly.

Chair Mary Fertig stated this was their second deferral. Chair Mary Fertig asked if they expected to be at the next meeting or when did they want to be back on the agenda.

Ms. Chakas stated they would like to appear at the next meeting. They were expecting the results the next day.

Motion was made to defer case 145-R-04 to March 16, 2005 by Alan Gabriel and seconded by Judy Hunt. Approval was unanimous.

2. **JLC Developers** Mike Ciesielski 137-R-04
Request: ** Site Plan Level III Review
3 Cluster Homes (RD-15)
Alden's Subdivision, East one-half of Lot 12
and all of Lot 11, Block 1, Lots 1 and 2,

Block 62, P.B. 2, P. 26
Location: 414 S.W. 7 Street

Chair Mary Fertig asked if there were any disclosures and asked Sharon Miller to explain quasi-judicial proceedings.

Sharon Miller stated they would proceed in what was called a quasi-judicial manner because certain applications for development permits require that. What it means is that persons that will be giving testimony will be sworn in. They can be cross-examined and any document or item they want to put into the record will be held as an exhibit. This Board would disclose any contact, letter, communication information they have received on this application perhaps prior to this meeting so that it can become part of the record. Then the Board would review all the facts that were part of the record and make a decision whether the applicant met the criteria.

Mr. Ciesielski stated Joe Barna, the Architect, and would make the presentation and answer questions from the Board.

Chair Mary Fertig stated they were moving kind of fast so she would talk for just a minute while they were trying to get set up. She announced if they were speaking on behalf of an applicant and they had been paid to do so they should be registered with the City as a Lobbyist. She asked Sharon Miller to explain the policy on that.

Sharon Miller stated there was an ordinance the City Commission passed that said anyone who attempted to influence any City Official or City Staff or anybody else in the City with regard to an application or something they wanted to happen in the City, needed to go to the City Clerk and sign a registration form letting people know their name and address and who they were representing. This is in the case where you are being paid. If you are volunteering or you are with a Homeowners Association then this does not apply. If you violate this policy then you are subject to censorship or reprimand and they have been researching the difference.

Joe Barna stated he would like to introduce the project that was located on S.W. 7th Avenue. They were proposing a 3-unit cluster design; the exact address was 414 S.W. 7th Street in the City of Fort Lauderdale. When they laid out this particular unit they had 2 sites. The site in question had an existing pine tree and also 1 or 2 oak trees. So when they were designing the project they decided to design the clusters around those mature trees and use it to their advantage. In terms of the pine tree, they created a courtyard and barbecue, a shared amenity among the residents and organized the courtyard barbecue and 2 units around that particular tree. The other in terms of the oak tree is part of the entranceway for the cluster toward the rear of the property and is shared by the unit in the front of the property. There are two ways to access the cluster design.

Through the driveway where they organized the two-car garages and they faced the garages toward the side of the building rather than facing directly on the street. There are a lot of units that have the garages directly onto the street and aren't very attractive so they tried to do something different; more aesthetically pleasing. As a result they created two 4 courts. They define the entrance to one unit and the other entrance defines the unit in the back. The third one is adjacent to the courtyard with the shared amenities. Two of the three of the units have their own rear yard. One unit has a large

rear yard, one unit has a large rear yard and front yard and the front unit has a front courtyard which acts as both a front yard and side yard. The driveway access is wide enough in case they have additional people visiting they could do some parallel parking and that was requested by the Homeowners Association at a meeting that they had. They didn't like the fact that people parked on the swell because it cluttered up the neighborhood. They increased the width of the driveway to accommodate additional parking. In terms of the street on the front elevation they were facing the front street so layered the elevation.

Basically that would be a 2-story building in the front unit so on the street you only see a 2-story building. Toward the background you would see the 3-story or in the rear of the property there is a 3-story cluster that is actually closer to 4-story. Directly behind so it doesn't adversely affect any other residents in the rear of the property they defined the entrances in a little covered lanai and a little covered parking lot with a covered area in the front and another covered area in the entrance just to the rear. They used, in terms of material, barrel tile and they want to use mahogany outriggers to maintain a Mediterranean theme and through the use of balconies, patio doors, covered balconies and French doors toward the front they gave it a residential almost a Coral Gables flavor to the project. On the side or the rear elevation they have a series of covered terraces and roof terraces and lanai and created eyebrows that come across to define or break up the 3-story element. On the side elevation the garage doors are over the courtyard where we see the large 30 - 40 year old pine tree. Some balconies, the pergola and windows would break up that elevation. That elevation is in the front forecourt that is toward the front as you walk through and is where we notched the building to accommodate the exiting oak trees into the design. Back to the context plan, which outlines what surrounds the neighborhood. Directly contiguous is the on street elevation that is the cluster design we have created. Directly to the rear and the left-hand side there is a new cluster that is about 3.5 stories. It's not layered, basically from the ground it goes up about 45-50' and that created a large wall on the street. They layered that to the roof level and it's taller than what they were going to do. They are also about 2 doors off of 4th Avenue it's ROC zoning that is basically office use zoning. Adjacent to the right side there are single story homes across the street where there is a better example of what it looks like in the rear. They have the 3-story buildings there are other 3-story building and then they have the building that they are proposing in the back dotted in so the Board could see it in a much better scale. Across the street they also have a 2-story building directly across the street and to the left of the property is a 2-story with a 1.5 story addition. In the neighborhood there is a single-family combination of 3-story and a 3.5-story then a 1-story within several hundred feet of this particular cluster design. What they tried to do was create a design that fit in and had residential character and reduced the scale of it so it didn't have a 3-story effect from the street and didn't adversely affect the residential character of the neighborhood.

Michael Ciesielski reported that this was a request for a Site Plan Level III approval of a 3-unit cluster home. Cluster homes are permissible in the RD-15 zoning district, which is subject to P&Z Board approval. The site for the 3-unit cluster development is 11,137.5 sq. ft. in size and is located at 414 SW 7th Street. The site is located within the Tarpon River Civic Association. RD-15 zoning permits cluster home developments. Land use designation on this parcel is Residential Medium and permits up to 15 units per acre. These 3 units would be the maximum density permitted given the land use designation of the lot.

Mr. Ciesielski emphasized the neighborhood was comprised of a mix of aging, single family and duplex dwellings. Michael Ciesielski showed photos of the houses immediately to the east and west of the subject site. One property address was 410 SW 7th Street and lies immediately to the east of the subject site. A photo 418 SW 7th Street immediately to the west of the subject site was also shown. In July of 2001, the Planning & Zoning Board approved a twelve-unit (12) development immediately to the south and east of the subject site that the applicant was referring to. The development included seven townhouses that face SW 4th Avenue and to the rear of the property are the approved five-cluster units located on the north side of SW 8th Street immediately in back of the subject site. The applicant referenced the content plan and Mr. Ciesielski pulled up an elevation in plan form to further clarify and help the Board understand what was in the surrounding area. Mr. Ciesielski told the P&Z Board it was their determination if the proposal met the requirement for neighborhood compatibility. As his report said, the parking required for a cluster dwelling with an attached garage requires two parking spaces and the applicant provided this with three 2-car garages and met the parking requirement. Although a vast majority of the existing structures in the neighborhood are one to two story structures, it should be noted as in 2001 the Board did approve townhouses and cluster units in this area. Many of the existing structures in the neighborhood have the same front yard setback of 25' feet, as does the proposed development. The proposal is consistent with the comp plan that has been reviewed by the Development Review Committee (DRC). It was reviewed by the DRC in September 2004. All comments have been addressed. If the Planning and Zoning Board determines that the proposed development or use, meets the standards and requirements of the ULDR and criteria for Site Plan Level III, the Planning and Zoning Board shall approve or approve with conditions necessary to ensure compliance with the standards and requirements of the ULDR and criteria for the proposed development or use, the issuance of the Site Plan Level III permit. If the Planning and Zoning Board determines that the proposed development or use does not meet the standards and requirements of the ULDR and criteria for the proposed development or use, the Planning and Zoning Board shall deny the Site Plan Level III permit.

Staff determined that the application met the minimum requirements and did not exceed any of the maximum allowable requirements of the RD-15 zoning district. Staff further found that the applicant demonstrated the project met the requirements for clustered developments, adequacy parking, landscaping and VUA requirements. Staff asks that if you approve this request that the following conditions be included.

1. The two live existing oak trees along the east property line are to be either preserved in place by the use of graphing or relocated as approved by the City's Chief Landscape Plans Examiner.
2. Provisions satisfactory to the City Attorney shall be made for a five foot wide recorded easement along the front and rear property line for use by owners or the dwelling units.
3. The applicant must have a recorded maintenance agreement for the common areas.
4. Site Plan approval shall be valid as provided in the ULDR Section 47-24.1.M.
5. The proposed development is in an area that has the potential to generate impacts from construction debris due to high winds and close proximity to existing uses. As such, in order to ensure that construction debris remains on site and does not become a nuisance to neighboring properties, prior to application for a building permit, a Construction Debris Mitigation Plan shall be

submitted to include but not be limited to the requirements of the Construction Debris Mitigation Policy and approved by the City's Building Official and
6. Final DRC approval.

James McCulla asked Mr. Ciesielski to clarify the 5' easement.

Mr. Ciesielski stated the code said that you have to have a 5' easement on the sides and in the front and rear of the property for use for all property owners.

James McCulla asked if that was for the people in the 3 units or for everybody. Mr. Ciesielski stated that it was for the people that were going to live in the 3 units.

James McCulla asked if the graphing were a structural thing. Mr. Ciesielski stated that was his understanding and deferred to Chris Barton to help with the comment put in signed off by the Chief Landscape Plans Examiner

Chris Barton stated graphing was usually used to bridge over the root system of a tree to save the tree. In other words, they don't dig a footer and pour it, they run a beam at grade and it acts as a footer but it bridges over the root system.

Charlotte Rodstrom questioned the drainage profile if it was for the house and the side yards of the development. How does that protect the single-family homes that may be abutting your development? Ms. Rodstrom stated she had some personal experience with that now that the trend was to put the higher developments into the one-level, single-family neighborhoods with the water from rain.

Mr. Ciesielski stated that on the site plan that is A-1 they have swell areas where they show the profiles and more than adequately meet the drainage requirements that this building would produce.

Charlotte Rodstrom asked if their building will be brought up to code but the buildings that around them were not going to be as high. She asked if they felt their best swell would be sufficient so the rain wouldn't go over there.

Mr. Ciesielski stated that was correct. The drainage calculations confirm that the worst case like a 100-year rain would retain all the water on the property.

Ms. Rodstrom stated then that the only building that is part of the development seemed to be the third story near a 1-story that has one section over the garage.

Mr. Ciesielski answered that was correct; toward the rear of the property.

Charlotte Rodstrom asked if they were providing any gutters or downspouts. Mr. Ciesielski replied they had not actually plan to put any gutters.

Mr. Rodstrom stated the reason she asked was the other building that she didn't vote to approve in 2001 had a flat roof that held more water than a pitched roof and theirs was a pitched roof. Ms. Rodstrom asked how far their overhang was into the 5' easement on the side yard.

Mr. Ciesielski stated it was 1.8' and what happened was typically what he would recommend that rooftop terraces have gutters. They didn't indicate it on the plan but they probably should.

Charlotte Rodstrom asked if they could put that in if it did get approved and could the Board could ask for a condition of the gutters.

Mr. Ciesielski stated yes they would agree that was practical because the debris off of the roof would get onto the terrace and it wasn't a practical thing. Charlotte Rodstrom stated she thought it would help with the water for the neighbors as well. Mr. Ciesielski stated they had courtyards that would retain drainage water. The only reason he mentioned this was because at one point they had basically a 12-14' driveway. The homeowners association had asked them to accommodate the additional parking needs so they increased the size. Even with that they had recalculated the drainage requirements and it met the current code.

Charlotte Rodstrom stated that was her main concern because once the project was built and the neighbors should know ahead of time if the water could be an issue.

Mr. Ciesielski just wanted to add that when they started the project they came in with the idea of keeping all the trees and working with the neighborhood. They approached the City to obtain all the codes to design the project. They then went to the homeowners association, presented it to them and their comment was that we were the first to come before them with plans because they were not the first developers in the neighborhood. There are many other developments that are there already with 3 stories.

Mr. Ciesielski stated he was a real estate broker and a general contractor. He found in the older neighborhoods where there is a lot of developing going on that by actually renovating the neighborhoods and building nice products it actually brings the other homeowner's values up. A lot of the little houses in Victoria Park and the homeowners have benefited from all of the development because now their property is worth much more money. They had taken special care to talk to the neighborhood and design around the landscaping that is there. He thought this was a unique piece of property because it sits on the entrance of the neighborhood and thought it would be a nice addition for the neighborhood being there in the front where people driving in see nice looking homes.

Charlotte Rodstrom asked if they were doing sidewalks and was told they were on the site plan.

Linda Brown stated she lived in the neighborhood of the proposed development. She complimented the architect for trying to preserve the trees. The sidewalk issue was also a big concern of hers. The only negative she wanted to address were her concerns on the scale of the development, the height that is starting to encroach into the neighborhood. The neighborhood still has a fair amount of single-family homes in it. The neighborhood is split by a river and on the west side of the river that she lives is primarily single-family homes and the proposed project is on the east side. A lot of us that live there have lived there for a long time, we work in Fort Lauderdale; she works in east Fort Lauderdale and she would like to continue to live in that neighborhood because it is close to work and friends etcetera. However, she and a lot of the neighbors feel

they are being squeezed out by this level of development because of the building heights. It is really a matter of compatibility.

Ms. Brown knows that what they are building conforms to the codes. She at first thought this was a variance but found out they were allowed to build 3-story units on a lot of that size 50' wide. (Ms. Brown was corrected that the property was 75' wide.) She asked if the depth of the lot was 130'. That was her concern that brought her here because she also heard the concern from neighbors and people in adjacent neighborhoods where the same thing is happening. Even though maybe the property values are going up, so are the homes in the vicinity that are single-family and are only zoned for single-family dwellings. The property values in those neighborhoods compare to what is going on in her neighborhood. She had tried to search for a single-family home neighborhood where she could move to just to get away from what she feels is an inappropriate level of development for these little neighborhoods. She has found that the property values in the single-family home neighborhoods are just as high as they are in her neighborhood. That was her only concern although she did like the look of the project. She thought they had done a nice job with the design, preserving the trees, putting in the sidewalks but she felt that this level of development, the building heights more than anything is really starting to encroach into the neighborhood where most of the dwellings are still single-story.

Joe Barna stated he wanted to say that they were trying to meet the requirements that the City has and we went way beyond those requirements in terms of the scale. On the front elevation from the street, the building will appear to be only 2 stories. Even from the sides, the way that it is clustered it will only appear to be a 2-story building. So, they have gone to great effort to address that issue because personally as a group did not like the project just to the rear and to the left. They thought it was not to scale in terms of the area. That is why they went beyond the requirements in an effort to do the best design that they could.

Chair Mary Fertig stated they do take the comments to heart and at the end of every meeting they talk about the subject for the good of the city. Through that we have taken a lot of the comments we've heard the public make and tried to pass on suggestions to the City Commission. So, I want to thank you for those comments she was probably going to close the public hearing at this time unless you have something to rebut.

Chair Mary Fertig stated at this time she is closing the public hearing and asked for a motion, comment or discussion.

Motion to approve with staff's recommendations was made by James McCulla with the added condition for any roof top terrace they have a downspout and on the three stories to add gutters and address any terraces in other areas as needed. Alan Gabriel seconded the motion with the conditions.

Mr. Barna stated he would include gutters on the third portion especially addressing the terraces and any other area where he sees it is going to spill over to the neighbors, both sides.

Chair Mary Fertig stated so we have a motion to approve with 7 conditions as listed on page 4 of the packets and the 7th being the addition that the applicant has agreed to.

Roll call showed unanimous approval.

3. Sun Auto Tops, Inc. /Specialty Automotive Treatments Ella Parker 31-P-04

Request: Vacation of Right-of-Way, (B-1 and B-3)
All of that portion of the 15 foot wide
Alley lying adjacent to the West 7.5 feet of
Lots 1 through 24 together with East 7.5 feet of
Lots 25 through 48, less the North 15 feet of
Lot 1 and the North 15 feet of Lot 48,
Block 203, Progresso, P.B. 2, P. 18
Public Records of Dade County, Florida

Location: 700 West Sunrise Boulevard and
901 N.W. 7 Avenue

Chair Mary Fertig stated we do not need any disclosures or anything so she would just ask the applicant to start presenting.

Linda Strutt, representing the applicant, Specialty Automotive Treatments which is a division of Sun Auto Tops, Inc. state the request was to vacate an alley through the entire block of the old Progresso. This is an old plot, an alley reservation, not an alley dedication so they have retained the underlying ownership. The reservation comes off but the ownership remains the same.

This is from the south side of Sunrise Boulevard to NW 9th Street and it's between NW 7th Avenue and NW 7th Terrace. Most of you are probably with Bally Fitness and this is the property the alley that runs between Bally Fitness and Specialty Automotive Treatments (SAT). Specialty Automotive Treatments purchased and demolished the service station that was sitting on the south side of Sunrise Boulevard and prepared a Site Plan to redevelop that site to create a showroom with some a variance there is office space in there. In order to accommodate the parking for that redevelopment they needed to use the northern part of the alley. The entire alley according to your rules needs to be vacated. The alley is being used at the south end currently between the buildings for some delivery to Bally Fitness. So the two owners have agreed to a cross-access agreement that will allow once it is vacated then there will be individual owners of the 7.5' each. So this cross-access agreement would allow them to travel on each other's property essentially to come down that alley and also to allow Bally to have safe access through the SAT property to 7th Avenue rather than going all the way out to Sunrise Boulevard. The third owner on this alley is Martinique Motors and that property is being purchased by SAT right now so there really will only be two parties to the cross-access agreement and the salvage yard that is there will be removed. The utilities that are in there; FPL does have poles and facilities. All of the utility companies have written letters agreeing that if a utility easement is granted that they have no objections and we have agreed to that. The property and right-of-way committee has also asked them to gate at the south end so that someone in the public doesn't happen to wander down the alley once it is vacated and we have agreed to that. We concur with the Staff report and all the recommendations in the staff report.

Ella Parker stated this is a request to vacate a 15' wide by 585 feet long section of an alley reservation located south of West Sunrise Boulevard North of NW 9th Street East of NW 7th Terrace and West of NW 7th Avenue. This case was reviewed by DRC on December 14, 2004, and all comments have been addressed. The Property and right-

of-way Committee reviewed it on October 21, 2004, and it received a positive recommendation. The public franchise utilities do not have an objection to the proposed vacation provided that any necessary easements are granted to their satisfaction. Staff has determined that the applicant has submitted a narrative outlining compliance with the criteria for the vacation of rights-of-way as listed in Sec. 47-24.6 (included in plans package). Staff finds that the applicant has demonstrated compliance with the criteria and concurs with the applicant's assessment.

Should the Board approve the proposed development, staff proposes the following conditions:

1. That the entire area to be vacated be retained as a utility easement.
2. That a cross-access agreement is executed between all property owners adjacent to the alley that is to be vacated.
3. That all utilities that are required to be relocated be done so at the applicant's expense and as approved by the City Engineer.
4. The vacating ordinance shall be in full force and effect on the date a certificate executed by the City Engineer is recorded in the public records of Broward County. This certificate shall state that the existing facilities have been abandoned. A copy of the recorded certificate must be provided to the City.
5. Final DRC approval.

Charlotte Rodstrom asked who had the property now, the City.

Linda Strutt stated it was treated like an alley dedication in terms of having to vacate it but if you on the tax rolls or the property appraiser's roll the owners of the Bally Fitness property own it whatever the address is by SAT and by Martinique Motors currently. They each have a portion. It is the 7.5' at the end of each lot the west and east end of the lots. That would not change.

Charlotte Rodstrom asked if it is paved now or paved partially and who maintains it.

Linda Strutt stated it was not being maintained. It is paved up to the portion where they demolished the service station but it was paved.

Charlotte Rodstrom asked if they do get the alley way vacation they would maintain it.

Linda Strutt stated it would remain paved and they would be able to keep the dumping out. I understand that there has also been some dumping on the site.

Alan Gabriel stated he wanted to understand the ownership of the property. You said that your client is presently purchasing one of the parcels. Is it under contract?

Linda Strutt stated at the very south end which is when you are looking at it you are looking towards the bottom. If you were facing Sunrise Boulevard it's the SW corner. Currently there is a fenced in site with some junk cars behind it if anyone has gone to the site. That little corner is being purchased the money has been put down already it's just a matter of going through and they called for a zoning confirmation today so she knows

it's almost at closing. Linda Strutt stated that piece was under contract and they did submit a letter saying that they have no objection to the vacation. There was a letter of no objection from Martinique Motors and the owners of Bally Fitness site actually signed on the application as a co-applicant.

Alan Gabriel reiterated that their your client would eventually own the property in any case

Linda Strutt stated the Bally Fitness property will still retain that portion of the alley in their ownership.

Alan Gabriel asked if in their package that they submitted it says the criteria the purpose for which the proposed vacated right-of-way will be used; it states that "as indicated on the revised site plan". He did not get a revised site plan so he was not sure what that meant.

Linda Strutt stated she should have probably modified that after DRC. The Development Review Committee has reviewed the site plan and approved it subject to the vacation. So they have seen the site plan. The site plan is for the north portion where they are redeveloping the site. If you look at the survey they do own kind of an odd piece because they actually own property to the west of the alley up there at the north end. They have actually purchased beyond the alley so they own the entire alley at the north end. Then as you get to the Bally building it, they own half of the alley. At the south end, they will again own the whole alley so the only piece that they will not own is the 7.5' piece adjacent to the Bally building.

Chair Mary Fertig asked if they have the agreement of the property owners on both sides of the alley, the whole length of the alley to the vacation and was told they did.

Edward Curtis stated we have a chart with the hatch running through it that he guesses is the center of the area. What is that being used for now?

Linda Strutt stated the hatch part is the alley it is paved right now and it's being used for occasional deliveries to Bally and occasionally the SAT vehicles come up there and at the north end it has currently been demolished, there is nothing going on.

Edward Curtis asked who owned the alley.

Linda Strutt stated the association that owns the Bally Fitness site, Martinique Motors and SAT own the property.

Edward Curtis asked how they were vacating something they did not own.

Linda Strutt stated it's an alley reservation which the City has all over the plat. The City attorney has determined that alley reservations are to be treated like alley dedications in terms of the vacation process.

Sharon Miller stated it is just another mechanism for the way different streets and alleys were created. Sometimes they are dedicated quote on the plat that is what we are really used to seeing. Sometimes they use the word reservation. But in our opinion it's the same thing. It's reserved for a roadway or public right-of-way so we are just treating

them the same as a right-of-way and the applicant can come in and ask for a vacation. Everyone owns his or her underlying property underneath most right-of-ways. The joining abutting property owners by law own to the centerline. We are just saying similarly who the underlying owners are of this particular reservation.

Edward Curtis asked if the City had control over the use of the alley at this time.

Sharon Miller stated if they don't vacate it they will have it forever just like a street. Just like on other rights-of-way the City controls in the City.

Edward Curtis asked why they should give away City property.

Sharon Miller stated again the same criteria for vacations of right-of-way. If it is no longer needed for public purpose with alternative routes we are analyzing the same criteria.

Edward Curtis stated it sounded to him like they had some attempt to combine these lots into a single ownership.

Linda Strutt stated that was not true. The sale of this other property just happened to come up as we were meeting with the owner. There is not an attempt to combine the property the buildings that are there are going to stay they are going to remain in the two separate ownership's its just the piece in the front where there was a gas station is now being redeveloped. So what was separate is now going to be redeveloped as part of this site with a showroom type facility. It's B1 zoning in the front. Actually they are enhancing and improving the property but they are not actually trying to combine property on the other side. Bally Fitness is going to stay in that ownership it's been there a long time.

Chair Mary Fertig stated she would like to welcome Mary Knockel just joining us.

Chris Barton stated they did notice in the discussion or presentation by the applicant they mentioned that they would be willing to put a gate or want to put a gate on the south end of the alley to control access. Staff did not include that as a condition and we would wonder whether or not the Board would want to include that as a condition but they are required to gate and secure that vacated alley way between those two buildings on the south and perhaps the south and the north end.

Chair Mary Fertig stated she thought in the presentation Linda Strutt said they had agreed to secure the alley.

Linda Strutt stated the Property and Right-of-way committee had asked them and that was one of their conditions. She knew they were advisory but they had agreed to do that at the Property and right-of-way.

Chris Barton stated they had not stipulated it as a condition but would recommend that they do so.

Chair Mary Fertig then added as condition 6 they secure both ends of the alley.

Chris Barton agreed and he believed the request was not with chain link.

Motion to approve with staff's recommendation and the other five conditions was made by Alan Gabriel and seconded by Maria Freeman.

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

For the Good of the City

James McCulla stated just a question for staff really. We see with virtually every project that involves vertical every application that we have that involves vertical construction staff recommends the implementation of the construction mitigation procedures. So he can't imagine the circumstance where we would say remove that condition. Why doesn't it just become a matter of policy?

Chris Barton stated it was a matter of policy today and has been for a long time. About 4-5 years ago, the building department stated that for building permits they would typically require this. There was some problem with some of the buildings under construction over on the beach and the Board at that time asked us to include that as a condition even though it was redundant they wanted to make sure that the applicant understood they got it from both the Site Plan approval level and at the building permit level. They asked us to include it we have done that every since then. If the Board wishes to no longer put it on there that is fine but they are going to have to comply with it anyway.

James McCulla stated he guessed it was relatively harmless.

Chris Barton stated it was redundant. The Board wanted to raise the awareness of the situation and they have been doing that 4-5 years now.

Maria Freeman stated they it seemed when we give these vacations for whatever the reservations or whatever the designations whatever the alley way, who could we possibly talk to about getting something back from the people that end up getting this property as far as any enhancements in the neighborhood, extra trees, extra sidewalks throughout the neighborhood? If we can't get the payment why can't we get something for the community?

Sharon Miller stated she had done a memo to the P&Z Board in the past when this was raised and basically the case law says that we don't own that we keep it for the public in trust and that we can not charge the abutting owners for property that is already theirs underlying it minus our right-of-way however, we can attach conditions which result from and have a direct connection with the elimination of that public right-of-way. You will see at times if there is a condition that will relate to the fact that the right-of-way is now leaving maybe we require a pedestrian path like you said because maybe they used to walk through there and now they can't so maybe we want them to go around here. As long as it is related to the criteria for why you are vacating and it causes where you are saying basically we don't need this for vehicular purposes anymore but we would like this condition to mitigate any impact this vacation may result in.

Chair Mary Fertig asked for example if you have a property between 2 homes, is there a way to prevent that from then the two owners vacated then subsequently develop it.

Chris Barton stated you could require that, they have had situations where they required when they vacated the alley or roadway but the City retained the entire area as pedestrian easement or utility we recognize that maybe we don't need to have automobiles going down through there but we do want to maintain the ability to have a pedestrian connection. They only have to have the condition that it remain open they can not barricade it or block it. Not to maintain it. For example we had one he believed it was in the park area River Oaks a few years ago it was an undersized street right-of-way he thinks it was 25' wide. We vacated that but the conditioned upon the developer converted that to a green way. While it would no longer carry cars up and down a dirt track essentially, they did have to develop a bike path and walking path and landscaping along that new development. So that is an example it was a bit of an odd situation but it worked out for everybody.

Chair Mary Fertig stated she has noticed that we are finishing early tonight and last time Maria had brought up a topic that probably could have on with some discussion. It has occurred to her that as a Planning and Zoning Board we do not necessarily have a formal training session. She is wondering if could plan some of those topic such as what we brought up last month and she wanted to asked the rest of them how they feel about that. Chair Fertig suggested that if we have a night like the one we have tonight, about discussing things like you just brought up. About how can we deal with right-of-ways and be proactive and doing things for the Good of the City or How can we encourage the developers to come in with developments that may be of a better style and so forth. So she wanted kind of get some discussion on that. How do you feel about this?

Ms. Rodstrom stated that if we see that we are getting our agenda the week before and it has 2 items I think we ought to count on having whatever you want 30-40 minutes or an hour of discussion.

Chair Mary Fertig stated we need to I think Alan is saying here we need to have it on the Agenda we need to have public notice of the topic. So she is asking is we could probably work that out Chris and her or subsequent chairs could work that out she just wondered how they all felt. Are they agreeable to this? She is thinking that the nights the agenda is short that they schedule Topic Discussion.

Edward Curtis did not agree with extending short meetings because there were meetings that were quite lengthy.

Chris Barton stated we have 5 or 6 cases in March he did pass on the Chairs request to the Director about having some sort of workshop to discuss neighborhood compatibility. The Board is taking the parking discussion that has been written and we did have it on the Commission Agenda for last night but they have asked that it be moved to March 1 he believes so it is coming up. The Director has indicated he will try to work into our work plan the possibility of some sort of special workshops for some of the topics. We need to identify the topics. We have mentioned neighborhood compatibility and everybody wants to discuss that and what than means and affordable housing is a current topic. There may be some other areas the Board wants to talk about.

Chair Mary Fertig stated she thought Maria brought up one last month and we could probably discuss that more. Do you want to pick up more on that how we could try to work more creatively or use what tools we have to encourage creative designs.

Alan Gabriel stated before we leave tonight he just wanted to say publicly to Chris Thank You for all of your efforts on our behalf and for all the time and strengths you have brought to us. We are going to miss your background history and the experience and just having you here. Thank You.

Greg Brewton, Deputy Director for Planning and Zoning stated he is here tonight to echo what Alan just said and publicly for the Department say thank you to Chris Barton for his time and efforts that he has spent tirelessly working for the City doing things that we have asked him to do as a Department as a City actually as a resident and we are very proud of Chris and we are going to miss him obviously but we think he is going to be okay and we are looking forward to working with him on the other side.

Alan Gabriel stated so that means you are going to replace him with somebody just as good? Greg Brewton stated that is going to be difficult. Chris is a tremendously talented individual. We will do our best to try to come up with someone who is compatible to what he has been able to do. We have not figured that out yet.

MOTION to adjourn was made by Maria Freeman and seconded by Alan Gabriel to adjourn the meeting at 7:40 p.m.

CHAIRMAN

Mary Fertig

ATTEST:

Debra Giebtrock
Recording Secretary