

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

**WEDNESDAY, MARCH 16, 2005  
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	8	2
Mary C. Fertig	P	9	1
Alan Gabriel	P	9	1
James McCulla	P	8	2
Charlotte Rodstrom	P	10	0
Judith Hunt	P	9	1
Randolph Powers	A	7	3
Maria Freeman	P	9	1
Edward Curtis	P	8	2

**Planning Staff:** Ella Parker, Planner II  
Jim Koeth, Principal Planner  
James Cromar, Planner II  
Mike Ciesielski, Planner II  
Greg Brewton, Deputy Planning and Zoning Director

**Legal Counsel:** Sharon Miller, Assistant City Attorney

**Court Reporting Service:** Jamie Opperlee/Margaret D'Alessio

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

Chair Mary Fertig called the meeting to Order at approximately 6:30 p.m. and Ed Curtis led everyone in the Pledge of Allegiance. Chair Mary Fertig then proceeded to introduce the Board members who were present this evening.

Greg Brewton proceeded to introduce 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 – January 19, 2005 and February 16, 2005 Meetings**

**Motion** made by Alan Gabriel and seconded by Gerry Cooper to approve the minutes of the January 19, 2005 meeting as corrected.

Alan Gabriel stated that the attendance records appeared the same for both the January and February meetings. Staff would review the attendance records and make the necessary changes.

Board unanimously approved.

**Motion** made by Alan Gabriel and seconded by Maria Freeman to approve the minutes of the February 16, 2005 meeting as corrected. Board unanimously approved.

1. **Harbordale Development, LLC** **29-P-04**  
Request: Vacation of Alley (RMM-25)  
Everglades Land Sales Company's  
First Addition to Lauderdale  
All that portion of the 16 foot Alley located in  
Block 11, Abutting Lots 12 through 19 and the East  
One-half of Lot 20, and Lots 22 through 29 and  
The East One-half of Lot 21 of the public records  
Of Dade County, Florida, P.B. 2, P. 15  
Location: Alley East of South Federal Highway  
Between S.E. 15 Street & S. E. 16 Street

Chair Mary Fertig asked if the sign in the alley had been the only one posted, or had a sign been posted on 16<sup>th</sup> Street.

Ron Mastriana, attorney, stated that the signs had been replaced 2-3 times due to their having been removed from the site.

Ron Mastriana stated that he was representing the applicant who was requesting the vacation of an alleyway. He proceeded to show an aerial map of the site. He stated that the alleyway extended from Federal Highway straight across and never had been opened. He explained that it could not be opened due to being right on Federal Highway and that FDOT and the City had no desire to open the entranceway. In addition, he stated that to the east BellSouth installed a large 8' switchbox that could not be removed. Therefore, there is no access on either side.

Mr. Mastriana further stated that they had been before the Right-of-Way Committee twice, and requests were made for the applicant to provide a turn-around within the right-of-way. This was done and the Committee had approved. He then proceeded to show photographs of the site. He added that the Harbordale Civic Association endorsed the proposed plan, and they felt it would be a major benefit to the area. He further stated that by vacating the alleyway, it would remove the cars from the streets. He added that one of the sellers of the property, Mr. Lee, had informed him that in 1935 his home was moved into the alleyway due to the hurricane.

Mr. Mastriana continued to state that in regard to the criteria for the vacation of an alleyway the right-of-way or other public place is no longer needed for public purpose.

He added that it was never needed because it had never been used and could not be used. He stated that alternative routes, if needed, are available and did not cause adverse impacts to the surrounding areas. He further stated that the closure of the right-of-way provides safe areas for vehicles to turn around and exit the area. He explained the turn-around was put there due to the request of the Right-of-Way Committee and approved by Tim Welch, City Engineer. He further stated that the closure of the right-of-way shall not adversely impact pedestrian traffic. He explained that there could be no pedestrian traffic through the area because it had been blocked off. He added that all utilities located within the right-of-way or other public places were to be relocated. He stated that there was no request to relocate the utilities and the ones there would remain. He added that in the segment where the development would be located, the utilities would be installed under ground. Therefore, there would be no vacation of utilities.

Gerry Cooper asked where the dumpster would be located. Mr. Mastriana proceeded to show on the map the location of the dumpster. Mr. Cooper stated that he was not moved by the fact that BellSouth located their switchbox in the wrong location. Mr. Mastriana explained that the property owner where the dumpster is located, along with the adjacent neighbors, were in support of the requested vacation. He added that there was an agreement to purchase regarding another property in the area.

Ed Curtis stated that staff's report indicated that one of the criteria regarding vacations under Section 47-24.6.A.iv.a.b had not been met. He asked for some further clarification. Mr. Mastriana stated that Chris Barton, who was not in attendance this evening, had been at the Right-of-Way Committee meetings where this matter had been approved. He added that DRC had also approved. He remarked that this issue had never been raised at any of the meetings, and it had not been called to the applicant's attention until a few days ago when they had received staff's comments. He stated the alleyway was not in use.

James Cromar, Planning and Zoning, stated this was a request for the vacation of an alley that is east of Federal Highway and west of Miami Road between SE 15<sup>th</sup> Street and SE 16<sup>th</sup> Street. He proceeded to show the area on the map, and added that it was located in the RMM-25 zoning district, along with B-1 near Federal Highway. He further stated that the applicable sections of the ULDR were Section 47-24.6, Vacation of a Right-of-Way. He continued stating that this request had gone before the Development Review Committee on November 23, 2004, and all comments had been addressed by the applicant. He stated that the request had been before the Property and Right-of-Way Committee on December 21, 2004, and the Committee had recommended approval subject to the condition that the utility easement be retained over the portion of the vacated alley, and an access easement be retained on Lot #12 for turn-around purposes. He stated that letters had been submitted to the Board from the utility departments who had no objection to the vacation as long as there was maintenance of the easement or a relocation of the utilities.

Mr. Cromar further stated that Mr. Curtis had mentioned the applicant submitting the narrative outlining the points of compliance of the criteria listed in Section 47-24.6.A.4, and staff determined that the proposed vacation did not meet criteria a and b. He

explained that “a” read as follows: “The right-of-way or other public place is no longer needed for public purposes.” He stated that one of the comments made by the applicant was that the alley was not being used. He proceeded to show photographs of the site showing that certain portions of the alley were being used. He stated that to the east there were portions of the area where the landscaping was being maintained. He added that there was driveway access to SE 15<sup>th</sup> Street. He further added that further east there was a blockage of the alley and it was not continuous. He also showed a photograph of the public notice sign that had been posted at the site.

Mr. Cromar advised that the alleyway ended in a “T” where it connected at the north to SE 15<sup>th</sup> Street and at another point to SE 16<sup>th</sup> Street. He added that even though the alley was not continuous, portions of it did retain public use. He stated that some of the applicants wanted to maintain access to their properties through the alleyway, and therefore, the statement that the alley was not used was contradictory.

Mr. Cromar further stated that in “b” it stated: “Alternate routes if needed are available which do not cause adverse impacts to surrounding areas.” He stated that was a question to be decided by this Board.

Mr. Cromar continued stating that if the Board decided to approve the vacation the following conditions were proposed by staff:

1. Utility easements shall be retained within the vacated segment of the alley.
2. If any utility relocations are required, the full cost shall be borne by the applicant, and the relocation plan shall be reviewed and approved by the Engineering Department.
3. An access easement shall be retained on Lot #12 for a turn around.
4. The applicant shall construct a turn around on Lot #12 as approved by the City Engineer.
5. Final DRC approval.

Gerry Cooper stated that he was confused because Mr. Mastriana had stated that the portion of the alleyway being vacated was not in use. Staff stated that certain portions of the alley were being used. He asked for some further clarification.

Mr. Cromar proceeded to explain on the map the area of the alleyway that was in use.

Gerry Cooper asked if any letters of objection had been submitted. Mr. Cromar stated that no letters of objection had been received, and that there was a letter in support of the vacation from the Harbordale Civic Association.

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

Sharon Miller, Assistant City Attorney, explained that the ordinance provided that an individual speaking who was not listed as a registered lobbyist could suffer a reprimand

or a censure, including the barring of their ability to lobby with the City of Fort Lauderdale for a specific period of time.

Dick Ward stated that he owned the building to the south of Boston Market and added that the alleyway had been used in the past by the previous owner of the property for parking. He added that he had limited parking for only 14 spaces, and if the alleyway was opened, he could possibly obtain an additional 7 parking spaces. He added that if the chain link fence was removed, everyone could exit onto Federal Highway. He then proceeded to show the location of his property on the map.

Gerry Cooper asked if Mr. Ward was opposed to the proposed vacation. Mr. Ward confirmed.

Charlotte Rodstrom asked if consideration had been given to the property owners on the other side of the alleyway, if the area was used as an ingress and egress for Mr. Ward's business. Mr. Ward replied that it was City property and he did not think the surrounding neighbors would have any objections if the alley was opened. He added that their area was fenced off.

Mr. Mastriana added that the applicant had been told by the Right-of-Way Committee and the Engineering Department that they wanted no access off Federal Highway.

Gerry Cooper asked if Mr. Mastriana had given any remuneration to the Harbordale Civic Association regarding this matter. Mr. Mastriana replied none had been given.

**Motion** made by James McCulla and seconded by Charlotte Rodstrom to approve the application as presented per staff's recommendations.

James McCulla asked Tim Welch to further explain the turn-around that was not going to be accessible.

Tim Welch, Engineering Design Manager, explained that it was his understanding that the turn-around, which had been designed by Bob Tuthill, architect, was accessible from the street to the west.

James McCulla asked if the alleyway which abutted Lots #10 and #11 was not to be vacated. Mr. Mastriana confirmed and stated they asked if a small portion could be dedicated to allow for the turn-around.

Tim Welch further stated that the alleyway is not accessible from another direction, but that it was hard to see on the survey being shown, and asked if the design plans were available. He explained further if the alleyway went into a dead-end, then one would have to turn around at the end and go back the way they had entered.

James McCulla asked if engineering had approved the turn-around. Mr. Welch explained that they had approved the proposed dedication for the turn-around, but the actual permit for the turn-around had not yet been approved. He remarked that a design had been presented. James McCulla asked what department in the City made the statement

that they did not want access off Federal Highway. Mr. Welch stated that Mr. Mastriana needed to answer that question.

Chair Mary Fertig proceeded to question the procedure the Board was following in regard to the discussion of this matter. James McCulla proceeded to explain "Roberts Rules of Order." Gerry Cooper asked if a Board Member had the right to ask the applicant questions regarding the request being made.

Sharon Miller explained that the Board could enlist whatever information was needed in order to make their decision.

Mr. Welch stated that the turn-around was being provided for westbound vehicles coming in from the north/south portion of the alley. He added that the vacation as proposed would preclude anyone from entering the alleyway from Federal Highway, except for the owner of the property who parked in the rear of the building. He explained that could be preserved with an access easement that the Board may consider. He added that he was concerned about the statements being made regarding entrance from Federal Highway, but without seeing a site plan, he could not answer until further analysis had been made by his department.

James McCulla asked Mr. Mastriana who informed him from the City that they did not want access to Federal Highway. Mr. Mastriana replied such comments had been made by the Property and Right-of-Way Committee. James McCulla asked if such comment was contained in the minutes of that meeting.

Greg Brewton stated that the information being presented to the Board at this time appeared to be inadequate, and he believed that in order for the Board to make an informed decision all facts needed to be presented. He felt if the Board was going to proceed based on the testimony given that the City was requesting certain conditions, then such information should be submitted to the Board for review before a decision was made. He suggested that this matter be tabled until all necessary information was provided.

James McCulla proceeded to withdraw his previous motion.

**Motion** made by James McCulla and seconded by Judith Hunt to table this matter until April 20, 2005 at 6:30 p.m. Board unanimously approved.

- |            |  |                        |
|------------|--|------------------------|
| <b>2.</b>  | <b><u>Estate of William F. Ader/Ader Building</u></b>  | <b><u>144-R-04</u></b> |
| Request:** | Parking Reduction (CB)<br>Coral Ridge Commercial Boulevard<br>Addition, Block 7, Lot 5 less the North<br>50 feet for Road Right-of-Way;<br>P.B. 43, P.13 |                        |
| Location:  | 3020 East Commercial Boulevard   |                        |

Chair Mary Fertig stated that this was a quasi-judicial matter.

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

The following disclosures were made by the Board regarding this case: Ed Curtis stated that he had been to the site. Mary Fertig stated that she had also been to the site. Alan Gabriel stated that he had spoken with Ron Mastriana and had also been to the site.

Maria Freeman stated that only one sign had been posted facing the alley. Ron Mastriana stated that two signs had been posted, one in the front and one in the back.

Greg Brewton stated that if the Board felt that adequate signage had not been maintained on the site for the period of time to notice the property, the matter could be postponed until the next meeting. He added that testimony had been provided by the applicant that the required signs had been posted.

Gerry Cooper asked if the testimony of the applicant was sufficient regarding signage, or was the applicant responsible to make sure that the required signs were posted for that period of time.

Greg Brewton clarified that the applicant had the responsibility to make sure that the sign was constantly on the site during the period of time that notice was required. He added that posting the sign once is not sufficient.

Ed Curtis stated that he drove past the site around 8:00 a.m. today and both signs were posted.

Maria Freeman stated that she was not opposed to hearing this application tonight.

Chair Mary Fertig stated that unless a Board Member made a Motion to Defer, she was going to proceed and hear this application tonight.

Ron Mastriana stated that this application had been before this Board in November and December and this was a companion request for Scalley's. He explained that this was the lot that supposedly Scalley's was using for parking. He proceeded to show photographs of the site. He added that the lot had not been used, and this was the only building in the block that had not been filled in. He advised that the City's procedure involved that a study had to be done to determine whether there was adequate parking for the use. He stated that the summary of the parking study basically stated that the Code required 11 parking spaces to be provided for this use, but there were 95 available spaces during peak hours. Therefore, adequate parking is available in the area. He stated that he had also attached to the Board's materials a copy of the study done by Keith & Schnars, along with an aerial plan showing the location of the property, and a photograph of the parking available in the front of the site. He further stated that the

applicant is using the property for a minimum use. He explained it was a one-story building with retail.

Mr. Mastriana advised they had met with the Coral Ridge Homeowners Association Board who had no opposition to this application. He stated that the Board Members were supposed to e-mail this Board regarding their support. He added that Mr. Ader's family has owned this property for over 30 years.

Ella Parker, Planning and Zoning, stated that the applicant is seeking a parking reduction of 11 spaces. She advised that this was a 100% reduction. She explained the applicant proposed to build a one-story retail/office building on a vacant lot located at 3020 E. Commercial Boulevard located within a multi-tenant building with metered parking on site. She stated that the proposed use required one parking space per 250 sq. ft. of gross floor area that amounts to 11 spaces.

Ms. Parker explained that if the Board approved the application, the following conditions were recommended by staff:

1. A parking reduction order must be executed and recorded in the public records of Broward County, at the applicant's expense.
2. The applicant must apply for a building permit within 18 months, and the permit must be issued within 24 months.

Ms. Parker added that the City's traffic consultant was present at tonight's meeting should the Board Members have any questions regarding the parking study.

Gerry Cooper stated that his biggest concern was that they kept counting and over counting the parking facilities that existed within 700' of the site. He asked if these spaces had been previously counted.

Ms. Parker stated that as far as she knew, and the records that she had reviewed, showed that the only parking reduction request within the same area was the one that Mr. Mastriana had stated that had been recorded.

Gerry Cooper stated that the Coral Ridge Board Members had not yet e-mailed this Board, and asked if any remuneration had been provided by the applicant to that Association.

Mr. Mastriana stated that none had been requested, and none provided. He added that they had not looked at the parking across Commercial because they felt it was an unsafe condition to cross Commercial Boulevard. He advised that such parking was still within the 700' requirement.

Gerry Cooper asked what type of retail would be at the site entitling them to a 100% parking reduction. Mr. Mastriana stated they did not have a tenant at this time, and added that since 95 spaces were available no matter what type of business established itself at this site, there would be sufficient parking. He explained that straight retail only required 11 spaces.



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

**Motion** made by Alan Gabriel and seconded by James McCulla to approve the application as presented per staff's recommendations. Roll call showed: YEAS: Judith Hunt, Alan Gabriel, James McCulla and Maria Freeman. NAYS: Gerry Cooper, Charlotte Rodstrom, Edward Curtis, and Mary Fertig. Motion failed 4-4.

- 3. Wendy Lee Bomze/Bonefish Grill 141-R-04**  
Request:\*\* Parking Reduction (B-1)  
Acreage in 12-49-42  
Location: 6282 North Federal Highway

The Board provided the following disclosures: Maria Freeman stated that she had been to the site. James McCulla stated that he lived behind the site. Alan Gabriel stated that he had been to the site and spoke with the owners of Beverly Jewelers. Mary Fertig stated that she had been to the site.

Duane Spencer, attorney, stated that he was representing the applicant, and Gregory Kline and Bill Carey were also present this evening, along with Rick Summers and Gary Glossman.

Mr. Spencer stated that they concurred with staff's recommendations regarding approval. He explained they were requesting a reduction for a total of 83 parking spaces.

Gregory Kline stated the application is for a shopping center constructed back in the 1970's at the northeast corner of Federal Highway and Bayview. He continued to state they were seeking to convert approximately 6,000 sq. ft. of the 56,000 sq. ft. shopping center to a Bonefish Grill Restaurant. He stated that Code required that 83 parking spaces be provided. He stated they were seeking the parking reduction based on two criteria outlined in the Code which were Section 47-20.3.A.5.d – Two or more uses sharing the same parking spaces at different hours, along with Section 47-20.3.A.5.e – Two or more uses sharing the same parking spaces at the same time as a result of patrons visiting more than one establishment in the center during one visit.

Mr. Kline advised that the parking analysis demonstrates that sufficient parking spaces are available at the site. He stated they had also done some parking utilization surveys which were done during the week and on the weekend which also showed that there was a minimum of at least 100 spaces available at the site. He stated the peak demand appeared to occur on the afternoon of a weekday. He stated that there were about 180 spaces available on the weekend. He proceeded to show a graphic illustrating the findings of such studies. He stated the retail store would be located at the north end of the center where the usage is low for parking. He added that a Friday's was located at the southern end of the center that required a need during the evenings for parking.

Mr. Kline added that the City's traffic consultant had reviewed the studies and agreed with the findings. He added that the red dots on the graphic indicated parking spots that were occupied at the time the survey was taken.

Bill Carry, Kimley-Horn & Associates, stated that he was not personally registered as a lobbyist with the City of Fort Lauderdale, but his firm was registered. He went on to explain that the gray areas on the graphic represented the 107 parking spaces that were required by the restaurant. He stated that historically there were food establishments at the site. He added that to his knowledge he was not aware of any parking problems in the area. He also stated that a gourmet shop was located at the site.

Alan Gabriel asked how many parking spaces were required by the gourmet shop. Mr. Carry stated that 24 spaces were required as part of the retail.

Rick Summers, Bonefish Grill Restaurant Managing Partner, stated the company had a commitment to the community they were located in. He stated that he met with representatives of the condominium located to the rear of the site, who had no objection to the application.

Gary Glossman, NEG Property Services, stated that his company had managed the Promenade Shopping Center for the past 2 years and were harmonious with the adjacent property owners, along with the community. He stated that at the site's location of the center, there was an issue regarding loitering and trash due to insufficient lighting. He felt having more activity at the site would reduce such problems. He further stated that the existing tenants at the site supported this application.

Ella Parker, Planning and Zoning, stated that the applicant was seeking a parking reduction of 83 spaces, amounting to a 22.4% reduction. She stated they proposed to change about 6,000 sq. ft. of retail use to a restaurant. She explained that the proposal would change the required parking for the Plaza from 287 spaces as approved in 1977 to 370 parking spaces as required by Code at this time.

Ms. Parker stated that if the Board approved this reduction, the following recommendations were being made by staff:

1. A parking reduction order must be executed and recorded in the public records of Broward County at the applicant's expense.
2. The applicant must apply for a building permit within 18 months, and the permit must be issued within 24 months.

Ms. Parker advised that the City's traffic consultant was available to answer any questions the Board might have tonight.

Maria Freeman asked what would be the hours of operation for this establishment. Mr. Summers stated that the hours of operation would be from 4:00 p.m. to 10:30 p.m., Monday thru Thursday, and 4:00 p.m. to 11:30 p.m., Fridays and Saturdays, and 4:00 p.m. to 10:00 p.m. on Sunday.

Ed Curtis asked if there were any use restrictions for the shopping center on the buildings located to the east and west of this restaurant. Ms. Parker stated that if another restaurant was located at the site, another parking reduction would be required.

Gerry Cooper asked Mr. Summers if he was a registered lobbyist with the City of Fort Lauderdale. Mr. Summers replied he was not and acknowledged that he had heard the explanation provided by the Assistant City Attorney.

Gerry Cooper further asked about the hours of other establishments in the area. Mr. Summers remarked that he had mentioned that it was very quiet in the evenings at that portion of the shopping center. Gerry Cooper asked if some stores in the center closed early due to contracts or did they do so voluntarily. Mr. Summers remarked that to the best of his knowledge they closed early voluntarily. Gerry Cooper remarked that in theory if the proposed restaurant was successful, other establishments in the area could choose to remain opened until a later hour. Mr. Summer confirmed that could be a possibility.

Chair Mary Fertig asked what would the hours be for the proposed restaurant. Mr. Summers once again stated that they would be opened on weekdays from 4:00 p.m. to 10:30, Fridays and Saturdays they would remain opened until 11:30, and would close at 10:00 p.m. on Sundays.

Charlotte Rodstrom asked how many employees would work at the site of the restaurant. Mr. Summers stated there would be approximately 70 employees. Charlotte Rodstrom asked if the employees would have a designated area for parking. Mr. Summers stated that would be done before the restaurant opened.

Greg Brewton stated that during the presentation a reference was made regarding 1 parking space per 200 sq. ft. for certain uses. He was informed it was 250 sq. ft. per parking space.

Mr. Summers further stated that the total number of employees for the restaurant was 70, but usually only 25-30 individuals were present per shift.

James McCulla asked if this request passed and all the uses which presently existed were to turn over in the future, he asked if an occupational license would be required if additional restaurants came onto the site. James McCulla stated that at that time the use would have to be reviewed and the process of determining the adequacy of the available parking would be done. Mr. Brewton stated that it would depend on the use, and added that if another restaurant was proposed for the site, the footage requirement is more severe than 250 square feet. James McCulla stated that it appeared this Board was concerned if this reduction was granted, then next month the remaining north end of the center could be leased to restaurants, but it would have to come back before this Board for consideration. Mr. Brewton stated that the parking requirements would have to be met. He explained that one of the things not covered under the change of use would be the time, and unless the Board specified this evening, then certain businesses would be required to have specified hours of operation. Other retail establishments could stay open beyond 4:00 p.m. without any notification to the City.

Gerry Cooper thanked Mr. Summers for the clarification regarding the number of employees, and reviewed the number of employees that would be at the site during its hours of operation.

Chair Mary Fertig stated that it was mentioned that there were 180 available parking spaces on the weekend, and asked at what time of day such spaces were available.

Mr. Summers stated that a survey was done on a weekday evening between the hours of 4:00 p.m. and 8:00 p.m. in November.

Chair Mary Fertig proceeded to open the public hearing.

Mr. Summers clarified that surveys were also done during the middle of the day during the week when every store was opened, and there was still sufficient parking available to accommodate the proposed project.

Chair Mary Fertig asked how many customers would they anticipate at such time and how many parking spaces would be utilized. Mr. Summers stated that they were not going to be open all day. He further stated that based on trip generations, a restaurant of this size if opened in the early hours would generate about 70 vehicles. He stated that 100 spaces were available at the peak hours.

Charlotte Rodstrom asked how many individuals would the restaurant actually be able to seat for dinner. Mr. Summers advised that including the bar area, the restaurant would seat approximately about a 192 people.

Greg Brewton stated that he wanted to comment on what he believed the issue was regarding applications for parking reductions. He explained that years ago when the Board of Adjustment was responsible to adhere to such requests before parking reductions were given, there was an opportunity for applicants to come in and provide a "shared parking concept," and based on that concept some businesses would not be open when other businesses were open and adequate parking would be available. He stated that a concern he had as a Planner in listening to applicants provide information on parking studies which were based on a time frame that this Board had no control over, he felt there needed to be a commitment from the property owners to adhere to the proposed time schedules.

Duane Spencer stated that staff had recommended approval of this request based on the review by the Engineering Department, as well as the City's traffic consultant. He reiterated that he wanted to comment on the certificate of uses regarding new uses. He further stated that the entrance of the Bonfish would preclude any uses with more intense parking standards from entering the shopping center. He explained if a retail business left and another took over, then they would have to have like intensity in order to move in. He stated the City would not approve any other use. He reiterated that they concurred with staff's recommendations, and asked the Board to consider approving this request.

Chair Mary Fertig asked if the City had conducted a parking study at the site. Ella Parker stated that the traffic consultant had reviewed the applicant's parking study, but they had not done an independent one.

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

**Motion** made by Gerry Cooper and seconded by Alan Gabriel to approve the application as submitted per staff's recommendations

Gerry Cooper stated that he felt the proposed restaurant would increase the intensity of the parking problem at the site. He stated that whenever he went to Friday's, he was unable to find adequate parking. He stated that he was concerned that the study assumed "shared parking," but testimony was provided that shared parking was voluntary. He felt if the restaurant was successful, then the retail establishments would decide to remain open later. He stated for that reason, he was not in support of this application.

James McCulla asked if anyone could describe the present tenants at the site. Gary Glossman stated that at that portion of the site, there was a dialysis center, an Einstein's Bagel Shop, Mailboxes, Etc., Dry Cleaners, Beverly Jewelers, Visionworks, and proceeded to show on the map the area of each such locations. James McCulla stated that it appeared unlikely that these tenants would not change their hours of operation.

Ed Curtis stated that without use restrictions as a condition of approval, another restaurant could come before this Board requesting the same parking spaces. Therefore, he was not in support of this request.

Gerry Cooper stated that the two major tenants probably would not increase their hours of operation, and asked how much time was left on their leases. Mr. Glossman stated that the National Pet Scan had two years left, but just had remodeled the interior and assumed they would retain their 5-year option, and he believed the dialysis center was already into their 5-year option. Gerry Cooper asked if these establishments did not renew their leases were they under any type of obligation to lease to similar type tenants. Mr. Glossman explained that they were not really restricted and anyone could request a lease.

James McCulla asked what the parking requirements were for medical uses, and asked if they were more stringent than retail use. Greg Brewton stated that medical uses were more stringent. James McCulla reiterated that new calculations would have to be done before another restaurant could lease into the site. Mr. Brewton confirmed and stated that any use coming into the site that would be considered a change of use would require them to come before this Board and justify how the area would qualify for a parking reduction. James McCulla stated that the restrictions being sought by Messrs. Curtis and Cooper were in effect controlled through the occupational licensing process. Mr. Brewton confirmed and stated that would apply in regard to a change of use. He added that restaurants required more parking because some were take-out which would

be similar to retail requirements. Therefore, some restaurants could enter the site without them being a change of use.

Maria Freeman asked if Mr. Brewton was more concerned about the hours of operation. Mr. Brewton replied that his concern was that when studies were done which were based on a time frame being available, unless some sort of specificity was done in terms of saying they would keep the situation the same in the future, then there would be no control over the space being rented out to another business and their hours of operation could go beyond 5:00 p.m.

Maria Freeman asked if the restaurant would be opened for lunch during the summer season. Mr. Summers stated that they were part of Outback Steakhouse and none of the restaurants opened for lunch. It is part of the company philosophy that they not open during lunch hours.

Greg Brewton reiterated that the Board would have no control over that unless they specified there would be no operation for this restaurant during the lunchtime hours because the study does not reveal that.

Gerry Cooper stated that he would like to amend his motion if the second would agree as follows:

**Motion** made by Gerry Cooper to approve the application as submitted per staff's recommendations with the condition that there be a stipulation that the hours of operation could not begin before 3:00 p.m.

Mr. Spencer further stated that the Assistant Manager who was present was not authorized to agree to such a determination. Gerry Cooper stated they did not have to agree to it. Mr. Spencer stated further that the traffic consultant wanted to make a clarification in regard to the traffic study. Mr. Cooper stated that the discussion was present back to the Board.

Alan Gabriel asked if the term "operation" referred to being opened to the public or only for staff. Gerry Cooper stated he meant opened to the public.

Alan Gabriel again seconded the motion with the amendment.

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

**4. Broward County Board of County Commissioners**

**3-Z-05**

Request:\*\* \* Rezoning from B-3 to CF  
Everglades Land Sales Company corrected  
Plat of Second Addition to Lauderdale,  
Florida, Block 12, Lots 1 through 13 and  
Lots 18 through 25, P.B. 1, P. 52, together  
With the vacated alley as described in City of  
Fort Lauderdale Ordinance C-92-22, together

With Tract "A" of Resubdivision of Portion  
Of Block 12 of Everglades Land Sales  
Company's Second Addition to Lauderdale  
Corrected, P. B. 48, P. 4  
Location: 340 S.W. 27 Street

Chair Mary Fertig stated that the item as published did not state exactly what was the request for action, and therefore, asked Greg Brewton to clarify the situation.

Greg Brewton stated that the agenda did not clearly state the request, however, the notices along with the legal advertisement, did correctly notice the application.

Sharon Miller stated that the agenda listed the accurate legal description, and therefore, everyone had been noticed that something was going on regarding this property, and together with the properly mailed notices, sufficient notice had been given. She stated if the Board disagreed or had evidence proving otherwise, then the matter could be deferred.

Michael Ciesielski, Planning and Zoning, stated that he could shed some light on the problem. He asked if tonight's agenda listed "Evergreen" or "Everglade." Chair Mary Fertig stated that the agenda listed it as "Evergreen." Michael Ciesielski stated that was incorrect and it should be "Everglade," and not "Evergreen." He added it was published correctly in the newspaper and in the mailing notices that went out to the property owners but that the agenda was incorrect.

**Motion** made by Gerry Cooper and seconded by Alan Gabriel to defer this matter until April 20, 2005 at 6:30 p.m.

Ed Curtis asked if this was a notice issue. Sharon Miller stated that she believed it could be argued to be a notice issue. She stated a risk did exist that someone could argue that the notice was incorrect. Ed Curtis stated that if such risk was a possibility, then he believed the notice not to be good. Sharon Miller stated that at first she was told it was just a matter of not knowing what the application was for and the legal description was correct. She added that this was the first time she was hearing that the legal description, along with the agenda, were incorrect.

The Board unanimously approved the previous motion made to defer the matter.

Chair Mary Fertig proceeded to apologize to the public who were present for this matter.

**"For the Good of the City"**

Maria Freeman stated that discussions regarding alley vacations kept occurring stating that all information was not being supplied to the Board, such as site plans, and therefore, the Board was being asked to vote on something that they did not have all the information on.

Tim Welch stated the applicant had a site plan, but it had not been included in the Board's materials, but it had been submitted to DRC. He stated further that he had assumed that it would be submitted to this Board.

Greg Brewton stated that the site plan was not currently a requirement, but he advised they would start including such material. Maria Freeman stated that it should be a requirement, if they wanted this Board to make educated decisions. Greg Brewton stated if this was to be a requirement of this Board, then staff would encourage each applicant to provide such information.

Tim Welch stated that occasionally an application to vacate a right-of-way or easement did not involve a site plan. He advised it could be a group of residents wanting the vacation.

Maria Freeman asked if a curb cut had been made on Federal Highway in regard to the alley vacation. Tim Welch stated there appeared to be one.

Gerry Cooper stated that since this was coming back next month, staff was not to be discussing the matter and he further advised that Ms. Miller should be admonishing Mr. Welch regarding this.

**Motion** made by Gerry Cooper and seconded by Maria Freeman to adjourn the meeting.

There being no further business to come before this Board, the meeting was adjourned at approximately 8:10 p.m.

CHAIRMAN

---

Mary Fertig

ATTEST:

---

Margaret A. D'Alessio  
Recording Secretary