

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

**WEDNESDAY, APRIL 20, 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	9	2
Mary C. Fertig	P	10	1
Alan Gabriel	P	10	1
James McCulla	P	9	2
Charlotte Rodstrom	P	11	0
Judith Hunt	P	10	1
Randolph Powers	P	8	3
Maria Freeman	P	10	1
Edward Curtis	P	9	2

Planning Staff: **Greg Brewton, Board Liaison,
 Deputy Planning and Zoning Director
Marc LaFerrier, Planning and Zoning Director
Don Morris, Acting Zoning Administrator
Jim Koeth, Principal Planner
Elizabeth Holt, Acting Principal Planner
Michael Ciesielski, Planner II
Yvonne Reading, Planner I**

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

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

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

Chair Mary Fertig called the meeting to Order at approximately 6:30 p.m. and Charlotte Rodstrom led everyone in the Pledge of Allegiance. Chair Mary Fertig then proceeded to introduce the Board members. She then asked Greg Brewton to introduce staff that was present at tonight's meeting.

Greg Brewton, Deputy Planning and Zoning Director, stated that tonight the planning staff that was present was Jim Koeth, Yvonne Reading, Don Morris, and Michael Ciesielski. He advised that the Director of Planning and Zoning, Marc LaFerrier, would also be present.

Chair Mary Fertig proceeded to then introduce Sharon Miller, Assistant City Attorney.

Chair Mary Fertig then began to explain the procedures that would be followed in regard to tonight's agenda.

1. Broward County Board of County Commissioners

3-Z-05

Request: * * * Rezoning from B-3 to CF, Lots 7-13 and
Lots 18-21, Block 12, Everglades Land Sales
Company's Corrected Plat of 2nd Addition
To Lauderdale, P.B. 1, P. 52 (D), together with
Tract "A" of a resubdivision of a portion of
Block 12, Everglades Land Sales Company's
2nd Addition to Lauderdale Corrected P.B.
48, P. 4
Location: 340 S.W. 27 Street

Chair Mary Fertig stated that this item would be rescheduled for the June meeting of the Planning and Zoning Board.

Chair Mary Fertig proceeded to explain that anyone speaking on behalf of any of the applicants had to be in compliance with the City's lobbyist registration policy. She proceeded to ask Sharon Miller to explain the lobbyist registration policy, quasi-judicial hearing, and the Local Planning Agency.

Sharon Miller, Assistant City Attorney, stated that the City had adopted a lobbying ordinance that meant that if an individual was representing anyone to this Board for compensation, such individual needed to be registered with the City Clerk. Follow-up reporting requirements were also required regarding financial matters. Those individuals also were to announce before this Board who they were representing. She explained further that if an individual was not registered and not in compliance with the ordinance, they could be censured, reprimanded, or prohibited from lobbying before the City for a certain period of time.

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

Sharon Miller continued stating that the State of Florida Legislature stated that every City was to have a body that would review certain applications to make sure they complied with the City's Land Use Plan, the Comprehensive Plan that was the overall plan for the City. This Board was appointed to also act as the Local Planning Agency on behalf of the City. Certain matters, such as rezoning, were reviewed and then a decision made that the development request was consistent with the City's Comprehensive Plan.

Sharon Miller stated further that she wanted to make a clarification to the Board regarding quasi-judicial and the record. At the last meeting, a question arose regarding

Board Members asking questions, and it has been the City's policy that Board Members may ask questions, but in thinking about this item, in opening and closing a public hearing, that is the record. If once the public hearing is closed, questions arise of a substantive nature, other than a clarification of staff, a concern was raised to re-open the

public hearing. The public should be allowed to address any supplemental or new information as a result of the question being asked. In protecting the record that was reviewed during an Appeal, a very definite beginning and ending was needed. If questions arise after the public hearing is closed, but could be addressed to staff for clarification, or the Board needed other questions answered, then the public hearing could be re-opened. She stated that there was nothing wrong with that in terms of the process. She remarked that questions could be asked by the Board Members, but that the nature of such questions and the timing made the difference.

Gerry Cooper stated that he did not understand because policy stated that the public could only speak once. Sharon Miller explained that probably the public should be permitted to speak more than once if questions arise. She stated that the practice has been that substantive questions had not arisen after the public hearing. She remarked that the situation may never occur, but in thinking through it could happen. She stated that the public could only speak once as a matter of procedure and policy set by this Board and for procedural due process, the applicant speaks, then the public, and then the applicant can rebut, but not start over. She stated that questions could lead to additional information that the applicant might not have stated into the record or the public might not have stated. She stated that the developer should have the opportunity to also readdress. She stated further that it was about where did the record begin and end, and where did the evidence begin and end. If questions led to more evidence which could happen, then the public hearing should be reopened.

Approval of Minutes – March 16, 2005 Meeting

Motion made by Gerry Cooper and seconded by Alan Gabriel to approve the minutes of the March 16, 2005.

Ed Curtis stated that the attendance was wrong again regarding the cumulative total.

Chair Mary Fertig stated that questions had arisen regarding the cumulative total of attendance for the Board Members.

Chair Mary Fertig asked the Board if they were satisfied that the corrections would be made, and therefore, would they approve the minutes. Board unanimously approved.

2. 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' 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

ALL INDIVIDUALS WISHING TO SPEAK ON THIS MATTER WERE SWORN IN.

Ron Mastrinan stated that this matter had been referred from last month, and therefore, he asked if he should proceed once again with the presentation or just answer the questions raised.

Sharon Miller stated she believed they had stopped after the closing of the public hearing, and possibly it should be reopened so the answers could be provided to the questions raised.

Gerry Cooper stated that not all the Board Members had been present for the presentation, and therefore, how should tonight's process be conducted.

Sharon Miller stated that it is up to the Board Members to determine whether they have enough information supplied by the back-up materials and the Board's minutes to move forward.

Maria Freeman stated that she believed the site plan had been in question, and asked if it was provided in the back-up material because she had not received it, and believed that was the purpose for it to be provided for their review.

Ron Mastriana stated that the outstanding question raised was in regard to access on US 1. He stated that they had just received the information and delivered it to the City yesterday.

Maria Freeman reiterated that the question involved the site plan and how it fit in with the alley vacation.

Ron Mastriana further stated that there was an issue as to whether DOT approved the access off the alley onto US 1. He explained the site plan had been provided in the Board's package of information. He reiterated that the issue involved DOT's opinion regarding such access, and a letter was just delivered.

Sharon Miller stated this was a good example for reopening the public hearing so the record could reflect what information was being submitted.

Chair Mary Fertig proceeded to reopen the public hearing on this matter. She proceeded to read from the minutes the last questions raised to the applicant regarding such access.

Ron Mastriana stated they had gone to Peter Partington for a letter regarding the access, and had been informed it was a State road, and therefore, they had to go before

DOT to obtain a response regarding US1. He advised that letter had just been received yesterday. He proceeded to read as follows and announced that the letter had been sent by Clark Turberville:

“Considering all of the properties that might be served by this vacation already has adequate access to the highway system, and considering the proximity of other

existing vacations to the proposed vacation, we would require closure of the vacation with further development of these properties.”

Ron Mastriana stated that two letters had been received. He explained that one of them approved the alley vacation.

Charlotte Rodstrom stated that she owned property about 4 blocks from where the alley is to be vacated, and asked if she could still vote on this issue. Sharon Miller asked if the property abutted the alley. Charlotte Rodstrom stated it did not. Sharon Miller advised that Ms. Rodstrom could participate in the discussion and vote on the issue.

Alan Gabriel asked if DOT had recommended the closure of the alleyway. Mr. Mastriana confirmed, and directed the Board's attention to a photograph of the site.

James McCulla stated it was his impression that the issue that was unclear was the City's statement saying they no longer needed or wanted access to Federal Highway. He stated that questions arose regarding the minutes of the Right-of-Way Committee quoting that the City did want the access point closed. He asked what DOT had to do with the matter.

Mr. Mastriana explained that staff stated that DOT had jurisdiction regarding US1.

James McCulla stated that comments were made last month that the City did not want the access. Mr. Mastriana stated it was the Right-of-Way Committee, but they did not want to put it in writing because it was a State road. James McCulla asked if those statements should then be disregarded. Mr. Mastriana stated that he and Mr. Tuthill could confirm those statements, but it is not in writing.

Charlotte Rodstrom asked if they were voting to close the alleyway, and then voting on a site plan so access would be given to US1. Mr. Mastriana advised they were only voting on the vacation of the alleyway permitting the site plan. He explained that last time it was presented that the site plan had been reviewed with the neighborhood, and they had internalized the entire project so there would be no pull-out trips onto any of the roads, such as 16th and 15th. He advised they were not pulling out onto Federal Highway and were in the middle of it. In order to accomplish the internalization of the entire project, he explained they had to vacate the alleyway. He stated the alleyway is not presently opened, but they still had to go through the vacation procedure. He announced that it did not require approval of the site plan. He stated that approval from the homeowner's association has been submitted.

Alan Gabriel stated that staff's comments had been provided, and they specifically stated that the proposed vacation did not meet the criteria for vacation of right-of-ways, specifically in accordance with Section 47-24.6.a.4.(a) and b. He asked if staff still maintained the same position.

Mr. Mastriana clarified that they were requesting a partial vacation of the right-of-way. He proceeded to show on the map the area they were requesting to vacate. He stated

that there was a Southern Bell box in the middle of the alleyway. He explained there was enough room for part of it to be used. He stated there would be a turn-around if the alleyway was opened so people could turn around in the future and go back.

James Cromar, Planning and Zoning, stated that staff maintained the position they stated at the Board's last meeting that the request did not meet criteria "a" and "b" of the requirements for right-of-way vacations.

Maria Freeman stated that she was confused and asked for a re-clarification as to where the vacation would occur. She asked if any of the involved property owners were present at tonight's meeting. None were present.

Mr. Mastriana explained that approvals from the property owners had been provided to the Board regarding the vacation. He stated that Mr. Ward had been opposed to the vacation, but no longer was opposed to it. He proceeded to show on the map the location of Mr. Ward's business encompassing lots 1-4.

Judith Hunt stated that the applicant had informed the Board that the portion of the alley, lots 10-15, had been closed since 1935, and asked if that was correct.

Mr. Cromar explained that according to City records, it was in public right-of-way and has been. He stated there were some encroachments on the right-of-way, such as grass and fences, but it still is a public right-of-way.

Judith Hunt asked what action was normally taken when alleyways were closed improperly.

Greg Brewton stated that history has been that in certain alleys there were encroachments done legally and illegally. He explained that in staff's opinion, closure meant that it has physically been closed with a legal permit, which means closed as it relates to public access either by a pedestrian or a vehicle. He stated that it is his understanding that this alley had not been physically closed, but there were encroachments prohibiting vehicular traffic, but not pedestrian traffic.

Judith Hunt asked if there were any fences prohibiting pedestrian travel. Mr. Cromar explained there were some blockages, but there is a way to get around and not necessarily through the public right-of-way. Judith Hunt further asked that in order to get around the fences or other barriers, would one have to exit onto private property. Mr. Cromar confirmed.

Greg Brewton reiterated that it has not been determined whether the alley was closed legally. Judith Hunt asked how that would be determined. Greg Brewton stated that someone would have to research the issue and see if legal permits were applied for, or encroachment agreements granted to permit the structures within the alleyway.

Sharon Miller explained that the only legal way to abandon any right-of-way is through the process.

Greg Brewton agreed and stated that to make it a legal process, it would have to be abandoned through the alley vacation process. He stated the question as to whether it is closed or not, is that it has not been closed. He advised there were encroachments in the alley, and the question now is whether they are there legally or illegally and such investigation has not been done.

Gerry Cooper stated that he wanted his colleagues to disregard the Chair's comment that because the State felt the alley should be closed to Federal Highway, that would include the City. Chair Mary Fertig reiterated that she did not in any way mean to imply that the State's approval was the same as the City's. She stated that James McCulla's question last time was in regard to whether the City approved this or not.

Gerry Cooper stated that he rarely voted for an alley closure, but staff had stated it did not meet criteria "a" or "b." He asked for further clarification of sections "a" and "b", and why the applicant felt they had met the criteria, but staff did not agree.

Mr. Mastriana stated that "a" read as follows: "The right-of-way or other public place is no longer needed for public purposes." He referred the Board to pages 1 and 2 of the material submitted, and stated that the area had not been used due to there being no pavement, and fences and trees went through the alleyway. Therefore, the requirements of section "a" have been met. He read Section "b" as follows: "Are there alternate routes available." He stated there were alternate routes available on both side roads that have been used for a number of years. He continued that they, therefore, complied with Section "b" also.

Gerry Cooper stated that it was just pointed out that the alley was not paved, and he asked if it had to be paved for use. Mr. Mastriana said they did not think so, but a 6' fence was also erected. Gerry Cooper further stated that if someone put something in the alleyway that was illegal, it did not mean the alley was closed but research needed to be conducted regarding the matter. Mr. Mastriana added there were also 10-year old trees that were large and growing there in the middle of the alleyway that evidenced that it had not been used for public purpose for a long period of time. Gerry Cooper agreed it had not been used, but that did not mean the trees had been legally put there. He stated they did not get grandfathered in. Mr. Mastriana added that nature probably put them there. He stated that one of the property owners had explained previously that his house had been moved into the alleyway due to a storm, and he saw no reason at the time to move it back. He reiterated that was one of the encroachments in the alleyway. He stated there was no permit, but the property owner explained that the hurricane of 1935 had moved it there. He stated he did not know if that was legal or not.

Mr. Mastriana stated that the portion the applicant is requesting to vacate has been approved by the property owners. He added that it internalized the entire project for the neighborhood. He stated further that the property owners wanted developments in their area to be done in this way, and that was why they endorsed the closure of this alleyway. He stated this is a more responsible project.

Maria Freeman asked if the vacation is granted, what were the plans for the area not included in the site plan. Mr. Mastriana explained they were not requesting any change regarding the utilities, but in some areas they would be placed underground. He stated that toward Federal Highway, they would be closing it and the remaining properties would stay as they existed. He stated that half the alley would go to both sides and they would have full rights to construct fences or expand their yards, and use the area as best they can legally. Maria Freeman further stated that there has been no indication made that once the alleyway is vacated that its appearance would be any different. Mr. Mastriana stated that the vacated portion would have pavers, and the alleyway going in the opposite direction of US 1 would be done during redevelopment.

Judith Hunt asked who would the property owners request permits from in order to have a driveway access onto Federal Highway.

Tim Welch, Engineering, stated that the property owners would have to request permits from the State DOT.

Greg Brewton stated that when statements are made, he wanted to make sure that the record reflected them correctly. He advised that the threat Mr. Mastriana made that if the development did not get the vacation, back-out parking would occur along the street was not an accurate statement. He explained that back-out parking was prohibited, but was permitted for residential uses in residentially zoned districts subject to the engineer determining it would not be a hazard or safety issue. He stated that he wanted the record clear that back-out parking is a prohibited activity conditioned by the City per the ULDR. The only way it can be done is through a mechanism that would allow the applicant to show the City Engineer that safety issues were not involved.

Mr. Mastriana stated that they understood it had to receive DRC approval.

Maria Freeman stated the site plan showed two blue spots and asked for further clarification. Mr. Mastriana explained they were an indication of fountains. Maria Freeman asked if such fountains could be placed in the area if there was a utility easement. Mr. Mastriana confirmed that could be done as long as they did not interfere with existing utility lines in the area.

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

Motion made by Gerry Cooper and seconded by Alan Gabriel to approve the vacation of the alleyway as presented.

Charlotte Rodstrom stated that she believed the District Commissioner was on record as opposing alley vacations.

Roll call showed: YEAS: James McCulla, Judith Hunt, Ed Curtis, and Mary Fertig.
NAYS: Gerry Cooper, Alan Gabriel, Charlotte Rodstrom, Randolph Powers, and Maria Freeman. Motion failed 4-5.

3. John Boisseau/Riverside Landings

3-P-05

Request: ** Plat Approval/RS-8 and RD-15
Riverside Addition to Fort Lauderdale,
Lot 1 of Block 1 and Lots 1, 2, 3, 4, 5,
E ½ Lot 6, E ½ Lot 19, Lots 20, 21, 22
And 23, P.B. 1, P. 13 of the Public Records
Of Broward County, Florida
Location: 1219 S.W. 5 Court

Chair Mary Fertig announced that this matter was quasi-judicial. Therefore, the Board made the following disclosures regarding this item: Ed Curtis stated that he had been to the site. Randolph Powers stated that he had been to the site. Gerry Cooper stated that he had been to the site. Charlotte Rodstrom stated that she had been to the site.

Don Hall stated that staff's report regarding this project recommended approval and found the plat to comply with all development regulations. He further stated that the applicant was informed yesterday that staff had an issue regarding Lot #7 which related to whether it provided the prescribed width of the lot at the 25' setback. He had his assistant, Dan Fee, show the area on the map. Don Hall stated it did not and stated this situation is similar to the plat approved by the City in March, 2003, in accordance with Section 47-25.4.D.3.H which stated: "Lot arrangement and frontage may be adjusted by the Board if the Board finds that the character of surrounding development is similar to what is being requested. If the nature of what is being requested is consistent with the topography, and if it is practicable in the judgment of the Board to enforce a requirement such as the 75' at the 25' setback."

Mr. Hall continued stating that Lot #7 is known as a flag lot and asked Dan Fee to provide some further explanation. He hoped the Board would agree after hearing the additional information to extend the same waiver they did in 2003 to New River Woods.

Dan Fee proceeded to show Lot #7, along with its dimensions. He explained that along the curvature of the cul-de-sac, there is an arc length of 35.77', and at that point measuring to the back property line, there is 78', and from the property line to the back seawall there is 146'. Therefore, the lot is 11,236 square feet. He proceeded to show a portion of the New River Woods plat that showed how they approached the end of the cul-de-sac, and pointed out the location of the three lots at the end of the New River. He stated there were narrow entrances. He explained that along Lot #8 there is a 45' arc length at the 25' setback, and Lot #5 had 41.5' and Lot #4 had 33' regarding lot widths. He explained that he went to the "ready books" and made photocopies of the area along the River, and highlighted the lots occurring at the end of the cul-de-sacs along the River. He stated that similar situations existed in various locations, such as Gill Isle and Citrus Isles.

Yvonne Redding, Planning and Zoning, stated that a change was made after talking with the agent regarding the number of lots being proposed. She explained they were proposing 7 single-family units and 4 two-family units. She stated that in seeing the zoning line ran through one of the lots, it was determined that Lot #8 would also be a single-family lot. She stated that Lot #7 did not meet the frontage requirement in accordance with the ULDR, but it is up to this Board to approve this as presented. Otherwise, it could be revised.

Gerry Cooper stated that staff had recommended approval of the plat, and asked who the word "staff" referred to. Yvonne Reading stated that staff referred to herself, and had not consulted with anyone else.

Gerry Cooper asked for further definition of a "flag lot." Mr. Hall explained that a "flag lot" resembled a flag, and proceeded to show a picture of the subject lot. He stated that the lot consisted of 11,000 square feet, and was located at the end of a cul-de-sac. Gerry Cooper asked when Mr. Hall referred to the Board approving similar situations in the past was he insinuating that this Board was a precedent setting board, and therefore, this request should be granted. Mr. Hall stated that each case stood on its own merits, but tonight's case was similar to the one approved by this Board in 2003. He reiterated that this Board did not have to approve this request, but they would be disappointed if it was treated disparately.

James McCulla asked for further clarification of the measurements mentioned by Mr. Fee, along with the arc points.

Mr. Fee explained that staff requested the dimensions on each lot around the project at the 25' setback. Since the road curves and there is a cul-de-sac, it meant the dimensions were all occurring on the arc lengths.

James McCulla asked why staff had made such a request. Ms. Reading stated that it was at that point the applicant had to meet the 75' width.

Ed Curtis stated that all lots met the requirements except for one. Mr. Hall confirmed. Ed Curtis stated further that lot did not meet the requirements because it did not meet the 75' width lot requirement at the 75' setback. Mr. Hall confirmed. Ed Curtis asked what was the difference. Mr. Hall stated that he did not have that information. Mr. Fee stated they had 35.77', and he explained the length along the curb was 40' short of the 75' requirement. He proceeded to show the area on the map. He explained further it was located at the mouth of the "flag," and then it opened into a 78' x 146' lot.

Mr. Hall further stated that due to the size of the lots and their location, and in order to take full advantage of the River and produce a valuable product, they could not apply a "cookie cutter static zoning" regulation. He stated that the Code had a provision allowing the Board in their discretion to grant a modification regarding the 75'.

Ed Curtis asked if it was a duplex lot or a single-family lot. Mr. Fee replied it was a single-family lot.

Charlotte Rodstrom asked if the lots on the water would be single-family lots. Mr. Fee confirmed and stated that there were also a couple of single-family lots not located on the water. Charlotte Rodstrom asked how many people were already living in the area. Mr. Fee stated there now existed five single-family houses at the site.

Alan Gabriel stated that the only party impacted by the approval if granted would be the single-family lot. Mr. Fee confirmed. Alan Gabriel asked if they would be able to access their property through the narrow entranceway. Mr. Fee confirmed and stated it was wide enough to bring in a two-car driveway and curve it into the garage, and larger vehicles and trucks would still be able to navigate through the area. He stated there would be a standard 20' driveway.

Alan Gabriel asked if approval is granted would they have to modify what was presented today. He stated that he was referring to staff's earlier comment regarding changes to what had originally been proposed. Ms. Redding explained that the applicant had modified the plan previously in order to meet the 75' at the other lots. Alan Gabriel asked if staff's recommendation would change regarding the number of residential units if approved as presented.

Greg Brewton stated that from staff's perspective they were looking at two issues. One issue is whether or not the proposal as presented for platting met the subdivision regulations as presented in the ULDR. He stated that staff's recommendation is that regarding Lot #7, if it was redesigned without the 75' subdivision requirement, there would still be a zoning issue in regard to meeting the minimum 75' on the water which could not be varied during this process. Regardless of what is done, when applying for a building permit, the applicant would have to obtain a variance.

Mr. Fee disagreed.

Greg Brewton further stated that it is not the Board's position to listen to arguments when the code is being disputed. He stated they were responsible for interpreting the Code, and staff's interpretation is that Lot #7 does not meet code in regard to zoning. He referred the Board to Section 47-24, and stated there was allowance for this Board to vary the design in accordance with the subdivision regulations. He further stated that under that section, it also stated that under the subdivision regulations there was a minimum lot width of 75'. He advised that if one looked at the beginning of the section, it stated as follows: "That each lot must meet zoning." Therefore, if the Board allowed the applicant to redesign less than the 75' requirement for the subdivision regulations, there still was a different section of the code which stated: "The minimum lot width when you are on a waterway is 75.'" He explained the platting process cannot relieve the applicant from that requirement.

Gerry Cooper clarified that even if this Board approved the item that would only be in regard to the plat. Therefore, if the applicant wanted to construct a house, the problem would then have to be solved in its entirety.

Greg Brewton explained that this is just laying out the lot and not determining the zoning regulations in accordance with the code.

Mr. Fee stated they had 75' along the water, and actually they exceeded that amount.

Greg Brewton continued stating that is where the difference of opinion arose. He stated that the way they measured the width of the waterway was from the setback line, and the applicant disagreed. He said it is not up to this Board to make such a determination. He stated if the applicant disagreed with staff's interpretation, then the matter had to go before the Board of Adjustment.

Ed Curtis confirmed that this is in regard to a plat approval. Greg Brewton confirmed. Ed Curtis stated the issue of zoning is not now before this Board. Greg Brewton confirmed and stated the Board is to deal with the lot lines and how they would lay out the lot.

Alan Gabriel asked about the description of the plat and if any changes had to be made by the applicant. Ms. Redding explained the applicant did not have to make any changes in regard to the description of the plat. Alan Gabriel asked if the Board should grant approval with conditions for that purpose. Ms. Redding confirmed. Alan Gabriel clarified there were to be 8 single-family units and 3 two-family units. Ms. Redding confirmed. Alan Gabriel asked if this would change the impact fee. Ms. Redding stated that some questions arose regarding the impact fee, and the applicant is working with the Park Department. She stated it would affect such fees.

James McCulla stated that staff's determination stated: "The proposed plat meets the requirements of the ULDR Section 47-24.5." Ms. Redding stated it did not meet those qualifications, and therefore, staff's report needed to reflect the change. James McCulla asked who would determine the amount of the impact fee. Ms. Redding replied that Kathy Connors in the Park Department. James McCulla stated that the Board's approval could be based on the establishment of the appropriate fee by the Parks Department based on the revised plat 8/3 versus 7/4. Ms. Redding confirmed.

Chair Mary Fertig proceeded to open the public hearing.

Dave Marshall, Riverside Civic Association, stated that their association followed this project closely and reviewed the submitted plans, and advised the applicants on February 8, 2005, that the neighborhood supported redevelopment, but did not support the granting of exceptions from the requirements of the ULDR. He stated that the proposed plat shown tonight was different from the one presented on February 8, 2005. He explained it has been reviewed by the association's board, but not by the general membership. He stated that their Board considered the revised proposal to be an improvement over the original one, but still had various concerns regarding the plat.

Mr. Marshall stated they objected to the proposal regarding Lot #7. He stated they understood the unusual shape of the property created difficulty in accessing some of the proposed lots, but they believed the replatting process was to solve problems and not create them. He stated that the ULDR setback requirements normally created a 25' x 75' zone in the front yard for landscaping, and they were concerned that waiving such requirement would reduce the landscape area for the lot. He further stated they objected to the use of Lot #9 for a duplex lot. He stated that he was not sure if that lot had been changed to a single-family lot. He stated it could set a precedent that would adversely affect the character of the neighborhood in the future.

Mr. Marshall continued stating that the Association also requests that a tree survey be conducted and reviewed before the plat is approved in order to ensure that no platted lots would be unbuildable due to the location of specimen trees. He stated they also wanted further clarification regarding Lot #10 and the area along SW 5th Court. He explained they were concerned about the required setback for that corner lot, and whether it would equal the 25' setback for Lot #11. He stated they also wanted to confirm that staff had considered the right-of-way requirements along SW 5th Court when reviewing this plat. He stated they did not regard any of the above-mentioned problems as unsolvable, and appreciated the applicant's efforts regarding the process. He stated they hoped the applicant would meet with the Association as recommended by staff so they could discuss their mutual interests in approving River Side Park.

Mr. Hall stated he appreciated the comments being made. He stated the tree survey and landscaping were site plan issues and would be addressed. He reiterated that the applicant is willing to meet with the Association. He stated that tonight the only issue is not 75' on the water. It is a condition. He stated this lot had 76' of lot on the water. The only issue is applying a platting requirement to a width of lot at 75', 25' from the front lot line. He stated it could not be met in this case. He did not think the Homeowners Association had raised that issue. He asked the Board to use their discretion to modify the requirement being requested.

Maria Freeman asked how many other duplex units existed in the surrounding area. Mr. Hall stated they did not have that information available. Mr. Fee added that the area south of 5th Court and running through the middle of their site is RD-15, but he did not know how many duplexes existed in the neighborhood.

Ed Curtis asked if Lot #9 was now a duplex. Mr. Hall replied it was and stated that Mr. Marshall was actually referring to Lot #8.

Ed Curtis asked if the Civic Association is opposing Lot #9. Mr. Marshall showed on the map the line that was the distinction between single-family and duplex zoning. He stated that more than 10% of the lot was actually single-family zoned, and they were referring to Lot #9. He stated the objection from the Association was in regard to the lot being partially zoned as single-family, and yet being approved for a multi-family dwelling. Thereby, possibly creating a precedent. Ed Curtis stated that part of Lot #9 is zoned as single-family and part for multi-family. Mr. Marshall confirmed and stated that about 400 sq. ft. was zoned as single-family. Mr. Curtis stated that the Civic Association's issues regarding zoning were the same as staff's. He asked what would happen when the lot was sold and could not be built on because zoning requirements could not be met. Mr. Hall stated they did not feel that was the issue, and they felt the plat could set the lot width which would carry through the zoning.

Ed Curtis stated that if the lot is approved, the applicant was then going to argue that the approval carried through from plat approval to zoning, and therefore, they were entitled to a single-family lot. Mr. Hall stated they believed that a fair reading of the code would produce that result. He stated they were not asking the Board to approve this with any subterfuge, but they believed the subdivision regulations permitted this with the Board's discretion, and the allowance would be carried through to the zoning. He added that if that was not the case, then they would not be granted a building permit. Ed Curtis asked

once again that when the applicant went for the zoning approval would they argue that this Board approved this, and therefore, other approval should be granted. Mr. Hall stated that was not the case. He stated that this Board's decision this evening would not influence Mr. Brewton's decision on the issue.

Charlotte Rodstrom asked if there is a requirement to place signage on the River regarding a development like this. She stated further that her concern was in regard to the area across the River knowing what was taking place. Mr. Fee stated that there was public notice on the River.

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

Motion made by Gerry Cooper and seconded by Alan Gabriel to approve this request subject to staff's adjustment regarding the impact fee, as well as the change reflecting that there are to be 8 single-family lots, and 3 multi-family lots. Roll call showed: YEAS: Gerry Cooper, Alan Gabriel, James McCulla, Judith Hunt, Randolph Powers, Maria Freeman, Edward Curtis, and Mary Fertig. NAYS: Charlotte Rodstrom. Motion carried 8-1.

4. New River Village/Florida Quality Development

57-R-89

Request: Notice of Proposed Change (RAC-CC) to
Extend the Build-out Date and Amend the
Development Order Parcels "A," "B," "C," and
"D," New River Center Plat, according to
the Plat thereof, P.B. 151, P. 15, of the Public
Records of Broward County, Florida
Location: 100-200 East Las Olas Boulevard

Gerry Cooper advised that the Board's summary sheet stated New River Village/Florida Quality Development, but on the application it stated New River Center/Florida Quality Development, and asked if that made any difference. Sharon Miller stated it did not make a difference for the purpose of this application.

Don Hall stated that for the record the development is the New River Center/Florida Quality Development. He stated there is very little to add to staff's report. He continued stating that this is a requirement of the Florida Quality Development permitting process which is a sub-species of the Development of Regional Impact permitting process. He explained they were requesting an extension of the build-out date of December 31, 2003 to December 31, 2008. He stated there has been an application pending since the summer of 2003, which went through several iterations as the applicant has attempted to determine how to complete the River House project. He added that Parcel "C" is vacant which will be developed over time. He explained that the South Florida Regional Planning Council had found this application was not a substantial deviation, and therefore, did not require further development regional impact review, and staff agreed.

Mr. Hall stated that this is a recommendation to the City Commission and had nothing to do with the site plan which is going through the process. He explained that the Board's decision is whether they agree that the extension of the build-out date would not create a substantial deviation, and the tests for that are the introduction of a use not previously reviewed in the process, or a change that exceeds a threshold of the uses already approved. He stated that the Regional Planning Council and City Staff both found that is not the case.

James Cromar, Planning and Zoning, stated that staff reviewed this and pertinent sections of Chapter 380 of the Florida Statutes were quoted in staff's memorandum. He further stated that three requests in the amendment, including the extension of the build-out date from December 31, 2003 to December 31, 2008 reducing the amount of office development from 750,000 sq. ft. to 650,000 sq. ft, and providing for bi-annual rather than annual reports. He stated that all three of these do not create a substantial deviation from the FQD.

Alan Gabriel stated that the build-out date was to occur by December 31, 2003, and that had not happened. Mr. Hall confirmed, and stated the remaining portion of the River House side is moving forward, and Parcel "C" is unchanged from a parking lot. Alan Gabriel stated the deadline has expired and asked if that would affect their permitting rights. Mr. Hall replied it would not terminate the DRI, and the option remains to amend the build-out date, and such application has been filed prior to the expiration of the build-out date.

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

Motion made by Alan Gabriel and seconded by Gerry Cooper to approve the item as recommended, including the three requested requirements. Roll call showed: YEAS: Alan Gabriel, James McCulla, Charlotte Rodstrom, Judith Hunt, Randolph Powers, Maria Freeman, Ed Curtis, Gerry Cooper and Mary Fertig. NAYS: None. Motion carried 9-0.

MEETING RECESSED AT 7:55 P.M.

MEETING RECONVENED AT 8:05 P.M.

5. La Lorraine, Inc./Blue Lofts

31-R-05

Request: ** Site Plan Review/Twenty-Two (22)
Townhouses – NBRA
Birch Ocean Front Subdivision No. 2
Block 17, Lots 1, 2, 15 and 16
P.B. 21, P. 22, of the Public Records
Of Broward County, Florida
Location: 2800-2854 Vistamar Street

Greg Brewton announced that Marc LaFerrier was present at tonight's meeting, along with Liz Holt.

Chair Mary Fertig announced that this item was quasi-judicial. The Board made the following disclosures: Maria Freeman stated that she had been to the site. Gerry Cooper stated that he had been to the site. Ed Curtis stated that he had been to the site.

Woody Frieze stated that he was representing the developer, Grand Developers, and announced that this would be their second project in the City. He stated that their first project was Atelier Lofts that is under construction in Victoria Park. He explained this project consists of 22-unit townhouses known as Blue Lofts. He stated the square footage of the units would range from approximately 3,000 sq. ft. under air to approximately 3,800 sq. ft. of usable area, which includes the roof terrace and balconies.

Mr. Frieze proceeded to show a 3-dimensional perspective of the project. He also showed an aerial view of the project. He stated this project is located one block south of the Bonnett House property. He explained that this project would front on three streets, Vistamar, Antioch and Orton. He stated the project is pedestrian oriented and all front doors will face the three major streets. He explained that there would be a three-unit building in the rear to the south, and the front doors would face a pedestrian corridor running along the southern portion of the property. He further stated that the models are all the same with the same floor plan, same design, and same square footage. He explained they would all have front terraces off the front door that are raised to have visibility of the pedestrian street. He added that the vehicles and traffic circulation would all be internal. He stated there would be a two-way drive into the project off Vistamar and all garages would be located in the rear. He added there would also be a two-way exit onto Vistamar.

Mr. Frieze further stated that all units had their own private pools located on the rooftop terraces with stair towers and elevators bringing all unit owners from the main floor of the garage through to each floor of the project.

Michael Ciesielski, Planning and Zoning, stated that the buildings currently existing on the site consist of one to two-story buildings, and are surrounded by low to mid-rise residential, along with hotel/motel uses some of which are 6-7 stories. He explained the site is zoned NBRA. The City Commission had reduced the height and density of new developments by 20% on April 17, 2004. He advised that the maximum height by City Commission had been reduced from 150' to 120' back in 2004. He stated this building is 48' 6" and well below the height requirements and the maximum density permitted. He stated the density is 32 units per acre, and the proposed density is 18.8 units per acre.

Mr. Ciesielski further stated that there is no need for a parking study for this proposed development because the project is not expected to affect beach traffic. He stated these units are expected to generate less traffic than the 36 units that currently exist on the site. He stated further that the applicant had attached a narrative to the site plan outlining how the development complied with the adequacy requirements in accordance with Section 47-25.2. He explained that this is an area that could be subject to historical and archaeological significance. Therefore, the applicant was required to obtain a letter

from Christopher Eck of the Broward County Historical Commission, and a Phase I archaeological survey would be done at the site.

Mr. Ciesielski proceeded to show photographs of the surrounding buildings in the area to help the Board understand the scale and mass. He stated that this proposal is consistent with the Comprehensive Plan and has been reviewed by DRC, and all comments were addressed. He stated that this Board was to determine whether the proposed development and use met the standards and criteria of the ULDR, and the criteria for Site Plan Level III, and then shall approve, approve with conditions, or deny this request. He stated further that if the Board recommends approval, staff made the following recommendations:

1. The proposed area 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 the construction debris remains on site, a Debris Mitigation Plan must be submitted.
2. All construction will require approval from all pertinent environmental review agencies.
3. Site approval shall be valid as provided in ULDR Section 47-24.1.

Mr. Ciesielski asked the Board to omit the fourth condition that had been an error.

5. The applicant shall retain a qualified archaeologist and conduct a Phase I archaeological study of the proposed site.
6. In conjunction with the improvements to be made through the Beach Streetscape Master Plan as accepted by the City Commission in 2002, the applicant shall be required to contribute funds to the City for those improvements proposed in the Orton and Antioch areas in Vistamar Street right-of-ways that are immediately adjacent to the subject property, and in a cash amount to be agreed upon between the City and the developer.
7. Final DRC approval.

Gerry Cooper asked for some further clarification regarding the cash amount to be agreed upon.

Mr. Ciesielski explained that in 2002 the Beach Streetscape Master Plan had been accepted by the City Commission, but the final design had not yet been accepted. He stated they were asking the applicant, as part of this approval, to meet with staff to determine, along with EDSA, an amount to be paid towards the improvements of the rights-of-way immediately adjacent to the property along Vistamar, Antioch and Orton Avenues. He proceeded to show the Board a schematic sketch of the site.

Gerry Cooper stated that he was not interested in the area, but in the concept of conditional zoning. He asked if they did not make the monetary contribution would they be issued the permits. Greg Brewton stated that was not the case. He explained that the idea behind this condition, which had been done on a development north of this site, was that a voluntary contribution be made to the streetscape due to the impact the development would have along the streetscape. He explained it was a condition being

recommended at the Planning and Zoning Board level, and it would be up to this Board to accept or deny this condition.

Gerry Cooper stated that the way the condition was read into the record, it did not appear as voluntary. Greg Brewton clarified that when staff made the condition, it is then up to this Board to agree with staff's condition or not. Gerry Cooper stated that in the past when Homeowners Associations read letters stating they received \$25,000 for improvements, he was always skeptical, and now the City is stepping in and twisting the developer's arm. Greg Brewton stated they were not twisting their arms. Gerry Cooper clarified that it was conditional.

Ed Curtis asked if they were saying that the developer would voluntarily contribute. He asked for some further clarification. Greg Brewton explained that they were asking, particularly with developments impacting the streets that the Commission has designated for specific streetscapes, as a condition recommended by staff that the applicant work with City staff regarding a contribution towards the Streetscape Project. Ed Curtis asked if this was a contribution of what. Greg Brewton explained that was to be determined. Ed Curtis asked how the Board could approve something that yet had to be determined.

Sharon Miller explained that they were still in the process of exactly determining the cost of the streetscape improvements to be made to the area. She stated it could be more or less, but it was something the landscape person arrived at. She further stated that it appeared that everyone was in agreement to join together and review the final plans, and slice it up fairly among the developers in the area to share in their piece of what staff proposes as a condition of site plan approval.

Ed Curtis asked if the developer would agree to a condition of an unknown amount to be determined by the City.

Mr. Friese stated they agreed to meet with the City and review the final plans, and then make a determination together regarding the amount that would be equitable, and then such contributed would be made to the fund. He further stated that they agreed to such a condition.

Greg Brewton stated that the condition was worded in such a way that there would be an agreement between the applicant and the City, and therefore, it could not be one-sided.

James McCulla stated that whatever is working its way through and gets approved would guidelines then be established for such voluntary contributions by the developers.

Marc LaFerrier, Director Planning and Zoning, stated that it is not unusual for the development community to build and improve the streets. He stated there is a street improvement plan for the Beach, however, it is still in concept and not in final design. Some projects are coming forward before such final design is completed, but meantime staff wanted to apply the policy that the development community would share in the cost

of improving and beautifying the streets along their street frontage. In such cases where they are ahead of the final design, they are not yet sure about the amount and were waiting to receive further information from EDSA. He stated the alternative could be to delay this for one month, but staff was comfortable that sufficient information will be supplied and they will be able to come to an agreement. He advised that there is a 30-day call-up on this type of application, and there will be an opportunity to discuss this with the Commission.

James McCulla asked if there was a formula for how a developer fronting on three streets would contribute to such improvements. He asked how such calculations would be done. Mr. LaFerrier explained it would be done according to lineal footage on their side of the street. He stated that had been done with other projects, and that was how things were done with the projects in the Downtown. James McCulla stated if there was an existing 15-year old property on the other side of the street would they also have to contribute. Mr. LaFerrier stated that when it would be redeveloped, then they would also have to contribute.

Gerry Cooper asked if it was their understanding that if they did not agree to make such contribution that they would still obtain their permits. Mr. Friese stated that it was his understanding that they would work with the City regarding an agreement. Gerry Cooper asked if there was any question in the applicant's mind that if an agreement was not reached with the City that they would not obtain their permits. Mr. Friese stated that could be a concern, but he did not think of it in that manner. He stated that he looked at this as working with the City. Gerry Cooper stated if the City did not have their act together and could not provide an amount, then he did not think it was fair for them to come back 3-4 months down the road saying a certain contribution had to be made if the applicant wanted their permits.

Charlotte Rodstrom asked why the City could not firm up their concept before the Board had to make such a determination, and asked if a judgment could be made without such information.

Mr. LaFerrier stated that it was not as much "up in the air" as it sounded, and there were formulas and concept plans and such requirements had been made in regard to other projects. He advised that such information had not been gathered before tonight's meeting. He reiterated that one approach could be to defer this item to a later date. He stated that he did not believe the applicant wanted this deferred.

Charlotte Rodstrom reiterated that she did not feel they had to defer the applicant, but defer what the City was requesting the Board to do in accordance with their concept. She felt that this needed to be "squared away" before decisions were made.

Mr. LaFerrier suggested that they would come to an agreement, and a 30-day call-up period was also provided and then such decision would have to be made by the City Commission. Charlotte Rodstrom asked why this had to start at this Board's level, and why didn't the Commission make such a decision. She stated that the length of footage the City would be assessing the developer would not change, and therefore, why didn't the City Commission make such a decision. Mr. LaFerrier stated that normally that was how it would apply, but in this case the project did not require City Commission approval,

and would only go before the Commission as a call-up. He further explained that the two biggest differences in this case were that the plans for the Beach Streetscape were still in concept, and final numbers had to be provided by EDSA, and that this is a call-up situation for the City Commission.

Chair Mary Fertig asked if this conversation had been held with the applicant prior to tonight's meeting. Mr. LaFerrier confirmed that staff had met with the applicant, and they were in agreement with the proposal. Chair Mary Fertig clarified that no burdens would be placed on this applicant that would not apply to another developer applying for a project in the same area. Mr. LaFerrier confirmed and added that he understood the Board's being uncomfortable with the situation, and he hoped to have this taken care of regarding future projects before being presented to this Board. He stated that it was a matter of timing in regard to this situation.

James McCulla stated that he was not comfortable with this situation. He asked if approval was granted tonight as recommended could the applicant be provided with an amount to be contributed. Mr. LaFerrier stated that he could not supply the amount tonight, otherwise it would have been stated. James McCulla asked if there was a budget for the streetscape improvements from EDSA. Mr. LaFerrier stated that type of information was now being developed. James McCulla clarified that there was no preliminary estimate or budget for this. Mr. LaFerrier reiterated that he did not have such information with him at this time. James McCulla asked if a preliminary estimate had been provided by EDSA as to what it would cost to implement what had been designed for the 3-4 streets. Mr. LaFerrier stated it was not just for the 3-4 streets. He explained that the Beach Streetscape Plan was for the entire Central Beach area. James McCulla once again asked if there was a preliminary estimate for whatever was to be the base of such assessments in the future. Mr. LaFerrier confirmed. James McCulla asked if there was a preliminary methodology for how such assessments would be divided in the future. Mr. LaFerrier stated that he was not familiar with that project because it was not a planning department project, and was a CRA project. Therefore, he could not provide such information. He reiterated that he was sure there was a methodology being provided.

James McCulla stated that he believed they were all uncomfortable with the fact that the developer could be informed that his share could amount to \$40 Billion. He stressed that he was using an outrageous amount just to make a point. Mr. LaFerrier stated that apparently he was attempting to find out what formula was to be used. James McCulla asked what this developer's maximum exposure would be. Mr. LaFerrier explained that the formula was pretty straight forward. He explained there was a concept plan and it depicted what types of improvements would occur on their side of the right-of-way in front of their project. Then, that price would be broken down on a lineal foot basis and then multiplied times that cost. He emphasized that it was a pretty straight forward approach. He stated that he was not supplied with enough information regarding the concept plan at this time. James McCulla asked if the numerator was indefinite. Mr. LaFerrier stated that he did not think it was indefinite. He explained it was a finite number and they were not asking for reconstruction of the street or brick pavers to be installed. This was only involving landscaping.

James McCulla stated that no answer could be provided to this applicant in regard to his liability.

Mr. Friese stated they did not have a problem meeting with the City and working out an agreeable amount between the City and the developer, but they did not want their plan subject to the fact that if they did not come to an agreement, their project would be held up.

James McCulla continued stating that they could agree to negotiate in good faith with the City to contribute, but he felt they should remove it as a condition of approval.

Ed Curtis asked if the condition would be enforceable. Sharon Miller replied that it is enforceable to the degree that the two parties agree, but there is nothing the City could do unless they made it an actual condition. She stated that often they had sent site plans back stating subject to approval of the landscape inspector or subject to the approval of another City person. She stated this is similar only that in this case they were dealing with money, and obviously that is a different issue. She stated further that if the developer is willing, and it is stated into the record, that they could not get out "high-flying" some streetscape improvements. She believed the developer is aware of the concept, and she felt it was reasonable to say that the developer agreed to meet with the City and work things out with the Planning Department.

Ed Curtis stated that the City is saying they would negotiate in good faith, and the developer is agreeing, but he did not want the process stopped if an agreement is not reached. Sharon Miller stated that would be up to this Board whether to make this a condition or not.

Judith Hunt asked when this concept in the CRA was taken before the Commission had input been provided by the community as to how they wanted their streets to look. Mr. LaFerrier stated that the work was done about 2-3 years ago which was before his time with the City, but he believed they would have done that. He continued stating that he was aware that the concept plan had gone before the Commission and the Beach Redevelopment Advisory Board, and both recommended approval of the concept and having the final construction drawings completed.

Judith Hunt asked if the Central Beach Alliance was involved regarding the design of the landscaping.

Sadler L. James, Central Beach Alliance, stated that prior boards had conversations regarding the concept, but they did not have direct input into the project. He stated that normally a streetscape project would include community input.

Judith Hunt stated that a design was envisioned for the entire community, and the Commission and others agreed to such improvements. In the past, this Board has made a condition of approval that the streetscape design must comply with the City's requirements, and often times that was an open checkbook to the developer. She reiterated that she wanted to make sure they were being consistent.

Chair Mary Fertig asked if this condition was removed and subsequently a landscape plan was approved and put in place, would all future developers be required to pay their portion for such improvements. Sharon Miller stated she would assume so. Chair Mary Fertig clarified that if the Board removed this condition, then the subject developer for this project would be exempt from such contribution. Sharon Miller confirmed.

Chair Mary Fertig proceeded to open the public hearing.

Mr. James stated that on April 14, 2005 the CBA Board held a planning meeting without general membership present, and Blue Lofts had requested to make a presentation. He stated they were glad there were only 22 units and that it would only consist of four stories. They believed it was more compatible than other projects presented. He stated they were informed that no variances would be requested, and it was fee simple property. He stated they had questioned parking being provided for guests, street closure requirements, and clarification regarding the streetscape contribution. He added that they were not opposed to the project. He stated that a membership meeting of the CBA would be held on May 12, 2005, and opinions would be given regarding the project.

Chair Mary Fertig asked if it was the Association's understanding that the developer would participate in the street landscaping. Mr. James replied there was no direct discussion regarding landscaping, and the Association mentioned it because normally it was part of the presentation.

Mr. Friese stated that in regard to parking, fee simple townhouses only required two parking spaces per unit and those were being provided in the garages. At the original presentation of this project to DRC, there was on-street parking designed, along with street landscaping. Additional staff meetings were held afterwards and it was determined that the streetscape process was being developed, and therefore, the on-street parking would be eliminated along with the curb street landscaping. The developer then agreed to work their site plan in coordination with the City's master plan of the beach landscape area. He stated there were no street closures anticipated because the site was large enough to handle the project.

Maria Freeman asked if on-street parking was to be provided in the streetscape plan. Michael Ciesielski stated they would not be supplying on-street parking, but the plan did provide diagonal parking in the medians in the middle of the street. He explained it could not be parallel to the curb as the applicant had originally included in his plan.

Charlotte Rodstrom stated that extra parking will be available, but will not be located right in front of the project. Michael Ciesielski confirmed and reiterated that it would not be immediately adjacent to the site. He stated that would comport with the Beach Streetscape Master Plan. Charlotte Rodstrom asked if metered parking was to be provided. Mr. Ciesielski stated that he did not have the specifics regarding the parking.

Chair Mary Fertig asked if the school mitigation formula would apply to this project. Greg Brewton stated it was his understanding that it would not apply in this case.

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

Motion made by James McCulla and seconded by Gerry Cooper to approve the application as presented per staff's recommendations with the exclusion of the condition regarding the developer's contribution. It was added that staff had also removed the original fourth condition in regard to this matter.

Alan Gabriel stated that he would not support this motion without the condition being included regarding the developer's contribution.

Charlotte Rodstrom stated that this was a wonderful project, and felt if the developer was asked to voluntarily contribute to something that would increase the value of his property that he would come forward. Therefore, she was in support of this project.

Gerry Cooper stated that if the developer wanted to voluntarily contribute, they would do so. He added that he was extremely offended that staff could not provide a specific dollar amount, and did not have their act together in this regard. He stated if individuals were going to be charged an amount of money such figures should be disclosed in advance. He stated he was in favor of this motion.

Judith Hunt stated that she was in favor of the project and would support it, but she did not find this any different than board members redesigning projects as was done during these meetings. Gerry Cooper reiterated that if items were added to a project, the costs were known, but it was a different scenario when specifics were not provided.

Maria Freeman asked if a cap could be provided so that this motion could be put through. Chair Mary Fertig stated that the motion could be amended. Maria Freeman asked if that would be amenable to the developer.

Maria Freeman stated that she wanted to amend the motion as follows:

Motion made by Maria Freeman and seconded by Alan Gabriel that the developer's participation be included in the streetscape.

Gerry Cooper stated that the motion did not have to be amended and individuals could either vote in favor of the motion or against it. Maria Freeman stated that the individuals would then be voting against the project. Chair Mary Fertig stated that the option is provided to amend the motion in order to add a condition.

James McCulla asked how someone could amend a motion that they had not made or seconded.

Sharon Miller explained that any board member could make a motion in order to amend a motion, as long as there was a second, and that a majority voted. Otherwise, there would be no amendment, and the Board would go back and vote on the original motion.

Gerry Cooper clarified that the Board would be voting as to whether they wanted to accept the amended motion. Sharon Miller confirmed.

Chair Mary Fertig reiterated that they were going to vote on the amendment. Sharon Miller explained further that the Board was going to vote on whether or not to amend the motion. Chair Mary Fertig stated that it is her understanding that according to Roberts Rules of Order, the amendment is voted on first, and if it carries, then the Board votes on the amended motion. If not, the original motion is voted on. She stated that was how the Board would proceed.

Maria Freeman stated that she did not want to vote against the project because the developer's participation was not included, since the developer agreed to meet with the City and make a determination. Therefore, the developer was well aware of his exposure.

The motion was restated as follows:

Motion made by Maria Freeman and seconded by Alan Gabriel to approve the application per staff's recommendations with the exception of the original fourth condition.

Chair Mary Fertig stated that she believed it was unfair to the neighborhood and the citizens of the City to exclude one developer from what was going to be a regional plan for landscaping. She reiterated that they routinely required landscaping, and to exclude one person from having such responsibility was not fair. She believed this to be a wonderful project and that the developer had been very gracious in his comments this evening. She stated that she had every expectation that he will follow through, but she believed they were setting a bad precedence not to make this a condition. She felt that initially they were probably given the option to defer this project or bring it forward with such agreement. She continued stating that the matter could be deferred for one month so such agreement could be made, but she assumed the developer did not want the delay and wanted to move forward with his project. She hoped the amendment would pass.

Charlotte Rodstrom stated that the streetscape plan had been in the process for two years, and therefore, how could a decision be made in one month if this developer decided to defer. She stated there was really not an exception being made for this developer because an actual plan did not yet exist with specific requirements. Mr. LaFerrier stated there was a plan.

Ed Curtis made a point of order and clarified that the discussion was being held among board members at this time. He stated further that he disagreed that this was unfair to the developer because the City had a process which was laid out in the code and regulations. He stated the City did not get their act together to determine the amount of the assessment for this project. He reiterated it was not the developer's fault and future developers should not be penalized. He felt this was the City's problem, and therefore, they should be the ones to suffer and not the developer.

James McCulla stated that he took exception with the observation that this particular developer was being singled out as an exception to those who would have to contribute. This has been underway for several years, and he was not aware that any other

developer had been subjected to an open-ended commitment to contribute to a program that was not yet finalized. He reiterated that they did not put a developer at the risk of an arbitrary undefined contribution to a neighborhood improvement project. He stated that suggestions were made, but they were confined and limited. He stated in this case he was being compelled to enter into an agreement of unknown parameters with another party that has no boundaries or limits or time frame. He stated there were many unknowns in this case.

Judith Hunt stated that the Board often requests developers to work with Homeowners Associations to develop things like playgrounds and parks. She further stated that this was done on a regular basis. She stated this project is larger, but in listening to the presentation, the developer is not being intimidated and the condition for the support of the community was to beautify the area. She felt that the amendment was reasonable and caused the developer to remember his intentions. She stated it was not enforceable, but to penalize the developer because the City was not prepared, and in not letting the developer move forward, would be unfair. She stated this was a good project and one that the community wanted, and she felt it was reasonable to allow the developer to proceed.

Maria Freeman stated that it appeared some of them were attempting to make decisions on behalf of the developer. She stated he was aware of the situation and wanted to move forward. She reiterated that he had been given the choice to defer this matter to a future date.

Chair Mary Fertig stated that a vote would now be taken regarding the amendment which added back in staff's condition #6.

Roll call showed: YEAS: Judith Hunt, Maria Freeman, Alan Gabriel and Mary Fertig. NAYS: James McCulla, Charlotte Rodstrom, Randolph Powers, Ed Curtis, and Gerry Cooper. Motion failed 4-5.

With the motion regarding the amendment failing, the Board voted on the original motion which was read as follows:

Motion made by Maria Freeman and seconded by Alan Gabriel to approve the application per staff's conditions Nos. 1, 2, 3, 5 and 7. Roll call showed: YEAS: Charlotte Rodstrom, Randolph Powers, Ed Curtis, Gerry Cooper, and James McCulla. NAYS: Judith Hunt, Maria Freeman, Alan Gabriel and Mary Fertig. Motion carried 5-4.

6. The Tides at Bridgeside Square (Paradiso at Bridges, LLC) 147-R-04

Request: ** Parking Reduction, Lauderdale Beach Extension
Unit "B", Block 28, Lots 1 through 20, P.B. 29,
P. 22, Public Records of Broward County, Florida,
Together with all of that certain 20' Alley lying in
Said Block 28 and also together with a portion of
N.E. 30 Court lying North of and adjacent to said
Block 28

Location: 3020 N.E. 32 Avenue

Chair Mary Fertig stated that this matter was quasi-judicial. The Board made the following disclosures: Ed Curtis stated that he had been to the site. Gerry Cooper stated that he had been to the site and spoke with Robert Lochrie. Maria Freeman stated that she had been to the site and spoke with Robert Lochrie. Judith Hunt stated that she had also been to the site and spoke with Robert Lochrie. James McCulla stated that he spoke with Robert Lochrie. Alan Gabriel stated that he had been to the site and spoke with Robert Lochrie.

Robert Lochrie, attorney on behalf of the applicant, stated that this project was constructed several years ago in the Bridgeside Square area of the City. It is now called The Tides and is located east of the Intracoastal, south of Oakland Park Boulevard, west of A-1-A, and north of 30th Street. He stated that the property was located between NE 30th Court and NE 30th Street. He explained that the project consisted of a 15-story multi-use development consisting of ground floor retail, second and third floor offices, and the remaining 4-15 stories of the western portion of the building as residential. He stated there were 246 residential units. He explained that the rear or eastern portion of the building was a 5-story parking garage consisting of 1,117 parking spaces, and a 6th floor amenity deck on top.

Mr. Lochrie stated that parking was the primary issue before the Board this evening. He stated that the ground floor of the garage contained 92 valet spaces, 33 of which were controlled by Shooter's, and 89 public parking spaces. He explained that the second floor contained 206 parking spaces, and the third floor contained 224 parking spaces. He stated that the 4th and 5th floors of the garage were restricted for residential parking for the unit owners. He explained that if they disregarded the 4th and 5th floors, along with the 92 valet spaces on the ground floor, there were 523 parking spaces available. He stated that such spaces were part of an easement that ran for the benefit of the City. He stated that the City and the developer had entered into a public/private partnership where the City installed public pay stations for the parking meters and the public paid for the parking. As a result, the City received revenue from the meters, as well as revenue from citations because there was an easement situation and the City could enforce the parking facility.

Mr. Lochrie further stated that the one thing they did not have was specific parking for retail and office use. He stated that originally it had been contemplated that the retail and office use would utilize the attached garage, but when the site plan was approved by the Planning and Zoning Board, they also approved a parking reduction for 167 parking spaces which were the spaces attributable to such uses.

Mr. Lochrie explained that the residential portion of the project had been very successful and was completely occupied, and recently had been converted to condominiums. One unit was being held back by the developer. He explained further that the retail and office space had very limited interest since the beginning of this project. As a result of such limited interest, the parking garage had little activity. He stated that the developer has determined that there was an interest for dental offices, and putting in a restaurant and coffee shop would likely generate additional interest. He stated that since the City's

parking requirements were more stringent for the medical offices and restaurants, they were present this evening to request a parking reduction for those additional uses, or an amendment to the original parking reduction. He explained that previously there were 167 parking spaces allocated for the retail uses, and with the additional change to the medical office and the 4,000 sq. ft. and 1,200 sq. ft. restaurants, there would be 277 parking spaces attributable to such uses. Although the parking demand would be for 277 spaces, the garage had 523 spaces.

Mr. Lochrie further stated that a parking study had been conducted and reviewed by the City's parking consultant. He stated that he had been shown the worst and best case scenarios. He explained that starting with the least at Friday at 11:00 a.m., the ground floor had 77 available parking spaces and only 3 spaces and two handicapped spaces were occupied. He explained the color coded map showing the available parking spaces. He stated that on the second floor of the garage at that same time of the 206 available spaces all 206 were unoccupied. He further stated that on the third floor there were 224 spaces plus 3 handicapped spaces, and there were 209 available spaces. He stated that the peak hour was on Saturday evening and at 8:45 p.m. of the public portion the ground floor contained 77 parking spaces plus 12 handicapped, and of those 57 were occupied. The second floor had 194 available spaces, and 192 on the third floor.

Mr. Lochrie stated that he had photographs showing the available parking spaces taken during the last two weeks. He reiterated that this garage was severely underutilized. He stated that by putting the suggested uses into the building, they would begin to use the garage and it would generate revenue for the City. He stated this was intended as a mixed-use project, and they wanted to accomplish that.

Michael Ciesielski, Planning and Zoning, reiterated the underutilization of the parking garage by showing photographs of the 1st and 3rd floors that had been taken this morning, and stated that his findings supported the applicant's contentions. He stated that a narrative had been submitted as to how the proposal met the adequacy requirements and was attached as Exhibit 1. Exhibit 2 explained how the request met the parking reduction criteria, and Exhibit 3 was the parking reduction study. He stated that staff's memorandum discussed the status of parking reductions and agreements in the area. He explained that if this Board determined that the application met the criteria for parking reductions, the Board could approve the request subject to Section 47-20.35. If the Board decided that the proposed request did not meet the standard requirements of the ULDR, the Board would deny the application and the procedures for Appeal to the City Commission would be provided in accordance with Section 47-26.B. He stated that staff recommended approval of this request and that a parking reduction order must be executed and recorded in the public records of Broward County at the applicant's expense.

Maria Freeman asked if any of the available retail space was presently rented out. Mr. Lochrie replied they were not presently rented out. Maria Freeman asked if the restaurants would operate late into the evening. Mr. Lochrie stated they could be, and the general area had other restaurants, such as Taverna Opa, Shooter's and Charley's Crab. He stated there was an entertainment area in the neighborhood. Maria Freeman further stated that the second floor was still also empty. Mr. Lochrie explained that the

second floor was empty on a Saturday evening, and the vast majority of the third floor was also empty.

Alan Gabriel asked if the site plan was being changed at all. Michael Ciesielski stated there were no changes. Alan Gabriel stated they were not approving outside of the floor plan for the additional uses. Mr. Lochrie replied that they were only asking for internal changes for the uses, and no changes were being made to the building, and they were not asking for any outdoor dining.

Ed Curtis asked if they were asking for a 110 parking space reduction. Michael Ciesielski confirmed and stated they were required to have 1,037 spaces, and they had an 80 space surplus. Ed Curtis stated that possibly the developer had made a bad decision as to what type of retail would fly in this building, and asked how long ago had the structure been built. Michael Ciesielski stated that it was built about 5 years ago. Ed Curtis asked if 3-4 restaurants were put in the building, along with a number of dental offices, how did they know that the 110 spaces would not be required. He stated that such a study had not been presented. Mr. Lochrie replied that a study had been presented, and it showed that 277 parking spaces were required, and they still had 523 spaces in the garage. He stated that because the garage had meters, it was a public garage and such spaces could not be counted toward their cap count. He stated they were in the building. He reiterated that there were approximately 300 extra available parking spaces.

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

Motion made by Gerry Cooper and seconded by Alan Gabriel to approve the request per staff's recommendations. Roll call showed: YEAS: Judith Hunt, Randolph Powers, Maria Freeman, Ed Curtis, Gerry Cooper, Alan Gabriel, James McCulla, Charlotte Rodstrom, and Mary Fertig. NAYS: None. Motion carried 9-0.

7. Prestige Builder II/Rio Grande

166-R-04

Request:** Site Plan Review/Nine (9) Multi-Family
Unit Development (RMM-25)
Nurmi Isles Island No. 4, Lots 16 and 17,
P.B. 24, P. 43 of the Public Records of
Broward County, Florida
Location: 91 through 103 Isle of Venice

Chair Mary Fertig announced that this matter was quasi-judicial. The Board made the following disclosures: Maria Freeman stated that she had been to the site. Alan Gabriel stated that he had spoken to Michael Schiff. Ed Curtis stated that he had been to the site. Randolph Powers stated that he had been to the site. Charlotte Rodstrom stated that she also had been to the site. Gerry Cooper stated that he had been to the site.

Michael Schiff, representing the applicant, stated they were requesting approval of a multi-family project on the Isle of Venice. He stated the size of the property was 28,800 sq. ft. and the permitted use would allow the developer to build 16 units, but the developer was proposing to build only 9 units with a building height of 40' which was to

the pitch of the roof. He explained that the actual height of the building was 32'. He further stated they were requesting a waterway use approval, and a yard modification of the side yard setback. He proceeded to show a drawing of the project.

Mr. Schiff explained the structure would be split into three buildings containing three units each. He stated that would require the modification of the side yard setback, but he felt it would be more appropriate for the project. He explained that at the setback line the building was only 33' in height and did not reach the 40' height until it moved in about 20'. He stated the units would range in size from 3,600 sq. ft. to 3,900 sq. ft. and each would have a two-car garage. Parking would be supplied in the rear and the end two units would have a third space at each end of the property.

Michael Ciesielski, Planning and Zoning, stated that the proposed development was on the Isle of Venice, and the project would consist of a 9-unit multi-family development on two lots. Each unit would have a two-car garage, and the end units would have a third parking space off the driveway. He stated the building according to the architect would be a stylized contemporary adaptation of pseudo-mediterranean design. He explained this would make the project compatible with the other properties in the area. He further stated that the area did not have sidewalks, and the applicant had committed to providing sidewalks and 20 parking spaces when only 19 were required. He stated that one of the conditions that this Board needed to determine was neighborhood compatibility.

Michael Ciesielski further stated that most of the area consisted of one to two-story homes. He proceeded to show photographs of the surrounding area. He stated that a 4-story building existed about 6 lots north of the site, and a vacant lot south to the site where a 4-story structure had been approved for construction. He explained that across the River on Hendricks Isle, there was a 5-story structure. He explained further that the applicant had provided a context plan showing the building footprint, approximate setbacks, and a number of stories of buildings along both sides of the Isle of Venice and across the Rio Grande waterway. He stated that the yard modifications were requested for the north and south side yards. The applicant provided a narrative as to how he believed this proposal met the specifications for yard modifications in accordance with Section 47-23.11.

Michael Ciesielski stated that the applicant had also provided a shadow study attached to the site plan which indicated that the proposed 3-story building would cast no shadows onto the Rio Grande waterway other than a small one at 9:00 a.m. He stated that this proposal was consistent with the Comprehensive Plan and was reviewed by DRC on December 14, 2004, and all issues had been addressed. He stated that staff determined that the application met the minimum standards listed above. He stated that one concern regarding the proposed development was in regard to continuity of urban scale with surrounding buildings, but in recent years many of the lower story buildings along both the Isle of Venice and Hendricks Isle were being developed as 3-5 story structures. He stated it is relevant to note that the maximum height in this zoning district was 55'. He stated if the Board determined that the proposed development met the standards and requirements of the ULDR and the criteria for a Site Plan Level III Review, the Board could approve, or approve with conditions necessary to ensure compliance with the standards and requirements of the ULDR. If the Board determined

that the use of the proposed development did not meet the standards and requirements of the ULDR, then the Board shall deny the Site Plan Level III permit.

Michael Ciesielski stated that if the Board approved this project, staff recommended that the following conditions be met:

1. Applicant would adhere to debris mitigation policy.
2. All construction will require review from all pertinent and environmental agencies.
3. Site Plan shall be valid as provided per Section 47-24.1 M of the ULDR.
4. Docks must be applied for under a separate permit, and are for the use of Upland Residents only, and no live-a-boards will be permitted.
5. Final DRC approval.

Gerry Cooper asked how staff felt about the side yards. Michael Ciesielski stated that the presentation and architecture being proposed was a superior site development to what might be shown if not permitted. Gerry Cooper stated that many years ago they worked on the ULDR and part of it was that the side yards had to be half-the-height. Then, it was stated if it was a wedding cake design that was how setbacks would be measured. He stated that now, they were saying forget the ULDR and it is not half-the-height, and was if the designed was approved. He asked why have the ULDR requirement. Michael Ciesielski advised that his memo stated that minimum requirements had been met. He felt that it was a good design and a nice building, including the fact that it had less units and was less than the maximum height permitted and that this architectural styling simply offered an alternative. He stated there were a lot of positives. Gerry Cooper agreed there were a lot of positives.

Gerry Cooper asked how many feet was the building in height from the low edge of the roof. Mr. Schiff stated it was 33'. Gerry Cooper stated if that was how code checked it, then there would only be a side yard variance of 2' to 3'. Mr. Schiff stated it would be 6.5', but the City did not interpret it in that fashion. The wedding cake concept was not followed. Gerry Cooper stated it was a great design and if the side yard variances were not requested, they would be minus one unit. He felt that at some point the Board needed to take the position that a straight wall could not be built and approved.

James McCulla asked what was the distance between the center building and the two buildings on either side. Mr. Schiff replied that it was about 10'. James McCulla stated that if this was one long building, they would not be requesting a side yard reduction. Mr. Schiff confirmed. James McCulla stated that they were mitigating the effect of smaller side yards by having a less dense building. Mr. Schiff stated this is a more sensitive and better project for the neighborhood by breaking up the buildings. He further stated that the neighboring project was coming before this Board and would be requesting the same thing this applicant was requesting. He stated that the Isle of Venice was being redeveloped and the older motels and live-a-board boats would be gone. He stated the value of this land today was about \$500,000. He felt the character of the neighborhood had changed over the last several years, and there had been numerous side yard modifications being granted. He believed the side yard modification requirement allowed them to do what could not be done earlier this evening when contributions were being discussed with another developer. He stated this allowed them to require builders to do

a better job and meet neighborhood compatibility, while providing better architectural features.

Chair Mary Fertig stated that she was not sure they had approved all side yard modifications.

Alan Gabriel stated that a 20' landscape area was required on the waterway with no encroachments, and asked if there were air conditioning units in that area in accordance with the drawings submitted. Mr. Schiff stated that there are no walls, but there will be air conditioning units that would be landscaped and were permitted. Alan Gabriel stated that the drawing showed walls in the area and asked if the drawing was incorrect. Mr. Schiff reiterated that there were no walls dividing the units. Alan Gabriel asked if there was a condition it would be acceptable that no walls were to be built in the area. Mr. Schiff agreed.

Alan Gabriel stated the 20' landscape area had air conditioning units and asked if they were permitted. Greg Brewton confirmed.

Charlotte Rodstrom stated that it was a beautiful building. She further stated that it was her impression that the ULDR, per this Board's discretion, could consider yard modifications if they would improve a project. Michael Ciesielski stated that was one of the criteria that could be considered by the Board. Charlotte Rodstrom stated she liked the idea of the walkways between the buildings, and believed the yard modifications would produce a better product for the neighborhood.

Charlotte Rodstrom asked about the drainage and grading of the property. Mr. Schiff explained that they had to retain all water on site, and the drainage would be provided. He stated that a sidewalk would be constructed and would help continue the pedestrian walkway on the street. He stated further that the grades had to be raised to the requirements of the criteria for the area. Charlotte Rodstrom clarified that flooding would not be a problem for the neighboring properties. Mr. Schiff confirmed.

Ed Curtis stated that the drawings showed a pool on the site. Mr. Schiff stated that was the existing survey. Ed Curtis stated the reason for side setbacks were for the protection of neighboring properties, and asked if future projects were going to request side setbacks of only 10'. Mr. Schiff stated he believed that would be the case. Ed Curtis also asked how the requirements for yard modifications were being met in regard to Section 47-23.11. Mr. Schiff explained that the applicant answered all questions in the narrative supplied. Ed Curtis asked for a general description of how item nos. 1, 2 and 3, along with b, c, d, and e had been met. Mr. Schiff stated that regarding Item No. 1, it referred to the architectural design of the building, the modification of ins and outs of the building and recessing the building in areas, and the configuration of the roof, along with the balconies that made a superior site development for the project. He further stated that by separating the project into three buildings added to a more pedestrian feeling.

Ed Curtis stated that the applicant was saying that their land unit cost was so high that they could not meet the required setbacks because they needed to have the 9 units. Mr. Schiff stated that was not what he was implying. He explained they could build 16 units, but were only building 9. Ed Curtis stated that the units would be smaller and possibly

not as marketable. Mr. Schiff stated the building could be taller. Ed Curtis stated he believed that a marketing decision had been made. Mr. Schiff stated that such a decision

was made in regard to not doing a tall condominium and having more of a townhouse type project that might be easier to sell, but with less profit. He stated there is nothing on Hendricks Isle and the Isle of Venice for sale.

Gerry Cooper stated if one unit was subtracted from the project and only 8 units were built, there would be an extra dimension for the side yard setbacks. Mr. Schiff stated that mathematically that was correct.

Gerry Cooper stated that he was concerned about the project retaining their water. He asked if the Code stated they had to retain all the water or had to retain the first inch of rain water.

Tim Welch, Engineering, stated there were certain sections of the Code lending itself to regulating or enforcing such measures. One was Section 14-67 that required an owner to build a site, but did not allow them to fill the site to such an extent that they would cause a nuisance to adjacent properties. He added that Section 14-20 referenced County standards and the City employed the same standards that were required for 5 units or more and having 10 parking spaces or more, or an acre or more of commercial. He explained that the first reference was in regard to residential units. He stated the owner would only be required to retain, for water quality purposes, up to 5 units that was 2.5" over the percent of imperviousness which are the paved areas. He explained that any development that was greater than or equal to five units or an acre or more of commercial was required to have the surface water management standards, which required the developer to retain up to a 25-year storm on site. Therefore, that was the reason for the retention areas and berm areas. He explained that the developer for this site would be required to retain the 25-year storm, in addition to the water quality measures that were the pre-treatment measures that cleaned the storm water before it went into the canal adjacent to the property.

Mr. Welch stated the developer for this project would not be required to retain the 100-year storm, and finished floors would be designed to a 100-year finished grade elevation known as the flood stage. He explained that did not mean the developer was entitled to raise his grade to a 100-year flood stage. He stated they were attempting to employ the maintenance of existing grades within a reasonable elevation to neighboring properties so as not to cause an adverse impact in accordance with Section 14-67. He stated that part of what the applicant had stated was correct.

Chair Mary Fertig proceeded to open the public hearing.

Frank Sobchak stated that he lived on the Isle of Venice and was representing himself. He stated further that the property at 55 and 79 Isle of Venice in June, 2004, had a setback of 20', and the Board had approved 15'. He stated the building across the street at 76 Isle of Venice had a 20' setback that was a 4-story building. He stated that he would be happy with a 15' setback. He stated that his property was a 1952 property and had an 8' setback. He stated this was one of the best buildings in Fort Lauderdale.

James McCulla asked if Mr. Sobchak would prefer one long building as opposed to three separate ones. Mr. Sobchak stated that he would prefer more setback if it was possible. Gerry Cooper asked if the projects he referred to having 15' side yard setbacks were stepped back or straight walled buildings. Mr. Schiff stated they were straight-up buildings and were the same as Prestige Builders. Gerry Cooper stated he was concerned that Mr. Schiff would be looking at a straight wall. He asked if less units should be built with the appropriate setbacks. Mr. Schiff stated that his children would have to be asked such questions.

Mr. Schiff asked if Mr. Sopchak was willing to deed restrict his property and not ask for any yard modifications. Gerry Cooper stated that such a question was not relevant at this time.

Mr. Schiff stated this project met the requirements of the ULDR, and the ULDR provided the discretion for the modification of the side yard setbacks if certain criteria were met. He stated that such criteria had been met and staff confirmed. He stated that if the Board did not approve the request being made, the project would have to be redesigned. He did not believe the owner could afford to reduce the number of units, but they would join the buildings and gain some feet on the side, but then have a building of 195'. He did not believe that anyone would gain by having such a building. He felt that no one was going to see the side of the building because there was a wall along the property line as required, along with the landscaping and trees on the site.

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

Motion made by James McCulla and seconded by Maria Freeman to approve the request as presented per staff's recommendations.

Alan Gabriel asked if the maker of the Motion would be willing to add the condition that the required 20' landscape area not include any encroachments such as fences or walls. James McCulla agreed, as did Maria Freeman.

Gerry Cooper stated that the building was well designed and attractive, but he felt they were in an economic decision as to how much money a developer should make. He felt that the code should not be changed so a developer could benefit financially. He stated that he could not support the project with the variation on the side as requested.

James McCulla stated that he was concerned that 190' buildings with 20' side yards could be built in this neighborhood. He reiterated that the streets were beginning to look like canyons, there was no view of the waterways, and the green space was diminishing. He stated that splitting up these buildings was a preferable solution to having 20' side yard setbacks on each side that would get lost in the equation.

Ed Curtis stated that if they interpreted the code the way the developers wanted them to do, they would be rewriting the setback requirements of the ULDR to favor the economic return of the developers. He felt that would be wrong. He stated the ULDR setback

requirement should be met, and it was the developer's burden to do so. He stated that he would vote against this project.

Charlotte Rodstrom stated that the building on the other side of the canal was one solid building that had asked for a pool modification. She stated there was a 4' area of grass before the seawall. She felt splitting the buildings was better.

Roll call showed: YEAS: Randolph Powers, Maria Freeman, Alan Gabriel, James McCulla, and Charlotte Rodstrom. NAYS: Ed Curtis, Gerry Cooper, Judith Hunt, and Mary Fertig. Motion carried 5-4.

Chair Mary Fertig stated that a request was made to switch the order of the cases on the agenda.

Alan Gabriel stated that he wanted to move the Royal Atlantic Developers item next due to the people in attendance at the meeting. He stated the next item in line was a City item.

Motion made by Alan Gabriel and seconded by James McCulla to move Item #9 on tonight's agenda before Item #8. Board unanimously approved.

9. Royal Atlantic Developers, LLC

50-R-05

Request: ** Site Plan Level III Review – Thirty-four (34)
Multi-Family Units (IOA) Birch Ocean Front
Subdivision, Block 7, All of Lot 11 and a
Portion of Lot 12, P.B. 19, P. 26 of the Public
Records of Broward County, Florida
Birch Estates, Acreage in 1-50-42, a portion
Of Lot 14, P.B. 23, P. 24 of the Public Records
Of Broward County, Florida
Location: 435 Bayshore Drive

Chair Mary Fertig stated that this item was quasi-judicial. The Board made the following disclosures: Randolph Powers stated that he had been to the site. Charlotte Rodstrom stated that she had been to the site and had spoken with Steve Glassman of the CBA and Ms. Orshefsky. Maria Freeman stated that she had been to the site. Judith Hunt stated that she had been to the site and had spoken with Ms. Orshefsky. James McCulla stated that he had spoken with Ms. Orshefsky. Gerry Cooper stated that he had spoken with Ms. Orshefsky and had been to the site. He stated that he owned an apartment building on Bayshore Drive more than one block from this site. He stated that this project did not affect him financially. Mary Fertig stated that she had been to the site and had spoken with Ms. Orshefsky.

Debbie Orshefsky, attorney, stated that she was representing the applicant. She continued stating that she felt compelled to provide the Board with some history. She stated that this lot is currently vacant and had been before this Board in April, 2003. She

stated after denial by this Board, she had been asked to see if she could bring this project to a positive conclusion. She added that they worked from April to November with the adjacent property owners and the CBA, along with representatives from other

groups. She proceeded to show an aerial map of the site and the adjacent properties. She stated that confusion arose regarding the project, and the CBA did not support it. She advised that in November, 2003, they went before the City Commission and were asked to reduce the building to 10 stories. She stated the developer did not agree, and therefore, the project was once again denied. An appeal was filed with the Circuit Court, but then the Judge had been transferred to another division. Finally, the developer asked if a 10-story project was presented, could they go back in time and pursue approval.

Ms. Orshefsky further stated that a decision was made that the developer should start from scratch and go through the entire process. She stated this was done. She proceeded to show some drawings and elevations of the proposed project. She stated that part of the issue is whether there was enough architectural treatment on the building, especially on the water side, and would there be buildings of interest for the neighborhood. She advised that the building's base and top were identical to what had originally been presented. She stated the building's profile had been softened. She further stated that one of the differences between this plan and the prior plan was that it allowed for greater landscaping and less curb cuts. She added that on the waterfront there were no intrusions into the rear setback except for a path to the docks which was permitted by code. She stated that the amenities were on the deck and consisted of a private pool and spa. She further added that the project had been reduced from 37 units to 34 units.

Ms. Orshefsky continued stating that the rear elevation had "quins." She explained they blew up the detail on the rear and started with a light textured stucco finish with pre-cut balustrades, crown moldings, decorative aluminum ventilation, medallions, aluminum picket railings, decorative trim, and a 3' base with molding. She explained that finish would be across the entire rear of the building, and the front would be different since there would be more activity. She explained further that the sides used the same basic design elements. She stated they were looking to accomplish two goals. One was to break down the "sea of asphalt," and the other was to create a traffic calming element. Ms. Orshefsky stated that there would be a ½-acre of a "pocket park," and they would agree to do this prior to obtaining the CO for the project.

Ms. Orshefsky further stated that neighborhood compatibility had been an issue. She proceeded to show an aerial of the neighborhood. She stated that from the November 18, 2003 hearing, Mr. Barton was asked by a member of this Board as to what neighborhood compatibility meant and what things should be considered. In response, Mr. Barton stated: "We can't measure it just on how it relates to one building. We have to look at the whole general context, not only in the IOA district, but back in the NBRA and across the Beach into the ABA. We looked around the property, not just what is immediately beside it. You have to consider the whole area, and not just the adjacent building." She advised that further discussion ensued and Ms. Curtis stated: "I have to disclose that I just went out of the room and called my husband, and I think we could probably use that as a similar and La Cascade as examples because the neighborhoods

were the ones that negotiated it. I would like to see it lowered minimum down to 10.” She stated that was what was now before this Board.

Don Morris, Planning and Zoning, stated that the request is in connection with a 10-story, 34-unit condominium project in the IOA. Pursuant to Section 47-12.5.D.1.(d) i and

ii, the applicant is requesting rear yard requirements to be reduced to 24’ 8” at the garage, and 23’ 4” at the tower. He stated that the side yard modification would be at 10’ 8” at the garage which is below 35’ in height, and 24’ 7” between 35’ and 75’ in height and 30’ between 75’ and 115’ in height at the tower. He stated that the Broward County Historic Commission recommended that an archaeological monitoring take place during the initial ground disturbing clearing and foundation excavation process for the site. He stated further that the site is providing 80 parking spaces and 71 were required. He stated that the applicant provided their response to the neighborhood compatibility requirements and it was listed as Exhibit 1. He continued stating that there were adequate units available in the Beach area to accommodate the site, as well as adequate trips available.

Don Morris stated that the Planning and Zoning Board options were as follows: They shall determine whether the proposed development or use met the standards and requirements of the ULDR, and the criteria for a Site Plan Level IV development and then forward their recommendation to the City Commission. If the Board approved, the following conditions were recommended by staff:

1. The construction mitigation condition as proposed in the site plan conditions.
2. Final DRC approval.
3. The site plan will be valid as provided in the ULDR, Section 47-24.1.M.

Gerry Cooper stated that he was concerned that his back-out parking would be affected by the landscaping. Ms. Orshefsky stated she would make sure there would be no problem.

James McCulla stated that he was confused about the setbacks and asked for some further clarification. He asked what was required versus what was being proposed.

Don Morris explained that the requirements for setbacks were 20’ for the front, and half-the-height at the rear and on both sides. He stated they were requesting a wedding cake effect meaning they were requesting setbacks at varying heights. James McCulla stated it appeared they were not looking for any exception to the minimum requirements for a Site Plan Level IV review. Don Morris stated that one of the reasons they were before this Board was that they were requesting modifications for the site plan. He explained that the minimum requirements were 20’ in the front, and 20’ in the rear, if approved as a Site Plan Level IV. He further stated that if not approved as a Site Plan Level IV, then the requirements would be half-the-height, along with 20’ in the front.

Ms. Orshefsky clarified that the IOA had a different provision and pursuant to Section 47-12.5.D.1.(d) which states: “If a development is approved as a development of significant impact, the side and rear yard requirements may be reduced as follows....” She stated

those requirements were met and were an alternative. If one chooses to use those, they are required to go before this Board and the City Commission. She remarked that they were subjected to greater scrutiny by the elected officials without the question of a call-up.

Don Morris explained that the Board can approve the modifications, but they had to show that they complied with neighborhood compatibility. It was not a given that such setbacks would be permitted.

James McCulla clarified that the applicant wanted the Board to apply the alternative setbacks to this project. Don Morris confirmed. James McCulla further clarified that in doing so, the process would be different than what would otherwise take place, and there would be another level of approval for the project. Don Morris stated the process was that the applicant had to prove that they met the requirements to ask for the reduced setbacks. The requirement is the same as stipulated in the zoning ordinance, and this Board had to determine what the new requirement would be through the modification request.

James McCulla asked why the Board was being presented with both standards. Don Morris stated that the first standard provided the requirement for a Site Plan Level III that was half-the-height. He explained they were asking for a modification to those setbacks. Therefore, the Board needed to know what would be required if they were not going through the additional level of approval. The Board needed to be supplied with sufficient information in order to make an intelligent decision.

Ed Curtis asked what standard the Board was to apply. Don Morris stated they needed to apply the standard of neighborhood compatibility.

Chair Mary Fertig proceeded to open the public hearing.

Sadler L. James, CBA, stated that there has been some adversarial contention between North Atlantic and the CBA. He stated that they continued to carry on a dialogue with the CBA, and recently the Board was presented with the current proposal. He advised that a general presentation was going to be given to the general membership. He stated that tonight he was providing the Board's opinion and not the general membership's opinion. He advised that the Board was pleased that the building had been reduced, and the Surf Club had entered into a landscaping agreement that satisfied their concerns. He stated that they were concerned about the "green area" called for in the plan due to back-out parking. He added they did not understand the size and were concerned about the green areas being provided by another project in the area because it did not appear compatibility with what existed. He stated that the City did not appear to have a plan to make things universal. He stated that the Board voted not to oppose this project as presented recently.

Charlotte Rodstrom asked how many associations the CBA represented. Mr. James stated that he was not sure. Charlotte Rodstrom asked if most of those associations would be considered neighbors of this new development based on Ms. Orshefsky's map. Mr. James confirmed, and stated the building next door was a vocal member and they had been consulted regarding this project.

Sharon Miller stated that she heard there might be information that this project would benefit Mr. Cooper's property regarding a greenway. She asked for some further clarification.

Ms. Orshefsky explained that the plan worked out was through the efforts of the Palm Plaza, Bayshore Towers, and the Surf Club. She stated they were unaware that Mr. Cooper had an interest in the property. She further stated that the improvements proposed were extrapolated from improvements presented by the EDSA to the City Commission. They were public improvements and they would make sure that the needs of the adjacent property owners were met.

Sharon Miller asked if there were to be improvements on Mr. Cooper's property. Ms. Orshefsky explained they would be within the public right-of-way. She stated this is conceptual.

Gerry Cooper stated that he had not been consulted, and he believed the trees shown on the left side by his property were not necessary, since he already had trees on the site. He stated that he would not gain any parking spaces, and provided no input.

Sharon Miller stated that it might be better if Mr. Cooper did not continue discussing or voting on this issue due to the additional facts being presented.

Ms. Orshefsky apologized and stated they were not aware that Mr. Cooper owned the adjacent property.

Gerry Cooper left the meeting and did not return for the remaining items.

Charlotte Rodstrom asked as a courtesy to the Association and its members, did Mr. James want this item deferred until June so they could meet with their general membership and take a vote on this project. Mr. James stated that the Board had a few opinionated members and they had made their feelings known and had not opposed the project. The Board agreed not to oppose the project. He stated they were not endorsing it either. The membership meeting would be on May 12th. He stated it would be preferable, but they were not requesting this.

Randolph Powers asked who would maintain the landscaping. Ms. Orshefsky explained that since it was in the public right-of-way, it would be publicly maintained. She stated that the materials being used for the improvements were the same EDSA had found acceptable within the public right-of-way.

Chair Mary Fertig asked his opinion about the Blue Lofts and commented that their Board was in the same position regarding that issue as this project. Mr. James agreed. Chair Mary Fertig asked if the Association's meetings were noticed. Mr. James stated they had regular meetings and the membership was notified.

Ms. Orshefsky stated that they had been requested to reappear before the CBA, and they stated they would make sure this would not go before the City Commission until May 17th so the benefit of the membership's comments could be understood by the City

Commission. She stated there was an Order of the Court they hoped to resolve by May 30, 2005.

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

Motion made by James McCulla and seconded by Alan Gabriel to approve the request per staff's recommendations. Roll call showed: YEAS: Alan Gabriel, James McCulla, Judith Hunt, Randolph Powers, Maria Freeman, and Mary Fertig. NAYS: Ed Curtis and Charlotte Rodstrom. Motioned carried 6-2.

8. City of Fort Lauderdale

1-T-05

Elizabeth Holt and Linda Strutt Consulting, Inc.

Request:* Public hearing for the purpose of making a recommendation Regarding the transmittal of the draft Evaluation and Ear Report (EAR) of the City of Fort Lauderdale Comprehensive Plan by the City Commission to the Florida Department of Community Affairs ("DCA") and to receive public comment.

Chair Mary Fertig asked if disclosures had to be made regarding this item and did individuals have to be sworn in.

Sharon Miller, Assistant City Attorney, stated that the Board was going to serve as the LPA in this matter.

Elizabeth Holt, Planning and Zoning, stated that she wanted to make some brief announcements so they could move forward with their presentation due to the late hour.

Ms. Holt announced that the May 17, 2005 City Commission meeting had been rescheduled to May 10, 2005. The significance of that change was that they had advertised this meeting, both the LPA meeting tonight and the May 17, 2005 City Commission meeting. She stated they were going to post another legal ad in the newspaper that would appear on May 1, 2005.

Ms. Holt stated that the purpose of tonight's meeting was to take public comment. She stated some public comments had been received via telephone calls and e-mails. Such comments would be addressed during the process this project would follow. She advised the process had just begun and this meeting was the first step in the cycle. She explained that the draft EAR was intended to get guidance from the LPA, and to obtain public record so adjustments could be made as necessary. She continued stating that the other significance of the draft EAR was that they would have another opportunity to review it when it was received back from the DCA with their preliminary comments.

Ms. Holt continued stating that the next step was to go before the City Commission with the draft EAR. It would then be transmitted to DCA, preliminary comments will be made, and then they would come back for adoption of the final EAR document. Following that process, they would then begin the EAR based plan amendments. This document just identifies changes that may need to be made in the Comprehensive Plan. She stated further that this document did not have the force of law, and there were no changes that

would be effected by this particular document. It is a report on how the City has done since the 1999 Comprehensive Plan Amendment.

Ms. Holt stated that she was seeking guidance from this Board as to how they wanted staff to present this matter. She advised the document was large and they could review it all and receive feedback, or they could break it up into smaller sections and just review the highlights.

Charlotte Rodstrom stated that this was to be a report of what was happening. Ms. Holt explained it was a draft report of the Comprehensive Plan since the 1999 adopted Plan. It was basically informing everyone how they had done with the goals and objectives of the 1999 Plan, and identifying where some adjustments were to be made. She stated they were not restricted to that, and once they identified the changes in this document, other changes could be made as well. Charlotte Rodstrom further stated that references were made in regard to EAR documents up to 2008 and 2010. She asked if this document made reference to changes from 1999 to 2010. Ms. Holt stated that the review encompassed the adopted plan of 1999 up to the present date. She stated that Ms. Rodstrom might be referring to the planning cycle, including projections being made. She stated those would come back to this Board as part of the EAR based amendments once they began the amendments to the Comprehensive Plan. She reiterated that this was not the amendment, and was only a report.

Ms. Holt stated that she had one more housekeeping item, and that was the public should fill out a form providing opportunity for the public to request future information regarding the EAR. She announced that a sheet would be placed in the back of the room if anyone wanted to sign up for such information.

Ms. Holt proceeded to introduce Linda Strutt, Consultant. She added that City staff from various departments were present this evening to answer any of the Board's questions.

Ed Curtis asked for a clarification as to what the Board was supposed to do this evening. Ms. Holt explained that the LPA's role was to make a recommendation to the City Commission to transmit this report to DCA. She reiterated this was a draft report. She stated that the report was prepared as a draft at the strong recommendation of DCA. She stated they had been in the process of preparing a final report, but in hearing from the State that they preferred a preliminary report before the City went on a course pursuing amendments that might not be consistent with their plan, they preferred this process to be followed. She emphasized that this was a recommendation. Ed Curtis stated that they had been asked within the last few months to transmit a report recommending 13,000 units for the Downtown, and that had been done. Then, they began hearing back from the media and other sources how terrible that was, and that there was no plan. He stated that he was concerned if they recommended such transmittal, would they be putting any stamp of approval whatsoever on the contents of this document. Ms. Holt explained that the Board would be saying that the report was accurately reflecting the conditions that were in the City. She felt the big difference between what was submitted and the amendment referenced previously was that it was an actual Comprehensive Plan Amendment. She stated this was not an amendment, but was only a report. Ed Curtis stated they would be saying that they kind of agreed with the contents of this document. Ms. Holt confirmed. Ed Curtis stated that they

received this document about 10-11 days ago. Ms. Holt again confirmed. Ed Curtis stated that he would vote against this.

Maria Freeman stated that she was confused and stated that given the lateness of the hour tonight, she asked if this item could be deferred to a workshop or to a later date.

Chair Mary Fertig stated that it was her understanding that the problem was that this item had been deferred until the end of the meeting due to an attempt to accommodate the public who had been present for other items on tonight's agenda. She clarified that this matter was to be presented to the City Commission before the next Planning and Zoning Board Meeting. Sharon Miller confirmed and stated that the State had imposed deadlines. She realized this was a burden to everyone, including staff, and suggested that a special meeting could be held tomorrow or they could continue this evening if they were to meet the State's deadline. She advised that the City had changed the date of the City Commission meeting that shortened the time. She advised that the City Commission would hear this matter on May 10, 2005.

Maria Freeman asked if anyone from the public was in attendance regarding this matter. Chair Mary Fertig asked if any member of the public wanted to speak on this matter. The Chair was advised that only staff was present in the audience. Chair Mary Fertig asked the Board how they wanted to proceed in regard to this matter.

Motion made by Alan Gabriel to approve.

Charlotte Rodstrom asked if it did not make the vote to transmit, what would happen next.

Sharon Miller stated if the Board's recommendation was not to transmit, such recommendation would be forwarded to the City Commission on May 10, 2005 as the LPA's recommendation.

Motion made by Alan Gabriel and seconded by Ed Curtis to transmit the draft EAR document.

Sharon Miller reminded the Board that the document would come back before them again because it was not an amendment. She stated that everyone should continue to review it so that when it was brought back to the Board, everyone would be knowledgeable of the item.

Ed Curtis stated that he may support transmittal of the document with the comment that he did not want anyone to think that his vote to transmit approves the contents or comments on the contents of the report.

Chair Mary Fertig stated that this comment could be included in the motion. She stated that in that way the motion would clearly state that the transmittal of the draft document was not to be confused with approval.

Alan Gabriel stated that a motion was made and suggested they move forward.

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

Chair Mary Fertig asked if there was to be a presentation of the item. She asked if there should be some discussion explaining to the City Commission why this Board voted against the motion.

Marc LaFerrier, Director Planning and Zoning, asked if the Board had completed their discussion in regard to deferring this item. He reiterated that this was an important item to the City and to this Board since they were the Local Planning Agency. He realized the hour was late, but this was an important task which set forth a planning program for the course of the next 1 ½ years that this Board would be involved in. He explained this is a report that would bring forward updates regarding demographic information, information on traffic counts, and the evaluation and appraisal of the adopted Comprehensive Plan. He reiterated that this was not a planning document that set forth policy, but it did set forth the process to develop new policy. He did not want to see this going forward to the City Commission with a negative recommendation. He would prefer the Board defer this item and have further opportunity to digest the document. He reiterated that this had to be presented to the City Commission on May 10, 2005. He stated that if they did not meet the June 1st transmittal date, then there could be sanctions from the State. He stated further that staff had been working very hard to accomplish this.

Charlotte Rodstrom reiterated that the Assistant City Attorney had stated that a special meeting could be held to further discuss this matter. She was not in favor of such special meeting, and would stand by the vote she just made regarding this item.

Maria Freeman suggested that a workshop be done, and they not discuss the matter this evening due to the lateness of the hour.

Motion made by Maria Freeman that a workshop be scheduled before the May 10, 2005 City Commission meeting to discuss this item.

Marc LaFerrier stated that they wanted to incorporate the Board's comments regarding this document, and to analyze and refine them, and then present them to the City Commission. He stated that the Board needed to consider this when scheduling such a workshop. He reiterated that some lead time would be needed and stated that next week would be preferable.

Alan Gabriel asked why the Board could not provide their comments this evening.

Ms. Holt explained they had received the Letter of Understanding from the State permitting them to move forward on February 3rd.

Motion made by Chair Mary Fertig to reconsider this matter. She stated that as Chair, she should not make the motion. Since no one seconded the motion she stated that she wanted to change her previous vote on this item to a "yes." She asked if that would be permissible.

Sharon Miller stated that she was unsure if someone who voted "no" could make or second a motion to reconsider. She asked if someone not on the prevailing side wanted to second the motion to reconsider.

Motion was seconded by Alan Gabriel.

Chair Mary Fertig stated that the hour was late, but they had a lot of meetings this year that had ended early. She felt this was an important issue. She realized the report was received by this Board a week earlier than the required deadline for information. She stated that she was unclear if individuals voted "no" because they did not have sufficient time to review the document, or if did they not want to receive the presentation. She stated if the Board Members were uncomfortable with the material included in the document, then she understood. She added that she understood the concern raised by Mr. Curtis regarding the fact that the Board did not mind transmitting the document so as to meet the requirements of the State, but that they did not want it to be construed as an approval. She suggested that this comment be forwarded, but felt it was unfair to the City Commission if nothing was forwarded by this Board.

Maria Freeman explained that she had voted no because she had not discussed it, but she was not opposed to forwarding it to the City Commission.

Judith Hunt stated that the press had "beat up" the City Commission for moving forward with what they had interpreted as a planning document, since it had the same description and same circumstances. Staff and the City were "beat up" by the County Commission. She stated there was a plan and she had reviewed it. She felt in good conscience she could not vote to send this forward to the Commissioner who had appointed her saying that she believed the document to be accurate and appropriate. She stated that she was not in the position to do that.

Alan Gabriel stated that he had read the document, and he did not understand how they could vote no without having any comments as to why they were voting no. He added that in reality if one knew government, then they could understand it, which he did. He stated that someone worked hard in preparing the document, and it was well written and understandable. He stated that most Comprehensive Plan readings did not make sense. He stated that he was in support of transmitting this document. He stated that he would vote "yes" today and again tomorrow. He believed the document should be transmitted.

Ed Curtis stated that he also read the document, but he voted no because he did not agree with its content. He did not feel the report had been accurately prepared. He added that he did not believe the lateness of the hour tonight should be the Board's reason for taking any type of action. He stated that a motion was made, a vote taken, and an opportunity supplied for comments. The only individuals who did not have an opportunity to speak were staff members.

Marc LaFerrier stated that he was glad some individuals had read the document, even though an assessment had been made that it was not accurate. He explained that this was the time to bring such comments forward so staff could review such comments and make any necessary corrections. He urged the Board to give staff their comments regarding this item.

Chair Mary Fertig stated that Charlotte Rodstrom suggested that comments be put in writing and forwarded to the Planning and Zoning staff regarding any areas of disagreement. She asked if that would be acceptable. Marc LaFerrier stated that would be diligent and staff would supply a written response.

Charlotte Rodstrom asked if the previous motion would stand regarding transmittal. Marc LaFerrier stated that would be up to the Board whether they wanted to proceed with their vote not to transmit. He reiterated that this was not a plan amendment, but was only the beginning of the process to look at the Comprehensive Plan. He stated they would then move forward with amendments during the next two years, and this Board would be part of the process. He advised further that when the State's comments were received, staff would forward them to this Board. He advised that would occur in about 60 days.

Chair Mary Fertig stated that she heard some members of this Board state that the word "recommendation" was above a few of the things in the report. Marc LaFerrier explained they were following the State's format. Chair Mary Fertig further stated that because the word recommendation was used and it was expressed that this would be the Board's approval of such recommendations, the Board was uncomfortable in voting for something that stated recommendations that they did not agree with. She added that if the Motion to Reconsider failed, then the Board would individually submit, in writing, their concerns, as well as comments regarding the areas that they agreed upon.

Chair Mary Fertig asked if the Motion to Reconsider was made legally. Sharon Miller confirmed.

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

CHAIRMAN

Mary Fertig

ATTEST:

Margaret A. D'Alessio
Recording Secretary