

**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
SEPTEMBER 17, 2008 – 6:30 P.M.**

Board Members	Cumulative June 2008 – May 2009		
	Attendance	Present	Absent
Catherine Maus, Chair	P	4	0
Pamela Adams, Vice Chair*	P	4	0
Rochelle Golub	P	4	0
Steven Glassman	P	4	0
Mary Graham	P	4	0
Tom Welch	P	3	1
Maria Freeman	P	4	0
Fred Stresau	P	4	0
Patrick McTigue	P	4	0
[*arrived 6:46]			

Staff

Wayne Jessup, Deputy Director of Planning and Zoning
 Adrienne Ehle, Planner III
 Renee Cross, Planner III
 Michael Ciesielski, Planner II
 Yvonne Redding, Planner II
 Thomas Lodge, Planner II
 Sharon Miller, Assistant City Attorney
 Frank Snedaker, Chief Architect for the City
 Tam English, Executive Director, Housing Authority
 Scott Strawbridge, Director of Development, Housing Authority
 Terry Rynard, Assistant Director of Parks & Recreation
 Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

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Call to Order

Chair Maus introduced the members of the Board and explained the procedures that would be followed during tonight's meeting. Wayne Jessup introduced the Staff members present. Assistant City Attorney Sharon Miller explained the procedures for quasi-judicial cases.

Chair Maus informed the Board that Item 2 had been withdrawn.

Approval of Minutes

Approval of Meeting Minutes – June 18, 2008

Motion made by Mr. Welch, seconded by Ms. Freeman, to approve the June 18, 2008 minutes with the following corrections as noted by Mr. Glassman and Ms. Golub:

- p. 31: correct name from Gene Goldman to Gene Goldstein;
- p. 32: Central Beach Alliance vote should be 181-52;
- p. 42: Mr. Welch, not Mr. Glassman, nominated Vice Chair Adams.

In a voice vote, the motion was unanimously approved.

Approval of Meeting Minutes – August 20, 2008

Motion made by Ms. Freeman, seconded by Ms. Graham, to approve the minutes of August 20, 2008 with the following correction as noted by Ms. Golub:

- p. 40: Ms. Golub and Chair Maus both voted against verification.

In a voice vote, the motion was unanimously approved.

Approval of Workshop Minutes – August 20, 2008

Motion made by Ms. Freeman, seconded by Mr. McTigue, to approve the Workshop minutes of August 20, 2008. In a voice vote, the motion was unanimously approved.

Mr. Stresau advised that he had passed by the site in question for Item 6 earlier in the day, but did not see a public notice posted the property. In the absence of the Applicant at this time, Chair Maus explained that when the Board reached this item on the agenda, it may be decided that it is inappropriate to go forward regarding this item until it is re-posted.

Thomas Lodge, Planner, stated that he did not have the affidavit regarding this item. No members of the Board, or of the public present at the meeting, had seen a sign on the property.

Motion made by Mr. Stresau, seconded by Ms. Graham, to defer Item 6 to the October meeting of the Planning & Zoning Board. In a roll call vote, the motion carried unanimously.

Vice Chair Adams joined the meeting at this time (6:46 p.m.).

1. **City of Fort Lauderdale / Proposed New Zoning District – RS-8B** **Adrienne Ehle** **11-T-08**

Request: ** * Creation of New Residential Zoning District – RS-8B

Description: An ordinance amending the Unified Land Development Regulations, Sections 47-5.2, 47-5.11 and 47-5.31 to create a new RS-8B zoning district.

DEFERRED FROM THE JULY 16, 2008 MEETING.

Adrienne Ehle, Planner, stated that this Item had been deferred from the July 16, 2008, meeting. This proposal is for a new RS-8B zoning District that would restrict overnight parking of specified vehicles, boats, and trailers, as required per section 47-34.4. She described this as “an addition,” as RS4.4 already applies; the new District would allow a neighborhood or Applicant to rezone into RS-8B with the same requirements.

Chair Maus noted that Ms. Ehle is both Staff and Applicant to this Item.

Mr. Stresau asked if the only change to the existing District was solely to prohibit the parking and storage of commercial vehicles.

Ms. Ehle referred to p.538 of the ULDR, which notes “general overnight parking requirements” (under B), followed by more detailed and specific requirements (under 2) limiting the length and height of boats and recreational vehicles, including where they can be placed on the property. She agreed that only these two kinds of vehicles would be affected.

Mr. Stresau asked if there had been consideration of the Council of Civic Associations’ suggestions to the amendment, which included reducing building mass and changing setback and FAR requirements. Were a new zoning category created, he felt, other amendments should be included as well.

Ms. Ehle advised that Mr. Stresau might be referring to another Item, not included on the current agenda, which she had presented to the Board in July regarding changes to the ULDR on a fast-track basis.

Mr. Stresau asked if study of the areas proposed for rezoning to RS-8B had occurred, to confirm existing policy or changes desired by the public. It was noted that the changes to which he referred applied to the other Item, RS-8A, as Ms. Ehle had suggested.

Chair Maus, hearing no further questions from the Board at this time, opened the public hearing.

Terri Murru, President of The Landings Residential Association, stated that she represented 386 residents of this neighborhood, who welcomed the opportunity to participate in what she described as a public/private partnership.

She informed the Board that an "old [and] dilapidated" motor home had been left on Bayview Drive in excess of three months, and she had received phone calls regarding the motor home on a daily basis. The Residential Association had met with their City Commissioner, and the consensus had been to review existing Code and bring "enhancements" to this Code on a level they felt was appropriate.

To this end, she noted, Association members had conducted their own survey, polling more than 40% of the neighborhood's residents regarding enhanced enforcements. When the survey was completed, they had approached Staff to make improvements to the 8 Code section.

In response to Mr. Stresau's earlier question, Ms. Murru continued that the Association was also in agreement with the Item, RS-8A, to which he had originally referred.

There being no more members of the public wishing to speak on this Item, Chair Maus closed the public hearing and brought the discussion back to the Board.

Motion made by Ms. Freeman, seconded by Mr. McTigue, to approve creation of New Residential Zoning District RS-8B. In a roll call vote, the motion was approved 9-0.

2. **CJB Real Estate Management, L.P. / CVS # 0410** **Thomas Lodge** **1-ZR-08**

Request: ** * **Rezoning with Flex Allocation / Rezone RMM-25 to CB**
Legal Description: Lots 10 and 11, Block 2, "Coral Ridge Addition A", P.B. 41, P. 30 and Lots 9, 9A, 12, 12A, Block 2, "Coral Ridge Addition A", P.B. 41, P. 30
Address 1815 East Commercial Boulevard
General Location North of Commercial Boulevard between NE 18 Terrace and NE 18 Avenue

DEFERRED FROM THE JULY 16, 2008 MEETING

Item 2 was withdrawn by the Applicant.

3. **Housing Authority of Fort Lauderdale / Kennedy Homes Plat** **Thomas Lodge** **21-P-07**

Request: ** **Plat Review**
Legal Description: Block 1, Dr. Kennedy Homes Housing Project, according to the plat thereof, as recorded in P.B. 15, P. 70, of the Public Records of Broward County, Florida, less the land described as Parcel No. 163 for Right-of-Way, in Official Records Book 9853, P. 146, of the Public Records of Broward County, Florida
Address 1004 West Broward Boulevard
General Location South side of Broward Boulevard between SW 9 and SW 11 Avenue

DEFERRED FROM THE AUGUST 20, 2008 MEETING.

Disclosures were made by the Board, and members of the public wishing to testify on the matter were sworn in.

Steven Tilbrook, Attorney with Shutts & Bowen Law Firm, spoke on behalf of the Housing Authority of the City of Fort Lauderdale (HACFL) and their development partners for the Kennedy Homes Plat project.

He also introduced Tam English, Executive Director of the HACFL; Scott Strawbridge, Director of Development for the HACFL; Clifford Lutan, PE, Sun-Tech Engineering; and Linda Socolow, also of Shutts & Bowen.

Mr. Tilbrook noted that the plat had first been presented to the Board at the July meeting. The Kennedy Homes are located at 1004 West Broward Boulevard, on a property zoned RM-25 with a land use designation of medium/high residential. The property occupies 8.51 acres and currently holds 132 units of affordable housing.

His firm represents the HACFL and its development partners, who seek to provide affordable housing for families with low incomes and to improve the quality of their lives. The Board of the HACFL has adopted a policy to upgrade their existing affordable housing, Mr. Tilbrook continued, and the Kennedy Homes project is part of that objective.

The site was originally platted in 1941, he explained, and occupies two blocks along West Broward Boulevard, two acres of which have not been previously developed. The original plat, as well as the one before the Board, is considered a "boundary plat."

Mr. Tilbrook provided photographs of the site. He described the property as having front porches "a few feet from the cars," with limited parking on side streets.

Because the site was platted prior to 1953 and occupies 8.5 acres, he said, platting exemptions under the County Code do not apply. In order to build any principal structure on the site, another plat must be submitted.

The plat before the Board tonight, Mr. Tilbrook advised, was originally submitted in 2007 and is a boundary plat for one parcel. The current plat note differs slightly from the one included in the Staff report, he pointed out, in that it is limited to 160 garden apartments, 128 of which are low-income and 32 of which are very low-income. In addition, the plat note specifies that "garden apartments" are defined as units of no more than two or three stories in height.

The DRC, City surveyors, and City engineers have approved the plat, Mr. Tilbrook stated, and the Staff report indicates that the plat conforms to ULDR and subdivision requirements of the City Code. The item was continued from July so community outreach could be conducted and further information could be provided to Kennedy Homes residents, he said.

On August 13, 2008, a meeting was held with Kennedy Homes residents, and the plan for revitalization was shared at that time. Mr. Tilbrook added that at this meeting, residents were informed that limited relocation would likely be required during the renovation of the site.

The HACFL, he noted, is carrying out a similar plan at other locations, notably Dixie Court, which is also being renovated and rebuilt. They have experience working on relocation per HUD objectives, Mr. Tilbrook said. At this time he asked that HACFL Executive Director Tam English address the principles and process involved, which will

allow Kennedy Homes residents to return to the location when renovations have been completed.

Mr. English explained that the HACFL has previously executed a full relocation during the first phase of renovations at Dixie Court. This involved relocation of 74 units, which occurred three years ago; of the 74 residents relocated, HACFL was involved in the process for 73, three of which were moved to private properties and 70 of which were moved to HACFL properties. The single tenant who made individual arrangements was supervised by the HACFL, he added, to ensure proper housing.

The current phase of the Dixie Court project is expected to involve the relocation of all 69 residents into either the newly renovated part of this development or other sites controlled by the HACFL, Mr. English said. No resident will be denied the assistance of the City in relocation.

He noted that he could not yet provide details for a Kennedy Homes relocation project, as the target date of January 1, 2009, was not yet certain. The HACFL did, however, anticipate having every tenant "relocated properly" onto other sites, either controlled by HACFL itself or by other nearby property owners.

Mr. Tilbrook stated that the relocation plan was communicated to the Kennedy Homes residents, who had "overwhelmingly supported" the plan for revitalization. A resident meeting regarding other business was scheduled for the same night as the Planning & Zoning meeting, which prevented some residents from attending; Mr. Tilbrook noted that a petition had been circulated, signed by residents of approximately 100-130 Kennedy Homes units, in support of the revitalization efforts.

Outreach had extended to the neighborhood surrounding the Kennedy Homes as well, Mr. Tilbrook added, including meetings with the Sailboat Bend Civic Association (SBCA), which had gone on for almost two years. The initial meeting took place in 2006 and discussed the concept of revitalization; since the plat application was submitted, another meeting had been held with this Association's general membership, and had participated in at least two conversations with the Chair of the SBCA's Development Review Committee. He continued that the HACFL is committed to continuing this partnership with the SBCA, who are concerned about the future of the Kennedy Homes.

The plat note has been additionally clarified, Mr. Tilbrook noted, by specifying the maximum number of units as 160 and that these units will be affordable housing. The HACFL has received an Affordable Housing Certification from Broward County.

He described the plat note as restricting the site to its current use, so no significant changes may occur. Mr. Tilbrook pointed out that, were the site developed according to zoning and land use plans, 212 units could be constructed on the property, while the plat note before the Board restricts this to 160 units. The zoning Code also allows

buildings of up to 55 ft. in height, while the plat note restricts height to three floors. The density provided by 160 units would be approximately 18 units per acre.

The HACFL's mission, he reiterated, is to provide quality affordable housing, and the governing board for the organization has determined that the quality currently available at the Kennedy Homes is "not what it should be." They do not feel the level of service to which residents are entitled is being provided at present. Mr. Tilbrook added that more housing could be provided on the site as well, through use of the two undeveloped acres.

The plat before the Board does not mean there will be demolition on the site, he said. In addition, there would be no vehicular access from Broward Boulevard, as both County and State regulations forbid it. The plat has been determined to be consistent with City engineering regulations.

Mr. Tilbrook advised that the City has provided information regarding the scope of review that the Planning & Zoning Board has over plats, which specify that the Board's discretion is limited to verification that subdivision and adequacy requirements are met by the project. He requested that this documentation be included in the record, along with a County Attorney's memorandum also stating that the Board's discretion to deny is limited to the above criteria.

A letter sent by Mr. Tilbrook to Tom Lodge, Planner, and to each Board member, was also entered into the record.

At this time Mr. Lodge read a Staff memo regarding a single change to the Staff report, which noted that the statement "consisting of three-bedroom units" is no longer part of the plat note.

Mr. Lodge described the property as consisting of three 171,117 sq. ft. and zoned RM-25, comprised of low- and very low-income housing. The plat is consistent with the future land use element of the comprehensive plan and conforms to ULDR subdivision regulations, he said.

Ms. Golub asked Mr. Lodge if the plat could "readily accommodate" 160 garden units with appropriate density for its size. Mr. Lodge affirmed that this was accurate, and the comprehensive planner had reviewed this specification.

Ms. Golub also requested the Code's definition of "garden apartment."

Assistant City Attorney Miller advised that this is a County definition, as the County has ultimate authority over plats.

Mr. Lodge stated that the County Code definition defines garden apartments as “apartments that are two or three floors in height, each unit not more than one floor.” He pointed out that this is part of the plat note.

Chair Maus, hearing no further questions from the Board at this time, opened the public hearing, noting that the location’s designation as a historic preservation is not before the Board at this time. She requested that all comments be limited to the plat.

Nolan Haan, private citizen, expressed concern regarding the plat note, stating that currently 100% of the Kennedy Homes residents fall into the category of “very low income.” If the plat note is approved, he said, this portion of residents will be reduced to 20%. This meant the other 80% of residents would only be able to return to the location if they qualified for Section 8 housing, he said, which must be applied for separately. He felt this meant there was no guarantee that those residents who were relocated would be allowed to return to the Kennedy Homes.

Mitchell Lambert, private citizen, expressed concern that the proposed project would not return to the Planning & Zoning Board at a later date for further review. Chair Maus informed him that a project only “comes back” to the Board if it has been deferred from an earlier time.

Ms. Graham clarified for Mr. Lambert the approval process for the plat, pointing out that the Board may only deny a plat if certain specifications have not been met. Criteria outside these specifications, she explained, may not be considered by the Board, even if the Board is not necessarily comfortable approving a particular project.

Dave Parker, President of the Sailboat Bend Civic Association, informed the Board that a “long discussion” had been held with the HACFL regarding the Kennedy Homes, and the SBCA was very interested in preserving their Historic District. He referred to a meeting held on Monday, September 15, 2008, at which SBCA members voted unanimously in opposition to the destruction of the homes in question, and in favor of efforts to preserve them as part of the Historic District.

Charles Jordan, resident of Sailboat Bend, pointed out that the City had not addressed the historic element of the site plan, and he felt such discussion was necessary for any plan affecting the Historic District. He felt this element was part of the Board’s charge at tonight’s meeting, and did not feel the plat could proceed without a “certificate of appropriateness” that approved the demolition of any buildings. He stressed that the historic element of the site plan was as important as the land use element, and the City should not proceed without taking the area’s designation as a Historic District into account.

Wilbert Ponder, Jr., resident of Kennedy Homes, stated that he spoke on behalf of the tenants, and spoke in favor of the proposed project, pointing out that the buildings had

not been upgraded since 1941. He felt that a newer and improved building would be an attractive asset to the City.

Bob Smith, resident of Kennedy Homes, stated he agreed with the HACFL's position.

Frederick Frelau, resident of Kennedy Homes, felt the buildings had sentimental value.

Richard Locke, resident of Sailboat Bend, felt this area, including the Historic District, comprised the "heart and soul of social services" for both the City and the County and had done so since the City's founding. He felt the neighborhood had finally received adequate representation on the Board in 1980 as a result of the Civil Rights movement, which had not yet occurred at the time the Kennedy Homes were built. He described the homes as "beautiful structures" and noted that the area was home to the first integrated neighborhood in the City.

Mr. Locke added that six Social Service Residential Facilities (SSRFs) were located in the neighborhood surrounding the Kennedy Homes, and that these facilities had tremendous social impact in the area.

By renovating the Kennedy Homes, he continued, 20% of the area's historic housing would be lost, and he felt it would cause great social damage to the community. He affirmed that the District's historic nature should preclude demolition in the area, and that the Historic Preservation Board, not the Planning & Zoning Board, should make this decision.

Alysa Plummer, Chair of the Development Review Committee for the SBCA, reiterated that both the Committee and the SBCA at large voted unanimously in support of the HACFL's mission to provide quality housing at the Kennedy Homes. She expressed concern, however, with the demolition that would be required in order to build new apartments. She requested that the Board deny the plat.

Ms. Freeman asked how many Kennedy Homes residents are members of the SBCA. Ms. Plummer stated no Kennedy Homes are formal members, but membership was open to the residents if they wished.

She continued that she understood the "sense of frustration" that Kennedy Homes' residents must feel with the difficulties of an aging property, but felt that disrepair or lack of maintenance was not sufficient reason to demolish the building in a Historic District. Ms. Plummer added that many of the SBCA members had houses older than the Kennedy Homes and were also in need of work, but these structures could not be destroyed due to their location.

Ms. Freeman asked if the SBCA had reached out to the Kennedy Homes' residents, noting that comparatively few of the residents were present at tonight's meeting.

Ms. Plummer stated that she had spoken to many residents of the Kennedy Homes, and had received the impression that lack of ongoing repair contributed to the building's condition. She did not, however, feel the conditions required demolition in order to be corrected.

She felt it was important to "keep the dialogue going" between the SBCA, the HACFL, and Kennedy Homes residents, and that repairs and upgrades could be made to improve conditions in the present apartments.

Ms. Freeman reiterated Chair Maus' earlier statement, noting that the Board could not make a decision based on the historic status of the neighborhood. Ms. Plummer, however, felt that allowing demolition would set a dangerous precedent for the Historic District.

Assistant City Attorney Miller pointed out that platting is a different "track" to action, and developers would also have to appear before the Historic Preservation Board to apply for a certificate of appropriateness to demolish and a second certificate of appropriateness to build. If these certificates were not granted, an entirely separate appeal process would ensue.

Ms. Freeman thanked Attorney Miller for clarifying the Board's parameters for the decision.

Ms. Graham asked if Ms. Plummer had attended the Board's meeting in July, when the plat first appeared before the Board. Ms. Plummer stated that she had been present.

Ms. Graham recalled that the Applicant had noted that demolition was, in some case, less expensive than repairs. She asked if Ms. Plummer's impression was that residents were hesitant to call attention to a need for repairs, possibly out of concern that their rent might be raised.

Ms. Plummer felt she was not sufficiently familiar with the situation and the residents to answer. She did, however, offer that when residents were invited to attend SBCA meetings and raise the issue of a need for repairs, the response was consistently a "no."

Paul Boggess, resident of Sailboat Bend, stated that he was a member of the SBCA at the time of its inception, and that residents of the Kennedy Homes had served on the SBCA's board in the past. He recalled that they had often been very helpful with SBCA functions.

Diane Smart, President of the Broward Trust for Historic Preservation, stressed that the neighborhood in question was a protected area, and that members of her organization were present at tonight's meeting because they felt their "mission" was to help protect the Historic District.

She added that on September 3, 2008, the Broward Trust's Board of Directors had approved the following statement:

"In accordance with its mission to preserve significant Broward County architecture, the Broward Trust for Historic Preservation firmly opposes the removal of property or demolition of certain structures within the District.

"We are here tonight because we see this as the first step of destroying the intention of those who established the Historic District of Sailboat Bend, the platting of a rare and respected Historic District. This will very likely result in the demolition of contributing structures. There is absolutely no doubt that the 49-47 houses are contributing to the District."

In conclusion, Ms. Smart stated, allowing the proposed replatting amounted to demolition within the Historic District.

Ms. Graham stated she was concerned that the process allowing renovation was flawed. She noted that the Board's limitations as an advisory body might ensure that they approved a plat; while a board in charge of historic review might deny it, she felt the Planning & Zoning Board's approval could give a developer cause to challenge the denial.

Ms. Smart, though stating that an Attorney would need to address the question, shared Ms. Graham's concern.

Attorney Miller reiterated that Planning & Zoning and Historic Boards were separate tracks, and that one Board's approval or lack of approval did not grant a right or a denial before the other Board. The Planning & Zoning Board, she stated, had only the authority to look at the plat, not the eventual intent of the Applicant.

The plat, she summed up, was only a "map," assuming a maximum density allowed on a property. Whether or not the Applicant chose to approach that maximum density was at their discretion.

Ms. Freeman stated that the Board does not choose sides in an argument and cannot make decisions in the interest of, or against, the Historic nature of the District. She noted that historic organizations will have their own opportunity to deny or grant approval, and that requests to deny a plat on historic grounds belonged before a Board with authority over the Historic District.

There being no more members of the public wishing to speak on this Item, Chair Maus closed the public hearing and brought the discussion back to the Board.

Mr. Glassman felt that if the Applicant can place a note restriction on a plat as condition of approval, the Board should be able to make a similar restriction, considering that the property lay within the City's sole Historic District. He noted that future use of a property was a consideration taken into account by other boards when approving or denying a request.

Attorney Miller stated that a plat note is simply permission granted to an Applicant to limit the maximum use of a property. She defined the note as a voluntary limitation an Applicant places upon himself.

Furthermore, she stated, the historic nature of the District in question will be recognized, as its designation requires; it is not, however, recognized in a plat, but at a different stage in the approval process.

She continued that it is the Applicant's preference that the plat be approved or denied at this time, and if all City requirements are met by the plat, the City has no right to delay the plat's consideration.

Ms. Golub noted that after the plat was presented for the first time, the application was amended specifically to note that it was within a Historic District. Mr. Tilbrook stated that this was true, as the original application had made an error by failing to note that the property fell within a protected area.

Ms. Golub requested that Mr. Tilbrook respond to the concern raised by Nolan Haan, which was that a significant percentage of relocated residents might not be able to return to the Kennedy Homes because they did not meet the definition of "very low income."

Mr. Tilbrook stated that the low- or very low-income designation is required on the plat note in order to obtain impact fee waivers. He deferred to Mr. English at this point for further explanation.

Mr. English explained that all Kennedy Homes clients fit into the low- or very low-income category, but the property owners do not monitor which category each resident falls into. He stated that the plat note includes this designation to ensure that the owners may not lease 20% of the units to persons with higher incomes than "very low" or lease 80% of the units to persons with higher incomes than "low." They can, he affirmed, rent to persons with incomes *lower* than these designations, but not to persons with higher incomes. For example, he said, the entire property could be leased to persons with very low incomes, but not entirely to persons with low incomes.

The plat's limitation is included because impact fees differ from one of these two designations to the other, Mr. English said.

Ms. Golub requested confirmation that this will not affect what is built, but only the income of the residents. Mr. English said all current residents will be eligible to be relocated to the site.

Ms. Golub expressed concern that no documentation is included in the Applicant's exhibit guaranteeing residents the right to move back into the Kennedy Homes. Mr. English stated that the HACFL has made an agreement to this effect with the current residents, and reaffirmed that every resident, regardless of their economic designation of low- or very low-income, may move back into the building.

He added, however, that if a resident's income increases so it is above the low-income designation, the agreement would change.

Ms. Golub asked if this would change when there is turnover among residents, due to income change, relocation, or death.

Mr. English said the HACFL's commitment is to serve the same number of very low-income tenants that it currently has in the City, provided there is no change in HUD funding.

It was determined that even if a new owner purchases the property, he is obligated to rent to residents with the incomes listed on the plat.

Attorney Miller clarified that if a new owner purchased the property and wanted to rent for profit, they would need to request a plat note change and pay the appropriate impact fees that were waived under the current plat note.

Ms. Golub stated that her concern was that the same community currently being served by the Kennedy Homes would continue to be served under the plat note, and that the mixture of tenants not be altered under the note's terms.

Chair Maus clarified that, where such a change in tenants to occur, the HACFL would be in violation of contract, not only with the current residents of the Kennedy Homes but with the U.S. Department of Housing and Urban Development.

Ms. Freeman asked if the Applicant was able to charge market rent. Mr. Tilbrook stated that they were not, as a deed restriction on the property limited it to use for affordable housing only.

Ms. Graham requested clarification of what incomes were considered to be low or very low.

Mr. Strawbridge stated that "low income" was 60% of the area's median income, and 30% of the area's median income was "very low income." In 2008, he added, the area's median income was considered to be approximately \$60,000.

Ms. Graham asked which of the two income designations made a resident eligible for Section 8 housing.

Mr. English said Section 8 housing covered both income designations, explaining that Section 8 and public housing each set the rent for a tenant at 30% of that tenant's adjusted income. This meant there was some difference in rent for different residents.

Ms. Graham referred to the condition of the units, asking if the persons who had mentioned this before the Board spoke accurately about the state of the property – for example, mold, broken air conditioning units, broken doors, and other conditions requiring repair.

Mr. English stated that the mold in a particular unit had been traced to lack of proper tile cleaning in an individual resident's bathroom. No further evidence of mold in the units had been found, he said, unless there were active leaks that had not yet been reported for repair. He added that the HACFL inspects the units annually, as does HUD, to ensure that minimum safety and health standards are met. They attempt to maintain the buildings as well as possible, considering the budget constraints under which HACFL operates, he said.

Mr. Glassman noted that the Staff Report states the plat application "must be consistent with Broward County regulations for platting." He asked Attorney Miller why no documentation from the Broward County Historical Commission was included in the information packet, pointing out that this body usually "weighed in" on historical, archaeological, beach or neighborhood issues when any historic concern was affected. He also asked if Attorney Miller was aware of any County regulations for platting in historically designated neighborhoods.

Attorney Miller stated she did not know why no information from the Historical Commission was included, nor if there were specific County requirements associated with platting.

Mr. Tilbrook said the Applicant is addressing the Broward County Historical Commission's recommendation in a Development Review report, and is conducting a CRAS. They also plan to meet with Broward County's Historic Preservation Officer, although he noted that this is a County procedure and is outside the context of the City plat.

He affirmed that there are no current plans for any demolition to occur at the site.

Motion made by Ms. Freeman, seconded by Vice Chair Adams, for Plat Approval as presented. In a roll call vote, the motion carried 5-3 (Mr. Welch, Mr. Glassman, Ms. Graham dissenting, Mr. Stresau abstaining due to conflict).

4. **Casa Bella Builders, LLC.**

Yvonne Redding

72-R-07

Request: **	Site Plan Level III / Cluster Home Development
Legal Description:	Lot 15, Block 9, RIVER SECTION OF CROISSANT PARK, P.B. 7, P. 50, of the Public Records of Broward County, Florida, the east ½ of SW 6 Avenue (Vacated)
Address:	521-525 SW 10 Street
General Location:	East of SW 10 Street and South of SW 6 Avenue

Disclosures were made by the Board, and anyone wishing to testify on the matter was sworn in.

Gus Carbonell, Architect for Casa Bella Builders, LLC, said the project's design had gone through several stages before the Applicant was satisfied that it could be "an asset to the neighborhood." He advised that the Applicant and developers had discussed the project at length with the local neighborhood association, who had made several recommendations, many of which had been implemented.

He described the site as "oversized," on Southwest 10th Street, West of 4th Avenue, noting that the residential street has a 70-ft. right of way, which is unusual for a street only two blocks in length.

An aerial view of the development site was shown to the Board. Mr. Carbonell pointed out that the street on which the project is located has undergone a large amount of redevelopment, as has the property behind the site, which is separated by an alley.

Mr. Carbonell continued that many of the changes proposed when the project first came before the Board have been implemented since that time. These changes include hiding parking garages from the public view, elongating the buildings to avoid a "boxy" look, and adding two nonrequired spaces at the property's entrance for guest parking.

In accordance with the building's designation as a "cluster" development, a large community pool area has been added.

He continued that the project attempted to make the development resemble two single-family homes when seen from the streetfront. To this end, an area in the center of the building has been recessed from the streetfront. The structure's tallest part, which gives access to a roof terrace, has also been placed toward its center, away from the building's neighbors.

Facing the neighbors on either side, the first floor has been recessed farther than the required setback. On the second floor, the structure is also recessed. The roof terrace

is pitched back to reduce the view from the building's sundeck to the neighbors' property.

A suggestion made by the neighborhood association, Mr. Carbonell said, was that the design be changed from one unit to the next in order to provide a more unique look to the property. He pointed out that the tower roof, the windows, and the roofing over the entry door were all changed to achieve this effect. The color scheme will be different for each of the two units, although the colors will be complementary.

He pointed out that the project does not approach any maximum allowances in its District.

Yvonne Redding, Planner, also described the lot as "oversized" at 125 ft., where Code requires a 50 ft. width for a cluster development. It also exceeds the lot size requirement by 1125 ft.

The project proposes a four-unit cluster development, which is in accordance by the land use and density requirements. Ms. Redding added that the Applicant has provided a letter of support from the Tarpon River Neighborhood Association. They have also taken steps to make the two proposed units resemble two individual structures.

As there were no members of the public wishing to speak on this Item, Chair Maus closed the public hearing.

Ms. Golub asked if the Applicant or Staff had any concern for the perceived narrowness of the parking spaces. Ms. Redding confirmed that City engineers had reviewed and approved the egress of the spaces, both turning radii and clearance.

Ms. Golub asked if eight spaces would be sufficient for the units, noting that there was no street parking for the units.

Ms. Redding affirmed that the Applicant had requested and been allowed two additional parking spaces at the front of the property.

Mr. Stresau noted that he had visited three new projects and had observed that there were no public sidewalks in front of these new properties. He felt concerned that so many projects were being approved with no stipulation for sidewalks.

Chair Maus pointed out that the project under discussion had included sidewalks in front of the property.

Mr. Carbonell offered that many of the properties in the neighborhood will eventually have sidewalks as well, as required by City engineers. He pointed out that many of these sidewalks are currently unfinished or unpainted. He also noted that the project's sidewalk curves slightly in order to preserve a large mahogany tree on the property.

He added that a swale is available for additional parking if necessary, although it is not encouraged on the property. The developer was attempting to minimize cuts into the property wherever possible.

Motion made by Ms. Adams, seconded by Mr. Glassman, to approve the Site Plan Level III, subject to Staff conditions. In a roll call vote, the motion was unanimously approved.

5. Church of Jesus Christ of Latter Day Saints Yvonne Redding 11-Z-08

Request: **	Rezone from RS-8 to CF-H
Legal Description:	Parcels "A" and "B" and a portion of Parcel "C", GRIMM-MILLER ADDITION, recorded in P.B. 51, P. 8, of the Public Records of Broward County, Florida
Address:	1100 SW 15 Avenue
General Location:	East of SW 15 Avenue and North of SW 11 Court

Disclosures were made by the Board, and anyone wishing to testify on the matter was sworn in.

Wayne Hales, Project Manager, spoke on behalf of the Applicant, the Church of Jesus Christ of Latter Day Saints. He stated that wherever possible, the Church attempts to retain the historical value of their properties; however, they have outgrown their current facility, and are requesting to add classrooms for Sunday worship only.

He described the Applicant as "a very quiet neighbor," with little activity except on Sundays, when several units use the property as a worship center and meet at various times during the day. Times are staggered to avoid impact on neighborhood traffic, he said.

An improvement the Applicant seeks for this site, Mr. Hales said, is construction of a wall between the parking lot and the houses behind the Church building. He added that some neighbors would like the wall extended further around the parking lot, a proposal to which the Applicant is amenable, he said.

He continued that the Applicant was told it should come before the Board to request a zoning change from residential to a commercial facility for houses of worship. The intent, he said, is simply to improve the property and make the Church a better neighbor in its community.

Ms. Golub asked if the Applicant had met with the community regarding its plans.

Frank Shropa stated that they have met with the neighborhood association, which is in support of the Applicant's plans. The Church had made such changes and revisions as were requested, he said.

Ms. Redding, Planner, stated that the site plan was currently at the Planning & Zoning office, where it will go before the DRC at that body's next meeting. Any further neighborhood concerns will be addressed at that time, she said; what was before the Board tonight was the rezoning plan only, to rezone the property from RS-8 to CFH. This was so future improvements and alterations could be made by the Applicant.

Ms. Redding produced a letter of support from neighborhood resident Bertie McFarland, who said she is unable to attend the meeting but approves of the proposal.

Another neighbor is present with concerns about the site plan, Ms. Redding continued. She added that she had met with this individual and addressed these concerns, informing her that the DRC meeting would consider her input as well.

Ms. Golub asked which parts of the property must be rezoned. Ms. Redding stated that the entire parcel must be rezoned to CFH; it is currently considered a "legal nonconforming site," which could make no changes before rezoning. Land use designations support a community facility for worship, she noted.

Chair Maus, hearing no further questions from the Board at this time, opened the public hearing.

Carla Collette, private citizen, stated that she lived directly behind the Church, and felt that it was an impeccable neighbor, quiet, and well-maintained. She felt, however, that this rezoning, in conjunction with recent rezoning of a park near her home, might open the door for subsequent changes that could have greater impact. She expressed concern that the Sunday school might grow in capacity, noting that a zoning change could allow for it to become a school facility through the week as well.

Chair Maus counseled that Ms. Collette's question was for Staff, who should state whether the rezoning in question carries restrictions.

Ms. Redding confirmed that the rezoning is restricted, allowing for a maximum amount of 10,000 sq. ft. before the Applicant would need to appear before the Board again. Uses for the property are restricted to: house of worship, assembly hall, children's daycare facility, office space, and meeting rooms. Any further uses would not be allowed.

Kenneth Collette, private citizen, stated that he and Carla Collette had lived on the East side of the Church for 27 years and had experienced no difficulties with the Applicant during that time. He asked what restrictions might be placed on the proposed wall.

Chair Maus advised that issues involving the proposed wall will come up before the Development Review Committee at their meeting.

As there were no more members of the public wishing to speak on this Item, Chair Maus closed the public hearing.

Motion made by Mr. Glassman, seconded by Ms. Freeman, to approve the request for rezoning as presented. In a roll call vote, the motion passed 8-1 (Ms. Golub dissenting).

6. Assemblies of the First Born, Inc. Thomas Lodge 12-Z-08

Request: ** Rezone from RD-15 to CF-H
Legal Description: Lots 40, 41, 42, 43, 44, 45, 46, 47 and 48, Block 130 of PROGRESSO, According to the plat thereof, as recorded in P.B. 2, P. 18 of the Public Records of Dade County, FL. Said lands situate, lying and being in Broward County, FL.
Address: 1140 NW 9 Avenue
General Location: Located half way between West Sunrise Blvd and NW 13 Street on NW 9 Avenue.

Motion made by Mr. Stresau, seconded by Ms. Graham, to defer Item 6 to the October 15, 2008 meeting of the Planning & Zoning Board. In a roll call vote, the motion carried unanimously.

7. City of Fort Lauderdale/Coontie Hatchie Park Michael Ciesielski 13-Z-08

Request: ** Rezone from RS-8 to P (Park)
Legal Description: Lot 43, Valentine's Subdivision, P.B. "B", P. 29, of the Public Records of Dade County, Florida
Address: 1116 SW 15 Avenue
General Location: East side of SW 15 Avenue approximately ½ block north of Davie Boulevard

Chair Maus proposed that the Board hear Items 7 and 8 together but vote upon them separately.

Disclosures were made by the Board, and any member of the public wishing to speak on these Items was sworn in.

Frank Snedaker, Chief Architect, spoke for the City regarding two separate Items and cases located on the same property, which was acquired in June 2004 through the County Parks Bond Initiative and funding through Florida Communities Trust (FCT). As part of the City's agreement with the County in acquiring the property, they must be rezoned appropriately to P zoning to achieve compliance. Not only does this bring the property into compliance, Mr. Snedaker advised, it protects the property in the event of sale.

Item 8, he continued, requests approval of the site plan for the property, as well as a public purpose relief from a ULDR requirement with regard to a wall on the property's perimeter.

In early 2005, Mr. Snedaker explained, the Parks & Recreation Department distributed a questionnaire to the community within one half-mile of the property, which was deemed to be a neighborhood park. Residents were asked to respond by listing changes or facilities they would like to be part of the park. Over 260 responses were returned, and schematic plans were developed in accordance with the wishes of the community as expressed through the questionnaire.

These plans were presented to the nearby neighborhood associations, with generally favorable responses, Mr. Snedaker stated. He referred to a letter from the Riverside Park Community, dated September 2007, which had requested a "sandy lagoon" area from which kayaks or canoes could be launched. Mr. Snedaker noted that this response had been noted on some of the returned surveys as well, although it was not one of the more common responses.

This request was taken into consideration, he said, and the Army Corps of Engineers had been consulted, but in the end there had been some resistance to this proposal due to the area's proximity to the Davie Boulevard Bridge and the effects of tidal currents. The Army Corps of Engineers had ultimately "not looked favorably" on the proposal of cutting a seawall to create the suggested lagoon.

Currently, a floating dock is being considered to comply with both the wishes of the neighborhood and the agreement with the County, Mr. Snedaker said. This process is not part of the site plan as presented to the Board, as it has just begun; however, the site plan cannot be delayed, as the City is under agreement with the County to complete the park by June 2009.

The park's amenities will include: parking abutting 15th Avenue; a nature path around the perimeter of the park, using ADA-compliant mulch rather than asphalt or concrete; wooden playground apparatus that conforms with the natural look of the site; and two wooden pavilions, one adjacent to the water and another near the playground area.

Regarding the request for public purpose, Mr. Snedaker noted that when the ULDR was rewritten some years ago, the section dealing with neighborhood compatibility specified that a wall is required whenever non-residential development is adjacent to a residential area. In general, he said, Staff felt this was a useful ordinance; however, he did not feel that it was written with the intent that neighborhood parks should be walled areas, as they were meant to be open space for public use.

A study is underway, Mr. Snedaker said, which shows that this same ordinance will affect at least eight new parks currently in development, some as small as a single-family lot. He added that walls can create a hazard that can be conducive to crime, and are subject to graffiti and other abuses.

While a wall would provide some degree of security to the park's neighbors, Mr. Snedaker suggested that a black vinyl-coated chain-link fence could surround the adjacent properties. This would ensure some security while still allowing for fresh air and visibility into the park area.

Michael Ciesielski, Planner, informed the Board that the parcel in question is requesting rezoning from RS-8 to P, which is park, recreational, and open space zoning. The parcel of land is located approximately one half-block north of Davie Boulevard and is bounded by the South fork of the New River on the East, Southwest 15th Avenue on the West, and Southwest 11th Court to the North.

The land is currently vacant, and the City seeks rezoning to build a park on the site. Pursuant to Section 47-24.4 of the ULDR, the following criteria must be used to evaluate the rezoning request:

1. The zoning District proposed is consistent with the City's comprehensive plan, including ensuring that parks are equitably distributed throughout the City, that the historic and archaeological heritage of the City is preserved, and promoting the acquisition and retention of natural areas to environmental, recreational, and other public benefit;
2. Substantial changes in the character of development in or near the area under consideration supports the proposed rezoning;
3. The character of the area proposed is suitable for the uses permitted, and the proposed zoning District is compatible with surrounding Districts and uses.

Mr. Ciesielski stated that the Applicant has provided "a full narrative response" to this section of Code, along with a response to adequacy requirements, site photos, survey, and a sketch and legal description of the property.

He concluded that the request is consistent with the City's Comprehensive Plan, and added that an excerpt from the Riverside Residents' Association neighborhood newsletter, stating that they were advised of the project, are included in the Board's information packet as well.

With regard to the site plan, which is a request for public purpose use and waterway use, Mr. Ciesielski stated that the Master Plan for the park was developed in corroboration with the Riverside Residents' Association through the Parks & Recreation Department's Community Planning process. The Applicant requests relief from 47-25.3D, the buffer yard and wall requirements. In this case, he reiterated that the City's request is for a 6 ft. vinyl-coated chain-link fence be used in lieu of the required 5 ft. wall.

Should the Board choose to approve this relief, Mr. Ciesielski added, Staff requests that the following condition be included in the approval: the Applicant must comply with any archaeological requirements that Broward County may have for the site, including monitoring of the site during any excavation and ground disturbance activities or additional survey work on the site. This would satisfy archaeological survey standards, he said.

Ms. Graham asked if homeowners currently have fencing between their homes and the proposed project, as some fencing was indicated on a site map. Mr. Ciesielski clarified that this fencing is on the homeowner's property.

He also noted that the required fencing from which an exemption is requested would be 5 ft. in height, constructed of masonry, with a poured cap.

Ms. Graham wondered if the affected homeowners were aware that if the exemption is granted, they will not be getting the wall.

Mr. Snedaker stated that meetings had been held with homeowners' associations, and he had "been led to believe" that they would prefer a fence to a wall. However, he allowed that there is no written documentation of this preference, and the persons who met with these associations are no longer with the City.

Ms. Graham noted that the properties abutting the park might have changed ownership, and that a new owner might prefer a wall between his property and a park.

Ms. Freeman asked what zoning was on the property's north side. Mr. Ciesielski confirmed that this zoning was residential, or RS-8, and that the wall would run on both the North and South sides of the property.

Ms. Golub inquired how a 6 ft. chain-link fence was selected as a replacement, rather than fencing of different height or materials.

Terry Rynard, Assistant Director of Parks & Recreation, advised that her Department had been allowed some input in this selection, and informed the Board that they had attempted to give the park's neighbors a sense of security while preserving some open space. She said the chain-link fence was a contribution of Parks & Recreation, pointing out that a 6 ft. fence provided a barrier that was more difficult to jump or climb.

Ms. Golub referred to a split-rail fence pictured on the West side, and asked if this fencing was put in by the City while the proposed park was waiting to be built. Ms. Rynard confirmed this, as well as the fact that currently, no fencing was in place where a wall or a fence would eventually be erected.

Ms. Rynard also confirmed that the proposed chain-link fence would abut any fencing that a homeowner might already have on his property. At the request of a homeowner, she acknowledged, a break or gap might be left in the fence if it was that homeowner's preference.

Ms. Golub was not certain that a community meeting held two years ago was sufficient cause to grant a variance. Ms. Rynard pointed out that the current president of this association had been in touch via email, and she was in fact scheduled to meet with this association again on October 1, 2008. She noted that most of the questions of which she had been apprised were operational in nature, regarding hours of park operation, lighting, and maintenance.

Attorney Miller clarified that in the absence of community opposition, the City could make their request for a different kind of fence before the Board, although she allowed that the Board could defer the matter until more information could be gathered, if they so desired.

Ms. Graham referred to the photometrics presented by the City (L-3), asking for the height of the light poles. She expressed concern that the neighborhood association that had originally approved the project or made requests might not be aware of the possibility of a lighting issue, and suggested that the City's preference for a chain-link or split rail fence might have economic origins rather than community-oriented ones.

Ms. Rynard noted that the hours of operation for various City parks are scheduled on a case-by-case basis, and had not yet been determined for the park in question. The lights, she confirmed, are present as a safety concern, and the City will maintain control over the time that the lights are shut off.

Chair Maus, hearing no further questions from the Board at this time, opened the public hearing.

Ken Collette, who had spoken earlier, stated that his property is roughly 200 feet from the North side of the proposed park. He said when the City originally purchased the

property, its stated intent was that the land remain a “passive park,” or green space with no lights, walkways, or public amenities.

He expressed concern that some members of the community wanted a lagoon and a playground on the same property, which he described as “absurd.” Regarding the wall, Mr. Collette said his understanding was that any wall was only to be placed behind a residence, and added that the chain-link fencing on his property was his own.

Mr. Collette also affirmed that the park space is currently used by people who are on the property drinking or smoking, and felt that the addition of amenities would draw more people to the area, not all of whom would be families seeking to enjoy the park. He concluded by stating he wanted the property to remain green space, and added that some homeowners in his neighborhood felt the same. As he was not a member of the homeowners’ association, Mr. Collette said he had not participated in that group’s meetings with City Staff.

Carla Collette, who had spoken earlier, returned to the issue of the fence, stating that she had experienced several instances in which people had climbed the chain-link fence on her own property, which could also be easily done to a chain-link fence provided by the City. She also addressed parking concerns, pointing out that a floating dock in the proposed park would mean increased traffic to that area, as people would bring boats to be put into the water at the location. She felt not only that this was a safety issue, but that parking would be infringed upon in the area of Southwest 11th Court, which could easily block the way for emergency vehicles.

She felt that if rezoning what is presently green space to allow a park made for increased urban traffic, she was not in favor of a park. If, however, rezoning simply allowed the property to maintain its current use as green space, she felt more positively about the issue.

As there were no more members of the public wishing to speak on this Item, Chair Maus closed the public hearing.

Chair Maus requested that the Board move forward with a vote on Item 7.

Motion made by Ms. Freeman, seconded by Mr. Glassman, to amend the zoning of the property with Staff conditions. In a roll call vote, the motion was approved 8-1 (Ms. Graham dissenting).

8. City of Fort Lauderdale/Coontie Hatchie Park Michael Ciesielski 38-R-08

Request: **	Site Plan Level IV : Public Purpose Use/ Waterway Use
Legal Description:	Lot 43, Valentine's Subdivision, P.B. "B", P. 29, of the Public Records of Dade County, Florida
Address:	1116 SW 15 Avenue
General Location:	East Side of SW 15 Avenue approximately ½ block north of Davie Boulevard

Chair Maus proposed that, considering public commentary and Staff's uncertainty regarding the degree of neighborhood outreach, Item 8 be deferred until a later date.

Ms. Freeman requested confirmation regarding how many residents had responded to the City's outreach. Mr. Snedaker reiterated that the original survey sent to community residents had received over 260 responses; it had, however, been sent out in 2005.

Ms. Rynard offered a rough timeline for the property, describing it as a "five-year development" from the time the parcel was acquired from the County. The original conceptual plan was shown to the neighborhood, she clarified, in 2006. It then went to the City Manager's review, to committee meetings, and to the Parks & Recreation Board in 2007. After this review, the site plan also went through City Commission approval, site plan approval, DRC, and now the Planning & Zoning Board.

She affirmed that it would not be a problem to ask again for community approval, but that the end date for completion on the property is in June 2009. Ms. Rynard expressed concern of the potential for losing over \$404,000 in FCT (Florida Communities Trust) funds.

Ms. Freeman suggested a 30- to 60-day turnaround time for further community outreach.

Ms. Graham noted that no private applicant would be allowed some of the gaps in timeline that the City was allowed, although she added that she did not want the City to lose its grant money. She felt that if an exception were made in this case, however, it would mean overlooking important steps in the process.

Mr. Glassman asked if the neighborhood residents were aware of the next scheduled homeowners' association meeting.

Mr. Collette said he believed the next such meeting was set for October 1, 2008.

Mr. Stresau felt the issue should be deferred, as few community members had come to the meeting to speak on the issue. He noted, however, that there had been “ample notification” of the meeting.

Motion made by Ms. Freeman, seconded by Mr. Glassman, to defer Item 8 until the October 15, 2008 Board meeting, pending further community outreach by the City. In a roll call vote, the motion passed 9-0.

For the Good of the City

Chair Maus asked if the City was performing any review of Code as relates to abandoned or delayed development projects. She felt that many of these projects were easily identifiable in the City, and that perhaps this was an area of Code that could be improved upon.

Wayne Jessup, Deputy Director of Planning & Zoning, asked if there were specific issues Chair Maus had in mind to address. She suggested penalties might be assessed for projects that had been begun but left unfinished.

Deputy Director Jessup noted that timelines are in place for all projects, and that inspections are conducted in order to ascertain that a project is still active and to maintain the building permit. This would be the responsibility of the Building Department, he noted, which establishes these timelines.

Chair Maus requested that the Board be provided with a list of the Planning & Zoning provisions affecting abandoned projects. Deputy Director Jessup agreed that this would be sent to the Board.

Ms. Graham explained that once a building permit is obtained, it is good for 180 days. The way these are “kept alive” when little work is being done on a project is to purchase another permit for another 180 days if or when the inspection is failed. This includes projects that have already begun construction.

Ms. Freeman asked what the penalty was for projects whose permits had expired. Deputy Director Jessup stated that this was outside his area of expertise.

Attorney Miller responded that these projects could lose their development permits altogether, could lose units or zoning, and could be penalized under Code Enforcement as a nuisance or danger.

There being no further business to come before the Board at this time, the meeting was adjourned at 9:26 p.m.

Chair:

Catherine Maus

Attest:

Brigitte Chiappetta, Recording Secretary

[Minutes prepared by K. McGuire, Prototype, Inc.]