

**PLANNING AND ZONING BOARD
WORKSHOP
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, NOVEMBER 19, 2008 – 5:30 P.M.**

Board Members

Catherine Maus, Chair
Fred Stresau
Tom Welch
Patrick McTigue
Michael Moskowitz
Rochelle Golub (arr. 6:06)

Staff

Wayne Jessup, Deputy Director of Planning and Zoning
Jenni Morejon, Planner III
Adrienne Ehle, Planner III
Randall Robinson, Planner II
Sharon Miller, Assistant City Attorney
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

The meeting was called to order at 5:35 p.m. and Staff members were introduced.

Jenni Morejon, Planner, stated that as future Master Plans are adopted by the City Commission, and the ULDR language is changed to reflect the design guidelines included in these plans, the Planning and Zoning Department would schedule workshops with the Planning and Zoning Board to give detailed presentations of the plans.

On tonight's agenda was the North U.S. 1 Urban Design Plan, going through the design guidelines that have been outlined in the plan and briefly discussing those sections of Code that are expected to be modified at a future date, possibly within the next few months.

Ms. Morejon stated that the study area for this plan looked at U.S.1 from Sunrise Boulevard to McNab Road, which is approximately a five-mile stretch of the corridor. The study generally included only those commercial properties directly adjacent to the corridor, as the main intent was to look at the frontage along U.S.1.

The project was initiated roughly three years ago, she continued, after requests from nearby residential neighborhoods for the City to address recent development along the corridor. At the time, there was pressure to create mixed-use developments that were generally larger than the existing building pattern that could be found on the corridor; as these projects came through, concerns arose as to how they would affect the adjacent residential communities. Eventually the need arose to develop a "unified vision" for this five-mile stretch of the corridor in order for there to be clearer expectations for not only the development community, but for property owners and neighborhood associations as well.

As the plan moved ahead, the Planning Department developed a set of objectives from which guidelines for developing the corridor would evolve. These included:

- Sustaining the commercial viability of the corridor. To this end, the Department brought in a retail consultant who studied the plan's concepts and offered additional recommendations.
- Ensuring that traffic flow is maintained on U.S.1, as this is one of the few key north-south roadways in eastern Broward County and in Fort Lauderdale in particular.
- Studying the scale of adjacent neighborhoods and corresponding with their size.
- Improving pedestrian and vehicular circulation off the corridor and within the internal sites.
- Capitalizing on some of the properties with water access and using this to benefit redevelopment.

Ms. Morejon pointed out that currently U.S.1 is "rather nondescript" and repetitive, although there are various existing types and uses of buildings along the highway. An additional goal of the study was to discover whether there were existing patterns and characteristics to be recognized, and if these should be expanded upon in order to create unique districts along the highway.

The project began with a series of public meetings, including workshops intended to encourage community input. Less than a year after these took place, initial recommendations and findings were brought back to the public. Throughout the process, Ms. Morejon observed, the Department received valuable input, occasionally on ways to adjust the guidelines they had set. Between 50 and 100 people attended each meeting, and the responses were generally favorable.

When these findings were brought before the City Commission in October 2007 in the form of a final draft plan, additional comments were received, and the Department continued to work with the community. The plan was subsequently adopted by the City Commission in April 2008.

Ms. Morejon described the five-mile stretch as an "urban highway corridor," accommodating a great deal of traffic, with buildings located closer to the highway than on most heavily-traveled roads. She reiterated that the uses were predominantly commercial, although with some mixed use. Most importantly, however, was the relationship to the adjacent land uses, which are primarily residential.

When the plan began, the Department first looked at the corridor from several different ways in order to develop guidelines that were sensitive to a wide range of issues, not simply to building style or form. They identified three such relationships to analyze:

- Sensitivity of uses and building scale to adjacent properties;
- Relationship between pedestrian and vehicular circulation, both off the corridor and within the right-of-way ;
- Characteristics unique to the corridor, such as recognizable areas or districts.

The various uses and zoning districts adjacent to the commercial properties along the highway were mapped out by the Planning Department. It was noted that the majority of these were low-density residential neighborhoods and some multi-family zoning districts. There was also a concentration of commercial uses at many of the major intersections.

On the southern half of the corridor, waterways abutted many of the properties as well, Ms. Morejon pointed out. There are also many "back-to-back" relationships between the rear of commercial and the rear of residential properties.

With these adjacent zoning districts in mind, the project team began to consider the desired building form for properties along the North US 1 corridor. While the regulation for B-1 zoning currently allows buildings up to 150 ft. in height, and typically subject to neighborhood compatibility requirements, the Department chose to look into further developing ideas for appropriate building height for properties along North US 1. This led to three broad categories for building height for the area: low-rise, mid-rise, and high-rise. Where commercial properties directly abut low-density residential districts, the lower scale is recommended (up to three stories), for example.

The second analysis considered the relationship between vehicular and pedestrian circulation. Currently, most pedestrian circulation occurs near the edge of the curb, with traffic flowing past them. A Code requirement currently calls for a 20 ft. landscaped buffer area beyond the right-of-way, which often segregated pedestrian and vehicular circulation and removed pedestrians farther from building frontages and entrances. This also required many individual curb cuts. The Department sought to accommodate more efficient circulation in the area.

Categories in a cross-section analysis were then considered. If the interdistrict corridor from the roadway back to parking areas was seen as a frontage zone, it became important to also see this as a potential area for pedestrian circulation rather than for landscaping only. One idea was to use this 20 ft. interdistrict corridor as a location for a multi-modal pedestrian path, with access for bicycles and transit amenities. The visible parking areas would also be interconnected from one site to the next, and building edges would feature secondary pedestrian paths.

Finally, the corridor's existing uses were studied to determine whether unique districts were present. To the north were a great many independent retailers, such as florists and coffee shops, in the smaller buildings; at the McNab Road and Commercial Boulevard intersections were two hospitals; toward Oakland Park Boulevard was the Coral Ridge Mall, one of the largest pieces of land along the corridor; and moving south of Oakland Park Boulevard was a mix of mid-century modern buildings, boutique stores, and large retailers. Further south toward Gateway was a concentration of auto dealerships. Based upon these uses, the depth and dimensions of the properties, and the building patterns, the Planning Department identified six unique character areas.

Ms. Morejon noted that whenever a Master Plan is adopted or design guidelines are created for an area, the Department ensures that some flexibility is built into the guidelines to allow for creative development proposals that may not specifically meet the design guidelines, but still meet the intent of the master plan. However, the plan further recommends that development proposals that exceed the height limits outlined in the design guidelines be subject to conditional use approval.

Ms. Morejon then read the following intent statement for the study area which was developed after receiving community input: "Transform North U.S.1 into a collection of distinct and dynamic places made up of premier regional destinations and family neighborhoods, shops, and restaurants, all in a well-

landscaped, pedestrian-friendly mixed-use environment." More specific intent statements exist as part of the Master Plan for the six geographical districts.

The six unique character areas are as follows:

- Medical/Office District, in which buildings could be located closer to U.S. 1.
- Local Commercial areas, which are divided into two categories: shallow lots (less than 175 ft. deep) and deeper lots. On shallow lots, the interdistrict corridors are allowed to be narrower in order to provide more opportunity for building on that site. Parking garages may be allowed within the frontage zone as long as additional guidelines are met.
- Town Center, at the Coral Ridge Mall. Should this area redevelop, planning principles would include possible reincorporation of the street grid, a mixed-use concept with residential uses to ensure sensitivity to surrounding neighborhoods, and possible incorporation of a transit hub along the highway.
- SoOak (South of Oakland), which Ms. Morejon described as one of the only opportunities along the commercial corridor to allow for "a more intimate feel" along with a more urban scale of development. Many of the existing buildings are close to the highway, and the interdistrict corridor is recommended to be used as a "pedestrian promenade." There is a greater opportunity to walk into this area from adjacent neighborhoods as well.
- Regional Commercial, which allows for more "big box" retail development and encourages them in this area. The application of residential flexibility units, such as mixed-use projects, is actually discouraged in this area in order to preserve commercial viability.
- Gateway Intersection, which capitalizes on the Middle River Waterway. The Department felt this area provided the opportunity for larger-scale development, as it was the only area where existing residential towers were located. Larger-scale buildings and higher density is allowed, and there is the potential for a pedestrian promenade along the water's edge.

This is essentially the vision developed during the planning process over a two-year period, Ms. Morejon stated. When the ULDR recommendations are brought forth, she noted that the Planning Department suggests revising the section on neighborhood compatibility, which currently requires that an adopted neighborhood Master Plan should be considered, although it does not take precedence over conflicting ULDR requirements. The Department recommends that this be reversed so when master plans and design guidelines are approved and adopted by the City Commission, the name of the plan itself is listed as part of Code, and its guidelines override any conflicting ULDR requirements.

Another recommendation is that another business zoning District be added to the ULDR, which the Department calls a "Business Master Plan." This would be a zoning District where, as plans are adopted, areas could be rezoned to apply the Master Plan on a district-by-district basis. This is still under consideration, Ms. Morejon advised.

She stated that she would take questions at this time.

Mr. Moskowitz asked what was meant by the City Commission's approval of the Master Plan. Ms. Morejon explained that the plan was approved by City Commission resolution; at this time, there is nothing in Code that requires that the guidelines of the N U.S. 1 Plan be used in the development review process. Current Code requirements still stand as law.

Deputy Director Jessup added that in instances where neighborhood compatibility is in effect, the Plan would apply; however, in cases of conflict with ULDR Code, the ULDR overrides the Plan's guidelines.

Mr. Moskowitz noted that often a Master Plan is derived from a group of homeowners coming together, such as local neighborhood associations or the Central Beach Alliance. In this case, he asked if the development community had initiated the development of the Plan.

Ms. Morejon explained that only plans such as the Downtown Master Plan, the Downtown New River Plan, and the N U.S.1 Plan have actually been approved by the City Commission for adoption into the ULDR, which differentiates them from local plans such as the ones to which Mr. Moskowitz referred. When other planning initiatives by the City, such as the Beach Master Plan, are approved, they would be added to the ULDR as well.

Mr. Stresau pointed out that the Planning Department works with "a changing Board," and noted that although the N U.S.1 Plan had been two years in development, he had not encountered a great deal of background material, such as minutes from the City Commission meeting when the Plan had been presented. He felt this would hamper the Board's ability to make informed decisions when revising the ULDR.

He continued that his impression was that the Plan was "driven" not by the business community, but by input from adjacent residential areas, and asked if commercial property owners had had a role in initiating the Plan's creation.

Deputy Director Jessup clarified that the Plan was initiated by the City Commission and followed by a number of stakeholder meetings and community workshops, at which residents and commercial owners were participants. Notices were mailed to the local communities prior to all such workshops, and Department personnel were available to individuals who wished to speak about their particular concerns and circumstances. Although it had been initiated by the City Commission, he affirmed that the Plan had been vetted by the entire community.

Mr. Stresau reiterated that he found it difficult to catch up with two years' worth of work on the Plan. Furthermore, he felt many of the dimensional requirements were very restrictive in relation to landscape issues, such as the buffer areas between large mid-rise commercial buildings and adjacent residential areas.

He continued that he wanted to look more closely at many of the zoning "rewrites" that would come before the Board in December 2008 or January 2009. He felt much of the current landscaping was preferable to the alternative of "a continuous parking lot," as occurred along parts of U.S.1. He was not sure how to address the aspects of the Plan with which he disagreed, he concluded.

Deputy Director Jessup advised that, as the City Commission has already approved the plan, comments could be presented to that body and the Planning Department could be asked to "take another look" at the project.

Assistant City Attorney Sharon Miller stated that acceptance or approval of the Plan, at this point, does not impact development: it is only a Plan in which the City Commission has found merit. Until it has been adopted as part of Code, it has no legal impact and cannot directly affect development. She noted that the Plan contains flexibility, such as the provision for conditional use.

She felt the City Commission and the Board should examine the "goal and vision" of the Plan. If a builder had a better way in which to meet this vision, she pointed out, that could be presented as well.

Attorney Miller concluded by stressing that tonight's workshop was not intended as an adoption of land use regulations, which will come before the Board at another time. She felt Ms. Morejon and other representatives of the Planning Department were presenting a particular vision and accepting recommendations on how it might be improved.

Mr. Stresau felt an applicant presenting a project that did not fit the proposed Master Plan was "into a fight" when their project came before the Development Review Committee in terms of neighborhood compatibility.

Deputy Director Jessup suggested that Mr. Stresau recommend modifications to the Plan, and the Planning Department would hold off on implementation until the proposed modifications were reviewed.

Mr. Stresau recommended holding another workshop to review the design studies that contributed to the plan. Deputy Director Jessup advised that this would be up to the Board to decide.

Chair Maus asked if other Board members had comments on the proposed Master Plan.

Ms. Golub stated that she did not see sufficient detail in the documents presented to the Board that would constitute evidence of "bad planning." She felt there was no significant "difference in vision" presented in the Master Plan.

Ms. Morejon pointed out that the Planning Department considered, among other aspects, more appropriate transitions between building heights, based upon community input; transforming interdistrict corridors by moving landscaping without decreasing it; and identifying uses appropriate for areas of certain character. While the Department went into detail regarding some of these items, she added that they had also wished to leave room for flexibility, as not every unique site or situation in a five-mile corridor could be anticipated. She concluded that the guidelines were sufficiently general as to provide a "framework" for developers in the area.

She continued that the Department welcomed additional input such as Mr. Stresau's suggestions. As the City evolved, she hoped the Plan's design guidelines allowed sufficient flexibility to evolve along with it.

Ron Mastriana, whose family owns some eight parcels along the strip in question, requested that approval of the N U.S.1 Master Plan be postponed, as there are "major problems" with its adoption into Code. He felt the Board and property owners should spend more time examining how the Plan affects various parcels of land.

He added that his family represented many of the smaller parcels for "mom and pop" businesses, and noted that many of these were too small to adequately adopt aspects of the Master Plan. He hoped to meet with the Planning

Department and other owners of commercial property along the highway to discuss some of the owners' concerns.

Mr. Mastriano affirmed that this was a "prime commercial area" within the City that should be revitalized, but not restricted.

Jimmy Morales, representing the corporation that owns and operates the Coral Ridge Mall, stated that the Plan significantly impacts his client's property, but his client has never been invited to participate in the development process. They wished to be part of the discussion, he said, and were concerned that this had not yet happened. He also asked if changes would be made to the ULDR that would affect his client's particular parcel.

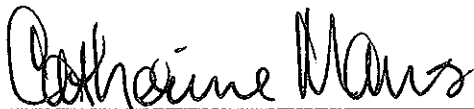
Attorney Miller clarified that should the parcel be redeveloped, ULDR changes would apply.

Mr. Morales reiterated that his client wished to participate further in the planning and approval process.

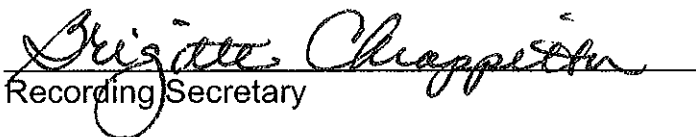
Attorney Miller noted that any ULDR changes would be put into affect "plan by plan," through ordinances to amend the ULDR, rather than through approval of the Plan. She cited the Downtown Master Plan as an example, as it was incorporated into the ULDR following the City Commission's approval.

Chair Maus asked if it would be possible for Staff to meet with the individuals who had expressed concerns about the N U.S.1 Master Plan, then return before the Board with another workshop. It was agreed that this could be done.

The workshop was concluded at 6:30 p.m.



Chair



Recording Secretary

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100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, NOVEMBER 19, 2008 – 6:30 P.M.**

Board Members	Attendance	Cumulative June 2008-May 2009	
		Present	Absent
Catherine Maus, Chair	P	6	0
Rochelle Golub	P	6	0
Mary Graham	P	6	0
Tom Welch	P	5	1
Maria Freeman	P	6	0
Fred Stresau	P	5	1
Patrick McTigue	P	6	0
Mike Moskowitz	P	2	0

Staff

Wayne Jessup, Deputy Director of Planning & Zoning
 Sharon Miller, Assistant City Attorney
 Eric Silva, Principal Planner
 Jim Koeth, Principal Planner
 Michael Ciesielski, Planner II
 Adrienne Ehle, Planner III
 Ella Parker, Planner III
 Thomas Lodge, Planner II
 Jenni Morejon, Planner III
 Randall Robinson, Planner II
 Dennis Girisgen, City Engineer
 Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Index

	<u>Case Number</u>	<u>Applicant</u>
1.	42-R-08	West Bay Residences
2.	29-R-08	Rahn Bahia Mar Ltd./Beachwalk at Bahia Mar
3.	11-P-08	Sovereign Development Group IX
4.	13-T-08	Public School Concurrency ULDR Amendments
5.	14-T-08	Park Land Use Plan Amendments
6.	15-T-08	Park Land Use Plan Amendments
7.	69-R-08	Flagler Fort Lauderdale Development, LLC
8.	8-P-08	AG Realty Fort Lauderdale

9. For the Good of the City

Call to Order

Chair Maus introduced the members of the Board, and Deputy Director of Planning & Zoning Wayne Jessup introduced the Staff members present.

Motion made by Ms. Freeman, seconded by Mr. Welch, to approve the minutes of the October 15, 2008 meeting. In a voice vote, the motion carried unanimously.

Chair Maus stated that the January 21, 2009 meeting must be rescheduled, as it conflicts with a City Commission meeting on that date. She recommended rescheduling this meeting for Thursday, January 22, 2008. In a voice vote, this carried unanimously.

1. West Bay Residences

Randall Robinson

42-R-08

Request: **

Site Plan Level III / Conditional Use with Flex Allocation / B-1

Legal Description:

The south 623.000 feet of the west 124.58 feet of the east 760.03 feet of Government Lot I, Section 14, Township 50 south, Range 42 east, lying south of the centerline of the north fork of the Seminole River as shown on the plat of LAUDERDALE HARBORS, as recorded in P.B. 9, P. 57, of the Public Records of Broward County, Florida, less the south 403 feet thereof, said lands situated in Fort Lauderdale, Broward County, Florida

Address:

1825 SE 17 Street

General Location:

North side of 17 Street Causeway and west of Intracoastal

DEFERRED FROM THE OCTOBER 15, 2008 MEETING.

Disclosures were made, and any members of the public wishing to speak on this item were sworn in.

Sam Poole, Attorney for the Applicant, recalled that they had come before the Board at its October 15, 2008 meeting, and had deferred the item upon hearing the concerns expressed by the Portside Yacht Club Condominiums. He advised that these concerns had since been addressed, and that a representative of the Portside Yacht Club was present to speak on behalf of that organization.

He noted that civil engineers representing Craven Thompson were present, as were landscape architects from EDSA.

The Applicant was present to request a conditional use approval in 31 flex units for a mixed-use project in a B-1 zoning District. The property is located beside the newly renovated Fort Lauderdale Grand Hotel; Mr. Poole pointed out that this building was formerly known as the Marriott, which had been damaged during Hurricane Wilma. The Portside Yacht Club, Renaissance Hotel, and Art Institute, and Port Condominium and Marina are all located close to the property.

He noted that the entry into the proposed West Bay Residences would be located off Grand Drive through Portside Drive, while the entrance to the Port Condominium and Marina is on the west side of those buildings, also off Grand Drive. Mr. Poole indicated that one issue the Applicant had attempted to address was that construction would progress with minimal impact on the Portside Yacht Club and Port Condominium.

The Applicant has completed a \$70 million renovation on the property, which had been closed for three years following Hurricane Wilma. Mr. Poole presented photographs of the renovated facility.

The proposed redevelopment is the last one planned for this property. As the site is zoned B-1, as are Portside Drive, the Art Institute, shopping center, and condominiums, the property was initially intended to be a hotel, which would fall under B-1 zoning use. As the Port and the Portside Yacht Club, among others, have developed as condominiums, however, it was decided instead to build a 31-unit condominium, which would be a facility of "lower intensity" in the area, and a more compatible use.

The proposed development would include a pool located over a parking deck and ground-floor office space in addition to the condominium units. These make up the basis for the project's mixed-use component.

The tower was moved to the north so it would encroach less upon the Port Condominiums. In addition, the original design had called for six parking decks; however, the pool and recreation facilities of the Port would have faced the parking garage. The pool deck was lowered to match the design of the Port, Mr. Poole said.

It was also decided, prompted mainly by comments from residents of the Portside Yacht Club, that the parking garage would have “knee walls” to prevent light spilling over onto that facility. There would also be three layers of vegetation, louvers, and decorative grating to provide further screening. He showed renderings of these proposed additions. All these improvements were made following consultations with the Portside Yacht Club, he noted.

Due to vents in the garage, the need for exhaust fans was eliminated, Mr. Poole continued, which would prevent additional noise. The developers also met with the Port Everglades Pilots , who expressed concern regarding the antenna located atop their building, which communicates with the pilot boats that bring ships into the harbor. To prevent any disruption of this communication, the developers of the proposed West Bay Residences had agreed to place an antenna atop one of their buildings.

In order to accommodate loading and unloading on the site, facilities for these actions were located between the Pilot House facility and the proposed building, which will not affect the Portside Yacht Club.

Mr. Poole advised that their design was, to a great extent, informed by the participation of neighboring facilities.

As they worked with the City in planning the development, Deputy Director Jessup had recommended including pedestrian connectivity to the waterfront. The site plan includes enhanced vegetation in the corner of the former hotel site, as well as a walkway along the driveway that crosses a small plaza and continues to the water’s edge. He showed the present condition of the site, which contains municipal water and/or sewer lines, and the proposed improvements, which provide neighborhood access to the waterfront.

Mr. Poole reiterated that the Applicant had consulted the managers and residents of other facilities near the site, including the Caravel Condominiums, the Art Institute, and the Port Condominiums. He stated that after discussions with the Applicant, representatives of these facilities had indicated they had no issues with the proposed West Bay Residences.

Regarding the more proximate neighbors, Mr. Poole informed the Board that the Applicant had signed a memorandum of agreement with the Pilot House, and was preparing a similar draft, yet to be signed, for an agreement with the Portside Yacht Club. The memoranda will provide assurances to these neighbors that, during the construction process, the proposed West Bay Residences will strive to be “good neighbors,” limiting dust from the construction site and providing roadway access. These documents will be included among bid documentation when an actual contractor is hired.

He continued that the 31 proposed units are expected to generate an additional 10 car trips into and seven car trips from the site during peak traffic hours, which he described as negligible traffic impact.

The conditional use approval for mixed use requests an allocation of 31 flex units, Mr. Poole said. In this particular zoning District, 799 flex units are available. The criteria for conditional use approval that the Board must consider include:

- Impact upon abutting properties, as evaluated under neighborhood compatibility guidelines;
- Access, traffic generation, and road capacities;
- Other on-site improvements.

Mr. Poole noted that the Applicant was “not able to satisfy everyone,” pointing out that this included residents, primarily from the Port Condominiums, with concerns about the impact on their view. He provided visuals of the potential impacts to this view. He added that other concerns included “distance and separation” between the buildings, and provided examples of the distances between other buildings and facilities within the City. At 160 feet, he stated, the distance was “average or a little more” than other tall buildings in the City.

Randall Robinson, Planner, described the proposed building as a 15-story building with 31 residential units, one office unit, and a parking garage. He presented the Board with a recent letter regarding the application for conditional use.

As there were no questions from the Board at this time, Chair Maus opened the public hearing.

Marci Nolan, representing the Portside Yacht Club, affirmed that the representations made by Mr. Poole were correct and an agreement had been reached between her client and the Applicant on this item. She provided a signed letter stating the Portside Yacht Club had no objections to the site plan as presented.

Gordon Walker of the Port Condominiums expressed his concern that the view from his residence will be affected, which will negatively impact the value of the facility. He stated it would block the north view toward downtown. He added that zero clearance existed between the proposed 31-unit building and the marina. Access to the marina’s buildings by emergency vehicles would be nonexistent on the south side, he said, pointing out that the hundreds of boats in the marina were fueled. He felt this meant residents could not be rescued, in event of an emergency, from two sides.

Chair Maus noted that Mr. Robinson could inform to the Board if the Fire Department had considered this access during the DRC process.

Mr. Robinson stated that Fire Department sign-off is required before any final approval.

Jeff Berman, resident of the Port Condominiums, stated that he had brought a number of letters from other residents of that facility opposing the project. He noted that the Applicant had met with residents one year ago, but no developers had met with them or with their superintendent since that time.

He pointed out that his biggest concern was the residents had spent “hundreds of thousands of dollars” to live in the Port Condominiums, yet the northeast and northwest buildings would be “severely impacted” in terms of their view. He described the visuals presented by Mr. Poole as “very deceiving,” noting that nowhere else in the vicinity would there be three buildings located so close together. He felt this closeness only existed in downtown Fort Lauderdale.

Mr. Berman reiterated that he had letters from five residents, and that the greatest concern would be depreciation of residents’ value, which would be out of proportion to that of any other units in the building. He added that to the best of his knowledge, this was the first time any residents of the Port Condominiums had seen the visuals presented earlier.

Chair Maus requested that Mr. Berman present the letters to the clerk.

Mark Patterson, president of PEP, Inc., a service provider to the Port Everglades Pilots , stated that these residences had entered into a memorandum of agreement with the proposed development. He noted that they had found the Applicant to be “very cooperative” and had no objections to the project.

As there were no further members of the public wishing to speak on this item, Chair Maus closed the public hearing and brought the discussion back to the Board.

Ms. Graham stated that she had questions regarding photometrics, as well as the height of the proposed roof deck. She asked Mr. Robinson if he had gone over the photometrics in question with the Applicant.

Mr. Robinson replied that Staff requires photometrics to extend to other property lines and meet Code.

Ms. Graham explained she was particularly concerned with the light levels inside the parking garage. While she noted that Mr. Poole had pointed out the screening, she felt the lights were “quite high” inside that facility, and she was unsure of how light would be adequately contained. She also pointed out that it did not appear that lights would be shut down at a certain hour of the evening.

Mr. Poole indicated that there will be louvers inside the garage, as well as a decorative architectural screen located outside the louvers. There is vegetation in addition to these barriers. He concluded that there will be “three layers” of screening to address this concern.

Don Sethe, Architect, pointed out that the design of the louvers should prevent any spillover of light from the building. As these would be left open to some degree for ventilation purposes, he affirmed that the filters placed in front of them would prevent further light from leaving the building.

Ms. Graham expressed concern with the disparity between light spillover and adequate ventilation within the building.

Mr. Sethe added that the garage lights were equipped with diffusers to prevent excessive light from escaping the building. Ms. Graham felt that there would still be significant spillover of light, even with diffusers.

She moved on to a question regarding the foundation of the building, which would be on piles. She was concerned with the time allotted to drive piles into the ground, and felt that the small size of the site would not mitigate this time frame. She asked Mr. Sethe if he could tell the Board how long the building process would take for the foundation to be built.

Mr. Sethe indicated that the piles would most likely be driven in three months.

Ms. Golub noted that 31 units required a certain number of parking spaces, but asked if the rest of the parking was intended to supplement hotel parking or be open to the public.

Mr. Poole stated that 65 spaces were required for the condominium, and four for the ground floor office. These accounted for 69 of the 151 spaces in the garage. At present, the hotel and Portside Drive have parking that is required to meet hotel and Pilot House requirements. He pointed out that 36 hotel spaces will be relocated from the proposed West Bay site and Portside Drive onto the actual hotel site. Valet parking for the hotel will be added to the proposed West Bay site.

Public parking is not included, and street parking spaces will be lost to landscaping and the entranceway. He noted, however, that as this is not a public street, all parking in consideration is private and will remain private. The 17 street spaces will become spaces exclusive to the Port Everglades Pilots House.

Ms. Golub asked for an explanation of how this plan will affect access and safety issues.

Mr. Poole noted that the right-of-way is designed as if it were intended for public use in terms of access and safety, although it remains a private drive.

Ms. Golub requested confirmation that street parking will be designated, and asked how guest parking is regulated.

Mr. Poole stated that Code requirements have been examined and met, and parking within the building will meet the needs of residents and guests. There are also queueing spaces for valet parking in the front of the structure.

He advised that one issue the Applicant was asked to address by the Port Everglades Pilots concerned people using their parking spaces. This led to an agreement that they would have exclusive use of their 17 spaces, which would be clearly designated that condominium owners and/or members of the public may not use those spaces.

He added that there is no reason to designate public parking, as hotel guests, condominium owners, and others with cause to park in this area will have allotted spaces. Members of the public, he said, would have no reason to park in this area.

Hotel parking will be exclusively valet, he explained, and residents will have the option of valet or individual parking.

Mr. Moskowitz asked if residents will be located on the same floor as the building's office space. Mr. Poole stated that the ground floor is exclusively for office use, and the second floor will be a health club. Residences begin on the third floor.

Mr. Moskowitz stated he wished to speak into the record to the members of the Port will be affected by this project. He had attempted to look into the ULDR to find Code that would raise "substantial issues" that might affect the project.

One aspect of applying for a conditional use permit, he noted, is looking at adverse impacts upon abutting neighborhoods, as evaluated by neighborhood compatibility. He stated that he had not found anything in neighborhood compatibility provisions stating that loss of a view, or "loss of the value of a home," constituted a significant impact. Instead, neighborhood compatibility addressed issues of health, safety, noise, traffic, and like considerations.

Mr. Moskowitz continued that it appeared the Applicant had attempted to mitigate the adverse impacts upon these residents, as the tower had been relocated to the north end of the property in an attempt to lessen proximity. He challenged the Board to find additional items that would apply to this issue and might affect his vote for the project.

Mr. Stresau asked Staff and Deputy Director Jessup for the maximum slope allowed in the parking garage ramp as allowed by ULDR.

Deputy Director Jessup described this as 4-5%, maximum 12%.

Ms. Graham stated that she felt this would be a “very upscale project,” consistent with other developments by the Applicant. The floor-to-floor height between units, however, including the penthouse levels, appeared to be a 10 ft. slab. She added that she did not see evidence of drop-down plenums, as were typically seen in the interior spaces of the units. Regarding the roof plan, shown on A.2.9, she asked if the 150 ft. space reached to the top of the roof, and any structures allowed atop this one would be ancillary structures related to elevator overrides, cooling towers, and other like facilities.

Returning to A.2.9, she observed roof terraces and storage uses that did not seem to fit into these descriptions. She requested confirmation that these would be allowed at the roof level, and noted that the highest element shown atop the roof stood at 176 ft. She felt these structures did not correspond properly to the stated roof elevation.

She indicated that she wished Staff to address this first to ensure they were aware of the height issue, and that the Applicant could respond as well.

Deputy Director Jessup requested that the Applicant explain this disparity, as he was not personally aware of the roof detail. He felt some elements were identified as lower than 150 feet, which might mitigate the height issue.

Mr. Sethe stated that the only elements approaching 4 ft. in height were “plunge pools,” part of the roof spas, which were not considerably higher than the roof parapets around them.

Ms. Graham explained that other elements, such as cabana rooms, restrooms, and elevators, were among the items to which she was referring. Mr. Sethe replied that these are private terraces for rooms located below them, and the restrooms could be eliminated.

Ms. Graham expressed concern that the 10 ft. floor-to-floor height would be difficult to achieve with luxury units, and the project might ultimately reach a greater height than 150 ft. She pointed out the 26 ft. of mechanical space also listed on the drawing.

Mr. Sethe stated that the mechanical spaces hide cooling towers, which can be 14-16 ft. in height.

Deputy Director Jessup agreed with Ms. Graham, pointing out that the restroom and spa spaces may not occur at the 150 ft. level, as these are considered habitable uses. They would not comply with Code requirements.

Chair Maus asked if the application must proceed to the City Commission. Deputy Director Jessup stated that it was instead subject to call-up.

Ms. Golub did not feel it was appropriate to ask the Board to vote on a plan that violates Code. Chair Maus agreed, noting that Board members should take this into consideration when voting on the project.

Deputy Director Jessup pointed out that it was within the Board's authority to make the project's approval conditional upon removal of the items in violation.

Ms. Freeman suggested that the project be withdrawn for review.

Chair Maus recommended to the Applicant that these aspects in question be modified.

Deputy Director Jessup proposed deferring the application to a date certain. Chair Maus noted that this reflected the Board's sentiment.

Mr. Poole requested such a deferral.

Ms. Golub noted that neither the Applicant nor the architect had responded to Ms. Graham's comments regarding the construction of a luxury high-rise that had possibly 8 ft. ceilings. She also requested confirmation as to whether the true height of the rooftop was to be 150 ft. or 176 ft. She expressed concern for the amount of interior space between floors, and the ability to construct the building at the stated 150 ft. height.

Mr. Poole affirmed that Code is very clear on the height regulation and the building could not be taller than 150 ft. Ms. Golub suggested that Code would also clarify what structures could be placed atop a 150 ft. building.

Motion made by Ms. Freeman, seconded by Ms. Graham, to defer the item until the December 22, 2008 meeting.

2. Rahn Bahia Mar Ltd./Beachwalk at Bahia Mar Ella Parker 29-R-08

Request**

Site Plan Level IV / Restaurant and Marina Office Use / Parking Reduction Request / Request for Application of Prior Zoning Regulation / SBMHA

Legal Description: Part of Bahia Mar according to the plat thereof recorded in P.B.35, P.39 of the Public Records of Broward County, Florida, lying west right-of-way line down Seabreeze Boulevard

Address: 701 Seabreeze Boulevard

General Location: West of Seabreeze Boulevard, east of the Intracoastal Waterway, south of Hall of Fame Drive and north of Harbor Drive

Courtney Crush, on behalf of the Applicant, stated that Rahn Bahia Mar Ltd. is the land lessee of the Bahia Mar Resort and Yachting Center. She described the project before the Board as a proposed three-story, two-restaurant on the northern tip of the property known as Beachwalk at Bahia Mar, and referred the Board to slides shown as part of a PowerPoint presentation.

She noted that there are pending applications for future development of the northern two acres of the property, although they were not the items bringing them before the Board tonight.

Bahia Mar is located north of Las Olas Boulevard, south of the Swimming Hall of Fame and The Venetian Condominiums. It is on the west side of A1A/Seabreeze Boulevard and is part of the Beach CRA. The majority of the property is currently a surface parking lot.

The grade of the existing parking lot is 5 ft. and A1A is 12.5 ft., Ms. Crush noted. She stated it had been important in terms of developing the property to keep in mind how it related to A1A. It is also a very long property, with A1A to its east and the Intracoastal Waterway to its west, an occupied and approved marina to which the Applicant proposes no changes.

She recalled that the City is currently undergoing a Master Plan with consultants to determine "what the Beach might need," with particular focus on the lack of redevelopment that has occurred south of Las Olas Boulevard. The Applicant proposes two buildings, each with a ground-floor restaurant, and two levels of office space above these businesses.

The buildings are three stories, 49.5 ft. to the top of the railing and 58.5 to the top of the open roof deck. Ms. Crush stated that a unique feature of the plan is an attempt to create a great deal of open pedestrian space while keeping parking concerns from preventing pedestrian traffic. The site plan includes a central courtyard, as well as what the Applicant refers to as the Beach Walk, which Ms.

Crush stated the Applicant hoped would be a catalyst for pedestrian connectivity south of Las Olas Boulevard.

She noted that the property is inside the South Beach Marina and Hotel Area (SBMHA), which limits buildings to a maximum height of 120 ft. The proposed project is less than half this height, she pointed out. It has a floor area ratio of 1.053 against a limitation of 5.0. The two buildings are 151 ft. and 161 ft., with what Ms. Crush described as a “generous separation” between them of 92-98 ft. at grade and 50 ft. in the air.

The parking garage included in the plan is 375 ft. in length, the majority of it beneath the grade. In working with City Staff, Ms. Crush added, it was noted that once a promenade rises above a grade of 10.5 ft., it is considered a structure. That, she said, is one aspect of this evening’s request. Another request is to exceed the 200 ft. zoning requirement as dictated by neighborhood compatibility.

Ms. Crush displayed various photographs and renderings of the property, including aerial views.

She pointed out the 10,000 sq. ft. pedestrian plaza, which will exist atop the planned underground garage and between the two buildings, again with a ground distance of 98 ft. She stated that this provides the focal point for the proposed pedestrian Beachwalk, which will encourage pedestrians to use Seabreeze Boulevard. Currently Seabreeze Boulevard has a 5-6 ft. wide sidewalk, in accordance with FDOT standards; the Applicant, in conjunction with City Staff, FDOT, and the District Commissioner, plans for the sidewalk to be “moved in” as well as widened to improve the pedestrian experience. The existing bicycle lane has been preserved.

The Beachwalk was originally designed as a 7-8 ft. promenade, Ms. Crush advised, including a great deal of landscaping. After discussing the project with the community, however, it has been designed at a 10 ft. minimum width, extending to 12 ft. in some places. This width is clear of any benches or other features that will be placed on the promenade.

Outdoor dining in signature restaurants is planned for the western end of the property. Ms. Crush pointed out that because this is a slightly raised area, diners will be able to look out over the marina. From a western view she showed that the two buildings are actually connected by the partially-underground garage.

Ms. Crush stated that the Applicant is seeking to exceed the 200 ft. maximum specified by Code. This is requested under Provision 47-26.A.1, which lists the following criteria:

- All other Code requirements must be met, and the exception must have gone into effect when or later than the new ULDR was written;
- The property will be burdened by Code in a way that is not appropriate;
- The property is consistent with the comprehensive plan in all other ways;
- The planned development must meet neighborhood compatibility standards;
- The public interest will still be served even if Code is not met.

The Applicant believes that, given the purpose and intent of SBMHA, which requires redevelopment in a pedestrian-friendly manner, the request is appropriate. She also stated it serves the goal intended by the 200 ft. limitation, which is to prohibit the development of “massive” buildings. She advocated that the Applicant is removing the possibility of such a large building by asking that the partially-underground portion be constructed at a length of 375 ft.

In addition to the Beachwalk, the property would also feature a Marina Walk, which runs the entire length of the marina and connects to the main hotel portion of the property. Over 180 trees are featured as part of the landscaping, and 16 bicycle racks are located in the pedestrian/bicycle lane area as well.

Ms. Crush reiterated that the Beachwalk actually covers a significant portion of the garage and provides 20 ft. of access to the public. An easement will be granted to FDOT and the City, as the Applicant proposes to maintain this public walkway through 2062 as the land lessee. She added that this walkway provides a public amenity that actually improves Seabreeze Boulevard, with no negative impacts to A1A or Seabreeze Boulevard from the garage.

The Applicant also proposes to re-stripe a portion of the existing Bahia Mar property. Currently there are 1071 parking spaces on the site; the new plan would provide 1032 spaces, 90 in the underground garage and the remaining 942 resulting from the partial re-striping.

Ms. Crush advised that the Applicant had worked with its own traffic engineer, as well as the City’s outside traffic consultant, who had proposed a “shared usage” analysis. She stated the City has a “glitch” in Code for a mixed-use project of this nature, as the proposed development contains uses for a restaurant, hotel, marina, and retail uses on the site. City Code does not acknowledge that this will be a mixed-use site, she noted, but asks that each of these uses have individual parking provisions. Both traffic engineers operated under this constraint and found that the required parking would be 1394 parking spaces. However, Ms. Crush explained that the shared use results from the proposal that anyone coming to the site is not there for a single reason only. There is a shared-user request for 324 parking spaces, as well as the assumption that visitors to the property will be there at different times. She also stated that some visitors will arrive by taxi.

She added that their consultants felt 1025 spaces are necessary under conventional traffic planning, and reiterated that 1032 spaces are provided.

The Applicant has worked with the CRA, she concluded, and has agreed to provide amenities such as benches. The streetscape is expected to match what the City is already achieving along Las Olas Boulevard, and the Applicant is working with City Staff regarding the lights, as an issue regarding sea turtles has been identified. "Bump lights" are proposed along the walkway.

Ella Parker, Planner, spoke for Staff, reiterating that the subject property is presently a parking lot that serves the existing Bahia Mar Hotel and Marina. The requested development is located at the site's northernmost end and is subject to a Site Plan Level IV review.

The applicant proposes 19,650 square feet of restaurant space and 32,048 square feet of marina office use accessory to the existing marina, including pedestrian improvements to the streetscape along Seabreeze Boulevard and a proposed pedestrian promenade along the existing marina.

The Applicant's request includes a 26% parking reduction, she advised, as well as the application of prior zoning regulation for the length of the building, 375ft. and .5 in. as opposed to the current limitation of 200 ft. at the parking garage/podium level.

She advised that the Applicant has responded to all applicable criteria, including requirements of the Central Beach District, parking reductions and exemptions, waterway use, adequacy requirements, and neighborhood compatibility requirements.

If it is determined that these standards are met, the Board may recommend approval with conditions as necessary, or denial to the City Commission. Should the Board approve the development, conditions as outlined in the Staff Report are proposed.

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

Ann Hilmer, 15-year resident of Idlewild, stated that most members of that neighborhood are at their scheduled Board meeting at the time of this hearing. She wished to express concerns from that neighborhood.

Her concern is that all elevations are "from above," and the renderings do not accurately portray what the property would look like as one walks beside it. She

added that Idlewild residents have a concern for noise factors, as well as for the parking garage.

The garage, she stated, is hidden from the Beach side, but persons walking along the marina, coming in by boat, traveling the Intracoastal Waterway, or residing across the Waterway will have a direct view of the parking garage. While some trees are planned in that area, she encouraged the Board to look into how much mitigation of that view is planned by the Applicant.

Regarding the noise factor, she specified that the neighborhood is unsure as to how the roof deck will be used. In addition, they are concerned about the outdoor dining, as noise carries clearly over water, and Beach residents have experienced noise from beachfront restaurants. She stated the neighborhood asks that there be limitations placed on the proposed outdoor dining, regarding how much, and how late into the evening, loud music will be allowed.

She continued that while there is no Code provision for the next request, the impacted neighborhoods will not only be those abutting the property, but will include those across and on the water.

Fred Carlson, of the Central Beach Alliance, gave the Board an overview of when that group voted on various aspects of the property, and what they were shown prior to these votes. The Beachwalk was first presented on October 25, 2007, to the CBA Board of Directors, and the membership at large voted upon it on November 29, 2007, to reject the project by a vote of 94 to 71 when the neighboring Illini Condominiums requested additional time to discuss their concerns with the developer.

After the developer met with this group, the project came before the CBA membership once again on January 24, 2008, and received a majority vote of support, 142 to 61.

He felt it should be noted that, subsequent to these meetings, the buildings' height was lowered by 7.5 ft. and the promenade was widened to 10 ft. for the length of the site. Both changes were viewed by the CBA as positive.

He concluded by stating that the CBA urges approval of the property as presented.

Sadler James, private citizen, felt that the Applicant has gone "out of [its] way" to accommodate the abutting neighborhoods, as well as individuals using the Beach. He reiterated Mr. Carlson's listing of changes made at the request of the neighborhood. He supported the project "wholeheartedly," but affirmed a difference of opinion regarding the proposed parking, as many cars seek parking in the private areas of nearby neighborhoods. There are approximately 502

public spaces across the street from the property, which, he affirmed, are in great demand.

The initial approval in 2002 was for 1071 parking spaces, he noted, and now considerable square footage is being added for yacht brokerage and other concerns, yet only 1032 spaces are proposed, which is less than are located on the property today. He did not feel the 188 spaces designated for shared use will be adequate to the needs of the property.

He stated the City's requirement for the property would be 1394 spaces. The mitigating circumstances listed by the Applicant, such as the arrival by taxi of many visitors, also apply to the property as it currently stands, he pointed out. He also did not feel that the logic stating visitors would come to the property for multiple uses was correct.

While the Applicant had been very responsive to neighborhood concerns, Mr. James felt the parking issue was a major one. In conclusion, he added that the current crossing at The Oasis is "already dangerous," and felt if this was truly a pedestrian area, FDOT and the City should provide a safer crossing.

Finding no additional members of the public wishing to speak, Chair Maus closed the public hearing and brought the discussion back to the Board.

Ms. Golub stated that she had issues with the parking reduction, but was also concerned that the flow of traffic would be impaired in the area around the entrance to the parking garage. She also felt the raw concrete used in the building was aesthetically displeasing.

She added that the elevation of existing façades north of Las Olas Boulevard were "unfriendly" to approach, although people were allegedly encouraged to approach them. She felt that the same problem would occur with the planned structure, despite the location of the plaza area and the restaurants.

She asked that, on the west view of the proposed development, someone point out where the garage would be visible from across the waterway.

Suzanne Danielson of Kimley Horn Design Firm, representing the Applicant, addressed the usage of the parking garage's driveway and the adequacy of its turn lane, stating that the Applicant had met with FDOT in April 2008, and these changes met that body's criteria for the site and its traffic volume. Slides L-1.06 and L-2.01 were shown for reference. Scott Lamont, also of Kimley Horn, pointed out the access through the existing turn lane, which provided circulation into the site with the opportunity to enter garage valet parking or self parking from that point.

Surface parking, located at the north end of the property, is intended to be used by the occupants of the office space, as well as in the “daily operations” of the facility, he added. He also pointed out that parking is screened from view from the marina promenade by a wall. An elevator and escalator provide access from the underground garage to the plaza/restaurant area.

Ms. Golub requested clarification that this will be the only entrance and exit to the site.

Mr. Lamont noted that to the north of these buildings, there is another existing access point, but it is intended primarily for use by service operations for the restaurants.

Ms. Golub asked how a consumer might view a large parking garage constructed of raw concrete. It was noted that some landscaping is planned for the west side of the property.

Peter Henn, Applicant, referred to an aerial photo from the west, showing three levels of docks between the proposed restaurants and the Idlewild community. The boats that generally dock on the extreme west end, he pointed out, are often two and three stories in height, which will prevent a constant view of the concrete garage.

Ms. Golub again pointed out the concrete wall of the garage, which extends for 375 ft. “with no break.” She did not feel it served a purpose, public or otherwise, to have an uninterrupted view of a concrete wall of this length.

Ms. Crush advised that the experience of this walk would actually be a 20 ft. marina promenade, which will be landscaped.

Chair Maus asked if the area leading up to the concrete wall could be landscaped. Ms. Crush responded that the Applicant felt the marina “experience” was more important overall than providing landscaping in that area.

She reiterated that from the east, all that is seen of the 375 ft. wall is the 119 ft. setback on the north end of the property, then a 151 ft. building, then a break where the grade is 98 ft. with a center escalator. To the south is another building, 161 ft. in height, followed by a large break for the valet area, transitioning into the existing Bahia Mar property and its hotel. She described this as sufficiently “broken up” to prevent the garage from being a viewer’s only focal point.

Chair Maus felt that a 2 or 3 ft. planting area along the west wall would in no way detract from a “promenade experience.”

Ms. Graham asked to see the slide of the western elevation looking north once more, and requested that she be shown where the trees on the pedestrian lower level, parallel to the seawall, could be found on the landscape plan.

She also asked if the property and garage could only be entered when traveling southbound. This was affirmed to be true.

She referred to the solid wall, noting that on this west elevation, it obstructed ventilation and could block any breezes coming through the area. While she did not feel that heat would be a factor, she expressed concern that ventilation for the parking garage was compromised, and felt ventilation “cuts” should be added to the wall in order to allow exhaust to escape. She suggested louvers or “passive ventilation” to facilitate this.

She pointed out that the planting level appeared to be at deck level, but could not find this corresponding area on other plans or renderings. Mr. Lamont noted that this was because the slide to which she was referring was only a partial view, and explained that royal palms will be placed along the promenade.

Ms. Crush responded to the concern regarding ventilation, stating that she had been informed that there was room to install fans, as well as carbon dioxide detectors, in the unventilated area of the parking garage.

Ms. Graham felt her concern was still valid, as ventilation in an area with such low ceilings as the garage should be constant, rather than to “kick on” when necessary.

Ms. Crush continued that the architect believed the “open air” nature of the structure would provide sufficient ventilation.

Ms. Graham pointed out that both the east and west walls were solid and underground, asking where open air was located along the structure. Ms. Crush reiterated that fans and carbon dioxide detectors could be installed.

Ms. Graham felt the omission of ventilation showed that “utilitarian issues” had been overlooked on the project, and while she felt the length of the wall had not been too great a request, she did not feel she could support the project in its current state.

Chair Maus asked if the Applicant’s representatives could address Ann Hilmer’s concerns regarding use of the deck and outdoor noise.

Ms. Crush stated that no live outdoor music was proposed or intended, but a “very sedate” dining environment was sought.

Chair Maus asked if the deck area would be available for parties, charity events, or other outdoor activities, particularly during events such as the Boat Show, all of which could contribute to noise that would impact the neighborhood.

Ms. Crush cited the noise ordinance as a limitation on outdoor activity, although she felt it would be "unduly restrictive" to expect the location would never host any outdoor parties or events in the restaurant area. Regarding the deck area, she was unsure that the Applicant could provide assurance to neighborhood residents that there would be no noise, noting that the area's noise ordinance only measured sound within five feet of an individual's property line. She added, however, that parties on the roof were not under consideration.

With respect to additional landscaping, she stated Mr. Lamont had advised her that a "couple feet" could be added "in a strip."

Ms. Freeman asked that the proposed setbacks for the property be reviewed.

Ms. Crush responded that the SBMHA requires north and south setbacks that are "half the height" of the proposed building, which in this case would be 29 ft. 4 in. To the north a 119 ft. setback is planned, with a 1000 ft. setback to the south. On the west, where the marina's seawall is located, the setback is 22 ft. 9 in. to the seawall and 871 ft. to the property line.

On the east, the setback to the building is 33 ft. Below ground, the garage extends above grade to within 12.5 ft. of the property line, she added.

Mr. Stresau stated that in the past, the Board has required complete alleviation of all outside noise, irrespective of time and the planning of parties. He felt noise is a considerable issue for Idlewild and other nearby neighborhoods, and advocated that the motion include a limitation to, or the Applicant devise an elimination of, any outside speakers on the west side of the buildings.

He also addressed the concerns regarding landscaping, noting that Code referring to businesses located on the waterway must have a 20 ft. landscape buffer except in the Beach area. He felt the landscaping as presented at the pedestrian level is consistent with that found along other marina complexes in other communities, and that a "large-scale public walking space" was not intended to feature landscaping at a lower level not visible from the waterway. He judged the inclusion of the royal palms would be sufficient.

Ms. Crush addressed the noise factor, reiterating that no live music was proposed outside the restaurants. With respect to the roof deck, she added, the Applicant did not propose any amplified noise in that area "except for the Boat Show." She stressed that this period would be the only exception to her statement.

Ms. Golub raised the issue of the elevator, noting that parking garages with elevators in the Las Olas Boulevard area could create “an unsafe situation.” She expressed concern about constructing an area of raw concrete, with elevators that may or may not be open to the public and a single access point into and out of the building.

Ms. Crush noted that the garage contained less than 70 spaces for valet parking. She explained that the Applicant had found it appropriate to add an elevator and the escalator was considered “extremely attractive.” From these points, visitors could exit the parking garage area into the central plaza. The elevator could be accessed through the garage.

Ms. Golub asked for clarification as to where valet parking placed visitors. Ms. Crush confirmed that valet parking took cars to the garage and to surface parking beside the docks. An individual could also enter from the marina promenade to access the elevator and escalator area. She showed renderings of the plan including the elevator/escalator area and access to them, and noted that self-parking is also available outside the garage.

Ms. Golub concluded that the only open area is the point at which one drives through into the garage, and that the only way out of the garage is via the elevator or escalator. Ms. Crush advised that one could also leave the garage and walk out onto the promenade.

Mr. Lamont offered further explanation, stating that there is no wall along the garage, but a wall is located along the opposite side of the promenade to “screen” from the parking area. He described this as an open arrival area where cars are dropped off for valet parking; to the left, the view would show the marina promenade and the marina itself. The escalator and stairs are located to the right, and an additional set of stairs on the left leads to the marina promenade.

He referred to a cross-section rendering that depicts the “unique” aspect of the parking garage, in that it is located below A1A and the marina promenade is on its same level.

It was pointed out that what appeared in some renderings as solid walls were actually a column. While this made it technically possible for Idlewild residents to see inside the parking lot to the valet area, it was noted that it would be very difficult to do so.

Ms. Graham felt that this took care of the ventilation problem she had envisioned when the area constructed on columns had appeared to be a solid wall.

She asked that the Applicant's representatives clarify some of the objects rendered at the property's south end, which were shown to be a tree line and a column line. She also noted that the garage could only be entered from a southbound direction. She concluded that during busy times the property would be very busy at its south end.

Regarding the food service access areas, she asked how the trucks backed in to offload deliveries to the restaurant areas. Mr. Lamont explained that normal traffic could technically exit from the north end, although it was intended to remain on the south end. He assured the Board that there was sufficient room along the south end to handle any lines or volume of traffic without causing an unexpected amount of congestion.

The parking lot to the north, he continued, has been configured in a manner that would allow a truck to pull in from the street and back into the loading area. This allows them to pull back out onto Seabreeze Boulevard, and back into traffic, head first rather than backing onto it. He noted that parking was specifically designed with this manner of large truck access in mind, in order to prevent impacting traffic on Seabreeze Boulevard.

Ms. Graham referred to "waving through" traffic that had accidentally gone the wrong way on the development so they could exit from the north; however, with all service vehicles entering and exiting from that entrance, she felt this would be a busier access point than perhaps the Applicant had expected. She also noted that backing in and out of tight areas such as this one was a potential difficulty as well. She believed some parking at the north end, and some of the seven parking spaces located in the island at the south end, might need further consideration as part of the plan.

Ms. Graham also asked for the location of the buildings' dumpsters. Mr. Lamont identified it as being in this same area. He pointed out that a single turn allows trucks to access this area with 25 ft. pavement clearance.

Ms. Graham felt 25 ft. would only constitute a minimum for a two-way driveway of this nature. She referred to L-2.01, which showed a gate across the loading area, and requested an explanation of this feature.

Mr. Lamont stated the gate was to restrict the area to service vehicles, and could be opened by any service or utility vehicles seeking to access the area. He explained that the design used "turning radius templates" to determine the types of vehicles that could adequately access the area.

Ms. Graham felt the area was too compressed for the business venture to ultimately achieve success.

Mr. Lamont assured the Board that these factors have been taken into consideration during the planning stage, and that restaurants and businesses in much smaller areas did not give service vehicles as much access as this area provided.

Ms. Graham asked if the Applicant's team could speak to the issue of the cooling tower.

Mr. Lamont stated the cooling tower is tucked into the "wedge corner" of the building and is surrounded with landscape screening outside the required setback to mitigate its view.

Jiro Yates, representing Falkanger Architects on behalf of the Applicant, noted that a major aspect of the project's design was to be an attempt to hide some of the equipment usually found on a building's roof, such as a cooling tower. Another reason is because of the cooling load the restaurants and other businesses would bring. To these ends, what would have been several roof units were consolidated into a single cooling tower, placed behind landscaping in the northern part of the development. This area not only allowed for greater density in landscaping, but the grade change sloping down from A1A helped screen the tower from public view.

Ms. Graham reiterated her concern regarding the size of the loading area with respect to the volume it would serve.

Mr. Stresau stated he had looked through the Staff recommendations and noted that the City consultant felt 1025 spaces were sufficient to the property, which would actually provide 1032 spaces.

City Engineer Dennis Girisgen affirmed that this was correct. The Applicant is asking for a 25.9% reduction, which is 362 spaces, and mitigating that reduction with 369 spaces, comprised of 324 shared-use spaces, 37 "internal capture," and an eight-space modal reduction.

Motion made by Vice Chair Welch, seconded by Ms. Freeman, to approve Site Plan Level IV, subject to Staff conditions.

Chair Maus asked if such conditions limited top deck use for parties to occur only during the Boat Show, and provided for slightly wider landscaping along the west promenade. It was agreed that a condition would be added to limit noise from the deck.

Mr. McTigue suggested another condition dealing with the loading zone, recommending that two parking spaces be reduced from this area to ease passage of service and delivery trucks.

Mr. Welch proposed that the condition be a revisit of the space discussed to determine if it would be adequate without the loss of two additional spaces.

Conditions were as follows:

1. Staff conditions as contained within the Staff Report;
2. No outdoor parties are permitted on the top deck of the building, with the exception that they be permitted during the Boat Show; and
3. The applicant shall revisit and evaluate the viability of a potential reduction of two additional parking spaces in order to improve the loading zone area, subject to City Engineering approval.

In a roll call vote, the **motion** was approved unanimously.

3. **Sovereign Development Group IX, Inc.** **Thomas Lodge 11-P-08**
/ Whiddon / Ergon / 441 Plat

Request: **

Plat Review

Legal Description:

A Parcel of land being a portion of the Southwest One Quarter of Section 18. Twp 50 South, Range 42 East, of the "RIVERLAND CROSSINGS" Plat, as recorded in P.B. 171, P. 71, of the Public Records of Broward County, Florida.

Address:

2100 S State Road 7

General Location:

Located at the Southeast corner of State Road 7 and Riverland Road.

Disclosures were made, and members of the public wishing to speak on this issue were sworn in. Mr. McTigue recused himself from this item due to a business conflict.

Robert Lochrie, on behalf of the Applicant, advised that the request was for a plat located at 2100 South State Rd. 7. The property is currently one portion of a previous plat, the Riverland Crossings Plat, and another piece of property to the south which has not been platted.

The property is designated as commercial under Broward County Land Use, as well as under City of Fort Lauderdale Land Use. It is zoned B-2 in the City, which is consistent with the zoning pattern along 441. This is a mid-level commercial

zoning category. The proposed use for the property is a self-storage facility, which is consistent with the B-2 zoning category.

Mr. Lochrie noted that it is indicated by the Staff Report that the Applicant meets all substantive requirements of the ULDR. They also meet all adequacy requirements of the ULDR.

Thomas Lodge, Planner, advised that the parcel of the plat is 132,495 sq. ft. The Applicant proposes to develop a 115,950 sq. ft. self-storage facility. A portion of land on the site has been dedicated as a future right turn-only lane. The plat note includes a provision for a 2-bedroom caretaker's unit.

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

Ms. Golub expressed concern regarding access to the site. Mr. Lodge stated that the Board's actual vote does not address the site plan, but whether or not the plat meets subdivision requirements.

Mr. Lochrie explained that a previous access easement has been granted, to which the City is a party. He provided a copy of this easement for the record. The easement provides access from the property being platted across a property to its south and onto Access Road 7, which leads to Riverland Road.

In addition, he pointed out that the Applicant will dedicate another turn lane, and an extra right-of-way on Highway 441 to meet Broward County traffic requirements. An access opening on the previous plat will be closed due to its proximity to an intersection, where it is considered unsafe.

Ms. Graham referred to the second sheet included in the survey packet, which shows a 50 ft. by 124 ft. ingress/egress easement at the north side of the property. This appeared only to allow access to the property while heading east, she noted.

Mr. Lochrie confirmed that this is the easement which is being closed, as the Applicant did not believe it would be possible to acquire an FDOT permit for an access point at this location. He affirmed that FDOT controls this portion of Riverland Road up until a point "far to the south of" the proposed plat.

Ms. Graham continued that for this particular plat, plus its adjoining parcels, all would enter and exit from the southeastern corner of the three parcels. Mr. Lochrie agreed, and allowed that there would possibly be ingress into this area as well.

Motion to approve the application made by Mr. Stresau, seconded by Ms. Freeman. In a roll call vote, the **motion** carried 5-1 (Ms. Graham dissenting, Chair Maus absent from vote).

The Board broke for a brief recess. Upon their return, Chair Maus asked if any members of the Board objected to hearing items 5 and 6 together, although they would vote on these items separately.

4. Public School Concurrency ULDR Amendments Eric Silva 13-T-08

Request: ** ULDR Text Amendments

Legal Description:

Address:

General Location: Citywide

Disclosures were made, and members of the public wishing to speak on this item were sworn in.

Eric Silva, Principal Planner, stated that the City was both Applicant and reviewer in the case of this item. Its purpose was to amend the ULDR to implement the City's Interlocal Agreement for public school facilities planning and Public School Facilities Element of the Comprehensive Plan. These two documents were amended earlier in 2008 to include public school concurrency, which is a new requirement under State statute.

Some of the items included in the proposed ULDR amendment are:

- Local service standards;
- Concurrency service areas;
- Review procedures.

There being no 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. Golub, seconded by Mr. McTigue, to approve the ULDR amendments as described. In a roll call vote, the **motion** carried unanimously.

5. Park Land Use Amendments – Recreation and Open Space Eric Silva 14-T-08

Request: * Comprehensive Plan Amendments

Legal Description:

Address:

General Location: Various parks and future park sites

Linda Strutt, representing the Parks & Recreation Department, stated that item #5 consists of a group of 11 parks for which the future land use map designation is proposed to be changed. There are also three parks within the Downtown Regional Activity Center that also require a text amendment to establish a minimum acreage, as well as to restrict these particular sites to park use.

These amendments are consistent with the City's goals, objectives, and policies intended to provide an adequate park system.

Item #6, she continued, consists of five parks' map change to conservation, and for one park within the northwest regional activity center, a text change. The site will be restricted specifically to conservation use, and that acreage will be established within the text of the Northwest Regional Activity Center.

She noted that these parks are acquired for preservation, primarily with bond money. The County has already changed these designations for all parks except one, and this is also consistent with goals to protect sensitive environment and historical resources within the City.

Seeing no members of the public wishing to speak on these items, Chair Maus closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Welch, seconded by Ms. Graham, to approve the amendments named in item 5. In a roll call vote, the **motion** carried unanimously.

6. Park Land Use Amendments – Conservation Eric Silva 15-T-08

Request: * **Comprehensive Plan Amendments**

Legal Description:

Address:

General location: Various parks and future park sites

Motion made by Ms. Freeman, seconded by Ms. Golub, to approve the amendments named in item 6. In a roll call vote, the **motion** carried unanimously.

7. Flagler Fort Lauderdale Development, LLC / Alexan Michael Ciesielski 69-R-08

Request: ** Site Plan Level III Review / Approval of Signage in RAC-CC

Legal Description: Lots 1 through 26, Block 2, NORTH LAUDERDALE, P.B. 2, P. 25, of the Public Records of Broward County, Florida

Address: 411 NE 5 Street

General Location: City block bounded on the north by NE 6 Street, on the east by NE 5 Avenue, on the south by NE 5 Street, and on the west by NE 4 Avenue

Disclosures were made and any member of the public wishing to speak on this item was sworn in.

Robert Lochrie, on behalf of the Applicant, stated that Trammell Crow Residential is the developer and builder of the Alexan Fort Lauderdale project, a 282-unit residential project with ground floor retail located on a full city block within the Flagler Heights area. He noted that they are also located within the Community Redevelopment Area (CRA). The project is currently under construction.

He reiterated that the project occupies an entire block, which is unusual for the Flagler Heights downtown area. It is bounded by 6th Street, 5th Street, 4th Avenue, and 5th Avenue, as shown in a graphic Mr. Lochrie provided. He added that the project is not located directly on a major thoroughfare or federal highway, but are in "the heart and core of the Flagler Village area."

The request before the Board tonight, he advised, is a sign package to be located adjacent to the City sidewalks and landscaping. The Applicant recently received the CRA's unanimous approval; they are partnering with the Applicant on the construction of those amenities to be located within the public realm adjacent to the property.

The Applicant is asking for four monument signs, as Code states that when a property is on three or four streets, it is entitled to two such signs. Due to the location, the Applicant believes it is very important to have a monument sign on each corner.

The second part of the request involves the size of the signs, which Mr. Lochrie felt was something of a misnomer. The size does not include only the signs themselves, but the entire structure of the area is taken into consideration.

Mr. Lochrie showed the signs to be located on 5th Street as an example, noting that the actual sign area is only 20 sq. ft.; however, for purposes of Code, the entire structure, which is part of the already approved site plan, is included in the size calculation. He showed similar renderings of the 6th Street sign, which is only 17 sq. ft. by itself, but achieves additional height when the amenities and other architectural features surrounding the sign are taken into consideration.

He added that the signs on the south side of the street are part of the site wall and fence surrounding the property, and showed similar photographs of signs on the other boundaries of the properties, which he described as “at a very positive scale” in relation to the overall building. He described the signs as not unlike other signs which exceed these square footage requirements, and showed photographs of examples, such as Camden Las Olas, Water Garden, and the Symphony.

Chair Maus asked if these examples were of the same size as the signs for which Mr. Lochrie advocated. He noted that, for example, the Water Garden sign is 42 sq. ft. and roughly 3 ft. 4 in. tall, although not mounted on a fence or part of a structure around the site.

He referred to the Code requirement for the setback of signs to the sidewalk, which are set back at least 5 ft. from the public sidewalks. The setback is “triggered” due to the internal walkways, which are internal to the project itself, located behind the signs themselves. The public right-of-way is, in all cases, 5 ft. away. He illustrated this point by showing visuals of the signs and the property, clarifying again that the Applicant is requesting relief only from the setback requirement as it applies to the internal walkway.

Ms. Golub clarified that the signs are not part of the property’s fencing, but stand in the property’s green space. The sign to which she referred was 5 ft. in height.

The maximum height on walls in this zoning District is 8 ft. in height, Mr. Lochrie noted, adding that the Applicant’s signs are actually lower than what is required by Code.

Mr. Stresau asked what size the sign would be if it met Code. Mr. Lochrie advised that for monument signs, the one-sided requirement is 16 ft., two-sided is 32 sq. ft. The monument signs in question are 20 sq. ft.

Michael Ciesiecki, Planner, stated that the request is before the Board because the Applicant requests four ground signs. He noted that the request does not

meet Code regarding number of signs, height of signs, size or square footage of signs, or location of signs. The Code Provision addressing this is Section 47.22.4 C-13.L, which states that when any sign is proposed to be constructed without compliance in all respects with signs in the downtown Regional Activity Center (RAC) Districts, the signs shall only be permitted in these Districts if they receive a Site Plan Level III permit. He indicated that this provision brings the issue before the Board at tonight's meeting.

He added that the Applicant has provided a chart and matrix which are attached to the plans, as well as a copy of the narrative explaining the application request. The Applicant has also included renderings in the information packets, demonstrating how the ground signs might appear at pedestrian level.

He noted that the Applicant's request for larger signs should be considered in terms of pedestrian scale and activity as envisioned for the downtown RAC. Should the Board determine that the proposed use meets the standards and criteria of the ULDR and Site Plan Level III permit, it may approve the permit, and may attach conditions to this permit as necessary to ensure compliance.

Ms. Golub asked if there was any concern regarding safety in this area of the City, should a "massive sign" of this nature be erected. Mr. Ciesielski stated that the two signs in question are within a size of 5 ft., located at the northeast and northwest corners of the site. He reiterated that these signs are not located near a public walkway, but an internal one; consequently Staff did not feel they constituted a public safety issue. Staff did, however, ask that the Board take "pedestrian scale and activity" into consideration, as previously noted.

Ms. Golub suggested that, rather than sidewalk proximity, the true concern was that the signs could be used as a hiding place. She asked if there was any concern of this nature, as the property's fence does not surround all 4 sides.

Mr. Lochrie explained that the 7 ft. sign in question is actually attached to the fence, which surrounds the property. The project is "broken up" in appearance so different building structures are visible, and not all areas are surrounded by the fence; therefore the sign is not as high at that location.

Chair Maus stated for the record that she felt the signs were too big, when considering the pedestrian scale to which Mr. Ciesielski had referred. She noted that the area would one day become a neighborhood, and felt not only that the signs were too large, but that no effort had been made to integrate the sign visually with the building, which was of a different color.

Mr. Lochrie indicated that there were three requests before the Board:

- Size of the signs;
- Distance to the walkway;

- Number of signs.

Ms. Graham asked if the signs were illuminated. Mr. Lochrie described them as “backlit,” with lighted metal frames behind them.

Ms. Graham also asked what might prevent the signs from being vandalized. Chris Eads, representing Trammell Crow, explained that the signs are metal, and the overall logo is constructed of copper. As it is backlit, only the outside edge of the sign is illuminated against the wall to which it is attached. The letters inside the logo are “channel letters,” with lighting contained inside the letters.

Ms. Graham agreed with Chair Maus’s assessment that the signs seemed very large. She requested clarification that the channel letters only emit light from the front of the sign. Mr. Eads stated that this was true, stating that the lights could be LED and consisted of indirect light, or a “glow” behind the actual logo. This is the case for all four signs.

He reiterated that the largest sign was 20 sq. ft., while the smallest was 17 sq. ft. It was noted again that a project located on two streets was entitled to two or three signs, while a site on one street was limited to one. Mr. Eads noted that this meant even more than four signs might have been erected, had the project taken up space in a different manner.

Ms. Graham asked if any other parcels of land within the District consisted of single projects that took up entire blocks. Mr. Eads replied in the negative.

Mr. Moskowitz stated that he shared Chair Maus’s belief that the signs were large; however, he was more concerned that the rules limited their size, and he did not want to set a precedent of making exceptions.

Mr. Lochrie replied that the rules for downtown Fort Lauderdale state that the Board can approve something different than what might be allowable in other areas of the City. He noted that it is therefore not uncommon to have sign packages intended for the downtown area appear before the Board.

Mr. Stresau pointed out that the first pictured sign (SD-1) was flush with or built into the 6 ft. high wall or fence. He requested clarification that the fence in question was intended to be a security fence of sorts.

Mr. Lochrie agreed, noting that a security fence is allowed, by Code, to reach 8 ft.

Mr. Stresau felt what was actually in question in this case was the size of the letters on the fence wall, as there was nothing that could be done regarding a fence of such height. He added that most of the renderings shown in white could

actually be constructed without the approval of the Board, so the only item requiring approval was the sign.

He noted that one sign in question, with enclosed graphics, from one end of its oval to the other, was actually 20 sq. ft., while Code only allowed 16 sq. ft. He felt the true issue was in the size of this sign and how it could be modified, rather than the masonry sign. In addition, another question was whether the Alexan lettering was "proportionately correct" to the size of the framing wall.

Mr. Lochrie felt this lettering was in appropriate proportion to its area, although he allowed that this did not mean it could not be made smaller. To bring the sign down to 16 ft. would mean designing a different stand-alone monument sign in front of the fence, he said; this would result in a "far inferior" look. In addition, the security fence could not reasonably be lowered for the location.

He added that the white portion of the wall, as shown on the renderings, is in compliance with Code and has already been permitted.

Ms. Golub asked if any regulations existed in Code that would not permit the proposed back lighting for the signs.

Mr. Ciesielski indicated that to the best of his knowledge there was no such regulation. He added that the lighting and signage were reviewed by the Development Review Committee (DRC) and signed off upon by all appropriate Departments, and approved.

Ms. Golub asked if each requested exception regarding the signage could be addressed separately, or if they must be taken as a whole. Mr. Ciesielski said it was his understanding that, for example, different conditions could be implemented by the Board, such as approving a different number of signs or different heights or proportions.

Ms. Graham drew the Board's attention to sheet SD.1, in which the height of the letters is noted. She pointed out that on signs G1 and G2, the letters in the word "Alexan" are 8 inches in height; on the other signs, G3 and G4, the letters are notably smaller. Mr. Eads noted that this could be because the sign is smaller horizontally; he did, however, confirm the lesser height of the letters in G3 and G4, which are smaller because the overall logo is smaller as well.

Motion by Ms. Freeman, seconded by Mr. McTigue, to approve the request. In a roll call vote, the **motion** carried 6-2 (Mr. Moskowitz and Chair Maus dissenting).

8. AG Realty Fort Lauderdale

Thomas Lodge 8-P-08

Request: Alley Vacation

Legal Description: A portion of the alley lying in Block D-1 according to the plat of "Dixie Cut-off Section Croissant Park" as recorded in P.B. 6, P. 5, of the Public Records of Broward County, Florida

Address: 3245 South Andrews Avenue

General Location: North side of SW 33 Street, between the FEC tracks and South Andrews Avenue

As this was not a quasi-judicial item, disclosures were not necessary.

Neil Schiller, representing the Applicant, stated that the request was for partial vacation of an existing alleyway. He noted that the Property & Right-of-Way Committee voted 7-1 in recommendation of the request to the Board, and added, as part of the Staff report, "Staff finds that the Applicant has demonstrated compliance with the criteria, and concurs with the Applicant's assessment in the narrative provided."

Using a PowerPoint presentation, he showed the geographic location of the property, including the Applicant's property, the portion of the alleyway requested for vacation, and property belonging to a neighbor. He advised that the Applicant owns both sides of the alleyway.

Another slide shows previous alleyway vacations that have been granted in this area and in this particular alleyway. Ordinance C82-58 created a dead end at the north end of the alleyway, actually blocking access from Andrews Avenue. Ordinance C83-18 is another vacation granted in 1983 and expanded the property of one of the Applicant's neighbors.

Mr. Schiller advised that the client owns the fence and gate at the south end of the alleyway as well. He pointed out that the City makes no differentiation between a gate permit and a fence permit. The fencing has been permitted since 1976. A gate also closes off the north end of the alleyway, but this area was previously vacated.

He cited four major criteria listed in Code that allow an alleyway to be vacated:

- Right-of-way or other public place is no longer needed for a public purpose;
- Alternate routes are available and do not cause adverse impacts to surrounding areas;
- The area is an "unimproved alleyway," 16 ft. in length, with two adjacent properties whose owners have rear entrances into their building from the alleyway, access to which continues to be available to them;

- The Applicant, of his own volition, will donate a public access easement to allow for a T turnaround at the north end of the alleyway, which will be a safety improvement over its current state.

Mr. Schiller provided a depiction (slide #14) showing the proposed T turnaround. He added that the Applicant had met with City Engineer Peter Partington to find out what could be done to the property to improve it for the good of the community. The T turnaround, he noted, was Mr. Partington's recommendation. There is no such turnaround currently in the alleyway.

The closure would not adversely affect pedestrian traffic, he continued, as the location is in an industrial area.

Tom Lodge, Planner, affirmed that the proposal was reviewed by the Property & Right-of-Way Committee in July 2006 and received a positive recommendation. Staff found that the Applicant had demonstrated compliance with the criteria and agrees with the assessment provided by the Applicant.

Mr. Stresau referred to p.14 of the information packet, an aerial photograph, and requested clarification of an outline on that page. Mr. Schiller pointed out that this space was the 1983 vacation, in which the City decreased the width of SW 32nd Court. He advised that pp.3 and 7 were clearer renderings.

Ms. Golub stated that normally an alleyway is vacated because an owner wishes to build onto, enclose, or otherwise use the area. She questioned why there would be a request if the only proposed use was dedication of a T turnaround.

Mr. Schiller stated that part of the area would remain a public alleyway, and the Applicant wished to vacate the portion of the alleyway between his property and the neighboring owners' properties. The fence and gate would be moved 60 ft. toward the south end.

Mr. Stresau stated that it did not appear that the alleyway would be vacated where it was adjacent to the turnaround, and Ms. Golub asked why all the property south of the turnaround was not to be vacated as well. Mr. Schiller stated this was because the Applicant believed future neighbors might wish to vacate the entire alleyway.

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

Harry Hipler, attorney representing Alex Khoury, stated he wished to speak in opposition to the request. He felt pertinent information had not been included in the Staff report. There had been previous denials of vacation and rezoning for this area, which he felt were due to the presence of the Khourys. He described

the July 2006 hearing before the Property & Right-of-Way Committee as being held without notice, and pointed out that the Khourys were not present at that hearing.

He added that the arguments made in favor of the current request were “almost identical” to those which had been denied in the past, and noted that “fundamental fairness” would require the Khourys to be present. He felt the proceedings without them were prejudicial.

Mr. Hipler described the Khourys as occupying a small middle building between the Applicant and an electronics firm, which left them “locked in.” This meant their only safe access was between 32nd and 33rd Courts. Through 1999, he stated, the area was “completely open,” and from 1999-2006 a gate was erected, which could be opened and shut. He felt that the request for vacation was made because the Applicant had leased the property to a tenant, and the area in question was “leased out for financial gain.”

He indicated that the Code Enforcement Board had twice informed the Applicant that a closed fence violates Code on that property.

The Khourys’ property was identified on the map as being built on “a small strip” between the Applicant’s property and another owner. The property is currently accessed by driving down 32nd Court, although Mr. Hipler advised that before the gate was locked, it could be accessed another way as well.

In addition to these issues, he stated that the Khourys were architects who often require deliveries by large trucks. He did not feel that trucks could safely back out of the alleyway.

Mr. Hipler affirmed that the Khourys had “no intention” of selling their property and wished to expand their building. The one-way access that would result of granting the Applicant’s request would make this “virtually impossible.” In conclusion, he felt it could not be assumed that the public would not use the alleyway in the event that it was reopened to their use. He described it as having been “illegally locked.”

Ms. Graham asked if at-grade parking existed to the rear of the building, and if so, how many spaces were there. Alex Khoury, owner of the adjacent property, responded that four to six spaces existed, which were accessible only by entering from the rear of the building and departing from the north.

She also asked how emergency vehicles had access to the alleyway, considering its gate, and asked if other Code compliance issues were at stake as well. She wished to know if the Applicant’s proposed turnaround would prohibit parking and delivery.

Mr. Hipler stated that backing in and out of the alleyway created a “danger aspect.” He added that the Khourys wished to add a second story to their building.

Ms. Graham advised that the considerations necessary to expanding the property might be grandfathered in. She felt the true issue was the Applicant’s request, which was not on the Khoury property and allowed them continued access to deliveries and parking.

Mr. Hipler indicated that he could not respond adequately to the question and would allow his client, Mr. Alex Khoury, to address it. Ms. Graham agreed to hold her question until that time.

Mr. Stresau asked if the Khourys were represented at the Property & Right-of-Way Committee hearing. Mr. Hipler stated that while he was present to represent them at a hearing in March 2006, he was not present in July 2006 when the vote was taken. Mr. Stresau felt one option was sending the issue back to that Committee for further debate.

He then asked if Mr. Hipler could explain what he had called “Code enforcement violations.” Mr. Hipler noted that the fence on the alleyway was placed there illegally.

Mr. Stresau recalled that the Applicant’s representative had pointed out that the fence was in place with a permit. Mr. Hipler felt that while a fence permit was cited, “no one could find it.” He was not aware of the existence of such a permit.

No representative from the Building Department was present to confirm or deny the existence of a permit for the fence in question.

Mr. Hipler stated that there was a permit for the fence but not for the gate.

Alex Khoury, owner of the property adjacent to the Applicant, indicated his property’s location on a visual representation, noting that the alley had originally served as vehicular access for fire and utility services as well as for the owners. He reiterated that his property was “landlocked.”

Mr. Khoury stated that he had asked for the alleyway to be unlocked so service could be performed on his property’s septic tank, but the request was denied by the Applicant. This had led to his petition to the City to restore his access to the alleyway. An on-site meeting in July 2007 with a Code Enforcement Officer, Mr. Khoury, and two other neighbors had resulted in a decision that the Applicant had no legal right to block the alley. At issue was the fact that the gate blocking access to the alley was chained and locked. Code Enforcement Officer Bob

Guilford had advised that a permit for the gate could not be issued because it was installed over City property.

Mr. Khoury stated he opposed the alleyway's vacation due to limited on-street parking on Andrews Avenue; the danger of backing out of an alleyway; and the requirement that a turnaround be able to accommodate two directions of traffic. He stated access was necessary for larger utility, emergency, and rescue vehicles.

Ms. Graham asked if Mr. Khoury could provide a current or former survey for the property showing that the alleyway functioned as a utility easement, as it was not labeled as such on the survey provided in the Applicant's information packet. She also asked if the septic tank was inside his property line or somehow part of the alleyway.

Mr. Khoury replied that there were utilities in the alleyway, but he did not have a survey showing this. He informed the Board that he had not been properly notified of meetings prior to this one and had lacked an opportunity to present his side of the issue.

Ms. Graham asked if "letters of vacation" had been provided by utilities, as was common in cases where access would be limited. Mr. Lodge advised that these were included in the information packets. Ms. Graham requested clarification regarding where this access was to be rerouted, pointing out that she could not be sure the letters referred to the entire alleyway or a portion of it.

Mr. Schiller indicated that the Applicant would agree to grant access to all utility companies needing access for neighboring properties.

Deputy Director Jessup referred to the letters of vacation, stating that Comcast had no objection to relocating its aerial plant from the pole on which it was currently located. As Ms. Graham pointed out, however, there was no indication as to where the aerial plant would be relocated.

Ms. Graham also asked Mr. Schiller if he could show a copy of the survey depicting the proposed new easement. Mr. Schiller responded that according to Code, the Applicant did not have to produce this document until the matter reached the City Commission. He added that he did not believe the Applicant possessed this document in time to include it in the Board's information packet.

Mr. McTigue asked if the Applicant could produce a copy of their permit for the fence currently on the property. He also wondered how a gate could be placed across the alleyway if it had not already been vacated.

Mr. Schiller advised that the permit for the fence was p.5 of the PowerPoint presentation, adding that it predates the Applicant's ownership of the property. He stated that the fence could not have been erected without such a permit, although none of the parties to obtaining the permit were actively involved in the issue at hand. He continued that "whether [the] permit was granted legally or illegally, it was granted."

Ms. Freeman asked the Applicant to identify the lots he owned as shown in the documentation. The Applicant identified lots 3, 4, 5, 6, 7, and 16 as his own. Lot 1, in response to a follow-up question, is owned by Jim Becketseles, owner of Electronics Unlimited, who stated he was neither for nor against the vacation but "a little of both." He felt the alley's complete vacation would be a positive move, but did not wish to see anyone's access restricted.

Mr. Khoury's property was identified on the documents as lot 2.

Mr. Becketseles noted that he had access to his business via 32nd Court. Mr. Schiller stated that the Applicant did not have a rendering of the property showing 32nd Court.

Upon examination of the renderings, Mr. Lodge pointed out that the document to which Ms. Freeman was referring was "strictly a locational map" and not necessarily to scale.

Mr. Schiller stated that the owners of lots 1 and 2 could access the alleyway between 32nd Court and 33rd Street.

Ms. Freeman expressed concern that when the Applicant appeared before the Property & Right-of-Way Committee, they had not been required to notify the owners of adjoining properties. She felt this indicated these neighbors had never had an opportunity to speak before that Committee.

Chair Maus asked the Applicant if he was interested in this option.

Mr. Schiller pointed out that the Khourys were present before the Property & Right-of-Way Committee in March as "objectors," and the Committee was aware, in July, of the basis and nature of their objections. He noted that the Applicant's request had been turned down in March, but the Applicant had met with the District Commissioner and City Engineer to develop the turnaround, which alleviated the Committee's concerns regarding safe entry and exit into the alleyway. He concluded that no notice requirement existed for matters coming before that Committee.

Ms. Freeman believed a partial vacation of the alleyway would result in infringement upon the rights of others. Mr. Schiller disagreed, stating that "rightly

or wrongly,” the alleyway has been blocked off since 1976. He also felt the turnaround improved upon the current situation.

Chair Maus stated that she wished to discuss the issue with the Board members, as she had heard concerns expressed regarding “lack of detail” and the Khourys’ absence at the Property & Right of Way Committee hearing. She did not feel that continuation of the public hearing would result in a resolution, and asked that the Board express their wishes regarding the issue.

Ms. Freeman did not feel that the other property owners had had an opportunity to state their case, and concluded that her vote would be negative.

Ms. Graham stated her biggest concern was that the property owners on the north side, the Khourys, would have to cross their own parking area to access the turnaround before exiting the alleyway. She was also concerned about emergency vehicle and utility access, and did not feel the provided sketches were adequate to a proper understanding of the situation.

Chair Maus asked Mr. Schiller if it would be in his client’s best interest to consider a deferral at this point. Mr. Schiller advised that his client had not yet had an opportunity to address the Board and would like to do so. Chair Maus stated that the Board would then need to recognize other persons who had not yet spoken as well, and asked that the next speaker in line address the Board.

The owner of lot 2, Sam Khoury, advised that his company was a construction contractor and used the property for storage of some building material. He noted that deliveries are sometimes received in the alleyway, and stated that this space had previously been open for many years.

He continued that he needed the alleyway to remain open due to a desire to expand his business and add a second story to his building, which would require the addition of three parking spots. He felt that the alleyway had been “blocked...illegally,” noting that while a permit had been issued for the fence on the property, no such permit had been issued to allow a gate.

He stated that while doing construction, it would be extremely difficult to operate a crane and other equipment from Andrews Avenue, and would instead require access to the back of the property. He also felt if utilities, such as the nearest transformer, needed service, this would be prevented by blocking the alleyway; furthermore, trucks delivering service or equipment should be able to enter and exit the alleyway from two areas, not just one.

Deborah Khoury, co-owner of this space, continued that addition of a second story to their building would require cranes and equipment the size of semi trucks. She did not feel that these trucks, as well as fire or bucket trucks, would

be able to safely negotiate the alleyway. She noted that there would be no safe place to store materials, nor would there be safe access to and from the rear of the property for storage. She concluded that her primary objection was that they would not be allowed to have full use of their own property, and that the turnaround would not accommodate trucks of appropriate size.

Ms. Golub asked if Ms. Khoury could state the last time materials had been delivered to the business. Ms. Khoury said this had occurred approximately two weeks ago; the deliverers had entered from 32nd Court and driven to the business's back door to unload equipment, then backed out.

Ms. Golub asked if the gate in question had been shut, and if so, how long this had been the case. Ms. Khoury responded that it had been shut "on and off" until a magistrate had required it to be opened on September 18, 2008.

Ms. Graham felt information had been omitted from the proceedings before the matter reached the Planning & Zoning Board, such as whether the gate was locked legally or illegally.

Michael Guerreri, owner of AG Realty, informed the Board that when lots 3, 4, 5, 6, 7, and 16 were purchased in 1976, it was already completely enclosed by the gates. He affirmed that the gate had been opened periodically for deliveries but for the most part had remained locked continuously since that time.

He stated that he was requesting the vacation because they had paved the alleyway and were now "spending a fortune" to defend what they believed was their property. For security purposes, he added, they would not have purchased a property to use as a distribution facility if it were not enclosed.

Ms. Graham felt the survey included in the information packet was a very old one, and noted that some due diligence should have been required for the 16 ft. wide area. She suggested that the fact that a non-compliant use had been allowed for several years did not make such a use legal or correct, and that this use could not be grandfathered into an agreement.

She continued that the discussion in question did not concern how many owners were served by the alley, but the fact that the vacation of that alley must serve everyone, regardless of the size of their property or frontage. She also felt that too much information had "slipped through the cracks" during presentation of the case, and the fact that this may have originally occurred years ago did not excuse the omission.

Mr. Becketseles, owner of Electronics Unlimited, spoke again, suggesting that if all three parties could agree to vacate the alley, it would be "a good thing for all." He added, however, that there have been instances when, after deliveries, trucks

have had to back “blindly” onto Andrews Avenue, as trucks of this size cannot turn around. He also did not believe fire trucks or other big trucks could access the alley area.

There being no other members of the public wishing to speak on this item, Chair Maus closed the public hearing and returned the discussion to the Board.

Motion made by Mr. Stresau, seconded by Ms. Freeman, to approve the application for alley vacation. In a roll call vote, the motion failed in a vote of 0-8.

9. For the Good of the City

Mr. Stresau informed Deputy Director Jessup that, some meetings ago, he had requested that Director Brewton provide the Board with an 8 ½ by 11 ½ City map showing where each Applicant is located. He felt it helps the Board members plan how to visit sites. However, such a map has not yet been provided.

There being no further business to come before the Board at this time, the meeting was adjourned at 11:12 p.m.

Chair

Recording Secretary

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

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FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>McTigue, Patrick, Emmett</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Planning and Zoning</i>
MAILING ADDRESS <i>1112 Mango Isle</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <i>Ft. Lauderdale FL. 33315</i>	NAME OF POLITICAL SUBDIVISION: _____
DATE ON WHICH VOTE OCCURRED <i>Nov. 19th 2008</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Patrick E. McTigue hereby disclose that on November 19th, 20 08.

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, Gene Whiddon;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Gene Whiddon is the Real Estate Broker with whom I hang my Real Estate license.

Date Filed

Patrick E. McTigue
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

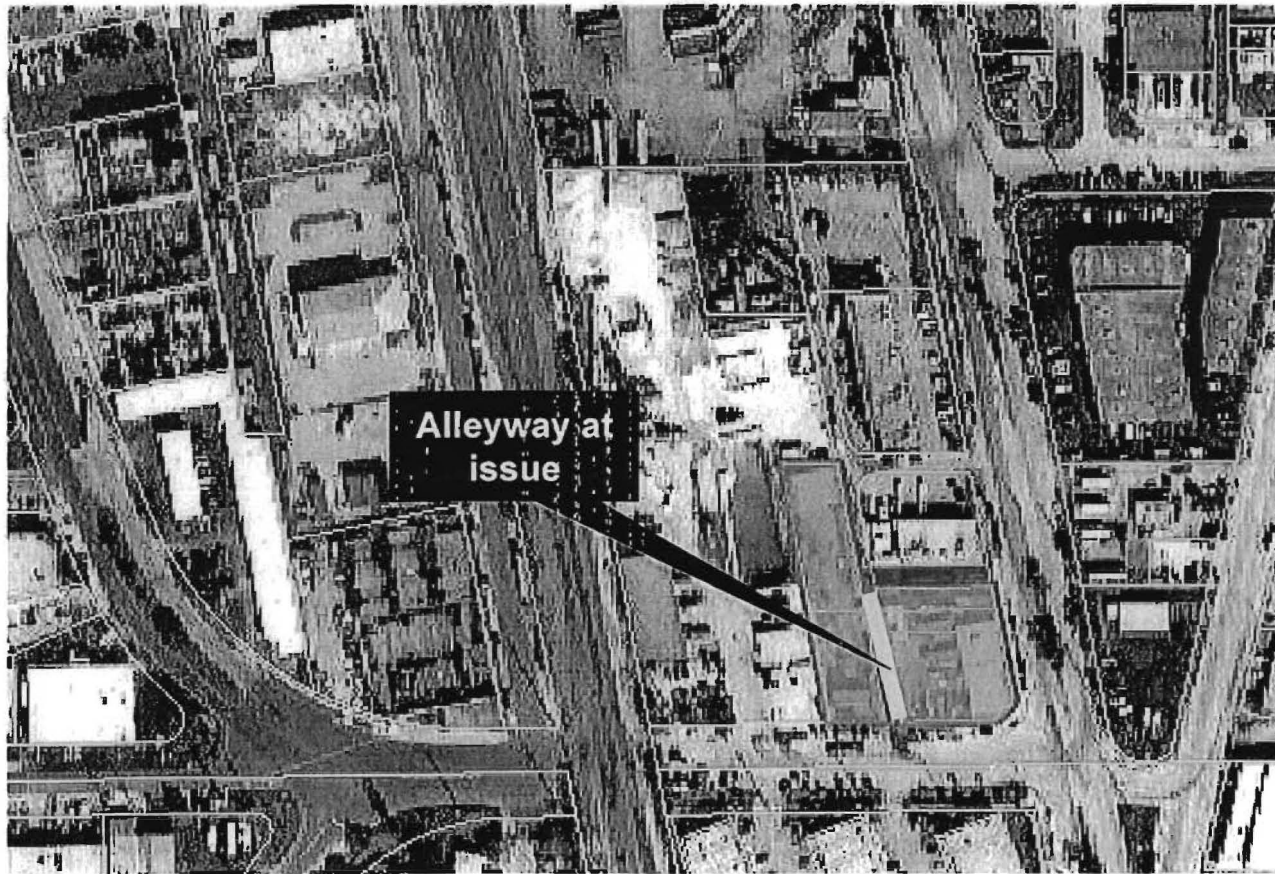
Vacation of Alleyway
A.G. Realty Fort Lauderdale

City of Fort Lauderdale
Planning and Zoning Board
November 19, 2008

Applicant's Request

- Applicant seeks to vacate a portion of the alleyway that runs from Southwest 32nd Street to Southwest 33rd Street
- The Property and Right-of-Way Committee voted 7-1 to recommend this vacation on July 17, 2008

Geographic Location



Better View

Gate

Proposed
Vacation

Gate



History of the Property

FL Refreshment Center
(previous owner) received
a fence permit for 372' of
fence on May 11, 1976

Applicant purchased the
surrounding properties on
November 24, 1976

Applicant resurfaced
alleyway on October 17,
1995 (BP#950016010)

CITY OF FORT LAUDERDALE, FLORIDA
BUILDING INSPECTION

APPLICANT FOR BUILDING PERMIT DATE 5-11-76
The Refreshment Ctr.

PROJECT Striped

PERMITS REQUIRED Striped

ROOF CODE

PROJECT

HEIGHT

LOT # 3-6 ZONE D-1

DESCRIPTION Removal of asphalt and concrete

LOT AREA 3245 ACRES 1.00

PERMIT FOR Removal of asphalt and concrete

I HEREBY MAKE APPLICATION FOR PERMIT FOR Removal of asphalt and concrete

PURPOSE 7' x 11' x 11' fence

TYPE OF CONGR. 372'

FOUNDER

OWNER/CONTR

HEALTH DEPT.

NOTICE CONGR.

APPROVAL OF Zone B-1/B-3

APPLICATOR APPROVAL Alvin J. [Signature]

BUILDING PERMIT #FL-
ROOF PERMIT #FL-
OTHER PERMIT #FL- 7-2709

TOTAL AMOUNT \$ 5-11-76

Charles L. [Signature]

Previous Alleyway Vacations

**Vacated by
Ord. C-82-58**

- Created a dead-end alley at the north end



**Vacated by
Ord. C-83-18**

Current Views



From Andrews Ave.
looking into the alley-way

Current Views



Looking South into the
alleyway

Current Views



Looking North into
alley-way

Criteria for Vacation Sec. 47-24.6.4 of the ULDR

The right-of-way or other public place is no longer needed for public purposes;

Through previous actions of the City the alleyway has been permanently altered and no longer serves a public purpose.

The Applicant's gate has blocked access to this portion of the alleyway since 1976.

- Adjacent property owners purchased their properties after 1976 – no expectation of access

Criteria for Vacation Sec. 47-24.6.4 of the ULDR

Alternate routes if needed are available which do not cause adverse impacts to surrounding areas;

This is an unimproved alleyway that is 16' in width
Access to the rear of the two adjacent properties
remains available

There cannot be adverse impacts stemming from this
application because this portion of the alleyway has
not been open since 1976

Criteria for Vacation Sec. 47-24.6.4 of the ULDR

The closure of a right-of-way provides safe areas for vehicles to turn around and exit the area;

The Applicant intends to dedicate a public access easement for a “T-turnaround” area on its property at the north end of the vacated alleyway

- This will allow for vehicles to enter and exit the alleyway from Southwest 32 Court

“T-turnaround”

Applicant voluntarily will dedicate this as a public access easement upon approval.

Developed with City Engineer and based on AASHTO* standards.

* American Association of State Highway Transportation Officials



Criteria for Vacation Sec. 47-24.6.4 of the ULDR

- ***The closure of the alleyway shall not adversely impact pedestrian traffic; and***

This is an industrial area

No impact on pedestrian traffic

Andrews Avenue has sidewalks for pedestrian movement

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Conclusion

Applicant meets ULDR criteria for alleyway vacation

City Engineer has approved the “T-turnaround” design and location

City set a precedent for this vacation by vacating the north-end of the alleyway

A gate has blocked the alleyway since 1976