



CITY OF FORT PIERCE PLANNING BOARD MINUTES

**REGULAR MEETING - TUESDAY, JANUARY 12, 2010.
FORT PIERCE CITY HALL, COMMISSION CHAMBERS,
100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.**

Chairman Johnson called the meeting to order.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Kara Wood, Robert Poitier, Charlie Hayek, Jeremiah Johnson, Colin Lloyd, Dan Dannahower, Marcia Baker, Steve Weaver, Bob Burdge.

Those absent: Mr. Harris (will be in attendance later); Ms. Yates.

Staff Present: Jim Walker, Board Attorney; David Carlin, Assistant Director of Planning; Erica Ehly, Comprehensive Planner; and Paul Williams, Urban Forester, Matthew Margotta, Director.

The next item considered - **# 3 – Consideration of Absences**

Chairman Johnson said I think we had three absences and those who did not call in. Do you guys...at this point; what I have been doing is reviewing with Attorney Walker the absences in regards to a planning board member. It just talks about three consecutive absences would justify the commissioners to look at a removal from the Board. But I this point boundaries for not being here and will entertain a motion from the Board for those absences of last week of Mr. Weaver and Mr. Burdge. Is there a motion?

Mr. Poitier said I motion it.

Chairman Johnson said Ok, there is a motion to what Mr. Poitier?

Mr. Poitier said I would accept that...wouldn't you?

Mr. Walker said do I have your permission to amplify on this?

Chairman Johnson said yes please do.

Mr. Walker said Mr. Chair, Code Section 2-222 Sub B reads as follows: absence from three consecutive regular meetings of the Board shall operate the vacate the seat of the member

unless such absences excused by the Board by resolution setting forth the fact of such excuse duly entered upon the minutes. So this requires, Mr. Chair, that the member who was absent state on the record, for benefit of the minutes, the reason for the absence whereupon the board may then determine for itself whether or not that constitutes a valid excuse. Let me share with you the City's concern that this provision be enforced strictly and diligently given the importance that the City attaches to the discharge of their duties by each member of the Board.

Chairman Johnson said thank you Mr. Walker. Let's go down the line then...Mr. Burdge.

Mr. Burdge said yes sir. I will gladly be the first case. I have come prepared this evening to plead partial ignorance and partial I didn't know I had to be here. The ignorance part is what Mr. Walker is alluding to as far as having an excuse and the ignorance part it's my understanding that it is an alternate until called upon by the Board. So I would have to ask Attorney Walker to some degree, that as an alternate, are you required to answer roll if you're not here and you're being asked to serve on the board? So that would be one question. The second question is that quite frankly being a new person and I might have been directed, but it slipped my mind in the aspect, if we are not asked to be here in reference there is going to someone missing. So, that is the case I bring before the Board. I might have heard from our director but somewhere that slipped the last meeting and because I saw that the shortness of the agenda did not have calls from anyone saying that there was the possibility of the need of alternates to move up and I simply didn't come.

Chairman Johnson said Very good. Mr. Walker, with regards to the one question about an alternate being contacted at this point it is the protocol for them to appear at the meeting and see if there is a seat for them to fill.

Mr. Walker said Respectfully, Mr. Chair, the question can be answered by resort to Ordinance K-459 which amended 2-201 to add the following additional language. Any individual designated as an alternate member of a Board may participate freely in all Board discussions or deliberations except that such alternate member may not vote unless certified by the Board chair as a replacement for a regular Board member at the meeting which such Board member fails to attend or has recused himself/herself from voting on a particular issue. So what that means Mr. Chair is that alternates should attend all meetings where at they are eligible to participate in the same fashion as any other Board member except that they may not vote unless they are certified at the beginning of the meeting as being there in replacement of a regular member who is absent. Does that fairly respond to the question?

Mr. Burdge said yes that would be in the strictest form. Yes and after hearing that I am rest assured unless there is a real serious problem, I will be here so I beg excuse for this particular meeting.

Chairman Johnson said very good, thank you.

Mr. Lloyd said Mr. Walker could you read the provision where it says that we have to state on the record what our excuse was. I wasn't paying close attention.

Mr. Walker said Code Section 2-222 Sub B states as follows absence from three consecutive regular meetings of the Board shall operate to vacate the seat of a member unless such absence is excused by the Board by resolutions setting forth the fact of such excuse duly entered upon the minutes.

Mr. Lloyd said my concern is that some of us may have privacy concerns where there may be times when I may not want to state on the record why I couldn't be here. Could be health reasons could be.... I'm not saying that is what it was, but I may not want it on the record why I couldn't be here.

Mr. Walker said I would suspect that nevertheless you should be able to find some language that might operate as a basis for necessity to delve into details otherwise knowing the business but yourself.

Mr. Lloyd said I guess we will cross that bridge when we get to it.

Mr. Lloyd said I don't know how I got to the planning board but it has been a few years. It is the first meeting that did not get on my schedule and I believe, I am trying to think back thirty days here and I believe that is the reason. At the top of my head, it was the holidays and I think that was it.

Chairman Johnson said thank you. Last one Mr. Weaver.

Mr. Weaver said mine was also a scheduling oversight. I beg forgiveness for my oversight and certainly won't let it happen again. But while I have the floor, Mr. Walker's reading of the code suggests that it comes into play with the 3 consecutive absences I am not sure why we are having this discussion after once since we are all here tonight.

Mr. Walker said we are talking about the practice that is followed and whether or not this actually triggers a review of membership by the commission is actually another separate point and that only takes place in the event the meeting absences are consecutive. As a matter of habit and good practice so as to encourage the awareness of attendance of necessity it is my strong recommendation that we follow this practice to the best of our ability even when the absences are not consecutive merely to avoid the possibility that they could become so in the event the practice were not governed with care.

Chairman Johnson said Very good sir, thank you. All right, we had three. Is there a motion? You have heard three excuses from the three members that were absent from last meeting.

Motion made by Mr. Poitier and was seconded to **excuse the three absences from the last meeting on December 8, 2009.**

Chairman Johnson said for tonight's meeting Ms. Yates did call in. Is there a motion to excuse because she did call.

Mr. Poitier said she did call?

Motion made by Mr. Weaver and was seconded to excuse Ms. Yates. Unanimously approved by voice vote.

The next item considered - **#4 – Certification of Alternate Members.**

Chairman Johnson said Mr. Burdge thank you for being our alternate member tonight. You have all the voting privileges as a planning board member. Ms. Cummings, you're here still, if you would like to come and speak tonight you can but obviously you can't vote on any issues based on what Mr. Walker stated. You're more than welcome to come forward.

The next item considered - **#5 - Minutes of November 10, 2009**

As everyone had a chance to review the minutes of the December 8th, 2009 meeting and are there any additions or corrections?

Motion made by Mr. Poitier said removal of adoption of the previous meeting.

Chairman Johnson said I have one item. On a page 2 there is a comment that I stated, it was talking about the absences again. It says so we will handle this at the next meeting is what the word should be instead of last. So there is one correction there on Page 2, 4th, paragraph from the top.

Chairman Johnson said other than that is there still a motion and a second?

Motion made by Mr. Poitier and was seconded.

6. Annexation:

a. St. Lucie County Landfill

Annexation of two parcels totaling 330.14 acres and identified as being contiguous to the municipal boundaries of Ft. Pierce. The parcels are located at 6120 Glades Cutoff Road. Could we have staff report please?

Ms. Ehly said Good evening Mr. Chair and planning board members. In 2009 the St. Lucie County Landfill property became eligible for annexation into the city pursuant to an agreement that was signed with the Ft. Pierce Utilities Authority in 1994. So this city is executing that agreement at this time. And there no issues that were identified by the reviewing departments or by St. Lucie County Growth Management at the TRC meeting and staff recommends approval of the annexation.

Chairman Johnson said thank you. Are there questions from staff for the Board?

Ms. Baker said does this include the new trash zapping lease area?

Ms. Ehly said we do believe it will include that area, the Geoplasma facility.

Ms. Baker said and has there been a discussion as to the ramifications of annexation to that new facility.

Ms. Ehly said Ms. Baker the facility will be permitted through DEP and the federal government so that won't change. It will be subject to our site plan review process and planning board and city commission review.

Ms. Baker said since we will be having the property in Ft. Pierce any new lease that has been negotiated would have to be taken over by us or

Ms. Ehly said it is my understanding that it is county property so the lease will be with the county...county owned property.

Ms. Baker said Ok, got it.

Mr. Lloyd said how does this benefit the city? Why do we want to annex this property?

Mr. Margotta said Mr. Lloyd; annexation is something that is the prerogative of the city commission as far as some of those goals. Generally speaking, if you look at leadership of the city and where it is going into the future the location is fairly strategic but the main is that it expands the city. It goes on the other side of the turnpike it already has an agreement with the city for the FPUA and for servicing it for water and sewer then it should be within the city anyway. So there all sorts of long reaching goals as far as being on the other side of the turnpike or not but generally speaking for benefits, any other properties that are now contiguous to this might be subject to annexation. I don't know all the answers

Mr. Lloyd said that is what I'm asking is it because they're trying to fit the pieces of the puzzle together or is because they don't pay taxes, I assume the county isn't going to be paying taxes.

Mr. Margotta said no we don't ..

Mr. Lloyd said but we still have to service the infrastructure

Mr. Margotta said if there are to be any other improvements on the site the city would have to have a say in this. Primarily, I'm thinking that this is a strategic juxtapiece....I might be speaking out of turn, but I think it is the city commission that really looks at these things at that strategic level and for staff city it's obviously an application of the ordinances.

Ms. Ehly said Mr. Lloyd I was going to say as far as the timing we just did annex the Walmart Property and so this property just did become contiguous and we had an agreement so that kind of triggered the execution of the agreement.

Mr. Weaver said does anybody from staff have a clear idea and how far the land fill can expand in both the upward and outward capacity. Is there some limits of what the current agreement is with the county?

Ms. Ehly said Mr. Weaver it is my understanding that the city can't limit the expansion of the landfill per the agreement. However, I imagine since it is being annexed the Florida statutes requires that it subject to city ordinances and that would limit the expansion and it would be subject to the city code.

Mr. Lloyd said for the record if the zapping program does goes into place there will be tax base generated?

Ms. Ehly said yes that is my understanding.

Chairman Johnson said ok are there any other questions of staff? Seeing none I would like to open it up to the public. Would anyone like to speak for this request? Is anyone against this request? Ok I will close public comment and will entertain a motion from the board.

Motion made to approve the annexation as presented and was seconded.

Chairman Johnson said we have a motion and a second on this motion. Any discussion on that motion?

Ms. Wood said Mr. Chair as with all other annexations. I would like to recuse myself from this item. Thank you

Chairman Johnson said can we have roll call please?

Mr. Harris/yes; Mr. Poitier/yes; Mr. Hyack/yes sir; Chairman Johnson/yes sir; Mr. Lloyd/yes; Mr. Dannahower/yes sir; Ms. Baker/ yes; Mr. Weaver/yes; Mr. Burdge/yes.

7. **Future Land Use**

We will open as the local planning agency for two public hearings.

Chairman Johnson said Item 7A is the future land use map amendment zoning atlas amendment at 438 N 19th Street. Could we have a staff report please?

Ms. Ehly said this property is part of a county CDBG project where they have demolished the single family home and then they are going to rebuild single family home. As they went through that process we became aware that the land use and zoning did not allow for single family home construction. So this is basically a house keeping matter where we are amending the land use and zoning to allow for that project to become completed and for the family to be able to move in a timely manner and staff recommends approval.

Chairman Johnson said please clarify for the record just what is transitioning in both the amendments and the zoning.

Ms. Ehly said the future land use map amendments is changing from the neighborhood commercial to the medium density residential and the zoning classification is going from C2 neighborhood commercial to R4 medium density residential.

Chairman Johnson said any questions of staff?

Mr. Weaver said Ms. Ehly is their ramification on the adjacent property owners that are zoned commercial are they looking at an increased set back or buffer or slightly rules of engagement given they are now adjacent to a residential property?

Ms. Ehly said Mr. Weaver as far as I'm aware I think they are required to have buffering between their property line and a residential property...additional landscape buffering.

Mr. Weaver said so there is impact on property owners that are not present tonight.

Ms. Ehly said yes and before it goes to the city commission they will be notified. I could also point out that those are also single family homes currently on those properties so there won't be any immediate ramifications.

Mr. Weaver said so in a larger sense most of these people long term may take advantage of the perhaps more beneficial C2 zoning than the current residential and this will come into play at that time.

Mr. Carlin said if I could address Mr. Weaver's comment on that. This is exactly why doing these kinds of inventory checks, if you will, to account for a specific land use and what is going on. So how this came to be is questioned and so certainly if there is any chance in use on that adjacent property you that would be time where you would look at whether fencing or some landscaping but again as Erica pointed out it is already a single family home. That lot just based on our experience of looking at these things non conforming lot as you know is very limited in what you can do in terms of parking and things like. So in essence, it is likely to remain a single family home and to do a neighborhood commercial would be very challenging.

Chairman Johnson asked are there any other questions of staff from the Board?

Ms. Wood said Ms. Ehly I am wondering ... normally I would expect to see some kind of needs analysis for the future land use that is being requested. In this case it's kind of a moot point it's a single-family lot I understand there is not a need to go into a whole full analysis for one household that is being added to your future land use map. Would that be something you would normally do in a future land use map amendment?

Ms. Ehly said Ms. Wood that is something we would like to do with each land use amendment and certainly with large scale land use but it is very hard to do that for DCA. Generally, with small scale land use we don't do that here in the city. We do evaluate the impacts to capacity public facilities, level of services and that type of thing. As far as our land use inventory, the existing vacant land use and then whether there is a need for additional

land use of that acreage that we already have existing we generally just don't do that for as a matter or practice.

Ms. Wood said ok, normally I would have a concern about changing a non-residential use to a residential use given the housing market. There is probably not a demonstrated need for residential units in the City of Ft. Pierce, but just wanted to sort of say as a general comment but in this case you know I want to help these people get their house.

Ms. Ehly said I was also thinking the same thing. We need all the neighborhood commercial we can get. That is actually one land use category where we don't really have enough and so to take away from the inventory is something we don't like to do, but this of course, we have to look at on a case by case basis. This is an existing single family home so it wouldn't really make a lot of sense to make that argument especially with one-tenth of an acre.

Ms. Wood said right, exactly. Ok, thank you.

Mr. Poitier said I have a question. Is there a house on the property now?

Ms. Ehly said I'm not sure if they have completed the house but they are constructing a single family home with a CDBG funds through the county.

Mr. Poitier said so we can't change it too much now right

Ms. Ehly said well I guess it is possible that the city could That would be a very sticky situation to get into and certainly anything is possible.

Mr. Poitier said staff could approve it right?

Ms. Ehly said yes, absolutely.

Chairman Johnson said are there any other questions of staff? Very good. This is a public hearing so I would like to invite those from the public to speak for this request. Anyone here to speak against this request? All right we will close the public hearing and return to the Board. I will entertain motion.

Motion made by Mr. Poitier to the recommendation for approval.

Chairman Johnson said we have a motion for recommendation for approval is there a second Could we have roll call please?

Those voting in favor of the recommendation were: Ms. Wood, Mr. Harris, Mr. Poitier, Mr. Hayek, Chairman Johnson, Mr. Lloyd, Mr. Dannahower, Ms. Baker, Mr. Weaver, and Mr. Burdge.

Chairman Johnson said very good. Thank you very much.

Next item is a public hearing also. Policy 1.1.2 to review and submit recommendation for change in policy to refine the current description of the mixed use future land use designation to permit a broader application of this land use classification throughout the city. Do we have staff report please?

Ms. Ehly said basically the applicant is requesting to amend the description of our MXD, the city's MXD land use. Currently, it requires a residential element which doesn't anticipate non-residential mixed use development which is certainly something that we would want to encourage especially in this time where we certainly have enough residential units available although not affordable units, but general housing units. The primary reason for this is to allow for the non-residential mixed use development and also it will provide a description that is more in agreement with the county's MXD land use which does allow for non-residential mixed use development in anticipation of future annexations of property that has that land use. Staff recommends transmitting this proposed comprehensive plan and text amendment to DCA.

Chairman Johnson said very good. Any questions of the staff from the board?

Ms. Baker said the property owned by Willow Lakes which is Dev Con who has the provinces developed is in the county. What standing do they have to request this change in the city zoning text amendments. Since they are in the county have they been approved for annexation?

Ms. Ehly said no Ms. Baker they haven't and as far as standing we can verify with Mr. Walker but there is nothing in the Florida Statutes or in the city codes which defines or amending a municipal comprehensive plan application.

Ms. Baker said my second question is I noticed this property when we looking or about to look at the Zentek's property which is adjacent to it going North that had been Breckinridge and then it was been changed to something on.. the whatever ...that was postponed from a previous meeting and we haven't considered yet and that had been annexed into the city. Has there been any discussion overall about the possibility or recognizing urban sprawl if and when the Willow Lakes property and their provinces development become annexed?

Ms. Ehly said Ms. Baker, staff hasn't had that particular discussion and it is my understanding that the provinces development no longer is a viable application and actually we have the applicant here who can probably elaborate on that and that it has been broken up into smaller pieces. Certainly we would concerned with urban sprawl and that would be analyzed at that time.

Mr. Margotta said Ms. Baker actually urban sprawl sometimes comes into our conversations and there are other levels of meetings than simply staff when we talk to TPO staff or county departments the subject of sprawl or any lingering or defunct DRI's are coming through. It does come up in conversation but it is not the only conversation it is not unknown to us that there is a lot of development that could occur in the western area.

Mr. Weaver said Ms. Ehly said how does this interrelate with the PUR and the PUD requirements in the city codes that require mixed use. I know it the comp plan issue but there are requirements within the PUR and PUD process that lead to the mixed use and that it requires residential elements as well.

Ms. Ehly said Mr. Weaver I think that Mr. Carlin can probably answer with more specificity than myself but I do know that during the LDR rewrite that we will be focusing on the PUR and the PUD requirements in great detail.

Mr. Weaver said would it be the intent to make the mixed use definition within the city codes consistent with this change in the comprehensive plan?

Mr. Carlin said Mr. Chair if I could answer this question. Mr. Weaver, as you know, the PUD and the PUR is intended to allow for flexibility and the flexibility is really geared towards setbacks and coming up with unique designs. The PUD requirements don't specifically mandate that it has to be a consortium of commercial industrial or retail but it permits those types of things and the commission has the ability to determine what type of uses will fall under PUD based on the overall requirements so certainly it's not specifically requirement although the intent of a PUD is to incorporate different type of uses to encourage those type of uses which would prevent people getting into a vehicle and driving down an arterial road which contributes to traffic and congestion and environmental concerns so the PUR and the PUD as we go through the code rewrite we can get into that a little bit later in our discussion about where that should go and how that might mimic what the comprehensive plan land use descriptions are for MXD should be. I mean certainly, these are excellent points that you are bringing up but the more specificity and what that includes and putting a definition to what is a mixed use? What you might think is mixed use might be different than what Mr. Hyack thinks is a mixed use and what we think so certainly having maybe a more clearly, defined type of term would be something that might help out in development. And those might be found in the PUD and the PUR and of course we haven't seen those segments of the code rewrite yet so it is forthcoming.

Chairman Johnson said thank you. Are there any other questions?

Ms. Wood said I notice there is a difference between the language that is being proposed that is shown on your screen and the language that is shown in the applicant's application. Is there a particular reason for the switch in language and what can you speak to generally in what generated this particular language we were seeing?

Chairman Johnson said that was my question it's on the sixth page of the application and it talks about the criteria versus what is on the screen says two.

Ms. Ehly said the change from three to two.

Chairman Johnson said the application states three

Ms. Ehly said the change from three to two

Chairman Johnson said is that kind of your question Ms. Wood?

Ms. Wood said yes, and there are some other language differences that are kind of minor but yes, there is a general change in the language in the wording in the sentence and then the change from the three to two.

Chairman Johnson said look on page six of the application and you will see it. It is different than the screen.

Ms. Ehly said yes...let me find that...the three to two. The minimum of two just seemed to make more sense in relation to the city code which requires two. Certainly during the year we will be looking at all our future land use designation descriptions in greater detail and it will be tweaked. There are a lot of issues with all of them but for now keeping the minimum of two is consistent with what we have in the code and also it didn't seem reasonable to make a minimum of three at this point. And the other thing, just how it starts this area is characterized, let me find their language I think it just went back to generally what the verbiage is what the county uses and also what we have already in our comp plan. Just describing an area being characterized which is just a matter of semantics really. So what is proposed on the screen is what is the ...

Ms. Ehly said yes and all the additional changes we did not go forward with those because those will all be addressed. There were more changes that were proposed by the applicant which don't necessarily relate to the specific issue of this policy and the MXD land use change. The other ones were just changes in other land use titles and things like that which we didn't feel we should get into at this point with further analysis when the whole structure and schedule of future land use titles.

Chairman Johnson said are there any other questions regarding that? Has the applicant has seen this draft, this rendition on the screen?

Ms. Ehly said yes they were sent the staff report.

Chairman Johnson said are there any other questions of staff? Ok, I would like to invite the applicant forward and or those left to speak for the request.

Mr. Murphy said Good evening for the record my name is Dennis Murphy I'm with Culpepper and Terpening here in Ft. Pierce and I'm here tonight to represent Willow Lakes, LLC as the petitioner for the proposed text change to the city's comprehensive plan mixed used element. Starting from the last comments and going forward from there. Please excuse me for the balance of the table that wasn't discussed out as Erica was talking about. Once you start typing, things kind of happen and this could be formatted a little differently. So we thought we had submitted everything but it can be worked out later on so that is why it is not being acted upon right now. It is not a particularly big deal. In reference to the question have we seen the proposed changes from what we had previously submitted? Yes, we have seen them and we have objection to the changes as drafted and we can work with it. Going to the comment from Ms. Baker earlier about procedure as to why are we here in front of you as a property owner who currently on one particular piece of property is not within the city. Badly

paraphrasing and saying Chinese philosophy of the long journey to the first step, well this is the first step. We will be back before you with other things in the future and as we are looking at it the earlier planning stages and as Ms. Ehly pointed out the way the current mixed use terminology is worded which is a designation that we hope to apply to our property it doesn't really fit broad base fit developments. It seems too focused in a particular one block or one parcel kind of basis and we're looking at something that has several hundred acres associated with it. That is the reason we are bringing this forward. It was a suggestion with city staff that they are other ways to skin the cat, if you will, and get to what we are trying to get to. Ms. Weaver you are asking about PUR's and PUD's as we move forward we fully expect that as the land development codes are updated that we are going to be required to go PUD or PUR whatever this may be applied. Mixed use is not typically geared toward standard stand alone zoning designation. They are typically followed up with some type of mixed plan of whatever you want to call it designation due to development process. The best way I can sum this up is this is series of layers of development activities and right now we are working at the very high level and as it gets worked down to the actual construction level the rules get tighter and tighter.

Mr. Chairman and commission members I would appreciate a recommendation of transmitting to the proper community affairs for further review by the city commission and then I think the process is one it will go to commission and goes to up to DCA and then gets acted on in about three or four months for final action onto. If they are there any particular questions I am here to try to answer them.

Ms. Baker said Mr. Murphy where in this layer of proposals is this annexation?

Mr. Murphy said well I think Mr. Lloyd kind of touched on it in his earlier questions about the land use and it is all part of the puzzle. Until the landfill is brought forth and the city annexes it, we cannot be part of we can't be part of the city. We are taking a leap of faith, if you will that the city commission will annex the landfill and then our petition will be forthcoming.

Ms. Baker said but you do adjoin through the Gordy Road

Now you made a comment earlier about us being contiguous to the Breckinridge and we are not contiguous to that there is a gap in between of about a quarter of a mile. The biggest property owner happens to be South Florida Water Management District and the Army Corps of Engineers right which is part of the ten-mile creek system, but we are not physically contiguous to them.

Ms. Baker said I thought that if...ok. Gordy Road is a public road and I thought that ...

Mr. Murphy said not getting into Mr. Walker's territory about annexation law you can't do a serpentine annexation down the street.

Mr. Murphy said you can't do an annexation when you've laid down the road right of way. It has to meet other criteria.

Ms. Baker said but that other development out there on that other road with those stores right next to you. That is in the city isn't it?

Mr. Murphy said ...stores right next to us

Ms. Baker said on Midway Road

Mr. Murphy said... on Midway Road. Ok.

Ms. Baker said yes, that small strip piece that you have..I don't have my maps in front of me

Mr. Murphy said the only thing next to us on Midway Road is at the moment, to our west is a plant nursery and to our east is I-95 and immediately to our east from 95 is Tropicana.

Ms. Baker said Ok.

Mr. Murphy said if it is ok I can share the maps.

Ms. Baker said no, no it's ok I have the maps in my computer as I was looking at them when we were considering the Breckinridge thing. Thank you.

Ms. Wood said I'm wondering about comparing the language that is being proposed to the reason that you say what the language is for. It is my understanding that essentially you have issues with the requirement of residential and the requirement of essential vertical integration of more than of at least two stories. It seems to me if that were the case you could have just proposed to strike the last two sentences of the existing language without sort of monkeying around with the rest of it. Can you speak to why it is as much as it is?

Mr. Murphy said well for sake of discussion I am going to simply refer to page six the original language that we gave and left from the there. The issue that we have with the original language is right now, different folks work different ways I don't think that we are that different into what we are trying to achieve right here. This is in our reading of the codes and the rules in through here. It seems to preclude limiting you only to singular integrated buildings where you have a vertical element. And again I am going to use an analogy not likely to occur here as to the same intensity but let's take a building in New York. Ok, lower level non-residential commercial of some type residential in the upper level. That is a vertically mixed use project. You can read this existing language to limit you only to that type of use.

Ms. Wood said but that is not what is says, it says that is only what is allowed. Vertical and horizontal integration so it is not just specifying vertical of uses such as and it list all the uses.

Mr. Murphy said but it doesn't list all the uses and other activities such as potential non-residential industrial or industrial integration into that kind of thing so we are trying to expand and cover that. It was just a feeling on our part as people, I know you are in the same game here, we felt that the language as it was presently written didn't really fit this property or the properties in a like situation because, Yes we are looking at from a singular point of view of our property as a catalyst for being in front of you but also I have to look at how the rule is

being written in a broad application. Can this apply and not only to our site but could apply to another piece of property? I think that with the change that we have proposed and even as modified it can work in a broad base and it can work on more than one piece of property.

Ms. Wood said Right and I agree. Let me be more forthright in what my actual concern is. For me when I read language like characterized by unique design hierarchy of streets focus on pedestrian activity and use of community buildings and open spaces as focal points, those are very specific design characteristics that are quantifiable in a site plan and that once you take them out of the comprehensive plan, I agree that a general comprehensive plans are not the place for foreign based issues. But until there are in the code and to me they are very applicable to mixed use development in particular when you take that out and replace it with a very generic term like well planned centers. It just takes all the teeth out of the comprehensive plan in trying to apply development proposals and really specific standards like hierarchy of streets and focus on pedestrian activity to development proposals. That is my concern.

Mr. Murphy said I don't think we disagree on that point except for perhaps where it needs to be stated. I think that language is probably more appropriate were the rubber meets the road, if you will, in the land development code. I understand the policy position in trying to have a broad statement into it but I think it works better in the LDR regs.

Ms. Wood said Ok, I can appreciate that and it's headed in that direction and especially given that amount of flexibility in the MXD land use designation, I think that having that kind of specificity is not a bad thing. For me right now that is a pretty big sticking point and I support the intention of the amendment in providing you with the flexibility that you really need but taking out that language is kind of non-starver for me.

Mr. Murphy said as I understand the process this is the first of three stops that this petition makes. LPA, Council I, DCA, Council and Final Adoption. As you know through that whole process it is somewhat vitreous and it will change. You make a policy recommendation into and as we move through the next couple of months if we find some other way to work this a little bit I don't think that it is a particular problem that we can discuss to see where it goes.

Ms. Wood said ok.

Mr. Weaver said I just wanted a clarification from staff. It alludes to the proposed language an amendment of two for the following general uses and wanted to confirm that there is a total of three possible uses there residential, institutional and commercial and/or industrial as one potential use. So there is four?

Ms. Wood said yes.

Mr. Weave said then there should be a comma because the way this reads and that implies that they can have a mixed use that is just a mixture of commercial and industrial just for clarification. As well, I thought it was worth noting that we are striking through the maximum floor area ratio of 1.5 and pretty much taken the size of the building limits off except for the lock coverage of 50%.

Ms. Ehly said so Mr. Weaver you recommend a comma, I mean generally it is a matter of semantics but "and" kind of replaces a comma.

Mr. Weaver said I understand, but would two uses be single family and multi-family?

Ms. Ehly said residential would be one use.

Mr. Weaver said Ok. But to be clear a mixed use could be combined solely of commercial and industrial.

Ms. Ehly said yes.

Mr. Weaver said that is just what I wanted to get for the record.

Ms. Ehly said we can separate it by semicolons between each use and do it that way if it is more clear.

Mr. Weaver said as long as it is on the record that is way the intention was.

Ms. Ehly said as far as the FARS, we don't have a consistent FAR maximum for all land uses and that is the reason why I was certainly to take it out to be consistent and also with the lot coverages we are moving toward that to be regulated in the LDRs rather than in the future land use designations.

Chairman Johnson said thank you very much. Is there anyone else here from the public that would like to speak for this request? Is anyone against this request? Alright we will close the public hearing and return to the board. I will entertain a motion.

Ms. Baker I move approval second by Mr. Poitier.

Motion to approve and a second is there a discussion on that motion.

Ms. Wood/no; Mr. Harris/yes; Mr. Poitier/yes; Mr. Hayek/yes; Chairman Johnson/yes; Mr. Lloyd/yes; Mr. Dannahower/yes; Ms. Baker/yes; Mr. Weaver/yes; Mr. Burdge/yes.

Chairman Johnson said very good thank you. Request forwarded with recommendation to the city commission.

8. Waiver of Distance
a. Sudsy Sues Grocery

An application for waiver of distance for a 2APS Alcoholic Beverage License for the sale of beer and wine for off premise consumption. Property is located at 1001 N. 13th Street and is zoned C2 office commercial. Could we have staff report please?

Good evening Mr. Chair and members of the Board. My name is Paul Williams and I am the City Urban Forester. The applicant is requesting a waiver of distance for a 2APS for the sale of beer and wine in sealed containers for off-premise consumption. The location of the property as you can see on this aerial photograph shows that it is on N 13th Street at the corner and it is within 500 feet of two churches and also a licensed establishment. The zoning map shows that the property is C-2 neighborhood commercial and surrounded by R-4 on the north and west, C-2 on the east and PUR to the south which is the left center. This is the site plan showing the parking layout and the entrance and exit. This photograph shows the front of the store as your looking at it from 13th street. This shot shows the back parking area and looking to the south is the Love Center. This is showing the rear entrance and the parking and landscaping and this one shows inside the grocery area. As the applicant was denied a waiver of distance by the city commission on September 15th, 2008 because it adversely affects health, safety and general welfare basically being directly next to the Love Center which is an alcohol rehabilitation center. Staff recommends that the planning board forward a recommendation to the city commission for denial of the waiver of distance for a 2APS alcohol beverage license for the establishment because of its close proximity to an alcohol treatment center.

Chairman Johnson said thank you Mr. Williams. Just for clarification that was September 15, 2008 so they are within the ability to reapply obviously.

Mr. Williams said Correct, Mr. Chair. As in the staff report you can see that August 12, 2008 the planning board voted to recommend the waiver of distance. I went forward to the city commission September 15 the city commission voted unanimously to deny the waiver of distance. The applicant has waited the required time to reapply for the waiver of distance and also came back because it was also made clear that another licensed establishment, JJ Agnews Bar-B-Que is located within 500 feet of the Love Center. The applicant is here tonight to discuss this and so you are correct Mr. Chair the applicant is back before us requesting waiver of distance to sell beer and wine for take-out.

Ms. Baker said Mr. Williams is there any requirement in any of these applications that the owner have their taxes paid. In this case, the taxes for 07, 08 and 09 are unpaid. A certificate has been issued for 07 and 08. In other situations within the city an application is not accepted if the taxes are not current. Is there anything similar to in the planning department regarding taxes?

Mr. Williams said at the city commission level yes ma'm. The requirement that the city commission is looking for is if the business has a current tax license but not that I am aware of that where we go back and look to see if the property taxes have been paid.

Ms. Baker said thank you.

Mr. Weaver said Mr. Williams the Agnews Bar-B-Que and Heavenly Stars are those on premises consumption only.

Mr. Williams said Mr. Weaver JJ Agnews is for consumption in a restaurant for consumption only when food is bought.

Mr. Weaver said and the other Heavenly Stars?

Mr. Williams said Heavenly Stars is a church.

Mr. Burdge said how long has JJ Agnews been there.

Mr. Chair and Mr. Burdge, it has been there since before the Love Center from my investigation for over twenty years. They are currently licensed by the State and they do have a license to have a 2COP consumption of beer and wine on premises only.

Chairman Johnson said are there any other questions of staff?

Mr. Weaver said how long has the applicant been in business at this location?

Mr. Williams said I don't know sir, but the applicant is here tonight.

Mr. Weaver said and how long has the Love Center been in operation at that location?

Mr. Williams said Mr. Chair and Mr. Weaver I don't know the exact date I know being with the city twenty plus years I have seen it start and build so I'm going to say the Love Center every bit of fifteen years that I am aware of.

Mr. Weaver said have you had any conversation with the Love Center regarding this matter?

Mr. Williams said I have sir during my investigation I contacted them and they are a multiple property owner within the area. All of their information to me is in the negative sir that they do not wish this waiver to be passed.

Chairman Johnson said thank you. Are there any questions of staff? I see none I would like to invite the applicant forward. If you would, please state your name and address for the record please.

My name is Susan Paux and my address is 3207 SW Amber Street in Port Saint Lucie. Regarding the property.. I purchased it four years ago. I need to make it a viable business. I put a lot of time and effort and money in the building to restore it. It is known to many people in the area as the old Bob Case store it has been there between forty five and fifty years to my knowledge. The people at the Love Center.. I am not responsible for their sobriety. It is not contingent upon me as to what my property line is and whether they stay sober or not..that is not related. These people are not confined to the Love Center they can go off the Love Center unsupervised and they are able to look for work if they are not employed. They are able to go to Avenue D and cash a check at the very same type of store that I am trying to establish. If I am able to establish a store I would be able to employ at least two people. It has been beautified. When I got it initially it was an eyesore, a tremendous eyesore. I am sure you guys know what it looks like before I got it. I put a lot of effort now once the store is open it will be open for a prescribed time. It will not be open until ten or eleven o'clock. That is not my intention at all. My intention is to go back to the area and ask the people exactly

what they want and what would be convenient for them. Agnews is adjacent to the building there is a six foot wall maybe the width of the stretch of my arm here. I have seen firsthand where if they want an alcoholic beverage they are very free to do that. If these people want to be remain sober they need to be responsible as we are as responsible citizens to make that conscious decision to be sober. If the Love Center will be satisfied in letting me know who the residents are that would be fine with me too. I'm not a peddler .. I'm not trying to peddle the things to them but they need to make a conscious effort and say okay my choice is to be sober. They are going to the very same stores to cash the checks where they have the opportunity to purchase these things as well so my being open and a viable business does not lay the burden on them if they chose not to do that. They have the very same opportunity on every block on every corner to make the same purchase. It is not my responsibility. They need to take charge of their lives and to recognize it and say I want to be sober or I don't want to be sober. So my having a full product at my store which would be what the people are needing in the area should not affect their sobriety. It is their choice they have to make... they is no way I can be a viable business if I don't have a full product line. I made that intent and it didn't work. I was making minimal money so it wasn't able to sustain itself because a lot of people did ask me for beer. I had several pages of signatures where they were requesting to go ahead and have the beer to be sold because they have to walk so far. A lot of these people don't have cars they either ride bikes or they walk. So it would be a matter of convenience for them to have a full product line store in the neighborhood. This is what they are asking for and what I am willing to do.

Chairman Johnson said are there any questions of the applicant?

Mr. Weaver said I like to one question...a quick question. Ms. Paux you said you have recently done some renovation to the exterior of the building.

Ms. Paux said some upgrading and cleaning out and stuff like... it was cinder block.

Mr. Weaver said you did this with your own funds and didn't use a façade improvement grant?

Ms. Paux said I did get a grant and I did use my own funds..yes.

Mr. Weaver said Thank you.

Mr. Burdge said at one point wasn't there a drive through alcoholic place north of your property and N 13th Street between your property and the open space park?

Ms. Paux said North of me is a white building I don't know if that is what you're referring to but there used to be a store where they did sell, up the block from me , from where the property is they sold alcoholic beverages there.

Mr. Burdge said is that building still there?

Ms. Paux said the building is there but I don't think it is a grocery store anymore.

Mr. Williams said I believe that is being converted into a church if you're talking about the corner of Avenue M and 13th Street, where the drive through used to be I am doing my investigation I notice the signage on the window says church.

Mr. Burdge said I think it is somewhere between the Elridge and Avenue J which would be where Lincoln Park Center or an open space park might be.

Mr. Williams said it is a church.

Ms. Baker said in what year did you get the improvement funds from the FPRA?

Ms. Paux said I think it was in 06.

Ms. Baker said in 06?

Mr. Weaver said I am not sure if my question is for staff or the applicant. We have neighborhood commercial concept where we are trying to promote the pedestrian and bicycle environment. Where is the nearest carry out for beer and wine for this location?

Mr. Williams said Mr. Chair and Mr. Weaver to my knowledge the closest would be 15th and D the drive through but I have not canvassed the entire area but I have thought about that. We definitely know that on the corner of Orange and 13th Street is available and I'm sorry but I don't know name of the establishment on 15th and D but it is a drive-through on the north side of the road. I believe if you travel east on Avenue D you can also purchase it somewhere in the vicinity of 9th street.

Mr. Weaver said you don't have idea of the percentage of the Love Center clients that are in there for alcohol recovery versus other substance abuse?

Mr. Williams said No sir.

Mr. Weaver said within that would you know how many are actually had a problem with beer and wine.

Mr. Burdge said you said you have owned the property four years. I am familiar with the Bob Case situation and they do have a license. Why wasn't the license just transferred over to you?

Ms. Paux said Bob Case had it and several owners had it after him so I didn't get it directly from Bob Case.

Mr. Burdge said but when you bought the property wasn't there beer and wine?

Ms. Paux said no

Mr. Burdge said ok so somewhere along this period of time it had elapsed.

Chairman Johnson said are there any other questions of the applicant? There are none so thank you very much. Is there anybody else to speak for this request tonight? Anybody to speak against this request? We will return to the board and entertain a motion.

Motion was by Ms. Wood for recommendation of denial. Seconded by Ms. Baker with comment.

Ms. Baker said I am very disturbed by the situation where the applicant has not paid the property taxes in three years. The last year they were paid was the year in which it was acquired and that was the year apparently they obtained improvement from the FPRA and if they had gone to apply the following year they would have not been qualified to do so because the FPRA requires the property taxes to be paid up. So any additional assistance that might be needed by this applicant to improve this business or help their business would not be available to them because they have not fulfilled the tax obligations to the city. So I don't believe that people who are running a business and don't fulfill their obligations should expect anything other than a denial.

Chairman Johnson said Motion to deny with a second on the table. Is there any other discussion from this board?

Mr. Hyack said we have talked in the past about mixed use zoning and how people can live and shop in the same neighborhoods and if this was a full service grocery store the people that live in the neighborhood would not have to rely so much on automobiles and vehicles to get to their shopping areas so it would eliminate a lot of traffic so perhaps we should look at that plus it did have a beer and wine license at some time in the past.

Mr. Weaver said I would like to make a further comment as well. In response to Ms. Baker's comments perhaps being behind on their taxes underwrites their thoughts that perhaps they need a little bit of help in making more. Just want to add that for thought.

Chairman Johnson said is there any other discussion?

Ms. Wood said since I made the motion I feel compelled to back up for some slightly different reasons other than that has been given already. I sort of feel like given the applicants own testimony there appear to be sufficient locations to purchase alcohol. There apparently is a place that sells alcohol within walking distance of the Love Center. I don't know anything about the facility but there is that facility in addition to the facility that Mr. Williams mentioned all of which are in walking distance of this location. I personally live not far from this neighborhood and walk at least that distance to buy groceries and other small items for my household so in my opinion the issue that Mr. Hyack's speaks to which is an important issue for a mixed use neighborhood is already addressed in this neighborhood.

I concur with Ms. Wood to clarify and I agree with Mr. Hyack. It seems there is ample opportunity throughout the surrounding area for those to purchase what they need.

Chairman Johnson said is there anything else?

Roll call please.

Ms. Wood/ yes; Mr. Harris/yes; Mr. Poitier/yes; Mr. Hyack/no; Chairman Johnson/yes; Mr. Lloyd/yes;Mr. Dannahower/yes; Ms. Baker/yes; Mr. Weaver/no; Mr. Burdge/yes.

Chairman Johnson said the application is forwarded with recommendation of denial to the City Commission. Thank you very much.

9. Discussion
a. LDR Rewrite 2.5

Dave Carlin said Mr. Chairman and the Board we have before you for discussion purposes Module 2.5. We are well into the land development regulations update. Several weeks ago we had those modules delivered to you all and I hope you had an opportunity to review that document as it was a very sizeable document. But tonight what I would like to do is to see if you have any input, feedback or any comments on this particular module. What I would like you to do as I go through it think about all the different applications that have come before this board. For those of you who have been here for awhile and also those who haven't seen some of the recent applications and think in your mind what types of changes that you would like to see in this document in the land development code. You have already heard this evening once on the comprehensive plan text amendment and somewhat touched on what could be in the code in terms of mixed use requirements so they do go hand in hand and we have two separate processes that are going down two separate tracks but they are both intertwined. We are doing both the evaluation and the appraisal report of the comprehensive plan but we are doing land use regulation update. That has been underway now for about approximately a year. We did get off to a little bit of a late start with the process but as you can see these modules are sizable in nature they are not small by any means and it does require a substantial amount of analysis. So tonight I would like to get your feedback I transmitted out a copy of not only the module but some of the comprehensive plan policies that as you know in 2006 the city undertook the initiative to update the comprehensive plan for the first time since its inception in 1990. There were several policies and certain parameters that need to be laid out and implemented into the land development code.

So a lot of those policies that I had transmitted to you as well with that packet to evaluate as you look at this document. With that I would like to open up the floor I know two of the members on the planning board sat on the advisory group and the advisory group was appointed by the commission and they meet when the consultant travel down from Chicago. The advisory group provides their input on matters of the land development regulations update. Now just before we get into that I also want to let you know that the consultant will be flying down from Chicago and of course next Monday is a holiday so our commission meeting is Tuesday night to provide an update and to solicit some feedback from the commission who will be here Wednesday morning to meet with any commissioners that are interested but certainly anybody who has some additional concerns with this meeting tonight as a result of this meeting tonight with additional reading of the material. So with that I would like to open it to see if anyone has any questions, comments or any feedback that you would like transmitted back to the consultant on this.

Ms. Baker said Mr. Chairman I'm afraid I have a little bit of a list here. I had already e-mailed you on the error that was made page 22-340 using the term market value instead of

replacement costs. Here it says any combination of repairs, etc. the cost of which exceeds 50% of the fair market value. That is a completely ineligible terminology it is not even in the definitions. It is the only definition in there is replacement value which is the correct and proper criteria to use and there is no such thing as market value of a structure exclusive of the property the land that it is on. At one time unfortunately, the code enforcement department under Mr. Acorn used the assessed value of the property as a criteria and used that as an excuse to demolish a lot of buildings mostly in the poorer sections of Ft. Pierce and I do not want to see this repeated especially on South Beach which it only appears on the flood thing there because it was enough of a hardship for the people going through the hurricanes Frances and Jean those few who assessed the value of their house was used as a criteria. They had to completely tear down the houses and elevate them whereas if the replacement cost had been used they could have just repaired the buildings. That is number one.

Chairman Johnson said replacement cost versus fair market value is what you're discussing.

Ms. Baker said yes replacement cost is the standard criteria. In the definition it says to use the most recent building evaluation dated for Florida as compiled by the International Code Council using the Marshal Evaluation Service, etc. That is in the definitions on page 22-340 under Article 20, Terminology and Measurements.

I guess my question is even more basic than that wouldn't we use the Property Appraiser building value at that point or no?

Ms. Baker said if we use the fair market value as the assessor's office you are talking apples and oranges because you that is a depreciated value.

Mr. Margotta said maybe I am too much of a codey, if you would. It makes it simpler to use the exact same terms to talk about the exact same thing when you're mentioning replacement costs but if we did jump the rails, so to speak, to the market value it does open the door to look at the properties much differently and actually decreases the likelihood that they will be changed. I think that if we want to rely upon the assessed value then that is what you are talking about..it is that market value. If you think about the replacement value of the actual building.. the assessed value of my house is much less than it ever would be to replace it in other words. So if you are interested in saving buildings or lowering the threshold for where they need to comply then talk about market value. If you want to raise that then it is the replacement value.

Ms. Baker said may I just add to that in the insurance that people have on their homes, home owner's policy. It's insured at the replacement cost and that is what the insurance values are. If a property has to be demolished because it is over 50% of the assessed market value the insurance will not pay for the additional cost of replacing the building and doing the additional costs because that is not a standard criteria. So people who have the 25% extra in their insurance policies for ordinance or law which allows for additional payment for getting things up to code. An insurance policy will not pay that criteria is based on assessed valuation because that is not a recognized criteria. #2 I notice that in the rewrites on page 22, 1800 that site plan approval now requires full public notice. Am I correct on that? In terms of not

only the newspaper and the mail notice and signs and if so, I am very pleased to hear that because that has been a big problem. #3 22-130 it has the different uses and I did not see any reference to the two changes that were made. Text change amendments, one for commercial parking and R-4 A zones and one for student housing in R-4 zones. Since they are not in the rewrite and since there have been no applications made on those text change amendments. Does that mean they are negated? So that is another question.

Mr. Carlin said Ms. Baker let elaborate. As you know the student housing was created vis-vis the definition. It could very well be once we have the final version of all the final definitions that need to be included in the ordinance that it will be in there. It will be something that we had actually identified. Where is the student housing... it should be in this matrix. It should be called out very clearly. That was the whole purpose of setting it up the way it is. The table gets you away from the mundane reading of the monotony of repeating over and over and the potential to have mistakes. So certainly we will ensure that we will have student housing is contemplated in this matrix. As far as parking in the A zoning district as a conditional use I don't believe that was also contemplated in this revised. You bring up a point was that intended to exclude permanently or was that an oversight so we can follow up with Mr. Bishop and make sure those things are integrated.

Ms. Baker said and then we get to 22-180 I suggest the deletion of hospitals, nursing homes and group assisted living facilities in any high hazard evacuation zones. I don't want us to end up like New Orleans.

Mr. Carlin said Ms. Baker said I completely understand where you are coming from and what we have to follow in its present form is the land use designations that are outweighed by the comprehensive plan. However, as I have said we are going down two paths at the same time, one we are assessing the evaluation and appraisal report in terms of land use designations and things of that nature and as being in high hazard area the intent under the coastal management element is to direct and limit residential developments on areas that are prone to storm surge, erosion, high wind damage, and flooding and to direct those populations away from areas in coastal i.e. along Indian River Drive or on South Hutchinson Island and in doing so that will facilitate your exact point right there. The issue is that we have to watch what our land use is currently in place until we can affect those type changes. So I do understand what you're saying, but if the land use allows for those types of things until the change is made to a more appropriately account for the coastal high hazards provision required by the Florida statutes.

Ms. Baker said then we have 22-440, wireless communication. We addressed that issue here but we were not able to have a meeting of the minds or a legal reason to deny it. Thankfully the city commission denied it I would like to see that the wireless communications guidelines exempt residential zones from wireless communications towers and provide reasonable setback from any residentially zoned property and that would conform to all the surrounding communities and every other community that I have been able to find in the State of Florida that prohibits wireless communication towers in residential zones and or even near residential zones ranging from 500 feet to 1000 feet away.

Mr. Carlin said you want to exempt it totally. Is that your recommendation?

Ms. Baker said they are not allowed in any residential zone in any other community in Florida that I have been able to find.

Mr. Carlin said let me elaborate on that because I did discuss this particular issue with Mr. Bishop and this was pursuant to the action that occurred with the commission on a recent application. First off one of the commissioners had correctly pointed out that there is a distinction between in an urban type of environment vs a suburban type of environment where you have large agricultural area maybe twenty acre tracts or thirty acre tracts as opposed to being in a densely confined area as there are portions within the city that may prohibit cellular coverage anywhere with cell towers by having those type of distance restrictions. Right or wrong, that was the point that was brought up by the commissioners. I think that was the point that should be considered in terms of that specific requirement. With regards to the consultant you did indicate as it stands now the current ordinance allows wireless communication towers essentially in any zoning district but I think the mechanism to control exactly what you're doing without getting in possible first amendment scenarios or violating any kind of constitutional rights to do something. The conditional use process would be the appropriate mechanism to determine whether or not the towers are in the appropriate area given the variety of things because it is in one residential area doesn't mean it is not applicable to other. I would just point out that we all want cell phone coverage and in case of emergencies and things like that but really you have the nimbism not in my back yard. Where do these things go? Where does the fire district get to put their antenna to have emergency communication? Where does the police station and where does the hospital so you start getting into all these broad classifications and it does create very challenging parameters to operate with. Certainly we will work on trying to come up with some different options. Cell phone antenna towers are tricky and you heard at the last meeting there were some aesthetic concerns that were raised will they collapse? Will they fall down on residential property? There are a lot of different health hazards. Port St. Lucie had an issue that came up in terms of a cell tower that was recently died by them. Health safety residents came up and they were concerned about a lot to different effects. So your points are well raised and we will certainly work on them to come up with some different solutions. The commission has to equally weigh in on this.

Chairman Johnson said I understand what you are conveying and I agree with you. What if it were wireless internet that we could offer the citizens of Ft. Pierce or what if it were wireless TV that we could offer the citizens of Ft. Pierce? I don't want to limit ourselves here today because we are thinking about cell phones or cell phone towers.

Ms. Baker said Mr. Johnson, all I am suggesting is that we conform to the same rules and regulations as the every other community in Florida including Pt. St. Lucie, Vero Beach, they all restrict residential zones from commercial cell phone towers. Now any fire station or hospital or PUD or PUR it is allowed. With conditional use and of course with any governmental building is exclude from that exemption. All they do is exempt it from the being in any residential zone or certain distances from residentially zoned property.

Chairman Johnson said I guess I disagree. I want to make sure we have parameters in place with conditional use.

Mr. Weaver said I would concur with Mr. Carlin. I think we have adequate control over through the conditional use process and what if a neighborhood doesn't have any cell phone coverage I think the surrounding neighbors that live within 500 feet may decide they want to live with it just so they have cellular service. I think we have adequate control through the conditional use process that is what I think.

Ms. Baker said my very last one is 22-680 on temporary signs. There is a provision in here for political signs having to be signed and dated. This is improper and a violation of the election laws because you're talking about the thousands and thousands of individual posters. Someone puts one thousand posters out and each one would have to be signed and dated as to when it was put up and whose property it is on. That is not feasible and, I believe, illegal in terms of the election laws. That's it.

Mr. Weaver said I just want to say to staff that I am on the rewrite committee and I am going to be forwarding my recommendations at that time.

Chairman Johnson said is there anyone else?

Ms. Ehly said when did you send this? Did you e-mail this?

Mr. Carlin said I e-mailed it out a few weeks ago just before this Christmas holidays. I wanted to give people enough time to review it. I wanted to get some feedback and let you chew on it and see what you think.

Mr. Weaver said I would like to suggest the staff put a hard copy out on the desk of the planning board so the average citizen could come up and take a look.

Mr. Carlin said we have everything on file if anyone is interested in doing it. We also post at least the first versions on line so it is easily accessible.

Chairman Johnson said I want to thank everyone, our committees our staff members and for those who have e-mailed ideas. Thank you very much for doing so and keep at it.

Mr. Carlin said we will continue providing updates as they come down and again a work in progress. By no means is this in final form so obviously it subjected to a public workshop and followed by commission input and things like so it is an evolving document and we will keep you abreast of changes. We will certainly forward your comments to the advisory group. Thank you.

Chairman Johnson said Mr. Walker is there anything tonight?

Mr. Walker said thank you for asking, Mr. Chair.

Mr. Carlin yes I have some updates that came hot off the press today for your codes the Chapter 22 zonings. Leaflets that were a supplement update so I will pass those around and you can take a look. Please update your codes accordingly on that. The second point I want to bring to the Board attention. We have had some technical challenges in terms of getting some things updated on the FTP server and we hope that you haven't experienced too much

difficulty in doing that. What we are trying to do is to allow you some more time to review the planning board packets and information to give us more time to get things uploaded without running into technical difficulties as we are going to move up the submittal requirement with our agendas by approximately a week. We are going to get that out to you one week earlier as opposed to the Friday that you have been getting it. We have run into some issues and that will help us in giving you more time and give us more time for preparing so I just wanted to let you know that for the next meeting and subsequent meetings you will be getting your packets approximately one week earlier. So with that I don't have anything else to say.

Chairman Johnson said you had passed around a sheet with phone numbers and addresses.

Mr. Carlin said that's right. For 2010 if you have any updated phone numbers, contact information or e-mail for staff to get a hold of you we are just doing a simple housekeeping matter. Please go ahead and if you already have made changes, thank you.

Chairman Johnson said are those dates correct on there for term expiration? Does that include the two term limit?

Ms. Baker said so if our term is coming up next month then we should re-apply. Is that the procedure?

Chairman Johnson said yes. The other thing I want to do is ... we have a secretary.. right? I'm only doing this because I want to make sure I do it correctly with the absences I hate to go back to this issue again, but I had to hold the names from last meeting to this meeting so we could vote on this. I want to make sure whoever the secretary, which is who... please raise your hand. If you would please back me up and make sure we have the names for the next meeting in case we have to vote on them. This week we don't have to do it because Ms. Yates called in and we don't have to vote next meeting.

Mr. Weaver said I still need clarification why that comes into play unless there are three absences in a row. The illusion you mentioned as far as good practice was not from the codes and there is a member tonight absent for personal reasons and I don't think she should be tasked with explaining in a public forum why she is not here. Will she be required to make public comment to that affect?

Mr. Lloyd said she called in and got excused.

Mr. Simone said I second that if the code doesn't require that I don't want to do it.

Mr. Weaver said I still maintain it doesn't come into play until there are three in a row.

Mr. Walker said this is being construed as setting out separate points. The first is a procedural matter wherein the basis for the excuse is to be entered upon the minutes and second there is the substantive aspect which is separate and that is if there are three consecutive absences and that give rise to the vacation of the seat. So there are really two separate elements there. One is procedural and the other is substantive. Practically

speaking if you have to wait until three consecutive absences it just doesn't make sense to state the reasons because you could miss one meeting and not offer any excuse and then you come to the second and not offer any excuse. So you don't know if there excused or not and then you come up the third meeting and the question is whether there are three unexcused absences. As a practical matter, the city is very concerned that attendance be monitored closely and minimized to extent possible and the way to do that is to constantly impress upon the members the importance of these meetings. And they monitor these meetings on their schedule and one way to do that is to be very diligent in addressing that in each meeting and requiring the member to explain his or her absence. So the position works both on a reading of the code and is a practical implementation of the city's' policy of encouraging attendance.

Mr. Lloyd said With all due respect, I think the spirit of that isn't if you miss the occasionally meeting that you have sit here and explain why you're not here, I think it is obviously if you have a problem and somebody has missed three meetings and that's when they say hey, now is time you need to explain yourself why have you missed three meetings? I don't think it is for the person who misses the occasional one and I think that is why. I agree with Mr. Weaver I don't think it is for when a person misses one meeting. Also this is voluntary I don't have to be here and so if I don't want to be here I am going to resign and I understand that it is important for us to be here. If you are going to volunteer for a board you need to step up the plate and you need to be here or be absent for a good reason. I will make that comment and if I feel like I can't live up to my obligations I'm going to resign. I almost feel like I'm in school here and somebody is checking off my absences so that is really my comment.

Mr. Weaver said I would like to agree with that. Also did I understand correctly that from this point forward, despite policy to the present that the alternate members are tasked with being here. I understand your interpretation for the code but they are tasked with being here unless notified otherwise.

Mr. Poitier said yes supposed to be present.

Mr. Weaver said the staff policy while I was an alternate was I didn't have to attend unless I was called, but your reading of the code suggests otherwise.

Mr. Walker it is my function as council of the board to make you aware of exactly what the code says. Now exactly what that means and how that is to be applied is matter of city commission. I can give you my recommendation and nothing more.

Ms. Baker said none of us received the e-mail notification so those members who didn't have it on their schedule it was mostly not likely not their fault or the fault of whoever keeps the schedule but the fact that the normal e-mails were not transmitted advising us of the meeting. I told one of the alternates about the meeting and reminded her about the meeting. I had it on my calendar but I never got an e-mail and neither did anybody else, as far as I know.

Mr. Carlin said I would like to respond that. There will always be a planning board meeting....always, unless you hear otherwise from our office. So that is a courtesy you have your planning board packets that were delivered and that should in itself tell you that there is

planning board meeting. We try to give you additional courtesies but sometimes we get short staffed and we have a lot of tasks that go on, but there will always be a planning board meeting every month unless you hear otherwise from our department if you don't get an agenda there is something meeting. I am sorry that e-mail didn't make it through.

Chairman Johnson said staff has talked about giving us our packets earlier. We will have a planning board second Tuesday of every month and we would appreciate the packets in a timely manner to give us time to review and if we need to bump an agenda item maybe that is what we need to do. I understand there are times where the commission request items to be on and we have to do a follow-up or back-up. The other thing is with alternate members I would think that at some point if you are an alternate member and you have not been contacted, maybe we could call in and say do I need to be there or would you like me there? I would appreciate that as a chairman and I have been fairly easy going. I'm not going ask for any excuses as the chairman I don't even want to hear it because all of us here are peers and we are being judged by our peers based on whatever it is and if you just call in and say I can't make it. The next meeting just says Hey guys, I just forgot, sorry. I think it is just that easy. If it is a personal matter just say it is personal I just couldn't make. Do you agree or disagree?

Mr. Lloyd said when I read it today I had the same reaction it voluntary. There was a time I remember there would only be five members here and then here comes the public. We have to say sorry no meeting tonight we only have five members and we need six. To even get an agenda item approved you have to have a six to zero vote because you have to have a majority of the ten.

Mr. Carlin said of all the boards this is the board with the most impeccable record and without the alternate participation it really does help out. We had one today that wasn't able to make the meeting and it is these types of things that help keep business moving through the system without getting delayed. We do appreciate the participation from volunteers and alternates to make the process work efficiently.

Mr. Weaver said based on the discussions it is clear we all have an interest in being here and we are all doing it volunteer and once again it is a pleasure to serve.

Mr. Burdge said the only thing I was going to suggest from staff I see you are going to distribute the address to members maybe you might put a calendar as to the dates of the meetings.

Mr. Carlin said if that would be helpful and everyone would like a copy of one another's' contact information and as far a putting a calendar on that I would be glad to dump the schedule on the list. I can do that. This list is just an internal list so that we can contact you and is not given out to the public.

Chairman Johnson said thank you very much for you all being here. It is a far change from what it used to be.

There being no further business, the meeting was adjourned at 7:30 p.m.
