



CITY OF FORT PIERCE PLANNING BOARD MINUTES

**REGULAR MEETING - TUESDAY, FEBRUARY 09, 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, Colin Lloyd, Robert Poitier, Charlie Hayek, Jeremiah Johnson, Ms. Yates, Steve Weaver, Marcia Baker, Dan Dannahower, Bob Burdge, and Ms. Cumings.

Staff Present: Jim Walker, Board Attorney; David Carlin, Assistant Director of Planning; Duane Yazzie, Development Review Planner; and Paul Williams, Urban Forester; Matthew Margotta, Director.

The next item considered - **# 3 – Consideration of Absences**
Those absent: Mr. Harris did call in.

The next item considered - **#4 – Certification of Alternate Members.**
Ms. Cumings has all voting rights as a planning board member. Mr. Burdge can make comments but no voting this evening.

The next item considered - **#5 - Minutes of January 12, 2010.**

No additions or corrections.
All approved the minutes of the last meeting.

Chairman Johnson said there is a change of order for the agenda items tonight. We will move #6 after items 8a and 8b and 8C.

7. **Site Plan and Conditional Use: Avenue D Intermodal Bus Transit Facility**

A request to approve an application for Site Plan and Conditional Use to construct an Intermodal Bus Transit Facility. The property is located at 424-438 North 8th Street and is zoned C-3, General Commercial.

Staff report:

Surrounding area is C-3 and R-4, Medium Density Residential zone to the west.

The area will incorporate two masonry buildings one with an open colonnade and tower connecting the two buildings. One is for restrooms and the other will be for a ticket booth. The open colonnade will have seating for the vending area, proposed sidewalks are to be paved to match existing pavers in the city, there is bus access, there are going to be five parking stalls, and one handicapped stall, and off street parking is proposed on 8th street.

The landscape plan has a total of 28 trees to be implemented.

There was discussion regarding the roofing material. This property is in the historic district and has approved the application with the condition of using ? tile as the roofing material. The applicant had appealed and wanted to use steel for the roofing material for safety reasons. City Commission requested that Historic Preservation Board and the applicant discuss a suitable material and then to bring it back to the City Commission for a decision. At this time the applicant has repealed the appeal and is now at moot issue.

Mr. Yazzie commented that a traffic statement by the applicant demonstrates that it will not impact the surrounding area and does not require anything else. The lighting plan is adequate, however, it does not include lighting along the adjacent right of way pursuant to sec 22 -58 sub part d, subpart a of the city code. Therefore, staff recommends this element be added to the photometric plan prior to city commission meeting.

All departments have reviewed and approved the submittals. City of FP Engineering indicates a parking & pedestrian easement on the site plan. Planning staff recommends that the easement shall be dedicated and recorded prior to issuance of the Cert of Occupancy all permits shall be received prior to a building permit application.

As proposed, the site plan and conditional use shall be forwarded to the City Commission for approval of the site plan and conditional use with these conditions:

1. Shall dedicate and record the easement prior to the issuance of the Certificate of Occupancy
2. Photometric plan shall be revised prior to city commission consideration
3. All permit shall be record prior to building permit application
4. Chain link fence shall be subject to review and replaced with a more aesthetically compatible material.

Off-site parking at the church is removed from the plan and is no longer part of the plan. Traffic impact was discussed.

Lucido & Assoc answered questions regarding the bus.
Roof materials - clay tile will be used instead of metal
It will be designed in accordance within the green initiative guidelines & criteria. LEED Construction 2.2 is the one being used for this project.

There was some discussion as to why this particular location was chosen. It was stated that it was a perfect fit for this site because of the connection mode with other public transportation. David Carlin explained the TPO had looked at the location strategically and performed studies to find the right location. The location is small and is not designed for expansion.

It was stated that there will be some security cameras installed and there is a \$60,000 budget allocated and it will be linked to the police station.

Motion made by Mr. Poitier to accept staff recommendation and approved, and was seconded by Ms. Yates.

Those voting in favor of the motion: Ms. Wood, Mr. Lloyd, Mr. Poitier, Mr. Hayek, Chairman Johnson, Ms. Yates, Mr. Weaver, Ms. Baker, Mr. Dannahower, and Ms. Cumings.

Those opposed: None

8. Waiver of Distance
a. Orange Corner Mart

A request for approval of a Waiver of Distance for a 2APS Alcoholic Beverage License (sale of beer and wine in sealed containers for off premises consumption). The property is located at 1301 Orange Avenue and is Zone C-3, General Commercial.

Paul Williams presented the staff report and reminded members of Section 3-7 of the City Code. An aerial overview of the location was also presented.

He explained that the reason for this request is because there are six churches, one school and five establishments located within 1600 feet of the proposed store. A total of 99 notifications were mailed on 2/2/2010 to property owners within 500 feet. As of today six responses have been received back and they all disapprove. The proposed establishment doesn't appear to adversely affect community health, safety or the general welfare and meets the requirements of City Code criteria. Staff recommends approval for the waiver of distance for the 2APS Alcoholic Beverage License for this establishment.

The loading zone for the store was discussed, but it doesn't appear to have any issues. There was a question regarding lighting requirements. Mr. Williams said there is no requirement in City Code for this type of license. The applicant stated there is lighting on the north and east side and there are city lights on the backside of the building.

Motion was made to approve the Waiver of Distance and it was seconded.

Those in favor of the motion: Ms. Wood, Mr. Lloyd, Mr. Poitier, Mr. Hayek, Chairman Johnson, Ms. Yates, Mr. Weaver, Ms. Baker, Mr. Dannahower, and Ms. Cumings.

b. Shop & Save Food Mart

A request for the approval of a Waiver of Distance for a 2APS Alcoholic Beverage License (sale of beer and wine in sealed containers for off premises consumption). The property is located at 704 N. 13th Street and is zoned C-2, Neighborhood Commercial.

Staff report was presented by Paul Williams. He explained the area, zoning map, showed the floor plan and the layout of the business and also shows a map of the 1600 foot radius of the location. There are 28 churches, 1 school board property, 3 establishments that sell alcoholic beverages or have license to sell. 138 notifications were mailed out 2/2/2010 to owners within 500 feet and as of today only 3 responses returned and they all disapprove. The establishment does not appear to affect the community health, safety, or general welfare and meets the required City Code criteria. Staff recommends approval for a Waiver of Distance for the 2APS for the establishment.

Discussion on a similar situation last month that was denied, however, it was stated that this is further away from the Love Center than the other establishment. A comment was made that the notifications should not affect the planning board votes.

There was some discussion regarding on whether some type of buffer may be required.

Reverend Wright lives nearby and made a public comment not to approve the alcoholic beverages but he does approve the convenience store. There already are two establishments that serve alcohol on the weekends and felt that if alcohol were available seven days a week it would be detrimental to his community.

Mary Brown said the store is practically in her back yard. It would be a mistake because the crime rate would increase and drugs would begin to harbor in the community. Also the bus zone is there and a lot of children are around and it wouldn't be safe for them. The school board annex and a television station is also located in the area and she believes to have alcohol sold there would cause more problems for the area. In her opinion, a convenience store is fine but not for alcohol sales.

Marcia Baker commented that the applicant has not given correct address information on the official corporate documents and this leads her to believe there could be other problems later on.

Motion made by Ms. Baker to deny application based on incorrect address information given by the applicant and the motion was seconded.

Chairman Johnson said are there any comments?

Mr. Burdge commented that the Police Department should be consulted and have a comment in their relationship to this because they could benefit, not only from this one but for the one that was previously recommended. Whenever applications for selling alcoholic beverages outside the property is submitted a study should be done to understand if there could be potential crime impact as people from the community have come before us tonight with this concern. They believe there would be a crime impact if the application were passed. I didn't see anything in the packet and it may not be required but I think at least a comment from the police department may be warranted on these actions.

Paul Williams said there is a procedure in place where the application requires approvals from the Building Department, Code Enforcement, Police Department and City Clerk. At the Technical Review Committee which is held once a month we disseminate all the information that you have seen prior to that. We have not heard back from the police department regarding any negativity. If I understand it right they don't recommend approval but they did not have a problem with the applicant requesting the waiver of distance for this address.

Bob Burdge said but they didn't put it in writing so that we could see it.

Paul Williams said it will be there for the City Commission but at this point I don't have the document. They have a month to get it back to us from Technical Review Committee date.

David Carlin said one of the reasons why the application are distributed at the TRC is so everyone can have an opportunity for feedback in case there are some unknown issues that might be associated with an application. So we expect when the police department is reviewing it they don't have any comments or concerns then we take that as face value. The police department has commented on other issues saying we may need some additional light or we need to change the landscaping so people aren't going to hide behind the bushes and jump out. We have had feedback from them before but not on this particular one.

Mr. Burdge asked I'm wondering if the Board can require that we get a statement from the Police Department on these applications. Similar to the one before this one, I am noticing it does have better lighting as far as I'm concerned. There have been previous stores there and what impact does that store have when it was selling alcohol as compared to now? Neighbors are coming to us also concerned about crime with the addition of the alcohol being sold at this location. Even though it is not stated where is it? The Police Department is not taking a stand one way or the other. I think the Planning Board, as a request through staff, should want to know what their stand is.

Dave Carlin said we can't request anything from the Police Department and it is part of the application. What we can do is request that staff try to get those comments from those departments within their thirty day time limit and then not give us the application until they surpass that thirty days. Once the thirty days passes if they don't respond then they just don't respond and that is okay. We don't have the approval, the authority, or the position to request that of the police department, but we could request it of staff. Once the thirty days is past then give us the application, so that we have an idea. If they didn't respond then we have to use our own judgement at that point.

Paul Williams said all of your comments will be on the minutes and all the comments of the Planning Board will be forwarded to the City Commission so everything will be read by the Commissioners. So I believe your message has been heard loud and clear.

Chairman Johnson said we have a motion on the table to deny the application with a second. Is there any other discussion?

Those voting favor of the motion: Ms. Wood, Mr. Lloyd, Mr. Poitier, Mr. Hayeck, Chairman Johnson, Ms. Yates, Mr. Weaver, Ms. Baker, Mr. Dannahower, and Ms. Cumings.

Those opposed: None

Request will be forwarded with recommendation of denial to the City Commission.

c. Captain Bob's

A request for approval of a Waiver of Distance for a 2COP Alcoholic Beverage License to serve beer and wine for consumption on premises in a restaurant. The property is located at 101 Seaway Drive Street and is zoned C-3, General Commercial.

Paul Williams presented the staff report. There is one church and six other licensed establishments within 1600 feet of Captain Bob's place. An arial view of the property was shown. He said the zoning is different from other areas. This is the only C-3 property in that stretch. We have a PUR to the west C6 to the north open space to the east and we have R5 to the south. R5 is condominium letters was sent to each and every property owner including the 500 foot property owners also. There is a mix there and C3 is very advantageous for that property. A photo shows the 1600 foot radius to find the location of the church and the other establishments. 57 notifications were mailed as of February 2 to property owners within 500 feet which included all the people in the condo directly south of this property. We have received 8 responses 7 approve and 1 disapprove of the request.

The proposed establishment doesn't appear to adversely affect community health, safety or the general welfare and meets the requirements of city Code criteria. Staff recommends approval for the waiver of distance for the 2COP Alcoholic Beverage License for the proposed establishment.

There were questions and some discussion regarding hours of operation if the business will be licensed as a restaurant or deli?

Reverend Robert Bouchelas introduced himself. He said he is also known as Captain Bob and is a US Maritime Captain license 500 tons. The business also has a license for food & 2APS but there is a public demand for a place to set down and eat. He has been approved for serving food but needs a license to serve alcohol. He said he is not seeking to have a bar he just wants to be able to serve alcohol to his customers that are eating in the restaurant. The seating at the restaurant is only for 35 people and there is plenty of parking.

Ms. Baker asked has kitchen been completed?

Captain Bob said yes it is.

Mr. Weaver asked is the occupational license for deli and State of Florida license for package food only?

Captain Bob said he had submitted license for hotel and restaurant as he does not have license for consumption within the premise.

Captain Bob asked if he can have both licenses. David Carlin said that would best be answered by DBPR. Our code only goes so far.

Ms. Baker stated it would be a shame to have to give up your take-out business for a restaurant. However, since you are near the boating community you have a great many people that would take out sandwiches, beer and wine. I hope you can have both and not have your business limited to any extent. Is that your goal?

Captain Bob said our customers want to sit down when it rains. Right now it is not a restaurant and people from the public demand it and it is like breaking the law if you let them sit down. How do you tell somebody that just bought some food and wants to sit down and then he opens a can of beer and you have to tell them no and then you lose that customer. I want to do it right and I would like to get both licenses. The captains around would like us to open for breakfast and supply ice and what have you to the marina. Marinas are very vital to the economy down town area and anything we can do to help out.

John Beasey, citizen, supports the transition from on premises to off premises because it makes perfect sense.

Steve Weaver said I am just becoming familiar with possibility that the gentleman will lose his carryout license if we grant him on premise consumption. Is that automatic or what is the circumstance surrounding that?

David Carlin said DBPR will have to determine that as it is not covered in the City Code.

Motion made by Ms. Yates for approval of the request and seconded by Mr. Poitier.

Those in favor of the motion: Ms. Wood, Mr. Lloyd, Mr. Poitier, Mr. Hayeck, Chairman Johnson, Ms. Yates, Mr. Weaver, Ms. Baker, Mr. Dannahower, Mr. Burdge and Ms. Cumings.

Those opposed: None

Chairman Johnson said a request with recommendation will be forwarded to City Commission.

6. Rezoning and Preliminary Development Plan: *The Trails at 10-Mile Creek*

A request for approval of an application for rezoning of property located along the west side of Gordy Road, south of Okeechobee Road/SR-70 from AG-1, to PUD and for Preliminary Development Plan approval to construct a 616-unit rental development.

Duane Yazzie said Good evening board members. In accordance with Section 22 40 of the City Code the applicants are requesting the review and approval of the preliminary plans for the development plan and rezone for the property consisting of 76.97 acres. The property is located along the west side of Gordy Road and south of State Road 70. The current zoning for the property is AG-1, Agricultural 1; the property maintains it's zoning designation upon annexation which occurred on October 20, 2008. The surrounding area to the north is AG 1 and I Institutional to the east is I to the west itself is AG-1 and RC for special conservation. The property was annexed on January 1, 2009 via Ordinance L-52, which you have in your packets. Annexation agreement was also considered and approved by the City Commission on October 20, 2008 which outlines various land uses and variance entitlements. It should be noted that prior to annexing within the city is subject formerly known as Breckinridge was in the process of receiving protect approval from St. Lucie County. The staff report generated by the county included as recommendation for approval of the PUD to construct 616 units with numerous conditions which is also the same number of units requested by the preliminary development plan.

The preliminary development plan consisted of 616 two and three story dwelling rentals that would be built in phases. This is a conceptual rendering of the proposed building. In addition the preliminary development plan will consist of a non residential component to be included in the southeast corner of the property. The preliminary PUD contemplates that this area will function as visitor with a possible use such as kayak rental facility and small retail conveniences due to the close proximity to ten mile creek. Staff requested that this use be integrated into development to further the implementation of the Greenways and Trails master plan outline by St. Lucie County. The implementation of the non residential use is consistent with the intent of the PUD as outlined by Section 22-40 Subpart A of the City Code and with the MXD Land Use classification outlined in Table 1-12 of the future land use element of the city comprehensive plan. Prior to plan approval the applicants shall submit in detailed architectural plans subject to our review process outlines in the City Code. The applicant is going to develop the preliminary plan in three phases. The first phase proposed are 372 roof frame units and associated amenities including wet retention areas with water features, play ground, volley ball courts, and club house. All of which are to be built the build out occurring in 2012. In addition much of the drainage of the parking infrastructure will occur at this phase. A total of 14 buildings will be constructed along the east side of the property along the Morse access referred to as Spine Road. Phase I build out is to be completed by 2012. A 5,000 square foot club house with pool and volley ball court will completed as part of this phase. Sidewalks will be located around each parking area. The applicant proposed to construct an express membrane bio reactor plant also known as MBR to the west of the clubhouse which will be discussed further detail later in the report. Phase I will also consist of construction Spine Road Gordy Road improvements school bus pick up area and two retention ponds with water features. It should be noted the applicant has agreed to construct a 12 foot wide multi-use path along the western side of Gordy Road which will also contain bike paths. These improvements are consistent with Policy 2.2.1 of the transportation element of the City Comprehensive Plan. Since the Plan does not specify when the

amenities are to be constructed, staff recommends that prior to issuance of any Certificate of Occupancy for residential building that the amenities be completed first so the residents may be able to enjoy the benefits of the development. One dedicated trash compactor will be situated along the north property boundary to serve the entire 616 unit development. Staff identified that one trash compactor does not appear to be sufficient given the size of the development or would be convenient for residents on the south side of the development or for those who are elderly or handicapped. The current location does not minimize public view from the entrance to the development and does not comply with landscape provision outlines in Section 32-187 Subpart 11 of the City Code. Prior to final development plan approval additional dumpsters should be included into the design and the current dumpster location should be relocated to subject to staff review and approval. On January 6, 2010 staff met with the applicants' representative at that time the attorney for the representatives stated the dumpster would be relocated to address this concern. The second phase will consist of constructing 244 dwelling units in 9 buildings. Phase two build out is expected to be completed by 2014. With 2500 square foot with a pool and volleyball court will also be constructed. The buildings located in this area are situated in wetland boundaries and in some cases are only 15 feet from wetland boundary. The City Code does not specify a minimum buffer required between structures and wetlands. Policy 4.5.9 of the City's Comprehensive Plan specified that the protective landscape buffering shall be required between conservation areas and between land recognized by county, state or federal government as environmentally sensitive and any land uses that may negatively impact the conservation and sensitive ecosystems. It should be noted the existing native vegetation serves as the best type of buffering in environmentally sensitive areas and the building structures. The preliminary landscape plan provided with the submittal did not appear to contain the appropriate, sufficient buffering to satisfy this element. Staff recommends that prior to the final development plan approval that additional vegetative buffering be provided or have the building set back further to improve this area. The City Commission has the ability to determine if appropriate setbacks have been appropriately applied for and any PUD pursuant to Section 22-40 Subpart G of the City Code.

The applicant has indicated that the non-residential building to be used as a proposed visitor's center and transit stop will be built in Phase III. This building is located at the southeast corner of the property and can be utilized to facilitate canoe, kayak rentals and other types of recreational aspect such as an environmental learning center. Although staff supports the implementation of this in the PUD staff does not agree having this building as part of Phase III and should be part of Phase I so residents and community members can enjoy the amenities. It should be noted that the City Commission has raised concerns over approved developments not completing amenities in a timely manner. This represents the overall layout of development plan. Staff has raised concerns over the overall design of the subject development as it results in clustering in existing native habitat. Based on environmental wetlands hardwood hammocks are located on the property although the applicant proposes to preserve existing wetlands the hardwood hammock identified in the environmental report would be impacted by the proposed buildings and infrastructure. The preliminary plan does not incorporate clustering provisions for consistency with Policy 4.4.12 of the City's Comprehensive Plan.

Policy 4.4.5 specifies that the City shall require that the site plan to prevent unnecessary destruction or inappropriate use of the existing natural resources. Section 22-40 Subpart B, Subpart 1, also states to be consistent with the comprehension and make provisions for preservation of natural features such as shore lands and wooded cover. Buildings and pavements are arranged in a linear fashion which further deviates from cluster provisions and prevents accomplishing the preservation efforts. The current layout is appropriate pursuant to Policy 22-40 Subpart B of the City Code which states that area, width, depth and lot coverage requirements shall be determined by the City Commission on the basis of relevant characteristics of the use. The rest of the plan use development and the surrounding area relating to the use, compatibility, physical features, constraints, and utility and transportation capacities. With regards to design the overall site lot requires vehicles to traverse the vast amounts of parking areas which is unsafe and not sufficient. The parking lot functions as an internal thoroughfare and will require vehicles to back out into these internal networks which can pose a safety concern. It will also require the vehicle to navigate through a complex web and travel unnecessary distances to access onto Gordy Road. The design layout is inconsistent with Section 22-40, Subpart J, Subpart I which states that a suitable site layout will be used for all streets and on site drives, parking, loading and other unloading areas refuse collection and the disposal points, sidewalks, bike paths and other transportation facilities suitably in part shall be determined by the potential impact of these facilities on traffic, safety, traffic flow and control and emergency vehicle movements. The site plan should be redesigned subject to the City Commission concurrence that the current configuration is suitable. The site plan identifies that the subject development will contain 254 parking spaces in excess of the number of parking spaces required which is inconsistent with Policy 4.4.4 of the City's Comprehensive Plan. The preservation of land and its environment is specifies could be saved in lieu of being used for excess parking. Although Section 22-60 of the city code does not currently have a maximum parking threshold, the city commission may deem the parking ratio as separable.

The drainage proposed for the property consists of a variety of dry and wet detention areas. Two of the detention areas are to be included into Phase I of the project to capture storm water runoff. The outfall is proposed to terminate into Ten Mile Creek. Staff requests that the retention pond represent and mimic the natural environment by incorporating contours and meanders throughout the development. Incorporating this design element into would be consistent with the existing natural features of Ten Mile Creek however the applicant has advanced that design of the ponds meets South Florida Water District requirements. Staff recognizes that the prior to approval the retention ponds are redesigned to mimic natural contours. This should be noted that two thirds of the property is located in the flood zone. Based on the variables the applicant must follow flood hazard provisions which are outlined in 22-41 of the City Code. The subject development is located within a service area B in which water and waste water is provided by St. Lucie County, however, the FPUA will be the bulk supplier of water and waste water to the county for resale for this project. Substantial improvements will be needed to serve the proposed development. The FPUA water and waste water department has not provided an approval for the project since it is outside the FPUA area. Although the applicant received a standard letter from the St Lucie County Utilities Department informing the applicant of potential capacity for the proposed development the letter specifically states this letter is not a reservation of the utility capacity

and that the applicant executes a developer agreement with the Utilities Department. The agreement shall be a standard potable water and waste water development agreement. To date the applicant has not entered into this agreement. On September 24, 2009, the St. Lucie County Utility Department provided the necessary on site and off site requirements for reserving capacity. At this time the applicant has not provided a response to this condition from St Lucie County Utilities as requested by staff and it is unknown when these improvements will be constructed. The applicant has contended that this issue can be addressed at the time of final development approval. With regard to sewer the applicant has proposed an alternative system for handling sewage in lieu of making two sanitary sewer lines. This system is utilized on an onsite sewage treatment called an Express Membrane Bio Reactor package plant. The Florida Department of Environmental Protection Agency cannot approve of the requested plant facility based on insufficient information on the proposed system. It should be noted that the St. Lucie County Utility Department is requiring that the subject development connect to an existing forced main instead of using the proposed MBR plant. Planning staff also raised concerns with this use of the system which includes being able to safely demonstrate that the MBR plant has a contingency placement in the event that the system fails. Using an MBR system in a flood hazard area with the possible contamination in the event the system gets flooded and odor control. Prior to City Commission consideration of the preliminary development plant it will be necessary to confirm if the MBR will be removed from the proposed from the development and what if any commitments will be agreed upon with regard to on or off site improvements for connection to sanitary sewer lines. This is necessary so that staff can appropriately condition the final development plan. Based on the fact that the capacity cannot be reserved for water and sewer by St. Lucie County Utilities Authority and the FPUA a certificate of concurrency cannot be issued at this time. Section 22-218 Subpart E, Subpart 2. Subpart B Subpart 5 and Subpart C, Subpart 7 of the City Code specifies that the capacities must be reserved for approved but unbuilt developments. Additionally phasing is outlined under the policy 10.3.7 of the concurrency element which states a certificate of concurrency and related development order may be applicable to more than one phase or a multi-phase development. This certificate shall specify the amount of capacity reserve and the scheduled build out dates for each phase it is unknown what capacity if any must be reserved for any phase. It should also be noted that concurrency element of the City's Comprehensive Plan specifies that a concurrency assessment and recommended conditions of approval shall be provided for any application for development that requires approval of the Commission. Section 22-40 subpart B of the PUD also specifies that the planned unit development will overburden the following public facilities and services in terms of their capacities operational cost or maintenance costs water, sewer, storm drainage, electrical service, fire protection, police protection of schools. Insufficient information has been provided to make any assessment on water and sewer to satisfy this provision therefore concurrency assessment for traffic water and sewer must be made before prior plan approval. The traffic analysis provided for by the applicant indicates a two mile radius of the study would be needed. In addition, the traffic generated would be expected to yield a total of 3943 trips. Out of the daily trips a total a 318 am 370 pm peak hour trips would be generated the study h as specified that a north bound, right hand turn lane shall be implemented at the intersection of Gordy Road and Okeechobee Road/State Road 70. The applicants' traffic consultant concluded that a traffic signal was not warranted at this intersection the analysis included the expected improvements of Okeechobee Road, State Road 70 widening from Kings Road to Jenkins Road. The FDOT

improvements are proposed to occur in 2014. The traffic analysis including surrounding St Lucie County and the City of Ft. Pierce projects are listed on page 8 of the traffic study. Several traffic related improvements have been identified for Gordy Road and State Road 70 by FDOT TPO and county engineering identified in the traffic study. The St Lucie County Growth Management Department has identified that the intersection of Kings Highway and Orange Avenue has a deficient and requires the applicant to pay a proportionate fair share of \$132,874.00. In addition, the applicant will be paying on off-site improvement for the unimproved section of road way located on the north of Okeechobee Road and State Road 70 within the Crossroads Parkway extension in the amount of \$7811 to the City of Ft. Pierce. The traffic consultant provided a list of conditions of approval that the applicant is willing to adhere to. Staff can support these conditions and provide that certain modifications are made which are outlined further in this report. Since the Certificate of Concurrency cannot be issued for the development at this time a concurrency assessment will need to be made prior to final development plan of approval. This would include a review of traffic impacts, and level of service therefore a list of conditions have been proposed which need to be modified based on any changes due to changes in the build out date. As required by Section 22-40 of the PUD requirements a rezoning runs concurrently with the application section 22-128 subpart 1 regarding zoning atlas amendments specifies that planning staff shall advise the city planning board on any inconsistencies of the proposed zoning atlas amendment for the requested PUD zoning designation. It should also be noted that Section 22-128 subpart 3 of the City Code states that the City Planning Board will recommend approval modify the approval or disapprove of the proposed amendment and its recommendations shall be then submitted to the City's Commission. It should be noted that the PUD process is intended to be flexible and allow for the City Commission to make determination on the many of the types of issues that have been identified with them before. It should also be noted the certain code section regarding PUD does not specify different code requirements regarding what details should be contained on the preliminary plan versus the final plan. No differentiation is made between the two. Consequently staff must evaluate plans and take this into account the fact that a preliminary plan is just that - preliminary. Staff identified the inconsistencies with the preliminary plan as it relates to the comprehensive plan and city codes however staff recommends approval of the preliminary development plan and rezoning with the conditions that the conditions outlined in the staff report are satisfied. I just want to make one note of clarification here. Conditions 1, 2, 18 and 19 have been revised prior to this meeting. Those conditions outlined language that used "final development plan approval" and 1, 2, and 18 used language "building permits" and 19 uses "final development" rather than "building permits."

Mr. Hayek said before we go much further, are we asked to vote on a rezoning and a PUD or are they two separate votes or is it all together? How does that work?

Mr. Carlin the City Code under Section 22-40 for PUD outlines that the PUD will be reviewed in a preliminary development plan phase and a final development plan phase. The code specifies that to do the preliminary development plan that protocol is followed under 22-128, which is the amendment standards for rezoning, so the code doesn't specifically say there is two votes. This is a very valid question and I think Mr. Walker may be able to opine whether or not that needs to be a separate vote at the end or whether that can be molded into one.

Mr. Walker the Planning Board has acted at such applications over the years and the practice has been consistently to require one vote and that is consistent with the ordinance.

Chairman Johnson said are there any questions of staff?

Ms. Baker said I saw no provisions for a protected school bus stop nor did I see any reference to school bus traffic or stops in the traffic analysis. Considering all the other amenities with tot lots and things like that, one would assume that there would be children in this development but nowhere in the plan or the traffic study did I see any provisions for school bus either public or private, nor in the traffic study. Okeechobee Road is a very busy road and if you have a lot of children you have to have bus stops. I would like to see some of that referred to. My second question does the phrase frame vernacular mean wood frame construction? And if so, was that information provided to the fire department when they signed off on this application and my third question, reconstruction of the bridge over an oxbow an item I believe you are deleting or was requested to be deleted. Does this refer to the bridge on Gordy Road which is south of the property exiting to Midway Road that hooks up to the Willow Run property which was the subject of the last planning board meeting?

David Carlin said the oxbow is not the one. There is small little bridge just south of the property that actually extends west into a little area where you can park and I think that is different than what you are referencing to Midway Road. With regard to the traffic study and how a school bus stop might be interrelated, our traffic study requirements don't mandate that a school bus stop be evaluated under our current ordinance. Certainly the traffic consultant can get into what kind of trip distributions might be affected if there are schools contemplating their buses.

Duane Yazzie said Ms. Baker; I would like to add to this school bus topic. The St. Lucie County system Marty Sanders had evaluated this project and gave approval and the only comment he added was sidewalks along Okeechobee Road. Based on no other information once can assume he gave approval to the whole project. As far as the bus stop, we can refer it back to the applicant they have in preliminary meetings have contemplated a bus stop near the entrance by the mail kiosk on the way out and that was one of the locations on the original plan. The plans might not reflect that at the moment but that is where the applicant has originally stated where a bus stop was going to go and staff has recommended a couple of bus stops and a couple of places that the bus could go from one side to the other of Spine Road to alleviate the children going to the main thoroughfare there. As far as the frame vernacular that information had been disseminated to the fire officials and the feedback we have gotten back from them is that they are requesting the site plan along with documentation and the fees, so they are still evaluating this plan.

Ms. Wood said Mr. Yazzie you say in your staff report or you refer to the mixed use development classification in the future land use but you don't identify what the actual densities are. In the land use classification and you have attached one of the county staff reports from November 2006 where they indicate 3 different land use classification were on the property before it was annexed. Can you verify what the actual land use classifications are because presumably it wouldn't have been annexed as all MXD if it had 3 different

classifications on it when it came in? Then you don't say what the densities are so can you clarify that?

Duane Yazzie said the proposed density for the proposed plan is at 10.79 dwellings per acre. The City's Comprehensive Plan and Future Land Use allows for a mixed future land use of 15. From my understanding you are more familiar with the county's land use and my understanding that it is 5 to 9. The differentiation, if I could, is that under the City's zoning classification we exclude wetlands. From my understanding the county can include the wetlands according to their density so there is actually a reduction in density based on the way our code is written.

Ms. Wood said when it was annexed and I don't remember how the land use classifications are applied but it sounds like what you are saying is that even though there are three different land use classifications on the property when it was annexed it was all assigned one land use at 15 units to the acre.

David Carlin said I will answer that question as best as I can it may there may have been other land use changes that have happened prior to that time in the county and were certainly aware of what was done in the county, but when annexed it was assigned an MXD land use and that is what we have today. So the land use we have today is what we are dealing with in terms of evaluating this application.

Okay and that is 15 units to the acre.

David Carlin said our MXD land use outlined in the comprehensive plan is 15 D use an acre. Ms. Wood you referred to the issues of designing for the flood hazard provisions can you clarify what that is and how the plan doesn't meet that?

Duane Yazzie said this plan has been evaluated through the building department and they will make the final determination on the elevation regarding the finish floor. Under code section 22 41 of the city code requires that the applicant go through the flood provision hazard if they are in an A and a D in a flood hazard zone. As I have shown in the slides it is in AEX zone

Ms. Wood said so what you are requiring is for a particular finished floor elevation to be determined at some point. is that how you're dealing with the flood hazard provisions?

Duane Yazzie said that is correct.

Ms. Wood said Ok, the last thing again in the previous staff report it refers to archaeological resources on site is there are requirement on site? Is there a survey as part of the plan? Is that not part of the city code?

Duane Yazzie said from my understanding we do not have an archaeological assessment to our PUD again Mr. Walker can weigh in on any other outside of what we are dealing with.

David Carlin said one good thing is we are doing a rewrite of the LDR. So certainly those are the types of things we can include and make more specific in the code as we go forward but what Duane had said is pretty accurate.

Ms. Wood said thank you.

Mr. Weaver what is the total acreage of the parcel?

Duane Yazzie said the total acreage on the parcel is 76.97 acres and the survey did show that is was ...

Mr. Weaver said what is the total acreage of the wetlands?

Duane Yazzie said the total acreage for the wetlands is 92.89 acres.

Mr. Weaver said what is the total area of wet retention areas?

David Carlin said now we are getting into some specific area do you want us to measure and give you a calculation?

How did you arrive at your density calculation? We are down to about 55 acres and 616 units and I am trying to verify your calculations.

The calculation on density is based on definition of aquatic area. An aquatic area is wetlands, slews areas located above the mean water line. It doesn't get in actual retention areas and until our code is changed or modified to reflect those areas that is the definition of an aquatic area.

Steve Weave said What is the FEMA minimum building height from the flood map that you have referenced?

Duane Yazzie said there is a mixture 15.5 average and that is in deduction of the NGBD calculation because there is one referencing a higher amount and one referencing a lower amount.

Steve Weaver said What is the current elevation on the property?

Duane Yazzie said that again is a mixture of variables.

Steve Weaver said what is the average.

David Carlin said we would have to pull out the survey and actually take a look at all the points to give you an exact average and I don't want to be wrong on the record. We can get that for you if you allow us to take a look at the survey or we can ask the applicant.

Steve Weaver said that sounds like a good idea it would be easier.

Ms. Cumings said is normal to have something with so many conditions come before to us like this?

Duane Yazzie said this is a preliminary development plan and it allows for flexibility as I outlined in the report. There are within the PUD requirements 22-40 within the provision. The language uses the final development plan shall not deviate substantially from the preliminary so there is a bit of bouncing act that we have to work into here and in addition there is concurrency assessment that we have to identify through our comprehensive plan and our concurrency ordinance outlined in Chapter 22. Adding these conditions to our plan staff believes is necessary to ensure proper management of the property is cared for.

David Carlin said I think Duane succinctly tied up all the reasons why, but the answer to your question is no we don't typically have this many projects. First of all, this is a very large project this is not a small project so it comes with its own set of variables and circumstances that are not associated with a typical Whites Tackle Store down the street on US 1 or some other small type commercial or even residential for that matter where you would see 19 or 30 unit dwelling homes. So there are a lot of issues that have to be addressed, if not now but before final development all of these things have to be ironed out. I think staff has worked through a list that is substantial and certainly if the planning board has concerns over that list or needs to modify that list we can try to address those.

Chairman Johnson said are there any more questions from the board.

Mr. Hayek said it seems like we're creating a lot of urban sprawl and looking back at Harbor Isle and how that affected South Beach and the restriction of 4 floors for each building. Could they not do 4 high rises and not take up so much property?

Duane Yazzie said certainly that is a factor that can be evaluated with these type of development. We would like nothing more to see developments such as Harbor Isle to have the commercial elements incorporated into so folks don't have to get into their vehicles and travel over to the mainland to go grocery shopping and do other retail types of things. One of the interesting things about a PUD is that it is intended to be designed with different elements built into it not just a residential component but a to have different types of things molded into so you have kind of a symbiotic relationship to it. It is smart Growth Management to have those types of things can you go vertical? Sure to the extent possible that you might have buildings that are 100 feet in the air and you have surrounding typography that you have to evaluate with consistency with buildings and how that is going to blend in so there are those type of issues that have to be weighed aesthetics with going out into other areas of the city that as we annex properties in we annex ag lands and rural parts of the community that aren't built up but it becomes part of the city. So it is a balancing act and when you look at all these variables at the end of the day we have to follow what the code allows for height limitations and lot coverage requirements. Those are all things we have to evaluate as they come forward.

Chairman Johnson said I want to clarify one thing on the open space requirement we are looking at a 40% minimum, correct? And that number is what has been determined on the plan at 42.9% and that includes or excludes aquatic areas?

David Carlin said it excludes the wetlands.

Chairman Johnson said I wanted to confirm that. I also want to go into utilities briefly. Are sanitary sewer facilities available in your analysis?

Duane Yazzie said the St Lucie County Utilities Authority had made a determination that the infrastructure was not suitable for this type of development. There are some existing lines that were old in nature and would have to be substantially improved for this to be adequately serviced.

Chairman Johnson is that from St Lucie County Utilities?

Duane Yazzie said that is from both St Lucie and FPUA.

David Carlin said if I could add one more thing to that. They had a list of conditions that I believe was included in our packet and one of those conditions was to include an on site lift station which is part of connecting to a sanitary sewer, so that condition is something that we are not in a position to know from the applicant whether or not he is going to agree to that. That is a utility issue that we identified water, sewer type connectivity is something we have to work out before the final development plan is considered by the commission. I think the applicant has agreed to giving us some indication as to what he intends to do with this.

Chairman Johnson said any other questions of staff? I would like to invite the applicant forward.

Brad Curry said I am Brad Curry, Land Design South, representing the applicant, Sentex Ventures, Ltd. In request for PUD rezoning and approval of the preliminary development plan. I have with me tonight, engineers, environmental consultant, clients the owners of the property, as well as our project attorney. When I do the presentation keep those people in mind when it comes to asking your questions after we are completed. I am going to try not to repeat what staff did as they did an excellent job and as some of my slides are similar I will breeze by those as fast as I can. I will go through the application itself and talk about the process and some of the aspects of the plan and then Travis Walker, the project attorney will get up and talk about the conditions of approval. So essentially it will be a two part presentation tonight. Before I begin I want to tell you about my professional experience in planning. Before I got a Bachelor of Science degree in Old Dominion University in Norfolk Virginia and a graduate degree in Urban Regional Planning from FAU in Ft. Lauderdale I started my career about twelve years ago and I have been with Land Design South for ten years. I have done projects all the way from Ft. Lauderdale to Melbourne they include industrial projects residential projects and commercial projects and projects very similar to this, so I do have quite a bit of experience in dealing with projects of this size. I am a member of the APA American Planning Association and member of the Institute of Certified Planners. I just wanted to point out the two interchanges that are in close proximity to this property at the turnpike as well at I-95. The project is 76.97 acres in size. The development on there is now stopped. To the east is the turnpike which I think is zoned some sort of highway zoning within the county and to the south is AG 1 MXD, the southwest of the property a small portion of the property has RS land use and the rest of the property is the SD land use and AG 1 zoning and the then along the northwest is the existing privately

owned properties that have the MXD land use and the AG 1 zoning. The only property that doesn't have equal to or more dense land use designation is the property that is in the southwest portion and the RS land use designation. If you can see the Ten Mile Creek running through the section of the property in the southwest portion of it we are not proposing any development to the west of that creek. So the only portion that doesn't have a land use more intense is this portion and that represents about 5% of the property boundary. So for a land use perspective we are consistent except for about 5% of our property boundary and that 5% we are not showing any development in the southwest corner. Similarly for the user it important to talk about who owns that property today what is the existing use for that property. The turnpike is to the east recently the county was able to pick the Casson's property down to the south of us. In the future St Lucie County wants to have this property as part of the Ten Mile Creek Trails in the master plan. To the west of us is South Florida Water Management District property so really if you take into account the same analysis that we did for the land use if you look at the types of property owners and I use the term private property owners not public agencies or public or the county it is actually 23% of the boundary is privately owned by individuals and 77% is what I am considering nonresidential, county or municipally owned. This is a brief timeline, we did submit annexation filed in August 2008 and got it approved in October, went forward with the original PUD application February 2009 a year ago now went through several TRC meetings. We were close to being ready back in October but there were some final working out with conditions for staff and so we are before now in February 2010. It seems like when we first started on this project there was a lot of talk about the approval process and what is required and what is not required so I wanted to quote some sections of the code. The code specifically says that PUDs are going to be reviewed in at least three phases; it doesn't say less than three phases. There is the pre-app, preliminary development plan and then the final development plan, the PDP and FDP. We don't have a choice about the code requires that. Some applicants would submit the PDP and FDP together as one application; my client has just decided to submit the PDP by itself which is completely allowed by the code. Procedures for reviewing the PDP is the same as an amendment to the zoning and an approval of the PDP shall occur concurrently with the change in zoning for the property. So basically what that means is that you get your plan approved and you get your zoning at the same time. There are some things that you have to do after the PDP approval you have to get your final development plan approved you have to follow up within a year after receiving approval of the preliminary development plan approval and building permits shall only be issued if you are consistent with the approved final development. Building permits don't go with the preliminary development plans, the building permits go with final development plan which would be the second phase of what we are going to be submitting. Here is some brief site data here 76.97 acres in size he wetland acres is 19.89 and the way you get the density is what we call the gross site area which is the total site area minus the aquatic areas to get 57.08 and that is what you divide the 616 by to get your density. Duane did an excellent job talking about the phase so I am not going to spend a lot of time. There is going to be three phases, phase 1 is 372, phase 2 is 244 and each phase has its own rec center and I will get to that in a second. Phase 3 is the nonresidential property. There has been a lot of talk about compatibility with the surrounding neighbors and I think the site plan is laid out in such a way as it minimizes the impacts on the surrounding neighbors as much as possible. This slide represents that. Something that I don't remember staff spending a lot of time on and I think it is a pretty big deal is the dedication of 20.56 acres to the county. The condition of approval said 19.89 but it didn't take

into account this upland area so it is actually 20.56 that we would be dedicating to the county and that will further the master plan along Ten Mile Creek. It is a pretty big deal and we met with Steve Kosak out on the property there is a picture of them he makes a star appearance on our presentation later on and he sent a letter saying not only would they be willing to take the property but they are going to maintain. They have a deal with the jail where they take inmates out and clear the paths and spray for the exotic species so it is a really good program and it works well for us. Clustering was mentioned several times and Duane and I have different professional opinion when it comes to clustering and I am going to present my opinion on the next couple of slides and you guys can make the decision. The policy states that when a parcel proposal contains more than one habitat type the city shall require the development to avoid the most sensitive natural areas to the maximum extent feasible through clustering provisions. When I read this I think you have to preserve most sensitive areas to the maximum extent possible. Our environmental reports show that there are six different type vegetation types on the property. You have citrus groves which are the 221, abandoned groves 224, Brazilian pepper which is the majority of the middle of site, mixed hardwoods and then you have the stream which is this property up here. This is piece we are giving to the county plus the citrus grove portion. The most sensitive property on there is actually the stream swamp bottom land it is not the mixed hardwoods. I had the opportunity to walk it with Steve Kosak and just on the west side there were over 1000 sable palms over 100 years old and again we are not going to touch that area. We are preserving 100% of that area we are not touching it. In my professional opinion we are consistent with policy 4.412 of the comprehensive plan. The applicant is proposing impact to the vegetative hardwood. The area used to be an orange grove back in the 1940's and 1950's so the area is now grown up and it contains some native species. The area comprises of about 29 acres. The applicant is preserving about 12 acres of that land and it is preserved under an area management plan which means that it will have an easement over it that says you can't develop on it and has specific requirements on how you maintain it. You have to go in there every so often to clean out the exotics it is very stringent on what you can do. We are preserving 12 acres which I can consider a vegetative community which is about 41% of that community. The comp plan does not mention anything about that and the applicant is doing it voluntarily. In addition, to the environmental and vegetative habitat I think that we meet the clustering provision because of how much area is set aside is what I'm considering as open space or an area that is not going to be developed. The total parcel size is 76.97 acres the wetlands is 19.89 and the upland that I just mentioned is 12.09 and the other open space is 12.38 that is going to be green areas within the community. We will show on the plan that it will maintained as native as possible. The surrounding perimeter buffer along the main Spine Road there are about 12 acres of other open spaces that is going to be green at the end of the day. The total area that will not be built on is 44.36 acres over 57% of the property is not going to be built on will not have asphalt and not have a building on it. The comp plan doesn't have a definition of clustering but I think if you are going to develop on last less than 50% of the property then you do need to term clustering. There was some discussion about the lakes and my hands are a little bit tied on the lakes. I have to have 100 feet minimum water space, water surface area and I have to have lake maintenance easement that is required by both north St. Lucie Water Control District and as well South Water Management District. We will try to comply with that as much as possible but my hands are tied by other outside agencies. Duane talked about the site layout Section 22-60 C-4 what was quoted in the staff report and it states that each parking space shall be accessible from a street, alley, or other public right

of way or from an adequate access isle leading to or from a street or alley except for single family dwellings or duplexes. All off street parking and loading facilities shall be so arranged so that no automobile shall have to back into any street. I would say the only street that we have is the main Spine Road everything else that is in there is considered an access isle according to this definition. We don't have cars backing into our streets we have cars backing into the access isle. Here is that main road that we call Spine Road connecting to Gordy Road and then coming down to the south through the middle of the community and then exiting again on Gordy Road. The other areas that you are seeing are actually areas into the community. On the development team we say the east community or the west community two separate communities two separate clubhouse and so you have two separate entrances and Fire District did review those and they are okay with it. It was mentioned about a bus stop. My opinion is that this main spine road that a bus could drive down that road and stop to pick up kids with no problem, but in reality unfortunately, St. Lucie County is going to pick these kids up on Okeechobee Road. What I remember of Marty from the school board comment being she wanted to make sure there were sidewalks on Gordy Road so the kids could get to Okeechobee that was my understanding but having some sort of school bus stop internal there would be no problem with us I just don't think it would be used. One thing we are proposing though in the extreme southeast corner and this isn't for schools this is for future potential mass transit because we are going to be building a bus stop so people could come in and visit Ten Mile Creek area. We don't have any plans today I think we got a comment from the TPO stating there is no bus service out there how can you provide a bus stop? We are trying to think in the future and provide some way for a bus to get to that side and get turned around and get back out. So that is something we are proposing to do as part of Phase 1. I don't think a school bus is going to make it all the way down there quite honestly I don't think it will make it to the property but it is something we can meet with the school board about. Regarding preservation of trees and the uplands again it is very early on and is a big discussion between staff and the applicant. What we did is we went out and to take a quick look and our environmental consultant has a GPS unit and can go out to locate trees. We sent her out to locate trees that were in two separate sections. I believe it is 14 inches or greater in diameter that you have to save and so we sent her out for the day and they marked as many trees as they could that were 14 inches or greater and we concentrated on the perimeter and on the internal. Now they didn't get everyone but they did get a majority of them. 62 trees were located. The total inches are 1420 inches the trees credit was 62 or 1223 and the deficit was 196 inches. So just out of this small sampling you can see that the amount of trees we are saving is significantly larger than the amount that we are keeping and the thing that is the kicker is the that we didn't go into the wetlands we never even made it into the wetlands for the trees that we are preserving because it is going to a preservation area. Some of the reasons we can get that much of a credit is that those are some of the trees are along that wetland buffer there is a tree that is well over a hundred year old tree. There was some mention about the flooding of the property and the fact that it is in the flood zone. We are not sure where the flood zone map came from or why it is that way. I'm sure the property is flooded in the past and if you have been out to the property in the past there is a significant drop off just off the other side of this tree four or five feet of a drop off that goes down. The site and I am going to have my engineer come up to tell you guys for sure, but I believe it is about 15 ½ so there are some areas that are lower but the majority of the site is where it needs to be so it is not quite as bad as it sounds when you say it is in the flood zone. The proposed rec area, as Duane touched on these, we are proposing a

5000 square foot clubhouse in the smaller one it would be a 2500 again both of them will have pool, tot lot and sand volley ball and Gordy Road improvements which I think is a significant part of this application., The big improvement here is the 12 foot multi purpose path that St. Lucie County is requiring. They have reviewed it and I've said they approved it but I think I have been smacked on the back of hand before I think St. Lucie County is in general agreement with this but I don't think they will sign off on it until they get the construction plans but this is their section. The architecture Duane showed you these 2 and 3 story tall apartments the nonresidential building is again in the southeast section 900 square feet 5 parking spaces. We expect that it is going to be a combination kayak rental and some sort of commercial uses that Duane was talking about whether it be convenience type uses I don't know if it will b milk or soft drinks. We met with Lisa Kayek's rental and she would love to go here. But she is not interested until she knows people are there and that is the reason we have pushed this into Phase 3. We think it will be a vacant building until we get people living there. Lisa is not willing to go there until she knows it is 100% occupied and we are finding that to be the case with a lot of the retailers. It will sit as a vacant empty building until the residents get there until people start to move in. It is not that we are trying to be belligerent to staff but we really think that needs to be in Phase 3. Water and sewer is another hot topic for this application. It is a little confusing and I will try to touch on it as much as I can. We are in the St. Lucie County service area. We are going to get our water and sewer from St. Lucie County in this area St. Lucie County gets their water and from the City of Ft. Pierce. Even though we are n the City of Ft. Pierce it has to b this because of the bulk service agreement. Believe me we I first started this I didn't know anything about bulk service agreement but I have become educated on it. The key to this is...is water and service available to the property? And the answer is yes, this letter says it is available. The preliminary development plan approval is not the kind where you would go and get your developers agreement with the county. Developers agreement cost a considerable amount of money and once you do that you are locked in and you're in for a certain amount of time and if you don't use your capacity you will lose it and lose all that money. So we don't even have a preliminary development plan approval yet so why we would spend the money and why would take that risk. We want to get the preliminary plan approval and then we will gladly go in and get our standard development agreement (SDA) with St. Lucie County Water & Utilities. We will do that prior to final development plan approval as we have no problem with that condition. I will touch on something I think will come up the need for additional residential. I think everybody would say why are we approving residential units here and I think this is a different type of rental community. It is in an area that doesn't have a whole lot of rentals immediately surrounding it. It is an area that is projected to have job growth in the next several years with the research corridor there on Kings Highway and a research park and you have stuff happening over in the industrial park as well. We believe and my client believes that there is going to be a need for residential in the future and your comp plan also says that. Table 6.14 of the comp plan says there is going to be a need for 11200 units 2005 to 2025. Table 6.15 estimates there will be a growth of 1167 renter occupied units between 2010 to 2015. In addition, page 6 – 29 of the comprehensive plan states that basically says that people in Ft. Pierce pay more for their rent, a higher portion of their income towards rent and that there needs to be more rental in the city and it therefore encourages the City for the development of rental housing alternatives for family households. Approval of proposed PUD will actually help implement the City's comprehensive plan. Very quick, a summary of the applications represents a logical and timely development pattern for the subject property.

You guys probably think I am crazy but it is in area that is proposed for development. It has the MXD land use and everything around it has MXD land use. It is closer to intersections to access the interstate so it is a logical and timely development for the subject property. Expected impacts have been mitigated for..those are traffic impacts. The PUD and PDP is designed so that the approval will minimize the impacts on the surrounding properties. We have pushed all the development to the extreme eastern portion of the property where there are no existing residential units. It is consistent with the comprehensive plan and the land development regulations and you need to remember that this is preliminary and we are going to be coming forward with an approval. In summary, I think it is a great project and it is a great property owner you have got someone here who knows what they are doing and they are ready to bring this project to the City of Ft. Pierce. With that I will bring up Travis and he will go over the condition of approval.

Travis Walker said I am Travis Walker and I am the attorney for the applicants Sentex Venture Limited and I am with the law firm Vice, Handler, Angelos and Cornwell. What we would like to do is to provide some commentary regarding the conditions of approval as what is noted earlier. There was some confusion regarding what condition occur when and the condition has been modified subsequent to the issuance of this staff report. So what we would like to do at this time is to have some dialogue with those comments and it is up to the Boards discretion on whether they would like comment on each comment as we move forward through them or the alternative is we could go through all the comments that we are suggesting and that we provided to you in that letter dated February 8. And then upon the final conclusion of those comments we can provide some dialogue at that point it is up to the Boards discretion.

Chairman Johnson said I think we should go through the summary and we will make comments at the end of it.

Travis Walker said very good. The applicant agrees to with no changes the conditions as listed: #3, #8, #11, #12, #13, #14, #15, #20, #21, #22, #27 and #34 We have no problem with those conditions and we are ready to move forward with those and many of them are required by code and of course, this project will be compliant with code. Next category the commentary regarding the clustering regarding the parking spaces regarding suitable site layouts I believe Mr. Curry's presentation provided an excellent example of the work that we have done clustering with parking spaces with the site layout and with the requirements for the water uses there. We are in concurrence with staff as far that is certainly up to the City Commission as to their discretion as to their opinion on that. The next one is slightly changed because there were certain ones that we thought would be in there and obviously at the beginning of the presentation you saw that certain ones would be modified. According to staff we will now be moving condition #1, #18, #19, and #2 *to prior to issuance of final development approval to after final development approval* or prior to issue of building permit. Are you in concurrence with that?

David Carlin said we did make some modifications to our conditions of approval that we outlined this evening pursuant to some discussions with our director and after further discussion we outline those modifications as pointed out at the end of our presentation.

Travis Walker said just like to confirm that is prior to issuance of building permit or after approval of the final development plan?

Duane Yazzie said I want to clarify #2 was the terms that were agreed upon between the applicant and staff were #18 and #19 and I see on the slide #16 as well but I don't believe that was changed.

Travis Walker said for the record is that now being moved to after final development approval or prior to issuance of building permit?

David Carlin said Mr. Chairman and members of the board condition #1 has now been changed prior to the issuance of a building permit for the land dedication to St. Lucie County regarding the environmental area prior to the issuance of a building permit previously it was the development order. Condition #2 the culvert bridge with the oxbow that has been changed to prior to the issuance of a building permit on your original plan that you have it was associated with a development order. #18 relates to the road impact fees that is tied specifically to a build permit so that was changed as well because that is more consistent with our ordinance should be and that is also outlined. Condition #19 was also modified and that was prior to the issuance of the development order and that was a language change for consistency purposes with condition #24 so there was some slight housekeeping again. We had this discussion today based on our communication with Mr. Margotta which also is transmitted to Mr. Walker, Travis Walker that is.

Travis Walker said thank you for the clarification for the record. The next section is agreed to with minor changes as you will note in the letter provided February 8. Our request is that the condition read as prior to development approval the current dumpster location is relocated to subject to staff review and approval. The applicant has provided many apartment complex projects in the state of Florida as was recognized earlier. There is no part in the code that indicates how many dumpsters are needed. Further, the Solid Waste Department has signed off on the project to the extent that is required. Finally, we were not provided any additional evidences to why an additional dumpster will be required. So that is why at this point we would like to stay with one dumpster based upon whatever your recommendation is but that is our recommendation for that condition. The next condition is #6, buffers shall be designed in accordance with all federal, state and local requirements. It comes back to the additional vegetation requirement in the original condition it is fairly ambiguous and is fairly vague I believe Ms. Baker was referring to condition #2 in the past there was some confusion as to how some of these conditions work and so by providing clarification that yes the applicant will comply with all federal, all state and all municipal laws and codes, statues and rules as applied to the property. The next condition we actually recommended deletion as Mr. Curry indicated in his presentation. We have had this discussion with kayak proprietors and they have indicated that really there is no way any type of commercial activity for kayaks will be good at this location until people are there. It is commercial, it is retail and they look at the number of households in the area. It is our recommendation. Therefore, that the condition be deleted and it be now required as it is required for Phase 3 pursuant to what Mr. Curry's presentation has provided. The next condition is #17 we are actually recommending that this analysis be moved up. The prior condition indicated that it was prior to the issuance of the building permit we are now recommending that this be prior to the approval of the final

development plan. This along with condition #23 regarding the turn lane issue on SR 70 we recommend those be combined. Those are traffic analyses that should be done prior to final development plan approval so that the City can make that determination at final development plan approval about what type of road improvement they look like there. The next condition is #23 and again that is combined with #17. #26 in the event the final development plan is not submitted within one year of the preliminary plan a new traffic analysis shall be provided to assess whether the addition, revision or deletion of conditions are warranted as subject to City Commission approval. It is just a minor rewording what we would like to do there we want to give the City Commission not only the right to provide new or additional comments but the City Commission should have the authority and the right and they already do to revise and delete current conditions so it was just a broadening of the Commission's authority as far as those conditions read. Finally at least for this section we have condition #31 our reading of what we believe the condition should be the proposed definition provision of land plan included within the PUD document is not considered to the subdivision plan it is included for reference purposes only. It is not a subdivision it is not intended to be a subdivision I think there is some confusion there but we will say on the record that this isn't a subdivision and the applicant does not intend to move forward with a replatting of the property. That was intended to clarify that. Finally there is two final categories with conditions #29 and #30. Our concerns here were with the compliance with City Code. First we are recommending that both of these conditions be deleted. The condition that the final development plan approval is not commenced within a year of the preliminary plan approval then it will revert back to the rezoning. We concur that there is a requirement to move forward within one year, however, it is not explicit in the code of how this reversion or what takes place after that one year expiration. To the extent that this complies with City Code we were in concurrence with it. The more important one is condition #30 and the code is silent on this. The way we believe the condition should read is to actually have it deleted because the way the condition was if construction was not commenced in one year of approval by the City Commission of the final development plan approval the subject property will revert back to the underlying zoning and this is after final development plan approval. The city code is silent to that and we have some concerns with different legal issues on that and actually request that the condition be deleted because of those issues. Finally we will move to the last category. The conditions to be deleted clarify or substantially modify you saw in the previous slides that #16 and acknowledged by staff that it would be moved to after the final development plan approval and that is now moved to conditions to be deleted, clarified or substantially modified based upon some confusion with what conditions apply where. Ms. Baker, in condition #2 with the oxbow this is why we requested it be deleted because there is confusion. The applicant is unsure whether we were talking about what you were suggesting or whether there is another thing going on or what was proposed. So our suggestion is certainly something that can be addressed at final development plan approval but the condition was worded so that we didn't understand it and we had to object to it. Condition #4 prior to certificates of occupancy for residential buildings in any phase recreational amenities should be at least 75% completed. We would like to have people living there and enjoying it and work on the recreational amenities while the people are living there. It is a compromise between what staff had originally proposed as to after everything has been CO'd and then complete the recreational amenities. Finally condition #25, we are not in complete agreement with regards to the concurrency statutes with to the requirements of the road improvements to SR 70 as far as requiring Phase 2 cannot come in line when six laning of SR 70. We believe there are some

legality issues and we believe there are some issues that need to be worked out there and it is certainly something as we move forward to final development plan approval. Before we move on I do know there will be plenty of public comment that will be subsequent to my presentation. I wonder if there will some time immediately closing the public hearing to appraise some comments at that time.

Chairman Johnson said that will be fine. Mr. Walker I think I remember that being part of an option for me to clarify as a rebuttal statement.

Mr. Walker said Mr. Chair; this is a matter that is addressed to the sound discretion of the chair.

Travis Walker said before I close I would like to provide a quick timeline. I know that Mr. Curry provided one in his PowerPoint but I don't know if it completely explained. This project has been moving forward since 2005 and in 2007 it was in St. Lucie County. Before those meetings we had a meeting with the neighbors to understand some of their concerns and there actually multiple meetings. During those meetings we tried to adopt some of those concerns and we have changed the site quite a few times. As we moved forward with the county commission staff recommended approval of the project with 616 units and a PUD mirroring what we have here. As we moved forward we realized that this was a proper project for the City of Ft. Pierce and not in the county which is why we moved to an annexation. We applied for annexation, staff recommended approval, and the City Commission approved the annexation. In that annexation, this project was intended to be 616 unit multi-unit housing. After annexation we went for an R5 zoning and I'm sure many of you remember that. R-5 zoning is 15 dwelling units per acre. Staff recommended approval of that zoning; this board recommended approval of the rezoning and as we moved forward with the City Commission we realized that maybe an R4 would be better. We could take into consideration some of the concerns of the neighbors so we lessened the density of the project so we went from an R5 to an R4. We moved forward to the City Commission and our understanding is they should have a PUD. I will give everybody an opportunity to review it and I believe Ms. Wood when we were going through the rezoning we really wanted a PUD so that you can not only see the rezoning moving through but also the site plan at the same time. As we were moving forward with the PUD we had another set of neighborhood meetings on September 15, 2009 to hear some concerns of the neighbors and the adjoining neighbors to better understand what we might be able to do and what we could do differently. At that time, we solicited the comments, the concerns, the site layout from the neighbors as to what they would see in the alternative, however, unfortunately we weren't provided with anything from that meeting since September. So we continue to move forward on where we are now and I would like to provide some code standards for you at this time. Section 22-31 of the City of Ft. Pierce Code indicates in basic amendment standards states that before an amendment is approved fines will be made that the standards are satisfied. 1. The amendment is consistent with the comprehensive plan 2. The amendment will not have an adverse effect on the ability of the City to satisfy land and water use needs and meets transportation demands that provide community facilities and service 3. The amendment will promote and protect the public health, safety and general welfare. This project is moving forward for a preliminary PUD no ground will be broken no building permits will be issued until the final development approval. This project is consistent with the comprehensive plan and it does not have any adverse

effects on land or water use needs of the city. It meets transportation demands and it does help to protect public health, safety and general welfare. Along with staff's recommendation and along with Mr. Curry's professional opinion that this is consistent with all these requirements and that is the basis for our petition at this time. Finally, I will point to a case law Board of County Commissioners of Brevard County vs. Snyder, a Supreme Court of Florida decision in 1993 wherein the Florida Supreme Court held that upon consideration we hold that a landowner seeking his own property has the burden of proving that the proposal is consistent with the comprehensive plan and complies with all procedural components of the zoning board which I read too. At this point the burden shifts to the governmental board to demonstrate maintaining the existing zoning classification with respect to the property accomplishes the purpose. In effect, the landowners will be assumed within this rule and the board will not have the burden of showing the refusal to rezone the property is not arbitrary, discriminatory or unreasonable. If the board carries this burden of the application should be denied. We are currently with an AG zoning in the City Ft. Pierce. If you look at the map there is a legend for AG zoning or a little piece or shade for AG zoning and that is because our property is annexed into the City of Ft. Pierce. So we are sitting out there with a zoning that is not included in the City of Ft. Pierce code. It was a pleasure working with staff and it was interesting. We respect all of your opinions and appreciate your time for this and we respectfully request that this application be forwarded with a recommendation for approval with the conditions that we have set forth. Thank you

David Carlin said Mr. Chairman and members of the board I believe we have another presentation from folks from the residential neighbors and the area but before we do that I need to load that up here.

Chairman Johnson said I want to ask some questions of the applicant before we move to this. Do you have anything else to add before we do this?

David Carlin said I will let you go ahead and let you ask the questions of the applicant but I want to summarize some points before we get too far into it.

Chairman Johnson is there anyone here that wants to ask a question?

Ms. Baker said Mr. Walker, why 3 story, wood frame buildings in a rural area near wood preserves? Aside from the fire risks to your property and to the preserved area it is an increased risk to the neighbors, orchard groves and agricultural use plus your tenants insurance, that you recommend they get in your sample lease, would increase in wood frame buildings?

Travis Walker said the designer can go more to the appropriateness of wood frame homes, unfortunately, I am not an expert in that. I do know, however, that the project is consistent with the comprehensive plan as shown in the presentation and as testified to by the land planner. To the extent of the wood frame we can certainly look into that and take that into consideration as we move forward, I do know the fire district has reviewed this application and found it to be compliant with their requirements.

Ms. Baker my second question has to do with the various timelines for funding improvements and so forth. Would your client be willing to bond out at the time of the initial approval all of these future improvements? If they were bonded out instead of having to wait for them to be built at a certain time then we would not run the risk of, as we have seen so many times, of having an abandoned development where the only construction has been for sale signs.

Travis Walker said Ms. Baker that is definitely appropriate and is a big concern and I know the city has gone through those some of issues prior. I would have to ask the advice of Mr. Walker based upon the bonding requirements of the City and their practices on how they would like to handle that situation.

Chairman Johnson said Mr. Walker do you have an answer?

Mr. Walker said that is not a question that can fairly be addressed at the present time they are various vehicles that can be used to secure the city's interest in compliance with the future performance. The attorney's office has looked at various forms of bonds, letters of credit, and other vehicles and it just depends so I am not able to answer that question in the abstract here as a general rule.

Travis Walker said Ms. Baker, certainly as you made your recommendation to the City Commission we can include that with your recommendation if you believe that is something that should be considered. Whatever is required by statute and by city code our applicant is going to be compliant with.

Mr. Dannahower said in your discussion of the conditions on item #30 you mentioned something about it is not in the code and you have some concerns with some underlying legal issues. I am just curious could you give us a hint what kind of legal issues you referring to?

Travis Walker said the reversion of the rezoning is not in the City Code. Second it causes some legal concerns, some legal issues regarding providing an entitlement to a property such as a rezoning and then reverting it back without going through the approval process without going through the ordinance process There are some legal issues that are required when you rezone and so subsequently they would be some issues regarding a reversion of the rezoning. It is equivalent to another rezoning.

Mr. Weaver said so it is your premise that if you get a PUD that it stays with the property forever.

Travis Walker said our premise is that we want to try and stay with statute and code as much as possible our concern is that say for instance that with condition #1 especially how it was worded previously was that prior to final development approval our applicant was required to convey 28 acres of land and if construction wasn't commenced within a year we would lose that land. That is indicative of several of the comments throughout here. It is a concern and number two, it is a legal concern based upon the reversion which is equivalent to a rezoning and now going through the ordinance process.

Mr. Weaver said one more for Mr. Walker. You referenced a Supreme Court ruling in regards to the burden being on the property owner? Part of the PUD requirements Section 22-40 Subpart B, Subpart 3 requires that you prove there is a need for this project. You have alluded to the future development in the area in regards to the TCERDA park? But do you have any sort of business model that prove there is some sort of need for this many residential units in that area?

Travis Walker said Mr. Chair and Mr. Weaver that is an important question to ask because often times the City has seen residential developments move forward and then you find that you have created something and then there is no demand for it. What we have indicated in the presentation by Mr. Curry is that there is, in fact, and in the Comprehensive Plan itself of the City of Ft. Pierce a request or it show there is an increase need for rentals. You see IRCC moving to IRSC and if you know the River Hammock, there is only about 150 to 200 units in that River Hammock. So there is definitely a perceived market need by the applicant but it is also codified in the City of Ft. Pierce Comprehensive Plan.

Steve Weaver said I would suggest that as you brought up the Florida Supreme Court the burden is on you to show the need.

Travis Walker said very good sir.

Chairman Johnson said I am going to keep asking for questions but go back to #30 real quick and the argument you presented about item #1 with it being part of a legal issue and why you would not agree with a rezoning reverting back if you didn't commence. If we are going based on condition #1 which staff has changed to prior to building permit, correct? Why would you not agree to it reverting back because if you have put "in process to dedicate land" however, you haven't pulled any building permits to revert it back I would think that at that point it wouldn't be an issue.

Travis Walker said perhaps condition #1 wasn't the best example and perhaps I didn't delineate this better like condition #30 and I apologize for that. There is almost a legal issue that we are concerned about and a fairness issue making payments, conveying land, doing studies and then not having any type of entitlements. That was the concern from a fairness issue I guess you could say. Second, the entitlement issues requiring it goes back again to providing a vehicle and an automatic mechanism for an automatic rezoning of a property is an ineffective rezoning of the property and so legally we don't think that it and it is not contemplated in the City Code either.

Mr. Hayek said it is my concept that a PUD and I believe it was validated by staff that a PUD has some elements of retail and commercial. Are you considering that a 900 square building that may or not be built for the purpose of renting kayaks to be all of the commercial development within that development because I don't see anything on the site plan?

Travis Walker said the PUD is an interesting tool in the chest of the planning department. It provides a lot of opportunities to do a lot of different things. Actually the PUD is different from other vehicles like PNRD and things like that. A PUD doesn't necessarily require a commercial industrial use in it, however, based upon the request of the City and based upon

the mixed land use of the property we wanted to provide this kayaking, this store so that there may be some opportunities in the future for commercial development and for people to take advantage of the creek and the kayaking that can occur there.

Mr. Hayek said the reason you have retail on site is to eliminate some of the traffic congestion and the trips that you are going to have in this project so that means that most people will have to go out to do their shopping.

Travis Walker said one of the things that was contemplated was providing this commercial as it is and as shown in the traffic study shown by the planner the closest vicinity to the activities the opportunities for retail in the Okeechobee corridor are within the local vicinity of this project.

Mr. Hayek said ok you brought up traffic. According to the traffic analysis you have about 3900 trips per day, but only about 700 of those or less than 700 are peak hour trips. You say you are going to be drawing from people who are going to working and going to school within the community. I would think that peak hour trip would be a lot higher than that and would put a lot more strain on State Road 70.

Travis Walker said looking at the numbers sometimes is definitely confusing and I would certainly recommend, if you like, I can have that question answered by the professional engineer for that project. However, the engineering study that is based upon professional and adopted practices.

Mr. Hayek said I have more question please regarding the distance from either a fire station of police station. When Harbor Isle came in they did dedicate some property for a fire station and contributed to the cost of that station. Seeing there is no station around is your client willing to do that?

Travis Walker said I believe there is one on Okeechobee down near the fairgrounds. I believe the police and fire's opportunity to review this hasn't moved forward through the application process and we haven't received their recommendation for approval.

Chairman Johnson said are there any questions?

Ms. Wood said I will jump on condition #30 bandwagon. As I read this and the way staff has worded this condition the language is by a city initiated rezone and what that says to me is that they will initiate the rezoning process which means that they will go through public hearing process. The applicant will have an opportunity to make their argument and in contention of the reason of rezoning. It is not just an automatic conversion like poof overnight you are suddenly not PUD, so to me that speaks to these murky legal issues which I have not quite heard here.

Travis Walker said Ms. Wood I wouldn't say murky there are definitely some legal issues here not something we felt is not in the best interest of anyone here.. We certainly did know there is no poof, there is no magic, there is no okay on the 366th day it is back to what is was before. I think you have some due process questions here regarding the rights of the

property owner to have some rights over the property. In addition, there is an ordinance process. I see that Mr. Walker I will defer to Mr. Walker and his opinion.

Mr. Walker there are many issues but respectfully this is not one of them. The condition here speaks of after a year passing the city would undertake a city initiated rezoning. This is not an automatic process. I quite agree with you that if it were it would be violating statutory and ordinance procedures that is setup on how this sort of thing is done. But in fact the city initiated rezoning is conducted in the same manner as any other rezoning that is requested by an applicant other than the city. Code Section 22 127 gives the authority to the City to itself initiate a rezoning but in so doing it follows the same procedures that any other applicant has to follow.

Travis Walker said we are in agreement that there is a procedure and there is that possibility to ... we still do have some concerns regarding some of the other issues that may be involved in that actual process.

Mr. Curry said again I want to clarify, the code already addresses both of these issues the code says you have to submit a final development plan within a year. The code says your final development plan is only good for one year. Code addresses this and in my opinion dealing with conditions that are a year old we lose we can't remember what we were thinking a year ago so why not leave it to the code. Because the code is very clear, the code says you have to follow the final development plan within a year. Code says your site plan or you final development plan is only good for a year. Why are we trying to reinvent something that we are going sitting on...why not just go back to the code?

Ms. Wood said Mr. Curry your attorney said the code is silent on the issue so I think that is what the condition is there for and in my experience is silent on the issue. Is silent on the reversion of the zoning so ...

Mr. Curry said it is silent on the reversion of zoning but it says the site plan expires see that is the difference

Ms. Wood said right, but from the government's perspective that is what we are stuck with often is the site plan expires because the building industry is what it is and we can't predict what is going to happen one or two years down the line. There is no process outlined that I know of in the City Code to specify how the reversion happens. We should probably move off of this discussion because it doesn't have anything to do with this project in particular, but I will say that I agree that it is a good thing to have it clarified how the process would revert in the case that action is not taken on the project.

Travis Walker said I agree that it is a good tool to have. Another legal issue that we were looking at is the common practices of the City of Fort Pierce and whether this is something that is done with PUD is that there is a rezoning. So that is another legal issue we wanted to look into that there is adequate fairness across all PUD rezoning.

Ms Wood said I have a couple of other things I wanted to comment about. The issue of nonresidential uses has been brought up a couple times and I would agree that in a site with

urban density normally you would want to capture those uses. I would say that on this particular project since there is not frontage a arterial road there would be no way to support you have 616 unites can't support non residential uses that would otherwise be appropriate in a PUD so I would actually support what you have offered in terms not providing nonresidential uses. The thing that is one of the things that is most disturbing to me is about the site plan is just the general design of the site plan. This is an urban density with absolutely no urbanism provided there is no shaping of public space there is no property streets provided. I think that staff has tried to attack it with the issue backing out into the street because that is all you have that is all you have in your design is parking lots and buildings floating around parking lots. I think the one issue that I can focus on that exacerbates the problem of site plan is the excessive parking. There is a specific calculation that is normally required for multifamily units and what has been provided in excess, but I think the excess parking exacerbates the problem of a suburban site plan with an urban density; it exacerbates the problem of a lack of clustering and probably also encroachment into environmental areas. If you can you speak on the issue of why too much parking that makes the problem worse?

Chairman Johnson said I am going to throw out real quick some numbers because I had the same question. Is residential parking proposed? 1183 total parking required; 967 which is 216 spaces additional above and beyond of what the code is requiring.

Mr. Curry said there is a great explanation for this and I hope I get my numbers correct. There is two separate communities and when you use the overall number think of it as two separate communities. We expect the eastern community to be not as many families that will be our first project out of the ground. We expect it to be more students more young couples or not as many kids not as many multiple driver households in that first phase. The code requires one and half spaces per unit whether it is two bedrooms or a one bedroom. We think based on the experience in other parts of Florida that they really think that two spaces per unit is more realistic for this type of development. Then on the other side on the western side it is two spaces per unit based on our experiences in other parts of the state we closer to two spaces per unit is more realistic and Travis told me beforehand that the last thing we want is cars parking on Gordy Road we do want to be realistic here he thinks that the 1 ½ that the codes requires is way low and 2 to 2 ½ is too much so we came in at the 1.8 and 2 for the other piece. That is our justification.

Chairman Johnson said can we bring the site plan back up on the screen just to get an idea of the eastern and western... I just want to make sure.

Mr. Curry said so you thought I would just give you some number out of the air?

Ms. Wood said no, not at all I'm sure there is a reason. We are trying to find ... the moment I got the application I was trying to think of a solution for how to recommend approval for the site plan.

Mr. Curry said we would be willing do some of the spaces as overflow parking but staff could use the justification for less parking to try to save more trees and that sort of thing. The grass part doesn't necessarily help you save trees it just reduces the amount of pavement area.

There are places on the site plan despite what Ms. Wood says that we could do that. There are these little parking courts, is the terminology that we use, that we could make those grassed areas as overflow. For example, between building number 5 and building number 9 that could be some grass parking. The design was to create these public squares that the units were surrounded around. We have shown 3 of them; the one in the eastern community and there is actually one in the north end. We are going to plant trees around them and we are trying to get the engineer to allow us to put in sidewalks and make it like a public square for there, as well as the south end in phase one. Then also in phase two you have that when you first walk in and then down at the south end there is another. So there was an attempt made at some sort of a more urban type of development and we actually did have plans that showed separate access isles to where it didn't have parking backing out, but I didn't do the calculation and I think Mr. Carlin asked me do the calculation but it actually doubled the amount of pavement. You have to have a back up space on every parking space and so why not have that area count as back out spaces as well as the drive off. If you have a separate drive off, you have the back out space out that doesn't have a drive off that doesn't have any parking. So you're actually increasing and doubling the amount of pavement when you don't use it.

Chairman Johnson said I had the same idea as Ms. Wood in how the layout was put together and the point you just made. I was just going to argue actually the opposite of that because I have voted in the past many times of clustering the buildings better to where there is a single parking tract instead of backing the buildings up to the water features and what not be clustered more to where the parking is contained if we are talking about families, and I have said over and over anytime one of this applications have come forward, we have traffic traveling to building number 7 and there are families with kids and children. I am not saying they are speeding through the area; however, it is a fact of life there are going to be individuals and persons coming out of building number 4 and 9 where that traffic flow is proceeding to get to building number 7. It has always been an issue in my mind with the pavement because of what you are talking about it does increase or potentially increase. I don't think it always does with some creative design techniques but if you have gone through some iterations and it very well could.

Mr. Curry said not to be argumentative but were you talking about building 7 in phase 2 the western or the eastern. Because we did provide a secondary access to try minimize that there are two accessed to each community and so in theory if you are in the western community and you live in building number 7 you could not come down through the entire drive aisle you would come into the secondary access and be right there. The attempt to have a secondary access was an attempt to try to keep people from it and there are certain situations, I am not going to lie, they are going to drive through the wrong portion but it can't be all things to everyone we tried our best to try address everything we could.

Chairman Johnson said those are big issues yes; and no the common individual, in my opinion, is not going to take the Gordy Road entry way like it is laid even though it looks good and it makes sense and it is practical, but I am not sure that the guy who is in a hurry to get back to building #8 is going to take that route. I appreciate the thought and effort. Ms. Wood did you have anything else? Is that when you were referencing Section 22-60 C4 that was

the part of the code that I think staff mentioned and you also backed up talking about drive isles. Is that correct?

Mr. Curry said that was the Section 22-60 that was in my power point and that rings a bell that is my reference on the subparts.

Chairman Johnson said that is fine... any more questions?

Chairman Johnson said let's talk about I have questions on... let's go back to the applicants slides. I will go back to a couple of other things too. The one on #16 you talk about 1,2,18 and 19 but then 16 is there on the screen. Tell me about 16 because you really didn't talk about it we talked about 1,2,18 and 19.

Travis Walker said 1, 2, 18 and 19 and I apologize because what happened was our understanding was that it was 1, 16, 18 and 19 which is why we presented the slide as it is however, the confusion was 1, 2, 18 and 19. That is where the confusion set in our recommendation was regarding condition #16 which specifically regarding the utilities was delineated by Mr. Curry in his presentation is that the utilities service agreement will be entered with St. Lucie County or a bonafide utility. Certainly all required approvals all the requirements of code and all the requirements of concurrency will all be met prior to final development plan approval.

I think it is just the way it is written quite honestly. If you read the first part of #16 we are completely ok with it; the applicant shall construct all onsite and offsite improvements of the St Lucie County Authority. It is the second part that gets a little wishy washy. It first says that the completion of such improvements shall be determined prior to consideration of the final development plan. Why doesn't it just say the improvements shall be determined the word completion again a year from now when you have a different planner or whoever is here does that mean we have to complete all of the improvement or does it mean we have to complete the determination? I just think the word completion needs to be removed and it is the minor issue with that it I think I know what staff means but I don't want it to lead to other things. I think the conditions should say the applicant shall get a standard developers agreement with St Lucie County Water Utilities prior to final development approval. It should be that simple.

Chairman Johnson said does staff agree or disagree with that what does the word condition mean to you?

David Carlin said with regard to this particular item the intent here was to ensure when we know when these off-site and on-site improvements will be done. We need to have that determination made prior to consideration of the final development plan not that the improvements need to be completed prior to final development but at what point in the phasing should these improvements be contemplated so hopefully that sheds some light on what we are trying to accomplish here.

Travis Walker said in totality that was the confusion and we wanted to make sure that the condition didn't require the improvements at that time. It was actually setting out the plan and understanding what exactly the utilities would look like once everything has been approved.

Chairman Johnson said so what you are stating is that is going to be in your developers agreement that you are going to have in phase one your off site utilities delineated talked about and it will be completed on such and such a date.

Travis Walker said I'm sorry Chair as a common practice with St Lucie County Utilities entering into a utilities service agreement will still require the improvements as well as the reservations and things of that nature.

Chairman Johnson said that leads me to the next question. Phasing dates - is that something that will be presented at final approval or no?

Travis Walker said there is a phasing schedule in the document and it is on one of the plans as well.

Chairman Johnson said in your plan we were presented with a sewage treatment system on site.

Travis Walker said I like to have some dialogue on that. Originally as this moved forward we wanted to provide some alternatives to the solid waste that was currently contemplated. The MBR system is an alternative. Prior to final development plan approval, whether it is the MBR system or traditional waste system, that will be finalized prior to development plan approval.

Chairman Johnson said if the County or City comes back and say there are going to be such off site improvements before this can happen or before you can connect are you going to start looking back at that system that on site system?

Travis Walker said I would say yes sir. The MBR is actually a good thing. It is a completely enclosed facility the waste goes in it goes through the fluid it is treated and it is actually put back out as irrigation. The solids that get built up will be removed by a waste removal truck I don't know if this happens every month or every week. It is an additional expense to my client. I think the MBR is a better thing from an environmental standpoint because less waste goes into the system. It is considered a green technology. They were talks about the smell of it. There is a lift station right by my house and I can smell it. This MBR will be completely enclosed and it doesn't have the odor and don't have the open well with the smells coming out of it. There has been talk about the elevation whether it is a MBR or a lift station you have to bring it up to above the 100 year flood so that it doesn't get flooded. There have been talks about redesigning the site. The MBR and the lift station are identical from what they do. They collect the waste the lift station pumps it off site and the MBR treats it on site. It is just a different option we were looking at, but we do have to get that approval with St Lucie County Utilities. As you just said they are saying we have to make all these improvements so it doesn't appear that they are going to be supportive of the MBR but we don't know until we get to that point and we are not there yet.

Chairman Johnson said my background is water and waste water treatment and I know exactly what we are talking about. My problem, I was in engineering previously for the City of Ft. Pierce in the Utilities Department, specifically is when you have a private station like this and the owner decides that I am ready to walk away from it, costs too much money I can't get enough for the rent and I don't know what to do they call and say please come and take this over. Ok, so now the tax payer and the utility rate payers have to bear the burden of coming in and treating and grabbing hold of that facility because obviously it is health and safety requirement. So the local entity has to take it over and there is no option in the matter and we as the community have to bear that burden. It is an important issue and I would love to hear what DEP has to say.

Travis Walker said DEP actually likes the system there is a couple of operational systems in South Florida that I know of and they are in favor of it. The negative response I have gotten from it so far being that they didn't have enough information again guys we are a preliminary development plan we aren't to that level yet. DEP wanted to know additional stuff but we are not to that point yet they needed to know additional information.

Mr. Walker said I am at the discretion of the chair in terms of the order in which this is presented, however, there are a series of questions that I would like to ask staff that I think that may help perhaps in assisting the focus matters and would certainly help me in advising the board on this point. Mr. Carlin, do you have access to code in front of you? At Section 22 42 R...go to Sub 3 it says there that any preliminary development plan will include information specified in Subsection P of this section. In other words that provision is saying must include the information specified in that subsection. Now when I look at P it says other standards and it doesn't make a great deal of sense to me. But when I see Q immediately following that sets out the application requirements for a PUD and sets out all of the written documents and the site plan and the supporting maps that come with an application. So the first question I have for your Mr. Carlin is does the department and its professional planners construe this as being as P or through scribes' error actually a Q how is that applied?

David Carlin said it would be my opinion that it does appear to be scribes' error and it would in fact apply to Q.

Mr. Walker said is that understanding consistent then with the departments actual practice and application of that?

David Carlin said we review the preliminary development plan to Q no doubt.

Mr. Walker said over the years there have been many applications for many PUDs submitted. Has this provision been applied consistently over the years in applying those applications so as to require compliance of the preliminary development plan with the requirements of Sub Q.

David Carlin said yes I would concur with that.

Mr. Walker said my next question is this. Forget about the 30 conditions that you have attached. Does this application that the board has before conform with the required

components of sub Q? Does it have all the written documents that the preliminary plan is supposed to have at statement of the applicant's future intentions regarding sale or lease of an adequate development schedule and adequate quantitative data and adequate statement regarding the gross density and then for site plan which is required for the application. Does it have in your judgement, Mr. Planner, the required maps setting out the minimum information that it is supposed to have? In other words, let me restate my question very briefly does this plan have the information required of it by this subsection Q which specifies the written document, the site plan and supporting maps that such a plan is supposed to have?

David Carlin said we feel that the requirements have been satisfied in terms of the submittal information, but I would point out though to the board on Subpart 2 I and J that they are interrelated as it relates to public facilities and sanitary sewers. Now with regard to I they are proposing MBR and which includes sanitary sewers and is an unresolved issue as it relates to whether or not it should be on the preliminary development plan. With regard to J not enough public information, I think we have already identified two to the board. We just can't do it at this particular time because of some of the required on-site or off-site improvements as it relates to sanitary sewer connections; so it is a fine line on that particular matter. The substantive material has been submitted.

Mr. Walker said I would like clarification on the data you have said the applicant needs to provide quantitative data would that mean data regarding a need for this type of development because I know they are relying on the city comprehensive plan in getting that data and just wanted some clarification on that?

Mr. Walker said under sub section Q there is a special application requirements that state when an application is submitted to include property in a PUD zone the following items will be submitted in the additional to other information in accordance to with Section 127 so it goes down and specifies certain written documents that have to be provided with an application for an approval. And you go down the list of written documents and you see sub set E quantitative data for the following. It states the total number of dwelling units parcel sizes proposed lot coverage of buildings and stretchers, approximate residential gross density total amount of open space including separate figures for and the total a month of common open space and usable spaces and the total amount of non residential acreage including a separate figure for commercial and industrial acreage. Does that fairly respond to your question?

Ms. Yates yes thank you. I am looking at Section 22 40 B 3 where it talks about the applicant needs to prove that there is a demand for this type of project and there is citing data that is in the City Comprehensive Plan that in my mind is outdated at this point and I am wondering if we can require them to do a new demand survey because right now based on the economic conditions it just doesn't seem feasible that there is a demand for this type for project. I would like to know what is the current vacancy rate in the city Ft. Pierce?

Mr. Walker said staff has identified a number of deficiencies in the plan. It has recommended that those be addressed through conditions and that this board forward a recommendation of approval based upon those conditions. The board itself has an independent duty to review

the preliminary plan and satisfy itself that plan does meet the basic criteria set out in 22 40 Sub B. One of which, Ms. Yates you have identified, as the factor which requires there be a finding that "demand exists for the planned unit development at the proposed and the applicant has the capacity to assure completion of the project so the question really is what is the level of evidence that may fairly be expected of the applicant and the applicant has cited the comprehensive plan which we know is in the process, as you have pointed out, is being updated. The short answer is that you are not required merely to accept that you may accept that evidence along with others or ask for such other evidence and examine the capacity of the applicant to assure completion of the project. There are other criteria that the board has to consider and that is whether the unit development is an effective and uniform treatment of the project site and whether it will or will not create excessive traffic congestion and whether it applies with the standards referred to in the PUD Section and additional zoning ordinances. So it is not just the matter of the demand it is the other factors too that the board can consider in light of the deficiencies identified by staff or taking into account the evidences and the comments of the applicant as well.

Mr. Curry said I can answer the question about the needs analysis we contacted our marketing person was actually the person who did the analysis for the comprehensive plan. He is private and owns his own firm. He pointed out that a lot of times when we pay him you guys are a little more questionable of the outcomes of his analysis and he said that why not just quote their own comprehensive plan because it says that there is a need and so we tried to hire somebody and they said it was better for us to us the comp plan. It is definitely that has come up over and over again about the needs. So we did take that into account and found it better to use the comp plan language.

Mr. Weaver said when was that analysis done?

Mr. Curry said in 2005 or 2006 I believe.

David Carlin said we have some eager folks from out in the community that would like to come up and I believe they do have a presentation. Before Mr. Tierney comes up I would like to point out a few things while it is fresh in the board's mind. These conditions of approval that staff has outlined seems to be a hot topic with this whole thing and certainly we are not going to any final agreement this evening in terms of those conditions. The commission has the final authority and certainly they will entertain your recommendations and how some of the conditions should be modified and some of these things have gone on last minute. We have been presented with some last minute documentation as you were so it required us to do some last minute strategic thinking. So it could be a little confusing dealing with these things on the fly. I wanted to bring out a common theme that has already been brought up by the applicant's representative and that is confusion. You have heard that multiple times. You heard the applicant's representative state that condition #1 was not accurately conveyed. Well that is right because you certainly, Mr. Chairman, brought out the fact that when that condition will be done building permit in terms of issuance was conflicting. Yes, legal issues are murky. There are, as we don't know what the legal issues are; no one has been presented with any issues yet and that theme has been brought up throughout the night. A couple of other things I want to point out with some of the things that were brought up with regard to the oxboe, the bridge, where is this bridge? Again confusion, where is that bridge?

What is this we are all talking about? Is it Midway Road? Ms. Baker you that brought up and the applicant said yeah we were confused on where that was. We have correspondence from Steve Fausek the developer had actually discussed this. The developer had mentioned assisting with replacing the culvert and building a bridge and helping with permitting over the old oxbow. We got a proposal for x number of dollars to do this; so we are confused as to why that would be a confusing issue to them when they have already been discussion on this. So we want to make sure the record is clear of how that information is being conveyed to you. With regard to the R5 zoning on a previous staff recommendation for an unrelated matter the R5 zoning that the applicant's representative brought up was a separate transaction there was no PUD associated with that there was not site plan so that was a straight up rezoning a totally different application. So we want to make sure the board understands that there are different apples and oranges comparison it is not necessarily an approval on that; it was subsequently withdrawn with the applicant. That shouldn't be misled that that is going to be the same reason that should be put forward on this particular matter of the conditions. With regard to the dumpster location this has been an issue from the get go. I am not going to beat a dead horse here but from the very beginning we have identified that this dumpster doesn't meet code because it is out in the front; who is going to want to see a dumpster when they drive into the development we have asked that the dumpster be relocated contemplates more dumpster we don't I mean 616 units...that is a lot of people. For those folks to have to drive from the south to the north to get to the dumpster is just not practical and is not logical. That means people have to put trash in their trucks and cars. What I do want the board to understand is that at the meeting we met with the applicant's representative including the attorney. The attorney went on record and said we will be glad to get rid of this dumpster issue and relocate it. Now we are hearing that issue isn't it. So I want that to be part of the record that as whether there was some concession that was made on that and now it seems that it not in fact been the case. So I just want to point out a few things and of course we are not going to get into all the agrees and disagrees tonight, I just want to make sure the record is straight. We can have a difference of opinion in terms of what clustering is. Clustering can mean different things to different people. You hear the applicant's representative say that they are AICP and they have all these accreditations; well yes the code doesn't have a specific definition in terms of what clustering is. But in absence of that we have to rely on our professional literature that is out there and we use the APA definition of what that is. I will be glad to read that to you. It says that a form of planned residential development that concentrates buildings on a part of the site, the cluster area (to allow the remaining land) to be used for recreation, common open space or a preservation of environmental sensitive areas. The open areas may be owned by private or public entity. So again we are using the common planner's definition that is published by the APA, the American Planning Association and ethically the AICP follows those types of publication to guide you with decisions.

Ms. Yates said Mr. Chairman and Mr. Carlin I have a question regarding utilities the applicant has said that they will comply once the preliminary design is approved and will comply with the capacity for getting utilities and getting that reserved. There is a letter in our packet from the Director of Ft. Pierce Authority stating that the infrastructure will be that will needed to provide water and sewer will cost millions of dollars and will take several years to construct. Who is responsible for that infrastructure? Is up to the taxpayers or is it up to the developer?

David Carlin said any necessary on site or off site improvements for the development will be obligated by the developer. Unless there is some other protocol that is in place by the FPUA that I am not aware of but if they have to do utility lines and things like that to serve the development that is going to be the cost to the developer. Hence the reason the utility agreement will have to be executed to make sure those things are done. But I am glad you brought up that point up because we heard the applicants representatives say that they agree to the first part of the condition #16. Condition #16 was specifically with regards to the applicant shall construct all on-site and off-site improvement identified by St. Lucie County Utilities. Therefore, there is no reason to have the MBR plant on the preliminary development plan why are we approving that if they are agreeing to do it. Now the applicants representative said that these two things are the same lift station and MBR, but in reality they are not the same they are two different systems. I just wanted to clarify these points from staff's perspective and we have other folks that need to get on the record. Also we work hard with applicants and have gone through a lot of issues and we might not agree on everything but we have come a long way with this project and I will turn it over to Mr. Tierney.

Chairman Johnson said I want to thank everyone for being so patient and I know it has been four hours now.

Mr. Tierney said my name is Steve Tierney and I am an attorney with Neil, Griffin, Tierney and Hallmark Key. I did write a letter trying to get board members Mr. Carlin was helping with the version of the list on how many received it. Basically I am representing these neighbors who live in a rural setting they do not want a high density urban development plopped down in the middle of it and it is right in the middle of them. There are a lot of reasons why this should be denied and the first one I want to address is a legal one. This property was recently annexed into the city and tonight they are asking for a change of zoning. A change of zoning is to a PUD and to answer your question Mr. Weaver yes that is permanent. If they come back in five years and ask for the same site plan then there is no discretion. That is an issue because is this something that needs to be done now or is there a demand for this and they have not shown that there is. We are in a situation where they are resisting every attempt to say yes we will go forward with it and every time it is brought up they resist it. They is a mechanism if the PUD is granted and in place to keep it from coming back ten years to try to develop this way as opposed to leading a need right now. The legal issue I want to address first is for Florida Statute 171.062 which is very clear in regarding the annexation of property. That statute says if the area is subject to a county land use plan and county zoning regulations these regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment that will clear the annexed area. This property was subject to St. Lucie County Land Use Plan and county zoning regulations and in Ft. Pierce as far as I can tell is they have not adopted a comprehensive plan amendment that includes this annexed area. This means very clearly that counties land use plan and the county zoning remains on the property and cannot be changed by the City until an amendment is adopted whereby this property comes into the City's Comprehensive Plan. This statute is not subject to interpretation. There is one case I can cite to you it is Seminole County vs. Winter Springs in 2006. It says Section 171.062 provides an exterior to a county land use plan or county zoning or subdivision regulations. These regulations remain in full force until the municipality adopts a comprehensive plan amendment in an annexed area. The City concedes that the comprehensive plan to include the property, therefore, even when the city completed the

annexation of this property prior to national charter amendment it still does not assume regulatory control over the properties use. The City of Ft. Pierce does not have regulatory control over this property and therefore cannot change the zoning on it. The property is still subject to land use and zoning even if this is a site plan application it will not meet the code and zoning of the property which is A1. I will now address the staff report. It indicates the project went to the county and the staff recommended approval you heard that both from the staff and from the applicant. Both of them did not tell you that it went before the Planning and Zoning Commission at the County and they voted 9 – 0 to defeat this against it. During the meeting the applicant asked it to be continued and then never brought it back to the county. The applicant decided to go to the city and you have to ask the question why did they decide to go to the city? If you look through the staff report it looks like this project is not really suited for this type of property. I believe it should have been annexed to the city because it is not contiguous. But Ft. Pierce is annexing land in more rural areas but they need to become more familiar with rural areas when they do it. A lot of problems that you see when you put a high density urban project in the middle of an agricultural neighborhood show there is a great strain of the infrastructure out there. It is right in the middle of an agricultural property it is not up on any major arterial or in the collector. Never mind Gordy Road but look at Okeechobee Road the proposed development will use of all of the proposed capacity of Okeechobee Road even after the improvements that would mean that anybody in this area wanted to suggest that even more modest development would satisfy the current zoning of AG 1 and they wouldn't even have the capacity for that. Water and wastewater is also a problem in itself. At this point they seem to be kicking the can down the road, we see the MBR in application and then we hear it won't be an MBR the presentation says it will that St. Lucie County will be providing the wastewater but we don't know that bringing water there will be millions of dollars. With the wastewater the way I was reading it would be even more than that, the MBR you can talk about that and it is a new novel approach but it something where somebody is going to have to move the sludge off site. Somebody will have to have responsibility for that and that means that a truck will have to pull it out or we will have a situation where it finds its way somewhere else. But all these are symptomatic of the reasons why this PUD should be denied. The intended use is not compatible with the neighborhood it is zoned A1 and is surrounded by A1 that is what the zoning is and that is what the restrictions are whatever the comprehensive land use or future land use plan is that doesn't matter the zone is what counts. Now they are proposing to be part of the property to the county leaving 57.08 acres which equates to 10.8 units per acre which is very dense and obviously we'd see what the density requirements would be under the mixed use. The surrounding property is either used for agricultural or a special type of residential and when I say a special type of residential it some people like to live in cities and they like the hustle and the bustle but and don't mind the noise but other people they enjoy nature, they enjoy quite they enjoy solitude those are the people who live around this property. I guess there is some irony here that no one resides near this property lives in the City of Ft. Pierce. That does not give the City to dismiss their concerns though or to disrupt their lives or to take away what they have found for themselves. They each have a right to expect that the zoning in their area will not be changed without a good reason and there is no good reason for this zoning to change to this PUD. The current zoning is appropriate in its current use. I will cite you another case it is Miami Dade County vs. Walberg. In 1999 that case also refers to the earlier case that was mentioned to you. That decision stated although the zoning change may be consistent with the comprehensive plan the land owner is not presumptively entitled

to such use. Additionally the property owner is not entitled to relief by proving consistency along when the board action is also consistent with the comprehensive zoning plan. Of several zoning classifications is consistent with the plan the applicant is seeking to change from one to the other is not entitled to judicially as to prove the status quo is no longer reasonable. In this case the status quo is reasonable. It is further said the comprehensive plan is intended to provide for the future use of land which contemplates a gradual and order growth. A comprehensive plan only establishes a long range maximum limit of a possible intensity of land use. A plan does not simultaneously establish an immediate minimum limit of the possible intensity of land use. The present use of land made by zoning ordinance continue to be more than the future use provided by the comprehensive plan. No disputes that the fact that the closest approved density to the Wahlberg property was 1 single family resident on a 5 acre lot in U2. The citizen testimony urged the commission to use that density as a relevant benchmark and to adhere to that density level for the Wahlberg property. As it evolved, the commission took the position that this applicant's project should not exceed the same density as allowed to the nearest neighbor. Like the decision of that commission that is a simple, determination by the county commission for which there is ample, substantial, and confidential evidence. The final ruling of the court was because of the commission denial of the rezoning was based upon ample and confidential evidence that this decision should be affirmed. You should know this property better than anybody in the world and it will explain to you why the current zoning of the property is reasonable and why the status quo is the most appropriate use and what is being planned for this is not compatible with the neighborhood and what they have been enjoying while living there and expect to enjoy as long as they do.

Mr. Forget said my name is Lewis Forget and I am a resident at 3075 Gordy Road and I have a property to the north of the applicant's property and we are going to give a little presentation here to help you understand our position on the application. The first picture is a picture of a one lane bridge that is just on the south side of Ten Mile Creek. Also the next picture is that of Gordy Road on December 3 and this is just to show one of the citrus groves by my brother and my father and some of the types of operations that we have. As a rural agricultural area you can see that we are a fully operating citrus production grove; the south part of Ten Mile Road is Hickory Ranch properties which is the Barn family, Forget Brothers Groves and the other citrus groves which are north of the applicant's property. We are involved in many agriculture practices that are protected by Florida Statutes as long as we follow the best management practices that was designed by Florida Citrus Industry which is also being used by many states as a program to emulate and to use. Because of the practices that we do a lot of times we are using heaving equipment, chemical sprays, and fertilizers and also picking and harvesting activities that going on. One of the problems on Gordy Road and potential problem is that is it a substandard road. A lot of times there is a lot of heavy semi tractor trailers that are going up and down Gordy Road to the Barn properties and to our properties could be consisting of harvesting trailers or fertilizer trailers or other trailers bringing in supplies such as chemicals. There is not a lot of us but you can tell these homes have been here a long time and owned these properties since 1930. The projected density is inconsistent with neighboring properties we compared it to Creekside, which is the old Kosar project. It only allows 3 units per acre and the neighboring properties are AG 1 and AG2 which is our property. There are too many units which is has environmental river basin within a single country roadway. Traffic is a big issue with us and I am very much affect4ed by this because of the widening of Gordy Road. My property runs parallel on the

west side of Gordy Road and I will be impacted tremendously by the proposed sidewalks and hiking paths that will be implemented on the west side of Gordy Road. We also have two parks that will be established there by the county one is Gordy Park at the dead end of Gordy Road and the one on the northwest side of the bridge on Ten Mile Creek. The county park that was designated is a low impact park due to environmental concerns and I would hope that you would take this into consideration. County residents use the road to access to the different parks which park gets more use I couldn't tell you. We talked about too many cars entering and exiting to Okeechobee Road. Right now I have been told there are not going to put any traffic light there even when they put it to six lanes. The traffic turning left from Gordy Road onto Okeechobee or turning left from Okeechobee Road onto Gordy Road if the proposed traffic does happen over here with this development this site could be a demolition derby for those who are impatient on trying to turn left one way or the other and that is something that has to be considered. Two cars per unit or there may be more, it is hard to say, peak hours being manageable during a normal day, school buses and how will emergency vehicles access there. I think there is one way in and one way out and when the hurricane comes, I don't even want to think about all of us trying to get out on a one way. The issues being addressed by Mr. Tierney on rental housing and location suited for commuters who work in other counties, shopping in other counties is not consistent with existing single family residences that are adjacent to this property. Again this has been addressed by the members of the board and the residents here and do we really need more apartments here. Many comparable properties are unoccupied and available for rent in the city, county area and off Kings Highway and Okeechobee Road. This is some pictures of the wildlife around the area. In summary, I like to thank you for allowing us to speak before you to state our positions.

Ms. Baker said you said that Gordy Road dead ended at one of the neighbors properties. I was under the impression that the south part of Gordy Road extends out to Midway?

Mr. Forget said back when Gordy Road Bridge had to be replaced there was an access that was on private property that took it all the way to Midway Road. After that bridge was replaced that access was cut off and Gordy Road ends in front of Bob Barnes entrance and takes you into the second park which is Gordy Park.

Ms. Baker said that private strip which is owned by the Willow...they bought what is in essence Gordy Road?

Mr. Forget said yes ma'am.

Chairman Johnson said is there any else that would like to speak. Please come forward.

Mr. Willis Forget said I am Willis Forget, Sr. and I have lived out there for 82 years. I think that project would be fine in some other area, but it certainly doesn't belong in an agricultural location. There is wildlife out there with the finest alligators in Ten Mile Creek you have ever seen. We have got wild hogs, deer, wild turkeys and everything you can think off and once in build a development like that they will be gone. When the Kosar development went bankrupt back to the west of us the wildlife moved back to east to wooded areas. We don't care about the wild hogs but the rest of them are nice. I just think this project has way too many units

they were supposed to come back with some kind of project that was half that many but now they are back with the same amount of units that were turned down before. I just say I hope you say no.

Mr. Bill Forget said I am Bill Forget the neighbor on the north side of the property. All I want to say is that the comprehensive plan and the idea of it is supposedly for orderly development of land and to suddenly go from one extreme of a rural ag type of area and to plop in an ultimate extreme of R5 zoning in an 616 complex just seems to go against the whole idea of a comprehensive plan. I think it went with this same project three years ago but with a different name called Breckenridge. They wanted 616 units and submitted it to the county planning and zoning board it was turned down 9-0 but they went ahead and decided to go ahead with a vote anyway. The day before the vote they pulled out. Why did they pull out? I would assume that they pulled out because they knew they would not get the votes. All I am asking you to do is look at the area that they are wanting. They said they would compromise and come down on the number of units but it seems like it has come back full circle and is back to where it was when first started at 616 units. I would like you to take that into consideration please. Thank you.

Mr. Barnes said I am Rusty Barnes a resident on Gordy Road. My family, between my uncle my mom and I and the Sullivans, have approximately 140 acres south of the development. If you use the kind of numbers the DOT is saying is available per unit they are going to max the road out. Then sometime in the future if the greening disease or canker makes it where citrus can't make it, my grandfather bought the grove in the 60's and we have been in the business since the 40's and that is what we want to do, but if this diseases kill us out and we have do some kind of development but nothing like this huge project we won't be able to do anything because we will be virtually land locked as far as the value of the land because they will have maxed out all the DOT. This first phase, and they didn't tell you that, maxes it out until State Road 70 is improved; the second phase maxes it out the rest of way once it is improved. So we are land locked for any possible future development, if we can't do ag on our land we need to be able to develop our land but not to this extent and we can't. With the compromise they started at 616 units and went to 480 and then they went to over 900 and the planner now doesn't know this because he is the second or third one in and now they are back to 616. That is their compromising..They are jumping all over the place. The county commission did not turn them down; they told them if the plan stood the way it did they would turn them down. The lawyers even said we didn't get turned down and just said it would be turned down if it stayed the way it was. So they jumped ship and got the city to annex them in so they can go in front of you people instead of the county people who had already turned them down and that is why we are here tonight.

Chairman Johnson said would anyone else like to speak for or against this request that is here tonight? I did offer to Travis Walker some final comments. Keep it brief please.

Travis Walker said it sounds like there are some transportation issues. We do have a professional engineer here and would be available at the discretion of the board if you would like for him to speak on those questions.

Chairman Johnson said I would like to hear a response in regard to DOT... is that what the response will be?

Mr. Mattson said my name is Jason Mattson, Vice President with the firm Kimley, Horn and Associates. I am a professional engineer in the State of Florida and Georgia. I do want to clarify the record on a few points that were made. First of all, comments related to Okeechobee Road, which is State Road 70, our project is projected to consume approximately 12% of that existing capacity. There is a DOT project and let me read that number it is DOT Project 410717-1-52 -01, which is the six lane improvement of State Road 70 to Jenkins Road. That is a funded DOT project and there was a local public workshop that occurred in Ft. Pierce at the Department of Transportation on Oleander. The project manager indicated that they are actually advancing that improvement to a date of April 2011, well over a year from now. There will be a substantial capacity of improvement to Okeechobee Road including landscaping, including new drainage system between Kings and Crossroads and modifications of medians to improve traffic flow and safety. So that is coming and is funded by DOT. The applicant did accept a condition related to its phase two for that project to be in place and we think it will be in place based on DOT direction today for next year. Second comment is related to the traffic signal we did after a request of staff a traffic signal and warrant analysis at Gordy Road and Okeechobee Road as a part of this preliminary submittal. The existing count in addition to the projected road did not show a warrant for a traffic signal and generally it is because traffic signals are warranted by left turns and the majority of the traffic will go east into Ft. Pierce, to the turnpike and to I-95. As a safety measure there is a condition of approval where we will do that analysis again at a time of final development approval so just in terms of putting you at ease about that intersection and in addition to the signal warrant analysis we are including a right turn lane which doesn't exist today northbound approaching State Road 70. DOT has asked us to make sure the existing left turn coming into Gordy Road is sufficient and that would be part of the intersection analysis that we are committed to do per the condition. Thirdly, there was mention that Gordy Road is a substandard road. That is true. Based on a dedication of the road from the State to St. Lucie County last year the county now owns and maintains. This applicant has agreed to design, permit and construct the road bringing up to a St Lucie County standard of cross section. One element of that cross section is the minimum 11 or 12 foot lanes, bike lanes as well as the 12 foot path that will be separated from the travel path. That can be used by the pedestrians, by bikes and trikes and there will be a bike lane on the road for road bikers, the spandex crowd as they call them. Lastly, there was mention of Gordy Road capacity. The DOT capacity and we took a conservative look at capacity on Gordy Road and that number is approximately 580 vehicles in the directional peak hours. Our study which has been reviewed by city staff, county staff, TPO and DOT consumes about 43% of that capacity so this project in its entirety is not consuming 100% of the capacity that was alluded and that is a part of the accepted analysis. I will be happy any other questions.

Chairman Johnson said thank you.

Travis Walker said very briefly just want to provide some clarifications regarding a few things. Again this is Brad Curry the planner with the development. In your professional opinion Brad does this project comply with the comprehensive plan of Ft. Pierce?

Brad Curry said yes sir.

Travis Walker said does this project comply with the zoning code of the City of Ft. Pierce?

Brad Curry said the land development regulation yes sir.

Travis Walker said did the application and the submittal of the application comply with the application requirements delineated of the City Code?

Brad Curry said to the best of our ability.

Travis Walker said did staff recommend approval of this project?

Brad Curry said yes sir.

Travis Walker said does this amendment to the zoning atlas have any adverse effect on the ability of the City to satisfy land and water needs and meets transportation requirements as provided and needed?

Brad Curry said yes sir not with the conditions that are proposed.

Travis Walker said in your professional opinion will this protect the public, health, safety and the welfare of the City of Ft. Pierce with the conditions that are proposed?

Brad Curry said yes sir it will.

Travis Walker said very quickly I summary I want to provide some quick notes. Many of the properties in the vicinity are an MXD land use and that is why Brad indicated it is consistent with the comprehensive plan as previously indicated. As well we have met with the neighbors several times and we worked diligently to try come to some compromise in September and requested some additional redraws and plans but received nothing. The plan was addressed as far as the road engineer. I would like to turn to one of the cases cited by Mr. Tierny. It was the Miami case; it is a line of reason that is along the same lines as that Mr. Tierny relied on in his letter to the planning board. But I didn't want the planning board to rely on the decision that their district DCA decision at 131 72 757 was quashed by the Florida Supreme Court later. The Florida Supreme Court in that holding held that while such changes often predicate for an amendment and they were talking about the changes in character use of that area and is now being indispensable for the zoning amendment and ordinances altering zoning restrictions are not to be tested other than the applicable zoning classification generally. While not predicate for an amendment we find no authority in our decision or elsewhere to the effect that it is indispensable that vested rights can accrue to neighboring owners or that ordinances altering zoning restrictions are to be tested by any standards other than that applicable to zoning classifications. What we are showing by our presentation and testimony that this project is compliant with the City Code, it is compliant with comprehensive plan and it is compliant with the requirements of Florida State Law and will comply with all permitting requirements as we move forward. We respectfully request the recommendation of approval

from this board with the conditions as laid out by the applicant or in the alternative a recommendation of approval.

Chairman Johnson said are there any final questions from the board?

Mr. Dannahower said if it is appropriate Mr. Walker I would love to hear if you have any comment on the statement a little while ago that the City does not have any the right to change the zoning on this piece of property.

Mr. Walker said the zoning is what it is. The city regulations are in effect on it. We have studied that issue and gone over it in great detail so the City is satisfied that its position here with respect to application of its code and regulation is the proper one.

Mr. Weaver said among other things just for clarification you are asking 616 people to haul their trash up to quarter mile each to one dumpster. Is that approximately right?

Mr. Curry said yes sir there is one compactor we went to DRC the solid waste authority said that is was fine. The exact way is will work out we are not exactly sure but the one dumpster was approved.

Mr. Weaver said so the worst case scenario is somebody that lives on the third floor and since you don't have any elevators will have to haul it down the stairs and put it in their car to take it a quarter of a mile to the compacter.

Mr. Curry said yes sir, but one clarification I want to make is that staff said that we would relocate it and then we said tonight that we wouldn't relocate it. We did say that we are going to relocate it tonight and that was very clear in the condition. It was just providing the additional dumpsters because that was not agreed to at the meeting with staff. So that was something that was added. We did agree to relocate it so and then is something we are willing to work with staff on. So hopefully it won't be that way when it comes back.

Chairman Johnson said any other questions? Any clarifications? If there is no one else to speak for or against the request I will return to the board. At this point we have to entertain a motion and get I will ask that you be very detailed on how that motion is made as far as the recommendation because there is a list and it may be tricky.

Ms. Baker said I will try. Is that in an existing rental apartment development academy village referred to in their application is situated in an area that was once like the current 79 acres next to the turnpike and next to mostly agricultural use. It is now with 432 units on 30 acres surrounded intensive development and road ways a picture of urban sprawl an example of what Ft. Pierce can become. I wouldn't like to see that happen however unless sprawl is regulated it may be inevitable given the expansion of job creation in that area including the probable complex to the east, the Creekside development although foreclosed is likely to be developed sometime and the adjoining A1 holdings I didn't hear a representative of who purchased this 16 ½ parcel at the same time that Sentex purchased theirs for \$1,550,000.00 in 2005 will likely be developed in something other than the agricultural land it is now taxed on plus the widening of Okeechobee Road will increase the pressure for further development. It is more than likely that this property would never have been annexed if the

notifications requirements had been more flexible to include a minimum of neighboring property owners outside the 500 foot boundary. On the other hand, I disagree with those who think that a rental development is inappropriate. We need rental units near where the jobs are or will be soon. A quality rental complex will discourage the piece meal devaluation of residential neighborhoods and condo complexes by flippers by a coordinating planning strategy to control urban spread is essential. I would approve this plan if amended to address all of the planning department's concerns plus the following requirements: Requiring CBS construction, a limit of 5 units per buildable acre and provided that all of the PUD rezoning and bonding of all the road improvements, fees and everything else all the improvements are covered by an umbrella performance bond to avoid the City being stuck with another abandoned development. I therefore make a motion that this be approved subject to those conditions.

Mr. Poitier seconds the motion.

Chairman Johnson said discussion of the motion. Staff's recommendations, CBS construction with 5 units per buildable acre and fees and guarantees and improvements be covered by an umbrella performance bond.

Mr. Curry said Mr. Chair, is that the staff recommendation is that we modify it at the beginning to those changes that we made tonight?

Ms. Baker said no the original ones.

Mr. Curry said the original ones not the amended ones as we recommended?

Ms. Baker not as amended, no sir.

Ms. Wood said so if I understand your motion you are essentially to recommend approval to site plan that would have to be completely redesigned according to the densities that you have outlined?

Ms. Baker said yes ma'am.

Mr. Walker said respectfully what is being recommended for approval here then?

Ms. Baker I am approving the site plan subject to the conditions as originally states by the planning department and adding an additional requirement that it be limited to 5 units per acres and CBS construction and covered by an umbrella performance bond.

I understand that but would you impose a 5 unit an acre limitation how can you reconcile that any with any reasonable basis for approval even with all the conditions.

Ms. Baker said because the 5 unit per acre is what the original zoning as it was explained would have allowed within the city on the existing zoning. That is what is says 5-6 units per acre. I am just going by what the code allows under the existing zoning.

Mr. Weaver said I am not sure that amounts to an approval of the preliminary site plan but that is just my impression.

Chairman Johnson said me either and that is why I have to ask Mr. Walker for guidance because we are at preliminary and the applicant can't substantially deviate that final. I think that is where your question is coming from also, but that is definitely my question. At this point I can talk about 5 units per acre, however, I have nothing in front of me that shows what I am going to be looking at in the next step so.

Mr. Walker said that is entirely right Mr. Chair. The board is not required to approve this plan with conditions it does have the option of recommending disapproval if it is not satisfied that #1 the application is complete or #2 that it meets the review criteria that were laid out here. It is going to be very difficult for the commission to try to view this as a coherent recommendation of approval in trying to reconcile that with all these conditions, especially the limitations of 5 units per acre I think ..

Ms. Baker said excuse Mr. Walker are you saying that this is an improper motion?

Mr. Walker said most respectfully it impresses me as being internally inconsistent.

Ms. Baker said the reason I made the motion and the way that I did is that I believe that the applicant is entitled to have a development on their property. They have submitted a preliminary site plan for us to approve or disapprove and the planning department has attached certain conditions. I was informed prior to the meeting that it was perfectly legal for me to attach other conditions and that would be at the option of the rest of the board and ultimately with City Commission as to whether or not it was satisfactory. As to whether or not the applicant would agree to is up to them. I do not wish to deny their application. I wish to approve their application with the conditions that would satisfy the City, Planning Board and the neighbors and future development in the area. Thank you.

Mr. Lloyd said I think the problem I have with your motion is the condition that you are putting on it changes this whole project and there is no way that I could even if I think the land should be developed what is before me right now you have changed it completely with your condition. There is no way I could vote for your motion because it is a completely different project in front of me with your condition, so respectfully that is the point that Mr. Walker is trying to make. Your condition isn't a little condition it changes the whole scope of the project, it changes parking it changes everything. So that is the problem I have with it.

Ms. Baker said that was the purpose of it.

Ms. Wood said I would concur with Mr. Lloyd's assessment of it. We would be effectively denying the site plan if we made that a condition and Ms. Baker I understand your intent and I applaud your creative approach to trying to solve the problem but yet I think it is an effective denial so I wouldn't be able to support that motion.

Chairman Johnson said question on my part Mr. Walker. This motion has been presented and has been seconded and if there is a lack of majority at that point.

Mr. Walker said that determination would have to await a calling of the roll.

Ms. Wood said the clarification, I was hoping to get from Mr. Walker on your question was whether or not if we call the roll and the motion fails does this go forward without a recommendation to the City Commission or do we revote?

Chairman Johnson said the motion dies.

Ms. Wood/no; Mr. Lloyd /no; Mr. Poitier/no; Mr. Hayek/no; Mr. Chairman/no; Ms. Yates/no; Mr. Weaver/no; Ms. Baker/yes; Mr. Dannahower/no; Ms. Cumings/no.

Mr. Hayek I want to go on record having kayak that area. I think the density is overwhelming to the property and my no vote is against any kind development there.

Chairman Johnson said motion dies for a lack of majority vote.

Mr. Weaver said although I believe there will be a demand for rental units out there in the near future it seems like there is no infrastructure in place and I encourage the applicant to come back if my motion is successful.

Motion made by Mr. Weaver to deny based upon the fact that the applicant has not shown an immediate demand as required by the codes that the project is incompatible to a degree with the surrounding uses and they have not submitted the documents necessary to show they are financially capable of completing the job and was seconded by Mr. Hayek.

Chairman Johnson said any discussion on that motion?

Ms. Wood said I would like to be able to support that motion. I very much can relate to the concerns of the residents and have had the good fortune to visit Ms. Barnes property and see the beautiful environment that you are fortunate enough to live in, but I believe the evidence presented by the applicant is sufficient enough that I don't believe we have the grounds to deny them a site plan. I believe that unfortunately the conflict between the existing residents and the proposed development is really imbedded in the future land. It is unfortunate that the density in the future land use goes from either 2 units to the acre to 15 units to the acre right across in Ten Mile Creek. I think that is the imbedded conflict that was in place when the future land use was adopted by the Comprehensive Plan and so I will not be voting in favor of that motion.

Mr. Weaver said we are tasked with trying to make sense of the disparity that you have described where we could have the most rural settings and then have the most urban settings proposed to us right next door. I think that is our task and I am going to stand behind my motion.

Chairman Johnson said any other discussion? I will clarify why I will voting for that motion. I have some issues within the utilities services department or what is going to happen and to

get away from even a packaged treatment plant to get into water even more based on the County's agreement with the City of Ft. Pierce or the Ft. Pierce Utilities Authority and coming from their director specifically is there is no capacity for fire protection and there is not capacity for the use. There was a list of items and that is one of the big ones. The clustering is always an issue for me I stay pretty true and in my understanding in what that part of the code talks about and when it regards to rental units or apartment complexes so those are my two biggest reasons. There are some minute others but those are the huge ones for me and including some of the surrounding neighbors. Other than that I am in favor of the motion?

Are there any other questions? Let's have roll call.

Those voting in favor of the motion: Mr. Lloyd, Mr. Poitier, Mr. Hayek, Chairman Johnson, Ms. Yates, Mr. Weaver, Ms. Baker, Mr. Dannahower and Ms. Cumings.

Those opposed: Ms. Wood.

Chairman Johnson said the project has been forwarded with recommendation of denial to the City Commission.

Mr. Travis Walker said thank you I appreciate your time.

Chairman Johnson said thank you for all those who came out and I appreciate the information. Thank you.

David Carlin said with your permission and consideration we would like to move this discussion to the next meeting. The LDR topic will be moved to the next meeting

There being no further business, the meeting was adjourned at 11:30 p.m.
