

**MINUTES OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD
HELD ON TUESDAY APRIL 13, 2004, AT 7:00 P.M. IN CITY HALL FIRST FLOOR COMMISSION
CHAMBERS (due to seating accommodations for the public), 100 NORTH U.S. #1, FORT PIERCE,
FLORIDA.**

Members present: Don Bergman (Chairman), Charlie Harris, Margaret Benton, Harriet Brenner, Sonja Gates, Jeremiah Johnson, Robert Poitier, and Chuck Enns.

Members absent: Pam Williams and Thomas Knott.

Staff present:

Ramon Trias, Director of Development
Wendy Clark, Planning Coordinator
Jim Walker, Assistant City Attorney
Dianna D. Rose, Secretary

Citizens present:

Deborah Ross, Esq.
Dawn R. Hilton
Kenna Hayes
Hy Sacker
Rose Sacker
Eudona Clugstone
Thelma Isaksen
Stanley J.
Shirley A. Delaune
Thomas J Kahler
Becky Hart
Bob Kirby
Norma Kirby
Judy Turner
Yvonne Jialoppo
Bill Fowler
Letha Fowler
E. Jorgensen
Sam Hopper
Ron Klumb
Lillian Fournier
Bennie Miller
Ann J. Vaccaro
Anne e. Tinkerman
Adolph Wismar
Billy L. Ferguson
Eula Carlton

Mike Driver
George Gilmore
Virginia Gilmore
Dorothy Stroud
Hazel Case
Charlotte Baker
Myra Swanson
Virginia Slagle
Bob Slagle
Kathy Krug
Jack Lentz
Tom Lentz
Carol Lentz
Les Sadzeck
Kathleen Cornelio
William Shelton
Diana Hayden
Robert Hayden
Francis E. Winter
W. Robbins
Ray D.
Inez Lowry
Lanell Williams
Anna McAvoy
Olene Davis
Rosemary Kelley
Mary K. Catran

Shirley Mitchell
Tom Mitchell
J. T. Mullinix
Geraldine Reyer
Art Reyer
Helen Koenig
Edward W. Koenig
Alberto Quinones
Concepcion Quinones
Dorothy E. Murphy
Margaret F. O.
Joan Cox
Anthony J.
Evelyn Mesagno
Stella B.
Doris Podosek
Michael Podosek
Don Fox Jr.
Jim Morris
Betty J. Morris
Bobby Lee Wilson
R. C. Wilson
Lois F. Savage
Robert P.
Bill Huffman
Marcella C. Huffman
Cassandra Lomax

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Citizens present continued:

Eleanor Thompson
Joanne S.
Lynda Richardson
Susan Barette
David M. Elkiney
Robert A. M.

Peter J. Brown
Michael D. Gordon
Sally Gordon
Jeannette Wick
Harold Turner
James Hurt

Becky Wilburn
Scott H.
Jack Mesagno
Ronnie Hulick
Velma Davis

Mr. Bergman called the meeting to order at 7:05 p.m.(**Agenda Item #1**)

Secretary proceeded with roll call and mentioned that Mr. Knott and Ms. Williams had both called in regarding their absences.(**Agenda Item #2**)

MOTION WAS MADE BY MS. GATES TO EXCUSE THE ABSENCES. Seconded by Mr. Enns. Unanimously approved by voice vote.

Mr. Bergman asked if the Board had a chance to look over the minutes and if any corrections needed to be made?(**Agenda Item #3**)

MOTION WAS MADE BY MR. POITIER TO APPROVE THE MINUTES OF THE MARCH 9TH PLANNING BOARD MEETING. Seconded by Mr. Johnson. Unanimously approved by voice vote.

Agenda Item #4 – Site Plan/PUD – Lawnwood Gardens – Approval of a Preliminary Planned Unit Development (PUD). Owner is Max Ambach & Sons, Inc. Applicant is Todd Fabbri. Representative is Jon E. Schmidt & Associates.

Mr. Bergman stated – This PUD was before us last month.

Attorney Walker stated – Mr. Chair, as a point of order I would recommend that there be a motion that it be picked off of the table.

Mr. Bergman stated – That’s correct, it was tabled.

MOTION WAS MADE BY MS. BENTON TO LIFT THE ITEM OFF OF THE TABLE. Seconded by Mr. Poitier. Unanimously approved by roll call vote.

Mr. Bergman stated – This item that was previously tabled is now before us again. He then asked for staff report.

Mr. Trias stated – Mr. Chairman, as you may recall at our last meeting this item was before you and there was considerable discussion about some site plan issues, technical issues, and some zoning issues that dealt with the process. There was some disagreement about some of those details. At that time it was the expectation of staff that additional information would be provided to you in order to be able to make an appropriate analysis

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and take action on this item. Unfortunately the only time when additional information was provided was yesterday. It was not provided in time to be included in your package and therefore you got this memo that recommends that you take no action. And at this point I believe that there some potential for improvement in this project in terms of the design and so on. But no formal proposal has been made and nothing has been evaluated. And so I recommend that you take no action tonight.

Applause from crowd.

Mr. Bergman asked if there was any question for staff from the Board?

Mr. Poitier answered – No.

Mr. Bergman stated – Ramon, I was just looking at the minutes. One of the things that we requested in the motion from the last meeting was that we get the old PUD information and the drainage from South Florida Water Management in addition to some other details that we had previously discussed. And none of that has been submitted.

Mr. Trias stated – As I said, the applicant has not provided any additional information to our department, except for the meeting that we had yesterday and that was just purely a verbal discussion.

Mr. Bergman stated – All right. Mr. Walker, I think I asked you this earlier. Do we still need to open the public hearing if there is to be no action taken...do we need to go through that whole process?

Attorney Walker stated – Mr. Chair, the code does not give the Board the discretion to take no action. The Board is required to approve, disapprove, approve with condition, or under section 22-140, to table for a specified period of time. Rule 10B provides that the discussion is a subject of the following procedure; first, that there be a staff report, which has now taken place, second, that the proponent of the application have opportunity to respond, and third, that the opponent, if any, should then be given an opportunity to speak, and then finally the fourth, the proponent of the application be given the opportunity to make rebuttal on any point not previously covered.

Mr. Bergman – Okay.

Mr. Trias stated – Mr. Chairman, if I could address that issue, my recommendation then would be to table this item to a future meeting. Given the fact that the information requested has not been provided.

Mr. Bergman stated – All right. Again, are there any questions for staff from the Board?

Ms. Benton asked – Mr. Trias, approximately how much time, if it tabled, would we need?

Mr. Trias stated – It depends clearly on the applicant's ability to provide information. From my point of view, the next month is plenty of time, but that was my opinion last time and it clearly did not happen.

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Mr. Bergman asked if there were any other questions for staff? He then asked if anyone was present to speak on behalf of the site plan/PUD application?

Mr. Todd Fabbri stated his name and that he was with the Richmond Group of Florida and that his address was 580 Village Blvd., WPB. He then stated – Mr. Chairman, as you will recall at the last meeting several opponents to the application from the neighboring surrounding property spoke in opposition raised many issues as Mr. Trias indicated. And as you also will recall, with all due respect to Mr. Trias' report, I, at that meeting, submitted to this entire Board, as well as to Mr. Trias, a letter dated March 9, 2004, addressed to Mr. Trias, Director of the Planning Department. In the letter responding to all the issues, in particular the issue that you raised at the outset of the meeting with regard to the South Florida drainage as well as the existing tree issue, I believe. We, on several occasions-representatives for the Richmond Group-had tried to contact the City to get response to the information that we provided at the meeting. At the time we provided it, Mr. Trias said he had not had an opportunity to review the letter. Rightly so, we gave it to you at the meeting just before the meeting opened up. Subsequent to the tabling of the matter we requested on several occasions of the City staff to get a response feedback attempting to get feedback on the property on the issues that were raised and addressed in the letter and unfortunately that information was never provided to us. We are ready tonight to address those issues again. We have additional information and we'd like the opportunity to present to the Board the status of the project as far as what we've done in terms of going out and speaking with representatives of the home owners association as well as their legal counsel. And I think the changes that we are willing to provide, concessions that we are willing to provide, which we don't believe we have to, but in the interest of good faith and being neighborly and trying to produce a project that will be compatible with the surrounding neighborhood. We've made some pretty significant concessions to the tune of reducing the approved number of units by a total of 50 units and also going to a 2-story building along the eastern property line, which is the property line that adjoins the residential neighborhood.

We've come a long way and waited a long time to have this meeting so I'd really like to the opportunity to provide the Board the information as well as the site plan showing that. In addition to going to the 2-story building, we increased the buffer green space area along the eastern property line by another 10 feet, so now we've got a total of 30 feet of buffer area along the eastern property line, which I believe is triple of what's required in the code. We've got a total building setback now of 100 feet from the property line, and a total separation distance between building to building from buildings on our property to buildings on the existing property of 130 feet, which is a significant distance. And I believe it goes a long way in producing a project that's compatible with the surrounding neighborhood.

Mr. Bergman asked – Mr. Fabbri, why wasn't this presented to Mr. Trias prior to the meeting tonight?

Mr. Fabbri stated – Mr. Chairman, again, this information was presented to Mr. Trias. What I just told you about was presented in a letter at the night of the meeting. We wanted to opportunity to discuss those issues. The meeting was closed. We were not given that opportunity at the last Board meeting. We have since met with Mr. Trias. We discussed the changes to the plan, that I just presented to you, with Mr. Trias prior to tonight.

Mr. Bergman stated – But you haven't submitted anything to staff for them to review prior to tonight's meeting?

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Mr. Fabbri stated – We haven't submitted anything to staff because we haven't been able to get any feedback from staff as to the issues that were addressed. We've asked several times if there are technical issues with our plan please tell us what those technical issues are. We have to date gotten nothing from staff to tell us what those technical issues are. If there are issues we are more than happy... and I think we've demonstrated over the last three to four weeks...we've met several times with representatives of the homeowners, we've met with the staff, we're demonstrating that we are willing to work with both the surrounding community and the City staff; unfortunately we have not gotten the cooperation necessary to do that from staff. And I can't answer why that is.

Mr. Bergman stated – Okay, what about the two items that we specially requested when we tabled this item...the old PUD requirements and the South Florida Water Management?

Mr. Fabbri stated – I believe, with regard to the old PUD requirements, and perhaps my memory is mistaken me, but I believe you directed staff to research the PUD issues. We are under the assumption that the PUD is alive and well. The number of units approved in the PUD is 272 units. We're doing less than that. We have no reason, and staff nor the City Attorney's office has given us any reason to believe that the PUD is not in effect and valid. As a matter of fact, we have correspondence from the City on City letterhead stating that it is. That correspondence was not directed to us but it was directed about the property itself stating that the PUD is valid.

Mr. Trias stated – Mr. Chairman, if I could make a statement because there's some factual issues here that are just not true. I believe the letter he's talking about is a letter from 1999. The representation for whatever reason that he has attempted to contact staff is absurd. I haven't seen any evidence of that. The only time that we had any conversation was yesterday. This is a completely outrageous presentation.

Mr. Fabbri stated – Mr. Chairman, with all due respect, let's ask Ms. Clark if she was contacted.

Attorney Walker stated – Mr. Chair, the speaker should be given an opportunity to finish his remarks and then staff should be given an opportunity to add whatever feels appropriate. The Chair should discourage interruptions.

Mr. Bergman stated – All right, thank you.

Mr. Fabbri stated – Mr. Chairman, with all due respect, this toward the staff as well as the Board, we have contacted and attempted to contact the staff. Ms. Clark will tell you that is the case. When we attempted to contact her we spoke with her and she deferred to Mr. Trias and we have never received any return phone calls. We have tried very hard to try and figure out what if anything we need to do in terms of technical evaluation of our plan. We're being asked to react to something that we don't know what to react to. We've given information the best of our knowledge that is true that responded to the issue of the South Florida. I've got additional information from the engineer who was, by the way, also the engineer who designed the original PUD that the drainage was built without question. He's reviewed the permit. I'd like to submit this tonight. The drainage was built to accommodate this additional acreage for development as multi-family in the amount of 272 units. That has not changed. Contact with South Florida has been made, and that is still valid as far as we know...to our knowledge. Again, if staff knows something different they have not shared

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that with us. We believe again that the PUD is valid. If staff believes there is a reason why the PUD is not valid. Yes, the letter from staff was from 1999. It's been five...six years but to date we have not been told why the letter would have changed and why the status of the PUD would have changed. And if it's changed please tell us. If it's not a valid PUD please tell us and we'll address our plan to match whatever the requirements are for the current zoning of the property. But to date we have not been told what, if anything, has changed. So, we would love to respond, we'd love to provide the information but we just don't know what to respond to. I'd like to submit this to you tonight...this is just some additional information. (Mr. Fabbri passes out info to the Board members.) He then continues – And again, in summary we would like to work with the neighborhood, we've shown that, we would like to work with the City staff, we've shown that. But at the same time we would appreciate fair treatment by everybody, and in our opinion we have just not gotten that. And I'm not sure what those reasons are for that. We're ready to provide any information, given the facts, what are the facts, tell us what the facts are, tell us what we need to address. We understand that the residents do not want the property to be developed; nevertheless, the property is zoned, I'm presuming the property is zoned for 272 units based on the information we have to date and it will eventually be developed. And we're trying to do that in a way that is most palatable to the surrounding neighborhood and we are prepared to again decrease the height of the buildings to two stories along the eastern property line. Another request of the homeowner's association representative was to put a barrier, a fence up along the eastern property line, we're more than willing to do that; a decorative fence or even a wall along the eastern property. We've been asked to limit the number of accesses, in particular the access on Quincy Avenue to discourage thru- traffic through the property on Nebraska. We have changed our plan. I'm more than happy to show you that plan. We have eliminated that access on Quincy. Again, the buffering, we've added another 10 feet for a total of 30 feet of buffer on our property. With the 30 feet, the buffer that exists on the adjacent property, provides a 60 ft. buffer total. It will provide a building setback of 100 ft. and a total separation of buildings of 130 ft. As far as we know the code does not require anywhere near that separation. We've been willing to do that and willing to provide that. Impervious area, the impervious on the existing plan compared to the impervious on the proposed plan...there will no additional impervious area on the proposed plan versus the existing plan. Another issue brought up by the homeowners was providing security at night. We are prepared to provide security at night, if that's necessary we're more than willing to do that and I understand that the homeowners have found that necessary and we would also do that as well, be willing to put that on as a condition of the plan approval. There's one other issue and I'll finish up. With regard to concurrency, our understanding from staff from a previous meeting with staff that there were no concurrency issues with regard to traffic, in fact, as I've stated, we're decreasing the number of originally approved units from 272 to 224 units. So, the impact on traffic would be substantially less with out plan.

Heckling from audience.

Mr. Fabbri continues – You have to understand the plan is approved for 272 units that could be built, so the impact from our project...there is no question that it would be less than what is approved. And finally, another issue that was brought up by the home owners association was sharing the cost of maintaining the drainage, and we're more than willing to do that on a prorated basis and share the cost with the homeowners association, even though we're not obligated to do so, we would be more than willing to do that as a good faith and good neighbor gesture. In summary, I would just like to ask that we be treated fairly like anyone else would who comes before this Board with a plan.

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Mr. Bergman – Thank you.

Mr. Johnson stated – I have one question. I appreciate the work you've done and put forth what time you've had and I'm sure some of the residents do too. I think the biggest thing that I see is lacking...have you submitted anything concrete as in paper evidence of these improvements or these changes to staff? Have you submitted anything as far as a revised plan, anything of that nature?

Mr. Fabbri stated – Again, the original plan that we submitted as evidence by the staff's recommendation met the code as required. We've not gotten to date anything that would require us to change that plan; although recent discussions with the homeowners association has led us to reduce the number of units. Essentially there is no change to the plan other than the fact...do you mind if I bring up the plan and just show you? The only change to the plan is that the buildings along the eastern property line, which were three stories are now two story buildings.

Mr. Trias stated – Mr. Chairman, if you prefer to ask the question of staff whether we got a revised plan, I would answer the question of no.

Mr. Fabbri interjected – If I could finish and then Mr. Trias could certainly...These buildings along the eastern property line were originally 3-story buildings, we've reduced those 2-story buildings. We've pushed everything to the south. We've added a 10 ft. buffer along the eastern property line. And we've eliminated the drive on Quincy Avenue. Those were the only changes. And to answer your question, we did not submit that plan to the City staff because we were trying to correspond with staff but they were not reciprocating.

Mr. Johnson stated – My point is, I guess is...

Mr. Fabbri interjected – And if it's the pleasure of the Board we could certainly submit that plan as a condition of plan approval.

Mr. Johnson stated – Okay, but the last meeting I was under the impression you were going to get with some of the residents, make some improvements here and there to see what you could do as a neighbor.

Mr. Fabbri stated – And we've done that.

Mr. Johnson added – We're a technical review committee, I mean where it stands now, yes, you were okay with the plan you submitted the first time. There were issues out there and you wanted to make some improvements with the existing neighborhood and work with them and that why I was wondering if you had submitted anything concrete. I think it would be prudent of you to submit something to staff in writing saying, "Hey, I'm going to make these improvements." Because if I'm not mistaken there were recommendations to approve the project based on technical information from staff.

Mr. Fabbri stated – All of the technical comments that we received from staff we addressed prior to the last Board meeting, again, we have not seen...if you're a technical Board reviewing technical issues, we have not seen what those technical issues are to date. Have we gone out and made improvements to our projects? Yes

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we have. Have we listened to the residents? Yes we have. But we, to date, have not been given anything technical to respond to.

Mr. Johnson stated – Okay, I think that’s where we sit at this point where staff has recommended we table the issue until further information is provided, so I was just asking the question...

Mr. Fabbri stated – With all due respect, I would rather this Board make a decision one way or the other tonight if that’s possible. I understand staff’s request was to table but I’m not sure what we would achieve. Unless we’re going to get some technical responses in terms of issues that need to be responded to, I’m not sure what we’re achieving, I’m not sure why we’re tabling it.

Mr. Johnson – All right, thank you.

Ms. Brenner stated – You did not respond to the two questions that I had raised at the last meeting. You said then that the buildings are 3-story?

Mr. Fabbri – That’s correct.

Ms. Brenner asked – And that there are no elevators in the 3-story buildings, so they are not handicap friendly?

Mr. Fabbri stated – The buildings meet fair housing and they are compliant with the fair housing laws. They are not required by fair housing to have elevators in the buildings. There’s a percentage of the units that are handicap accessible, and that percentage will be met. Otherwise we will not get a building permit to build the project so the requirement to put elevators in is not a requirement. These buildings will meet the code in terms of handicap accessibility in the number of units that need to be handicap accessible.

Ms. Brenner stated – And my second question was about whether you had an extensive conversation with the fire department as to whether or not they met their requirements.

Mr. Fabbri stated – These buildings, and I believe and staff can correct me if I’m wrong, I believe the fire department reviewed the plan that was initially submitted and there were comments, we addressed those comments and to my knowledge there are no other additional comments from the fire department. And in addition, the inside of the buildings are planned for sprinklers, so there is thought behind the buildings in terms of fire protection. But to my knowledge, we have met and addressed all the issues from the fire department. If that’s not the case I have not been communicated with that information.

Ms. Brenner asked – Every unit will have sprinklers?

Mr. Fabbri stated – That is correct ma’am.

Ms. Brenner – Thank you.

Mr. Bergman asked if there were any other questions?

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Mr. Fabbri stated – Thank you for your time.

Mr. Bergman asked if there was anyone to speak on behalf?

Ms. Julie Fitzpatrick Holmes stated her name and that she was an attorney from Cape Canaveral, Florida, and she represented the Richmond Group. She then stated – Shortly after this Board convened on March 9th I was retained by the Richmond Group to assist in getting determinations of the basis on which this matter was tabled. And here at this additional meeting we're hearing that this is going to be tabled yet again. I can represent to this Board that since I have been retained well over a week ago, communicated with the City Attorney's office, specifically with Rob Schwerer. I have asked for a meeting. We have made ourselves available on numerous days. We were only allowed to meet yesterday. We came over 80 miles yesterday. Our planner, myself, the representative willing, ready and able to address each and every technical concern that staff might have. I would point out to this Board that on March 9th when this originally came before the Board, the staff had a recommendation for approval. And based upon comments of the citizenry, which the Board considered, this recommendation was withdrawn. We would ask that the staff articulate the specific basis on which this recommendation, which is in writing and dated March 9th, we would ask that they articulate for us what specific basis on which our project is being denied. We have attempted through written correspondence, through repeated telephone calls, through specific requests, to work with staff on any basis for which they would deny this project. We have been unsuccessful. We came down yesterday, Mr. Trias walked out of our meeting, I went across the hall to his office, he did sit down with us, he could point to no technical matter. We mentioned that we had met with the homeowners. We are willing to make reductions in what we are lawfully allowed to have on this site. We were told by Ms. Clark that that was not ...we didn't need to submit anything new because there had been no approval or denial. We would ask that this not be tabled at this meeting. This Board has certain basis on which it can recommend approval or denial and we would ask that staff supply this Board with any problems that it sees with respect to my client's project and that those concerns be addressed here on the record and that this Board make its decision. Thank you very much.

Mr. Bergman asked if there was anyone else to speak on behalf?

Mr. Kevin McLoughlin stated his name and address as 4050 Greenwood Drive in Ft. Pierce. And added that he had been in the real estate profession for over 30 years. He then stated – I'm here to talk about property rights and for a moment I would like all of you to consider that you were the Ambach family and had this land in your family name for over 20 years... more like 25. Tonight you're being presented a development plan that is not new. It's been part of the original community that the Ambach family started that everybody thinks is a great place. This is just part of it. The request is from a quality company...one of the top 20 in the entire United States. They're not a build-and-run people. Everything they have built they still own. They're more interested in the quality of neighborhood than other developers might be. A denial is an infringement on the property owners' rights. A denial of this request is dead wrong.

Mr. Edwardo Balbous stated his name and that he was with LBFH Engineers, and was the engineer for the project in question during the preliminary work. He then stated – I would like to clarify a couple of issues that Mr. Johnson brought up at last month's meeting. And I think that the information that was provided today and also at the March 9th meeting to the Planning Board addresses issues but I'd like to verbalize those

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because I know that there was only one submittal today of additional information on top of what was submitted last month. And we have done an extensive permit review for this project. We were the original engineers for this project and we reviewed all of our archives, all of our calculations, and other information that is not included within the South Florida Water Management District archives. And after reviewing all of the information and speaking with the design engineers for that project, it is very clear that this portion of the project was originally approved as a conceptual approval in 1982 whereas the onsite for the entire project, retention facilities were designed to accommodate development in this phase of the development. Now it's pretty clear, I have copies of all the applicable permits that I can make available to you. I did summarize those in a letter, and we also summarized those in the March 9th response to the comments from the citizens' representative. So, if there are any questions from the Planning Board on specifics on either the drainage or the utilities, I'm available to answer those now.

Mr. Bergman asked – Are there any questions from the Board? Guess not. Thank you.

Mr. Bergman asked – Is there anyone else here to speak on behalf of the application? Mr. Trias...

Mr. Trias – Yes.

Mr. Bergman stated – You had some comments you wanted to make?

Mr. Trias stated – Well, there have been many, many, many inaccurate statements presented. I have never seen a presentation so inaccurate in the 8 ½ years that I have been here. But be that as it may, the representation that there was a recommendation of denial is just not true. We have not recommended that. However, the fact that they have not submitted any kind of additional documentation in the form of a site plan is a fact. I have never seen anyone...ever...describe a site plan with words at the meeting, and this is what we have seen. So, the problem that we have now is that I don't really know what they're proposing in the sense that it has not been submitted officially in the form of a document that is a site plan. So, not knowing what they're proposing is very hard to make any recommendation at this point.

Mr. Bergman stated – All right, thank you. Is there anyone else here to speak against the PUD?

Audience applauded as Debra Ross approached the podium.

Ms. Debra Ross, Esq. introduced herself and stated – I am the attorney that represents the Lawnwood of Ft. Pierce Homeowner's Association, which is the adjoining property made of 292 private residences. I too would like to take this opportunity to clarify some of the representations that have been made during the presentations tonight. And to address some of the issues that were raised by both me and other parties at the March 9th meeting, and I'll try to keep it very, very brief if you'll indulge me for just a few moments.

Mr. Bergman – Certainly.

Ms. Ross continues – The first thing I'd like to tell you is that representatives of the homeowner's association did meet with representatives of the Richmond Group, and there were certain proposals or offers of compromise that were made. Some of which we thought were reasonable, many of which we thought were

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not. There was no agreement by the homeowner's association as a body or by its Board of Directors or by a majority of its members to support this project in any form or fashion. So, I need that to be very clear on the record. There had been several meetings; there have been no agreements number one. Number two, with regard to the drainage issue, while we recognize that it appears according to what the applicant has told you, the South Florida Water Management District Permits can take (passives?) for the entire project which may include the applicant's project. I still think that the drainage issue is something that as it exists today is not in compliance with the City of Ft. Pierce City Code; and that's what you look at as a Planning Board. Under section 22-40 of the Ft. Pierce Code, it says that there's three important things you have to look at when you're looking at PUD planning. The first is compatibility. When this project was approved by the commission in 1982 it was approved as a three-phase residential community, and it should have contained a timetable for development, it did not. I don't think it was ever intended by the City Commission that this project would sit vacant for over 20 years. And then 20 years later somebody would come along and say, "Hey, that's zoned PUD and we're going to use it for our purposes to build a new apartment complex that is in no shape, way, or fashion part of the Longwood Villages." In other words, they want to use underlined PUD zoning, but they don't want to be part of the Villages of Longwood, which is what was approved by this commission 20 years ago. Specifically section 22-40, which was in effect in 1982 when the PUD was approved, provides that the project be under unified control. In other words, everybody be a member, for example, of the same homeowner's association, and that that homeowner's association have the ability to levee assessments and make rules and make regulations that govern things like shared facilities, in this particular case, drainage. And the applicant came tonight to you and you said we're willing to talk about a cost sharing agreement. Well that wasn't...perhaps make that a condition for approval. But when I read the ordinance, which is what I have to present to you, it seems to me that when you have a PUD development, you approve the PUD zoning and the site plan all at the same time. And that was for a unified community. And that's what your minutes from 1982 said. I don't believe that you can come back 20 years later and say, "We want to build something else on this property...something that's separate, something that is not part of the association, something that isn't governed by the covenants and restrictions and the residency restrictions of the covenants of the association, but we want to rely on the PUD zoning." And I think from a planning perspective, that's one of the issues that this Board and perhaps staff needs to consider, and I think it's one of the issues that has not been adequately explored, and I apologize to you, Board members and Mr. Chairman, because you were very clear last month that we were going to look at certain issues. But we also made it clear that we only were noticed of last Planning Board's meeting about a week in advance, and we haven't had the opportunity to do a whole lot of research. And so I've done the research, and I've looked at the legal issues, and they were discussed briefly with the applicant in a meeting with Mr. Schwerer and Mr. Walker yesterday. And I think that's an issue that needs to be flushed out because either you're proceeding under an existing PUD zoning and you've got to meet all the requirements to code to do that; or you're submitting a new site plan and you've got to meet all the provisions of 22-58, which is your site plan review code to do that. In this case I think you have a situation of, "we want our cake and eat it too," "we want to use your PUD zoning, but we don't want to be a part of your community, we don't want to be subjected to your restrictions." And I don't think that's appropriate. There was several issues that were raised here last month with regard to buffer, with regard to height. Mr. Fabbri, in the beginning of his presentation, represented to the Board that there were going to reduce the total units by 50 units. Every time we've met with them it's been somewhere between 36 and 40, because they're reducing the heights on the east facing only, not for the entire project. Again, if you're traveling under the original PUD what was approved was all 2-story buildings...there was no 3-story buildings. And the residents of Lawnwood fell very strongly that a 3-story apartment complex

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directly behind their homes is not a compatible use. You heard discussion about the buffers and the fact that they exceed what the minimums are in the code, but when you look at the PUD ordinance, it says the commission, and to some extent, this Board as a recommending body to the commission, has the right to say, “no, we need more buffering.” Because this is a PUD and this is suppose to be a cohesive community, and these are the things we have to look at when we affect other people’s property values. So, I implore this Board, I think there are legal issues that are outstanding, specifically with regards to compliance with the code that I would request. Perhaps have staff work with legal and decide what kind of animal we are. I think you still have some of the same questions about buffering, about compatibility of a 3-story building, I think those are very serious questions. Even if you meet the requirements of the state through the use of a South Florida Water Management District permit, you have City Code requirements about shared facilities. And I don’t think they’ve met the requirements set forth in the PUD for shared facilities. And it’s based on those specific legal issues that I would implore this Board to either make a recommendation of disapproval or to table it to give the staff and legal staff the opportunity to review those issues. Thank you.

Mr. Bergman – Thank you.

Applause from crowd.

Mr. Bergman asked if there were any questions from the Board? And asked if there was anyone else present to speak on opposition of the PUD application?

Mr. David Mackalheny stated – I just found out about this about four weeks ago myself. We have more than one homeowner’s group in there that this is going to affect. I belong to Lawnwood Place, we have 24 units. I’m just a director there, the president wasn’t able to make it tonight, but we also have a gentlemen in the audience that’s president of the Pines with 127 units. We knew nothing. How this is going to impact us is traffic. We have one way in, one way out, and our traffic right now is horrible. They come speeding up. **Applause.** We have Nebraska coming in off of 13th and from there on it’s a racetrack to the hospital. We have over 1000 workers at the hospital every day...three shifts. We have 400 patients there every day. We have people coming and going from out patient every day. We have the Lawnwood Pavilion that’s a large recovery unit plus an alcohol and drug recovery. We have a nursing home in the area. We have no way sometimes to get in and out of there. And unless you’re going to put your hands in someone else driving doing about 50 mph coming down either Lawnwood Circle or Nebraska. Our concern is traffic and me looking up the street and seeing that giant of a 3-story building when I thought I was moving to a nice little neighborhood that I could spend the rest of my life in peace. Thank you.

Applause from crowd.

Mr. Bergman asked if there was anyone else present who wished to speak?

Ms. Ronnie Hulick stated – My house is right next to the lot and I just heard about what was going on here so I checked with some friends of mine in Ft. Pierce and found out that the Richmond Group is like a lot of groups; they go around the country and buy pieces of land here and there and then they go to the legislature and get money to put up low-income housing and they take the money, do the building, take the money and run. And we’re left with all the problems, the crime and the traffic. And I live alone and I’m right next to this

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lot that's going up, and I just wanted to clear it up. Mr. Ambach owned this. Did he sell it to the Richmond Group? Did the Richmond Group go to the legislature to get money to put up low-income housing? Because now it's just going to bring the value of mine down. I would not feel as protected. And another thing, they talk about their rights. They come in and they buy the property so they own the property and they have a right. But where are our rights? I'm a veteran of War World II, I live with my contemporaries. What are our rights? Do they go right out the window? Because somebody wants to come in, develop a piece of land, take the money and run. And I'm very upset, so I hope you'll consider my feelings because I live right next to this lot.

Applause from crowd.

Mr. Bergman – Thank you.

Mr. Bob Passinette stated his name and address as 1323 Peppertree Trail in the Villages of Longwood. He then added – I am proposing for your consideration the following beneficial alternatives for the proposed property. One – A national medical center encompassing Lawnwood Hospital with the purchase of the property in question...Lawnwood Trauma Unit. Two – To be financed by Lawnwood Hospital, the city government, the state government, and the federal government spearheading this drive for funding. It would give the City of Ft. Pierce and Lawnwood Medical Hospital the national recognition to Ft. Pierce and throughout the USA, thus enhancing all the property value in the area. And it would be beneficial to the health to all concerned. Thank you very much.

Applause from crowd.

Ms. Julie Fitzpatrick Holmes stated – Members of the Board, thank you very much, Mr. Walker, thank you for the opportunity for rebuttal. This Board has been presented with a site plan for recommendation of approval or denial. On March 9th I have in writing through Mr. Trias the staff's recommendation for approval. I think that some of the comments made here tonight belie the real issue underlying the stagnation that is overcoming staff and this Board. And I would urge the Board to consider your legal obligations under federal and state fair housing laws. I would urge this Board to request staff delineate for the record any concerns or deficiencies which they have found with our written site plan that has been submitted by Mr. Schmitt's agency. And we would request that this Board make a recommendation on the site plan that has been submitted this evening. Thank you.

Mr. Bergman stated – All right, we've heard both sides, and the public hearing's closed.

Mr. Trias stated – Mr. Chairman, the rules of site plan review require that a sample be submitted and be reviewed by staff. And this is forwarded to the Planning Board; therefore, I would recommend that you follow your own procedures.

Mr. Bergman stated – All right, thank you. All right, Board.

Ms. Gates stated – Mr. Chairman, I have not seen a revised site plan. I have not seen this in writing. I've come here tonight prepared but I don't see anything different than I saw last month. I cannot in fairness make

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a good decision based on anything that is said here tonight. I need to see it in writing; therefore, I will not either to be able to support this cause or I'm going to ask to table it. I don't know how my fellow Board members feel...if we can discuss this or if you would like me to make a motion.

Mr. Bergman stated – Whatever your pleasure.

Ms. Gates asked – Can we discuss it or would you prefer ...?

Mr. Bergman stated – I think we need to discuss it. There's probably some questions that could be asked of staff.

Mr. Poitier stated – I'd like to see something in writing. I don't see anything in writing...just words. Our duty is to follow the guidelines of the Planning Board, that we should have it in writing so we can vote on it. And I can't support it either. Thank you.

Ms. Benton stated – I think I heard a legal issue that was raised by the representative for the association. And I would certainly like to hear more about that from our city attorney's point of view. And that is whether or not we're now given the words of the presenters traveling under a new site plan or whether we are traveling under the old site plan, and whether or not there is the compatibility between the site plan and the old PUD regulations and rules. I think that was raised by the attorney for the association. There is a bit of confusion, I mean right now the only we have before us is the old site plan. We don't have a revised site plan, and perhaps Mr. Walker, could you advise us as to what the City Attorney's position is in reference to whether there is compliance under the old site plan in terms of compatibility under the PUD rules?

Attorney Walker stated – Mr. Chair, in addressing that concern, the code provides that the section 22-40M for unified control, it states all land intended to be included in the plan unit development shall be under the legal control of the applicant whether the applicant be an individual partnership or cooperation. I understand or assume that when the application was initially made at that time all of the property was in fact held under one ownership. The code goes on to provide that subsection N procedures for maintenance of common areas and requires that the property be conveyed either to a public agency or to association, which impose a declaration of covenants and restrictions acceptable to the City Commission as providing for the continuing care of the property. And then the code further provides that the property not be put to a use not specified in the final development plan unless the final development plan is first amended to permit the use. Mr. Chair, I would have to rely on the planning staff to tell us whether there is documentation that has been submitted to demonstrate compliance with the unification requirements, which provide for common maintenance responsibilities. Beyond that, Mr. Chair, if you will allow me to drift away a little bit from the scope of the question to respond to another concern.

Mr. Bergman – Certainly.

Attorney Walker continues – And that with leave of the Chair may require one or two questions to be put to the staff for the purpose of clarifying the record and then offering my own legal recommendation to the Board. Section 22-40N states that the property as I've indicated not be put to a use other than what's specified in the final development plan. And then section 22-40S states building permits for construction

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shall be issued only if consistent with an approved final development plan. The initial question that I have for staff is this. Is the application that is currently before the Board completely consistent with the final development plan as previously approved with the PUD?

Mr. Trias stated – No it's not. And that was discussed previously and our interpretation of that was that this was not the original PUD any more. We explained that and apparently the applicant disagrees with that opinion.

Attorney Walker stated – Mr. Chair, based upon the representations of staff and as further noted in information supplied in the discussions, then I think that we're at a point provided by section 22-40S sub sub 3, which states the amendment of an approved development shall be in the manner provided for adoption of the development plan. Since we are not proceeding precisely on the original plan as approved, then any differences therewith are to be construed as amendments and in that case the application procedures are specified in section 22-40Q which is very specific about the written documents that are required in furtherance of any such propose amendment and any site plan and supporting map requirements. The next question that I have for staff, Mr. Chair, is this; has there, Mr. Trias, been compliance by the applicant with the detailed requirements of section 22-40Q as to any amendments or deviations that are proposed from the previously approved final development plan?

Mr. Trias stated – No, based on their input, they're clearly not.

Attorney Walker stated – Mr. Chair, based on the answers of staff, which indicate that the procedures specified for review of amendments have not been approved, I would join with staff in a recommendation that the matter be tabled so that these procedures can be followed with respect to any proposed amendment. I don't think any fault is to be attributed to any particular party here but I do think that perhaps there has been some confusion surrounding the whole process. And what seems to fairly clear is that the requirements of 22-40Q have not been followed as to any proposed amendments, and that review process, with the document that is required therewith, would permit a response to Ms. Benton's question about the unification issue because that certainly is reviewed as part of the review process. Thank you, Mr. Chair.

Mr. Bergman stated – All right, thank you, Mr. Walker. Did everyone understand Mr. Walker's...? Okay, hearing that, what's the pleasure of the Board?

Ms. Gates stated – Mr. Chairman, I'm going to make a motion that we table this issue out of fairness to the applicants, even though they don't seem to want this. But I'm going to make a motion unless they say differently. I'm going to make a motion to table this for 30 days.

Attorney Walker stated – Respectfully a point of order. Under section 22-143 I think that gives discretion to table, it furthers provides that quote, "Upon recessing the date and time when the hearing is to be resumed shall be announced." Therefore I would recommend that the motion incorporate a meeting when it would be brought up again.

Ms. Gates stated – I think in motion I stated, maybe you didn't understand me, maybe 30 days or at our next Planning Board meeting.

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Attorney Walker stated – No, I missed that, thank you.

MOTION WAS MADE BY MS. GATES TO TABLE THE PUD UNTIL THE NEXT MEETING. Seconded by Ms. Benton. Unanimously approved by roll call vote.

Agenda Item #5 – Site Plan w/Conditional Use – Approval to allow the construction of a single-family residence eastward of the Coastal Construction Control Line. Owners/applicants are James & Sandra Pauly.

Staff Report – Ms. Clark stated – First of all Mr. Chair, the applicant apologizes for not being here, he had every intentions of being here and had come down with a sudden illness just over the weekend. The application requires site plan w/conditional use because it is eastward of the Coastal Construction Control Line. It is for single family. It complies with all of the standards for R-1 zoning regulations, and staff is recommending approval.

Mr. Bergman asked if there was any question for staff from the Board?

Ms. Brenner asked – Will they have to submit to all the alphabet soup divisions of the state for their permitting...is that correct?

Ms. Clark stated – Yes ma'am.

Ms. Brenner asked – Is that going to be on pilings

Ms. Clark stated – State permits would be required prior to submitting for a building permit.

Ms. Brenner – Okay, thank you.

Mr. Bergman asked if there was any other questions for staff? Anyone present to speak on behalf of the site plan? Anyone here to oppose the site plan application? What's the pleasure of the Board?

MOTION WAS MADE BY MR. POITIER TO APPROVE THE SITE PLAN W/CONDITIONAL USE. Seconded by Mr. Johnson. Unanimously approved by roll call vote.

Agenda Item #6 – Site Plan w/Conditional Use – Approval to allow the construction of a duplex eastward of the Coastal Construction Control Line. Owner/applicant is John Green.

Mr. Bergman stated – Our firm is doing this project and he filled out the Conflict of Interest form.

Since Ms. Gates had to leave at this point, and since Mr. Bergman had to abstain due to conflict of interest, there was no vice chair available. Therefore, by the advice of Attorney Walker, it was recommended that temporary chair be elected for this agenda item. Ms. Benton was therefore elected.

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Staff Report – Ms. Clark stated – A similar application as the previous single-family home. It is a duplex, oceanfront property, eastward of the Coastal Construction Control Line. The site plan has been reviewed by all city departments, and staff is recommending approval.

Ms. Benton stated – Thank you. Are there any questions of staff at this by the Board? Anybody here to speak on behalf of this item?

Mr. Al Brodeur stated – I'm with Thomas Lucido & Associates and I'll be happy to answer any questions you may have on the project.

Ms. Benton asked if there was any questions for the applicant? She then asked the applicant is there was anything particular he would like to tell the Board?

Mr. Brodeur stated – As in the last project, this will be submitted to the state once it receives local approval. It is required to be on pilings, it sets east of the Coastal Construction Line with break-away walls. We've also submitted a dune restoration plan and we're also going to submit a dune cross over plan once we receive local approval. And DUP won't approve that unless we submit that with it.

Ms. Benton – Thank you. Are there any persons here to oppose the plan?

MOTION WAS MADE BY MR. POITIER TO APPROVE THE SITE PLAN W/CONDITIONAL USE. Seconded by Mr. Harris. Unanimously approved by roll call vote with Mr. Bergman abstaining.

Agenda Item #7 – Annexation – 2205 S. 25th Street – Karson.

Staff Report – Ms. Clark stated – The annexation is voluntary. The property is contiguous to Ft. Pierce City limits, and staff is recommending approval.

Mr. Bergman asked if there was any questions for staff from the Board? If anyone was present to speak on behalf of the annexation request? No one opposed it.

MOTION WAS MADE BY MR. ENNS TO APPROVE THE ANNEXATION OF 2205 S. 25TH STREET. Seconded by Mr. Poitier. Unanimously approved by roll call vote.

Agenda Item # 8 – Annexation – Marvilla Heights – Gevinson.

Staff Report – Ms. Clark stated – The annexation is a voluntary request. The property is contiguous to City limits, and staff is recommending approval.

Mr. Bergman asked if there was any questions for staff from the Board.

Ms. Brenner stated – Wendy, I had a problem with the diagram. It only list the property number 0006 on both of them, and I couldn't decide where your 0003 is. It looks as if it should have been across the street.

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Ms. Wendy – On the map?

Ms. Brenner stated – It says that there are two parcels, one valued at \$177,000 and the other one valued at \$42,800, and numbered 0006 and the largest parcel 0003, and that's not on the diagram, and I was wondering where is it?

Ms. Clark stated – My thought is that the property has been combined under contiguous ownership.

Ms. Brenner asked – That equals the total amount of acreage?

Ms. Clark – Yes, as reflected on your map.

Ms. Brenner – Thank you very much.

Mr. Bergman asked if there was any other questions for staff?

No one was present to speak on behalf or in opposition of the annexation.

MOTION WAS MADE BY MR. JOHNSON TO APPROVE THE ANNEXATION OF MARVILLA HEIGHTS. Seconded by Mr. Poitier. Unanimously approved by roll call vote.

No discussions.

Meeting adjourned at 8:20 p.m.

