



# CITY OF FORT PIERCE PLANNING BOARD

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## Planning Board Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON TUESDAY, MAY 12, 2009, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

Chairman Johnson called the meeting to order.

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The Pledge of Allegiance was recited.

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Upon Roll Call, those present were: Chairman Jeremiah Johnson, Tom Knott, Colin Lloyd, Robert Poitier, Edward Reilly, Kara Wood, and Camile Yates.

Those absent: Dan Dannahower, Charlie Harris and Charles Hayek.

Staff Present: James Walker, Assistant City Attorney; David Carlin, Assistant Director of Planning; Erica Ehly, Comprehensive Planner; Leslie Olson, Historic Preservation Officer/Planner; Duane Yazzie, Development Review Planner; Bob Frank, City Traffic Engineer; and Maritza Suarez, Executive Assistant.

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

Chairman Johnson said Mr. Weaver, I just wanted to verify you have full voting privileges as a member. Thank you.

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The next item considered – **# 5 – Approval of the April 14, 2009 Planning Board Minutes.**

Chairman Johnson said are there any additions or corrections that need to be made to those minutes?

**Motion made** by Mr. Poitier and seconded by Ms. Yates **to approve the minutes.**

Unanimously approved by voice vote.

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The next item considered: **Item # 6 - Voluntary Annexation – Amortec** – Approval of an application for annexation of a parcel totaling 2.76 acres identified as being contiguous to the municipal boundaries of Fort Pierce. The parcel is located at 1031 DiGiorgio Road. The owner is Contech Construction Products, Inc., Dan Moody. The representative is Land Design South/Bradley J. Currie, AICP.

Chairman Johnson said could we have staff report please?

Ms. Ehly said good evening Mr. Chair and Board members. This item is a request to forward a recommendation of approval to the City Commission for a voluntary annexation of a 2.76 acre parcel located at 1031 DiGiorgio Road which is south of Glades Cut Off Road, east of Sunrise Boulevard and west of U.S. Highway 1. The property is surrounded by industrial land uses, and as you can see from this slide, the Comprehensive Plan identifies the proposed future land use of this property as County Industrial. In addition, the parcel is currently zoned Industrial Light in the County and it is proposed to receive the compatible City zoning of Light Industrial. In addition, the annexation of the subject property will not affect the ability of the City to provide public facilities. Staff recommends the Board forward a recommendation of approval.

Chairman Johnson said okay, very good. Any questions of Staff from the Board? Seeing none, anyone here from the public that would like to speak for or against this request? We'll return to the Board and entertain a motion.

**Motion made** by Ms. Yates and seconded by Mr. Poitier **to forward a recommendation to the City Commission for approval of the annexation for the parcel located at 1031 DiGiorgio Road.**

Ms. Wood said Mr. Chair? I have no questions. Mr. Walker and I have discussed in the past. I'm trying to avoid any potential or seeming appearances of conflict with my voting on annexations or any other issues with which the County might take a position that might, again, show an appearance of conflict. I just wanted to recuse myself from voting on this item as well as the rezoning on this item later on in the agenda unless Mr. Walker has any concerns for that.

Chairman Johnson said Mr Walker, any concern with that?

Board Attorney Walker said respectfully, the only additional comment that I would offer is a kind reminder that you pick up a form 8B with the Clerk.

Ms. Wood said yes Sir. Thank you.

Chairman Johnson said very good. We have a motion and a second on the table. Any discussion on that? Seeing none, could we have roll call please?

Those in favor were: Mr. Knott, Mr. Lloyd, Mr. Poitier, Mr. Reilly, Mr. Weaver, Ms. Yates and Chairman Johnson.

Those opposed: none.

Ms. Wood abstained.

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The next item considered: **Item # 7a – Removal of fees from the City Code** – A zoning text amendment to remove fee amounts specified for development applications in Sections 3, 11.5, 15, 18, and 22 of the City Code.

Chairman Johnson said could we have staff report please?

Mr. Carlin said good evening Mr. Chair and members of the Board. Tonight, this is a housekeeping matter. I presented to the Commission several weeks ago a discussion on fees. The current structure where we have several applications that are identified in the Code where we have fees for various development permits whether it's alcoholic beverage Waiver of Distance requirements, landscaping permit fees, we have fees for subdivisions, fees for signs and what we're doing here is removing those fees from the Code. The reason why we're doing that is because the fee structure that is currently in place has not been updated in a very very long time, they're outdated and there are even fees within the Code that are inconsistent with one another. We have a fee for a subdivision that is specified as \$25 in one section and another section it says it's \$100 or change, something along those lines. What we're doing here procedurally is cleaning up some inconsistencies. We're also going to update our fee structure by including different types of applications that we often engage in and not just our department but other departments as well; particularly with development agreements, annexation agreements, reviewing and staff research in-house in the department for zoning verifications, things like that, typical transactions yet our Code does not have specific references to these fees. What we're doing is we're going to remove the fees from the Code and then we'll bring that forward to the City Commission that will require two public hearings. At the second public hearing, the City Commission will adopt a corresponding resolution that will transfer, basically, some of the existing fees into a resolution but will also add and modify the fees to bring them up to today's more consistent standards with other municipalities. Staff is recommending that the Planning Board forward a recommendation for approval of this text amendment to the City Commission.

Chairman Johnson said any questions of staff? When will the resolution be brought forward? Is there going to be an overlap? Can we eliminate fees and they're not going to have fees?

Mr. Carlin said the resolution will be presented right behind the second reading of the ordinance to remove the fee structure. It will be right then and there. The Commission will have the opportunity at that time to make the changes very easily. This is a housekeeping matter that will simplify the process. If for example, we have a new fee that if the City Commission determines to be appropriate, we don't have to go through this lengthy review process and public hearings. They could adopt it via Resolution. It's very simple. Most municipalities do it that way. We have an old Code, as you all know, and this is going to

the new Millennium where we have just standard operating procedures. We'll have a corresponding resolution adopted at that second hearing.

Mr. Knott said this resolution, will it be Commission driven or will the public or the Board have any input on that resolution of the new fee structure?

Mr. Knott said Mr. Chair, Mr. Knott certainly if you have any recommendations regarding the fee structure as it stands today, you can certainly convey that to the department. If you have any additional concerns, you can certainly express those at the time the ordinance is contemplated to remove it out because it will be a public hearing.

Mr. Knott said but it's not necessary for that resolution to come to this Board, is that right?

Mr. Carlin said Mr. Chair, Mr. Knott that is correct. Resolutions typically don't come to the Planning Board.

Mr. Knott said they just go right to the Commission so we have no input on that. Is that something we could look at?

Mr. Carlin said certainly. I can give you the resolution. I'm still trying to finalize some of the numbers and some of the development applications but it's essentially in its entirety it's completed. If you all want, I can get you a copy of that. This isn't going to the Commission until the June timeframe anyway. You'll have some opportunity to review the resolution. Again, many of the fees that are already there will stay. Some will be modified and the numbers will increase and some new things will be added in the resolution.

Mr. Knott said what are you using for your criteria for increasing these?

Mr. Carlin said we look at industry standard, what other municipalities charge. You have to look at the overall size of the City, what kind of municipality so we don't want to compare the City of Miami to Fort Pierce or something like that. Local municipalities, what St. Lucie County does is another fair comparison. We look at those figures and determine the consistency for industry standard. The Commission has the ability to decide what the numbers are going to be in the end.

Mr. Knott said that's fine. If you could just email it to us like we did with the packet this month that would be nice. I'd just like to take a look at that to see how much we're much jumping in some categories. Thank you.

Mr. Poitier said I got a question. If you bring it up to us, we don't know what to charge, how are you going to charge it – by Port St. Lucie or Palm Beach if you remove all these fees?

Mr. Carlin said as I indicated, some of the fees are not going to change. They are going to stay the same. What we're really doing here is looking at the fees that are really out of touch with reality. When someone comes in for a subdivision and they only have to pay \$100 per acre when other municipalities and most municipalities charge \$1,500, \$1,600, \$1,700 for a technically-based review, we are not being practical. That's what we're

saying. We're looking at some of these major holes. The other thing I'd like to point out is that there are fees that are required by the City Code, fees for Design Review, this Board serves as the Design Review but also Concurrency. The Code says that the City Commission shall adopt those fees and to date, there are no fees in our Code. Again, we have not been collecting fees for activities that are development and developers initiated. That's why it's so important to have this discussion now to make sure that we account for the different things.

Mr. Poitier said okay, thank you.

Mr. Weaver said I'd just like to reconfirm that a resolution will take a public hearing to get approved?

Mr. Carlin said Mr. Chair, Mr. Weaver, I cannot confirm whether or not resolutions are public hearings. That is something that maybe Mr. Walker can opine on but the City Clerk could certainly steer you in the right direction on that.

Mr. Weaver said Mr. Walker?

Board Attorney Walker said Mr. Chair, my understanding is that a public hearing will in fact be required and may I, Mr. Chair, just briefly weigh in on the question previously raised by Mr. Poitier who was asking about the basis for the fees. Fees are in contrast to taxes. That means that they are in fact based upon the amount of time required by staff to undertake the matter for which application is made. Staff has undertaken a very thorough study of the time requirements and the various instances and has further taken into account the time and the effort reasonably required in other municipalities in determining what the standard reasonably ought to be in processing these things. I felt that it would be a useful exercise to briefly clarify the response to a very good question as raised by Mr. Poitier. Thank you.

Mr. Poitier said thank you.

Chairman Johnson said does anyone from the public would like to speak for or against this request. Seeing none, anyone here from the public that would like to speak for or against this request? Okay, we'll return to the Board and entertain a motion?

**Motion made** Mr. Poitier and seconded by Ms. Yates **to forward a recommendation to the City Commission to approve the removal of fees specified in Sections 3,11.5, 15, 18 and 22 of the City Code.**

Those in favor were: Mr. Lloyd, Mr. Poitier, Mr. Reilly, Mr. Weaver, Ms. Wood, Ms. Yates, Mr. Knott and Chairman Johnson.

Those opposed: none

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The next item considered: **Item # 7b- Adult Congregate Living Facilities** – An applicant-initiated request for approval of a zoning text amendment to amend Chapter 22-30(c) of City Code to allow Adult Congregate Living Facilities in the C-2, Neighborhood Commercial zoning district as a Conditional Use.

Ms. Olson said thank you Mr. Chair. This evening's agenda item is an applicant-initiated text amendment to the Code permitting adult congregate living facilities as a Conditional Use in the C-2 zoning districts. ACLFs as they are known, are permitted in the R-2, R-3, R-4, R-4A, R-5, C-1, C-3 and C-5 zoning districts. In fact, it is permitted in every zoning district in which multi-family is permitted except in the C-2. C-2 allows multi-family but does not permit as a Conditional Use an ACLF. The purpose of the Neighborhood Commercial Zoning District is to provide for small-scale development under 5,000 square feet. It does not permit anything over 5,000 square feet to serve an adjacent residential community. Creating an ACLF as a Conditional Use in the C-2 zoning district would be beneficial to adjacent neighboring communities because it increases the potential of aging in place, not having to move out of your neighborhood when you get older. The text amendment when we evaluate them, we also evaluate them with conformity to the Comp plan. On page 614 of the Comprehensive Plan, it recommends "Policies to incorporate small-scale affordable, elderly rental facilities within existing residential neighborhoods should be encouraged." The reason for this is that the Comprehensive Plan found that our numbers for very elderly residents do not appear to be increasing. Large scale ACLFs are not necessarily called for but small scale ACLFs integrated into existing residential communities is encouraged. What's more, page 6-19 of the Comp Plan states that 17% of all very low income households are elderly in the City of Fort Pierce and approximately 29% of all low income households in Fort Pierce are elderly. This text amendment is supported by the Comp plan given that evidence during the Conditional Use process should be submitted by the Applicant showing how they will be providing for these low and very low elderly income residence and also allowing ACLFs in the C-2 zoning district will provide for small-scale under 5,000 square feet elderly care facilities and that's recommended by the Comp Plan. Staff does recommend approval of this.

Chairman Johnson said thank you very much. Any questions of staff from the Board?

Mr. Weaver said Ms. Olson, I couldn't find an allowance for ACLFs in R4-A?

Ms. Olson said I did but I can check it.

Mr. Weaver said just for clarification.

Ms. Olson said I did check that and I saw it somewhere but I did not bring my Code down with me.

Chairman Johnson said is that in R-4 or R-4A?

Ms. Olson said R-4 and R-4A.

Chairman Johnson said okay.

Ms. Olson said but in any case, perhaps it's not. Perhaps I was wrong.

Mr. Carlin said Steve, the R-4A does permit as a Conditional Use, adult congregate living facilities.

Mr. Weaver said thanks.

Chairman Johnson said any other questions of staff? Do we have a map of the current zoning?

Ms. Olson said yes Sir. Our C-2 zoning districts are scattered very sporadically throughout the City and so there are two maps. The dark-shaded portions are the C-2 zoning districts. They are fairly sporadic. There's 25<sup>th</sup> Street, Avenue E is the east-west dark block, 13<sup>th</sup> street is the north-south dark block right there and then we have some down here off of Okeechobee and that guy over there and then on the south end of Fort Pierce. I have more sporadic, Virginia Avenue, there's 25<sup>th</sup> Street heading down Oleander to Midway down there. Those are our C-2 zoning districts.

Chairman Johnson said alright. Very good. Thank you. Any questions?

Mr. Knott said Leslie, you said this was applicant-driven?

Ms. Olson said yes.

Mr. Knott said which parcel, do you know?

Ms. Olson said and you may be familiar with this site. There is new-looking apartment building at about 17<sup>th</sup> and D. It's a very nice looking building. It is located approximately right here.

Mr. Knott said and it's existing that they are going to convert into it?

Ms. Olson said it's an already existing multi-family. It has four apartments. Especially because an ACLF must be expected at least once a year by the Health Department it will have more regulation on the impact on the neighborhood. You'll have fewer occupants in that building than you will if it's just multi-family and it's already zoned for multi-family.

Mr. Carlin said Mr. Chair, members of the Board. I just wanted to make sure that you are clear that tonight the only thing that is being advanced is the text amendment itself. The actual future use or potential use would be something put forth to you all at a later time. I just want to make sure this is only for the text amendment.

Mr. Knott said thank you.

Chairman Johnson said any other questions of staff? Seeing none, anyone here from the public that would like to speak for or against this request?

Mr. Sowerby said my name is Dave Sowerby. I represent the applicant in this. I cannot have made a better presentation than Ms. Olson made so I'll answer any questions that you might have but other than that, we seem to be moving along pretty good and I'm not going to hold you up.

Chairman Johnson said any questions of Mr. Sowerby? Thank you. Anyone else here to speak for or against? Seeing none, we'll return to the Board and entertain a motion.

**Motion made by Mr. Knott and seconded by Mr. Poitier to forward a recommendation to the City Commission to approve a zoning text amendment to amend Chapter 22-30(c) of the City Code to allow Adult Congregate Living Facilities in the C-2, Neighborhood Commercial zoning district as a Conditional Use.**

Those in favor: Mr. Poitier, Mr. Reilly, Mr. Weaver, Ms. Wood, Ms. Yates, Mr. Knott, Mr. Lloyd and Chairman Johnson.

Those opposed: none.

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The next item considered: **Item # 8 - Zoning Atlas Map Amendment – Amortec** – A request for approval for a change in zoning classification from I-1, Industrial Light to I-3, Industrial Heavy for the property located at 1031 DiGiorgio Road. The owner is Contech Construction Products, Inc., Dan Moody. The representative is Land Design South, Bradley J. Currie, AICP.

Chairman Johnson said could we have staff report please?

Ms. Ehly said good evening. This is the property that we just heard the annexation application for. The applicant is requesting change in zoning from I-1, Light Industrial to I-3, Heavy Industrial. They are requesting the change to transfer a concrete block manufacturing facility to this site that is currently operating on Midway Road. The zoning classification is consistent with the future land use of County Industrial and compatible with the surrounding land uses. Public facilities are available for this change in use. The property is surrounded by industrial land uses and the area is designated as an industrial area in the Comprehensive Plan. The property owner will be submitting an application for a Conditional Use in the near future and all three applications will go to the City Commission concurrently. It is anticipated that the minimum requirements that were listed in the staff report will be met at that time. Those include the landscaping and parking requirements, the site-obscuring fence and that all the uses be contained within the property boundaries. Staff recommends that the Board forward a recommendation of approval to the City Commission as this change in zoning is consistent with the Comprehensive Plan and with the amendment standards in Chapter 22.

Mr. Knott said is it customary to have a site-obscuring fence and to call out that you must keep everything on your property with a rezoning like this or an industrial use of this heavy nature or are these special conditions?

Ms. Ehly said well Mr. Chair, Mr. Knott it is customary to point out any inconsistencies with the City Code or with the Comprehensive Plan when we're processing an application for anything. These were just issues that Staff noted but it's also understood that they'll be addressed during the Conditional Use process but certainly if you look at the Survey you can see that the uses were going outside the boundaries and there are some other issues that maybe the Board might have picked up on or anything. We just wanted to let you know that we've seen those and that they'll be addressed.

Mr. Carlin said Mr. Chair, Mr. Knott just to follow up on that. Basically, we know they're probably going to submit a Conditional Use application and those things would be addressed because there will be a change in the site and that's what triggers bringing certain things into compliance. That will be associated when the development moves forward and that we're understanding from the applicants that would be considered sort of shortly.

Mr. Knott said so he knows what's got to do to get into compliance? Thank you.

Chairman Johnson said one question, do we know with this change what the applicant is going to do with this property as far as the building? Is he going to contribute any extra heavy industrial waste to the wastewater treatment system? Do you know if anything is going to happen of that nature? I wouldn't think so with his business. However, because of our change in zoning, something like that may occur. Did we have any discussion of that nature?

Ms. Ehly said Mr. Chair, we didn't have a discussion specifically regarding that but the FPUA did review this application and had no comment regarding anything to that nature. We do have the applicant's representative here, Chris Gaumer, that he could possibly answer questions.

Chairman Johnson said and do we know did Fort Pierce Utilities state that they were serving this area with wastewater service at this time. Do we know?

Ms. Ehly said this particular site? I don't think they are receiving that currently. I think when we looked at the map, the pipe goes to DiGiorgio Road but I don't think it's actually connected here.

Mr. Carlin said Mr. Chair, I'm familiar somewhat with this area because 84 Lumber, some of you have considered several years ago, and I believe that they were on septic line but they were provided water. I believe that was the pipe configuration in this area. It's quite possible that the same setup would be applicable here but we can further look into that to see what specific requirements are needed for FPUA standards.

Chairman Johnson said I know years ago the County was working on an MSBU program to bring wastewater service to the area. I didn't know if it ever happened or not. I know the water came through but the wastewater never did. It was too expensive for all the landowners. I just want to make sure that we don't have someone come in at a later time if something were to happen to this property or change or not we're into a different use or we're

in a different condition and now we've got heavy industrial in an area we may or may not want.

Ms. Ehly said Mr. Chair, when the FPUA reviews it, it reviews for capacity for water/wastewater specifically and we didn't receive any comments as to any kind of issue.

Chairman Johnson said that's fine. Thank you. Any other questions of staff?

Mr. Weaver said did we confirm what type of use and more specifically what the applicant is making?

Ms. Ehly said Mr. Chair, Mr. Weaver, they are going to manufacture concrete block for shoreline stabilization blocks. That's the specific use they'll be doing with this change in zoning classification. Thank you.

Chairman Johnson said any other questions? At this time I'd like to invite the applicant forward or anyone from the public wishing to speak for or against this request?

Mr. Gaumer said good evening Board members. Erica did a great job presenting. I think she answered most of your questions.

Chairman Johnson said what is your name for the record?

Mr. Gaumer said Chris Gaumer of Land Design South.

Chairman Johnson said okay.

Mr. Gaumer said if you have any further questions.

Chairman Johnson said any other questions? I think I got what I needed. Any questions of Chris? Alright. Thank you. Anyone else here to speak from the public? Seeing none, we'll return to the Board and entertain a motion.

**Motion made by Mr. Knott and seconded by Mr. Poitier to forward a recommendation to the City Commission for approval of the change in zoning classification from Industrial Light to Industrial Heavy for the property located at 1031 DiGiorgio Road with the following conditions:**

- 1. The landscaping and parking must meet to Code requirements;**
- 2. The fence must be site-obscuring; and**
- 3. All uses must be contained within the property boundaries.**

Those in favor: Mr. Reilly, Mr. Weaver, Ms. Yates, Mr. Knott, Lloyd, Mr. Poitier, Mr. Johnson

Those opposed: none

Those who abstain: Ms. Wood

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The next item considered: **Item # 9 - Site Plan and Conditional Use – Kiwi Condominiums:** An application for approval of a site plan and conditional use to construct a new six unit condominium complex on a 0.77 acre parcel. The property is located at 1240 Seaway Drive and is zoned C-5, Tourist Commercial. The owner/applicant is Nick Gross – Kiwi Partners, LLC. The representative is John Adair – Culpepper & Terpening, Inc.

Chairman Johnson said could we have staff report please?

Mr. Yazzie said good evening Board members, Chairman Johnson. In accordance with Section 22-58 of the City Code, the applicant is requesting the review and approval for a site plan and conditional use to construct a new two-story six unit condominium. The property is located at 1240 Seaway Drive on a 0.77 acre parcel. The property is zoned C-5, Tourist Commercial, and the surrounding zoning to the east and west is also C-5. The properties to the south are R4-A, Hutchinson Island Medium Density Residential Zone. The two-story condominium will be constructed of concrete block and will have a stucco finish. The roofing system will be a mixture of a 5/12 pitched, boston-hip and gable framed construction with a metal standing seam roofing system. The decorative exposed gable insets as well as out-lookers will be placed under the eaves and under the areas where single sloped shed roofs will be. The single hung windows will be enhanced with louvered and bahama styled shutters. The proposed color scheme will be a yellow over the main stucco façade and the doors will have a contrasting light orange. The shutters will be a forest green. The building will be situated along the Inlet to maximize the view. In addition to the condominium units the property will have two additional structures built on site to house the tenant's vehicles as well as an attached manager's office. The manager's office will be located attached to the six enclosed garages. The style and color scheme will match the main condominium building. In addition, an aesthetic feature has been added to the garages, which consists of a white column with an aluminum handrail and a decorative barrier which matches the main building. This feature also mimics the dwelling unit entry way. Amenities for the project are located at the rear on the north-side of the property overlooking the inlet. They include an in-ground pool with a traditional style tiki-hut which is near the pool. Access to the property will be from Seaway Drive on a 26' wide, paver-stone driveway and parking lot. As mentioned, the tenants will have 6 dedicated enclosed parking spaces and there will be 14 additional parking stalls for visitors and guests. A handicapped stall has been included to satisfy parking requirements. This stall will be located near the proposed manager's office which is attached to the set of garages to the west. Lighting will be installed to adequately light sidewalks and parking areas as required by Section 22-58(d)(8) of the City Code. The lighting will be housed on a traditional pole structure as well as a decorative bollard style lighting. The project will incorporate an ex-filtration system for drainage. In addition, to the east along the properties boundary line an additional 10' foot easement was requested by the City Engineering Department and the Florida Department of Transportation. This easement has been requested to facilitate drainage along Seaway Drive. The drainage plan demonstrates where the future drainage pipe would be located. As such, the applicant has been working with the City and F.D.O.T regarding installing the pipe concurrently with site work. The project currently has sidewalks along Seaway Drive.

Additional sidewalk connectivity will be implemented along the western boundary to access the parking area, condominiums, and the rear of the property. In addition, the applicant has set aside 15 feet of property for a pedestrian access easement located along the Inlet. This access easement will be built as part of the project and includes a dedicated bicycle lane. The applicant is currently seeking the approval from the appropriate agencies for the construction of the bulkhead that will occur near the protected aquatic zones. Landscaping will be proposed along all vehicular use areas and Right of Ways as well as around a backflow restrictor. The landscaping includes a variety of palms and shaded trees as well as shrubs to provide buffering. Additionally, similar vegetation will be installed around the pool deck for shade and visual buffering. The traffic analysis for the proposed condominium use relayed that a total of 56 new average daily trips will be introduced to the surrounding roadway networks primarily along Seaway Drive. Of those 56 new trips, 6 p.m. peak hour trips will be traveling into and out of the proposed project. Therefore, no mitigation is required. All affected departments have reviewed the submittals and have approved the proposed site plan and conditional use based on it meeting the requirements on the City Code. However, the Building Department has commented that because the building is partially located in a VE Flood Zone, additional structure modifications would be required for protecting it against high surf flood conditions. The applicant has indicated that the cost of making these structural modifications as the result of the building being located in a VE Flood Zone to be financially difficult. As such, the applicant has proposed to move the building out of the VE Flood Zone and keep overall plan design with the exception of a reduction of a few marking spaces. As the proposed site plan meets the requirements of the City Code, Staff recommends that the Planning Board forwards a recommendation to the City Commission for approval of the site plan and conditional use with the following conditions:

- The 10 feet along the eastern boundary line for a drainage easement shall be recorded prior to the issuance of a Certificate of Occupancy;
- The Applicant must work with the City's Engineering Department to implement the design of the pedestrian easement;
- Construct and record 15 feet of a pedestrian easement along the northern property boundary;
- Pay a proportionate fair share amount for the construction cost of installing new lights and a new handrail to the segment involving Kiwi Condominiums. This segment is to be harmonious with the linear park design;
- Receive final approval from the Florida Department of Transportation regarding the conditions of approval prior to issuance of a building permit; and
- Plans are revised so that the building is shifted out of the VE Flood Zone prior to City Commission consideration.

Chairman Johnson said very good. Any questions of Staff from the Board?

Ms. Wood said good evening Mr. Yazzie. Unless I missed it in your presentation, I'm not clear what the conditional use is for?

Mr. Yazzie said the conditional use is for the R-5 multi-family use.

Ms. Wood said so it's just to have multi-family in R-5 because it's primarily intended for, and I guess if I was really studious I would have read up on my Code requirement.,

Mr. Yazzie said Commercial Tourist.

Mr. Carlin said Mr. Chair, Ms. Wood, this is C-5, Tourist Commercial zone so to do any kind of housing in there, the Code requires conditional use approval.

Ms. Wood said for any type of housing?

Mr. Carlin said for multi-type housing development. This would fall into this classification.

Ms. Wood said okay, great. My second question is that on the site plan there's a line indicated for parking for commercial use. Is that just the square footage of the Manager's office?

Mr. Yazzie said that's correct. Okay, thanks.

Mr. Carlin said we can have that maybe more clarified so it doesn't necessarily represent that. Commercial uses are allowed in Tourist Commercial but I think we can have the applicant fine-tweak that to not create any confusion.

Chairman Johnson said any other questions of staff from the Board? Seeing none, I'd like to invite the applicant forward at this time.

Mr. Adair said good evening. John Adair, Culpepper & Terpening, representing the applicant. I think that staff did an excellent job preparing the presentation. We're going to modify the plans and all the conditions of approval will be met. Other than that, I'm here to answer any questions you might have.

Chairman Johnson said any questions of Mr. Adair?

Ms. Yates said Mr. Chairman, if they're calling it Kiwi Condominiums, why aren't they painting it green? That was a joke. Sorry.

Mr. Adair said we like the color.

Ms. Yates said I think it looks great. That's the color of my house, yellow with green shutters. I think it's great.

Ms. Wood said I'm just curious. What happened to the last site plan that was approved for this parcel? You've could have come back with the same plan I assume?

Mr. Adair said correct. We all wanted to go with a different feel for this project, more of a Key West style. This is going to be his residence. He kind of wanted to have more of his flavor on it. It was just a different feel for this particular project.

Ms. Wood said but it's the same number of units.

Mr. Adair said it's actually less because actually it was before seven units. This is six units. One thing to follow up on that. It could not be the same because we have the Design Review Guidelines. What you see is a very nice product. There is another building that's very similar to this on the other side of Seaway Drive that's blue. It's very similar. It's harmonious with the surrounding type of building but as a Design Review Board, you can certainly require it to be Kiwi green.

Ms. Yates said no.

Chairman Johnson said please don't.

Ms. Yates said it was a joke.

Chairman Johnson said any other questions? Mr. Knott?

Mr. Knott said this revised site plan that you all have, you have to get it together before the City Commission. Basically, you are just going to shift the building south. Well, you have 20 parking spaces now. How many will you have left?

Mr. Adair said we're going to remove four parking spaces: two from the east side of the property, two from the west side and then shift everything exactly as it is just shift it south. We'll have a total of 16 spaces after the shift and it's still above Code and everything else will remain the same.

Mr. Knott said will this extra 18 feet or 19 feet that you are going to pick up, what's the intent on that? Will you just have more open space on the north side?

Mr. Adair said more greenspace. We're not going to add any more impervious area. No more pavement. It's going to stay exactly the same. We're just going to add a little more greenspace to shift it down.

Mr. Knott said that's a good point there. Will that green space occur between the south edge of the pedestrian walk and the north edge of your paving area where your command is out there?

Mr. Adair said the idea is to put a little bit more greenspace on the south side of the building adjacent to the 5 foot sidewalk in the front. See how between the building and the proposed five foot sidewalk there's a greenspace area in there for landscaping? That's where we intend to put the remaining open space.

Mr. Knott said you can put a little more of the buffer, the pedestrian walkway along the north side there?

Mr. Adair said absolutely.

Mr. Knott said I'd like to see a little more open space there occur between, if you are going to have all the bicyclers and this ever comes.

Mr. Adair okay, absolutely. Yes. We'll definitely incorporate that.

Mr. Knott said if you can split some of to put it along the south edge of that 15 foot pedestrian area that would be nice. Do we need to stipulate this as a condition?

Mr. Carlin said Mr. Chair, members of the Board. If you feel that there is an additional condition that you would like to see this particular application have, then I would suggest that you enter that as an additional condition. Please just identify specifically where you would like that additional green space so it's clear to Staff but also to the applicant.

Mr. Knott said I would think that even the owner would possibly put a little bit more up here to buffer his, people outside sitting out there having drinks so you are not like you're in Paris someplace with a bunch of people walking around on your feet.

Mr. Adair said no. Absolutely. That's no problem at all.

Mr. Knott said okay, very good. Thank you.

Mr. Weaver said I just wanted to commend the applicant for buying into the City's concept of the Linear Park walkway and I think it's a very generous thing, especially with the construction costs. With that being said, the 15 foot that you're showing there, it's probably going to be subject to being placed wherever you get your mean high water determination and your saying that not necessarily at the location shown but within your property boundaries as defined once you have them you are willing to put the 15 foot walkway.

Mr. Adair said correct.

Mr. Weaver said and construct it at your expense?

Mr. Adair said yes Sir.

Mr. Weaver said very cool. Okay, thank you.

Mr. Knott said if I could just follow up on that. Does that include the seawall too? Will you all being doing the seawall too as well?

Mr. Adair said yes.

Mr. Knott said that's good.

Mr. Adair said we have to do it to build the project.

Mr. Knott said I wasn't sure if you were just going to give that 15 foot and let the City or whoever build that seawall because that's going to be.

Mr. Adair said it is our intention to help this project move forward. We plan on building the seawall and building the 15 access.

Mr. Knott said very good.

Chairman Johnson said any other questions? I have one question if we could go back to the architectural rendering, the front elevation? I don't know if we have a floor plan. I didn't see a floor plan in my packet. In regard to the windows in case it does change, are those windows located on the, well the ones I see are the second floor, do you know if those are in bedrooms and that's the only egress?

Mr. Adair said I have a copy of the floor plan if you would like to take a look at it.

Chairman Johnson said the reason I'm asking is if those windows are shorter than Code which would be a 63 inch high window roughly, that's what's required for egress, if it's in a bedroom, that's the only way out of the residence in case of fire, this architectural or this rendering may change because those windows would be taller unless those windows are 63 inches in height because it looks like on my front elevations they're 50 inch windows.

Mr. Adair said they are sized for egress.

Chairman Johnson said that's good enough. I just didn't want the, since we're Design Review, anything to change in the end because we had to meet Building Code.

Chairman Johnson said any other questions of the applicant?

Mr. Weaver said I had a question for staff. Mr. Yazzie, you and I had a chance to discuss whether the Entrada Del Mar, the property to the east, constituted a residential district per the City's Code? You don't have a definition of a residential district but it was our discussion that it doesn't constitute a residential district. I just wanted, as other projects come forward, to be clear on what constitutes a residential district.

Mr. Carlin said Mr. Chair, Mr. Weaver, I'm glad to expand on that further because as you know, we're now in the stages here of rewriting our Code. We're going to have new classifications, new types of zoning districts to incorporate mixed uses. Things are going to be more simplified to look at so we don't have the draconian code where you have pockets of different zoning that prevent or encourage moving into certain areas. We want mixed use type development because that's smart planning. There's a whole bunch of good things associated with that. That's coming down the road. Hopefully that kind of addresses your question.

Mr. Weaver said so the condominiums, the Entrada Del Mar does not constitute a residential district?

Mr. Carlin said Mr. Chair, members of the Board, my understanding from that zoning map that we had those properties all along Seaway Drive on the ocean are C-5, Tourist Commercial.

Mr. Weaver said I understand the underlying zoning. The question is whether the use or the zoning?

Mr. Carlin said I'm not familiar with what actually use is on that specific property but I do know that the zoning for the property is C-5, Tourist Commercial. The whole corridor is Tourist Commercial.

Mr. Weaver said thank you.

Mr. Carlin said you're welcome.

Mr. Adair said thank you for your time.

Chairman Johnson said I have one more from the public I see. Ms. Mushier.

Ms. Mushier said good evening, Mr. Chair and members of the Board. My name is Carole Mushier, President of the South Beach Association. I am pleased to say that we have no objections regarding the site plan for Kiwi Condos. That doesn't always happen. It not only meets the Code requirements but exceeds them. The allowed density for this site is seven units, they propose six all pre-sold. The maximum height allowed is 45 feet. Their maximum is less than 34. The required parking is 11 spaces and they are providing 16. In addition, it appears to be a pleasant, Key West style that is very appropriate for the beach. Leave the Mediterranean for downtown. The request for conditional use, putting residential units in a C-5 zone is a no-brainer. There are existing residential units directly to the east as you have just discussed and across the street to the south. It is when there is a request for commercial use in a residential zone that there can be problems. That's not the case here. I sense real cooperation on the part of the applicant to work with the City. Note the donation of the 15 foot Right-of-Way, the sidewalk to be completed to fit into the proposed Linear Park and the agreement to pay Fair Share to complete the section of the park. Now we trust that construction will begin this Summer as indicated. That something will actually be built. A novel idea when you consider the lack of progress on other previously approved site plans on the beach so I wish them all good luck. Thank you.

Chairman Johnson said I don't see anyone else from the public unless there is anyone? Okay, We'll entertain a motion from the Board.

Mr. Knott said I move that we recommend approval to the City Commission of the site plan and conditional use subject to the five conditions outlined by staff and two other conditions: one being that the applicant revise the site plan to relocate the building out the VE zone prior to the City Commission and also that the applicant add a portion of the land resulting from the relocation of the building that a portion of this land be added to the south side of the proposed 15 foot Linear Park along the north side of the project.

**Motion made** by Mr. Knott and seconded by Ms. Yates **to forward a recommendation to the City Commission to approve the Site Plan and Conditional Use to construct a new six unit condominium complex on the property located at 1240 Seaway Drive with the following conditions:**

- **The 10 feet along the eastern boundary line for a drainage easement shall be recorded prior to the issuance of a Certificate of Occupancy;**
- **The Applicant must work with the City's Engineering Department to implement the design of the pedestrian easement;**
- **Construct and record 15 feet of a pedestrian easement along the northern property boundary;**
- **Pay a proportionate fair share amount for the construction cost of installing new lights and a new handrail to the segment involving Kiwi Condominiums. This segment is to be harmonious with the linear park design;**
- **Receive final approval from the Florida Department of Transportation regarding the conditions of approval prior to issuance of a building permit; and**
- **Plans are revised so that the building is shifted out of the VE Flood Zone prior to City Commission consideration.**
- **revise the site plan to relocate the building out the VE zone prior to the City Commission meeting; and**
- **Add a portion of the land resulting from the relocation building be added to the south side of the proposed 15 foot Linear Park along the north side of the project.**

Chairman Johnson said we have motion with conditions and a second.

Mr. Reilly said you stipulated in there the conditions that they have already put on there?

Mr. Knott said yes, the five conditions there.

Mr. Reilly said and did you want to say anything just about that seawall too?

Mr. Knott said that they're responsible?

Chairman Johnson said it's required by the Army Corp.

Mr. Knott said I guess I'm still a little confused about it. Is this project going to be responsible for the design, permitting and construction of that seawall? Because that's a pretty good piece of change right there. Is that's staff's understanding that they are responsible?

Chairman Johnson said I think the site plan calls for it, right?

Mr. Knott said is it necessary for us to include this in my recommendation?

Mr. Carlin said Mr. Chair, Mr. Knott can you please repeat the question that you had in this?

Mr. Knott said the proposed seawall along the north side of the proposed, it's proposed on here but we don't have to stipulate who is going to do it? It's part of this project along the north side of Linear Park, right?

Mr. Carlin said that's the way the plan proposes, that's proposed to be constructed so.

Mr. Knott said so that answers our question. We just want to make sure that there was no confusion on who was going to do that. I guess we don't need to include that in our motion.

Chairman Johnson said motion with conditions and a second. Any discussion? Very good. Could we have roll call please?

Those in favor: Mr. Weaver, Ms. Wood, Ms. Yates, Mr. Knott, Mr. Lloyd, Mr. Poitier, Mr. Reilly and Chairman Johnson.

Those opposed: none

Chairman Johnson said very nice project. Good luck. Thank you.

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The next item considered: **Item # 3 – Consideration of Absences.**

Chairman Johnson said Mr. Hayek, Mr. Dannahower and Mr. Harris

**Motion made** by Mr. Poitier and seconded by Mr. Knott **to excuse the absences of Mr. Hayek, Mr. Dannahower and Mr. Harris.**

Unanimously approved by voice vote.

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The next item considered: **Item # 10 - Discussions**

Chairman Johnson said Staff, do you have any discussions?

Mr. Carlin said just a few minor things. First, I want to thank you for our alternate for serving on the Board because obviously when we have absences, it's important to have the attendance so we can move these projects through the system. So, thanks to you for filling in. Item number 2, we want to make sure, we tried something different, this Planning Board we electronically delivered our packets. We did have some delivery issues with our server but hopefully you all were able to get the

information via email. We'd certainly like to hear some feedback on it. We're trying to, again, streamline how we get the information to you and minimize the amount of paper involved. We do have the package that the applicants will still bring to the department in the event that you all want to come down and pick them up but we are requiring everyone to have it on a CD. Hence we electronically sent out the file so hopefully it was a little bit easier to see some of this information and a little bit less stuff to carry around. We're going to continue doing that unless you all have some specific changes that you'd like to see.

Mr. Knott said will those packets that you will have available, will they have your staff reports with those or do we have to download those ourselves?

Mr. Carlin said we're not really going to print them out. Like I said, we're trying to minimize because sometimes get pretty thick.

Mr. Knott said the packets themselves are available but not the?

Mr. Carlin said just the plans.

Mr. Knott said just the plans.

Mr. Carlin said but if you want us to do a specific request and you can't print it out and you want it to print out, we'll go ahead and do it. We obviously want you to have it but we're just trying to minimize the amount of paperwork that we're shuffling around because we have a lot of meetings that we go to every month and it's just time consuming to assemble these things and collate and it's just.

Mr. Knott said out of curiosity, are you going to do this to the Commission too?

Mr. Carlin said they actually do have what is called MuniAgenda and it is now being unveiled and it has not gone live yet but it is a program championed by the City Clerk. It's a hybrid method right now. We're doing the traditional way of delivering the packets but we're also doing this electronic thing. Eventually, we're going to go paperless because again, it's environmentally sound but also it's easier to do things quicker. There will also be paper somewhere. We'll always have an original copy but hopefully that process worked well for you all. If there is any changes that you'd like to see we'll go ahead and make that. The other thing that I want to point out is the LDR rewrite. We received the draft and we're still in the process so we'll make sure that you all are up to date on what's going on with the Code and rewrite process. We're still going through that. It's going to be some time before we get an end product but we just want to give you an update. It's still moving forward.

Chairman Johnson said so that draft is available? You have it now you said.

Mr. Carlin said the LDR, we can give that to the Planning Board members and the LDR Advisory Group will have that and then we'll go forward to the public and then the meetings with the Commission and things like that. We'll go ahead and get those to

you all so you could take a look at it. It's a module. Remember, there are four chunks, module 1, module 2, module 3 so this is the first one.

Chairman Johnson said anything else Mr. Walker.

Board Attorney Walker said Mr. Chair, just very briefly if you will allow me to refine my response as made earlier to Mr. Weaver who inquired about the availability of the public hearing for presentation before the Commission of any proposed resolution governing building fees. It occurred to me later in the course of the meeting that when I glibly responded by saying that "Yes. Resolutions were subject to public hearings. That may not necessarily be correct, Mr. Chair. In fairly responding to that, I'd have to refer to State Statute to see whether or not it actually requires a "public hearing" on that subject matter. However in any event, these are presented at a public meeting and Section 24 of the Charter provides that the Commission does conduct all such public meetings in a public context and it is authorized to establish rules governing those proceedings and it is my understanding, Mr. Chair, that the Rules of the Commission do in fact provide for reasonable public participation at all public meetings. I hope that that's a better response to the question that was previously raised. Thank you Mr. Chair.

Chairman Johnson said very good. Anyone else? Anything to discuss? Board members? Nothing?

There being no further business, the meeting was adjourned at 7:00 p.m.