

**MINUTES OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON TUESDAY, MAY 24, 2005, IN THE CITY HALL COMMISSION CHAMBERS (due to anticipated seating accommodations for the public), 100 NORTH U.S. 1, FORT PIERCE, FLORIDA.**

Members present: Donald Bergman (Chair), Sonja Gates (Vice Chair), Jeremiah Johnson, Margaret Benton, Thomas Knott, Charlie Harris, Robert Poitier, Pamela Williams, and Chuck Enns.

Members absent: Harriett Brenner

Citizens and Staff present:

James H. Deeken  
Jerry Wuhrman  
Jeff Marshall  
Dave DeMay  
Jack Cahill  
Michael Tesoriero  
Mike Menard  
Scott Van Dozer  
Tony Schwab  
Stef Matthes  
Niki Norton  
Robert Walker

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

Meeting was called to order at 7:00 p.m. (**Agenda Item #1**).

Secretary proceeded with roll call and consideration of absences. (**Agenda Item #2**).

Ms. Rose stated – Mrs. Brenner had not called in regarding her absence.

Mr. Bergman stated – Well, if there's no objection, we'll give Harriett a few minutes. And if not, we can consider her absence at the end of the meeting.

Mr. Bergman continued – Has everyone had a chance to review the minutes of the April 12<sup>th</sup> meeting? Are there any comments or corrections that need to be made?

**MOTION WAS MADE BY MR. ENNS TO APPROVE THE MINUTES OF APRIL 12, 2005. Seconded by Mrs. Gates. Unanimously approved by voice vote.**

Mr. Bergman stated – For those of you who were here for our May 10<sup>th</sup> non meeting, I apologize...that hasn't happened in a while. Most of our Board members are fairly responsible and call in if they've got a conflict. Obviously there was there was a couple of people that were not able to make it, so I apologize for any delay that you (the applicants) have been subjected to. And we'll try to get all of your business taken care of tonight; and I appreciate you coming back again.

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**Agenda Item #4 – Rezone to Site Plan/PUR – Marina Square** – Approval of a Preliminary Planned Unit Redevelopment (PUR). Generally located on the northwest corner of Orange Avenue & Indian River Drive. Owner is City of Fort Pierce, and applicant/representative is Jeffery Marshall, of Catalfumo Construction & Development, Inc.

**Staff Report** - Ms. Clark stated – This is a joint venture between the City of Fort Pierce and a private developer. The project includes a variety of uses, including retail, conference center, banquet room, 95 condo/hotel units, and public & parking garages. Staff is recommending approval of the preliminary, and that would be conditioned upon prior to submitting for the Final PUR, that the architectural quality be enhanced. And also that the development agreement clearly define the public access and maintenance plan and hotel operation plan.

Mr. Bergman stated – Thank you. Are there any questions of staff from the Board? Wendy, you and Ramon have had an opportunity to go over these comments with the applicant?

Mr. Trias stated – Yes. And the applicant is here, and discussed them at length.

Mr. Bergman stated – Okay. I just wanted to make sure that they were aware of your concerns. Okay, if there are no questions for staff, we can open the public hearing. Is there someone here who wishes to make a presentation on this project?

Mr. Jeffery Marshall stood and introduced himself and stated – I'm with Catalfumo Construction. Again, we're here tonight to request approval of the Marina Square project, which is actually, I think, at the northeast corner of Orange Avenue and Indian River Drive. What we're asking for is basically a 5-story mixed use building. Four levels of residential/hotel/condo units above one level of retail. The retail is going to be approximately 18,000 sq. ft. all along the street...really activate the downtown. We're really excited about that. We hope that it will bring some great tenants to the area. On top of this, you can see that we have a rooftop pool on the very top level, which will be used for the condo/hotel residents. Again, there are two portions to this project; we have private portion and a public portion. All of what I've said is part of the private portion of the project. We have a private garage, which has a total of 187 parking spaces, which is over and above the code for the project, located at the northwest corner of the project shown here. Now the second portion of the project is the big public portion that we have. We are making available for the City approximately 2,800 sq. ft. for a city conference center that we think would be a great space for you guys to have events...all that sort of thing. We're also making available another 2,800 sq. ft. for a banquet center located on the interior of the courtyard. We think, again, the City can have some great events there as well. Along with this project, we've created this project so that it is basically square with a large courtyard space in the middle of the project, which is actually large enough. It's actually almost a quarter of an acre in size. Again, we hope that maybe you guys can have your events...the fishing tournaments and all that sort of thing at this open space. Again, part of one of the conditions that we're working with the City on is making sure that these hours that the open space will be available, we will have some security with that so they will be open certain hours, which will be spelled out in the development agreement. With this project we're also designing and will be building the City parking garage located at the southwest corner of the site. It's going to be a total of 197 parking spaces, which will help alleviate any of the parking issues related

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to the downtown, and will also help with some of the parking for the project. Through this process, we've met with the CRA a couple of times...sat down with Ramon and Bob Franke as well, and heard some of their concerns and issues. One thing that we heard was in the northwest corner of the site that we had preserved...the gazebo, we understand that's very important to you, so we kind of adjusted our plan around that. We preserved the gazebo. Another thing that we heard that we did do, was we matched the garage elevation along with the west side of our project. Shown here (referring to drawings), we've matched this elevation to the garage already being designed by ...I think it's the (Colonido?) Group, which is designing your other garage on the other block. So we've matched that, so you'll have a great street down there. The appearance will be the same, so we've done that. And then another thing that Ramon brought up at one point was to make sure that this is a pedestrian friendly project. We've insured that we have a minimum of 10 ft. of colonnade surrounding the entire project, so you'll have a great activity for pedestrians using that retail space. In your packets we've also included—we don't have it up here on the board—is we have an image of one of our projects we had done down in Palm Beach. It's called Brazilian Courts. It's filled with lush landscaping. It's similar to this project and we really hope to landscape this and make it a similar feeling, because they have some great events down there and it creates a great space for an outdoor restaurant and that sort of thing. So we're really looking to have this with this project. Just a little bit more about the building; there are four (4) stories of residential condo-type units. There are approximately 24 per unit. A mixture of one (1) bedroom, two (2) bedroom, three (3) bedroom, and so on. So the majority of them being two (2) bedrooms. Really, with that being said, if you guys have any specific questions for me...we're really anxious to build this project and get going. And really hopefully spark the downtown. We think it's a great area to be, and we're looking forward to being here so. If you have any questions.

Mr. Bergman asked – Are there any questions for the applicant?

Mrs. Gates stated – I have a comment and a question. First of all, I know the area that you're depicting here in Palm Beach, and it's probably one of the best open spaces that I've ever seen.

Mr. Marshall – Great!

Mrs. Gates continued – If you can duplicate that here, God bless you.

Mr. Marshall stated – We're going to try.

Mrs. Gates continued – Because it really is a fine wonderful open space. So, I hope that these pictures are going to be pretty much on the lines on the way you're going to do this courtyard.

Mr. Marshall stated – Oh, we're going to try...we're not sparing any expense on the landscaping.

Mrs. Gates stated – I hope not, because it will make such a difference. Your windows... in your units here...what type of windows are these in the hotel?

Mr. Marshall stated – It's going to be impact glass...with sliding doors on the balcony.

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Mrs. Gates asked – So, it's just going to be sliding doors?

Mr. Marshall stated – On the balcony, yes.

Mrs. Gates asked – Not French doors?

Mr. Marshall stated – Not French doors on these balconies, no. What we plan on doing here is for the interior courtyard for the City open space, is we plan on having French doors along the banquet room...

Mrs. Gates stated – Okay. Because I think that would make a great architectural improvement if you could use those.

Mr. Marshall stated – Sure. That's what we planned for this banquet room ...inside the courtyard.

Mrs. Gates asked – But not anywhere else?

Mr. Marshall stated – No. We don't have French doors on the condo units themselves.

Mrs. Gates stated – Okay. Thank you.

Mr. Bergman asked – Any other questions?

Mr. Knott stated – I have just a couple of questions. One of them is the ...I'm looking at your typical floor two (2) through five (5)...does that indicate that there will be four (4) hotel rooms on each floor? Is this correct? ...with the condos?

Mr. Marshall stated – Well, it's going to be a mixture of ...like condo/hotel units. Each of the units are going to put into like a rental program.

Mr. Knott – Right.

Mr. Marshall continued – But typically, you're right. The ones that are probably most suited for the hotels are the units above that...

Mr. Knott asked – Is it customary ...unless I'm looking at this ... okay, I see it now I believe...those units have their own elevators? They don't have to use the residents' elevators? I mean those rental units?

Mr. Dave DeMay stood and introduced himself and stated – I'm vice president of Catalfumo. There are going to be central located elevators. So, the residents in the hotel ...they're not actually separated. If you look at the breakdown, we actually have 19 of the efficiencies and four (4) – one (1) bedrooms, so they're going to be true hotels. The other units... the owners have the option of putting them into the rental pool during the year. So we have 23 units that are true hotel units.

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Mr. Knott stated – So, the answer to my question is that the residents or the condos will share the elevators and access...

Mr. DeMay stated – Yes. It's not broken out at all.

Mr. Knott continued – Okay. And ...I have a friend that's looking for a unit just like this. They wanted to move right on the water here in downtown Fort Pierce; and I showed her the plans and she said, No way that I'm going to share my quarter of a million dollar unit here with somebody who is going to paying \$50 a night for room or whatever.

Mr. DeMay stated – Some people feel that way. Our experience is if you go to ...anywhere skiing and you stay in a condo, somebody owns that but you really don't know that somebody owns it from a hotel. So, that's the same type of set up we have, because there are only 95 total units. It will eliminate some of the purchasers.

Mr. Knott asked – So, it's not uncommon to have this type of situation?

Mr. DeMay stated – That's correct.

Mr. Knott – Okay.

Mr. DeMay continued – If you had two separate towers, one tower would be hotel, one tower would be condo, and you separate that way.

Mr. Knott stated – Okay. I didn't know how they were doing that. My last question is for staff. Ramon, on your conditions there. Is there anything that we need to put into the record, in particular, to improve the architectural...?

Mr. Trias stated – In the conditions would be sufficient.

Mr. Knott continued – I mean, you will take care of that? We don't need to be specific on that at this point?

Mr. Trias continued – We have that second stage, which is the Final PUR approval that allows for all of this to happen.

Mr. Knott continued – So, just referencing your recommendations then that would be adequate?

Mr. Trias – Yes.

Mr. Knott – Thank you very much.

Mr. Johnson stated – In reference to the architectural details, what improvements from this design right here do you plan on making?

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Mr. DeMay stated – We’re going to match it more to the garage that you have on the west side that we’ve matched. Ramon is very happy with this elevation here. So we’re just going to add some more (finistration?) to this elevation to bring up...and we will have a charrette with Ramon and his staff.

Mr. Johnson stated – Okay. So, it’s some minor details...because the west looks good to me.

Mr. DeMay stated – We’re going to break it up a little bit, add a little more character to it instead of straight across. Possible on the roof level maybe have another trellis or roof line...break it up quite a bit.

Mr. Johnson stated – Okay. Alright. Thank you.

Mr. Bergman asked – Are there any other comments or questions for the applicant? Alright, thank you. Is there anyone else here who wishes to speak regarding this project? If not, we’ll close the public hearing.

**MOTION WAS MADE BY MR. KNOTT TO APPROVE THE SITE PLAN/PUR INCLUDING THE TWO (2) RECOMMENDATIONS MADE BY STAFF (1.-That the architectural quality be enhanced, and 2.- That the development agreement clearly define the public access and maintenance and hotel operation plan). Seconded by Mr. Enns. Unanimously approved by roll call vote.**

Mr. Bergman stated to the applicants – Okay, this will go to the City Commission, and you will be notified by the clerk when this is ready to go.

The applicants – Thank you very much.

**Agenda Item #5 – Site Plan with Conditional Use – Big Apple Bagel** – Approval for site plan with conditional use for a restaurant. Generally located south of Virginia Avenue on 35<sup>th</sup> Street. Owner is Treasure Coast Land Acquisitions, applicant is Big Apple Bagel, and representative is Stefan Matthes, P.E., of Culpepper & Turpening , Inc.

**Staff Report** – Ms. Clark stated – The site plan consists of one single building. One side will be a 2,000 sq. ft. restaurant and the other side will be 2,000 sq. ft. in commercial. All City departments have conceptually approved the site plan. And staff is recommending approval.

Mr. Bergman stated – Okay, thank you. Are there any questions of staff from the Board? Alright, we can open the public hearing if there is anyone here who wishes to speak on this project.

Mr. Stef Mathes stood and introduced himself and stated – I’m with Culpepper & Turpening. I’m here representing Treasure Coast Land Development. Really I think staff has explained it fairly well. This is a Big Apple Bagel that is going to be adjacent to the existing Big Apple Pizza that is on 35<sup>th</sup> Street across from the college. The Big Apple Pizza will actually be upgraded from a facade standpoint to match the new building for the bagel place. There’s going to be a little courtyard between the two (2) buildings.

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We would just appreciate your recommendation of approval to the City Commission. I stand here to answer any question you may have.

Mr. Bergman stated – Alright, thank you. Are there any questions of the applicant?

Mr. Knott stated – Stef, Chuck and I was just talking about it, this property has been before us about a year or so ago?

Mr. Mathes – Yes, sir...very good memory, sir. What you saw a year ago was a different piece of this property. They own the lots that surround the pizza place, and what we had in front of you last time was like a banquet hall. And they realized that the banquet hall didn't work...the timing didn't work out. It was going to be built specifically for an event. They didn't time to make it work. So they scratched that plan and came back with the...

Mr. Knott continued – Okay. Was there some ownership problems at that time?

Mr. Mathes stated – No, sir. It was some parking problems.

Mr. Knott agreed – That's what it was.

Mr. Mathes continued – We didn't calculate the parking for a restaurant.

Mr. Knott – Right.

Mr. Mathes continued – And we tried to do some cross axis parking.

Mr. Knott – I remember that.

Mr. Mathes stated – We do, however, at this site, have more than adequate parking.

Mr. Knott stated – We appreciate you coming back and entertaining us again. Thank you.

Mr. Bergman asked – Any other questions for the applicant?

Mr. Johnson stated – One quick question about the drainage. Are the two (2) systems independent of each other? And the existing is going to take care of itself?

Mr. Mathes stated – What we're going to do is tie the existing drainage into the new drainage into the detention pond out back and discharge to 36<sup>th</sup> Street I think.

Mr. Johnson stated – Okay, which is to the west?

Mr. Mathes – Yes.

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Mr. Johnson stated – Okay. The other question was the grease traps. You’re showing existing grease traps, putting in a grinder pump station?

Mr. Mathes – Yes, sir.

Mr. Johnson continued – Those are, I guess, at capacity? Or are you going to have to add additional grease traps? Do you know for the restaurant?

Mr. Mathes stated – We don’t know yet. We’ll probably have to add another grease for the new place, but we’ll work out those details with the Utilities Authority.

Mr. Johnson – Okay, thank you.

Mr. Bergman asked – Are there any other questions? Is there anyone else who would like to speak on behalf of this project or against the project? Okay, since there is no one, we can close the public hearing.

**MOTION WAS MADE BY MR. JOHNSON TO APPROVE THE SITE PLAN WITH CONDITIONAL. Seconded by Mrs. Gates. Unanimously approved by roll call vote.**

Mr. Bergman stated to the applicant – You will be notified when this goes to the City Commission.

Mr. Mathes – Thank you very much.

Mr. Bergman – Thank you.

**Agenda Item #6 – Site Plan with Conditional Use – First Bethel Missionary Baptist Church –** Approval to allow an expansion to an existing church. Located at 506 North 11<sup>th</sup> Street. Owner/applicant is First Bethel Missionary Baptist Church, and representative is Robert Walker, P.E., of CPH Engineers.

**Staff Report** – Ms. Clark stated – The addition to the church is roughly 830 sq. ft. and the project also includes additional paved and stabilized turf parking and staff is recommending approval.

Mr. Bergman stated – Alright thank you. Are there any questions of staff from the Board? Alright hearing none, we’ll open the public hearing for anyone who wishes to speak on this project.

Mr. Robert Walker stood and introduced himself and stated – I’m with CPH Engineers. We represent the applicant. Also with me tonight is Niki Norton. She is the project architect. We worked this through the City staff, and we’re just here to answer any questions you may have.

Mr. Bergman asked – Are there any questions of the applicant?

Mr. Knott stated – I see you have some stabilized parking.

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Mr. Walker – Yes.

Mr. Knott continued – Is that overflow...do you have the required paved parking by Code?

Mr. Walker stated – What we've done is the expansion ...we added another 21 spaces. That parking is really is existing...they've been using it for a number of years. I think at one point in time it may have actually been asphalted; but over the years it's grown over with grass. What we're doing is we're reshaping it so that it drains better...we're putting in a perimeter fence.

Mr. Knott asked – But you are adding 21 new bumpers?

Mr. Walker stated – And two (2) new handicap spots as well.

Mr. Knott stated – I see. Okay. Thank you.

Mr. Walker – Sure.

Mr. Knott asked Mr. Bergman – Is there a tabulation of parking around here somewhere?

Mr. Bergman stated – That's what I was looking for. Wendy, do you know what the percentage of allowed stabilized space...?

Ms. Clark stated – It's up to 50 percent of the required...

Mr. Walker added – It's a total of 77 and we're having 35 as stabilized.

Mr. Knott stated – So, that beats the ....

Mr. Bergman agreed – That's under the 50 percent.

Mr. Knott stated – Very good. Thank you.

Mr. Bergman asked – Any other questions for the applicant? Alright, thank you. Is there anyone else who wishes to speak regarding this project? Alright, we will close the public hearing. And what is the pleasure of the Board?

**MOTION WAS MADE BY MR. POITIER TO APPROVE THE SITE PLAN WITH CONDITIONAL USE. Seconded by Mr. Harris. Unanimously approved by roll call vote.**

Mr. Bergman stated to the applicant – You will notified when this goes to the City Commission. Thank you.

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**Agenda Item # 7 – Site Plan with Conditional Use – Dock** – Approval to allow the construction of a private dock. Located at 1716 Coconut Drive. Owners/applicants are Michael Tesoriero and Richard Christie.

**Staff Report** – Ms. Clark stated – The proposed dock extends 26 ft. into the canal. The proposal also includes a 6 X 40 terminal, which shall run parallel to the property line. And staff is recommending approval.

Mr. Bergman stated – Alright, thank you. Are there any questions of staff from the Board? Is there anyone here to speak for the dock application?

Mr. Michael Tesoriero stood and introduced himself and stated – I’m here to seek approval for the construction of a dock.

Mr. Bergman asked – This is for your residence?

Mr. Tesoriero – Yes.

Mr. Bergman stated – Okay. Are there any questions for the applicant from the Board?

Mr. Enns stated – I see that the plans from Bruce Jerner in the name of Tom Collins.

Mr. Tesoriero stated – Yes, that was the previous owner that who owned the property before we did. But they got approval through, I believe it was, the Army Corps of Engineers.

Mr. Enns stated – So, Jerner got everything through on that?

Mr. Tesoriero – Yes, that’s correct.

Mr. Enns continued – But that is the lot though...lot 5 Coconut Drive?

Mr. Tesoriero – That is correct.

Mr. Bergman asked – Are there any other questions for the applicant? Alright, thank you.

Mr. Tesoriero – Thank you.

Mr. Bergman asked – Is there anyone else who wishes to speak regarding the dock site plan with conditional use? We’ll close the public hearing and entertain a motion.

**MOTION WAS MADE BY MS. BENTON TO APPROVE THE SITE PLAN WITH CONDITIONAL USE. Seconded by Mr. Johnson. Unanimously approved by roll call vote.**

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Mr. Bergman stated to the applicant – You will notified by the Clerk when this goes to the City Commission.

Mr. Tesoriero asked – The City Clerk?

Mr. Bergman stated – The City Clerk. They'll send you generally a written notice when it's scheduled for their meeting.

Mr. Tesoriero asked – Approximately when?

Mr. Bergman stated – It should be...probably like...Wendy, when are they...like staggered three (3) weeks after this meeting give or take?

Ms. Clark nods yes.

Mr. Bergman stated – It depends on how their agendas work out, but you will be notified by the City Clerk when it goes to the City Commission. Once they approve it, then I think you're ready to go in for permit. There's probably some paperwork that has to be done to get everything keyed in with the Building Department.

Mr. Tesoriero – Thank you.

Mr. Bergman – Yes.

**Agenda Item #8 – Site Plan with Conditional Use – Ocean Vue Development Corporation –** Approval for site plan with conditional use to allow the construction of a 4-story, 11-unit condominium building. Generally located on the northwest corner of Hernando Street and Frances Avenue. The owner/applicant is Jerald Wuhrman, President of Ocean Vue Development Corporation.

**Staff Report** – Ms. Clark stated – The proposed building is four (4) floors of residential over a parking garage. Staff has several concerns regarding this project; one would be the limited transportation network that we have over on South Hutchinson Island. With this project, there has not been an overall strategy which would handle the detrimental traffic impact. And the other would be the applicant is proposing bonus density award, which is inconsistent with the consensus that was established with the most recent South Beach Charrette. Therefore, staff is recommending denial.

Mr. Bergman stated – Alright, thank you. Are there any questions of staff from the Board?

Ms. Benton asked – Could you give us a little bit more detail, Wendy, about the bonus density issue?

Ms. Clark stated – Within the zoning category, there are bonus density awards that are given if the applicant can meet certain criteria, such as landscaping and creative design of the project. And staff has felt that the applicant has not quite reached the acceptable level of awarding a bonus density award for that.

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Ms. Benton asked – What specifically did staff want in this regard?

Mr. Trias stated – Staff has not going to support any bonus density on the beach ever again. And that is as clear as I can make it. And if the Commission wants to approve it they're welcome to do that.

Mr. Enns stated – Wendy, I see you have on here that the structure's 54' 4" does not comply with the 45 ft. maximum height?

Ms. Clark stated – This proposal is for 45 ft.

Mr. Enns – Okay.

Ms. Clark continued – That might be the item that was pulled.

Mr. Johnson stated to Mr. Enns – Yeah, that was the one that was removed from the agenda.

Ms. Clark – Right.

Mr. Enns – Okay.

Ms. Benton stated – Just one more question to staff. The limited transportation for which is the problem from your prospective...is that relative to the limited community transport?

Mr. Trias stated – It has to do with the density, and it has to do with the request of a bonus density and the fact that it would be completely irresponsible to add density in an area that has such limited traffic capacity such as the beach.

Mr. Johnson stated – Wendy, could you answer me...the density...is it eight (8) units per acre?

Ms. Clark – Yes.

Mr. Johnson continued – Okay. And this parcel is only 1.25, is that correct?

Ms. Clark – Right.

Mr. Johnson – Okay.

Mr. Bergman asked – Are there any other questions for staff?

Mr. Knott stated – Just for clarity what Jeremiah was saying. Now what would be the allowable density on this parcel without the bonus? Would it be allowed 10 or...?

Mr. Trias stated – I believe it was 9. It's 8 units per acre and we have to round that off.

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Mr. Knott – Okay.

Mr. Johnson added – 1.25 times 8 is 10.

Mr. Knott stated – Okay. So they would be allowed 10; so they're looking for one (1) extra on that. Okay.

Mr. Bergman asked – Are there any other questions of staff?

Mr. Knott stated – Just one, Mr. Chairman. Wendy and Ramon, architecturally, is this acceptable by the standards you have set forth for us for the beach?

Mr. Trias – No, absolutely not.

Mr. Knott – Okay, thank you.

Mr. Bergman asked – Are there any other questions for staff? We can open the public hearing on this project. Is there anyone here who wishes to speak for or against?

Mr. Jerald Wuhrman stood and introduced himself and stated – I'm the owner and developer. I'd like to present to you the front and back view of the building that you're talking about. (Attempts to pass out something to staff that they already have in their packets.)

Mrs. Gates stated – I think we have this already.

Mr. Wuhrman stated – In any event, I'm up here with mixed emotions tonight. In a sense, very disappointed at the negative report from staff on this project. Some of you, I think, were on the Planning Commission (referring to Planning **Board**) when it ( the project) was presented in 2003, and was approved and supported by staff and the Planning Commission (referring to Planning **Board**) and was approved by the City Commission for an 11-unit condominium project, which is essentially the same building that we're showing tonight. But the building that we have resubmitted for approval, because our entitlements expired during the hurricane season in last October, and we didn't request an extension of those based on some verbal discussion we had. And when we did after the fact, we were advised that we had to resubmit the whole package, which we've done. The original bonus request, which seems to be an issue because of the effect on the traffic flow on the island, which we all know, is a minimum. But the one (1) unit and the two (2) cars for that unit are miniscule compared to the 900 units at the Harbour Isles; and granted, every car counts. But the fact that this project technically had been approved at one time as it's been presented with the height restrictions that we presently have, which are the same; but we've enhanced the architectural flavor of this significantly from what it was when it was acceptable to both to staff and the commission. For example, on the front of the building, you'll notice we've got a nice central gable on here, which we didn't have before, which gives a good accent and flavor to it. We've got two (2) little gables over French doors with rounded balconies out there which are a touch we didn't have before. We've the same, let's say, Bermuda look with the standing seam metal look; essentially the same color combination we had previously. But we've also enhanced it by

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breaking up the texture on the surface of the building with some siding in the recessed areas. And we've dressed up the railings with some scrolls on the top that, hopefully, make it more attractive. So, we really feel that the building's going to be an asset to the south beach area over there. There's nothing like at the present time. And it certainly should set a good precedent for what is to be developed from here. The prior building, which we submitted and had approval on...what we were granted the right to have a condominium association manager's unit in it, which was, in essence, a twelfth (12<sup>th</sup>) unit. In the resubmittal here we've abandoned that manager's unit in here. We've extended the building by a bay, because we found out in our marketing efforts that more people were interested in larger units than smaller units in there. So, the extra bay gives us three (3) – bedroom units in the center of the building rather than two (2) – bedroom units. And where the two (2) units were on the ground floor with the manager's unit, we've now made them larger penthouse units up there...still maintaining the 11. As far as the Code that you have, which permits a possibility of a bonus unit, which I realize is at the discretion of the City Commission, we felt we complied with all the requirements there. They are pretty specific of what you're asking for and the landscape architect that I worked with recognizes those and I think he incorporated everything that was asked for regarding the 20 percent additional landscape, the number of trees by 20 percent, the height being larger by 50 percent, the irrigation system. And tried to do it in a way, you know, that was going to enhance the project and qualify it for the bonus unit there. So, I would like to respectfully ask the commission (referring to **Planning Board**) to overrule the recommendation of the staff and give us this preliminary approval so that we can go on from here. I might mention that one of the reasons for the delay after the last approval...we proceeded to the point where we got our South Florida Water Management permit on the project. We had a reasonable number of reservations on the project. We got a site improvement permit from the City. But realized that before we could start doing any clearing or anything over there, we had to have an Army Corps of Engineers permit, which hadn't been applied for and wasn't awarded in time before the entitlements expired, which I negligently didn't request an extension of. So, had I done that, this would have been extended and there would have been no questions about it. But being that it wasn't, we resubmitted it with the same building, one bay larger with some bigger units in it, but still only 11 units. And obviously, if it can only be 10, I would at least like the staff to acknowledge that we have conformed with all of the other requirements: Parking, paving, landscaping, and everything else, but certainly with ....respectfully ask for additional bonus unit, which had been approved before. Thank you.

Mr. Bergman asked – Are there any questions for the applicant?

Mr. Johnson asked – Could you give me a floor by floor layout again of the number of units per floor?

Mr. Wuhrman stated – Sure. We will have on the ground floor parking, and it will be our reception area, which will also have some condominium common space for a meeting room and a little fitness center there, and some storage for the condominium owners. But increasing it by a bay, we've picked up an extra two (2) parking places within the building, which always helps. On the second floor, then, which is the first lodging level, we will have three (3) units. There will be a three (3) bedroom unit on each end of the building, which is about 1,750 sq. ft.; and there will be a center three (3) bedroom unit, which is about 2,200 sq. ft. That will be the same on the second, third, and fourth floor. And on the top floor there will be two (2) larger units, so that's nine units on those three (3) lodging levels. And on the top floor there will be two (2) units that will be larger units of about 3,200 sq. ft. each. And I think the

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building is going to be a real attribute to south beach area and it isn't going to be anything that anybody's going to be ashamed of. We tried to do the beach flavor with the standing seam metal roof, which was sort of imposed on us, and then in the end we're happy with it...imposed on us the last time around. But if you look at the rendering of this building versus the one that had been approved before, you'd see it's like night and day as far as the aesthetics of the building.

Mr. Bergman asked – Any other questions for the applicant?

Mr. Knott stated – Mr. Wuhrman, you heard what Mr. Trias said about you all not being up to the architectural standards that staff has set for the south beach. Has your professional...has your architect tried to meet with staff to work this out?

Mr. Wuhrman stated – We weren't aware that that was a major issue, Tom, until frankly now. Because basically the flavor of the building is similar to the one that had been approved before but with the enhancement of things like these French doors and circular balconies on the front of the building. I mean if it was a Mediterranean flavor with clay tile roofs that was desired, well we can bend on that. We like this, we think it's a good beach flavor. And we thought we were conforming with what was a precedent of what you were looking for over there. I mean if that's changed, you know, if Harbor Isles is setting a new standard for architectural flavor, well fine, we can bend with that.

Mr. Knott stated – Well, that's what I'm saying, it sounds like there needs to be some more meetings between your professionals and the staff to iron out this part ...

Mr. Wuhrman stated – We...we...that was the last time around, you know, that was suggested before the City Commission gave us the final approval, they deferred to further architectural discussions with staff. We did that. We came up with what we felt was an answer and they blessed it at the time. If there's some change in thinking on it, we're flexible enough to change too. We think this is very nice and desirable but certainly not the only way.

Mr. Knott continued – From what I'm hearing from staff this evening, it doesn't sound like there's much leeway in their review of your plan that is submitted tonight. So, my suggestion is that you perhaps need to go back and work out some of the details or the differences here before you go to the commission because the commission is probably going to have the same attitude.

Mr. Wuhrman stated – No, I don't ...I agree with that. I have no problem with that, and if the Planning Commission (referring to Planning **Board**) here would recommend it to proceed subject to our working out the aesthetics with staff, we're happy to do that.

Mr. Trias stated – Mr. Chairman, I want to make a comment on that topic because based on the South Beach Charrette, there seemed to be some kind of public perception that somehow staff was making some kind of special deals with developers and so on. So, I must decline that offer and I would prefer that all of this goes forward and simply continues to date and so on, because I absolutely have no interest in making it seem that we're doing something like that, because we're not, and we have never done that.

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Mr. Knott – So, in otherwords...

Mr. Trias continued – I just think this needs to continue through the process ...approved, denied, whatever the pleasure of the commission.

Mr. Knott – Okay.

Mr. Wuhrman asked – Could I ask a question? Is there anything architecturally that isn't of appeal to the Board other than what Mr. Trias says about staff? Are there things, questions, issues that could be raised that would be beneficial to us?

Mr. Bergman asked – How did you come up with this average building grade...where you're measuring your building height from?

Mr. Wuhrman stated – That was a determination made the last time around, which we followed this time, has the average grade around the base of the building with the berming that was done, which hadn't been done in the beginning, but was suggested by staff that we do, with the average roof line. Originally we had a flat roof in there. And it was felt in the last architectural review that giving some character to the roof was something we should do. So, the average height of the roof to the average height of the grade is what is the 45 ft.

Mr. Bergman continued – But where ...? But your finished floor is actually below that.

Mr. Wuhrman added – The garage floor is, yes.

Mr. Bergman stated – And so is your reception, fitness center, and storage.

Mr. Wuhrman stated – The entry level is yes.

Mr. Bergman asked – That's grade.

Mr. Wuhrman stated – It's lower than what was construed as the average grade around the building with the berming and retaining walls that were being built on it.

Mr. Bergman asked – But is your reception and fitness center below grade?

Mr. Wuhrman stated – No, it's the grade of the parking level outside.

Mr. Bergman continued – Okay, so that's your finished floor, that's your grade level then right? What I'm trying to determine is how you're getting away with throwing some dirt around a building and saying you can be four (4) ft. higher.

Mr. Wuhrman stated – Well, I don't think we're trying to get away with anything...

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Mr. Bergman stated – Well, I think you are.

Mr. Wuhrman stated – That was one that was ...that profile ...that elevation through there was something that had been worked off with the staff in the original submittal. And all we did was resubmit on the same basis.

Mr. Trias stated – Mr. Chairman, staff had also concerns about the height of the building and it was kind of like at the very last minute they simply wrote 45 ft. at the top.

Mr. Wuhrman added – Well, it's 45 ft. from the average height ...

Mr. Trias added – It's clearly not fully designed and the construction they've given us have not been prepared. So, this is just a statement by the applicant at this point.

Mr. Bergman – Alright.

Mr. Wuhrman asked – Do you have a section through the building? Is that part of what I had given you?

Mr. Bergman stated – Yes, well, I could understand if the finished floor for some of your building was at that level, but it's really not; it's 4 ½ ft. below that. You've got berms located in some areas around the building, but the building is still, you know, another 4 ½ ft. below what you're claiming as your average building grade. You don't have any handicap access into your first floor.

Mr. Wuhrman asked – Into where?

Mr. Bergman continued – Into your lower level.

Mr. Wuhrman asked – In the front door?

Mr. Bergman asked – Well, how are you get into your ....? I guess the only way anyone handicapped is going to get into this building is going in the elevator...is that correct?

Mr. Wuhrman stated – Yes. If they're parked in the garage they would get out of their car...

Mr. Bergman added – But they're not parked in the garage, they're parking outside.

Mr. Wuhrman stated – Then they would go in the front door and go into the elevator.

Mr. Bergman stated – So, if they were to park on grade and go across the parking into your reception area, that is the grade. Now you've got some planted areas that are obviously bermed, and I don't think, in my mind, you can count that as your average building grade.

Mr. Wuhrman continued – Well, that was the original concept of the height of the building to keep the 45 ft. that was not arbitrarily set up by me, it was something done with staff based on the definition of

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what the average grade around the building versus the average grade of the roof. As they say, we started out with a flat roof on the building, and it was suggested we give some character to the roof.

Mr. Bergman – Alright.

Mr. Knott stated – I believe this is probably in a pretty good flood zone here. It's not on the dune, it's not right on there, but I've got a feeling that flood elevation is going to be up around somewhere 10 or 12 or something like that.

Mr. Wuhrman added – That's true, Tom...that's true. And in the last discussion that was a major issue of the project, and that's the reason for our first lodging level being so high, it's like ....17.

Mr. Knott stated – Let me finish just a second...that's for your first unit...lodging level...your first dwellable unit?

Mr. Wuhrman – Yes.

Mr. Knott continued – Alright. And what the Chairman is saying here is that if you look at your section, you're showing that ....alright, your finished floor of your first dwelling unit is approximately 4 ½ ft. above what you're calling the average grade; that your parking area is below what would be the building grade. Which you would normally refer to that ...the average building grade around there would be like the center line of your roads...

Mr. Wuhrman continued – If we fill a whole lot up to that average grade around the building, we would have to ramp down into the garage, yes. And we would have to take steps ...

Mr. Knott added – And I don't believe that's going to get you up 10 or 12 ft. above sea level over there if you do that, because that ground around there is like elevation four (4) ...five (5) maybe...

Mr. Wuhrman – Yes, five (5).

Mr. Knott continued – Something around there. So, that means that your first floor ...if that's your average grade right there, you're five (5) ft. up from that, that means that your first dwellable unit is a five (5) or something right around there...right five (5).

Mr. Wuhrman stated – But it's not a habitable level.

Mr. Knott stated – Be maybe five (5)...maybe 10...you'll be up around 10, you'd be close. With that 4 ½ ft. up to there. I don't know, something doesn't look right here. I'm not quite sure what it is; do you, Don?

Mr. Bergman stated – Well, the Code clearly states it's not average grade...it's grade. There's no average in there. So, whatever your grade is out there right now is where you're measuring your 45 ft. from.

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Mr. Wuhrman stated – Then we've gone down a route that we never should have been led.

Mr. Bergman stated – I'm just telling you from experience, because I'm running into the same argument on the stuff we're working on. But the 45 ft...the commission has been very adamant probably for the last year that that is what they want regardless of what your base flood elevation is. If you've got a project that has a base flood elevation of 10 ft. and your first floor is parking, then you're going 45 ft. from whatever that ground is. The hurricanes have had a strange way of making people think a little differently around here.

Mr. Wuhrman stated – No. And that's one of the beauties of what we've got here. Our first habitable level is like up and about probably....uh.....

Mr. Bergman added – I don't have any problem with the concept with what you're trying to do...parking under the building is fine. But I think by berming up around the building to make up for an additional four (4) ft. of building height is just not going fly...I mean in my mind it wouldn't fly. I know they've done it at Southpointe, I think, is the last place I saw that they did that. They bermed up around the building. But they still measure from grade.

Mr. Wuhrman added – Partially for the aesthetics too, they have that blank garage wall standing out there...was one of the reasons a suggestion was made to do that...berm a retaining wall around the building.

Mr. Bergman added – Well, that, or you get somebody who can design a nice looking building even if you have a garage on the ground floor. You design the garage so that it's aesthetically pleasing and not just a blank wall. There are other ways to handle it besides throwing dirt around it.

Mr. Johnson added – I think this particular lot also ... this is just south of the new two (2) story houses that are built there...

Mr. Wuhrman stated – The single family houses, yes.

Mr. Knott added – And Paul Frishcorn's.

Mr. Johnson continued – Okay. And by experience, I had a water main break on Granada one day, and it filled that entire lot...this parcel, with water. So, that tells me that ....

Mr. Knott added and stated to the applicant – You are the drainage.

Mr. Johnson continued – The entire surrounding area. I would say that Granada is four (4) or five (5) above that lot...maybe not quite that much, maybe three (3) ft. So, that tells me if your first floor say 4 ½ ft. above of what we're calling an average grade...average grade would be Granada, I don't think you would reach...your first habitable floor would be high enough above the grade. I don't think there's a survey attached to this...is that correct?

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Mr. Wuhrman stated – There was.

Mr. Johnson asked – There was or is?

Mr. Wuhrman continued – No, there was a survey. I don't know...it should be in your package. We had the survey done and redone.

Mr. Johnson stated – The other thing I had a comment on was that you had access out to Hernando...is that correct?

Mr. Wuhrman – Yes.

Mr. Johnson asked – Is that the only access? There's no access to Granada?

Mr. Wuhrman stated – No, it's just Grandando (believe he meant to say Granada?). If you notice on there, there's an awfully large detention area that South Florida Water Management required, which we have the permit for.

Mr. Johnson stated – Okay. Well, I think if we had a survey I think we could tell what the actual elevation is, and I think...

Mr. Wuhrman stated – No. We had both a boundary and a topo.

Mr. Johnson stated – Okay. Well, that's going to be one of the issues. The other issue is ...I think you're going to run into that elevation problem with your first floor; if you get above that, you're going to accomplish two things. You're going to have to eliminate your penthouse floor, unfortunately, but you would bring your grade up. At the same time you'd be underneath the density maximum that would allow you to do the project.

Mr. Wuhrman stated – Well, we can expand the building ...put more units per floor to get the units in. We aren't going to lose them, we can expand the building.

Mr. Johnson stated – Yes, that's up to you.

Mr. Wuhrman stated – But I'm disappointed, at this stage of the game, these issues are all coming to light. I mean they're questioned, I should say; when it all had been approved and blessed and had we been on the ball and requested the extension of the entitlements, we would've had no problem at all, but we didn't.

Mr. Johnson stated – But I think you would accomplish a couple of things. If you want to expand your building, that's okay.

Mr. Wuhrman – I don't.

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Mr. Johnson continued – Yeah. Height wise I think you're going to have an issue. But the density itself, you're going to have to remain at 10; that's what it states, you're going to have to remain at 10.

Mr. Wuhrman stated – Well, we are at 10 and we're asking for the bonus for the extra landscaping that we've provided. And if there's a question about the landscaping, obviously that's something that we could clarify.

Mr. Johnson – Okay.

Mr. Wuhrman continued – To make sure we conform to what the requirement is.

Mr. Johnson stated – Right. As far as the architectural, you asked a question earlier, I think it's a little, what I call, flat in the front, I mean, you've kind of got a look that's borderline to me. Maybe something with windows, stucco bands, coins, things like that. But that's up to you guys. Those are just comments from me because you had asked for them. In addition to that, I think that you definitely have to have ...we have to get a survey attached to here. I think that's going to dictate a lot of what's happening elevation wise, just because I've seen it by experience.

Mr. Wuhrman stated – I'm surprised you don't have a survey attached to it...I've got one here to show you if you want to look at it.

Mr. Johnson – Okay.

Mr. Bergman asked – Are there any other questions for the applicant?

Mr. Wuhrman asked – Could I ask a question?

Mr. Bergman – Sure.

Mr. Wuhrman continued – With the questions that have come up here, what seems to make the most sense? Do we refer it to the City Commission for action with these comments and see what they say? Or go back to ...and Mr. Trias doesn't seem to want to discuss the architectural flavor of the thing because of the implications from this recent charrette and all.

Mr. Bergman stated – I'm sure Mr. Walker will say that it's probably not up to us to advise you one way or the other as to which way you should go with this project. I'm sure if somebody were to say something he'd jump out of his chair.

Attorney Walker stated – Mr. Chair, once the applicant is finished and the public hearing is closed, with the permission of the Chair I will be examining staff with a series of questions and then I will be prepared to cooperate with a recommendation on the future direction the applicant should take.

Mr. Bergman stated – Alright.

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Mr. Trias stated – Mr. Chairman, I think that you’ve had plenty of input and opportunity and you’re ready to make a decision at any point.

Mr. Bergman stated – I was going to see if there was anyone else who wishes to speak.

Mr. Jack Cahill stood and introduced himself and stated – I’m here representing actually the South Beach Association and the Surfside, and have been there for 25 years. Quite frankly we would like everyone to build on south beach if they can. Any vacant property that’s possible to build on, we want them to build there. But we want everyone to play by the same rules. What’s good for the goose is always good for the gander; and that’s how we feel about it quite frankly. I’ve had a lot of friends who have called me in the last couple weeks who are good friends who are looking to put a couple of extra units on a property, and they’re very nice people, but I tell them, quite frankly, it’s not my decision to make. It’s the people of South Beach and Surfside who have overwhelmingly wanted to keep the purity of the area by keeping everybody working in exactly the same area. Quite frankly the properties there are selling for high enough now where good developers can come in there and put a quality project up and make a very fair profit. And that’s exactly what we want people to do. But we’re sticking to the same guidelines of 8 and 45 only for the basis of the people who are living there who I’ve come here to represent tonight. And thank you all very much.

Mr. Bergman – Certainly.

Mr. Wuhrman asked – Could I ask a question of Mr. Cahill?

Mr. Cahill – Certainly.

Mr. Wuhrman asked – What do you think of the architecture and the style of the building?

Mr. Cahill stated – I haven’t even seen it quite frankly....As Tom (Knott) knows I’ve been with builders over the years, but I’m retired for 14 years. Another comment...Mr. Trias is much more familiar and competent than we are. We’re talking about density right now, and the traffic congestion on the beach and what’s coming on the beach. And again, we’re not asking anyone not to build there, we want you to build there. We just everybody to play by the same set of rules, and then it’s fair for everybody, really. Thank you again.

Mr. Bergman stated – Okay, thank you. Is there anyone else who wishes to speak? If not, we’ll close the public hearing.

Attorney Walker stated – Mr. Chair, with your permission, I’d like to ask some questions of staff.

Mr. Bergman – Certainly.

Attorney Walker continued – Mr. Trias, on the matter of the density application, wherein there is sought a bonus, let me draw your attention to Section 22 – 27.1 sub. 4 here on page 1543 that sets out five (5) minimum criteria that are to be met before there is then consideration of the application. The first

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criterion requires landscaping, which is in excess of 20 percent beyond the minimum landscaping otherwise required by the Code. Does this meet the additional 20 percent requirement?

Mr. Trias – Yes.

Attorney Walker continued – The second criterion involves planting, which exceeds by 20 percent the requirements otherwise imposed. Does this meet the landscape tree planting excess requirement?

Mr. Trias – Yes

Attorney Walker continued – The next criterion involves an increase by 50 percent of the minimum height levels of required trees at time of planting beyond the normal code requirements. Does this meet the minimum the 50 percent increase for tree plantings in height?

Mr. Trias – Yes.

Attorney Walker continued – Okay. The landscape irrigation sprinkler systems must be installed as one of the minimum requirements for the density. Does this meet that requirement?

Mr. Trias – Yes.

Attorney Walker continued – Okay. The final minimum requirement is that all plant species be salt tolerant and meet with your approval. Does the approved species list meet with your approval and is it salt tolerant?

Mr. Trias – Yes.

Attorney Walker continued – Okay. Now the applicant is therefore entitled to request a density bonus. The density bonus is awardable only if it is compatible with the natural features of the area in surrounding development and the availability of surrounding infrastructure. In your opinion, as a planning official, does the proposed density bonus meet that requirement?

Mr. Trias – No.

Attorney Walker continued – Okay. Mr. Trias, are there in any other respects portions of the site plan application which failed to meet minimum code requirements?

Mr. Trias – Yes.

Attorney Walker continued – What are those deficiencies please?

Mr. Trias stated – The calculations of height is questionable given the fact that it's not clear and it's very technical the definition of grade and at this point, in my view, it's not according to Code.

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Attorney Walker asked – Are there any other code violations represented by this application?

Mr. Trias stated – I’m not aware of any violations.

Attorney Walker stated – Mr. Chair, based upon the opinion of staff that the application does not meet code requirements, it is my opinion that the Board does not have jurisdiction to recommend approval of this plan to the Commission; in fact, based on 22 – 58, this application shouldn’t even be here in front of the Planning Board. Instead, if the applicant disagrees at all with the building official on whether the plan meets code requirements, the applicant has the right to appeal to the Board of Adjustment for a ruling on whether or not the application meets with code requirements. Based upon that conclusion, Mr. Chair, it’s my recommendation that the application be denied, and that it not be forwarded to the City Commission. If the applicant wishes to challenge the building officials’ opinions about whether the application meets code requirements, there are other venues in which appeal remedies may be explored. But it is not for the Planning Board and the Commission to treat an application which does not meet minimum code requirements.

Mr. Bergman stated – Okay, thank you, Mr. Walker. Alright then.

Mr. Wuhrman is raising his hand at this point.

Mr. Bergman stated – The public hearing is closed, Mr. Wuhrman.

Mr. Wuhrman asked – So, I can’t speak at all?

Mr. Bergman – No.

Mr. Bergman asked – What’s the pleasure of the Board?

Mr. Poitier stated – We don’t have any pleasure. We shouldn’t have had it anyway.

Mr. Enns stated – I have a question, Don. Mr. Walker is suggesting that we not even take a vote on this, if I’m hearing him correctly.

Mr. Poitier agreed – That’s right, that’s what he said.

Mr. Bergman stated – No. His comment was that it shouldn’t be here because it doesn’t meet the technical requirements of the site plan application.

**MOTION WAS MADE BY MR. ENNS TO DENY THE SITE PLAN APPLICATION WITH CONDITIONAL USE. Seconded by Mrs. Williams.**

Mr. Bergman asked – Is there any discussion on the motion?

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Mr. Knott stated – Just for some clarity from Mr. Walker. Mr. Walker, does the Code give this Board authority to deny this without going to the Commission, or are we just denying that it's not a completed application?

Attorney Walker stated – Respectfully Mr. Chair, that is a mistued? question. I do think the latter sense is what we're talking about here. If the Board has jurisdiction, then they can move to recommend approval, disapproval, or modified approval. We really don't have any jurisdiction because the application shouldn't be here in the first place.

Mr. Knott asked – Should we modify our motion that we are denying this because it is not a complete application in accordance with Section 22 – 58 of the codes? Would that be okay.

Attorney Walker – Yes.

Mr. Knott – Okay.

**Motion restated**

**MOTION WAS MADE BY MR. ENNS TO DENY THE SITE PLAN WITH CONDITIONAL USE DUE TO NOT BEING A COMPLETE APPLICATION. Seconded by Mrs. Williams.**

Ms. Benton asked – Mr. Chair, does that leave the applicant an opportunity to ...if this particular motion passes...to come back before the ...? I should be asking Mr. Walker...

Mr. Trias added – The applicant would have to submit an application that meets Code.

Mr. Bergman asked – Is there a time frame on that ...to reapply on the same project?

Mr. Trias stated – Well, the application was never appropriate and complete, so therefore, that would not apply in this case.

Mr. Bergman – Okay.

Ms. Benton stated – I just have one other comment. I know that we've seen application that have come before us that have not met Code. And I don't think that in each case we've made a motion to deny based on a lack of jurisdiction. This is the first time that I've seen this and I was just wondering is this a new approach that might need to take from here on out?

Mr. Bergman stated – Not really.

Ms. Benton – Why?

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Mr. Bergman continued – Once upon a time there was a checklist that the City used to use. And if you had anything that was not on your site plan that was required on that checklist. You never made it to Planning Board.

Ms. Benton stated – That wasn't what I asked. I said that we've seen some applications come here that perhaps did not meet the checklist or somehow or another we voted it up or down and then it went on to the City Commission.

Mr. Trias stated – Mr. Chairman, the issue before you really is an issue in which there is an opinion about what the grade is that the professionals from the applicant's side believe that their application meets Code. Based on our discussion, based on the expertise on the Board, it has become clear that that opinion is very questionable. And I think, at this point, I tend to agree with that situation. Now, these are matters of opinion, this is not a checklist. I beg to disagree with that characterization. And I understand how we get to this point. But the purpose of having the Board and the purpose of having all of you with all of your expertise to serve on the Board, is to precisely check those things and learn as we go through the process. And I think that what we've seen is the way that the process should work, and in my view, it has worked very well.

Mr. Wuhrman raises his hand once again at this point.

Mr. Bergman stated – Mr. Wuhrman, our public hearing is closed.

Mr. Wuhrman asked – Well, can I ask for...?

Mr. Bergman – No.

Mr. Bergman stated – Alright, is there anymore discussion on this motion?

Mr. Knott stated – Again, one more time with Mr. Walker. In light of what Ms. Benton had mentioned on ...is it within our power here to deny this as set forth by that or should this just be ...? Well, I'm not sure what the options would be. I believe you're right, Margaret ( Benton), I don't think we've done this before where we had...I didn't know we had that power.

Attorney Walker stated – Mr. Chair, Section 22 –58 sub. F, sub. 2, states as follows: The Department of Planning and Development will review the proposed site plan to ensure that it conforms with all City codes and ordinances. If there are no violations, it will be forwarded to the City Planning Board with a report on its compliance with the Comprehensive Plan and its conformance to any conceptual development plan for the development which has previously been reviewed by the City Commission. If the Planning Board was of the view that the application notwithstanding any recommendation by staff, met codes and ordinances, certainly it would have the power to forward a recommendation to the City Commission. But if it accepts the opinion of Planning staff that perhaps in hindsight a mistake was made and this does not conform to codes and ordinance requirements, then it may so indicate by the nature of the motion that is made; which in this case, is a motion that it be denied where it does not meet code requirements. In that case, it wouldn't go on to the City Commission because there wouldn't be a

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recommendation to be considered by the City Commission. It would remain with the Building Department subject to any appellate rights that the applicant would wish to exercise.

Mr. Knott stated – I think what you just said has cleared it up for me because the items that we’re basing our motion on tonight is not that ...as the Chairman said, there has been applications before that we’ve deemed not to be complete but there were details that were able to be worked out. A final engineering issue or an architectural could have been worked out with the staff. In this case, the whole nucleus of this is density. And it does not meet the criteria for the bonus density. It meets four (4) or five (5) of them but there are two of them it does not. So, it should not be here in the first place. Is that correct? Am I thinking correctly on that?

Attorney Walker stated – Mr. Chair, as I understand it, based upon the responses of Mr. Trias, it meets the five (5) minimum code requirements for density.

Mr. Knott – Right.

Attorney Walker continued – The problem here lies with the grade requirements, as I understand it. Our Planning Director has identified grade as being deficient and not conforming with the code.

Mr. Knott – I see.

Attorney Walker continued – And because of that, the application doesn’t meet code. Now, if it met code, if grade were okay, then the Board could either recommend approval or denial for any other reason under our code. But we don’t reach those other issues if the threshold issue of code conformity isn’t met.

Mr. Knott – I see. Okay. I was wrong. The building’s criteria is okay, it’s the height issue.

Mr. Trias stated – Mr. Chairman, this application is not going anywhere, so I wouldn’t encourage you to take a vote and let’s move on.

Mr. Bergman stated – I’m trying to. Is there any other discussion?

**Motion Restated**

**MOTION WAS MADE BY MR. ENNS TO DENY THE SITE PLAN WITH CONDITIONAL USE DUE TO NOT BEING A COMPLETE APPLICATION. Seconded by Mrs. Williams. Denied by roll call vote of 7 – 2.**

Mr. Bergman stated to the applicant – Okay, your site plan application has been denied.

**Agenda Item #9 – Rezone to PUD – Pincrest** – Approval of a Preliminary Planned Unit Development (PUD). Generally located on the southwest corner of Weatherbee Road & Regina Drive. Owner/applicant is Jerald Wuhrman.

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**Staff Report** – Ms. Clark stated – The project consists of 15 two (2) story buildings for a total of 96 units. There are several concerns with this application. At the current time, there are four (4)

perspective residential developments located off Weatherbee Road. Also there is an existing major development know as Gator Trace, a public golf course, an elementary school, and also two large dealerships in the area. The City Engineer has made some recommendations as far as the coordination of traffic impacts and how to address those in an overall strategy. To this date, that has not taken place. The other concern would be the intent of the PUD zoning code, which is explicitly spelled out and that it should provide a comprehensive development incorporating residential uses, commercial uses, and substantial public and semi-public uses. And this application does not comply with the intent of code; therefore staff is recommending denial.

Mr. Bergman stated – Alright. Thank you. Are there any questions of staff from the Board?

Mr. Johnson stated – Four (4) prospective residential developments ...have any of those come before us?

Ms. Clark – Yes.

Mr. Johnson asked – Do you remember which ones...all four (4)?

Ms. Clark stated – Yes. Tumblin Oaks...I'm not sure I can recall all four (4) developments. But yes, they have become before Planning Board.

Mr. Johnson – Okay, thank you.

Mr. Bergman asked – Are there any other questions of staff? Alright, hearing none, we can open the public hearing. Is there anyone here to speak on the rezoning to PUD for this project?

Mr. Jerald Wuhrman stood and introduced himself once again and stated – I'm the owner and developer. And obviously we're not scoring very well tonight. Why we're not on this specific project, again, is a question. It's a parcel of land that I bought with the expectation of putting in a project that would be favorable to the City as far as the type of unit. And keeping it modestly priced in the \$150,000 to \$250,000 range in an area that has had no development around it there and obviously could use some to upgrade it. The idea of ...first of all, what Ms. Clark read is not right, we've got 95 units and we have 17 buildings. Not that it's a major issue but it somehow got off base here and one of our original submittals...and we've gone through four (4) different versions of a site plan for this PUD. We did have 96 units at one point in time, and we did have the 16 buildings. But we're talking about a project that could add approximately 18 million dollars to the tax rolls of the Fort Pierce. And by my estimates of the millage rates probably a half of a million dollars of tax revenues. A PUD, as your ordinance spells out, is supposed to have certain other criteria rather than just good planning for residential use. And the idea of putting integrating commercial use into a PUD this size is real questionable to put a neighborhood shopping center on the corner of Regina and Weatherbee Road to accommodate 95 units is questionable. The public access into it and out of it is also questionable. One of our first site plans

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that we discussed with staff...and we had some alternatives because we didn't want to get off into the expense and time of creating a site plan until we had some feeling for it. One of them had an entryway on Weatherbee Road, which obviously would give us the best visibility as far as access. But recognizing the traffic problems there, it was not my first choice. Secondly, we then accepted staff's review on that and talked about Regina Street. So we put two (2) entries on Regina Street. We were pursuing the suggestions of a traditional neighborhood concept which would have the front porches and the sidewalks where people could walk and converse with each other. And driveways that would have been accessing onto Weatherbee Road and Regina Street. We did a layout like that and in presenting that to the Traffic Department and the Department of Transportation (D.O.T.), it had cold water thrown on it because it had too many driveways entering onto both public streets there. And so decided it probably wasn't a good thing going along with them. So we reversed the units, made them all open to the inside. We decided to put a privacy wall around it with the two (2) entryways to sort of upgrade the area over there and give it a little more flavor and still keeping the price of the units at a reasonable level. We had three (3) types of buildings in there originally: Townhouses in clusters of four (4) and five (5), we had eight (8) unit condominium buildings, two (2) story buildings, one version of it had one (1) car garages in each of the buildings, the other didn't have it, it had surface parking. We accepted staff's comments about the surface parking, eliminated that building in there and condensed it down to two (2) types of buildings, whereas we have 48 units as condominiums and six 8-unit condominium buildings each with garages in it. And the rest of them are four (4) – and five (5) – unit townhouses each with garages in it. All the corner units have two (2) – car garages. So, we've tried to do something. I've engaged the services of another architect, at the suggestion of staff, who critiqued our site plan and critiqued our architectural flavor. And being a graduate of Miami University in architecture, understood the traditional neighborhood concept that the Community Development Department (is possibly referring to some other department—this department has nothing to do with this) was trying to create in here. He made some very constructive suggestions about the type of units offsetting the townhouses so they didn't look just straight across the front with garages there. He made some suggestions with respect to eliminating that other type of building, the streetscape that we had. Things that added some flair to it. He gave us an architectural flavor that we felt looked like old Florida with the siding metal roofs, front porches and all you would want in a traditional neighborhood. And recognized when we went through the Technical Review process the issue was made about the potential for traffic problems at the intersection of U.S. 1 and Weatherbee Road. We took that to heart. I pursued it with the Department of Transportation (D.O.T.) through my engineer and through the county engineer. And talked with both of them and found out that the signalization of that corner isn't possible until the county puts two (2) right turn lanes in on Weatherbee Road. Because you can't signalize just single lane coming in to U.S. 1. And this recommendation has been made three (3) times by the Department of Transportation (D.O.T.) to the county engineering department and finally the county engineering department has developed a project to put the two (2) right turn lanes in, which they indicated to me that has been funded and is going to be done this year. And will set the stage that the study can be done for the assessment of whether a traffic light is justified at that corner. And it probably will be. So, I've sent a memo to Mr. Trias summarizing the findings and volunteering that Pinecrest would share in the cost of any signalization when and if the Department of Transportation (D.O.T.) decided that the signalization was necessary. Appealing that the project shouldn't be held up, and I don't know whether the other four (4) projects that Ms. Clark indicated had been reviewed or not, had been denied because of that traffic situation, or whether they were approved of the understanding that they'd also would share in this

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signalization thing. And so I feel that we've prepared a project that really is a good project as opposed to the 52 small single family lots that are platted and could be built on today, as opposed to a nice PUD that's going to enhance the area and give the City a better tax base. So, we obviously ask your consideration of this. Again, unfortunately an opposition to what staff has recommended and ask you to approve the preliminary PUD so that we can on with the rest of the engineering. We've conformed with Fort Pierce Utilities requirements for services, for a lift station that we have to put in that they wanted in a specific location that we agreed with so that they could tie in other possible services to it. We've rerouted the water system to put the hydrants where they suggested they should be. We've worked with your trash pick-up area to incorporate dumpster locations that would be satisfactory to them. And feel that we've put everything into this PUD with the exception we don't have any neighborhood shopping. And although the public can walk in and go out of the project, it isn't intended for them to utilize the recreation amenities that we're putting in here for the people in Pinecrest. So, again I'd like to respectfully ask that you approve the Preliminary PUD contingent on our sharing in the cost of the signalization when and if the D.O.T. approves it. Thank you.

Mr. Bergman stated – Mr. Wuhrman, the last two (2) sentences you just stated, are the reason, I believe, that staff is recommending denial. If you read the code for the PUD, and I think this is in staff's report, is that PUD's are designed to provide a comprehensive development of incorporated residential uses with substantial amount of open space and appropriate commercial, public, and semi-public uses. You have the residential but you have nothing else. And that is what incorporates the PUD. I think that is the basis of staff's position.

Mr. Trias stated – Mr. Chair, if I could explain the thinking behind that is that a PUD should not be used simply to increase the residential density. A PUD is intended to be a comprehensive development that includes all the things. And, in my view, sometimes developers fall into that mistake.

Mr. Wuhrman stated – Comment on that, Mr. Chairman. This parcel was originally in the county when I acquired it. After discussion with staff, since I had to deal with Fort Pierce Utilities on the services to it, question was raised why not bring it into the city. We did. We had it annexed in. It came in at the density that was prescribed from the county to the city with staff's blessings on it. We're not asking of any additional density in here. And this conforms with the density of the code provision, which is 10 units per acre; and we've got 9.6 acres and we've got 95 units. So, we're not asking for any bonus units, we not asking for any additional units. And, you know, if it's felt that it's necessary to put some neighborhood shopping in there, we'll do it; but for 95 units it's questionable whether it is. And I don't whether any of these other four (4) PUDs have done those types of things for this commercial aspect of it or for the public to it or not.

Mr. Bergman stated – I don't know if they were PUDs, I know there were other developments. They were probably not PUDs...

Mr. Trias agreed – Right, they were not PUDs. And they show density. Again, we can tell all kinds of stories, and it's just like statistics...sometimes it sounds correct and sometimes it doesn't. But what happens with PUDs, of course, is that you end up with smaller units, smaller lots, smaller, generally speaking, the developed area, because of the open space requirements, etc. And that is, at the very least,

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even if the numbers in the big picture still are the same, the units certainly are not. And that is one of the consequences of rezoning from a residential to a PUD.

Mr. Wuhrman asked – Could I ask a question?

Mr. Bergman – Sure.

Mr. Wuhrman continued – In looking at a PUD versus zoning that permits multi family, can you do it other than a PUD?

Mr. Trias – Yes.

Mr. Wuhrman continued – Could these be platted townhouse lots...with the same density?

Mr. Trias stated – To present the case, clearly you would have to see if it meets code. Your layout has to be designed.

Mr. Wuhrman stated – We could readily substitute the eight (8) – unit condominiums ...

Mr. Trias added – They're minimum size lots and minimum dimensions. My intuition is that it would have to be a little bit larger than what you have proposed. Anyway, we're not going to design it here. Staff recommends denial because this isn't a rezoning. Rezoning is of the discretion of the Commission. And basically, in our view, a rezoning to PUD should follow the intent of the PUD.

Mrs. Gates stated – I was just going to say...to me, Mr. Trias just said it for me. You're asking for a rezoning to PUD but you're not complying with the requirements that a PUD requires. So as a Board member, I just simply could not tonight, as much as I might like what you're trying to here in this area for development...I don't think I could do it based on what you're requesting. And you obviously cannot redesign it tonight. So, as a Board member, I'm going to have to tell my other fellow Board members that I won't be able to support it just on that basis. And it's just a very simple basis. We can stand here all night and talk about his, but it doesn't meet the requirements that you're asking for. So, to me, it's a very simple situation here.

Mr. Wuhrman stated – I'd like to ask before any vote be taken on this, if there's a question about whether we actually conform with the requirements of the PUD, that it be deferred as far as action and referred to the staff so that we can try to resolve these concerns about meeting these commercial requirements in a PUD and/or a public access? And make it so that it will conform with the requirements of the ordinance?

Mrs. Gates asked – Are you asking for a withdrawal, then, of your plans?

Mr. Wuhrman stated – Just a deferral.

Mr. Trias added – Yes. Just postponing it until the next meeting is the way I understand it.

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Mrs. Gates asked – Just tabling it then?

Mr. Wuhrman stated – Tabling it and seeing if we can't work out the requirements to incorporate into our proposed plan. The specific things that will make it conform with the PUD ordinance.

Mrs. Gates stated – I think all of us want to see you successful. I know it's hard for me to sit up here and not want to see good development, but I think that is probably what, as a Board member, I would like to see happen, so that he can go back...

Mr. Wuhrman added – Well, in the interest of the City it could be a development that could be meaningful.

Mrs. Gates stated – Well, that's what we're saying. So, may I make a motion, Don? Is it time to make a motion?

Mr. Bergman stated – I'll give the opportunity in a second. Is there anyone else that wishes to speak on this project? I don't believe that there is anyone else here. Were you finished, Mr. Wuhrman, with your presentation?

Mr. Wuhrman – Yes.

Mr. Bergman continued – We'll close the public hearing and you (Mrs. Gates) can certainly make a motion.

**MOTION WAS MADE BY MRS. GATES TO TABLE THIS ISSUE UNTIL THE NEXT MEETING OR UNTIL THE APPLICANT HAS TIME TO TALK WITH STAFF TO CLEAR UP ANY PROBLEMS ON THIS DEVELOPMENT. Seconded by Mr. Johnson. Roll call vote was unanimous to table this item.**

Mr. Bergman stated to the applicant – Okay. You are tabled until you are ready to present again. Good luck.

Ms. Benton stated – Mr. Chair, I believe that Mr. Trias recommended that it was table until the next meeting.

Mr. Bergman and Mr. Trias stated – Well, that was the motion yes.

Mr. Bergman stated – It was either until the next meeting or ...

Mr. Trias added – If he's not ready he will let us know and he won't be before you.

**Agenda Item #10 – Annexation – Sea Coast Air Condition & Sheet Metal** – Approval to allow the annexation of property identified as having contiguous municipal boundaries of Fort Pierce. Generally

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located on Jenkins Road. Owner is Patrick Langel, and applicant is Sea Coast Air Condition & Sheet Metal.

**Staff Report** – Ms. Clark stated – The request is voluntary and staff is recommending approval.

Mr. Bergman stated – Alright, and the Langels do not appear to be here.

**MOTION WAS MADE BY MR. KNOTT TO APPROVE THE ANNEXATION. Seconded by Mrs. Gates. Unanimously approved by roll call vote.**

**Agenda Item #11 – Annexation – James Tufo** – Approval to allow the annexation of property identified as having contiguous municipal boundaries of Fort Pierce. Located at 2496 South Kings Highway. Owner/applicant is James Tufo.

**Staff Report** – Ms. Clark stated – The request is voluntary, and staff is recommending approval.

Mr. Knott stated – Just out of curiosity, what’s the exemption assessed value? Never mind, I was just trying to figure out what these numbers were here.

**MOTION WAS MADE BY MRS. GATES TO APPROVE THE ANNEXATION. Seconded by Mr. Poitier. Unanimously approved by roll call vote.**

Mr. Bergman stated – Could we have a consideration of absences? Harriett (Brenner) apparently did not come and did not call. What is the pleasure of the Board?

**MOTION WAS MADE BY MR. KNOTT TO WAIT UNTIL THE NEXT MEETING TO SEE WHAT THE EXCUSE WAS OF MRS. BRENNER’S ABSENCE. Seconded by Mr. Poitier. Unanimously approved by voice vote.**

**Agenda Item #12 – Discussions**

Mr. Bergman asked – Any discussions? Ramon, Mr. Walker?

Mr. Trias – No, sir.

Attorney Walker – No, Mr. Chair, thank you.

Mr. Bergman stated – Alright, if there’s nothing else, we are out of here.

**Adjournment at 8:50 p.m.**