



ZONING ADMINISTRATION
DEVELOPMENT REVIEW
COMPREHENSIVE PLANNING
URBAN DESIGN
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CULTURAL RESOURCES

CITY OF FORT PIERCE

2005 Florida League of Cities "City of Excellence" Award Winner

DEPARTMENT OF PLANNING

"IMPROVING THE WAY WE DO BUSINESS"

PLANNING BOARD MINUTES

OF THE RESCHEDULED REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON TUESDAY, JUNE 20, 2006, IN THE SUNRISE THEATRE, 117 SOUTH 2nd STREET, FORT PIERCE, FLORIDA.

Chairman Bergman called the meeting to order.

Upon Roll Call, those present were: Don Bergman (Chairman), Sunny Gates (Vice Chair), Margaret Benton, Chuck Enns, Charlie Harris, Jeremiah Johnson, Tom Knott, Robert Poirtier, and Edward Reilly; James T. Walker, Assistant City Attorney; David Recor, Deputy City Manager/Interim Planning Director; Peter Buchwald, Zoning Administrator; Travis Gibbons, Planning Administrator; Kara Wood, Urban Designer; and Diann Ploetz, Administrative Secretary. Those absent: Board Member Leslie Olson (excused)

The next item considered - **#3- Approval of Minutes of Meeting held May 9, 2006.**

Mrs. Sunny Gates asked that on page 5, the fifth paragraph "Gates" be added. It must have been a typographical error.

Motion was made by Mr. Knott, seconded by Mr. Enns, to approve the Minutes of the Regular Meeting on May 9, 2006 with the noted change. Unanimously approved by voice vote.

The next item considered - **#4 – Southland Villas.** Application for a Site Plan & Conditional Use Permit for the construction of a 250-unit townhome project located at the northeast corner of US Highway 1 and Southland Drive.

Mrs. Kara Wood stated the request action is the approval of a Rezone and Future Land Use Amendment and Condition Use and Site Plan application for a 250-unit townhome development. Location of the property is the east side of US 1, north of Southland Drive. The current zoning for the majority of the property is C-3, General Commercial Zone with 3 of the total 26 acres is zoned R-4, Medium Density Residential. Under the requested Conditional Use, the multifamily housing proposed must satisfy the standards for the R-5, High Density Residential Zone. Section 22-28 for R-5 is included in staff's report. A Rezone and Future Land Use amendment is required as part of the Site Plan application. A brief history of the property's annexation and subsequent

rezoning is included in their staff report. In summary, the property still has dual zoning with 23 acres zoned C-3 and 3 acres zoned R-4. Staff has advised the applicant to submit the application to rezone this remaining portion of the parcel to C-3 and change the Land Use to CG, Commercial General in order for the parcel to contain a unified Zoning and Land Use. In researching the history of the property zoning, staff feels that the uniform Zoning and Land Use is appropriate. The Land Use Amendment qualifies as a small scale amendment to the Future Land Use Map and staff will incorporate the changes into the new Comprehensive Plan. The total parcel size is 26.523 acres – 22.7233 proposed residential, 3.79 proposed future commercial. The Future Land Use in the Comprehensive Plan of this parcel is CG, Commercial General and RM, Medium Density Residential. In this proposal, approximately 200 feet of the parcel along US 1 is being reserved for future commercial development. This allows for the continuation of the commercial development pattern along US 1 and serves to buffer the proposed residences from the activity along this major corridor. This pattern of development is consistent with the Future Land Use patterns of the Comprehensive Plan on the east side of US 1 designated CG, General Commercial. The remainder of the parcel is proposed as residential, which would be consistent with the St. Lucie County Future Land Use designation of RH, Residential High, located across Southland Drive to the south. The proposed project is in conformance with the Comprehensive Plan. Site Plan Analysis – under the requested Conditional Use, the proposed development must satisfy the standards for multifamily housing developments in the R-5 High Density Residential Zone with a density of 15 to 18 units per acre. The applicant is proposing a residential development of 12 six-unit and 22 eight-unit townhome buildings resulting in a density of 11 dwelling units per acre. Each building will be two stories in height and each unit included a one-car garage and driveway. The proposed development provides a public park with a gazebo a lake immediately inside the project entrance. Adjacent to this is the clubhouse and swimming pool, where a school bus stop will be located. Sidewalks along both sides of interior streets connect to a clear network of pedestrian paths between the units and around the lake. The applicant is also providing sidewalks along their frontage of US 1 and Southland Drive, as well as a bike lane to the end of Southland Drive. The property to the southwest is zoned C-3, General Commercial and is the current location of the Bev Smith Toyota Dealership. The property to the southeast is in unincorporated St. Lucie County, is zoned RM 11, Residential Multiple 11, and is currently developed as rental apartments. To the north and east is the High Point gated residential community, zoned R-4, Medium Density Residential. Across U.S. 1 to the west is in unincorporated St. Lucie County with a zoning of CG, Commercial General. All affected City and County Departments have reviewed the submittals and have approved the proposed Site Plan. As the proposed Site Plan meets the requirements of the Code and as all affected agencies have approved the plan, Staff recommends that the Planning Board forwards to the City Commission a recommendation for approval of the Rezone and Future Land Use Amendment Application and Site Plan and Conditional Use Applications.

Mr. Wes Blackman, Agent for Ark Development stated with him tonight is Sean Tanner with Ark Development and Chaunce Wallace who is with Wallace Civil Engineering, the civil engineering firm who did the work on the project. What you have before at my right hand side, your left hand side of the stage at the top is a colored landscape drawing. The bottom is an elevation and then facing the audience is the site plan for the project. As Kara said, and I want to thank staff for a very thorough review of this and a very helpful process throughout the way, subject project is 26.5 acres, 22.7 of which is proposed for the residential development which really is the bulk of the east portion of the site. A 3.8 acre parcel to the west will be reserved for future commercial

development. As was said, the property is located on the north side of Southland Drive at the northeast corner of US 1 and Southland Drive. The R-4 Conditional Use and Site Plan approval for the 250-unit townhouse development, which is about 11 units to the acre. Rezoning and Land Use Plan change, as Kara explained, of 3 eastern acres which is a residual from a rezoning in 1995 from R-4 Zoning and Residential Land Use to C-3 Zoning and Commercial Land Use. It is consistent with the remainder of the parcel and the practical impact of the Land Use Plan change and Rezoning is really negligible given the fact that the C-3 Zone allows residential development to R-5 density and the small R-4 parcel consisting of 3 acres averaged over the site really has minimal impact in terms of the allowable level of development. We concur with staff recommendations for the approval and agree that the proposed project is consistent with the Comprehensive Plan. There are 12-six unit 2-story, and 22-8 unit 2-story buildings. Each has two parking spaces. There is guest parking sprinkled throughout the site. At the main entrance, which is not gated, we have lake, pool, clubhouse, which will also serve as a bus stop and a multipurpose playfield immediately adjacent and across the street from the clubhouse. We have one emergency access drive to the east. Southland Drive will be improved. It will be repaved. We are giving an additional 5' of property west of the main entrance for a turn lane to accommodate north bound turn lane onto US 1 and the 5' additional right-of-way will also allow a bike lane and a sidewalk along the entire length. If you see as you go further east there is a jog a little bit to the south and all of this has been worked out through St. Lucie County. As far as the future development to the east, there will be pedestrian tie-in. there will not be a vehicular tie-in and it will link to a full side walk system, which is found throughout the entire project. The project did receive a conceptual approval from the City Commission on January 3, 2005 and the development team is here to answer any questions from either you or the public.

Mr. Edward Reilly asked as far as traffic, just looking at it on US 1 you are going to go through Southland Drive or whatever, there is no basically, if everybody is coming home at 5:00 pm, there is no deceleration lane or anything coming in there, is that, I know you did a traffic study, 250 units, 500 people coming home at 5:00. I think US 1 has a turning lane right there and two other lanes on each side. I am concerned about that right now.

Mr. Blackman said we are adding a turn lane from Southland Drive northbound on US 1. Our traffic study didn't indicate the need to do any sort of improvement on US 1 to accommodate additional turning movements and no specific turn lane into the project from Southland Drive but the main entrance.

Mr. Knott said in your application drawings, you indicate the improvement to the Southland, you are going to add a right turn-lane left out there. Your section shows you are going to curve that portion out by the, where you going to put in the expanded turning lanes out there, but you are going to go to a convention swale drainage for the remaining. My question is is it possible for him to curb that whole section down there, because there is not going to be a whole lot of room for swale there, number one, because they have a bicycle path there, sidewalk. And the second part of the question is when you do this, will you be taking the drainage off of that street into his project?

Mr. Blackman asked Chance if he wanted to address those questions. Are you talking about essentially, extending the curb along the entire frontage on Southland?

Mr. Knott said right, on both side. Just go ahead and curb that whole street down through there.

(Mr. Chaunce Wallace spoke from the audience and was inaudible.)

Mr. Knott said oh, does it. They have just the old flat curb in there. They don't have the curb or gutter?

Mr. Bergman asked Mr. Wallace to come to the microphone.

Chaunce Wallace, Wallace Civil Engineers, stated the f-curbing goes all the way to the main entrance. Then they have the swale from the east of the main entrance.

Mr. Knott asked east of that down to you emergency exit?

Mr. Wallace said right.

Mr. Knott asked can you curb that whole section down through there and do way with that?

Mr. Wallace said sure.

Mr. Knott said because as soon as you get that f-curbing, you are going to have a positive drainage system that you are going pick up that drainage where you going to put in the curb? What are you going to do with that drainage?

Mr. Wallace said where the drainage goes into the swale, there is going to be a swale...

Mr. Knott asked where does it go from the swale?

Mr. Wallace said on the other side they have a control basin at the east right-of-way line, there next to our property.

Mr. Knott asked will you be taking the drainage into your retention pond then?

Mr. Wallace said but we will be taking the previous post is the same. But for just that section of the drainage we are putting in one control structure on the southeast corner of the roadway.

Mr. Knott said all right very good. You are going to continue.

Mr. Wallace said we are going to put a culvert there where they pipes inlet with aluminum baffle for the drainage control.

Mr. Knott asked so you will be continuing the drainage pattern that is there, already? Is that basically what you are going to do?

Mr. Wallace said yes, sir.

Mr. Knott said so ya'll can go ahead and curb that all the way down through and fill in that so that it won't be a maintenance issue with the swale, is that correct?

Mr. Wallace said well, I think we will still have the green grass are there.

Mr. Knott said right, but you won't have an open swale. That is what I am getting that.

Mr. Wallace said you won't be able to drive into it. You will have the f-curb that will prevent the traffic from driving in there.

Mr. Knott asked can you take the curbing all the way down to the emergency exit?

Mr. Wallace said we are.

Mr. Knott said that is what I am trying to do, just clean up that street, because it is not going to be much street left when they put in the sidewalks and everything there.

Mr. Wallace said putting in the sidewalk and the bike path and the turn lane.

Mr. Knott said ok, thank you.

Mrs. Gates said Mr. Chairman, I would like to ask the applicant, in the rear of your property, I think you have a canal that runs behind the property. We have had this come up recently before. She is very concerned about the fact that you are going to have children living, families, there, what treatment do you plan to use to buffer and safeguard the children from this canal?

Mr. Blackman said actually there is an internal sidewalk circulation system which is outside of you question. The canal east of the property is 130' wide and it is also designated a county road right-of-way. So it is more than a canal. We would fence that area along the east side to prevent wandering children.

Mrs. Gates asked all the way?

Mr. Blackman said yes.

Mrs. Gates said if you going to come up on the east side there, would you not take it a little bit...

Mr. Blackman said essentially all the way north and south of the eastern property line.

Mrs. Gates asked do you know what kind of fencing they are planning to use?

Mr. Blackman said it would probable be a vinyl coated, a color of your choosing, chain link.

Mrs. Gates said ok, I would assume you are going to landscape this?

Mr. Blackman said yes and that is on our landscape plan.

Mrs. Gates said thank you. The fence is not on your plan, though, correct?

Mr. Blackman said no, it is not and we would entertain that as a condition.

Mrs. Gates said thank you.

Mr. Johnson said he sounds like Mr. Knott right now asking all these driving questions here. Price range on the units, what is that, what are you looking for?

Mr. Blackman said probably in the mid \$200,000.

Mr. Johnson said and your clientele you are focusing on, what is...

Mr. Blackman said it would be empty nesters and also young professionals. It is not an age limited community like High Pointe.

Mr. Johnson said I guess where I am going with the question is again, back to the traffic study and people coming in and out at ... young professionals and all that are leaving at 7:30 to 9:00 and everybody seems to be coming home probably around 4:30 to ...I know you have peak hours on this thing. But I am concerned about traffic going in and out of that small road right there onto US 1. I would like to see some type of, I don't know if it is possible, deceleration lane there that allows people to get off of US 1, so traffic still flows at peak hours on US 1.

Mr. Blackman said one thing we can do is, unfortunately our traffic engineer is on vacation and he is out of the State, what we could do in between this meeting and the City Commission is specifically look at that to see if that is necessary and have him attend the City Commission meeting, as well. But we understand your concern.

Mr. Johnson said all right.

Chairman Bergman said he has a question similar to that. The traffic study that your engineer did indicates 1,400 daily trips in and out of that development on one street with no ability to turn left onto US 1, how do you plan on dealing with that when people start getting killed at US 1 and Southland?

Mr. Blackman said well, of course that is not something anyone wishes for and again our traffic engineer is a registered traffic engineer and has done the traffic study and has indicated that there would not be a problem. We are providing the right turn and there is a left turn lane there to make a left, if necessary. I think that predominate moving would be towards downtown.

Chairman Bergman said that is not always the case. I live in a development on the same side of US 1 and the same situation there is no left hand turn signalization at Weatherbee and US 1 and I have seen numerous wrecks at that intersection. We have the capacity to turn to the south and go down to Midway Road where there is a light to turn left. Because if you try to turn left onto US 1 anytime between 4:00 and about 7:00 any night during the week, you cannot get out and they are projected 50 cars per house at that intersection. That is like one per minute. I think you

seriously need to look at some type of signalization at that intersection, because people aren't going to be able to get out of there.

Mr. Blackman said ok. We will our traffic engineer look at that. Again, I wish he could have been here this evening.

Chairman Bergman said I understand.

Mr. Johnson said I just want to clarify that there is a proposed 6' wall between the commercial property and the residential, is that correct?

Mr. Sean Tanner, Ark Developers, Inc., said yes and we have talked about the timing of that with staff and staff has recommended that that wall be built at the time of the commercial development. We are completely open to any schedule that is appropriate and that you deem appropriate. But according to staff, the preferred time would be in association with the commercial development.

Mr. Johnson said he just wanted to clarify. The other question regarding the commercial property is the access to the property. I know right now you are not developing that, but would it be necessary at this time to provide kind of a back alley access or back lot access to that commercial property, right? It would be in the area of the turning lane that is being provided onto US 1. I don't know if you want to disrupt... I know the developer can look at it or you can look at as you can sell the property later, but in the future the traffic could be impeded by constructing that commercial property or is everything anticipated to be off US 1?

Mr. Tanner said right now, it is off of Southland Drive and we did look at an alternate vehicular access from US1, but that was discouraged at this time, again waiting for the commercial development.

Mr. Johnson said I am assuming DOT would allow you to come off of US 1 for access to the property or have you not...

Mr. Tanner said yes, they would allow one curb cut, probably in the center of the property.

Mr. Johnson said ok, thank you.

Mr. Knott said that has been one of my concern too that with you and Ed and everyone is picking up on the amount of trips there that are going to generate and I was trying to find the split there that your traffic engineer had calculated into the project for peak purposes. It looks like there is 84 is way he has it coming in off of that US 1 into the project. Being familiar with the land out there, I don't know if you are going to have room in front of that car dealer to the south of your property, I don't know where his access is there, you might not have enough room for a deceleration lane there and I don't know how the Board feels, but I am concerned about having 1,400 trips, daily trips on this things to the point were since these folks own the commercial in front and the DOT would give them another access there, my thought is hey, rework the layout to where you bisect your commercial property in the front, put that deceleration on your property, in front of your property, then you will just have to work your commercial to that. That is going to be your main entrance into the commercial when it comes along. But you could have a right-in movement or

something just to get people off of US 1. You could still have that street there for other access, but to just have a deceleration lane for your entrance from the south. I don't know how the Board feels about that. Jeremiah, you're an engineer, what do you think about that?

Mr. Johnson said you have to look at the north side of the property, I guess that is where you are going with it for another entrance into the development, right?

Mr. Knott said right, about where the dark green comes through the center of this, east and west. If you put, they own the commercial in front of it....

Mr. Johnson said that would work in the middle.

Mr. Knott said they could like that up or they could move it all the way up to the very north for their north line internal road there. That way they could be the deceleration lane on their property, in front of their property, because they are not going to be able to encumber the existing driveway to the south of the car dealer. Does that make sense to you?

Tom said yes. What we will do is again, turn our traffic engineer loose on all these questions and what was pointed out to me too is that this is going to actually be phased over time in 80 unit segments. So, perhaps a phasing approach for these types of improvements could be worked out. So, you are not getting the full brunt of the impact without having a deceleration lane.

Mr. Knott asked until build out?

Mr. Tanner said right.

Mr. Knott said maybe at some point then the commercial comes along it could be stipulated or conditions could be put on that you could have so many units during your phasing, but when you reach half of your capacity, you have to have another point of entry, deceleration lane, off of US 1. I think that might work. By then you might know what you are going to do with the commercial property in front.

Mr. Johnson said on that, if you are doing phasing, then you are going to have a lot of construction traffic coming in through the whole thing, so you might want to go ahead and get it worked out now before you....

Mr. Knott said yes, you will have to have a construction entrance into the project; they could do that as part of your entrance to the commercial property.

Mr. Reilly said I guess I'm going along the lines of Mr. Knott, but what I see is a problem and I don't remember the regulation that DOT has but you have signalization at Farmer's Market Road, I don't know the distance requirement, but I'm not sure DOT would even allow by standard a signal at that intersection at Southland Drive. Even if the developer looked at, I don't see that DOT would allow, because it is too close.

Mr. Tanner said we did have DOT look at our traffic study and they actually determined that they felt, and this is FDOT, with an FDOT facility, that the impact for US 1 was insignificant and I have a copy of an e-mail here and they have looked at that.

Chairman Bergman said and from what I read in your traffic report that is because US 1 is already operating at an F level.

Mr. Knott said it is maxed out.

Chairman Bergman said according to them anything south of Georgia Avenue is over capacity and operates at a level of standard F and that is in 2004. so, I can't imagine things have gotten any better. I still have a major issue with people trying to go left out of this development. I have seen more than one instance of people getting t-boned at US 1 and Weatherbee. Like I said, it wouldn't be so much of an issue if you had an alternative way out to another side road where you could get down to some signalization to go left. I think the traffic engineer statement about being able to have some comprehensive signal retiming to minimize the impact of project traffic is a joke. I don't think that is wishful thinking on his part that that is going to solve the issue when I think something more drastic needs to be taken when you have that many trips coming out of two entrances into your development onto one side street and then dumping onto US 1.

Mr. Johnson said he has a question that regards to DOT, are they not planning any construction to redo US 1 along these areas? Does anyone know that? It was in there, but their new design incorporate a new split traffic flow. In other words, there is a median and a buffer between north and south bound and I am not sure if they are doing that in this area or not. I am not sure you can even turn left once DOT is finished with reconstructing US 1.

Chairman Bergman said what that would do is force a u-turn somewhere up US 1. That is another great solution. You see what happens there at US 1 and Virginia.

Mr. Wallace said the only point I wanted to make, I am not a traffic engineer, I am not holding myself up as a traffic engineer, is that that is a t-intersection so the two lanes that are exiting from the project are in fact are a dedicated right turn lane and left turn lane, because it is a t-intersection. So, you either have to turn north or you have to turn south, they can't go straight forward.

Mr. Bergman said I understand that.

Mr. Wallace said he wants the gentleman there saying that sometime in the future, when I don't know, but DOT will come through and do the typical urban divider and you do have to go sometimes a quarter of a mile, half of a mile, or something like that in order to find a turn around where it is permitted. That is just the way they invoke a safety standard.

Mr. Reilly asked would it be wiser to maybe table this until the next meeting where they could have their traffic person look at this and we could here about this later. Right now, if we send it on for a vote, we don't have the answers and our biggest concern we don't have answers too.

Chairman Bergman said they can certainly bring that up when we are ready to make the motion, we give them a chance. Were there any other questions of the applicant? Was there anyone else that wishes to speak on behalf of the project or against the project? if not, we will close the Public Hearing. What is the pleasure of this Board?

Motion was made by Mr. Reilly, seconded by Mrs. Gates, to table it until next month's meeting.

Mr. Knott said if we could perhaps clarify our request to them one more time the items we expect them to address before they come to us next month. As far as I can see, investigate the options for the construction of a right in deceleration lane into US 1, add pedestrian fence along the north side of their property along the canal.

Mrs. Gates said the east side and I don't know how far down the north and the south side, but I believe it needs to come down at some on either side. And I also stipulated with proper landscape buffering and when the landscape is mature, I would like to see it cover the fence so that we don't have to see that fence. So, what ever is appropriate that is going to work there to shield that fence as an additional buffer and irrigated.

Mr. Knott said and the third item would be to add curbing along the pavement for the road way of Southland to their east entry into the project.

Mrs. Wood asked can I ask a question for clarification? Mr. Knott, you are requesting changing the drainage from swale to curb and gutter along Southland Drive?

Mr. Knott said yes.

Mrs. Wood asked can I clarify that the swale drainage is according to County standards. They have this road classified, whatever way it is classified, that requires swale drainage. So in order for you to request a change in the drainage, it would require the applicant to go back to the County and see if that is appropriate for the County standards. They are the determiners of the design of the road. I just wanted to clarify that.

Mr. Knott said that's fine. We have run across this recently and it's reared it's head years ago that these roads within the City, the County is reluctant to do anything in way of maintenance or they said it is in the City, it is a City problem. That is what I have come up against them with the projects he has had in the City. So therefore, I say, let's get these swales out of here, if we have the opportunity know to curb and gutter and just do away with swale drainage and if they have to go back to the County, then so be it.

Mrs. Wood said ok, thank you.

All those voting in favor of the motion were: Chairman Bergman, Vice Chair Gates, Mrs. Benton, Mr. Enns, Mr. Harris, Mr. Johnson, Mr. Knott, Mr. Reilly and Mr. Poitier. Those opposed: None.

The next item on the agenda – **#5 - Fort Pierce Hotel**. Application for a Site Plan for an 85-room hotel and a 3,500 square-foot restaurant located at the northwest corner of Crossroads Parkway and Wheeler Terrace.

Mr. Peter Buchwald said the applicants proposing the construction of a hotel and restaurant on a 2.5 acre vacant property located at the northwest corner of Crossroad Parkway and Wheeler Terrace. The Property is zoned C-3, General Commercial and the Comp Plan identifies the property as CG, Commercial General. The proposed project is consistent with the zoning district and the Comp Plan. The 5-story hotel will be located in the northern portion of the site and will contain 85 rooms and business center. A swimming pool will be located outside the southwest corner of the hotel. The restaurant will be located in the southern portion of the site and will contain a total of 3,500 square feet of floor space. Sidewalks will be installed along Crossroads Parkway as part of the project and also the developer will improve Crossroads Parkway all the way to Kings Highway. The surrounding properties also currently are vacant in Zone C-3, General Commercial. All affected department have reviewed the submittals and have approved the proposed site plan based on it meeting the requirements of the Code. As proposed site plan meets the requirements of the Code, staff recommends that the Planning Board forward a recommendation to the City Commission for approval of the site plan.

Chairman Bergman asked if there were any questions to the staff from the Board. If not, he will open the Public Hearing.

Mr. Jeff Waters, Lucido & Associates, said our office prepared and filed the Site Plan for the applicant. I just want to follow up on a couple of things that Mr. Buchwald discussed. The Site Plan, as submitted, provides an 85 room hotel, a 3,500 square foot restaurant and the necessary parking sitting on 2.5 acres. Project is located in the Crossroads Park of Commerce and has a current zoning of C-3, which allows both the restaurant and the hotel within that zoning district. The site has no adverse environmental concerns. It is a clear site, no significant native trees and no wetlands. In front of you is an aerial map that shows the location sitting in between I-95 and the Turnpike, right off of Okeechobee Road. It is a cleared site, ready to begin construction. Also there is a rendered Site Plat for your review. The consultant team has worked diligently with staff to ensure that all the requirements of the Fort Pierce Zoning Code have been met and feel like we have been successful with that. This site, it is a good site for that project and we feel that that project is going to be good for the City in that location. I am available if you have any questions. Rich Ladyko, the Civil Engineer, is here and the applicant is also here if you have anything for us. Thank you.

Chairman Bergman asked is there any questions of the applicant from the Board?

Mr. Knott said Jeff, what is the name of the hotel? Is it a franchise?

Mr. Waters said right now, we are calling it Deva Matha Hotel. The applicant is in negotiation with national chains. The hotels and restaurant have been designed for conform to several different national chains, but we are waiting to ensure that we have Site Plan approval before we proceed with anything.

Mr. Knott said so you don't know what the name of the restaurant will be, either?

Mr. Waters said not yet.

Mr. Knott asked will they go hand in hand in ownership all the way through or is there a possibility they may sell the restaurant off at sometime?

Mr. Waters said let me check. It will be a lease parcel.

Mr. Knott said so they are going to lease it out. Let me ask our staff, if you don't mind, what is our ordinance say to something like this were we have the joint-two uses on the same parcel and the parking lion's share goes to the hotel/motel and if should they ever have to sell this off, can they cut this thing out and do that or is that going to be a problem in the future?

Mr. Buchwald said they would not be able to do that because they will be recording the Unity of Title, which will prevent them from ever being able to split up the restaurant from the hotel and sell them separately.

Mr. Knott said so the lease works fine, then?

Mr. Buchwald said correct or they will sell it as one project.

Mr. Knott said thank you very much.

Mrs. Margaret Benton said to the applicant, I notice that the project is considerable distance, well a little distance from Okeechobee Road, has any attention been directed at signage?

Mr. Water said we are showing entry signage at the intersection of Crossroads and Wheeler and that is what we provided for. Significant signage to draw them in from Okeechobee and with a five story building, we would hope we would have adequate visibility from Okeechobee, as well.

Mrs. Benton said ok, thank you.

Chairman Bergman asked is the architect here who did these elevations?

Mr. Water said he is not present.

Chairman Bergman said I know we really don't have authority over the elevations, but I know in the past we have been able to comment on the appearance that these buildings are going to have and I am really disappointed in these elevations. They seem to have not a lot of imagination or thought that has gone into them. They look more like a one-story building with arches that have been stretched to five stories. I would like to see, I'm sure the City Commission is going to like to see something that has got a little bit more thought into it and a little more street appeal than what we are seeing on the submittal.

Mr. Waters said that is noted and we will take a look at that.

Chairman Bergman said I understand that you are trying to do basically a vanilla shell-type building to get a national hotel in there, but at the same time, I think you need to look at doing something that's got a little more imagination in the elevation. These elevation are little bit reminiscent of Port St. Lucie than they are with what we would like to see up here again.

Mr. Water said ok.

Chairman Bergman closed the Public Hearing.

Motion was made by Mr. Knott, seconded by Mrs. Gates, to recommend approval with the condition that they revisit the architectural appearance of the structure.

Attorney Walker said point of order, respectfully, as alluded to indirectly by the Chair, this Board does not have jurisdiction over appearance standards as such. The Board has no authority to require that approval be conditioned upon meeting any such appearance standards. It would therefore be my recommendation that the motion be rephrased. There must be some artful way of being able to rephrase that and in preserving sense of concern over that without necessarily conditioning or implying that approval is conditioned on meeting any amorphous unspecified appearance standards.

Mr. Knott said we will try Mr. Chairman. We will make a condition that they don't make it look like Port St. Lucie. Are we allowed to do that Mr. Walker?

Mr. Buchwald said may I recommend perhaps there is a condition that they work with City staff, including our Urban Designer, to improve the architecture elevations of the hotel.

Mr. Knott said possibly improve the architectural features.

Motion was made by Mr. Knott, seconded by Mrs. Benton, to recommend approval with the condition that they work with City staff to improve the architectural features of the hotel.

Chairman Bergman asked Mr. Walker, does that meet with your approval that they work with City staff?

Attorney Walker said yes, Mr. Chair.

Those voting in favor of the motion were: Chairman Bergman, Vice Chair Gates, Mrs. Benton, Mr. Enns, Mr. Harris, Mr. Johnson, Mr. Knott, Mr. Reilly and Mr. Poitier. Those opposed: None.

The next item on the agenda – **#6 - Eckle's Restaurant**. Application for a Waiver of Distance for a 2COP Alcoholic Beverage License for a restaurant located at 1701 North 25th Street.

Mr. Buchwald said the applicant has recently acquired the restaurant located at 1701 North 25th Street. Restaurant is approximately 1,900 square feet in size. It is located in a C-3, General Commercial Zoning District. The applicant is applying for a 2COP license to serve beer and wine consumption on-premises and for the sale of package beer and wine for off-premises

consumption. In accordance with Section 309 of the City Code, the applicant is requesting a waiver of the required distance of 1,600 feet between the applicant's establishment and existing establishments, churches and schools. No existing establishments are located within 1,600 feet. The Garden City Elementary School is located 856 feet to the northeast and churches are located 718 feet to the southwest and 888 feet to the southeast. The churches and schools, however, appear to be situated in such a manner off of North 25th Street that it does not appear that traffic will be generated, which may adversely affect the safety of those persons attending the churches or school. However, Single Family Residential Zoning District, R-3, is located adjacent to the west of the proposed establishment. The proposed establishment is not located adjacent to any other residentially zoned areas. Adequate buffering should be present along the west property boundary to provide a visual and noise buffer. Presently a 6 to 8 foot hedge is located only along the northern half of this boundary which does not appear to provide adequate buffering to comply with the City Code. In addition, while the restaurant will have seating for at least 35 persons, permanent kitchen facilities and sales of beer and wine will be to persons patronizing this establishment for the purpose of ordering and consuming food. The applicant also requests to sell packaged beer and wine for off-premises consumption. Although the Code does not allow the sale of packaged beer and wine for off-premises consumption for this type of establishment, therefore, staff recommends approval of Waiver of Distance only with the condition that sales of beer and wine be limited to those persons patronizing the establishment for the main purpose of ordering and consuming food and that adequate buffering be present along the west property boundary. This buffering should consist of a wooden, stone or brick fence with shrubbery planted along the length of the fence. The applicant is here to answer any questions. I have also discussed these conditions with the applicant.

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

Mr. Knott asked Peter, did they go along with the condition or did they contest them?

Mr. Buchwald said at the time that I met with him on site, they agreed to the conditions and they are here to confirm those conditions.

Mr. Reilly asked Peter, what is an adequate buffer, exactly? Is that a 6 to 8 foot hedge? I know he said fence or landscape barrier, but what is it exactly? Is there a certain type of plant material? Is it where they can't see through it?

Mr. Buchwald answered they could do either a hedge material that is unbroken and doesn't have any gaps within it or you can do a fence. But if you do the fence, you also have to hedges at a certain spacing along the fence to beautify the fence. What staff recommends, because of the close proximity of the single family residences that a fence be installed to provide that adequate buffering and that the shrubs be planted along the fence to beautify the fence and add additional buffering.

Mr. Reilly asked are those 2' high shrubs or 4' high shrubs or do they cover the fence or is there anything to that or does it just have to be a shrub?

Mr. Buchwald answered the Code specifies that at least a 36" minimum height for those shrubs.

Mr. Reilly said ok.

Mrs. Gates asked Mr. Buchwald, maybe I missed that what height did you recommend for the fence?

Mr. Buchwald said the fence should be a 6' high fence.

Mrs. Gates said thank you.

Chairman Bergman asked any other questions of staff? If not, we will open the Public Hearing. If there is anyone here that would like to speak on this Distance Waiver?

Mr. David McDonald, owner of property, said I am willing to comply with the general requirements necessary to make it suitable for the City. I haven't started putting up any fence, because I didn't now if this would be granted to me.

Chairman Bergman said thank you. Are there any questions of the applicant? Is there anyone else who would like to speak? If not, we will close the Public Hearing and entertain a motion from the Board.

Motion was made by Mrs. Benton, seconded by Mr. Reilly, to recommend approval subject to the conditions recommended by staff. The conditions that sales of beer and wine be limited to those persons patronizing the establishment for the main purpose of ordering and consuming food and that adequate buffering be present along the west property boundary.

Those voting in favor of the motion were: Chairman Bergman, Vice Chair Gates, Mrs. Benton, Mr. Enns, Mr. Harris, Mr. Johnson, Mr. Knott, Mr. Reilly and Mr. Poitier. Those opposed: None.

Chairman Bergman said Diann, before you start in on the next item, I am going to, if there are not objections from the Board, I am going to move these annexations ahead of the South Beach Overlay District, so we can spend some time on that. (no objections from Board)

The next item on the agenda – **#8 - Voluntary Annexation – 3361 South US 1 and Maravilla Gardens, Unit 3, Lot 174.**

Mr. Travis Gibbons said this is a voluntary annexation request for two parcels on US 1. St. Lucie County Zoning and Land Use is designated as Industrial Light with a Future Land Use of Commercial. Proposed City Zoning is C-3, General Commercial, and Future Land Use is General Commercial, as well. Staff recommends approval.

Chairman Bergman asked is there anyone here that would like to speak on the annexation request? What is the pleasure of the Board?

Motion was made by Mr. Enns, seconded by Mr. Harris, to approve the voluntary annexation of 3361 South US 1 and Maravilla Gardens, Unit 3, Lot 174.

Those voting in favor of the motion were: Chairman Bergman, Vice Chair Gates, Mrs. Benton, Mr. Enns, Mr. Harris, Mr. Johnson, Mr. Knott, Mr. Reilly and Mr. Poitier. Those opposed: None.

The next item considered - **#9 – Voluntary Annexation – Lot 9, Block 10, Surfside Harbor.**

Mr. Travis Gibbons said this is another voluntary annexation request for a single parcel roughly a quarter acre on South Ocean Drive. Proposed City Zoning is R-1, Single Family Low Density, with a Future Land Use of Residential Low Density. Staff recommends approval.

Chairman Bergman said Travis, on your annexation map, is the shaded area... your going contiguous across the right-of-way of Ocean Drive? Is that how it is working on this?

Mr. Gibbons said right.

Chairman Bergman said I am trying to figure out this property is contiguous to the current boundary.

Mr. Gibbons said across the street, what is not colored is actually the City limits on this map here. Is this the one you are looking at?

Chairman Bergman said I'm looking at the gray one.

Mr. Gibbons said across the street, the parcel extends south of this. This parcel is contiguous as in across the street is within the City limits.

Chairman Bergman said so the shaded/gray part on our non-colored version is the City boundaries. I just want to make sure you guys weren't making a stretch out of this one.

Mrs. Benton said just one question to staff, is that a parcel just big enough for one residence?

Mr. Gibbons said yes.

Chairman Bergman asked any other questions of staff? If not, is there anyone here to speak on the annexation request? Public Hearing is closed and entertain a motion from the Board.

Motion was made by Mr. Enns, seconded by Mr. Benton, to approve the voluntary annexation of Lot 9, Block 10, Surfside Harbor.

Those voting in favor of the motion were: Chairman Bergman, Vice Chair Gates, Mrs. Benton, Mr. Enns, Mr. Harris, Mr. Johnson, Mr. Knott, Mr. Reilly and Mr. Poitier. Those opposed: None.

The next item considered - **#10 – Voluntary Annexation – 2591 McNeil Road.**

Mr. Travis Gibbons said this is for 2591 Mc Neil Road. This is part of the Harbor Federal acquisitions for...they will have a Site Plan in front of you in your near future. This will complete the piece and it is in St. Lucie County currently. It has a City proposed Zoning of C-3, General Commercial and a Future Land Use of CG. Staff recommends approval.

Chairman Benton said Travis, this time I have a colored one, but I still can't find this parcel on that.

Mr. Gibbons said before the colored maps, you will see the maps. It actually fills an enclave.

Mr. Knott said just out of curiosity, there is a little sliver between the right-of-way and this parcel, is there any reason for that or is that just a spite strip?

Mr. Gibbons said honesty, I think that is probably just a graphical error. I know there is not a parcel there.

Mr. Knott asked it fills to the right-of-way?

Mr. Gibbons said yes.

Mr. Knott said just out of curiosity, thank you.

Chairman Bergman said I think the colors are great, but I still can't find McNeil Road on here. Is there anyone here to speak on the voluntary annexation?

Ms. Gina Nelli, Harbor Federal, said I am here to answer any questions.

Chairman Bergman asked if there are any questions of the applicant? Does anyone else want to speak on the annexation? If not, we will close the Public Hearing. What is the pleasure of the Board?

Motion was made by Mr. Enns, seconded by Mr. Harris, to approve the voluntary annexation of 2591 McNeil Road.

Those voting in favor of the motion were: Chairman Bergman, Vice Chair Gates, Mrs. Benton, Mr. Enns, Mr. Harris, Mr. Johnson, Mr. Knott, Mr. Reilly and Mr. Poitier. Those opposed: None.

The next item considered - **#7 – South Beach Overlay District** – Proposed Ordinance for South Beach which includes regulations governing the maximum number of building stories, maximum permitted densities for residential and nonresidential land uses, maximum height as well as criteria for condominium hotel style development within the Overlay District.

Mr. David Recor said the South Beach Overlay District was a concept that was originally conceived by staff in late 2005 as a way to implement the vision that was articulated by the community in May of 2005, particularly as it pertained to maximum number of stories, building height, and densities on the Island. Since that time, there was a development proposal that was

considered by the Commission in January of 2006 where the City Commission had questions about what it was they were looking at. It was a new form of development in the community called a condominium-hotel style development. The City Commission at that time elected to adopt a 90 day moratorium on that style of development and directed staff to go back and learn as much as they could about condominium-hotel style development and come back with some criteria that would make sure that that is what the community was getting. At that time, we had committed to actually having the criteria adopted within the 90 day moratorium period, however we weren't successful. We were and have prepared the South Beach Overlay as the way to address the issue, however it has not been adopted. We have had a workshop with the City Commission to identify the criteria which we were proposing and now we are initiating a Public Hearing process. We have had several meetings with concerned residents, developers, real estate agents, concerned citizens and we have prepared a Public Hearing draft. We have advertised for the discussion this evening and welcome your feedback on the draft as well. What I would like to do is just go through the ordinance this evening, section by section, since there appear to be a lot of interest in how we are approaching development and redevelopment on the Island. The South Beach Overlay District is essentially divided into three sections. There is an "Applicability and Purpose" section, the "Delineation of the District" itself, and then there are "District Regulations". As far as the "Applicability and Purpose" goes it is in this section in which we are stating why we are doing what we are doing and what is unique about South Hutchinson Island is that it is a barrier island. It is a special environment and one that we need to preserve and protect and so we are identifying in the purpose and intent that that is the basis for forming this South Beach Overlay District as a means of preserving and protecting that quality of life and that unique barrier island environment. We identify in the Purpose and Applicability section that the Overlay District applies to new development as well as redevelopment on the Island both for residential as well as non-residential land uses. As far as what area of the South Beach Overlay District covers, there is a map that is on the easel that identifies the area. For those that don't understand the concept or are not familiar with the concept of an Overlay District, the map that identifies the parcels that are affected is essentially the City's Zoning Map. The City is not proposing, by way of the South Beach Overlay District, to change anybody's zoning, to change the underlying zoning district. The South Beach Overlay District is exactly that. It is something that rests on top of the underlying zoning district and the more restrictive of the provisions apply. So the map that identifies the parcels that are affected, again, is essentially the City's Zoning Map and it includes the parcels from the foot of the bridge, both north and south and east and west until Blue Heron, just passed Ocean Village. It does include the parcel underneath the bridge, as well. As far the District Regulations go, there are a number of regulations that are included in the proposal. There are regulations that apply to specific uses that are proposed on the island and then there are regulations that apply to both residential and non-residential development on the Island as a whole. The distinction between the two falls under the "Supplemental Use Regulations" where the Overlay Districts specifically calls out "Condominium Hotels". It is in this section which we articulate the criteria which Condominium Hotel style development will have to adhere to when it develops on the Island. Now, Condominium Hotel style development is a very specific form of development. It is different and we distinguish it in the Ordinance from a typical hotel or motel form of development. If a developer, property owner comes in and proposes to build a hotel as defined by the Overlay District or defined by the Land Development Regulations, the Supplemental Use Regulations don't apply. It is only if the property or developer proposes a condominium hotel style development. The difference in the style of development is that under a condominium style form of development, the individual units within the hotel are owned as

opposed to rented out on a daily basis or owned by the chain or property owner. Specifically under Supplemental Use Regulations, we do call out Condominium Hotels and that is the only specific use that we identify at this time. That is not to say that we may identify certain other uses in the future that warrant additional review where we could call out standards for restaurants over a certain size, for a bar that has hours of certain operation that has an outdoor seating facility. In other words, if there are certain other characteristics about a use that warrants additional review, this may be an appropriate section to identify standards by which that use has to comply. The Supplemental Use Regulations as they pertain to Condominium Hotels are divided into a number of sections. There are General Requirements. There are Architectural Standards. There is a new parking requirement, a different a separate parking requirement for Condominium Hotel style development as well as conditions of approval. I will begin under the General Requirements. I will go back to the discussion before the City Commission in January of 2006 regarding the Island Village resort. The question was what exactly is the Island Village Resort or the Island Village Hotel? It was presented as a Condominium Hotel style development. I believe and I believe the City Commission is on the record that if it understands the concept and if it fully understands and believes that what they are getting is actually a hotel and it meets the requirements of the Ordinance, I believe the Commission would be supportive. That is the approach that we took in developing the criteria, is making sure that what is proposed and is in all sense and purposes a legitimate hotel and not a multi-family development disguised as a hotel purely as a means of increasing density on the Island. The first general criteria states that "Condominium-hotel facilities shall be created, sold, and maintained under documentation, including condominium declaration, bylaws, sales brochures, and preconstruction agreements, with form and content approved by the City Attorney, which adequately disclose and ensure that the condo-hotel facility will, in all respects, be permanently and exclusively operated as a transient accommodations facility and will not be occupied as a multi-family dwelling." Point here is there is no distinction if someone buys one of these units they understand they are buying a condominium-hotel unit and not a multi-family dwelling unit. The second general criteria states that "condominium-hotel facilities must be permanently dedicated in their entirety to the complete control and management of a single hotel or resort hotel operator for operation as a transient accommodations facility." Third criteria is that "the hotel or resort hotel operator must be affiliated with a major National or International chain or franchise at all times." Now, keep in mind these are supplemental use regulations, general requirements that apply to condominium hotel style development. Again, if the units are not going to be sold, these criteria do not apply. It is only in the event that that form of development is proposed. The fourth criteria is that "condominium-hotel facilities shall contain no dwelling units." It may sound repetitive, however we believe that it is important to...it is one of those desponding arguments. "Condominium-hotel facilities shall contain no dwelling units. Only individual sleeping units that are permanently dedicated for rental to the public for transient occupancy on a fulltime basis by the hotel or resort hotel operator shall be permitted." One of the things that we heard was that there needed to be some regulation of the length of time that the individual unit owners could stay. So the fourth criteria goes on to "provided, however, that an owner of an individual sleeping unit in a condominium-hotel may be permitted to occupy the owned sleeping unit without rental charge up to thirty (30) days in any calendar year." The next criteria states the "condominium-hotel sleeping units shall not be used for homesteading purposes or home occupational licensing, time or fractional interests." If it is not a dwelling unit, it can't be used as a home occupation and you can't homestead it. The next criteria has to do primarily with licensing and states that "condominium-hotel facilities shall be licensed by all applicable state and local agencies that license traditional hotels and/or resort hotels prior to the issuance of any certificate

of occupancy. “ And these licenses have to be kept up to date. The next criteria states that “rental of condominium-hotel sleeping units shall be subject to all applicable state and local tourist tax collections.” In our opinion, this will be a significant source of revenue. Next, “condominium-hotel facilities shall be advertised an appropriately identified with signage as a hotel or resort hotel.” Again, the condominium aspect of this form of development is simply a form of ownership. So, using the Island Village Hotel as an example, the signage could read - Island Village Hotel - a condominium hotel style development or a condo-hotel development. The primary purpose of this criteria is that it needs to be identified as a hotel. The next criteria is that the “condominium-hotel facilities shall contain and maintain standardized furniture, furnishings, and décor in all individual sleeping units.” That doesn’t mean that you can’t have a tier or a level of furnishing, an entry level suite as opposed to the Presidential Suite. But if I am running one Presidential Suite, the furnishings are going to be standard. The individual sleeping unit owner will not be able to go to Rooms To Go or Haverty’s and purchase their furniture. The furnishing and décor is standardized by the hotel operator. Again, consistent with what you would expect if you were going to a Hilton or a Marriott or a Days Inn or any other hotel. The next criteria is that “condominium-hotel facilities shall be served by singly metered utility services with a central telephone system and central cable television system installed in all individual sleeping units.” Again, when we checked into the Marriott, when we go to the Hilton, I turn that a/c down to 64 and I don’t worry about who is paying the bill, because I am paying a nightly rental charge for it. I am not registering with FPUA. I am not getting phone service in my name. I am not calling Comcast and getting cable service. All of those services are singly metered and provided by the hotel operator and that is the intent of this criteria. The next criteria is that “individual sleeping units shall not contain any lockable storage closet or cabinet unless access to such closet is automatically and uniformly provided to each member of the public who rents the sleeping unit.” There is something known as a lockout, where there are doors were you can lock out portions of a unit and break it down and rent other portions of it. The same concept applies to the storage closets. I keep all my valuable in the closet. The unit owner only has access to it. There shouldn’t be any locked closet or lockout units unless everyone who rents the unit has access to it. “Condominium-hotel facilities shall provide an internally-oriented lobby and front desk area.” “Condominium-hotel facilities shall utilize a uniform key entry system managed by the hotel or resort hotel operator to receive and disburse keys for each condo-hotel sleeping unit. “ Again, the individual unit owners are not under the guidelines proposed by the City. The individual sleeping units are managed by the operator. They are responsible for the disbursement of keys. An individual sleeping unit owner doesn’t handle the rental of his or her unit and do the disbursement of the keys. I check-in at the front desk, I receive a key. I checkout, I leave the key in the room or if it is a digital key I give it to my kids and let them play with it. “Condominium-hotel facilities shall offer daily maid service, concierge as well as other customary hospitality services.” Again, services that you would generally expect in a hotel style development. The next criteria deals with “the books and records of the condo-hotel facility operator shall be open for inspection by authorized representatives of the City, upon reasonable notice, in order to confirm compliance with these regulations as allowed by general law.” And the last general criteria is that “the City may require affidavits of compliance with the criteria from the developer, management entity, and/or the condominium-hotel sleeping unit purchaser/owner concurrent with annual renewal of any required occupational license.” In other words, you may ask “well, how are you going to enforce these criteria?” We are going to put the honors on the hotel operator or developer to demonstrate compliance. Not only up front, but on an annual basis at the time of business license renewal. The City certainly can’t claim credit for developing all of these criteria on its own. There

are several attachments. The first attachment indicates the number and location of the various South Florida communities that have studied this concept. We did not attempt to reinvent the wheel, but rather picked and chose from the various criteria that other communities have experience with and put them in our own regulations intended to address this style of development. The second section, however, "Architectural Standards" is somewhat unique to the City of Fort Pierce because the City is new in the architectural review, the design review business. We have prepared draft design review guidelines. We have distributed them to the architectural review community and are expecting feedback by the end of next week. Those designs guidelines will be coming back to you as the Planning Board, for your review and recommendation to the City Commission as to how we should be moving forward. But what we heard from in reviewing the condominium-hotel style development when it was before the City Commission was that there were certain aspects of the development that were important to the Commission and that was that the integrity and the compatibility of the buildings need to be compatible with the surrounding character. It can't be out of scale. What are we talking about? We are talking about the siding of the buildings, the massing, proportion, scale, materials, colors, details, façade treatments, fenestration, and it goes onto identify site features, lighting and signage. Another big concern that we heard about and I believe our City Commission is legitimately concerned about as the waterfront develops and redevelops that the openness that we don't loose that view to the water and that we preserve opportunities not only for view, but for public access as well. So the Architectural Standards go on to provide for openness of ground floor facades to provide for view corridors that face pedestrian utilized roadway and circulation routes, promoting pedestrian activity and increased visibility of activity from the interior of the buildings. The second Architectural Standards indicates the condominium-hotel facilities can be arranged either vertically and it goes on to provide what is meant by vertically. There are accessory uses on the ground floor and the units going vertical or horizontally, it matters not, provided that they are consistent with the General Architectural Standards that we have identified. Third criteria, Architectural Standard is that the building and the architectural detail should be designed to create visual interest at the street level using techniques such as incorporating porches, staggering the frontage of the buildings, recessing doors and windows, providing awnings and canopies. Visually extending interior spaces outside; encouraging people to be outdoors. And the last Architectural standard deals with "site and architectural design features shall substantially advance design standards that reflect local precedents." I think we have got some examples of some fine architectural buildings, both from an historical perspective as well as new development perspective and regional buildings and these can include Mediterranean style, Key West style, Mission, Prairie, Streamlined Art Deco or Mid-Century Modern architectural. I think that we have examples of that kind of development while there is not specific definition provided. The next criteria under the Supplemental Use Regulations that apply specifically to the condominium-hotel style development is the parking standard. What we heard and what we saw from most other communities is that there is a different and distinct parking requirement for condominium-hotel style development particularly as the unit increase in size. This parking requirement distinguishes that from a hotel and requires condominium-hotels to provide 1.5 on-site parking spaces per sleeping unit plus one space for 200 square feet of other commercial office retail area plus one space per employee per shift. Again, I will be very candid with you, I was candid with the folks that expressed interest in this ordinance before it reached the public hearing phase. This is a very restrictive parking provision. It requires the developer to not only provide for an increased number of spaces per sleeping unit, but supplemental space additional spaces for the accessory uses in the building plus the number of parking spaces per employee per shift. You may receive some

feedback on it. The last section deals with Conditions of Approval and this section is intended to allow the City Commission to impose additional limitations on the size of the sleeping units, included and not limiting to the area, the number of bedrooms because there may be more than one bedroom in a sleeping unit. The types of utility fixtures to ensure the viability of the hospitality and the transient accommodation, as well to limit the impacts on local services including transportation, potable water, sanitary sewer and hurricane evacuation. One of the things unique about South Beach is that we know that there are five zoning districts on the Island. We know how much area is within each zoning district. We know based on that area and it is easy for use to project the number of trips that are going to be generated, the typed of impact that we can expect if development adheres to certain levels of intensity. Consequently, it is easier for the staff to measure impact when you have something that is easily defined when you can compare it to something as it changes. Those are the criteria that specifically apply to condominium-hotel style development within the Overlay District. The remainder of the ordinance applies to all development, both residential and non-residential development within the District. The Overlay District goes on to provide for a minimal lot area as well as a lot width. It says that "subdivision or recombination of lots platted and recorded in the R-4A, Hutchinson Island Medium Density Residential zoning district as of the effective date of the Article shall not result in any lot less than 5,000 square feet in lot area or 70 feet in lot width. The minimum lot width for duplexes, triplexes, quadraplexes and multifamily housing developments shall be 75 feet." The R-4A currently provides for 5,000 square feet, but it also allows a lot width of 60 feet. As of the effective date of the ordinance, replatting, recombination, new lots in the R-4A District would be required to have a minimum lot width of 70 feet and that was at the request of the City Commission. The next criteria again, that applies both residential and non-residential development island wide within the Overlay District is density. "Multifamily residential density shall be limited to 8 dwelling units per acre in areas that permit such development in the District. Non-residential density shall be limited to 10,000 square feet per net acre or 35 sleeping units per net acre." And as you would expect, this generated a lot of preliminary discussion as we met at both with the City Commissioners as well as concerned citizens, residents and hotelers and developers. The original draft provided for 8,000 square feet per net acre and 20 sleeping units per net acre as a way of measuring non-residential density. In fact, in February of this year when we had a development workshop with the City Commission, the City Commission expressed desire to have 20 to 25 units per acre, but after seeing the Overlay District as a whole, at least one Commissioner said "well, you know, 20 units per acre might be a bit overly restrictive. We might not get a legitimate real hotelier to come on the Island if they can only do 20 units an acre." And that was supported by the additional map, that is really hard to see and I apologize, at least it is for me, but it identifies hotels as, and I think there is even a multifamily development or two, that is the C-5 zoning district on the Island along Seaway. It identifies the hotel developments and several multifamily developments and what density they are developed at. And I don't want you to think of density as necessarily being a bad thing. We believe that we can effectively review dense proposals as long as they are designed appropriately. But what you see on that map is that the density ranges from anywhere from 17 units an acre all the way up to 75 units per acre for the Sandhurst, the old Holiday Inn. So, as a compromise and as a starting point in the public hearing draft, we changed that from 20 to 35 sleeping units per net acre. In addition, we increased the 8,000 square feet of gross floor are to 10,000 square feet. In discussions with several professionals in the community that do a lot of business here and elsewhere, generally after you have taken out the required setback areas and other extractions. You are generally seeing between 10,000 and 12,000 square feet of gross floor area per acre. Again, consistent with the theme of conservative we went with the lower number.

We provided for 10,000 square feet per net acre. We have chartered and diagrammed them on all the staff exactly what that provides for and the impact of that. We think that is doable, workable and reasonable. The next criteria deals with height and provides that "single-family residential building heights shall be limited to 28 feet in the District. Multifamily residential and/or non-residential building heights shall be limited to 46 feet and 4 stories in the District." The next is a new requirement for impervious surface, as well as open space requirement. These are new requirement something that our City Commission has been asking for some time. "Impervious surface shall be limited to 55% for both residential and nonresidential uses in the District" and the Open Space requirements provides for "a minimum of 40 % for residential uses and 20% for non-residential uses in the District." Lastly, as far as the content of the actual Overlay District, we are providing for Visual Buffer. "A 20 foot visual buffer shall be provided adjacent to all street rights-of way." And there are 4 criteria that...the whole idea behind the Visual Buffer is that preserving to the greatest degree possible the existing native vegetation within that visual buffer and where there none that you plant it with a certain number of inches, defined as diameter at breast height. And in the case of a corner lot where you have frontage on two roads, you can reduce one and it is either the one that has the lower average daily trip rate or the one that preserves the most significant number of trees. You get to chose which one you would like to reduce in half. But again, it is a provision that is intended to prohibit someone from clear cutting the lot. Not that there is a lot of heavy vegetative trees on the Island. But in areas where it is denude of any kind of vegetation. There is a methodology or formula for calculating how many inches at diameter at breast height should be provided. Now, there are a number of existing definitions that are effected by the South Beach Overlay District. Dwelling Unit, right now the current land development regulations group a hotel and motel in the same definition and we do have a definition for a resort hotel. But on page 6 of the staff report, in the background information, you will see that we are actually providing definitions for what it a condominium-hotel. What do we mean by sleeping unit? We provide a definition for dwelling unit. We distinguished hotel and motel as well as a resort hotel. I think these are worthy of discussion, particularly the condo-hotel, hotel-motel and resort-hotel. We have defined what we mean by open space, impervious surface, diameter at breast height is actually defined in the landscape of the land development regulations, but wanted to make sure that everyone understood what it was we were talking about as well as average daily traffic. Again, the second attachment shows the various South Florida communities that were surveyed and the various criteria that they have used in regulating condominium-hotel style development. The third attachment are various hotel developments across the state, as well as the Country for that matter, the size of the units, both in terms of the number as well as the gross floor area and what these units are selling for. Condominium-hotel style development can be a good thing and I think this community recognizes it. We just want to make sure that is what we are getting and not a multifamily development disguised as a hotel. In preparing this South Beach Overlay District, staff looked at both the direction we are heading in our new Comprehensive Plan, as well as our 1990 Comprehensive Plan. We have determined that we are absolutely consistent with the direction and vision for our new Comprehensive Plan and we have determined that we are not inconsistent with the 1990 Comprehensive Plan. We have also determined that the South Beach Overlay District will not have an adverse impact or affect on the ability of the City to satisfy land and water use needs or to meet transportation demands and provide community facilities and services. And lastly, we have also determined that the South Beach Overlay District will promote and protect the public health, safety, and general welfare of the citizens on the Island. As I indicated to you, we have had a number of meetings with concerned citizens and developers and hotels. We have met with the Commission. I see you

have received a letter today and I expect you will hear a lot of input tonight. What I am going to suggest to you, as I would with any other text amendment is that the public hearing draft is complete. You have a public hearing draft before you. Any changes that we make to the ordinance will come in the form of an addendum. If the Planning Board hears testimony and decides that it would like to make changes to it, we will note those changes, we will pass those along to the City Commission. They can look at the public hearing draft.

(During tape change, approximately 30 seconds was not recorded)

Mr. Reilly asked I have some questions for Mr. Recor. On the item C, under General Requirements, "Hotel or resort hotel operator must be affiliated with a major National or International chain...." What exactly, I have been to some places out in Colorado and stuff and I believe I stayed in and I am not sure if it was one of these or not, but how large is this national chain. Does that mean they have to be in a couple of states or is it a Marriott or a Ritz Carlton?

Mr. Recor said the answer is yes to both of the examples that you used. I think that was the intent that it has to be a Holiday Inn, a Days Inn, a Ritz-Carlton, a Marriott. It could be a tier of hotel in the industry, but it has to be associated with a National chain. With a branded hotelier.

Mr. Reilly said some of the places I stayed in Colorado have been up-scale places, but they are not a Ritz-Carlton or something. They are a recognized brand name, but not something you would find, not a hotel chain. Is that allowable in this case?

Mr. Recor said according to this criteria no, it would not be.

Mr. Reilly said Standardized Furnishings, if I was a condo owner, if I was buying one of these for my use a couple of times a year, basically I can only use what's in...they can only offer me a package and everybody has the same package is what you are saying. Again, the ones I've stayed in the past have been somewhat decorated by homeowners. They might have the same two beds and one refrigerator and this, that, and the other thing. That seemed quite restrictive to me. I don't know if that is a problem there. And then the lockable closet, again, is that something that is normal in this industry. I saw that on one of the things on your list in the back there. I know a lot of people if they are buying one of these units would probably like some type of lockable storage in the place. Again, looking at it as an investor, I would like to be able to know that my stuff is there, so I don't have to carry all my stuff back down every time I come to Fort Pierce. Those are just comments I have.

Mr. Knott said just a couple because there are going to be a lot of other people who have more poignant questions than I do. Item D of the General about the terms of the stay for the owner, your limited to 30 days in a calendar year, does this mean that they can rent it to anybody else? One person can live in there for two years, if it is not the owner? Is there any limit on the time of rental?

Mr. Recor said on the time of rental?

Mr. Knott said to one individual.

Mr. Recor said I would have to say that the Ordinance does not address that. Although clearly it would circumvent the intent of the Ordinance if someone were to rent the hotel room on an annual basis. So you may have identified something that needs clarification.

Mr. Knott said because if the intent was to make sure that nobody was going to live in one of these units, I could see somebody in Germany buying one of these and giving it to their son or somebody.

Mr. Recor said so we may want to clarify that. You may want to say that not only make the distinction of the unit owner, but than anyone else for that matter may not be rented. The actual unit itself may not be rented for any longer than 30 days, if that is something you want to...

Mr. Knott said I am just letting you know. I just found that its logical in there. On that note, for that 30 days, how was that determined? Because as a purchaser, I am looking at your comparisons here, there are a little bit higher, they are 90...

Mr. Recor said again, you will see from the market that there are communities that range from 30 to 90 some even allow 6 months. But consistent with the conservative theme of this ordinance, we went with 30 as a starting point.

Mr. Knott said ok. If I put down \$250,000 for one of these things and someone says "hey, you can't come down here for more than 30 days in a year" I would say what a minute, I want to come down for Christmas and I want to come down a month two times. Again, I am just throwing that out there as I would see it if I was a landowner if I was a purchaser. On the two items concerning the aesthetics, we were chastised this evening or corrected by our legal counsel, Item I on the General, they talk about standardizing furniture, do we have the right on that one and also the one on the architect standards?

Mr. Recor said I am going to respond in the affirmative to both. I think that as a general requirement for the condominium-hotel style development, I think you can absolutely require that the furnishing be standardized. It is a matter of choice. Is that something that you want to do, that you feel like you need to do? Second, regarding the architectural standards, I think that this is what has been lacking. Candidly, I told you, we were new to the architectural design review business. But these general requirements will give you the basis for which to make those considerations part of your discussion, part of your recommendation on a case.

Mr. Knott said I know Mr. Walker has corrected us before that we cannot dictate taste and if you set down the taste by Code, I think that is what you are doing with the architectural standards. I guess you will be covering yourself with that. But on the interior, we don't need an interior decorator on staff to tell them what they are going to do, right?

Mr. Recor said right. No, we are not going to pick the furnishings for them. We are just saying that they have to be standardized.

Mr. Knott asked you are not talking about the quality of them, your just talking about the...

Mr. Recor said doesn't have to be Pennsylvania Dutch Sofa or ...

Mr. Knott said all right, very good. Thank you. Mr. Walker, Item O, under General, "the books and records of the condo-hotel facility operator shall be open for inspection" the phrase "book and records" is that adequate legalese or whatever or do we need to more specific on the rental records or something of this nature?

Mr. Walker said respectfully, Mr. Chair, the phrase is a little open ended, but I do think that that is by design and the intended meaning, Mr. Chair, is felt to reasonably clear in context. It is a phrase that is commonly encountered in the ordinary usage. I do not believe that that would present too much difficulty in ordinary discourse in trying to determine what was meant here. So from a legal point of view, Mr. Knott, I do not think that that language presents an issue.

Mr. Knott said so they won't bring their latest John Grisham book or records. And my last one is is there a conflict with the visual buffer? I was looking and I assume this is for R-4A and R-5, is that correct?

Mr. Recor said the provisions regarding visual buffer apply to all five of the zoning districts in the Overlay.

Mr. Knott said because I was just looking in the ordinance and we have a minimum lot or a minimum yard, in some cases, where you have double frontage or something like this, you have a 10' required and they could put their building right there and now you are telling them "no, no, you have to have 20'."

Mr. Recor said well, there are absolutely...first let me say that the visual buffer is not intended to be in addition to any required yard or setback. I mean, one can satisfy the other. However, in the zoning districts, and there are a few in the zoning districts that allow a setback of less than 20' then the 20' minimum visual buffer would apply. The more restrictive of the two would apply.

Mr. Knott said so, in other words, there won't be a minimum 20' yard in all these cases then.

Mr. Recor said adjacent to the right-of-way, yes.

Mr. Knott said ok, this applies to single family, also?

Mr. Recor said yes, sir, it does, both residential and non-residential.

Mr. Knott said so, if my neighbor who has a vacant lot comes in and I am 15' from the property line with mine on a corner lot, you will make him be 20', now.

Mr. Recor said he will have to comply with whatever setback provisions are included in the ordinance. For example, if you have an R-1 lot and you had a vacant lot and you are proposing a single family home, the ordinance currently provides for a 25' setback. The Overlay District will require a 20' minimum visual buffer. So, 20' of that 25' setback will satisfy the requirements for the visual buffer and the question is whether or not you have the required diameter at breast height of tree canopy within that visual buffer.

Mr. Knott said well, I'm just looking under R-1...

Mr. Recor said like the front setback for...and there are five zoning districts on the Island. There is R-1, 2, and 3, R-4A and C-5. There is no R-5. The front setback in all five of those zoning districts is 25'. It varies on the side.

Mr. Knott said with the exception on corner lots "a minimum depth shall be 15".

Mr. Recor said that's true.

Mr. Knott said that is where the conflict is.

Mr. Recor said that is in the C-5.

Mr. Knott said that's in R-1.

Mr. Recor said right, with the exception on a corner lot, it is 15'. So, then it is going to be 20'.

Mr. Knott said that's my point. I guess one ordinance overrides the other, whichever.

Mr. Recor said more restrictive applies.

Mr. Knott said thank you, that's all I have.

Mrs. Wood asked Mr. Chairman, can I make a comment about the visual buffer conversation and this is not something that when I reviewed this ordinance, I primarily focused on the wording of the architectural standards making sure they were not in conflict with the design standards that we have in draft already for the City in general. But, in fact, and I understand the reasoning behind the visual buffer requirement and yet in some cases especially in the C-5 zoning district, it seems that it would in fact be in conflict with promoting an architecture that encourages pedestrian activity. If you are requiring a visual buffer implying a separation of building from street, to me, that is in contrary to that. That might be something that we may want to examine particularly for the C-5 District.

Mr. Knott said very good, thank you.

Vice Chair Gates said Mr. Recor, I see in back here on page, "proposed definitions" of your hotels and things, if we backed up to page 3 on the Architectural Standards, I would like to talk about possibly, specifically defining some of the styles and details that you laying out here, so that there would not be any question on the developers portion part or the Commission having to put them on the spot as to "well, is that what this really is or that really isn't" and I am thinking that this section should be possibly more defined or ...

Mr. Recor said Mrs. Gates, let me also share with you that some of the preliminary feedback that we have received on the design standards, as a whole, aside from what we included here in the Overlay District are encouraging the City to take a more graphic and illustrative approach and I

think that is something we have the ability to do and so we can graphically illustrate what we mean by Mediterranean, not only through text but through pictures and...

Mrs. Gates said I think that would be helpful.

Mr. Recor continued ...again, we can point to several very fine examples of that kind of architecture that we have in our community today. I think your point is a good one and we can do that.

Mrs. Gates said thank you.

Mrs. Benton said Mr. Recor, just a couple of questions. The condo-hotel, the first question is do we have a condo-hotel existing presently in St. Lucie County?

Mr. Recor said in St. Lucie County? I don't believe so. I don't believe we have one in the City and I don't believe we have one in St. Lucie County.

Mrs. Benton said I want to ask a series of questions just about the background of this whole concept, just for clarification. I understand the ordinance, but with regard to the background, how universally new is the concept? Is it just new for us here? I heard you refer to other area as far as the condo-hotel, I guess the Overlay District and how it relates to it.

Mr. Recor said well, certainly establishing an Overlay District, as you are well aware, is not a new concept. I would say that the condominium-hotel style development could be characterized as an emerging means of financing hotels. I would say probably in the last few years, based on our research.

Mrs. Benton said all right, so basically that the financing would be the motivation of the new type of development?

Mr. Recor said that is the distinction between a condominium-hotel and a generally defined hotel is the way that it is financed.

Mrs. Benton said ok. It sounds vaguely familiar to the timeshare concept and I think you were you mentioned it at all, but would you like to just give us a brief comparison.

Mr. Recor said we had that discussion with the developer for Island Village. Our immediate reaction was that it was a resort accommodation. That it was a fractional interest. Well, there aren't multiple...it is not a fractional interest. The individual sleeping unit is owned by one person and they are not buying a week within a 52 week period. They are buying the unit and the rights to that unit. It happens to be part of a horizontal property regime. So, we did not believe that that we were dealing with was a resort accommodation or a fractional time share interest, but a hotel that had sleeping units that were owned by individual owners.

Mrs. Benton said in the City of Fort Pierce would the same regulations apply if we are not on the beach, if there were to be a development of condominium-hotels?

Mr. Recor said sure, minus the requirement for access to the water and whatnot. But the general criteria, you bet. I think we would look to these general criteria to apply to this style of development City-wide and not just on the Island. This happens to be the first location where this style of development has been proposed.

Mrs. Benton said I don't remember whether you said it, but you said there were some other communities that have already developed a condominium-hotel style, I would like to know where are those.

Mr. Recor said Attachment Two identifies the communities that have ordinances.

Mrs. Benton said I see, ok. Well, they have ordinances. What does the market look like?

Mr. Recor said what does it look like. I can tell you in South Florida there are communities in South Florida that actually have not a maximum size, but a minimum size for condominium-hotel style development, like Fort Lauderdale and Hollywood, I think, there is a minimum size of 200. You have to have at least 200 units before you can even contemplate this form of development. The South Florida communities are generally not restricted by height. So, there are allowed to get that number of units and they are allowed to go extremely high. Whereas, we are not only establishing a density but we are also establishing a height. We have development regulations that are more restrictive than most of the South Florida communities in regulating this kind of development.

Mr. Reilly said Mr. Recor, a couple more questions. The height restrictions on the homes, that seems a little...I read Mr. Harvey's note here, too ... but that seemed a little too restrictive. 28 feet doesn't give you much. I know I couldn't build my house right now that I have in 28 feet.

Mr. Recor said the ordinance currently provides for 28 feet in the R-1, 2, and 3 District. It is only 45 feet in the R-4A or 200 feet for multifamily development in the C-5, but the ordinance currently provides for 28 feet.

Mr. Reilly said that's all you can have in this.

Mr. Recor said in the R-1, 2, and 3 District.

Mr. Reilly said so, you have a 10 foot ceiling on the first floor and you have a 10 foot ceiling on your second floor and you have 2 feet of floor trusses and now you're at 22 feet and then you basically go with a flat roof, I guess.

Chairman Bergman said you are not even taking into consideration based flood elevations. If you are on the beach, you are at 11 feet. You eliminated your whole ground floor as any type of habitable space and now you have just got a one-story house. The 28 feet doesn't work for me.

Mr. Recor said you may very well have discovered something a general requirement of the land development regulations themselves that need to be looked at. But my response is that the 28 feet is currently provided for in the R-1, 2 and 3 District. We recognized that there is R-1, 2, and 3 in areas off the island as well, but there currently is R-1, 2, and 3 on the Island.

Mr. Reilly said ok. Well, that probably needs to be looked at. The other thing is on the minimum lot area and width. I am trying to understand this one. Let's say I buy a house and I am going to renovate the house, does this restrict me at all to renovate the house with...

Mr. Recor said if you are not changing the dimension of the property, if you are not replatting the property, the area and lot width provisions would not affect you.

Mr. Reilly said if I am renovating a home and I am going to increase the size of the home in an existing...I guess it would than be a non-conforming lot.

Mr. Recor said if it were non-conforming, you would not be able to increase the degree of non-conformity. As a matter of fact, the City, if you were expanding a non-conforming structure or a non-conforming use, you are technically not allowed to expand a non-conforming use. We are going to look to you to reduce the degree of non-conformity and one of the conceptual ideas that we have discussed is that will allow the expansion of a non-conforming structure or non-conforming use provided that the expansion complies with the requirements of the ordinance and the applicant makes every reasonable effort to reduce the degree of non-conformity to the greatest degree practical.

Mr. Reilly said so, when the modification is done to this and this Overlay is done, if my home was built based on the actual zoning right now and it meets that criteria, but it doesn't meet this criteria, are these the same criteria right here?

Mr. Recor said the only criteria that is different is regarding the lot dimensions, the area has not been affected. The R-4A currently provides for 5,000 square feet and that is what the ordinance provides for. The only difference is that the R-4A does allow a lot width for a single family of 60 feet whereas the ordinance is requiring 70 feet.

Mr. Reilly said so that goes back to where I was going with it. Right now, if I am renovating a home and I am staying...your saying I need its basically requires that I have 60 feet. Is the setback staying the same on that?

Mr. Recor said yes, there are not any changes proposed to setbacks. In the R-4A, you would still have 25 feet in the front, for single family you would have 6 feet and for the corner as Mr. Knott pointed out you would have 15 feet.

Mr. Reilly said those were my only questions.

Mr. Johnson said same Item on Page 4, it is just a clarification. I think the last sentence talks about duplexes, triplexes, quadraplexes. It is not going to be for new construction, is that correct? I mean, we are not going to allow duplexes, triplexes?

Mr. Recor said the dimensional requirements would only apply, if you were replatting the lot. Combining it or replatting it. But if you got an existing lot of record, you apply for a permit, your existing lot of record is platted at 60 feet, you are not going to be required to go find 10 feet from your adjoining property owner. It is only if you replat it. Let's say you acquired the adjoining

property and you have two 60 foot lots and you thought you would put two homes on it, you wouldn't be allowed to. Then you would need to have additional area in order to meet the 140 foot minimum lot width required.

Mr. Johnson said that makes sense.

Mr. Enns said Mr. Recor, if you have a 60 foot lot now and you weren't able to purchase one side or the other, then you basically have a non-buildable lot, correct?

Mr. Recor said nothing in the Overlay District would prohibit someone that has, again, an existing lot of record from building a single family home on that 60' lot of record. It is only if they were to try to replat that.

Mr. Enns said so as long as they...I don't know if there is many of them over there...if you have a 60 foot lot over there now, just 60 foot frontage, you can build on that?

Mr. Recor said yes, sir.

Mr. Enns said as long as you meet these other requirements?

Mr. Recor said yes, sir. I think that is the going rate is 60 feet. Again, this is new. If somebody comes in with a new subdivision on the Island in the R-4A, they are going to now have 70 feet and if somebody acquires a number of 60 feet existing lots and they want to replat them, the new lots have to be 70 feet. It doesn't affect somebody whose there today.

Mr. Johnson said on the same page, Item G, "open space shall be a minimum of 40% for residential..." I guess I need clarification on the definition of open space. Because a single family home at 40% open space, I am kind of vague on that.

Mr. Recor said that was one of the sketches that Kara, our Urban Designer, was able to demonstrate, unfortunately, we don't have them with us tonight. But if you look at the definition, what it says is that "open space is any land area that isn't occupied or covered by building, parking or other accessory structures." To get your open space, you are going to essentially shade off your buildable area in any area that you are going to require any onsite parking and that is the open space. Kara, I don't know if you are prepared to or are comfortable elaborating on what you saw with that 40%. When you are looking at a minimum lot, even at a minimum lot size, the requirement was met. If you exceeded the minimum lot size, obviously it increased by proportions.

Mrs. Wood said yes, we did some basic sketches to analyze the affect of that requirement. Particularly on a single family lot owner or a small lot owner and basically the setbacks take care of that 40% requirement already in the existing ordinance. So this ordinance doesn't change that requirement. Obviously, since you are dealing with setback as fix numbers and the open space requirements is a percentage, as you get to a larger and larger lot, the setbacks do less and less to get you to that open space requirement. But we also did a case study on, I forget the dimensions, but I think it was a 200 foot by 200 foot lot to just make sure that that was developable. For example, for a mixed use project in the C-5 District, it is still developable. It is

achievable and we can do further studies to sort of see what other case studies would yield as well.

Mr. Johnson said so, by calculation, 40% of the minimum 5,000 square feet leaves us with 3,000 square feet of buildable space where I would build a single family home including a covered porch..

Chairman Bergman said and driveway.

Mr. Johnson asked does it have to include the driveway?

Chairman Bergman said it includes the driveway.

Mr. Johnson asked the 3,000 square feet has to include a driveway?

Chairman Bergman said open space is unpaved area.

Mr. Johnson said yeah, there it is. I guess this parking area it is.

Chairman Bergman said everybody is gong to have a dirt driveway now.

Mr. Johnson said that one is tough for me, because that is very restrictive. It also goes into Item F, which "impervious surface shall be limited to 55%..." Now you are talking about a number that is even greater than that, because you get into a swimming pool and put a concrete deck around it, I guess I will just leave dirt around the swimming pool.

Mr. Enns said believe it or not, swimming pool is impervious.

Mr. Johnson said right, exactly, that is what I am saying. So, you put a concrete deck around the swimming pool and then it includes the concrete deck and the swimming pool. Those are two tough ones. One more question for me. If we could, Mr. Recor, go back to the Architectural on page 3, Item C. It doesn't mention arcades, but I know in the past we have talked about arcades, is that something you are thinking of there in that definition of the architectural details? Would that be a form of the detail you would accept? An arcade?

Mr. Recor said architecture, I am going to defer to Kara. Again, we wanted to make sure that we weren't doing anything that was inconsistent with the new design standards that are currently in draft form.

Mrs. Wood said thank you for bringing that up. I think arcades would be a great verbiage to add to the text. It sort of goes along with providing awnings and canopies for weather protection and scale. An arcade is essentially functioning as an awning or canopy, just extended to the ground but has a different form when you bring it into the design. We can add that in.

Mr. Johnson said I guess the only issue would be the conflict that we talked about earlier with the visual buffers. I guess you would have to clarify that how an arcade would work into a visual buffer situation. Is that correct?

Mrs. Wood said yeah, we really need to look at how the visual buffer and the architectural requirements and the setback sort of intersect to produce a viable pedestrian oriented mixed use or commercial proposal in the C-5 District. So, yes, we will need to amend that and say that.

Mr. Knott said what Jeremiah brought up there, that impervious surface definition, are we back into the stormwater system again as being not only is it not only open space, are you counting it as impervious surface also?

Mr. Recor said I don't understand the question.

Mr. Knott said you stipulated that as far the amount of impervious area allowed, 55% I believe it is for residential, the maximum impervious you can have is 55%. Under the definition, "it is any material that prevents absorption of stormwater into the ground" does that mean a stormwater retention pond would be considered impervious or is it not impervious?

Mr. Recor said in constructing the criteria, I had not intended that a stormwater detention facility would be impervious surface.

Mr. Knott said ok, very good.

Mr. Recor said I think that is the whole idea behind retention facilities that it does filter.

Mr. Knott said it stores, so it can percolate. But I know the City has an effort to try to exclude it from the open space, which you have not done.

Mr. Recor said there is no agenda or meaning behind.

Mr. Knott said no, you are very clear on that.

Mr. Buchwald said the retention spelled backwards is "aquatic areas" so that is where we snuck that in.

Mr. Knott said I just want to make sure. I don't know if we have any property on the South Beach at this point of adequate size to worry about very much of a retention pond. But if we do happen to get a 20 acre or 30 acre parcel over there, then it becomes an issue that if that is considered impervious, he has got a 2 acre lake that he has to take out of his 55% that he is allowed.

Mr. Recor said no.

Mr. Knott said perhaps you may want to put something in there as far as...well, if that is clear enough to everybody, that's fine. I don't want some poor developer come in and say we are taking his property.

Chairman Bergman opened the Public Hearing. He said be considerate of everybody in this room. Try not to be here all night. Try to limit your time to 5 minutes or less. I am not in the habit

of throwing people out of here. I will try not to. If you would please just be considerate of everybody else having the opportunity to speak and limit your time, I would certainly appreciate it.

Pami Maughan, Weiner & Aaronson, said as you may know, we represent Island Village Hotels and I try to keep it brief. Actually as a first mention, I would like to correct Mr. Recor's statement to Mrs. Benton that there are no condo-hotels within the City of Fort Pierce. Marina Square, which was approved just a few months ago is another condo-hotel facility.

Mr. Recor said it is not built.

Ms. Maughan said I have a memorandum, which I would like to hand up to you at the end of my remarks, which explains in detail how this proposed Overlay ordinance actually violates both State law and the City's own ordinances. The memo has vital and substantial competent evidence to show why you should not approve this proposed ordinance. Now, you will note that almost all of the regulations listed are directed to solely to condo-hotel facilities. And this is even after the fact that City staff has admitted on numerous occasion that there is absolutely no difference between operating hotel and a condo-hotel facility. The one is merely financed differently. This proposed ordinance first exceeds the City's police powers as it does not rationally relate to an issue that is of the public health, welfare and safety. That is the limit of the City's powers. The City has not produced even an iota of evidence that condo-hotels, in general, are in anyway more threatening than any other hotel in any other district. Second, the City has stated that its main purpose is to ensure that condo-hotels are not a front for residential structure. However, again, they have not shown any evidence that this condo-hotel or indeed any condo-hotel project has been used in the past as an attempt to circumvent any residential density or any other City. The evidence is simply not there. The concern is based purely on conjecture and that is simply not a legal foundation. As a basis of the ordinance is illegal, it cannot be used as basis. It cannot be used as support. Finally, this proposed ordinance directly contradicts the City's currently approved Comprehensive Plan, as well as this is the only Comprehensive Plan that is adopted by the City at this time. And the contradictions include the Coastal Management Element and the Future Land Use Element. The memorandum, which I will hand in to you, goes into further detail in each topic, includes all relevant legal citations. There is simply no factual evidence that the City is entitle to subject condo-hotels to standards that do not apply to any other hotel in any other district. This ordinance must be disapproved. Additionally, this legislation is improper in that created truly solely to deny my client his due process rights. As you recall, Island Village Hotels came before you. You approved the site plan, I believe unanimously, for the hotel to be located on the Hutchinson Island. And I understand tonight is not about this site plan, but there has been no attempt by the City to hide the fact that this legislation is a direct attempt to prevent this specific plan from proceeding. They have even gone so far as to deny my client the right to speak about his own project at a properly advertised Public Hearing. In connection with that and has proof that this legislation cannot and should not go forward, I also have a transcript of that hearing for your review along with a cover letter, which I will again hand to you after my remarks. The transcript also contains several exhibits, which I will also hand to you at the end. You should simply not condone this type of behavior. You should not participate in it. You, as a Board, must recognize you have a duty to prevent this kind of travesty from continuing and disapprove this Overlay ordinance. I will also be available for questions you may have either about condo-hotels in general or about my client's project.

Chairman Bergman said thank you and are there any questions from the Board?

Mrs. Benton said there is a limitation of 30 days stay in the ordinance and you are asking us to consider not recommending it to the City Commission, what is your view?

Ms. Maughan said I am recommending that this ordinance, in itself, should not be recommended for approval to the City Commission.

Mrs. Benton said but my question, both specifically to the time limit and I want to know what your position is on that.

Ms. Maughan said all condo-hotels are financed through, as Mr. Recor stated, individually unit owners. Those owners enter into an agreement with a management company. Those documents also limit how long the owner can stay in. Because if an owner is staying in a unit, the management company, no one is making any money.

Mrs. Benton said so that part of it is not a problem. It is just the overall...

Ms. Maughan said I believe that the general time limit is 90 days. Again, some say they do go up to 6 months. I think 30 days is a bit restrictive.

Mrs. Benton said thank you.

Mr. Reilly said you state that this is unlawful or violating State laws...

Ms. Maughan said yes.

Mr. Reilly continued – maybe this is a question, also for staff, but I thought there were other counties or cities in the State of Florida that have the same sort of criteria or laws governing the condo-hotel.

Ms. Maughan said ordinances, in general, have to have some kind of factual basis behind there. This one has no studies, no evidence that this City, the City of Fort Pierce, needs this ordinance. I can't tell what the other cities have done. I have not looked into that in a lot of detail. But generally, for any ordinance to pass, you have to show a need for this specific City and I don't see that in any of the documentation.

Mr. Reilly said so, basically we should let your client go ahead and do this and then we should decide then if it is all right or not? I think what we are trying to do is look ahead.

Ms. Maughan said I think my client shouldn't be picked out especially after another condo-hotel has been approved. I think that you need to take a step back and see what is really needed. See what your ordinances will allow. Keep in mind, this is a hotel no matter whose designing, whether it is my client or anyone else. A condo-hotel is a hotel. That its use and that is the only approved use you would be giving them or the Commission would be giving them. If they changed the use, they would have to go back to the City. It is a hotel. They go by State laws, different City laws about hotels. There is nothing more than that.

Mr. Reilly asked so, what is your objection than I guess if we have some type of...it doesn't seem to restrictive here with some modifications.

Ms. Maughan said well, I think that really restricting them at all compared to any other hotel is simply not fair. It is simply not required. You have hotel ordinances. If you are going to restrict one, you should restrict all. You should not pick out one type for separate treatment.

Mr. Walker said Mr. Chair, if you will request the speaker to go ahead and provide copies of the memo with its attachments, legal will be happy to look at that and consult with staff and address the matter to the extent that that might seen appropriate.

Ms. Maughan said I have them with me, do want me to give them to you now or at the end? Its up to you.

Chairman Bergman said whenever you are ready.

Mrs. Benton said just a follow up on the last question, your last comment that you are just a hotel like any other hotel and therefore our ordinance is set up to treat you somehow differently and there is no rational basis for that, but isn't there a difference between a hotel that is just an ordinary hotel and a hotel in which owners/parties actually own the units? If I go to a hotel today, I don't own, I am just renting it for a little while. Doesn't that distinguish it?

Ms. Maughan said not really, because the way that you own it, is as an investment property. So it is the same as if you bought stock and say the Hilton, I can't even tell if Hilton is publically traded company or not, but if you bought stock in a company, you buy that as an investment. It doesn't mean you have the right to live in a Hilton room. The same thing here, the person buys the room as an investment. Keep in mind, they don't own the actual physical walls, they basically own the air inside it. So, they do not have the right to live there. What they are buying is an investment opportunity. What happens when this operates, you may very well have stayed in a condo-hotel, you would never know it. The only difference is that after all the expenses are done, the profits are divvied up between the management company and the owner. So they have right to part of the profits. That is what they are buying into is the right to profit, if any.

(6 copies of the memorandum were presented and only 1 copy of exhibits. All were given to the Mr. Walker)

Kenneth Curtin, Ruden McCloskey, said I will be brief. I am here tonight on behalf of Blue Water 3, LLC. My clients own the property, which is commonly referred to as the Pointe Property or was formally referred to as the Rollins Property, is a piece of vacant land up on the point, right before the inlet. This property is currently zoned C-5 and we believe this rezoning here for the Overlay will significantly negatively impact our properties. I am not going to repeat what my colleague from Island Village Hotels has stated, I will just repeat that we believe we have the same concerns in her memo and the same concerns she expressed, so I won't repeat those. I will just say that my client, Blue Water LLC, has the same concerns and please read the memo and please take that into consideration. I would add that my client was a little disappointed and concerned the fact that my client only found out about it through a concerned property owner who called up my client

and informed him of this. We were a bit concerned about that what we believed was a lack of more specific notice and that some of the specific properties which we believe this ordinance was directed at were not specifically informed of this Overlay zoning. In short, my client had discussed building a hotel-condominium there that was discussed with the City and the next thing we realized was we got a call from a property owner who informed us that this was going on. So, we are bit concerned about the notice and the way it was handled. That is all I really have to say. Once again, I will repeat everything my colleague stated. I don't think I have to repeat here for time constraints. Please read the memorandum, the exhibits, etc.

Chairman Bergman said thank you and any questions from the Board?

Mr. Johnson said so, you believe that this City does not need to define a condo-hotel facility versus a standard hotel? There is no need to clarify the difference in the two, is that what you are stating?

Mr. Curtin said I believe exactly what my colleague stated that there is really no significant difference and it nothing that affects the health, welfare and safety of Fort Pierce residents, which will state that a condominium-hotel has to be distinguished from a hotel.

Mr. Reilly asked what about the other thing that the other person stated was the 30 days for the owner to occupy the unit, do you have a discrepancy on that or do you believe that that is an ok number?

Mr. Curtin said no, once again, distinguishing between a condominium-hotel and a hotel, for example a person, they went into any hotel could rent that, no hotel operator, no Marriott, no Days Inn is going to say no, you can't rent this for more than 30 days. A person will come in there and say I will pay the monthly rent for whatever and no Days Inn, no Marriott that I know of any rule regulation in the City prevents someone from going to a Days Inn and staying there as any length of time they want to as long as they pay the daily rate.

Mr. Reilly said unless the City Code states that.

Mr. Curtin said and I don't know what the City Code states about that.

Mr. Reilly said I guess my problem and my response to when I go back to the 30 days for the owner, I actually like that number, because there is a little conflict you guys are talking about allowing an owner to occupy the unit for longer than 30 days, maybe a 90 day period, but then the conflict I see is that if you let that owner occupy it for 90 days, then now you are not getting your hotel fees that you want to make the money on that unit. If you limit it to 30 days, then the condominium as a whole or the hotel as a whole benefits, the City benefits in taxes and whatnot. I like the 30 day thing. I like the idea of defining a condo-hotel over the hotel, because of finance reasons. You are dealing with many people and multiple people that are owning the unit and they have a vested interest, but the City is not allowed to regulate that owner, that is where, I guess, I have the conflict.

Mr. Curtin said I believe, as my colleague stated, the hotel industry is regulated. It is regulated by the State. It has regulations governing it. This condominium-hotel is no different than a hotel

except for the financing portion. So, that there is no distinction in my mind where the health, safety, and welfare of the citizens of Fort Pierce would be affected by specifically targeting condominium-hotels versus specifically targeting hotels, in general.

Mr. Reilly said so, I as a citizen of Fort Pierce should rely on the State regulations, is that what you are telling me?

Mr. Curtin said no, what I am saying sir, let me clarify that, I don't think there is any distinction between a hotel-condominium versus a hotel except for the financing portion that they should be specifically targeted by the City or any agency in that regards as somehow different.

Mr. Reilly said on the Ordinance, it is actually saying that "the owner of an individual sleeping unit in a condo-hotel may be permitted to occupy the owned sleeping unit without rental charge for up to thirty (30) days..." but if I am understanding ya'll correctly, the owner pays rental anyway on the unit if they stay there or is that not the case?

Mr. Curtin said no, that is not the case. My colleague may be able to clarify that better than I.

Ms. Maughan said no matter what, there will be some charges for the maintenance for that week, especially considering they will have maid service and whatnot. The owner, even if they are staying there, will have to cover the costs.

Mr. Reilly said so what, on that case, then since there is going to be a minimal charge, is what you are saying for owner, in that case there should be some type of limitation on it. Because it is different than a hotel, in that a person, an investor, different than if I am an investor in Holiday Inn, if I am going to Holiday Inn and I own 10 shares of Holiday Inn that'll give me a little break on my room, do they?

Ms. Maughan said I don't think so, because it goes back to the financing aspect of it. The owner is the one that purchased the thing so it is really the owner is loosing their own profit. It is simply a cost issue. It is not a difference in how it is run. It is not a difference in how maid service. It is not difference in the how the concierge treat the person. Any charges, any incidental charges that they would have are still there. If they make long distance calls to Guam, they are still going to get charged for it.

Mr. Reilly said right, but if they are staying for 180 days or all summer, then it really is being treated as a condo and not a hotel, correct?

Ms. Maughan said no, it would still be a hotel. The use is still that hotel use. The financing is simply a little different. They do get those charges. But again, it is simply a matter of going back to the financing. To be honest, I don't really see any management company allowing any owner to stay 180 days, especially during peak time.

Mr. Reilly asked can you see the concern of the City on this as what it sounds like and I was not involved in these earlier things. But what it sounds like is that this was actually, if you are looking at how people come in and use it as, you can actually come in and change things get your zoning for a hotel and have people live there part time.

Ms. Maughan said but that is no different, say, the Days Inn that is actually, I believe, going to be right next door to it. If someone comes into the Days Inn and says they want to stay 6 months, how would that be different. There really is no real difference. The fact that there is still a charge there, it is still being operated as a hotel.

Mr. Reilly said there is a difference. You said it was at a reduced charge. They stay there because they are an investor in the property, correct?

Ms. Maughan said they have to cover the cost. I don't know if you would call that a reduced charge.

Mr. Curtin said I think what the issue would be with this you would have to go back to financing. In a hotel, for example, and I am not an expert on how hotels set their rates, I am assuming in that rate is what that hotel had to pay for the property, what they had to pay for the construction, what they had to pay for the financing, plus there is the cost of maid service, etc. What is being a reduced price is you are still paying for the maid service, you are still paying for the concierge, you are still paying for everything which is normal hotel has to pay for in a normal services hotel performs. Why it is a reduced charge is because the homeowner himself is and always is absorbing the mortgage, absorbing the cost of construction that is how the financing aspect comes in. So, it is just the same respect that just you have multiple financiers of a project, instead of one entity financing the project. So, it really is that you are paying a rate for that hotel it is just a different rate. It is the person who is staying there is actually the person who financed it, which would make more sense.

Mr. John Wolsiefer said we also agreed to 30 days. We also agreed to a deed restrictions, so there couldn't be anything but a hotel. It is a hotel. Pure and simple.

Mr. Reilly said I guess my comment is if I went to Holiday Inn and I have 10 shares of Holiday Inn shares and I go rent for six months at Holiday Inn, am I benefiting from that? I am paying a lot of money, but am I benefiting? Yes, I am. I am paying and there is a profit there. In this case, what you are saying is I am getting a reduced rate to cover the cost, but I am getting the benefit from it, too. It is going to be less expensive. I could stay there for an extended period of time and treat it as a condo.

Mr. Curtin said I guess there are several ways you could look at that. If you own shares at Days Inn and you go there, obviously you are paying for your hotel room and if Days Inn shares go up, you benefit. From you staying there, basically, you are contributing to Days Inn. In this respect with the condominium-hotel, it while you are getting a rate, you are paying the cost, you are paying for your hotel services, you are not getting a profit out of that, because you don't have someone staying. Otherwise, you, as the owner, would be getting some sort of return on your investment. Your return on your investment at that point in time for that day is the day that you stayed there. So, you lose something to gain something in that respect. So, in that respect it is very similar to a Days Inn. If you don't go there, you still get your profit from your 10 shares, but if you live there, you have to pay. So you are basically paying yourself the profit.

Mr. Reilly said I understand and thank you.

Mr. Johnson said one more question. Density, I haven't heard anybody talk about density. Do you like the number? You don't like the numbers?

Mr. Curtin said excuse me.

Mr. Johnson said density, in relation to density. Is the density adequate? Is it not adequate?

Mr. Curtin said well, the density is different. I think that is what the Overlay states. It changes the density. So in that respect, its treating a hotel-condominium, which is just a hotel, different than any other hotel and in that way I believe it is improper. It is not affecting the health, safety, and welfare of the citizens of Fort Pierce. Because it is treating one entity different than another entity, even though it is operated the same way, there is just a different type of financing.

Mr. Johnson said ok.

Chairman Bergman said I'm sorry I don't remember your name, but you mentioned this Overlay District violates the current Comp Plan that there is two districts in it.

Ms. Maughan said yes, the Coastal Management Plan and the Future Land Use Element. The Coastal Management Plan, I believe, if I recall correctly and you will have to forgive me I am doing this by memory, emphasizes the use of tourist facilities along the Island and along the coastal coast line. This kind of ordinance inhibits that kind of development. As far as the Future Land Use Element and I am about to have a Law and Order moment, on page 1-47, states that tourism is one that is going to be or is currently one of the biggest income producers for the City and yet encompasses the least amount of land, I believe it is 5% of all land. Again, by making these restrictions you are again, going against that Future Land Use Element in that you are inhibiting the development of tourist related facilities.

Chairman Bergman said because that was one of my points that I had written down about this is that I felt that the density issue was not in compliance with the current Comp Plan only because the C-5 District is listed as a high density district and this Overlay District tries to regulate that down to the same density that would be on the rest of the Island. I have an issue with that especially with 8 dwelling units per acre and 35 units per acre because that is not consistent with what the current Comp Plan is now. I just want to see what your argument was on those two items. Any other questions?

Mr. John Wolsiefer, 1625 Thumb Point Drive, said I own Harbour Isles Condo, which I intend to probably live in at some future date and I also own a building on Seaway Drive. I am going to spend most of my time on residential because I commend you on all the thought you have about condo-hotel, but I want to concentrate a little bit more on residential. The only thing I am going to say as a business owner on Seaway, on Bayshore Drive, right opposite the Yacht Club, the traffic density, now, is so high that my people, I only have four people working for me in a 4,000 square foot building, but they can't make a left hand turn at quitting time. All these density discussions are going to add to the traffic and you know the plan for A1A is two lanes. I don't know how we are going to be able to support it. The only thing I would say about the condo-hotel, the owners not going to pay the same use tax to the City that somebody would pay every night. I travel a lot

on my business. Where ever I go, I have to pay tax every night. It is sometimes very high. I don't know what it is in Fort Pierce. It could be up to 15% and if an owner gets there for 30 days, 60 days, 180 days, he is not going to pay the taxes that somebody would rent a hotel room. So it would be less tariff for the City. What I want to talk about, you talked about residential and living in Thumb Point, we have codes now and Mr. Recor, I know you have spent a lot of time on it, but you talked about residential at 28 feet max. Now, we know from, and the South Beach Association has done a great job in talking about condos and trying to restrict condo heights to 45 feet, but we also know that in the existing code that you can exceed the 27 feet and you can exceed the 48 feet for architectural aesthetics in the roof line, so you don't have to have a flat roof. However, I was here many meetings and heard previous head of planning, who is not with the City anymore, in particularly they were talking about a South Beach unit across from Murphy's Real Estate unit and they were trying to sneak a fifth floor into that under the 45 feet and sneak it under the roof and it was turned down. So, when you talk about maximum height on condos, we have been talking about 4 stories. If you don't want a flat roof, you want to go over 45 feet, you can come to the Planning Board and say "I want to have an architecture roof line". They did that at Harbour Isles. In residential area, we are not doing that. In R-1, in Thumb Point, a lot of people got tired and walked home from Thumb Point and got home, we got a home in Thumb Point and the owner is right back here, and it is 3 stories and the 27 feet was changed so the average height was less than 27 feet to incorporate a third story bedroom and I think in R-1, which is our highest rating on residential we should have a minimum of story of height of two stories. We shouldn't allow the architecture roof line to be able to incorporate a third story. The other thing is we had a meeting a couple months ago and you wanted South Beach citizens input for the Comp Plan and there were many people, much more people than tonight, and there were many suggestions. One of the things about South Beach and one of the things about Thumb Pointe, we have FEMA levels. And the FEMA levels vary greatly in Thumb Point. This particular house, my house is 1 lot away from this house and my house is at 6.5 feet and he got flooded twice in Jeanne and Frances, I had 14 inches. This house was just built and I don't know what the FEMA level is there, but I know of two instances in Thumb Point in the middle streets where the people were stopped from building and made to increase their slab height to 9 feet, because the FEMA level was there. If you look at the FEMA levels in Thumb Point, on one street Thumb Point is a round circle, on an inside street the FEMA level varies from 7 to 9 feet within that block and the 7 feet is the lowest towards the water. It just doesn't make sense. The recommendation was that the City in their Comp Plan review the FEMA levels and have something that overrides and makes sense of the FEMA levels and have City levels. The next thing I want to talk to you about is footprint. There in the City zoning, they have a 25% max on lot coverage. Now, that is in R-1. In R-2, which is across the street from the water, I think it is slightly higher. It think it is 30%. We have a home on Thumb Point that uses the aquatic area to meet the 23%. If you drive, I challenge any one of you and I know somebody lives on Thumb Point right here, if you drive on Thumb Point and you look at this house, it overwhelms the neighborhood. It is over 37 feet high and the average may be under 27, but that is to incorporate a third floor. But in the same Point, it is probably about 50% or 60% of the lot coverage. We signed a petition, 70 people signed a petition, we got a letter back from the City with a drawing without any dimensions on it saying the architect calculated it to be 23.5 %. We tried to scale it, another gentleman and I that live in Thumb Point, and we came up to about 55%. The only way it could have been 23.5% is to use the aquatic area. If you look at your definition in the City Code it says you cannot use the aquatic area to calculate it. If you drive into Thumb Point, somehow we have to look at a residential area. You talked about, Mr. Recor, view to the water, if you let, there is two houses that just got torn down in Thumb Point and

they are going to be building there and if we let this one building set a precedent, nobody is going to see the sunlight. I know a gentleman tore down his house next to it because he didn't think he was going to see the sunlight anymore. It looks like a hotel. So, take a drive there and see how it is going to affect the area that we live in over there. Another thing is fences. In that same area, three lots away there is a fence that is six foot high that goes all around it. The Code says and I know I have a fence to the Code, when you get 25 feet to the water; you have to drop from 6 feet to 4 foot. This fence is 6 foot all the way to the water. It comes right around the front of the house. The Code says that the furthest outcropping of your house to the street you have to drop down to 4 feet. This is 6 feet all around. I live one lot away from that house and I didn't get a notice that they applied for some kind of...when we wrote a letter to the City, they said it was permitted. The 6 foot was permitted. A gentleman that lives across the street did not get a letter, he couldn't come to the Planning Board and say "hey, what are you doing? Why is it over 6 feet?" and the other thing is that same wall is 6 inches away from a hydrant. I talked to St. Lucie County and it is supposed to be 4 feet away from hydrants. That wall has been there for eight months. Nothing has been done about it. They just tore that house down. If they are going to put a hotel up there and it looks like a hotel, if you drive there you will see it. There is people here and I am sure they will stand up, this just overwhelms the neighborhood. We have to have something to protect the residential area from going to high and from having too much square footage. So, what I am recommending is that when you have something like this, if you are going to go over the 27 feet, can't we have a letter that goes out to the neighbors. It certainly goes out when we have a dock, but when we have a wall or a building height over 27 feet, a letter doesn't go out to the neighbors so they know they can come down and object to it. The other thing is they have a density on condos, but you don't have a density or square footage limitation on a house. If you allow three stories in an R-1 and if you look at this house, I don't know what the square footage is and I couldn't even guess, but it is huge. I know one of the Board members said he couldn't build on 27 feet. The whole idea is to be able to restrict the height in this residential area. In this area, there is only one 2-story house in this neighborhood. Now, there is four and God knows how many 3-story houses we are going to have, if you allow this to continue. So, somehow we need to do something about that. I guess the only other thing is in our neighborhood we still have houses that have never been touched. There is three within 1,000 feet of my that have not been touched. They have blue roofs. They have mud inside them. When you walk past it, you can still smell the mold. I know this is not with the Comp Plan, but there is people here that their view across the street is a house with plywood over the windows and nothing has been done and still nothing has been done. That is another situation. I know I am over the five minutes, but maybe there is some other people who want to inject some of this. I thank you and appreciate it.

Mr. Jack Cahill, South Beach Association, said I will be brief. I am not against condo-hotels. But the gentleman who said there might be a difference, is exactly right. Because, first of all, if 100 of us all buy into a 100 unit hotel, we all own 1%. Now, in a condo-hotel, and I talked to Bill Ternberry, they are building down in Miami, and the lawyers can tell you, now there is 19 going up in Las Vegas. I went out to see these, just to see them. There might be a 20th by now. They have to have a Condominium Board. Now, if Chuck Enns builds a motel and owns it himself, and I have owned two resort-hotels, you are the sole owner. However, if you have 100 people who own 100 units, each one of those own one, now you have a management company who you hire, who is in charge, you hire, you fire them, when it comes time for the City to find out how much bed tax you take, how do you find out for sure unless you have a situation like Mr. Recor mentioned of having an accounting of it. And that is kind of important. Because the one difference is that it is a

condominium board. You show me a Days Inn or a Marriott or anything else I know of that you have a condominium board. Because a condominium is what makes it, you are individual owners. That is all I am going to say. Thank you very much.

Mr. Pat Murphy, President, Hoyt C. Murphy Realtors, said I guess this isn't quite entertaining as attending a Dwight Yoakum concert, but we will get through it. I guess the concern I have and some of my clients have is this Overlay will make some pretty significant properties, other there, non-conforming. I wanted to touch on the commercial requirement of 10,000 square feet. We do a lot of commercial work. I know commercial land very well and that is a good rule of thumb. Works all day long for 1-story structures. But if you are going to go up 2 or 3 stories, restaurant, retail, or office, very restrictive. You might want to check with the County, they have typically when you go beyond 1-story for commercial work, you get into FAR (floor area ratios). There is very conservative FAR that the County uses, probably makes more sense. Let me just tell you on a very small example my office building on the beach, under current as it sits under 10,000 square foot per acre, we would be dropped from 4,100 square feet to 3,400 square and I don't think it is a bad looking building, we are pretty proud of it, but I could not rebuild back to that at 10,000 feet per acre. That is a fairly minor situation that you are making non-conforming. Behind my office, a project that received nomination by the South Beach Association, I think by the City by an improvement award, there, the Royal Inn. Unfortunately, Frank Messina could not be here. He postponed a trip last week to Peru and he had to take that flight to get down here, but he could not be here, that would make this Overlay District reducing the density to 35 units an acre would make his non-conforming. Probably the most glaring example would be the Sandhurst, they would be about 50% reduction in their density. I think there are other examples, but whether there are some provision for grandfathering. We are just concerned that we are making some very significant properties that contribute to the economy, important properties that we want to be careful on that. I don't know if I am correct on this, but he is just relaying what he heard and you can certainly check this out on the 28 foot or the single family height, supposedly that would be a big motivator for some of the lost on the ocean to go strictly duplex versus single family. I personally think that is a shame that would motivate people to put duplexes on a good part of the beach there, because obviously they would get a jump significantly in height. I don't know if that was, certainly not the intent, but that I think that becomes a result of it. Again, in C-5 Zoning, I think that was very adequately pointed out that it was certainly always meant to be a tourist area. The numbers at the end of the day have to work. You asked if density is an issue, I checked with some developers of pretty high end motels, remember what we have over there is very limited, so a typical site over there for a motel, if you can assemble 1 or 2 acres is a lot of ground over there. It is difficult to make the numbers work at 35 units per acre for a high end motel and I think the chances are they may not come if they don't have a decent way to make the numbers work. I think that does conclude my comments. Thank you very much.

Ms. Carol Mashir, South Beach resident, said I think you have been very generous with your 35 sleeping units per acre. That is not what we had heard that the Commission was really interested in. I thought 20 to 25, maybe 30. So, now it is 35. I think there is no problem Mr. Murphy was talking about if he is more than 50% wiped out in a storm. I think that is what he is talking about. He would have to rebuild under the new Code. I think it is possible, particularly for commercial and it would have to be written in, to have some sort of grandfather or some sort of understanding permitted by the Code that to rebuild on the 50% that he could rebuild under his own footprint. I

have question, I was not privy to page 6, what is the definition of a sleeping unit? The reason I am asking, is a suite with 2 or more bedrooms or 6 bedrooms a single sleeping unit?

Mr. Recor said yes, it could meet the definition of a sleeping unit. The definition of a sleeping states that “one or more rooms that is designed occupied or intended by occupancies as transient lodging accommodation with sleeping, limited cooking, and sanitary facilities provided within the sleeping unit for the exclusive use as transient accommodations.” So, yes, you could have a 1, 2, even a 3, yes you could have more than one room in the sleeping unit.

Ms. Mashir said I have a little problem with that in relation to your parking facility at 1.5 per sleeping unit and it has nothing to do with the number of people that might be in that “suite” I guess is what you are calling it now. Because in other cases, when you talk about limited kitchen facilities may be provided in the suite, it doesn’t say in the sleeping unit. You used the term “suite” and I guess I wonder what is limited and what is a suite now and what is a sleeping unit.

Mr. Recor said well, the sleeping unit is defined and that is the fact that you can have one or more rooms within a single sleeping unit was part of the basis for requiring the 1.5 per parking spaces per unit, because you are anticipating that additional demand there. Again, the idea was to clarify from the existing definitions from that which is proposed: what kinds of cooking facilities can be provided in the units and that can only be limited. It means no full kitchens. It means no stoves. It can be argued that you may want to put a dishwasher in, but we have addressed that by allowing the City Commission to look at the individual utility fixtures that are provided to regulate and govern the impact.

Ms. Mashir said ok, so, again, I think you have been very generous in just the 1.5 per sleeping unit, when in fact there could be 6 or 8 adults in that sleeping unit each with a car, correct?

Mr. Recor said there could be.

Ms. Mashir said yep and this one just hit me and I just have to ask what is an adult motel or an adult hotel? That is under your definition of motel or hotel.

Mr. Recor said I think that had to be in the existing, because I don’t know what an adult motel or and adult hotel is.

Ms. Mashir said because it says “this definition shall not include adult motels or adult hotels” and I thought “oo” is this something kinky.

Mr. Recor said I am going to err on the side of caution and suggest that it is an adult congregate living facility. Maybe we have some of those in Fort Pierce, too. I don’t know.

Mr. Jerry Wurhman said I am a property owner on South Beach in both the C-5 area and the R-4A and notwithstanding the questions that were raised about the Overlay District and condo-hotels, my concern at the moment is significant with respect to the residential R-4A and the recent change that the City adopted with an ordinance in April 16th, where they changed the 52 foot 8 lots that I bought at 52 foot conforming lots that were platted in 1972 and all of a sudden made them non-conforming. Then when we found a way to make them conforming by replatting them as the

subdivision code provides for into 60 foot lots, now all of a sudden we are finding that maybe they can't even be conforming at 60 feet. My questions is why the change to 70 feet? The idea is to get single family homes on the island and if it happens to be that they have to be 70 foot, my parcel would have to be reviewed in the form of a mid-rise building like the City once approved for 11 mid-rise condominium units there and at the present time we would like to do 8 single family homes and in fact be able to repave Granada Street, which is still a dirt road. But as it is being proposed, we won't be able to do that. So, I would appreciate any consideration you can take up on that respect and with respect to all these other issues, it would seemingly make sense to have a workshop meeting to review all these things. Redo a proposed Overlay District, which I feel is essential to clarify a lot of the loose ends that exist in everybody's benefit, the City's and the developers, and then come up with a new Overlay District, if in fact that is permissible and go from there.

Mr. Steve Weaver said I am a resident of South Beach and a builder over in the area, as well. I just want to make sure that the Planning Board recognizes what the current gross floor area theoretically is in a commercial zone. Currently the lot coverage is 60% and if you want 4 floors on a 43,000 square foot lot could theoretically have 100,000 feet of building area. The reduction to 10,000 square feet, for lack of a better word, is inordinate and it is a little much and I don't think it will...it is way past what could be considered an adjustment. It is more of a dismantlement of the commercial area. The proposal to have the single family homes in the R-4A area limited at 28 feet will result in 45 foot height duplexes right next to 28 foot single family and a checkerboard affect in the district, which I don't think was the intent, but it will have that affect. It will also make oceanfront property owners tend to build in their first floor instead of going up. I know of at least two properties that would have been single family homes on the ocean, which will be duplexes now, because of the way the rules have been changed.

Ms. Arden Peck, South Beach resident, said I just have one question for Mr. Recor, here we go to the height again, 45 feet, are we talking now to the top of the roof? I know we have had many discussions about this.

Mr. Recor said the manner in which the height is determined has not changed. It is still measured to, what I believe is defined as the copping. But we will still allow architectural appendages into the 45 feet height requirement. But it is not going to be the entire roof. Literally, it can be a steeple, a pole, an architectural feature.

Ms. Peck said it is up for discussion. Secondly, I would just like to reiterate the fact that in '05 in May, we had a South Beach Charrette and at that point and I think still at this point, we consider ourselves a village by the sea. I think that all of the residents have considered themselves living in a village by the sea and here, tonight, we are talking about a lot of building, which we are not against, but we want desperately to keep what we have, which is the feel of a village by the sea. I think that really needs to be at the forefront and in all of our charrettes and in all of our meetings that we have had at Chapel by the Sea and whatever and at City Hall and unfortunately, not here tonight, but we have packed the house. So, I would like the Board to be aware of that. Thank you.

Mr. Flip Gates, President of Visions of Fort Pierce, said I agree wholeheartedly that people and the citizens who are members of the different villages of the City of Fort Pierce, here, should

absolutely have the ability to have workshops, charrettes, and everything else, so that they could express their views to the Commission, to the Planning & Zoning Board Members, or anybody else here that would like it. We do not want to see things done in a matter of which all of a sudden you have to approve or disapprove of something on a one-time basis here in the evening. I have some question of Mr. Recor, do you have any definitions in your Overlay District that specify what integrity, massing, proportion, scale, openness, visual interest is?

Mr. Recor said no, sir.

Mr. Gates asked do you have any thing in your Overlay District that defines Mediterranean, Key West, Mission, Prairie, Streamline, Art Deco, Mid-Century, is there anything in there that defines or pictures of any of these?

Mr. Recor said no, sir.

Mr. Gates said then, Members of the Planning and Zoning Board, I don't believe that you can approve of the Overlay District until you can completely define what you are in here talking about tonight. I know that during your previous Planning and Zoning member of the Port Sub-Element it was agreed upon by staff that they would make changes to be delivered directly to the Commission without coming back through you. I would suggest this evening that you should not approve the Overlay District until these definitions are defined and these things come back forward as many of the residents here tonight have talked about. I would also say that your Overlay Districts are not necessarily an appropriate tool to address a single issue that deals with land use. An amendment to the existing zoning code is a more affective process. There are potential problems here. The district is extremely large and this includes all of South Beach and creates a misleading impression here tonight that condo-hotels maybe approved throughout the whole South Beach. Remember we want to keep this a village. Only one land use category within the Overlay District, the condo-hotel would be affected by the architectural and site design criteria. Thus there is a concern about equal protection and equal treatment of all development proposals on the South Beach. Only one land use category requires disclosure of ownership. Documentation requires a specific type of owner or operator such as a major national or international chain or franchise, which again, does not seem to be defined here in the Overlay District. Again, I would encourage Planning and Zoning Board not to approve this until these definitions are written into the Overlay District or into an existing City Zoning Code. Again, this raises the concerns about equal protection and the limits of the City's ability to limit competition and to control the market place, which is what you are actually being asked here to do tonight. The conditions of the approval section make condo-hotels for all practical purposes a Conditional Use. This raises the issue of an internal consistency within the zoning code, as such processes are already there and already exist. Again, a single use would be declared exceptional and thus raise concerns about the regulations and other issues within the Overlay, such as density, which may not meet the Comp Plan, as Mr. Bergman said tonight, height in a minor way and setbacks such as visual buffers. Again, I recommend that you deny the request here tonight until you get these answers to the Overlay Districts and send this back this back to staff to address these technical difficulties. Thank you.

Mr. Recor said I will simply respond by repeating what I has said earlier and that is that based on the feedback and testimony that you have heard tonight that the Planning Board believes that

there are issues that need further clarification or discussion, we will simply prepare an addendum to the ordinance for the City Commission's consideration and they can decide how they want to proceed with it. We are simply following the following the direction of the City Commission, at this point.

Chairman Bergman said is there anyone else that would like to speak? If not, we will close the Public Hearing. What is the pleasure of the Board?

Motion was made by Mr. Poitier, seconded by Mr. Harris, to send it back to the Board so they can do some more research on it.

Mrs. Gates asked are you asked for it to be...

Mr. Poitier said send it back to staff so they could do some more research on it. Can I get a second?

Mrs. Gates said she has a clarification, Mr. Poitier, are you asking for this to be tabled or are you asking to deny it? I want to have it clarified. I want to see what your intent is, please.

Mr. Poitier said deny. Send it back to staff so they could do some more research on it.

Chairman Bergman said the motion is to deny it and send it back to staff.

Mrs. Gates said to deny it and send it back to staff.

Mr. Poitier said that is correct.

Mr. Recor said which surprises me that we would get that kind of motion after the lengthy discussion that we have had tonight on this matter.

Mrs. Benton said actually, we didn't get that kind of motion. I think we got a motion from Mr. Poitier to table.

Mrs. Gates said to send it back to staff. That is what I thought he said.

Mr. Recor said I though I heard him say to deny it.

Chairman Bergman said no, he wants to deny it and send it back to staff for further work.

Mrs. Benton said he did not use the word "deny".

Mrs. Gates said yes, he did. When he clarified it, he did. Mr. Poitier, I want to get a clarification as a Board member, are you asking for it to go back to staff for these questions to be clarified and further work on this issue or are you just asking for it to be denied and then sent on to the City Commission?

Mr. Poitier said that was my motion and it was properly seconded to deny it and send it back. To deny it was my motion.

Chairman Bergman said but you want to deny it and send it back to...

Mr. Johnson said its going to the Commission, if it is denied.

Mr. Poitier said that is what the Chairman said earlier by denial it would go back to the Commission. He repeated that three times. But you had a motion on the floor, you should have asked for a readiness to the motion. I made a motion and it was seconded. You have to carry it through.

Mr. Reilly said if this passes and it goes through and this motion to deny it does not pass, what happens at that point?

Chairman Bergman said they will have to have another motion.

Mrs. Gates said Mr. Harris and Mr. Poitier, you are not asking for it to go back to staff than to have any further work done on it, correct?

Mr. Poitier said that is what you understand.

Mrs. Gates said ok.

Mr. Poitier said I repeat the motion twice. First, I said to go back to staff so somebody took it and restructured the motion and said to deny it or send it back. You said if I deny it, it go back to the Commission for approval. That was my motion.

Chairman Bergman said if your present motion as it stands to deny this, then it goes to the City Commission as it sits.

Mr. Poitier said that is correct.

Chairman Bergman said it won't go back to staff.

Mr. Poitier said send it back to the Commission, than.

Mrs. Gates asked staff or Commission?

Mr. Poitier said no, you said it don't go back to the staff. It goes to the Commission for approval.

Chairman Bergman said let us vote on this.

Mr. Poitier said that is the procedure. You vote on it to deny it.

Chairman Bergman said I think there was some confusion with the motion.

Those voting in favor of the motion were: Mr. Harris and Mr. Poitier Those opposed: Chairman Bergman, Vice Chair Gates, Mrs. Benton, Mr. Enns, Mr. Johnson, Mr. Knott, and Mr. Reilly.

Chairman Bergman said motion does not carry.

Mr. Knott said I am not sure what the...we heard a lot of discussion and I think staff has done a good job in putting this together as directed by the Commission and contrary to the legal counsel that we heard that there is no difference between a condo-hotel and a hotel, I think we do need regulations if we are going to get these developments and it appears we are going to get these developments and it appears that there are development throughout the State already and they have just a different way of financing. I have concerns about some of the numbers we have in here. I don't see any in here that unless somebody has a real strong feeling, I know a couple of you did, that you would construct staff to make an amendment or addendum to this proposed ordinance before it goes to the Commission. I would be willing to listen to that.

Motion was made by Mr. Knott, Mr. Enns to approve as recommended.

Mrs. Gates said as a matter of discussion, I would not be able to support that. I have too many questions here that have not been answered. I have now legal questions that are coming up and I would like to Board to know that I could not support that motion to pass it on with an addendum to the City Commission. I think this needs to go back possibly tabling it to go back to staff and work out some of these issues. There has just been too much. I have five pages here written of questions that people had from the audience that I believe they should have answered and I would like to have some questions answered and I would like if there is accusations of not following the Comp Plan, I would like to hear that and I would like to see this come back before me with these answers before I can make a recommendation to send it to the City Commission.

Chairman Bergman said we also have Mr. Walker has a whole staff of things to review.

Mrs. Gates said legal reviews and I don't feel comfortable until I come back and see this again.

Mr. Knott said what I was hearing from Mr. Recor is that it is going to the Commission one way or the other.

Chairman Bergman said not necessarily.

Mrs. Gates said not if we table it. We can send it back to staff and wait. Am I correct?

Mr. Recor said yes. The Commission has 45 days on which to act on the application.

Mrs. Benton asked started from when?

Mr. Recor said starting from the date that it was filed and we are not playing any games. You have 45 days from the date of the Public Hearing. You are perfectly within your privet to table it

Mrs. Benton asked of this hearing or which hearing?

Mr. Recor said or table it or ask the staff to come back with clarification. But if you do that, I would like for you to be very specific on what it is you would like for us to come back with. Because, again, I will tell you that the construct, the format of the ordinance is in place. If you are making suggestions on what needs to be clarified or further defined, I want to make sure that we respond to your various specific comments.

Mrs. Benton said I would like for clarification on when the running of the 45 days begin. Is it tonight?

Mr. Recor said I don't know the answer to that. I would have to go back and check.

Mr. Knott said in light of this discussion, I withdraw my motion and allow somebody to make a motion who can instruct the staff on each item they want to have reworked. Because a lot of discussion went on here tonight, but I don't know if anyone was making a list or if anybody has one, that is fine. But I withdraw my motion.

Chairman Bergman said we could always use the minutes of the meeting to at least pick up on items that were discussed. Those would be things we would look at. Plus, I think Mr. Walker has a stack that he needs to take a look at and see if there are any issues in there that have to be addressed.

Mr. Knott said that's fine that Mr. Walker had a list. I, myself, would like to have it gone back to staff to incorporate some of the comments of tonight. But I didn't see anybody making a list.

Mrs. Gates said there were so many comments and so many on the architectural standards, gosh, almost on everything, I don't know if I am going to say all of them, but I think there is enough here that we need to have some more clarifications.

Mr. Knott asked were they concerns or facts?

Mrs. Gates said well, the architectural standards were not...it think there were two concerns about architectural standards and language being specifically defined to make it more easy for the developer, whomever that may be, single family or hotel, so that they a much more clear picture of what that means, as well as the Commission, so that they are not unduly burdened with that interpretation, so of speak. I know we talked about that. We talked about the setbacks, the buffers, the impervious surfaces, the height, I am hearing a lot of talk about the height on this 28 feet, the density. I don't know how many you want, but can we not use the minutes from this meeting?

Mr. Knott said if that can be done, that is fine and we have the time and if it is going to result in a new document. Is that what the intent is?

Mr. Recor said that will not result in a new document. These are simply opinions that have been shared tonight. If there are concerns that the Planning Board would like to pass along or have staff research further, that is no guarantee that there are going to result in any changes to the document. We spent a lot of time on this ordinance. If you would like to, again, identify specific concerns, it is a matter of opinion as to whether or not we need to specifically define what we

mean by Mediterranean or that we need more than 35. If we attempt to construct an ordinance that we are going to build consensus with everyone in this room, we are not going to be able to accomplish that. We are never going to be able to please everyone with every provision. So, do not expect a new ordinance within the 30 day time frame, if you elect to table it.

Mrs. Gates said well, in specific I definitely am interested in finding out whether this violates the Comprehensive Plan. That is very specific and that was a specific concern.

Mr. Recor said and you have testimony on the record from your staff that is in direct opposition to that where we have concluded, based on the criteria of the ordinance, that it does not.

Mrs. Gates said well, I would like clarification on that from Mr. Walker.

Mr. Recor said the matter of Land Development Regulations of Goals, Objectives, and Policy of the Comprehensive Plan are subject to interpretation. These are land use attorneys that are representing their client's interest and they are reading the very same provisions that we read everyday and making their own interpretation and that's fine. That is what we do on a daily basis.

Mrs. Benton said a couple of things, number one, I believe the making of the motion indicated that he was withdrawing his motion, if he is withdrawing his motion, then whomever second it would have to agree.

Mr. Enns said I withdraw my second.

Mrs. Benton said there were some legal issues that were raised by the discussion tonight, while the result of a review of those issues may not result in a redefining of the proposed ordinance at the very least based upon what I am hearing from the Board, it sounds like the Board would like to have, perhaps the City Attorney's office, to take a look at some of the issues and report back to us. If he reports back to us that there is no, in his opinion or in the City Attorney's opinion, that there is no legal problem with the proposed ordinance than we can at least move forward. Right now, there are some issues that we probably want to look at before we recommend to the City Commission.

Motion was made by Mrs. Benton, seconded by Vice Chair Gates, to table the matter at this time for review by not only staff, but the City Attorney's office based on the legal issues that were presented.

Mr. Knott said this tabling for review, does Mr. Walker have everything he needs to make a decision so they can come back to us at the next Board meeting or are there too many iffy issues?

Chairman Bergman said I don't know, he has a big ol' pile of stuff down there. I don't know if he can get it done in 30 days or not.

Mr. Knott said what is the nature of the pile of stuff?

Mr. Recor said it pertains to Island Village.

Chairman Bergman asked Mr. Walker, do you believe that you have time to adequately review what has been handed to you and be able to get back with us by the next meeting?

Attorney Walker said yes, Mr. Chair.

Mr. Knott said now, that just leaves the second part of the motion, I believe have staff review...

Mrs. Benton said actually really the focus of it was to have Mr. Walker, as the City Attorney, take a look at it and staff, of course, second part of it was to take a look at it and they can take a look at in concert with the City Attorney's office.

Mr. Poitier asked Mr. Chair, did you give him a month or two months?

Mr. Knott asked are there any definite items that anybody has?

Chairman Bergman said staff should probably look at the minutes and see what issues were raised.

Mrs. Benton said just to lay it on the line a very basic issue that was brought up by the attorneys for the developers...

Attorney Walker said I apologize for the interruption. I am thinking that perhaps the speaker's may not be turned on and it would be much easier to hear her.

Chairman Bergman said it is. She just needs to get a little closer to it.

Mrs. Benton said I was just going to make a point that there is at least a basic issue that has been raised by the attorneys for the developers and that is whether there is a legal distinction between a hotel, as we know it, and the condo-hotel and are they being treated differently, which is something they are basing on whether or not the citizens health, wealth, and safety, as they say, would be adversely affected by this ordinance. Those are pure legal questions that would probably need some advise on from counsel. And I am not suggestion what the answer is. I am just saying these are some of the issues and we may well come right back here and vote to approve it or not to approve it, but I think that the sense of the body is that we should at least take a look at it.

Mr. Buchwald said if I may ask, can the Board provide any guidance to staff whether regards to the second item of that motion, because we heard from a variety of people tonight. We heard from developers who say it is not enough density. We heard from the residents, who say it is too much density. Can the Board provide any guidance in terms of what they infiltrer without other than saying go back to the minutes and read everyone of the comments that everyone of these individuals had said and prioritize what the Board feels is appropriate.

Chairman Bergman asked do you want to have a workshop?

Mr. Recor said I am going to interject, again, and tell the Chairman and the Board Members that staff is not going to bring back any changes to the Public Hearing draft. It makes no sense, at all,

to go through the effort of trying to build consensus at the Planning Board level only for the City Commission to have a different opinion and change the months that it may take to build consensus at this level. If you have suggestions and concerns with the public hearing draft, they should be identified in a form of an addendum and if the City Commission agrees, then we will redraft the ordinance.

Mrs. Benton said it seems what is causing the problem now with the motion is that I referenced City staff going back to the drawing board. I would be willing to amend my motion so that they don't go back. But we just let the City Attorney's office take a look it.

Mr. Recor said that is fine.

Mrs. Benton said and then if the City Attorney's office...

Vice Chair Gates said they are not going to change anything.

Mrs. Benton said he is indicating they are not going to change anything. I would be willing, I haven't done that yet, but I would be willing to amend my motion is that what you all want. So, that what we will do is find out what the legal issues are and then from that at our next meeting we can vote up or down on the ordinance.

Mr. Recor said or pass along your feedback.

Mr. Knott said in the way of the minutes.

Mr. Buchwald said no, the way specific items that you feel are important to be included as an addendum.

Mr. Knott said that is what he was trying to do, if anybody has...

Vice Chair Gates said I think I have stated this, but I will be glad to restate it. I have a very specific... on page 3, under Architectural Standards, I would like staff to clarify and define more specifically the terms that they are using in here so that there is no question. So, that there is not an undue burden on the interpretation by a developer or the Commission about these features or styles. That is one of mine. Then the other is I continue to hear about the density and the height and I don't know if there is anything they can do to amend any of these numbers, if they should or they shouldn't. I am very unclear on the heights and densities. I am very concerned about that. that is what I will say, as well as the legal question.

Mr. Reilly said there is a couple of things that I would like to have address. Item C, on the Condominium-hotels, under i. (General Provisions), it is my opinion that that should be changed to a national recognized or management company that has been approved by the City. I think that just having a national/international chain is too restrictive.

Vice Chair Gates said I agree with that.

Mr. Reilly said number two, I would like to have item G, I would like to have the tax issues just looked into to see if there is a, as far as a condo-hotel whether there is some type of loop hole that we are not collecting our due taxes on those. Item I, on that same thing, I would like to have a change of a list of required furnishings instead of saying that the condo-hotel has to provide all furnishings standardized. Maybe just a list of furnishing there, so that if we are going to start entertaining having these condo-hotel, you need to make it where it is profitable and where people want to buy these things. Item K, on that same thing, I would like to have that changed to where you could have some type of lockable unit in these places. Again, going back to where if someone is spending a ton of money on one of these units. Item N, that should also include maintenance services under "condo-hotel facilities shall offer daily maid service, concierge as well as other customary..." they should also provide maintenance services to the structures. Under Architectural Standards, Item D, I think that should be clarified. Again, I guess I am not objecting to the density part of it, the 35 sleeping units per acre, in looking at the board over there it looks like it works, but I do have a problem with the height. I don't know if that is something for that discussion or something later. And those are all my comments.

Mr. Recor said Mr. Reilly, when you say you have a problem with height, could you be more specific? Do you want it to be higher?

Mr. Reilly said I don't think that works. We have already discussed it once. The height of a home, 28 feet, and you are saying that is the current zoning anyway out there.

Chairman Bergman said in R-1, 2 and 3. That is Thumb Point for the most part.

Mr. Reilly said in that case, if you wanted to build a home that was above flood zone level, if you wanted to build a home somewhere higher or you want to have a multi 2-story home you can get a variance.

Mr. Recor said you can get a variance. You can apply for a variance from the Board of Adjustment and Appeals.

Chairman Bergman said I think the height restrictions, like someone said, is going to encourage duplexes.

Mr. Reilly said it is also a dated. That is kind of dated, right there.

Mr. Recor said duplexes in the R-1, 2 and 3 are also limited to 28 feet in height.

Chairman Bergman said but not in R-4A.

Mr. Recor said but neither is single family.

Chairman Bergman said if it was up to me, I would like to see C and E just eliminated completely, the general the density and height. I think the 10,000 square feet per acre is too restrictive. I think it devalues the property. I think the 8 dwelling units per acre is already in effect as a non-binding referendum from whenever it was. I think the height of 28 feet just doesn't work for single family. If you have beachfront property, don't you have to be between 11 and 15 feet above sea

level as it stands now. I think it just devalues the property, if people are trying to do something nice on. 28 feet applies to these larger properties in the Thumb Point area and I think that that is fine. I think it should be there. But some of these smaller pieces of property, I think 28 feet is too restrictive. I think 45 feet has been the interpretation and I think everyone is living with it and I think it's the way it should stay.

Mr. Johnson said just real quick. Just a comment on the density, I agree and disagree, because the 8 dwelling units per acre, I know that has been stated and we are kind of living by it, but I would like to see it in this document, if we could. I know it's a point there. As far as the height, we have Thumb Point, which has a monstrosity of a dwelling unit and when you go to the beach, you want that unit to be higher than 28 feet, because your first floor is taken up. There is conflict there. As far as the height, I have mixed feelings, but it is a good guide. I know it is tough to build with 28 feet, but it is a good guide, especially for single family.

Attorney Walker said Mr. Chair, with your permission I would like to comment briefly on some of the legal arguments that have been made. Most of the argument raised by counsel involves contention that there is no rational basis for regulating condo-hotels in the manner here proposed in contrast to what is otherwise provided for normal hotel or resort-hotels. Respectfully, Mr. Chair, staff has set out a rationale and a justification for that a court normally will accept any reasonable explanation that is provided as a basis for regulation. Your staff is trained in these matters. Our people are experts. Legal will stand by staff's conclusion in this matter and will defend the conclusions. This is particularly true, though not exclusively, of staff's opinions and conclusion with respect to the Comprehensive Plan. Staff's opinions in this matter constitute expert testimony that the proposal here is consistent with Plan. That testimony is entitled to considerable weight. It will be defended by Legal and the City's position, therefore on the arguments that are being advanced is that based upon the testimony of the City's professional staff that there is a rational basis for regulating this subject and further that the proposed draft is, in fact, consistent with the Plan. Now, I will be happy to elaborate on that at next month's meeting, if that is the sense of the Board, but that is definitely the direction that Legal is going to be coming from.

Those voting in favor of the motion were: Chairman Bergman, Vice Chair Gates, Mrs. Benton, Mr. Enns, Mr. Harris, Mr. Johnson, Mr. Knott, Mr. Reilly, and Mr. Poitier. Those opposed: None.

The next item on the agenda - **#11 - Discussions**

Adjournment was at 11:00