

MINUTES OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON TUESDAY, OCTOBER 12, 2004, IN THE CITY HALL COMMISSION CHAMBERS (due to anticipated seating accommodations for the public), 100 NORTH U.S. 1, FORT PIERCE, FLORIDA.

Members present: Donald Bergman (Chairman), Sonja Gates (Vice Chair), Pam Williams, Margaret Benton, Harriett Brenner, and Robert Poitier.

Members absent: Charlie Harris, Chuck Enns, Jeremiah Johnson, and Thomas Knott.

Citizens and Staff present:

Mario Suarez	Ramon Trias, AICP, Director of Development
Bruce Moia	Jim Walker, Assistant City Attorney
Edwardo Paris	Dianna D. Rose, Secretary
Greg Buffington	
Victor Ayala	
Nina L. Ferraro	
Joy Yancy and guest	
Sophia Watkins and guests (arrived late)	

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

Secretary proceeded with roll call (**Agenda Item #2**).

Mr. Bergman asked if Mr. Harris had called in.

Ms. Rose replied that he had not called in.

Mr. Bergman stated – Alright, if there’s no objection, we can move the consideration of absences to the end of the meeting to give Mr. Harris an opportunity to get here.

Approval of minutes of Planning Board held August 10, 2004. (**Agenda Item #3**).

MOTION WAS MADE BY MR. POITIER TO APPROVE THE MINTUES OF THE MEETING HELD AUGUST 10, 2004. Seconded by Mrs. Brenner. Unanimously approved by voice vote.

Agenda Item #4 – Conditional Use – Watkins Childcare – Approval to permit a daycare center for children in a R-4, Medium Density Zone. Located at 417 North 9th Street. Owner is Mr. Jean Magliore, and applicant is Ms. Sophia Watkins.

Staff Report – Mr. Trias stated – Mr. Chairman, staff has reviewed the request and based on the fact that there’s very limited parking and the impact of such an establishment would be extreme in this area, staff recommends denial.

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Mr. Bergman asked – Are there any questions of staff from the Board? Okay, hearing none. Is there anyone here to speak for the conditional use?

No one was present at this time.

Mr. Bergman continued – Is there anyone here to oppose the conditional use application? There doesn't appear to be anybody here. What's the wishes of the Board?

MOTION WAS MADE BY MRS. GATES TO DENY THE REQUEST BASED ON STAFF'S FINDING OF LACK OF PARKING FOR THE NECESSARY SPACES THAT THEY NEEDED. Seconded by Ms. Williams. Unanimously denied by roll call vote.

Mr. Bergman asked – Mr. Walker, I have a question for you before we go into the next item. It seems how we have a minimum quorum, does this present the problem where if we don't get a unanimous approval then this would be forwarded without recommendation?

Attorney Walker stated – If, hypothetically, an application was approved on a 5-1 voting, that would not constitute a recommendation...a formal recommendation; it would be forwarded to the Commission without a recommendation.

Mr. Bergman stated – Okay, so it would have to be approved unanimously by this seated Board to go with a positive recommendation?

Attorney Walker stated – Yes, Mr. Chair.

Mr. Bergman stated – Okay, I couldn't remember the circumstances around it, but I know this has only happened on a few instances. I know in the past we've also given the applicants the option to be heard with the minimum quorum Board versus ...especially, I guess, if it was anything questionable, that they may want to hear it at a full Board? Is that something we should probably still do?

Attorney Walker stated – Yes, Mr. Chair.

Mr. Bergman stated – Alright, thank you.

Agenda Item # 5 – Site Plan w/Conditional Use – Hobin Truck Terminal – Approval for a warehouse facility in St. Lucie Crossroads subdivision. Generally located on the north side of Okeechobee Road on the northwest corner of Crossroads Parkway and Wheeler Terrace. Owners are Walter and Marjorie Hobin, and applicant is Mr. Bruce Moia, P.E. of Mosby & Associates, Inc.

Staff Report – Mr. Trias stated – Staff has reviewed the application and we recommend approval.

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

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Attorney Walker stated – Mr. Chair, for purposes of the record, can we get confirmation from staff that this is consistent with the Comprehensive Plan?

Mr. Trias continued – Staff has reviewed the application for consistency with the Comprehensive Plan and it is consistent and we recommend approval.

Attorney Walker – Thank you.

Mr. Bergman stated – Thank you. Again, were there any questions of staff from the Board?

Mrs. Brenner stated – I would like to ask staff...it says in the conditional use report that the...are all of the departments signed off on this? And the reason I'm asking is because we're getting more and more properties occupied in that area without apparent consideration by Fire Board as to whether or not they need to set some property out there for future development of a fire station?

Mr. Trias stated – Yes, what it means is although all of the departments have reviewed this application, is that we have a previous step to the Planning Board meeting; a step that happens a month before or so of the meeting where all of the different agencies are present. And the fire district is always there, they always review the projects and they always have an opportunity to point out any deficiencies such as the one you're mentioning. I have not heard that as an issue but I will pass it along and see what their opinion is.

Mrs. Brenner – Thank you.

Ms. Benton stated – Just one question for Mr. Trias. Someone mentioned the Comprehensive Plan, and does this encompass any office developments or spaces in this particular development?

Mr. Trias stated – This project has a small office ...actually two small offices.

Ms. Benton continued – If it were not a part of the warehouse, would that be allowed? In other words, is office space allowed as a separated type of entity in the Crossroads?

Mr. Trias – Yes.

Ms. Benton – Okay, thank you.

Mr. Bergman asked – Are there any other questions for staff? Hearing no other questions, is there anyone here to speak on behalf of the site plan application?

Mr. Bruce Moia stood and introduced himself and stated – I'm with Mosby & Associates. I'm here if you have any technical questions. I really didn't have any presentation. It's an (infill?) project. All the infrastructure is existing and available and we're developing the vacant lot.

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Mr. Bergman stated – Alright, thank you. Were there any questions for the applicant? Was there anyone else here to speak on behalf of this project? Is there anyone here to oppose the site plan? What are the wishes of the Board?

MOTION WAS MADE BY MRS. GATES TO APPROVE THE SITE PLAN W/CONDITIONAL USE APPLICATION. Seconded by Mr. Poitier. Unanimously approved by roll call vote.

Mr. Bergman stated to the applicant – You’ll be notified by the City Clerk when this is going to be forwarded to the City Commission.

Mr. Bergman continued – For those of you that came in late, if you weren’t here, you missed out on my question to staff regarding the minimum quorum tonight. Unless you have a full affirmative vote...I mean 6 for and 0 against, your project will go to the City Commission without a recommendation. If you get the full 6-0 affirmative vote, it will go with a supporting recommendation. So, if you would like to have the recommendation follow the project to the City Commission, you may want to request that this be tabled to the next meeting or you can take your chances. I don’t know if there’s anything that debatable on the agenda tonight, but if you feel your chances are slim or not very favorable of being approved tonight, then you may want to request that your item be tabled to the next meeting when we hopefully have a full quorum.

Agenda Item #6 – Site Plan w/Conditional Use – Bartlett (dock) – Approval to allow the construction of a private dock with associated boatlift. Located at 401 Fernandina Street. Owner is Ms. Christine Bartlett, applicant is Ms. Joy Yancy of Summerlin Seven Seas.

Staff Report – Mr. Trias stated – Staff has reviewed the application for compliance with City Codes and the Comprehensive Plan and staff recommends approval.

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

Mrs. Brenner stated – Ramon, I went out and looked at this property and I wasn’t quite clear on the boat lift and the length...the dock itself is 14 ft. x 12 ft. it looks like. I wasn’t quite sure about either of those. And it’s very close to the other property to the immediate right of them as you face the water. And they come out not on a straight angle, they angle into one another, and if they have a very large boat on that proposed boatlift, it might create a problem, because the other boat is fairly large that they have in their slip. So, I’m just raising the question as to whether the congestion is going to be a little bit too thick in there because with this proposed one it looks as if they can put at least three boats in there...maybe even four. And right close up to the property line of the house directly next door, which I believe is 333—I’m not quite sure of the number—but it is the one directly to the right as you face the water. Perhaps it could be explained.

Mr. Trias stated – Yes, I would ask the applicant to explain that further, and in addition, the purpose of the conditional use process is exactly that...it includes a site plan so that you can review the specifics of the proposal and maybe suggest some changes. I would encourage you to ask the applicant to explain further.

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Mrs. Brenner – Thank you.

Mr. Bergman asked – Were there any other questions for staff? Okay, is there anyone here to speak on behalf of the site plan w/conditional use?

Ms. Joy Yancy stood and introduced herself and stated – I represent Summerlin Seven Seas and the Bartletts. (Directed toward Mrs.Brenner) Could you ask your question one more time?

Mrs. Brenner asked – Would you explain to me to where there are two dolphin pilings to the right of the existing dock? We're facing the water of the existing dock to the right of it there are two dolphin pilings...now the proposed new dock that goes out...is that to the right of those dolphins or is it inside those dolphins?

Ms. Yancy stated – On my drawing, the only dolphin piling is in front of the existing dock. And what they're proposing to do is to go out 14 ft. and put their poles in for a boatlift.

Mrs. Brenner continued – In the drawing it says, 'an existing mooring pile' at the end of the proposed dock.

Ms. Yancy added – Yes, and that's to the left.

Mrs. Brenner asked – Is that the dolphin piling?

Ms. Yancy stated – That's the dolphin piling, yes ma'am.

Mrs. Brenner asked – So, the second dolphin piling would be about three quarters of the way out the dock?

Ms. Yancy asked – Are we looking at the same drawings?

Mrs. Brenner – Yes. It actually doesn't show the second dolphin on this drawing.

Ms. Yancy asked – Okay, and there's one there?...is that what you're saying?

Mrs. Brenner stated – There are two.

Ms. Yancy stated – Okay, they'll probably be removed is why they weren't noted on here.

Mrs. Brenner stated – Okay, so then the one that we're talking about tonight is the one that would be to the right of the new dock?

Ms. Yancy stated – That's the one he's asking that he could have, yes ma'am.

Mrs. Brenner asked – And what would be the length of the boatlift?

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Ms. Yancy stated – It only could span what they're asking for ...the 14 ft...of the actual boatlift structure.

Mrs. Brenner asked – The boatlift itself would lift a boat of how many feet?

Ms. Yancy asked – Of length-wise?

Mrs. Brenner – Yes.

Ms. Yancy stated – The lift would lift a boat that weighs about 12,000 lbs., so it could be up to 32 ft. or 34 ft.

Mrs. Brenner asked – And what would be the width on that?

Ms. Yancy stated – Well, it would only be what they're asking for...the 14 feet.

Mrs. Brenner stated – So, we're talking a pretty good size boat?

Ms. Yancy stated – I don't what kind of boat he's going to get but you're right...it could be a big boat, yes ma'am.

Mrs. Brenner asked – And do you know how far that would reach over...how much space is there between the end of where they would be and the beginning of the...?

Ms. Yancy added – The next boat owner?

Mrs. Brenner – Yes.

Ms. Yancy stated – Well, on here, it says that we are going to the property line.

Mrs. Brenner – Right.

Ms. Yancy continued – Do I know the difference of the property line to the next guy's little slip he has in there? I don't know that distance.

Mrs. Brenner stated – If my visual was correct, it is very close in there and at that point they kind of come like this (demonstrating with her hands). So, if they have two large boats in there at the same time, it's going to be pretty tight.

Ms. Yancy stated – Okay, the only thing saving us, I guess, is that it can't exceed those two pilings, which would be the boatlift piling. And the only thing I could do to make these people happy is that we could move it to 12 ft. and we could sell them a little smaller lift. And that's the only thing I could do as far as I guess saying that maybe the answer would not be no boatlift, but maybe we could make the boat lift smaller.

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Mrs. Brenner stated – So, if I understand correctly, with this boatlift and the slip on the opposite side of that dock plus they have the half of the other dock...they have dockage for three vessels?

Ms. Yancy stated – Yes ma'am. And this has come before you all before.

Mrs. Brenner stated – I was not here for that previous one I'm afraid.

Ms. Yancy added – And it got denied at Commission; and it got denied because of the gentleman you're speaking of next door...Mr. Starkweather.

Mrs. Brenner – Okay.

Ms. Yancy stated – Okay, so we kind of knew this was going to be an issue, so he went back, we redrew it, we went back to the (DEP?)...got their approval, and we drew it a little differently this time. Something that Mr. Starkweather, I think, could live with, is what the whole thing boils down to. So, I see why you're questioning...there is a question. And we went to Commission before after you all approved and they wouldn't approve because he opposed. So, here we are again.

Mrs. Brenner added – Well, it's very tight in there. I'm at a loss as to what I think about whether it should be approved or not approved, because it is very tight.

Ms. Yancy stated – I agree.

Mrs. Brenner – Thank you.

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

Ms. Benton stated – I'm not clear on this...I'm looking at the analysis submitted by staff in the report, and I would just like to know...did you comply in your application now...did you comply with what the City requested based upon the objection that was?

Ms. Yancy stated – Yes ma'am. Well, it was a different set up the way he had from before. We came over some. We had to add this dock on the inside. I don't know if you see that we asked for another dock. We had to do that. Yes, we did change it around to appease what they requested.

Mrs. Gates stated – Joy, if you scaled back the boat lift to say 12 ft., what would that feasibly do there? I mean, how much more room would you...?

Ms. Yancy stated – Well, I'm only gaining two feet but I'm making her concern a little less.

Mrs. Gates asked – The size of the vessel would matter...?

Ms. Yancy stated – Yes, the size of the vessel would be a little smaller.

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Mrs. Gates asked – Would this please the property owner or would you know?

Ms. Yancy stated – Well, this has been going on for a long time, so I don't know if it's going to please him at this point, I mean this is his second time around. This is what he carefully designed at this point. But that's the only thing I can think of that I can go back to him and say okay, they didn't say no or yes but they said you could come back two more feet.

Mrs. Gates asked – In your opinion, and obviously in staff's opinion, if there were a couple of boats in there (the concern of Mrs. Brenner), do you see that there is a problem to maneuver boats in and out of there the way it is designed now?

Ms. Yancy stated – I think they are going to have to be careful.

Mrs. Gates – Okay.

Ms. Yancy continued – But in defense of my customer, do you see how their boat lift is set up at the very end of the dock?...and that's why we drew this other dock. Mr. Starkweather's boat goes inward toward the property...he goes in further into the property. So, actually one boat will sitting this way (demonstrating a staggering of boats with her hands) and one boat will be sitting like this.

Mrs. Gates asked – So, it's not going to be like this (demonstrating two boats parallel with her hands)?

Ms. Yancy stated – It's not going to be like this (demonstrating the same parallel motion with her hands as Mrs. Gates had demonstrated), no.

Mrs. Gates stated – Okay, and he's aware of this or not?...the neighbor?

Ms. Yancy stated – He is aware.

Mrs. Gates stated – Okay. But I'm saying at this point is he aware of the new design and is he kind of softened on this issue?

Ms. Yancy stated – I don't know. Now he's my customer also.

Mrs. Gates – Right.

Ms. Yancy continued – But I don't know if they...

Mrs. Gates – Right. Thank you.

Mrs. Brenner stated – Just one more question if I could. What's your concern about high wind and trying to get those boats in at the same time approximately?

Ms. Yancy stated – If they're both coming in on the same day at the same time?

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Mrs. Brenner added – Yes, in high wind and rain...it's really close.

Ms. Yancy stated – It's really close, but I just hoped that one of them would stay back enough so that the other one could get secure. But you're right, I can't control that.

Mrs. Brenner stated – No, I know you can't but it is tight. They would have to very considerate of one another.

Ms. Yancy stated – Yes, but you would be considerate on the roadway too.

Mr. Bergman asked – Do you know what the distance is from the end of that new dock to what the mouth of the opening width would be between the existing the dock (which Mrs. Brenner indicates that's probably coming in at an angle) and what the new dock...the distance between the edges of those two docksdo you know approximately what that would be?

Ms. Yancy asked – Are you talking about this dock (pointing to drawings) and this dock?

Mr. Bergman – Right.

Ms. Yancy stated – Well, there's a whole boat slip in between. There's a slip that's cut out here before I started the other dock over here. Does that answer your question? I would say the distance would be 40 ft. from dock to dock.

Mr. Bergman stated – Okay, but you've got moorings on the insides of the two docks...

Ms. Yancy stated – No, there's a boat slip that's cut out up in here (referring to drawings) and to Mr. Starkweather's property. And that's where he has a large boat sitting.

Mr. Bergman – Okay.

Mrs. Brenner stated – Don, for your information, that dock that she's talking about that Mr. Starkweather has is a concrete block slip. That was the old seaplane dock years ago.

Mr. Bergman – Okay.

Mrs. Brenner continued – And it does sit back. The top of it comes even with the property line. So, it does sit back.

Ms. Yancy stated – Right. And that's we've designed this dock to go out further to keep one this way and one boat this way instead of them being next to each other.

Mrs. Brenner – Thank you.

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Mr. Bergman asked – Were there any other questions? Alright, is there anyone else here to speak in support of the site plan? Is there anyone here to object to the conditional use and site plan? I'll entertain a motion.

MOTION WAS MADE BY MS. BENTON TO APPROVE THE SITE PLAN W/CONDITIONAL USE REGARDING A DOCK AND ASSOCIATED BOAT LIFT. Seconded by Mr. Poitier. Roll call vote of 5-1 in favor. Due to quorum there was no recommendation.

Mr. Bergman stated – Okay, this will go the City Commission without a recommendation and you will be notified when that will occur.

Agenda Item #7 – Site Plan w/Conditional Use – Beringhaus (dock) – Approval to allow the construction of a private dock with associated boatlift. Located at 1719 Sunset Isles Road. Owner is Ms. Roshelle Beringhaus and applicant is Joy Yancy of Summerlin Seven Seas.

Staff Report – Mr. Trias stated – Staff has reviewed the application for compliance with City Codes and the Comprehensive Plan and the staff recommends approval.

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

Mrs. Brenner stated – No question, but I would like to thank you for an aerial of this. If we could have more aerials, it would certainly help us to visualize what we're seeing. This is very nice, thank you.

Mr. Trias – You're welcome.

Mr. Bergman asked – Was that aerial provided by staff?

Mr. Trias – Yes...we have the capability.

Mr. Bergman stated – That ought to be something that you require on these dock permits.

Mr. Trias stated – We will attempt to that...my staff is limited sometimes but we do the best we can.

Mr. Bergman asked – Were there any questions for staff? Alright, is there anyone here to speak on behalf of the site plan w/conditional use? (Speaking to Ms. Yancy) You should have just stayed up here.

Ms. Yancy stood and introduced herself once again and stated – I'm representing the Beringhauses.

Mr. Bergman asked – Were there any questions for the applicant? Okay, there doesn't appear to be any questions this time.

Mr. Poitier stated – You got it good this time.

Ms. Yancy stated – Yeah, we got it good.

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Mr. Bergman asked – Alright, is there anyone else here to speak on behalf of the site plan application?...or against the site plan application? Alright, what's the pleasure of the Board?

MOTION WAS MADE BY MR. POITIER TO APPROVE THE SITE PLAN W/CONDITIONAL USE REGARDING A DOCK WITH AN ASSOCIATED BOATLIFT. Seconded by Mrs. Gates. Unanimously approved by roll call vote.

Mr. Bergman stated – Okay, this will go with a positive recommendation to the City Commission and they you will notified when that is going to happen.

Agenda Item #8 – Rezoning – Buffington/Ayala – Approval to rezone the subject property from R-1, Single Family Low Density to R-4A, Medium Density Residential. Generally located at 1606 Surfside Drive on Hutchinson Island. Owners/applicants are Greg & Zoila Buffington/and Victor & Patricia Ayala.

Staff Report – Mr. Trias stated – The applicant is requesting an increase in density in an oceanfront lot. This would be poor planning practice and would be inconsistent with many of the policies that deal with public safety. Staff recommends denial.

Mr. Bergman stated – Alright, thank you. Are there any questions of staff from the Board? Ramon, do you know what the lot number of that is? Is that 12?

Mr. Trias stated – I don't have a map so I really can't answer that.

Mr. Bergman stated – I was just looking...I didn't see it in here. Alright.

Applicant stated the answer from the audience as lot #12.

Mr. Bergman stated – Oh, it is lot #12...thank you.

Mrs. Brenner added – On the Property Record it says lot #12.

Mr. Bergman asked – Did it? Did I miss that?

Mrs. Brenner added – Block #11 and lot #12.

Mr. Bergman stated – I must have been looking in the wrong spot. Okay.

Mr. Trias asked – Is that a significant issue?

Mr. Bergman stated – No, I was just curious...I wasn't which one it was...I knew that the R-4A wrapped around the corner but I wasn't sure of how far it went as far as which lot that was. Were there any other questions of staff from the Board? If not, is there anyone here to speak on behalf of the rezoning applications?

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Mr. Greg Buffington and Mr. Victor Ayala stood and introduced themselves and Mr. Buffington stated – The reasoning on this property ...we both this property as a joint property... the Ayalas and ourselves. We bought it as a duplex property. It is R-1, but it has always been a duplex since we've owned the property and long before that. The properties all surrounding it...on the left side of it is an R-4...across the street are all R-4 and all the way down the street are all R-4. The situation is that right now we are looking at prior to the hurricane we were looking at putting significant amount of money into this property and now with the hurricane have had significant damage. We're probably going to have to tear this building down. With that situation, the two families are separate families. We would like to have dual title on this property...split this property since we have a dual ownership on it because we would like to do different things on this property...invest a different amount of money, which we're looking at doing. Under the circumstances under an R-1, we can only have the one title unless there's something else that we don't know about. So, it causes us a lot of difficulty to do this with the amount of monies we're looking to spend into this property. The property just left of us has just sold, which is also an R-4, which is right next door to adjoining. And it's exact same size lot as we have. It's a 100 ft. wide lot x the particular depth of it. So, I'm not understanding why staff is recommending that this would not be consistent.

Mr. Bergman asked – Have you met with staff and discussed this?

Mr. Buffington stated – No, the letter and that's it. There's been no other discussion about it.

Mr. Bergman stated – Okay. Alright, are there any other questions of the applicants?

Mrs. Gates asked – I have a question. I want to make sure I'm understanding this right. To the left of you is zoned R-4 and across from you is zoned R-4.

Mr. Buffington – Yes.

Mr. Trias added – Mrs. Gates, there's a map that shows that very clearly in your package.

Mrs. Gates stated – Alright, I'm sorry I didn't see that.

Mr. Buffington added – As a matter of fact, and then caddy-corner from us on the other side of the lot next to us is (and I even have a picture where you can see here) a complete condo complex, which is obviously R-4...right there on the corner.

Mr. Bergman asked – It's that blue one on the corner?

Mr. Buffington stated – That blue one...correct. Now, we're wanting to take this building and completely redo it and build it to the new codes. We were flooded. We had a storm surge through this house. We want to put it up on pilings. We want to build it to code. Right now we've had about \$150,000 worth of just damage to this house. So, a lot of money has to be put in just to get it back to where it was previous to the hurricanes. But what we want to do on the properties—since it is two

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different family complexes here—we want to put more money into this complex. But the way it stands now with one title, it makes a very sticky situation with the two families. We're both in agreement on this...so it's not one wanting it and one not wanting it.

Mrs. Brenner asked – Could you explain to me, I didn't quite understand, you said the property to the north of you—which is an R-4 now...

Mr. Buffington – That's correct.

Mrs. Brenner continued – Is that a single family home?

Mr. Buffington stated – No, actually they're putting a quad in there, under my understanding. They're going to put a 4-unit house in there, or complex ...or whatever you want to call it, right next door to us.

Mrs. Brenner asked – On the north side?

Mr. Buffington stated – Yes, on the north side of us.

Mrs. Brenner asked – As I'm facing the ocean and facing your building, it's to the left?

Mr. Buffington stated – That's correct.

Mrs. Brenner asked – Is that a vacant piece of ...?

Mr. Buffington stated – It's a vacant lot. They just surveyed it and we were told that they're putting a 4-unit complex in there next door to us.

Mrs. Brenner asked – May I ask staff a question?

Mr. Bergman – Certainly.

Mrs. Brenner stated – I don't remember being here when we had an application for a 4-plex next door on that property. I may have missed the meeting. Has it come before us...?

Mr. Trias stated – I don't recall what the applicant is talking about.

Mrs. Brenner asked – So, at this point we don't have any knowledge of their having a building permit or having come before this Board. So, we must treat that as hearsay then.

Mr. Buffington stated – Okay, but the lot is an R-4.

Mrs. Brenner stated – It is an R-4?...

Mr. Buffington – Yes.

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Mrs. Brenner asked - ...not an R-1?

Mr. Buffington stated – As a matter of fact, on that street on Surfside Drive I pulled it today so I would have it. On that street there's 18 lots, 12 are R-4's, 4 are R-1's, 1 is an OS-1, and 1 is an RS-4.

Ms. Benton stated – There's a single family house on the property now...is that correct?

Mr. Buffington stated – It's a duplex.

Ms. Benton asked – It is a duplex?

Mr. Buffington – Yes.

Ms. Benton stated – Okay. And if you were to demolish it you were planning to put what on there?...have you decided that?

Mr. Buffington stated – We're going to either put a different kind of duplex or two houses right there...our own houses. We can do it however the Commission would like. But the biggest part of it is when we do this—because he (Mr. Ayala) wants to put his a little different than mine—is that we have one title on that property.

Ms. Benton asked – So, are both of your families presently living in the duplexes now?

Mr. Buffington – No.

Ms. Benton continued – Or is somebody else living there?

Mr. Buffington stated – Well, actually nobody is living there right now.

Mr. Ayala added – It is condemned right now.

Ms. Benton asked – But before the storms...?

Mr. Buffington stated – There was one person living on one side, and the other part stayed open.

Mr. Bergman asked – It was rental property?

Mr. Buffington stated – One side of was part of the time. We've had it as vacation homes up here.

Mr. Ayala added – We would just come over on the weekend.

Mr. Bergman stated – Ramon, if they wanted to put two single family lots they would have to subdivide that lot wouldn't they?

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Mr. Trias stated – Yes, and they would have to comply with the minimum width required for the lot.

Mr. Bergman asked – It probably would just meet it if it was 100 ft.?

Mr. Trias stated – Yes, we would have review the application.

Mr. Bergman asked – So, that's not completely out of the question? Because normally you couldn't put two single-family houses on the same lot.

Several Board members agree.

Mr. Buffington stated – Or we could build it as a duplex again, but totally different than it is now.

Mr. Poitier asked – So, what you're saying if you rezoned it you could change the name?

Mr. Buffington stated – Well, yes, we could have different titles on this. Just like a condo, my side is my house with my title, his side is his house with his title. So, for resale, for anything like that ...right now one cannot sell without the other's permission and it can become a very difficult situation. Right now it's not a difficult situation but you know...it goes into other family members and things like that.

Mr. Ayala stated – Before we invest that kind of money we would like to have the freedom to decide what to do with each side basically.

Mr. Trias stated – Mr. Chairman, the difficulty is a little bit different than what the applicant is saying. I'm not saying that what he's saying is not accurate. The problem is that the duplex that's there today is non-conforming, so the applicant wouldn't be able to build what they have now, which is, what I assume, they want to do...they want to do two units and so on. The proposed solution to this is to rezone to R-4A. In my view, there may be other solutions than that one. The reason why staff recommends against this—and this is something I anticipate happening more often—is that I do not believe it's good planning practice to densify our oceanfront lots. That's not a good idea from many points of view, and it's inconsistent with many of our goals. So, that's just a general rule that would apply here. However, there may be some other solution to the applicants' dilemma, and hopefully it's not a rezoning.

Mr. Buffington stated – Excuse me, may I make a comment? I don't think we're going to densify it any because right now it's a long house that takes the complete width of ...there's 9 ft. on each side of that lot...of that house onto the border.

Mr. Bergman stated – Well, I think what he's talking about is actually densifying it in the terms of zoning.

Mr. Trias added – The zoning designation is denser. That is what is being proposed as a solution to something that has nothing to do with density.

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Mr. Buffington – Okay.

Mr. Trias continued – It seems to be an issue with property ownership and where there's a fee simple ownership of each of the two units or not. Anyway, that's my analysis.

Attorney Walker stated – Mr. Chair, for purposes of the record, might we get a statement from staff on what the Comprehensive Plan provides for this lot?

Mr. Bergman asked – Ramon, do you have that accessible?

Mr. Trias stated – It's not in the staff report. I would have the check the map on that.

Mr. Bergman stated – Okay. You (directing question toward Mr. Buffington) had indicated that there was only four single-family homes on that street?

Mr. Buffington stated – That's correct. I went through the tax roll and through every address on that street, and again I say it's 12 R-4A's, 4 R-1's, 1 OS-1 (whatever that is), and 1 RS-4 (I'm not sure what that is).

Mr. Bergman stated – Even though the oceanfront lots are zoned R-1, you're saying that there are really only 4 single family houses that are there that are not more than multiple dwelling type units?

Mr. Buffington stated – That's correct. Right.

Mr. Ayala added – Well, we know for a fact that the north side of our lot is R-4 zoned, so it seems arbitrarily that our lot cannot be converted to ...

Mr. Bergman stated – Well, I don't know if it's necessarily arbitrary, typically when the zoning is laid out for the particular parcels somewhere one zoning is going to start and one zoning is going to stop. And that apparently is where this is happening. So, I don't know....this lot to the north may have been rezoned at one point or it was included initially in the R-4A zoning.

Mr. Buffington stated – Every lot across the street from us all the way down the street are all R-4's...every single one.

Mr. Bergman stated – Well, not according to this...they're R-2's.

Mr. Trias added – I think he means to the north...right?

Mr. Buffington stated – No, across the street going south.

Mr. Trias – Going south?

Mrs. Brenner added – Those are R-2's.

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Mr. Trias continued – I think you're wrong on that, sir.

Mr. Buffington stated – Well, it shows on the tax rolls as them being R-4A.

Mr. Trias stated – The request is not unreasonable. There is some R-4 and that argument can be made. But the issue is do we densify oceanfront properties or not? My recommendation is that we don't.

Mr. Bergman asked – Are duplexes and triplexes permitted in R-1?

Mr. Trias – No.

Mr. Bergman asked – It's just single family only isn't it?

Mr. Trias – Right.

Mr. Bergman – Okay.

Mrs. Gates stated – Mr. Chairman, considering this dilemma here, and you all have not really worked with staff, would it be, by any chance, feasible for you to have this tabled and go back to staff and see if you can work out some solution without changing the zoning code and come back before us next month?

Mr. Buffington – Okay.

Mrs. Gates – Mr. Trias?

Mr. Trias stated – That would be acceptable, yes.

Mr. Buffington asked – Is there potential to ...a title on a property?

Mrs. Gates stated – I don't know.

Mr. Trias stated – I understand your request better than before, and hopefully we'll find another solution. There may be a solution that doesn't require rezoning.

Mr. Buffington – Okay.

Attorney Walker stated – Mr. Chair, at the risk at being perceived as harping on the subject, our Comprehensive Plan is very material to this and Planning should always include information on that. The burden of persuasion in this instance varies depending upon what our Comprehensive says.

Mr. Bergman – Correct.

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Attorney Walker continued – If the Comprehensive Plan is consistent with the application, then the burden is on staff to demonstrate why it should not be rezoned and conform with that. Conversely, if the Comprehensive Plan is consistent with staff's recommendation with denial, the applicant carries a very heavy burden to overcome that to demonstrate why the Comprehensive Plan should be changed. So, this is information that absolutely must come before the Board if we are to fairly address the application.

Mr. Bergman stated – I think that's part of Mrs. Gates' point was that to bring that up to ...

Mrs. Gates added – If that would be feasible for you, the owner. You already cannot live in it anyway.

Mr. Buffington – Right.

Mrs. Gates continued – You have six members here and you know what we've just said to you as far as going forward with a recommendation. If you would be willing to work with staff maybe you could work out something as well as find out what the Comprehensive Plan states.

Mr. Trias stated – Staff recommends that you table this.

Mr. Ayala asked – Let me understand the last issues. Right now it's a duplex, so even if we have to rebuild right now we have to build a single family, we couldn't rebuild a duplex...is that correct?

Mr. Bergman – That's correct.

Mr. Trias – Yes.

Mr. Bergman continued – Because what you've got there...

Mr. Ayala added – Was it built in the wrong zone?

Mr. Bergman stated – It was probably built before the zoning went into effect in that area, or the zoning may have been changed once after the structure was built. It could be a variety of different things, but what it is now is a non-conforming structure on a single-family lot. Non-conforming meaning it doesn't meet the current zoning. So, if you were to rebuild that with the present zoning you would have to rebuild it as a single-family residence. There wouldn't be any duplexes or multi family type housing. Now, I think that's where the missing information on the Comprehensive Plan would be helpful in determining which way this should go. But I think that Mrs. Gates' suggestion that you meet with staff is probably in your best interest, because I'm sure Ramon would be a very helpful source in trying to find some way to get around having to rezone it. Maybe there's some way to do this.

Mr. Buffington stated – Okay, that's fine.

Mr. Bergman added – And he's (Ramon) going to be your best source for this.

Mr. Buffington – Alright, thank you very much.

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Mr. Ayala – Thank you.

Mr. Buffington asked – And do we hear from them (staff) ... or how do we?

Mr. Bergman stated – My suggestion would be to contact Mr. Trias when you have an opportunity.

Mr. Trias stated – Yes, contact Wendy Clark and she'll arrange...

Mr. Buffington asked – Wendy Clark?

Mr. Trias – Yes.

Mr. Buffington – Okay, thank you.

Mr. Bergman asked – Is there anyone here to speak on behalf of these rezoning applications?

Mr. Trias stated – Staff recommends that this be tabled.

MOTION WAS MADE BY MS. BENTON TO TABLE THE REZONING UNTIL THE NEXT MEETING. Seconded by Mrs. Gates. Unanimously approved by roll call vote.

Agenda Item #9 – Rezoning – St. Lucie County School Board – Approval to rezone the subject property from I-1, Light Industrial to R-2m Single Family Density. Generally located adjacent to Fort Pierce Central High School. Owner is Treasure Coast Services, LLC, applicant is St. Lucie County School Board, and representative is Daniel B. Harrell.

Staff Report – Mr. Trias stated – Staff recommends approval of this request, which will solve a Code Enforcement problem that we have in that location. And in order to follow up on our attorney's advice, we also need to propose a future land use change from I, which is an Industrial, to RL, Low Density Residential in order to be consistent with the Comprehensive Plan.

Mr. Bergman asked – Ramon, what happened with this? Was this brought in when it was annexed from the County? Was it brought in as I?

Mr. Trias – Yes. And this is really a technical ...I don't think there's anything objectionable with the project, but in order to be able to comply with the Comprehensive Plan, we must do the rezoning and the land use changes proposed.

Mr. Bergman stated – I've heard that there have been instances where flaming mulch has been landing on the school.

Mr. Trias stated – I believe that's part of the problem, sir.

Mr. Bergman asked – Do you know if the applicant, Mr. Harrell was going to be here?

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Mr. Trias stated – I don't know.

Mr. Bergman stated – Oh, there's somebody here.

Ms. Nina Ferraro stood and introduced herself and stated – Mr. Harrell couldn't be here tonight. He has a conflict with a School Board meeting. I actually represent Treasure Coast Services...I'm filling in for Mr. Harrell.

Mr. Bergman – Okay.

Ms. Ferraro continued – This will solve a multitude of problems. We've been working with the City and with the School Board on this to try to get it resolved favorably for everyone; especially with the current school problems at Central High School. They are going to rebuild quite a bit of the campus, so they figured this is perfect timing to go ahead and purchase this property and build a larger campus at that facility.

Mr. Bergman stated – Great. Are there any questions of the applicant's representative?

Mrs. Brenner stated – I have one. I would like to make a request of staff or whoever. On our application the owner's name is Treasure Coast Services, Inc. and there is a signature which is illegible of the person that signed it. And I couldn't begin to tell you what their name is. And on line 7 there's also another signature. I would like to request in the future that those names be printed or typed so we will know who these people are. Not just for you, but I'm talking about in general.

Mr. Trias stated – We will implement that request.

Mrs. Brenner – Thank you.

Ms. Ferraro stated – For the record and just for your convenience, the signature in section 6 is Barbara LaBourdette. She's the managing member of Treasure Coast Services LLC. And the signature in section 7 would be Mr. Harrell's signature.

Ms. Rose asked Ms. Ferraro for the spelling of the last name of Barbara LaBourdette.

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

Ms. Ferraro – Thank you.

Mr. Bergman asked – Okay, is there anyone else here to speak on behalf of the rezoning? Is there anyone here to speak against it? What's the pleasure of the Board?

MOTION WAS MADE BY MRS. BRENNER TO APPROVE THE REZONING. Seconded by Mr. Poitier.

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

Ms. Benton asked – Mr. Trias, what is the usual zoning of schools?

Mr. Trias stated – Schools are only allowed in residentially zoned properties as conditional uses.

Ms. Benton asked – So, R-2 is...?

Mr. Trias – Yes.

Ms. Benton asked – Not usually R-1?

Mr. Trias stated – They could be R-1 also.

Mr. Poitier asked – They can?

Mr. Trias stated – The logic is they are within neighborhoods and neighbors tend to be residential.

Ms. Benton – Thank you.

Mr. Bergman asked – Are there any other discussions?

Unanimously approved by roll call vote.

Mr. Bergman stated – Okay, it's been approved. You'll be notified by the City Clerk when this is going to be before the City Commission meeting. Thank you.

Ms. Ferraro – Thank you.

Agenda Item #10 – Abandonment – Sun Trust Bank – Approval to abandon a portion of right-of-way. Generally located between Orange Avenue and Atlantic Avenue. Owner is Sun Trust Bank, applicant is Boca Ven Land, and representative is Leo Henriquez.

Staff Report – Mr. Trias stated – Mr. Chairman, the applicant is proposing a mixed-use project for this site, which will be before you in the future. Right now it is going through the Historic Preservation process first. And as a result of the design of that project, they are requesting this abandonment. And staff recommends approval.

Mr. Bergman stated – Alright, thank you. Are there any questions for staff?

Mrs. Brenner stated – I have. Ramon, this seems to be a rather valuable strip of land through there. We have in the past discussed a fair market value for a piece of property as this. Is this part of the possibility that they would pay a fair market price for that?

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Mr. Trias stated – It’s a possibility; however that’s an issue that the City Commission decides. The way that the Planning Board reviews the issue is purely from a planning point of view.

Mrs. Brenner – Thank you.

Mr. Trias continued – And I must say that the actual layout of the site plan almost keeps that alley there for access. It just shows you it was a pretty good idea to have it in the first place; however it’s not a public alley anymore, it’s a drive-thru for a bank.

Mrs. Brenner – Right.

Mr. Trias continued – So, there’s really no change, no significant change in terms of that layout or the way that the block is going to function within the grid.

Mrs. Brenner – Okay, thank you.

Mr. Bergman asked – Are there any other questions for staff? Alright, is there anyone here to speak on behalf of the abandonment request?

Mr. Edwardo Paris stood and introduced himself and stated – I represent Boca Ven Land Inc. I understand that the bank has possessed this property for over 50 years. I don’t know if that has anything to do with the possibility or not of the City selling the owner that piece of property after 50 years of possession by the bank.

Mr. Bergman stated – I don’t know. I’m sure it’s been City property or City right-of-way regardless of what was on it. I don’t know, I couldn’t tell you. I’m sure that’s something City staff would probably get involved with at the City Commission level. Were there any questions of the applicant?

Mrs. Brenner asked – You’re representing the Boca Ven Land Inc.?

Mr. Paris – Yes.

Mrs. Brenner continued – Not the bank itself?

Mr. Paris – No.

Mrs. Brenner asked – You are the developer?

Mr. Paris – Yes.

Mrs. Brenner – Thank you.

Mr. Bergman asked – Is there anyone else here to speak regarding this abandonment? What’s the pleasure of the Board?

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MOTION WAS MADE BY MRS. GATES TO APPROVE THE ABANDONMENT REQUEST. Seconded by Ms. Benton. Unanimously approved by roll call vote.

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

Mr. Paris – Okay, thank you very much.

Agenda Item # 11 – Waiver of Distance – Club Omega – For approval to waive the distance required between places of business selling alcoholic beverages (beer, wine & **liquor**), in order to obtain a **4-COP** license for the consumption and selling of those said beverages. Located at 2730 South U.S. 1. Owner is Landtech Title Services, Inc., and applicant is Mr. Mario Suarez.

Staff Report – Mr. Trias stated – Staff has reviewed the request for compliance with the criteria stated in the City Codes and staff recommends approval.

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

Mrs. Brenner asked – Ramon, is this an existing restaurant or a club?

Mr. Trias stated – The applicant can address whether it's operational right now or not...I don't believe it is, but I may be wrong.

Mrs. Brenner – Okay, thank you.

Mr. Bergman stated – Do you know what this is?

Mrs. Brenner – No. Is it the video store? Because the video store is perpendicular to Savannahs.

Mr. Trias stated – I would recommend you ask the applicant.

Mr. Bergman asked – Were there any other questions for staff? Alright, hearing none. Is there anyone here to speak on behalf of the distance waiver?

Mr. Mario Suarez stood and introduced himself and stated – I'm the owner and the applicant. All I say is that we're trying to get something good in here in the Fort Pierce area. And we've got about six years experience and we're just looking to open up something for everyone here in the area. We're trying to open up jobs for about 15 people. It's family owned...we're all going to be running it. If you have any questions, you can certainly ask me.

Mrs. Gates asked – Mr. Suarez, I have a couple of questions. Number one, I may have missed this in here, are you going to serving food in here also? Is this a restaurant? Or is this just a bar?

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Mr. Suarez stated – It's just a bar.

Mrs. Gates continued – Just selling alcohol?

Mr. Suarez – Right.

Mrs. Gates asked – What would your hours of operation be?

Mr. Suarez stated – 8 p.m. to 2 a.m.

Mrs. Gates continued – And will there be entertainment?

Mr. Suarez stated – Sometimes.

Mrs. Gates – Okay.

Mr. Suarez added – We're planning to have it once a month.

Mrs. Gates – Okay, thank you.

Mr. Trias stated – Mrs. Gates, there are two types of state licenses, and the 4-COP, which is what they're requiring, is the one that doesn't require a restaurant.

Mrs. Gates – Okay, thank you.

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

Mrs. Brenner asked – Do I understand that this is perpendicular to U.S. 1? It's where the old video store was? Are you taking over the old video store?

Mr. Suarez stated – No ma'am, it's 6,500 sq. ft. It's going to be ours. And 55 is going to be the video store. There's going to be both of us in the same building.

Mrs. Brenner asked – Both of you in the same building?

Mr. Suarez – Right.

Mrs. Brenner stated – And this property, if I'm not mistaken, the property line goes up to a housing development?

Mr. Trias added – The Savannah Club is right adjacent to it, yes.

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Mrs. Brenner stated – The Savannah Club, which is very highly populated with children and young people. And it's along Savannah Road, but it comes in from U.S. 1 just a few hundred feet from where you are.

Mr. Suarez – Right.

Mrs. Brenner asked – And the parking in there is adequate for...?

Mr. Suarez stated – Well, as far as I know, I think the parking was approved already through the surveyor. They went in there and informed us that we had to have so many parking spaces for what we wanted to do, and they said that it was okay. Also, there was another discussion about lighting. We took care of that, and it also has the right amount of light.

Mrs. Brenner continued – And am I not correct in thinking that there is a liquor store just to the south of the Amoco store...the ABC Liquor is right down there fairly close?

Mr. Suarez stated – I think there's a liquor store across the street...I don't really know how many feet but it's to the south of us.

Mrs. Brenner asked – To the south of you on the same side of the street ...ABC Liquors?

Mr. Suarez stated – No, the closest to us is across from us and south a little bit.

Mrs. Brenner – Okay, thank you.

Mr. Suarez – You're welcome.

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

Mrs. Gates stated – I don't have a question but I am in agreement with Mrs. Brenner. As much as I would like to see you have this club, I'm concerned about where you're going to put it.

Ms. Benton asked Mrs. Gates – What was your concern?...I'm not sure I understood what you meant.

Mrs. Gates stated – Well, it does abut, although it must not be within 1,600 ft. from what I see here. But it does abut a family neighborhood, and it's not a restaurant, it's more of a club and a bar. And I just have a concern as to where it's going to go.

Ms. Benton stated – I'd just like to ask the...does the ordinance, Mr. Chair, reference distance from family neighborhoods?

Mr. Trias added – The application is to waive the distance requirements. So, clearly you may not to choose not to do that and right now the distance requirements deal with liquor stores and other sales of

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alcohol. But clearly the Commission has the authority to approve it or not approve it. This is a waiver of the requirements.

Ms. Benton stated – I just wanted to clarify that the requirements ...really zero in on churches and schools.

Mr. Trias stated – They deal with other places that sell alcohol and churches and schools, yes.

Ms. Benton asked – How well buffered is the facility from the residential area?

Mrs. Brenner stated – Ms. Benton, I can at least answer at least part of that, because we go to Nature's Way, which comes out at that corner. And a school bus lets off the children at that corner where it comes out from behind Nature's Way, which is right across the street; it's 3rd Street. So, the children get off right there at that corner and they cut through that parking lot to go over into that residential area.

Ms. Benton asked the applicant – Is it going to be open? What time are your hours?

Mr. Suarez stated – No, we're going to be closed. We won't be open during the day.

Ms. Benton asked – You're not open in the daytime?

Mr. Suarez stated – No, we open as early as 8 o'clock at night and then we close at 2 a.m.

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

Mr. Suarez – Thank you.

Mr. Bergman continued – Is there anyone here to speak regarding the distance waiver? Alright, I'll entertain a motion from the Board.

MOTION WAS MADE BY MR. POITIER TO APPROVE THE WAIVER OF DISTANCE. Seconded by Ms. Benton. Roll call vote of 4-2 in favor without recommendation.

Mr. Bergman stated – Okay, this will go to the City Commission without a recommendation, and you will be notified when of that meeting date.

Mr. Suarez – Thank you.

Agenda Item #12 – Waiver of Distance – 50's Happy Days Drive-In, Inc. – For approval to waive the distance between places of business selling alcoholic beverages (beer & wine), in order to obtain a 2-COP license for the consumption and selling of those said beverages. Located at 1901 South U.S. 1. Owner/applicant is Mr. Benito Tortora.

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Staff Report – Mr. Trias stated – Mr. Chairman, the request is for a 2-COP license, which is different than the previous request. And in this case, it's a restaurant that would like to sell beer and alcohol. Staff has reviewed the application in compliance with the criteria established in City Codes and we recommend approval.

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

Mrs. Brenner stated – Ramon, I think this question may be for the applicant, but this is not going to be a carry-out to cars? It's not going to be a carhop restaurant so to speak?

Mr. Trias stated – I would suggest you ask the applicant that question.

Mrs. Brenner – Thank you.

Mr. Bergman asked – Are there any other questions for staff? Alright, is there anyone here to speak for this waiver of distance?

No one present.

Mr. Bergman asked – No one here to speak for or against? I throw it to the Board.

Ms. Benton asked – Is this the old Miami Subs?

Mr. Bergman – Yes.

MOTION WAS MADE BY MR. POITIER TO APPROVE THE 2-COP WAIVER OF DISTANCE. Seconded by Mrs. Gates. Unanimously approved by roll call vote.

Agenda Item #13 – Special Exception –(To be heard by the Board of Adjustment October 28, 2004.) A special exception to permit an addition to a residential non-conforming structure. Located at 2821 South Indian River Drive. Owners/applicants are Frank & LeVan Fee.

Staff Report – Mr. Trias stated – Mr. Chairman, the house is non-conforming because the side setback is 12.25 ft. where 15 ft. is required. Given that fact, any addition to a building that is non-conforming needs to be reviewed through this process. So that's why it is before you. The addition is about 1,300 sq. ft., so it's a fairly large addition to this house. Staff has reviewed it for compliance with the criteria in our codes. And staff recommends approval.

Mr. Bergman – Thank you. Were there any other questions for staff from the Board? Ramon, this is not a garage like I actually thought it was...this is actually going to be living area?

Mr. Trias stated – That's the way I understand it, yes.

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Mr. Bergman added – I thought with the driveway back there it was going to be a big garage, but it's not the case.

Mr. Trias stated – It's a carport to be removed.

Mr. Bergman stated – Alright. Were there any questions for staff?

Attorney Walker stated – Mr. Chair, respectfully a point of clarification. Criteria 7 appears to indicate that the special exception cannot be approved if it enlarges it by **50%**. Staff had indicated **51%**. Was that just a typo?

Mr. Trias stated – It could be a typo, I need to check. It's definitely a large addition. It's definitely close to the criteria. We could check. I haven't seen floor plans proposed so I assume they have some ability to design the project, so it complies with the criteria. And we will check that as the project proceeds.

Mr. Bergman stated – Thank you, Mr. Walker...good catch.

Attorney Walker – Thank you, Mr. Chair.

Mr. Bergman asked – Is there anyone here to speak on ...? Well, I guess probably there wouldn't be. Mr. Trias, do we normally have a public hearing prior to Board of Adjustment?

Mr. Trias stated – The Board of Adjustment is the one that makes the decision to approve your recommendations...So, I don't recall whether or not you need to have a public hearing. But I don't think so.

Mr. Bergman stated – Okay. I couldn't remember if we had done it in the past or not. Okay, if there's no one here to speak for or against this special exception, what is the pleasure of the Board?

MOTION WAS MADE BY MRS. GATES TO APPROVE THE SPECIAL EXCEPTION WITH THE CONDITION OF THE 50% MAXIMUM INCREASE AS PER ATTORNEY WALKER. Seconded by Mrs. Brenner. Unanimously approved by roll call vote.

Agenda Item #14 – Proposed Sign Ordinance – New proposed regulations for signs for the City of Fort Pierce.

Mr. Bergman asked – Ramon, are you presenting this or is Mr. Walker presenting it?

Mr. Trias stated – I will present it even though it looks like Mr. Walker's work that we simply copied his style.

Attorney Walker lightheartedly stated – Imitation is the sincerest form of flattery.

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Mr. Trias stated – Mr. Chairman, one of the most obvious consequences of the two hurricanes that we had recently was the destruction of most of our pole signs. This is very evident on U.S. 1 where many of the older pole signs are located. I don't have to describe to you exactly what happened as you have seen it. This has necessitated the review of our current regulations. What we have realized is that most communities around us, and specifically Port St. Lucie, have different regulations than we have. The main difference is that currently we allow 30 ft. in height for signs, and Port St. Lucie, for example, allows only 10 ft. The difference in design is quite obvious if you look at some of the more recent signs that have been built, let's say, in St. Lucie West or even in Fort Pierce and some other places where the sign is about 8 ft. or about 10 ft. The sign tends to be a wall, which is what we call a ground sign. Structurally it's much safer. It's attractive and it definitely complies with many of our aesthetic goals. Another consequence of having the very tall signs is that they're very incompatible with trees. It not unusual to have a sign that is right next to an oak tree. And, of course, the business person believes the sign is the most important thing and then they go ahead and trim that oak tree beyond recognition. From my point of view, maybe a tree is more important, but clearly that's not the way the person who owns that sign feels. When you have a sign that is 10 ft. or lower, the sign is below the canopy, so it's actually more visible. And this is something that unfortunately the sign lobby people and the sign builders will argue with any of us to death; but it's actually factual that tall signs in Florida, where there are many big trees, don't work. They may work very well in Nevada where there are no trees, but they certainly don't work where trees grow a lot and they're very thick. So, what happens is that it's much more preferable to have the lower signs because they're below the canopy and they're more visible. There are some planning reasons to do it, there are also some safety reasons to do this change. As many of the pieces of the signs became projectiles during the hurricanes and could have caused significant damage to people and property. So, the proposed changes are actually very minor from my point of view. All we're doing is becoming consistent with our neighbors, particularly with Port St. Lucie. And I originally proposed a maximum height of 8 ft.—Port St. Lucie has 10 ft.—we could do it either way, but I believe 8 ft. is better. And that is a significant change. In addition to that we are enhancing the landscape requirements around the base of the sign. And we're also limiting slightly the size of the sign. The maximum size remains the same, which is 200 sq. ft., and the size is calculated on the dimension of the frontage of the property. So, we've changed that slightly just to make it consistent also with our neighbors. Staff recommends approval and the way we see it, this is a very small change in a very simple...a very clearly defined topic. And if we truly mean what we say—and I'm speaking of the City Commission—about enhancing our regulations and raising the bar—and that's a direct quote from many Commission meetings. At least we should start with this very simple, very straightforward change. Staff recommends approval.

Ms. Benton asked – Mr. Trias, how will existing signs be effected by the change?

Mr. Trias stated – That's a very important issue because currently we have a moratorium that does not allow for the repair of the existing signs. And in my view, we need to come with some kind of process to phase those signs out. Perhaps give them some time frame before they are removed. The goal here, and I want to be very clear, the goal is to get rid of those signs. And if people disagree with that goal then they have to say that and then they have to figure out that, in fact, we're not going to enhance our regulations. So, this is not about doing anything except changing our signs completely. Now, other cities have done it and other cities have done it in ways that has enhanced business and has enhanced the

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appearance of the towns and so on. It is painful to some extent given the fact that many property owners have signs and they're probably are not going to be very happy with this proposal. However, the feedback I get is not terribly negative, most people have simply asked me what are you recommending for the new regulations? And they're saying, that sounds fine, I wasn't going to do a sign bigger than that anyway. That's the feedback I get most of the time. In some cases where the signs are slightly damaged maybe the owner prefers to simply repair what's there. That's an issue where you may want to set up a time frame or some other method.

Mr. Bergman asked – Does this effect billboards?

Mr. Trias stated – No, billboards were addressed some time ago, if you recall. They're pretty much hard to build.

Ms. Benton stated – Also, I remember the controversy over the Red Lobster sign.

Mr. Trias stated – Yes, that was another one of those old ideas, yes.

Ms. Benton stated – I don't know whether that was damaged or not...do you?

Mr. Trias stated – No, I don't think so, and that probably speaks to the newer codes also. And the fact that all of the signs that were damaged were older signs that didn't meet building regulations. And I should point out that the only issue that I have heard on that topic is that the owner of the furniture store—where the outlet mall used to be—was thinking of doing a very tall sign also. And I spoke to him and he has not submitted any drawings or anything, but he is aware of the issues. That's the only other person that has raised that significant objection to this.

Mrs. Gates asked – What do you feel, Mr. Trias, would be a reasonable time frame? Can we say June 1st of next year? Is that just way too soon for the next hurricane season? Reasonably, if you're asking this for safety sake, then we should put a time frame that would comply with that.

Mr. Trias stated – I would do that. I would definitely be consistent with the fact we do not want to have these signs for the next season of hurricanes.

Mrs. Gates stated – I would like to open that up for the Board, for discussion. I would really think that this would be advisable to do...June 1st.

Mr. Trias added – It's (hurricane season) not over yet here.

Mrs. Gates agreed – No. We still have two months to go...a month and a half. But I would like to see it before the next hurricane season. The city has been through enough, certainly business owners ought to make it a very serious concern.

Mrs. Brenner added – Make it ASAP. I would like say also in favor of ...remember when we had the newspaper things came up to be the quarrel that we got into with the distributors for papers ...that the

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one (I don't know, I haven't paid that much attention) on Seaway Drive is still standing and there were no papers thrown all over town.

Mr. Trias – That's correct.

Mrs. Brenner continued – And I thank you for bringing that forward and for this Board having passed it, because it has made a big difference. And I think the sign situation falls into the same category. When people get used to it they won't object. It will make it much more aesthetically pleasing. And I will tell you that we lived in a community that fought with McDonald's over the same thing and they ended up with the most beautiful entrance into McDonald's you could imagine. And it's not a big, tall building...it's very beautifully done. But they stood their ground.

Attorney Walker stated – Mr. Chair, several provisions of Section 15-4 may be pertinent to some of the questions that have been raised on this discussion, and some of the comments that have been made. With your permission, I'll bring those to the Board's attention.

Mr. Bergman asked – Yes. What is 15-4?

Attorney Walker stated – That's the section on non-conforming signs.

Mr. Bergman – Okay.

Attorney Walker continued – Section 15-4b says as follows: All non-conforming signs or advertising structures property permitted and conforming to the sign ordinances of the City and the fact on July 1, 1980 were existing within any area annexed into the City after the effective date of this chapter may continue in use in accordance with the other provisions of the section. All other non-conforming signs shall be removed within one year from the effective date of this chapter. And then subsection d states as follows: Non-conforming signs which are more than 50% structurally destroyed by wind, deterioration, or other damage shall be made to conform with all the requirements of this chapter or be completely removed. What I understand those provisions to mean, Mr. Chair, is that we're under that six month moratorium. When that moratorium expires signs that have been more than 50% damaged must thereafter conform with whatever amendments that have been put in place during the period of the moratorium. For those signs which have not been damaged more than 50%, it appears subject to further review of subsection b that those undamaged signs would have to be made conforming within one year of the amendment.

Mr. Bergman stated – Okay, thank you.

Mr. Trias added – We may also choose to amend that regulation if you believe that some other time frame would be appropriate. The idea here is that we have a range of options, we can simply eliminate all the signs or we can allow those that are more or less in fairly good shape to continue, which is what the current Code says. In my view, we should truly eliminate all of the signs and just figure a way to do it in an organized fashion.

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Mr. Bergman asked – All of the existing signs?

Mr. Trias stated – All of the existing pole signs that are between 8 ft. and 30 ft., yes.

Mr. Bergman stated – So, Mr. Walker just indicated that they would have one year to ...

Mr. Trias added – That's what the Code says now...

Mr. Bergman added – Oh, I see what you're saying...if we amended that...

Mr. Trias added – Or we could amend that if we choose to or if you choose to suggest that.

Mr. Bergman stated – I see. Have you heard any opposition to the reduction in square footage? Because basically we're reducing the signs by what 60% from what they were allowed before?

Mr. Trias stated – Well the maximum size is the same. They're a little bit smaller if you have a small parcel.

Mr. Bergman agreed – Right.

Mr. Trias continued – I really haven't heard that much opposition to this. I'm actually surprised about that. I thought there would be more opposition.

Mr. Bergman stated – Well, maybe it's in Commission.

Mr. Trias stated – No, not even during the City Commission meetings. And I know that there were a few individuals who were actively involved in this and they haven't been that vocal about it, so I don't know. I guess that most people realize that this is what most cities do in terms of regulation. We have very outdated regulations in our signs. So, since that's what they have to do elsewhere where they do business, they don't really see it as so shocking.

Mr. Bergman added – I know Hilton Head has that same type of thing...they don't allow any corporate big logos or signage. For instance, McDonald's, you don't see the big Golden Arches or anything, it's all basically done in cedar and gray, and they have a real small ground sign that identifies what it is; which is nice. Because you get some conformity to the building.

Mr. Trias stated – Yes, those types of regulations tend to be usually enforced privately by large developers that require that for their tenants. However, we could have some design guidelines later on that begin to suggest colors and other things.

Mr. Bergman stated – Okay. So, what's the pleasure of the Board in terms of forwarding this to City Commission?

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MOTION WAS MADE BY MRS. BRENNER TO APPROVE THE PROPOSED SIGN ORDINANCE. Seconded by Mr. Poitier.

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

Mrs. Gates asked – You don't want to put a time frame on your motion?

Mr. Poitier stated – It's already there...for a year...it's already on the books.

Mrs. Gates stated – But we can change it...

Mr. Poitier stated – You don't have to change that, it's already one year from ...

Mrs. Gates – Okay.

Mrs. Brenner stated – Well, let's clarify...Mr. Walker, the motion...would that conform to what you said if we make a motion just to approve this as it's written? Would what you read from the present Code be in conformity?

Attorney Walker stated – This proposed amendment would not effect that.

Mrs. Brenner asked – They would dovetail so to speak?

Attorney Walker stated – Right. Signs that are damaged more than 50% would have to be taken down immediately, while signs that are not so damaged would be permitted to remain for the period of one year.

Mr. Poitier added – Right.

Mrs. Brenner asked – That would be a part of the motion? You second that?

Mr. Poitier – Yes.

Mrs. Gates stated – That would be fine.

Mrs. Brenner – Thank you.

Mr. Bergman asked – Any further discussion?

Unanimously approved by roll call vote.

Agenda Items #15, 16, 17, 18, & 19 – Annexations – (Mario Gentile, Leeward Homes LLC, Elmer & Lizabeth McGee, Michael G. Miller, & Cheryl & Charles Williams)

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Mr. Trias stated – Mr. Chairman, we have five annexations. You may choose to take them at once if you like that.

Mr. Poitier asked – Could we take them all at one time?

Mr. Bergman stated – We could certainly do that. We've done that in the past. If there's no objection, we can consider items 15, 16, 17, 18 & 19, which have to do with annexations for property located on South Jenkins Road, U.S. 1 & Tumblin Kling Road, another at South Jenkins Road, Okeechobee Road, and Old Dixie Hwy. Unless there's an item that someone wants to pull and consider individually. We could certainly consider all of these annexations together. Is there anyone here on behalf of any of these annexation requests? Alright, apparently not. What's the pleasure of the Board?

MOTION WAS MADE BY MR. POITIER TO APPROVE THE ANNEXATIONS. Seconded by Mrs. Brenner. Unanimously approved by roll call vote.

Mrs. Brenner stated – Mr. Bergman, we need to go back to that first agenda item...they're (the applicants—who arrived late) here.

Mr. Bergman stated – Oh. Are you (addressing the applicants) here for the daycare center?

The applicants nod yes.

Mr. Bergman stated – You must have just missed it. That was the first item on the agenda. Well, I can tell you there was a motion made and seconded to deny your conditional use based on the lack of parking at that particular site. Mr. Walker, I need help on this one. Would it be out of the question to ...since they missed their agenda item, to hear any comments that they may have?

Attorney Walker stated – Procedurally, Mr. Chair, I think the correct thing to do would be for someone who was voting in favor of the motion to make a motion to reopen for the purpose of allowing the applicant to speak in favor of it.

Mr. Bergman stated – Well, there wasn't anybody that spoke in favor of it...

Attorney Walker stated – Well, everybody voted in favor of the motion to deny?

Mr. Bergman – Correct.

Attorney Walker continued – So, procedurally, any motion to reopen should be made by anyone who voted in favor of the motion that is to be reopened.

Mr. Bergman – Okay.

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Mr. Trias added – Mr. Chairman, the applicant is going to have an opportunity to argue their case before the City Commission, which is the body which makes up the decision on this. So, I really don't see the point in opening this again.

Mr. Bergman stated – Okay. Do you (the applicant) understand what's going to happen? You weren't here to present any evidence on your behalf. We're just an advisory Board to the City Commission. Our say is not final. This will go to the City Commission where you'll have an opportunity to talk to the City Commission about it. So, this was the first step in this project going to the City Commission regardless of what our vote is. So, it's not uncommon for the City Commission to side with this Board or go against any recommendations that we have made. So, I think, at this point, your best opportunity would be to probably speak to the City Commission when it goes to that Board. And you will be notified by the City Clerk when that's going to happen...probably about two or three weeks.

Mrs. Gates asked – Mr. Chairman, I have a question for Mr. Trias. Is it too late for them to come and work with staff on their parking before the City Commission meeting to give them a chance?

Mr. Trias stated – They could do that. That would be a good thing, yes. They could call Wendy Clark, and Wendy will help you.

Mr. Bergman asked the applicant – Did you hear what Mr. Trias stated? You may want to call Wendy Clark in the Planning Department and see if you can resolve some of your parking issues. Apparently that is the key problem with this problem...is the lack of parking.

Ms. Sophia Watkins and other applicant stated from audience – There is no parking there.

Mr. Trias stated – Well, that is the issue.

Mr. Poitier added – Well, you need it.

Ms. Sophia Watkins and applicant stated – It's a homeless shelter.

Mr. Bergman asked – It's a homeless shelter?

Ms. Sophia Watkins and applicants stated – Yes.

Ms. Rose stated – We have it listed as a childcare.

Mr. Bergman added – We have it listed here as a daycare.

Ms. Watkins stated – It's a daycare for the homeless shelter...

Mr. Bergman stated – Well, I think you definitely need to speak with Mr. Trias about that because obviously it was presented to us as a daycare for children. I could understand where the parking issue comes into play...

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Mr. Trias added – Then we will review this further.

Mr. Bergman agreed – Yes. Certainly get with staff and go over this before the City Commission meeting. Because maybe they will be able to come to some resolution for it. I'm sorry you sat here the entire meeting...

Mr. Bergman asked – In consideration of absences, I guess Mr. Harris did not make it.

MOTION WAS MADE BY MRS. GATES TO EXCUSE THE ABSENCES OF TONIGHT'S MEETING OF OCTOBER 12, 2004. Seconded by Mr. Poitier. Unanimously approved by voice vote.

Meeting was adjourned at 8:45 p.m.