



CITY OF FORT PIERCE

PLANNING BOARD MINUTES

REGULAR MEETING - TUESDAY, OCTOBER 13, 2009,
FORT PIERCE CITY HALL, COMMISSION CHAMBERS,
100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

Chairman Johnson called the meeting to order.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Marcia Baker, Charlie Harris, Charlie Hayek, Jeremiah Johnson, Colin Lloyd, Robert Poitier, Steve Weaver, Bob Burdge, and Eloise Cumings.

Those absent: Dan Dannahower (called in), Kara Wood (called in), and Camille Yates (called in).

Staff Present: Jim Walker, Board Attorney; Matthew Margotta, Director of Community Development; Duane Yazzie, Development Review Planner; and Erica Ehly, Comprehensive Planner; and Diann Ploetz, Planning Specialist

The next item considered - **# 3 – Consideration of Absences**

Motion made by Mr. Poitier and seconded by Mr. Harris, **to approve the absences of Mr. Dannahower, Ms. Wood and Ms. Yates.** Unanimously approved by voice vote.

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

Chairman Johnson said I would like to welcome Ms. Cumings and Mr. Burdge. Thank you very much for sitting in as our alternate members. You have full voting privileges.

#5 - The Minutes for the September 9, 2009 meeting will be submitted next month for approval.

The next item considered - **#6 – Zoning Text Amendment:**

- a. **Railroad Passenger Station** - An amendment to the text of the City's Land Development Regulations, Chapter 22 Zoning, by creating the definition of Railroad Passenger Station - amending Section 22-3, amending Sections 22-31(c), 22-32(c), and 22-34(c) to permit Railroad Passenger Stations as a conditional use in the C-3, C-4, and I-1 zoning districts.

Mr. Margotta said I am Matt Margotta, Director of Planning for the City of Fort Pierce. Actually, David Carlin is the staff member that was putting this together. I am filling in for him. He's feeling a little under the weather. Referencing the staff report, the purpose of the amendment is really to create a definition of a Railroad Station in our Ordinance and we are targeting the C-3, the C-4, and the I-1 districts because of some on-going planning efforts and I will get a little bit into that. Right now, the ordinance does not even contemplate a railroad station, at all, as far as a use goes. And staff wanted to be ahead of the curve if some of our current plans are coming into fruition, we didn't want to suddenly have to jump into a zoning change, just to create a possible use in each one of these district. We believe the conditional use category or process will allow for a proper public input as that kind of project would come forward. By right of use is probably is much too simple and that's what led us into coming up with the need for a railroad station as a use. Notice the text amendment, now referencing the proposed ordinance in the General Commercial Zone, C-3, the Central Commercial Zone, C-4, and the Light Industrial Zone, I-1. The underlined railroad passenger station is listed in there. Going back to earlier on the proposed ordinance and it defines a railroad passenger station a facility either light or heavy rail for the boarding of passengers and related ticketing and sales offices. We have done some research into what other communities how they define railroad stations. You can get much more detailed, but for our purposes today, we are trying to put a marker into our ordinance and let's see what happens is events unfold over the years. A little bit of background on the effort from the City, we are working with the Treasure Coast Regional Planning Council and FDOT, also in coordination with AMTRACK and FEC to use these existing lines that are right on the other side of the garage, right through our downtown area. These particular zones are affected for the 3 sites that are under consideration within town. Staff did look at maybe some other zones a little farther down the zone of considerations, right now. However, when we were discussing this with FEC, even to this point, they pretty much precluded it for a number of reasons. But FEC has a pretty heavy hand in this whole decision. That's why the C-3, C-4, and I-1 were considered. It might be worth your consideration to think that well, we do have other C-3's an I-1's throughout the rest of the town that might have tracks going near them. I can tell you there is no honest effort or even a reasonable contemplation that a railroad station for the City is going to be located along one of those locations. And I think that question would have to be looked at if some sort of an application like that came up. A train station is like a town hall, a justice center, and some of these major facilities in a downtown area so you do need to be pretty specific as to what you are wanting to accomplish there and public input is going to be very important, too. Having said all that, the proposed amendment, in of itself, is actually a fairly simple issue. Hopefully you agree with staff that putting it in these particular zones, right now, again, this is a place marker is a good step to make sure that we don't have some sort of trip wire down the road in a short time line. I am available for questions.

Ms. Baker said Mr. Margotta, we have a parking garage which is open to the public, no payment required, no meters, is it possible to start investigating the possibility of setting a floor aside for ticketing long term parking for passengers on the train?

Mr. Margotta said Ms. Baker, we haven't even gotten to that level of discussion yet, although the garage was part of our discussion of what we have in the downtown area that would help serve this. If you don't already know, the three areas that the City put in the resolution through the Treasure Coast Regional Planning Council and with about 100 different agencies, quite honestly that's the way it was described to me, the FEC has property between US 1 and the railroad tracks, just to the south of Orange that was one location and that's the primary location we think that was the most appropriate. Another location would be on the south and east side of the FEC rail lines and Orange Avenue, Depot Road there. The third location would be in some conjunction with whatever redevelopment happens at the power plant site. Each one of those has certain considerations and staff had made the recommendations, the best location would be the one on the FEC property just to the south of this building. The main reason why that one was so popular was because the parking garage and not having to cross the railroad tracks just to park your car and so on. Did that answer your question? We will consider it, of course, when the actual development comes through and how we are going to deal with the entire station. It's certainly not just the station, its all the facilities: parking, and other modes of transportation, taxis, buses that maybe come to that station.

Mr. Poitier said didn't we have it here once before. I think it is a good thing. We need it.

Mr. Margotta said it is an important part of the City.

Mr. Weaver said Mr. Margotta, as we discussed earlier today, the affects of this ordinance wouldn't preclude from coming back at a later point and perhaps adding a PUR or C-1 designations to this text amendment if it ultimately turned out that those properties would be in consideration.

Mr. Margotta said Mr. Weaver, that is absolutely true. So everybody knows, the part of the reason I got into the explanation of we only considered these zones is because that's where we are right now. We have reasonable expectation that this is a proper location for a train station. If it comes later and if facts become apparent that the train station would be located in another zoning district, then I think we would be rushing through with another zoning text amendment. But again, the place marker of having this in our ordinance makes that whole process a lot simpler.

Mr. Hayek said with that in mind, Mr. Margotta, would it not be best to maybe include C-1 and 2 just for the happenstance that another site is selected?

Mr. Margotta said Mr. Hayek, I didn't want to make this too broad for our process right now that's where staff was coming from and I think we have a more than reasonable expectation that the location is going to be associated with our downtown. And without really knowing that it is reasonable to put this station in another districts, I just didn't want to go there now. I didn't feel comfort with that.

Mr. Hayek said is there any timeframe on this?

Mr. Margotta said the only time frame that is being given to us is that the entire effort, again being co-run by the FDOT and the Treasure Coast Regional Planning Council, is that us and several other hundred communities are vying for the same funds to be able to create this rail opportunity. According to the FDOT and the Treasure Coast Regional Planning Council, we are in a really good position because of the amount of agencies up and down the coast that will be served. Every single one of them endorsed it, plus we have the rail already.

Mr. Burdge said from my understanding, Stuart, Fort Pierce, and Vero are all in this together in the sense individually but all potentially searching for a rail station in their City. Is that not true?

Mr. Margotta said Mr. Burdge, that is correct. This particular effort goes even further north and the Treasure Coast part is just Indian River County

Mr. Burdge said let me go one step further, why haven't we approached Port St. Lucie and asked them to be a part of this and center locate the station somewhere between Fort Pierce and Port St. Lucie so that it would be more of a unified effort for St. Lucie County, not necessarily for the City of Fort Pierce, but for St. Lucie County. And there would potentially be, from what I can tell, a stronger input with Port St. Lucie, the largest city along the east coast of Florida, excluding down south and Miami and such like that. Has there been any effort by staff in order to incorporate Port St. Lucie in this effort to obtain the station here?

Mr. Margotta said Mr. Burdge, not our staff, not the City of Fort Pierce staff. We didn't reach out to Port St. Lucie our self. However, the Treasure Coast Regional Planning Council was the honcho on this and yes, they did approach Port St. Lucie, I believe, actually they even endorsed it. But just as you pointed out, there is not a potential location within their boundaries, right now.

Mr. Burdge said have we had discussions with St. Lucie County in order to make this a County railroad station instead of a particular city.

Mr. Margotta said the County is on board. They have endorsed this.

Mr. Burdge said where did they endorse it at? Within the city limits of Fort Pierce?

Mr. Margotta said for right now, yes. It might end up being a County facility and so on. The ownership and the operation of it is not even known at this time.

Mr. Burdge said my aspect is that if it is going to be Fort Pierce, Vero or Stuart and St. Lucie County versus a City train station, a County train station, and if Stuart doesn't want to get along with Martin County because of whatever the politics or whatever, then fine. But if we here in St. Lucie County can work as a unified effort in order to obtain the train station, maybe those two might get knocked out.

Mr. Margotta said I am tracking. I just tell you what the process is to now. The Treasure Coast Regional Planning Council, again, is the one who is honchoing all the endorsements. And I am not privy to every conversation that they may have had with Port St. Lucie to them wanting to be involved or not. I see your point, it is clear. We can continue the conversation as we are developing this whole process. I think right now, we had a deadline to meet to get the preliminary information in and so on. Where Port S. Lucie is on this whole thing, I just can't speak for them or know.

Mr. Hayek said I feel we are the Fort Pierce Planning Board. We need to do what's best for Fort Pierce downtown. And if Port St. Lucie wants to have a station or go for it, let them do it. But we need to do what's best for Fort Pierce.

Mr. Poitier said because everything goes to Port St. Lucie anyway. We are tired of giving them all the right. It's about time we get something. The paper stated that each County is going to have one. It was in the paper a month or two ago. The Regional Planning is going to do it anyway. We don't have much to do with that but approve it.

Chairman Johnson said does anyone have any other questions from the Board to Mr. Margotta about the Text Amendment? Anyone here from the public that would like to speak on this request that is before us tonight? I will bring it back to the board for a motion.

Motion was made by Mr. Lloyd, seconded by Mr. Hayek, **to approve the zoning text amendments.**

Those voting in favor of the motion were: Ms. Baker, Mr. Burdge, Ms. Cumings, Mr. Harris, Mr. Hayek, Mr. Lloyd, Mr. Poitier, Mr. Weaver, and Chairman Johnson. Those opposed: None.

The next item considered - **#7 – Comprehensive Plan Amendment (Public Hearing):**

- a. **Water Supply Plan Amendment** - An amendment to the text of the City Comprehensive Plan Infrastructure Element, Conservation Element, Intergovernmental Coordination Element and the Capital Improvements Element to identify and plan for the water supply sources and facilities needed to serve existing and new development within the jurisdiction consistent with the City's Ten Year Water Supply Plan, in accordance with the Upper East Coast Water Supply Plan, and as required by Chapter 163, Part II, F.S.

Chairman Johnson said we are officially opened as the Local Planning Agency and it is a public hearing to hear the Comprehensive Plan amendment.

Ms. Ehly said this evening, staff is requesting that the Planning Board, acting as the Local Planning Agency, forward a recommendation of approval for the proposed water supply plan amendment. This is a Comprehensive Plan amendment that is required by Florida Statute and is exempt from the twice a year amendment cycle. As the potential limitations over the use of the traditional water supply have become increasingly apparent in recent years, the

Florida Legislature has passed several bills in 2002, 2004, and 2005 to more effectively address the water supply needs of the State by improving the coordination between local land use planning and water supply planning. Chapter 163 Part II of the Florida Statutes also called the Growth Management Act, now requires that the 10-year Water Supply Facilities Work Plan prepared by the utility authority and the Regional Water Supply Plan prepared by the Water Management District and the local Comprehensive Plan prepared by the local government, be consistent and coordinated in order to ensure that adequate water supplies and public facilities are available to serve the water supply demands of the State's growing population. Water supply planning has a dual purpose: to ensure a reliable long term water supply and to manage demand with the primary goal of protecting the water supply. The purpose of this amendment is not only to maintain the compliance of the Comprehensive Plan, but to also to identify and plan for the water supply sources and facilities needed to serve the existing and new development within the jurisdiction of the city within the planning period of 2008 to 2018; the second purpose is to improve the coordination between local land use planning and water supply planning as required by Florida Statute. It is anticipated that between 2005 and 2050, more than half of America's population growth is expected in the States of Texas, California, and Florida, which are States that are already experiencing some water supply shortages. In fact, 4 out of 5 of Florida's water management districts have determined that traditional water supply sources currently used will not be sufficient to meet the demands of the growing population and the needs of the environment, agriculture, and industry over the next 20 years. One of the leading causes of water pollution in the United States is the increase in impervious area as a result of an increase in development. Consequently, it is especially important for urban areas, like the City of Fort Pierce, to address water supply planning using a holistic approach. Protecting the water supply effectively requires a coordinated effort during the development review process because the main threat to water supply sources occurs during the process of urbanization. These threats occur when unplanned development occurs in areas where access to sewage is limited, soils are disturbed, patterns of natural vegetation and drainage are altered, and the capacity of public facilities, such as stormwater and drainage is not in pace with development or demand. Therefore the Fort Pierce Comprehensive Plan is being amended to include: a sub-element to the Infrastructure Element which addresses the statutory requirement by coordinating the Comprehensive Plan with the South Florida Water Management District Regional Water Supply Plan; ensuring that changes in Future Land Use are based upon availability of adequate water supplies and public facilities and services; ensuring that adequate water supplies and facilities are available to serve new development no later than the date on which the local government anticipates issuing a Certificate of Occupancy, ensuring that the required water supply projects are identified in the Plan; revising the 5-year schedule of Capital Improvements to include any water supply reuse and conservation projects and programs be implemented during the 5-year planning period; revising the Conservation Element, if necessary, to assess protected water needs and sources for at least the 10-year planning period; and revising the Intergovernmental Coordination Element to ensure coordination of the Comprehensive Plan with the South Florida Water Management District Regional Water Supply Plan and the regional water supply authority's plan, which is the FPUA. And also addressing in the Evaluation and Appraisal Report, which we will be doing as we go through creating the Evaluation and Appraisal Report the extent in which the City has implemented the 10-year water supply facilities work plan including the development of alternative water supplies and to determine whether the identified alternative water supply

projects, traditional water supply projects, bulk sale agreements and conservation and reuse programs are meeting local water use demands. So, following this evening's Public Hearing, the recommendation of the Local Planning Agency will be brought before the City Commission at a transmittal hearing where the Commission will vote whether to approve of the transmittal of the proposed amendment to DCA. The Growth Management Act authorizes the Department of Community Affairs, Division of Community Planning to review Comprehensive Plans and Plan Amendments for compliance with the Act. Other reviewing agencies including Treasure Coast Regional Planning Council, St. Lucie County Growth Management, Department of South Florida Water Management District, Departments of State, Transportation, and Environmental Protection also review Comprehensive Plan proposed amendments. DCA will issue an Objections, Recommendations, and Comments report identifying any areas of this amendment that are not consistent with Chapter 163 Part II of the Florida Statute within 60 days of receiving a complete proposed amendment. Any recommendations will be addressed by staff and the proposed amendment will go before the City Commission for an adoption hearing after which it will be submitted to DCA. Again, DCA will issue a Public Notice of Intent to find the amendment in compliance within 20 to 45 days. Staff recommends the Planning Board operating as the Local Planning Agency submit a recommendation to City Commission for approval to transmit this proposed water supply amendment to the Comprehensive Plan to the Department of Community Affairs.

Chairman Johnson said any questions from the Board for Erica?

Mr. Weaver said Ms. Ehly, within the text of the amendment, itself, in the data analysis part, on 7 and 8, there is a Level of Service for the ground water protection that talks about the minimum roadway elevation, I was wondering if, item number 1, if this is incorporated or enacted as it sits, will that impact any existing projects that are in the pipeline, specifically the A1A improvements?

Ms. Ehly said Mr. Weaver, these actually are already in place so anything we have in the works should be meeting these requirements currently.

Mr. Weaver said thank you.

Mr. Johnson said any other questions for staff? Seeing none, we will open the Public Hearing. Is there anyone here that would like to speak for or against this request? Seeing none, we will close the Public Hearing and return to the Board and entertain a motion.

Motion was made by Mr. Poitier, seconded by Mr. Hayek, **to amend the Comprehensive Plan as proposed by staff.**

Those voting in favor of the motion were: Mr. Burdige, Ms. Cumings, Mr. Harris, Mr. Hayek, Mr. Lloyd, Mr. Poitier, Mr. Weaver, Ms. Baker, and Chairman Johnson. Those opposed: None.

Chairman Johnson said we are closed being the Local Planning Agency and come back as the Planning Board.

The next item considered - **#8 – Site Plan:**

- a. **Avenue I, Wireless Tower – Flagpole:** An application for a Site Plan to construct a 150-foot monopole wireless tower at 910 North 25th Street. The properties are zoned C-3, General Commercial, and R-4, Medium Density. The property owner is TC Star, LLC; the applicant is Florida Tower Partners; and the representative is Tony Recio of Weiss Serota Helfman Pastoriza Cole & Bonsike, P.L.

Mr. Yazzie said good evening. In accordance with Article 6 of the City Code, the applicant is proposing the construct a 150' monopole camouflaged as a flag pole. The property is located on 25th Street and the corner of Avenue I. The property consists of 1.16 acres and is a split zone, C-3 and R-4. The location of the cell tower will be on a leased portion of the property to the east southeast of the property. To the east is R-4 and to the north, C-3, to the west C-3 and to the south R-4. This is the location of the cell tower site on the leased property from the owner. These are some of the amenities from the cell tower. There will be a wooded gate, landscaping throughout the tower. The landscaping is in accordance with landscaping code – a tree every 30 feet, proposed hedges and a 6-foot wood fence. In addition to the tower, there is a proposal for a commemorative flag, a commemorative plaque. The leased property will house cabinets for the equipment to operate the structure. Access to the leased parcel will consist of an asphalt driveway and a new concrete curb cut off of 24th Street. Prior to the submittal of the packets being sent out, there was an update to the conditions of approval. The St. Lucie Fire District had weighed in and had made conditions of approval and the applicant has supplied information to eliminate that condition. In addition to another condition for submitting an affidavit for an abandonment in accordance with Section 22-159(b)(12), that has been satisfied as well. As the proposed site plan meets the requirements of City Code, staff recommends the Planning Board forward a recommendation of approval of the site plan with the following conditions: prior to signing the building permit, the applicant must submit a document of liability in the amount satisfactory to the Department as reasonably commensurate with the nature of the structure as outlined in Section 22-159(b)(15) of the City Code, and prior to issuance of a building permit, the owner or applicant must submit a bond or surety or other financial guarantee for the use and benefit of the City to ensure the removal of abandonment communication towers and shall be approved by the Director and City Attorney. This bond shall be subject to provisions outlined in Section 22-163 at the time of the final development approval. Thank you.

Ms. Baker said there apparently were no notification requirements for this application.

Mr. Yazzie said at this time, when it goes forward to City Commission, there will be notices sent out.

Ms. Baker said but prior to this Planning Board approval there were no notices sent out to any of the nearby residents?

Mr. Yazzie said not at this time, Ms. Baker, for this meeting. That is not part of the requirement of this Code.

Ms. Baker said thank you.

Mr. Weaver said it appears the structure is going to be erected on the portion of the property that is zoned R-4 and is this type of use a semi-restricted use in the R-4?

Mr. Yazzie said that is correct. Actually, the way our code is written, cell towers are allowed in any zoning district.

Mr. Weaver said thank you.

Chairman Johnson said any other questions from this Board? Mr. Yazzie, as far as the fence, itself, I noticed it's a decorative wood fence that is planned. What is the height of that fence?

Mr. Yazzie said the proposed height of the fence will be 6 feet.

Chairman Johnson said ok and it's going to be landscaped around the perimeter, correct?

Mr. Yazzie said that is correct.

Chairman Johnson said were there any alternatives presented for fence design, style?

Mr. Yazzie said staff has requested an alternate proposal based on Design Review Guidelines, since the location is along an arterial road, and based on it being on an arterial road, the Planning Board, who also serves as the Design Review Board can make a recommendation for an alternate type of buffering or screening.

Chairman Johnson said but the applicant submitted it as a wood fence, correct?

Mr. Yazzie said correct.

Ms. Cumings said just one question; I noticed that you recommending no lighting on the pole itself. Is that correct?

Mr. Yazzie said the staff report reflected the packet submittal notated ground lighting to highlight the monopole flagpole. Staff's concern is the property or adjacent residences that will be in close proximity to the lights. Again, the lights may or may not be a blight or somewhat of a, if you will, too bright for the neighbors, more or less. Again, the applicant has proposed lighting on the ground to show onto the light monopole, however, you can make, again, the Planning Board can make an alternate condition of no lighting or lighting in accordance with Florida or recommendations for lighting to have low level lighting or no lighting at all.

Ms. Cumings said I was just wondering, is the flag going to fly all the time and if so, I thought flags, if they fly all the time, they have to have a light on them at night?

Mr. Poitier said yes, they should.

Mr. Yazzie said yes, that is correct.

Ms. Cumings said so will the flag come down at night?

Mr. Yazzie said again, when Chairman Johnson opens the public hearing, the applicant is here to weigh in on that to verify the maintenance of the monopole structure, the cabinets in addition to the flag.

Ms. Cumings said thank you.

Mr. Margotta said excuse me, I just wanted to add to staff's comments. The Board can also consider the appropriateness of just having a flag in the first place.

Mr. Poitier said what's the reason for right on 25th Street, right on a State Road in the City. Is there a purpose why they want to put it right there at 910 North 25th Street?

Mr. Yazzie said from my understanding, because of the submittal of the location of Metro PCS required they gain some signal strength and that was one of the prime locations that they thought of. Again, the applicant is here to verify and elaborate on that.

Mr. Burdge said I was wondering if staff discussed with the applicant any other type of camouflage for the monopole versus just a flagpole? Because I am sure we have all traveled throughout the United States and we have seen these things decorated in palm trees, trees, camouflaged in some other way, especially here in Florida we can camouflage it is a palm tree. In my travels, I have seen them as palm trees and I am wondering if there was any discussion or if this is basically what the applicant has brought to us.

Mr. Yazzie said that has been brought to the applicant's attention as far as other camouflage techniques, a pine tree was considered but based on this height of the structure, that probably wouldn't serve as a natural feature to the surroundings.

Mr. Burdge said was there any discussion about a palm tree affect?

Mr. Yazzie said there was limited discussion on that, but the applicant can surely elaborate on that as well.

Mr. Burdge said and they may decide to do that tonight.

Chairman Johnson said any other questions for staff? We will hand it over to you.

Mr. Tony Recio, of Weiss Serota Helfman Pastoriza Cole & Bonsike, said thank you for considering this item. Staff did a great job of describing where it is. I will try to hit everyone's questions and if I miss any questions, please let me know. I will just walk you through some of the points. It is at the southeast corner of Avenue I/North 25th Street. It is on the east southeast corner of the site. The actually pole, itself, the tower, itself, is on the C-3 portion, although the compound does cross over into the R-4 portion of the site. The site itself is

about 4,900 square feet, about 70 feet by 70 feet, that's a square. The pole will sit in the middle and then the equipment cabinets would go around it. There was a question about the fencing material that we had proposed. The reason why we proposed a wood slat fence, kind of the alternating style, just because it is both decorative and it hides everything that is in there from view and I think it is better aesthetically than a chain link or any kind of open slat fence. That's why the wood fence was chosen. In terms of the landscaping, landscaping is there to add another element of hiding this so that it looks like a fence that you don't see the cabinets. It is better for someone walking down the street. In our experience, it looks a lot nicer. In terms of the lighting, the lighting has to do with the flag, absolutely. It is directional lighting, kind of spot lighting at all corners and it is Federal regulations to keep it lit at night. The idea would be to keep the flag up all the time. The Florida Tower Partners operates several flagpole facilities throughout the State of Florida and they stay on top of it. They don't let the flag get abused. If it does suffer from the elements, which they all do, they come in and replace it with a new flag. The flag, I believe, is 20 feet by 30 feet which is commensurate with the size of this pole. It is not going to be a tiny flag on top of this pole. That's not the point. It is supposed to look nice and looks like a cohesive structure. In terms of the location, itself, I believe there was a question about that. The search ring, which I am not sure if that was in your packets, but it was in the information that is required by Code and reviewed by staff. The search ring that Metro PCS did, Metro PCS is the prime tenant for this site, and they had identified the search ring. It goes from about just north of Avenue L down to almost Nebraska Avenue and then east to west, probably, a little west of Hartman Road to a little east of North 16th Court. That ring was identified as where they had a coverage deficiency so they looked for sites within that. And there were several sites that were explored and this ended up being the only site that really worked and had a combination of being in commercial zoning, being addressing the coverage gap and having a landlord who is interested in leasing out a parcel. In terms of the camouflage, the palm tree, as far as the flag pole, this is a 150 foot tower. The reason why it is 150 feet, your code encourages co-location. What co-location means is accommodating other wireless carriers on the same pole so you have less poles overall. This is designed to carry 5 different antenna arrays and all within the flagpole structure so you don't see those antenna arrays. We went with a flag pole, as opposed to a palm tree, just because of the height. A 150-foot palm tree or tree of some sort would, in our estimation and this Board may differ to the extent that it does we'd listen, but in our estimation, that would kind of stick out more than something like this. 25th Street is a commercial corridor, you know, a flagpole fits more into that in terms of melding with the community. As I mentioned, it's got a capacity for co-location, it's got the buffering of the site with the fence and landscaping, and we included 2 enhancement features as proposals, which we hope, if this Board finds acceptable and the Commission finds acceptable, we would love to move forward with it. One is to have a second flag on the pole, something Fort Pierce specific. Options have been discussed, a contest with a local school, Lincoln Park Academy perhaps, or maybe open it up to all of Fort Pierce to have a design contest for what that flag would look like. Another community type feature, to make it more Fort Pierce specific, would be an area on this side which would have a monument sign, some kind of plaque, something to engender some kind of community pride. It is just something to add for people who are walking by and people can see it. This kind of facility has no demands on water, no demands on roads, no demands on the infrastructure. It's a very clean use in that respect and we hope that you will accept staff's recommendation. I am here to answer any questions, as is Brett.

Chairman Johnson said thank you very much. Are there any questions from the Board.

Ms. Baker said I was quite concerned when Mr. Yazzie said that there was no notification requirements for this hearing but there will be for the City Commission hearing. I presume at that point, there will be posted on the property and there will be adequate time. How will you address or have you prepared to address the concerns that some people have of the health hazards of cell phone tower emissions? You have a proposal here for up to 5 emitting stations and some people believe that there have been indications that there is studies showing there is non-thermal biological effects from cell phone towers. I know you are meeting the thermal ICNIRP guidelines, but the proximity to cell phone towers does create a concern with many people about an increase in cancer rates. Are you prepared to address those concerns to the neighbors? Thank you.

Board Attorney Walker said excuse me, Mr. Chair, respectfully, may I interject. Section 22-159 is very clear on the factors that may be considered for approval. The City "shall consider and weigh the aesthetic impact and compatibility issues of the proposed antenna structures with the public benefit derived from having an efficient and reliable wireless communication system when determining whether or not to approve the application." Nowhere in our code does it require the applicant to demonstrate compliance with health concerns. That is outside the scope of permissible review by this Board and by the City Commission. The City Commission is not in the position to require the developer to respond to that argument.

Ms. Baker said respectfully, Mr. Walker, since the lighting situation has already been addressed by the Planning Department as possibly being a nuisance to the neighbors and that was already...it seems to me, that the notification requirements would presume that the neighbors would be notified of there going to be a cell phone tower there and would appear at a public hearing from...I appreciate your comment, are you saying that if enough neighbors, hypothetically speaking, opposed this on whatever grounds, legitimate grounds to them, that it would not be a consideration?

Board Attorney Walker said respectfully, Mr. Chair, the code requires that the Commission's decisions be based upon competent and substantial evidence. That is evidence that is based upon recommendations of staff, evidence produced by the applicant, when weighed in accordance with the standards imposed by the code. Mere neighborhood opposition by itself is not competent and substantial evidence.

Ms. Baker said thank you, sir.

Mr. Yazzie said if I may add, in accordance with Section 22-159, the applicant has submitted documentation in accordance to ensure that any antenna to be placed on antenna support structure meet all relevant FCC regulations and radio frequency emission standards and that has been confirmed with their structural engineer. Their engineer is here to weigh in on this as well. Again, the applicant is here to elaborate on that.

Mr. Weaver said Mr. Walker, just for point of clarification, am I to understand that this Board does not have the power to review a project or a proposal in regard to what we perceive as a general public welfare?

Board Attorney Walker said respectfully, the Board has the power to offer a recommendation to the City Commission with such recommendation to be grounded upon the requirements set out in the code which govern the standards of permissible review. If it would be helpful, I would be glad to read those out for you.

Mr. Weaver said I will take you on your interpretation on that this is your reproach is correctly.

Chairman Johnson said any other questions for the applicant from the Board? Have you had a project, going back to the fence, I am just worried about, not necessarily aesthetic appeal, but aesthetic appeal in the long run, long term, just the wear and tear of the fence and weathering and if it could be or should be, have you had another project where you have done an aluminum decorative fencing or something like that of nature where we don't chose the wood? I guess I may be worried, also, in regards to kids getting a hold of it and if, unfortunately, graffiti or whatever, an aluminum fence or chain link, obviously, doesn't lend itself to that. It could happen anywhere, of course, and is it going to be painted white? Is that the anticipation?

Mr. Brett McGellen, representing Florida Tower Partners, said I am the Manager and President of the company. Thank you for the opportunity to appear before you this evening. First of all, we own 9 flag poles here in Florida where we operate those flags in accord with holidays, both from the Federal and State Government when Governor Crist asks us to lower the flag. We have a variety of other types of structures throughout the country more traditional ones that people have tried to hide in the past, the monopoles, which are just, quite frankly, blank poles with antennas on them, self-support towers, and guide towers. Before I answer your question, if I may, we have no intention of trying to hide this facility. In fact, we have read through your code quite extensively and we have complied with all the information that has been asked to bring forward to the table. In fact, we came in to speak with staff, not with a heavy hand of saying "we can do what we want to do and the community will have to accept it based on what the code says or does not say." We came in and set forth the project that, number one, is a lot more expensive than another project or any other solution I just told you about – a monopole, a self-support tower, that type thing. Number two, is that, and again, not to hide from the community, is that we had extensive conversations with both staff and other members of the community saying "what can we do to fit into that area of Fort Pierce?" So I would respectfully ask you to understand that our attitude is not hiding from anybody. In fact, I think that is 10 years ago when the cell phone industry was in its very open stages and it was a little bit less regulated. The other part of it is that we don't put together projects that don't look right so our flag sizes are all regulated by Federal Regulations. We comply with those strictly and we maintain the facility. Now, to get to your question about the fence, Mr. Chair, there has been a couple of ways that in going to different communities we have had a couple of reactions. The first is that on one side the Police Department typically likes to see a fence that they can see through so that when they're driving past there doing their usual patrols, they've got the search lights that come out the side and they can see if there is anybody trespassing or doing something that shouldn't

be done at the facility. Number two, we also put up white PVC fences, which age a lot better but we frequently clean graffiti off of them as well since some people get distracted by having a white canvass around that appeals to them for artistic purposes. The third type we've used is wood fences like the one we proposed. We stain those a dark brown. They weather. The kids still like to beat the bottom of them out and that type of thing. At the same time, our approach was, getting all these factors together and in our discussions with staff, what would sort of fit in with your code and also providing some sort of middle ground between all those considerations, both safety and appearance and that type of thing. Again, I'm sorry for the long answer to your question, but that is how we arrived at that fence type.

Chairman Johnson said so it will be a stained structure.

Mr. McGellen said the plans say stained wood, board on board fence.

Mr. Lloyd said have you thought about landscaping entirely around the fence to do like a hedge? Like what about a 6-foot hedge around the fence?

Mr. McGellen said the plans call for a hedge and trees around...

Mr. Lloyd said it cuts down on graffiti if you had like an evergreen.

Mr. McGellen said we have a dwarf holly hedge, 6-foot tall at time of planting.

Mr. Lloyd said good, that's going to minimize any graffiti. I assume it's all irrigated?

Mr. McGellen said yes.

Mr. Lloyd said and my other question is about the cell tower height. How you determine to have a 150-foot pole versus a 75-foot pole?

Mr. McGellen said when we work with folks like Metro PCS, Verizon, and others, they tell us what their coverage requirements are in terms of propagating the signal throughout the area and that's what we go on in terms of that type of data. So, I, myself, have any RF background or knowledge. I am just asked to put together a project that, number one, can be used by several carriers, in terms of being able to be locate on the same pole. In a lot of communities, we are asked to do these type towers and taller because then inevitably follow each other around and end up on the same structure. So it minimized the sheer number of towers that could appear in a specific area.

Mr. Lloyd said ok.

Chairman Johnson said any other questions of the applicant?

Mr. Weaver said what is the diameter of the pole itself?

Mr. McGellen said it is 36-inches in diameter.

Mr. Weaver said is there any ladder rungs or other climbing...

Mr. McGellen said there is no way to climb the pole. The only way to service it is with a crane with a man-basket.

Mr. Weaver said what is your wind speed design criteria?

Mr. McGellen said I believe it was either 130 or 140 mph and we factored in a 25% over design to compensate just for any conditions that may occur.

Mr. Weaver said have you ever designed a 200 mph wind capacity?

Mr. McGellen said we just go by the Florida Building Code and the EITA Requirements for wind speeds in specific areas. So, no, we have never been asked to design that speed of a pole.

Mr. Weaver said do you have motion detectors inside your perimeter in case there is anybody that gets past the perimeter?

Mr. McGellen said no, we don't use those.

Mr. Weaver said ok, thank you.

Chairman Johnson said any other questions of the applicant? Very good. Thank you very much. Anyone else here from the public that would like to speak for or against this request? Seeing none, we will return to the Board and entertain a motion.

Motion made by Mr. Lloyd, seconded by Mr. Hayek, to approve with the conditions that staff has recommended in their report.

Ms. Baker said I am aware of the fact that the City Code does not have anything similar to what the County Code has which limits cell phone towers to be more than 1,000 feet from any residential property. Because the County Code has that, I am concerned about the fact that the City Code does not have that and therefore, we are precluded from making that consideration. So I am going to oppose this on that bases. Thank you.

Mr. Burdge said I want to get the deal with the lights on the pole. Is this motion with the light on the pole or without?

Mr. Lloyd said I'm sorry. I actually forgot about that. I think if they are going to have the flag fly the whole time, it has to lighted. I mean, I think that is just a requirement and so they either have to light it or take it down every night.

Mr. Burdge said I basically only saw that in staff analysis, they are saying that the staff does not recommend lighting, but under staff recommendations, I don't believe that it mentions that. And I wanted to know if the motion maker is including no lights or lights because it is a staff recommendation yet it is not in our packet under staff recommendation.

Mr. Yazzie said staff's recommendation is considering low level lighting and, again, the Planning Board can possibly condition that. But if there is a standard for lighting for the flag to be made, I do not know that standard. But at this time, I would like to have that input as far as to low level lighting.

Chairman Johnson said but your recommendation is to include...I just want to make sure because he said with staff's recommendations.

Mr. Yazzie said staff's recommendation, to make it clear, is to have no lighting. But in accordance with Federal regulations, the flag has to have lighting. But the alternate or chosen lighting could be low level lighting.

Mr. Lloyd said I would amend the motion. First, I think, is it possible to have the applicant speak on the lighting issue?

Mr. Recio said the lighting that is being proposed on the corners is directional lights. It is a spot light. It is not a spill over light. I won't have any spill over affect on any adjacent properties or even on the street itself. If it would please this Board, we could also mount those lights closer to the pole, maybe even off of the pole itself to further concentrate that so that it lights just the pole, I mean, to lessen the chance of any possible spill over onto any adjacent properties. We can do that

Mr. Lloyd said and I think the concern would be that you would have light going into someone's living room. It's 150 feet up, but as long as there is no spill over. My motion would be with the lighting on the flag.

Mr. Hayek said Mr. Recio, is it possible to put the lights up about 100 feet?

Mr. Recio said I don't think so. That would be very difficult to...to have them extend, you're saying, from the pole about the middle or two-thirds up the pole?

Mr. Hayek said just run up an electrical conduit all the way up and then put your lamp holder

Mr. Recio said that is not a situation we have every done on any other poles. It is an interesting concept, although I am a little concerned about the engineering of it, more so the structural engineering than the electrical engineering of something like that. We don't want it flying off in a hurricane or tropical storm.

Amended motion made by Mr. Lloyd, seconded by Mr. Hayek, **to approve with the conditions that staff has recommended in their report and to include lighting of the flag.** Staff's recommendations are as follows:

- The applicant must receive an approval from the St. Lucie County Fire District prior to City Commission consideration.
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- The applicant must submit an affidavit from the property owner or applicant acknowledging acceptance of the requirements of section 22-163 per section 22-159(b)(12) of the City Code prior to City Commission consideration.
- Prior to signing of a building permit the applicant must submit a document of liability coverage in an amount satisfactory to the department as reasonably commensurate with the nature of the structure as outlined in section 22-159(b)(15) of the City Code.
- Prior to issuance of a building permit the owner or applicant must submit a bond, surety or other financial guaranty for the use and benefit of the city, to ensure the removal of abandoned communication towers and shall be approved by the by the director and city attorney. This bond shall be subject to the provisions outlined in Section 22-163 at the time of final development approval.

Chairman Johnson said at this point we have a motion that includes the lighting. He has heard the comments, maybe he can research that and bring it to City Commission. Is there any other discussion on the motion to approve with the lighting and staff recommendation?

Those voting in favor of the motion were: Ms. Cumings, Mr. Harris, Mr. Hayek, Mr. Lloyd, Mr. Weaver, Mr. Burdge, and Chairman Johnson. Those opposed: Mr. Poitier and Ms. Baker.

Chairman Johnson said your site plan is forwarded with a recommendation from this Board to the City Commission. Thank you.

Mr. Recio said thank you.

The next item considered - **#9 – Discussion:**

a. Evaluation and Appraisal Report Update (no backup material)

Ms. Ehly said good evening. I just wanted to give you a brief update tonight. As you guys know, you voted to recommend approval for the list of major local issues. That is going to City Commission on October 19th and then we will transmit it to DCA with a request for a letter of understanding and get a response from DCA as far as their agreement that those will be our local major issues. And then we have the contract with Kimley-Horn pretty much squared away and we will be starting the work on the report. Actually, staff has already started with the staff part of it. We have divided the tasks up between the consultant and City staff. We plan to bring the report to you at December's Planning Board meeting to vote on it and submit a recommendation to the City Commission. The report has to be adopted by February of 2010. So at November's Planning Board meeting, I will be bringing kind of a status update and you will have some backup material to review before we bring you the final report in December. So that's the update.

Chairman Johnson said very good. In November, how far along will we be? What is the percentage?

Ms. Ehly said we will be pretty far along. I will tell what we are going to be doing is we are going to be doing a population analysis to change the population. And one good thing about our Evaluation and Appraisal Report is that we just did an Evaluation and Appraisal Report in 2006 so we only have a 3-year window that we need to evaluate. A lot of municipalities have 10 and more years that they have to evaluate. So it will be a population analysis and annexation evaluation so changes in our land use inventory from all the annexations we have done in the past 3 years. Housing analysis and analysis of our Level of Service Standards, the adopted Level of Service Standards, the analysis of all the major issues and an analysis of each element. We have 11 elements so we will be analyzing each element as far as how affective they are, how affective are the Goals, Objectives and Policies are, and then we will also be reviewing strategies for non-conforming development in the coastal high hazard area. That is going to be kind of a big one. We will certainly have a lot done in the next month to bring to you just for feedback. And then you will have the complete report hopefully in December Planning Board. I will try to get it to you as early as possible rather than, not necessarily in the packets, like you get the packets, but I will try to get it to you as soon as we have it completed so you will have time to go over it.

Chairman Johnson said even if it is a substantial draft form, that would be great even if you posted it on...I would hate to have too many copies floating around. But even if it's a good draft and you are going through minor details that would be great.

Ms. Ehly said we are doing the same thing with this as we are doing with the LDR's so Kimley-Horn will be getting me copies of the parts that they are completing and then we will have comments. So certainly if it's in a form that I can transmit to you guys and get your feedback also, I have no problem doing that as soon as I receive something I can disseminate it to you. We don't have to wait until the meeting. But it is going to be a really rapid process. It's not going to be a week or two in between drafts and things like that. It is going to move quite quickly. But certainly if there are any major issues, your input is very important in the process.

Chairman Johnson said ok, very good. Any questions for Ms. Ehly? Mr. Margotta? Anything for us?

Mr. Margotta said Mr. Chairman, nothing else from staff, thank you.

Chairman Johnson said Mr. Walker?

Board Attorney Walker said thank you for asking, Mr. Chair.

Chairman Johnson said I do have one question, new members or alternate members, have you received or do we still produce the orientation manual? Do we have copies of those to distribute?

Mr. Margotta said this happened fairly quick for these particular alternate members to come up here. We do still do that process and we were arranging for it, however, David Carlin, the Division Head is...we've had scheduling issues. But we are trying to get both of them in here to find out what their issues are, too.

Chairman Johnson said any questions you have, Board members, just get a hold of staff at anytime, if you can, and they'll be happy, I am sure, to answer your questions about individual projects. Biggest thing, I will just say, think of yourselves as a technical committee. Unfortunately based on the code and what Mr. Walker was elaborating to tonight, we can't get into some of the finite details of what the public preserves and how they feel more than just evaluating the code and applying the code and then saying "ok, yes it works or no, it doesn't work." Just keep that in mind. I know there are a lot of issues that are sensitive. I am just as sensitive and it's difficult sometimes, but keep it in mind when you are going through. Thank you very much.

There being no further business, the meeting was adjourned at 7:20 p.m.
