



# CITY OF FORT PIERCE

## PLANNING BOARD

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### Planning Board Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON WEDNESDAY, NOVEMBER 12, 2008, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

Secretary Hayek called the meeting to order.

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The Pledge of Allegiance was recited.

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Upon Roll Call, those present were: Secretary Charles Hayek, Dan Dannahower, Irene Dixon, Tom Knott, Colin Lloyd, Robert Poitier, and Kara Wood.

Those absent: Charlie Harris and Jeremiah Johnson.

Vice-Chair Reilly came in at 6:10 p.m.

Staff Present: James Walker, Assistant City Attorney; David Carlin, Interim Assistant Director; Paul Williams, Urban Forester/Development Review Planner; Erica Ehly, Comprehensive Planner; Duane Yazzie, Development Review Planner; Diann Ploetz, Planning Specialist; Bob Frank, City Traffic Engineer and Maritza Suarez, Executive Assistant.

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

Chairman Hayek said we should consider the absences at the end of the meeting to see if the people do show.

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The next item considered - **#4 – Certification of Alternate member voting status.**

Chairman Hayek said do we have any alternates?

Mr. Poitier said we do.

Chairman Hayek said I certify Clay Yates as our alternate member with full voting status.

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The next item considered - **# 5 – Approval of Minutes of October 14, 2008.**

Chairman Hayek said has everybody had a chance to look over the minutes and any changes duly noted?

Mr. Knott said Mr. Chairman, just one item. Under the roll call, I'm sure that Mr. Reilly doesn't want to be usurped here. They got me down as Vice-Chair and if we could correct that to make Mr. Reilly the Vice-Chair, I'd appreciate that.

Chairman Hayek said so noted. Any other changes? I entertain a motion.

**Motion made** by Mr. Knott and seconded by Mr. Poitier to approve the minutes with correction.

Unanimously approved by voice vote.

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The next items considered: **Item # 6a – Annexations - 3301 & 3211 Avenue D** - Approval of the voluntary annexations via application for two parcels totaling 4.22 acres and identified as being contiguous to the municipal boundaries of the City of Fort Pierce. The properties are located at 3301 Avenue D and 3211 Avenue D. The properties are owned by Atlantic Coast Recycling, Inc. The applicant/representative is Dennis J. Murphy of Culpepper & Terpening, Inc.

Chairman Hayek said can we hear from Staff?

Ms. Ehly said good evening Mr. Chair, Planning Board members. Pursuant to Section 171.044 of the Florida Statutes, the applicant has submitted a petition for annexation regarding two parcels totaling 4.22 acres and located at 3301 & 3211 Avenue D. The property will be assigned a future land use designation of C-I, County Industrial, consistent with the future land use designation assigned in the County of Industrial. In addition, the property will receive a zoning classification of I -1, as is comparable to the assigned Light Industrial in the County. Pursuant to Section 2-223 of the City Code, Staff requests that the Planning Board forward a recommendation of approval of this voluntary annexation to the City Commission.

Chairman Hayek said any questions of Staff on this? I do want to note that Mr. Reilly is here and he'll conduct his duties as Chairman or Acting Chairman.

Mr. Lloyd said this isn't the same property that came up for annexation last year?

Ms. Ehly said Mr. Chair, Mr. Lloyd, no it's not.

Mr. Lloyd said okay.

Ms. Ehly said that was across the street.

Mr. Lloyd said okay.

Mr. Knott said Mr. Chair, if I could ask a question of Staff. This property is coming in with the Light Industry? Is this correct?

Ms. Ehly said yes Sir. Light Industrial.

Mr. Knott said Light Industrial. Are they compatible with the County's and the City's because they are a heavy-duty operation out there.

Ms. Ehly said well as far as the existing use, it is compatible with our I-1 zoning district.

Mr. Knott said but as far as the actual zoning is it applies to apples when they come in or are they going to have any problems with the way they are operating now?

Ms. Ehly said they won't.

Mr. Knott said thank you.

Chairman Reilly said we had looked at something out here about two years ago. This is not the same property?

Ms. Ehly said no it is not.

Chairman Reilly said okay.

Ms. Ehly said that was across the street.

Mr. Hayek said if you would have been here on time you would have known I asked the same question.

Mr. Lloyd said does this recycling facility deal with any hazardous materials at all? Are there any environmental concerns with Staff?

Ms. Ehly said Mr. Chair, Mr. Lloyd, I'm not aware of any. The applicant's representative is here this evening and we did speak to him about what specific activities occurred. Certainly, he's here to answer any questions or clarify anything for you.

Chairman Reilly said please state your name and address for the record.

Mr. Murphy said Mr. Chair, for the record, my name is Dennis Murphy. I'm with the Firm of Culpepper & Terpening here in Fort Pierce. Tonight we are here representing Atlantic Coast Recycling Inc. in a petition for annexation in to the City of Fort Pierce. Mr. Lloyd, the question about the hazardous waste, hazardous materials, no we do not work with

that. We are basically collecting aluminum and other similar type metals to that and we compress, package and ship them on out.

Mr. Lloyd said thank you.

Mr. Murphy said and we are not the property that you all had before.

Chairman Reilly said any other questions? Any questions from the public for or against? Did I do that in the right order? Well, I'm sorry. Jeremiah had promised me he was going to write out a lengthy list for me before he turned this thing over to me. Hopefully, he's watching today. Any comments from the public for or against?

**Motion made** by Mr. Hayek and seconded by Mr. Knott to forward a recommendation to the City Commission to approve the annexation for the properties located at 3301 & 3211 Avenue D.

Those in favor were: Mr. Dannahower, Ms. Dixon, Mr. Hayek, Mr. Knott, Mr. Lloyd, Mr. Poitier, Ms. Wood, Mr. Yates and Chairman Reilly.

Those opposed: none.

Chairman Reilly said this will be submitted to the City Commission on the next scheduled meeting. Good luck.

Ms. Ehly said with a recommendation for approval.

Chairman Reilly said with a recommendation of approval.

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The next item considered: **Ordinance - Establishment of the I-3, Heavy Industrial Zoning District** – Approval of a proposed ordinance amending Chapter 22, Article III, Basic Zoning Districts, of the City code of Ordinances to establish the I-3 zoning district

Ms. Ehly said the proposed ordinance before you this evening is being initiated to provide consistency between the zoning districts of the City Code and the zoning districts utilized in the County for the purposes of annexation and to provide consistency with the future land use designations identified in the Comprehensive Plan. The Comprehensive Plan identifies two Industrial Future Land Use designations that allow for the uses included in the County Heavy Industrial zoning district: Heavy Industrial and County Industrial. However, the City Code does not include a zoning district comparable to the County Heavy Industrial zoning district. Currently the City Code contains two industrial zoning classifications I-1 and I-2. The uses allowed in these classifications do not allow for all of the uses included in the County Heavy classification. Consequently, when a property that is zoned Heavy Industrial or is assigned an Industrial Future Land Use designation in the County and is annexed into the City, the City Code does not offer a zoning classification that protects the property owner rights to the uses as allowed in the County. The proposed ordinance will create the I-3 zoning district to include those uses identified in the

County Heavy Industrial classification and will be consistent with all sections of the City Code to minimize potential nonconformities and irregularities upon annexation. As no inconsistencies have been identified between the proposed ordinance and the Comprehensive Plan or Chapter 22 of the City Code and furthers the goals, objectives and policies of the Comp Plan, Staff recommends that the Planning Board forward a recommendation to the City Commission of approval of the proposed ordinance which would amend the City Code to establish the I-3 zoning district.

Chairman Reilly said questions for Staff?

Mr. Dannahower said Erica, in my package here there is a letter from the attorney to Mr. Recor with "*The property owners request that the City waived the rezoning application fees as they are undertaking the cost of assisting Staff in implementing Heavy Industrial zoning category.*" Your recommendation for approval from Staff for this whole thing is that part of that or do you guys want to speak to that at all?

Mr. Carlin said Mr. Danahower, that is a request that was made by the applicant. They did the bulk of the research and work on that. The fee waiver request is something that was proposed by the applicant. We do have all the information here as far as the text amendment is concerned. That information has been reviewed for form and correctness by the City Attorney's Office. I guess I would maybe need a little more clarification as to what it is that you're asking.

Mr. Danahower said I guess my question is that is Staff in agreement with that request from the applicant?

Mr. Carlin said Mr. Danahower if that's an arrangement that was agreed up by the administrative level by the City Manager that is something we can support.

Mr. Dannahower said thank you.

Mr. Lloyd said what are the heavy uses that we are adding to our Code now by creating this? Is it that whole laundry list?

Ms. Ehly said yes Sir.

Mr. Lloyd said I guess my question is if we didn't allow those things before, what has changed to where we want to allow them now?

Ms. Ehly said Mr. Lloyd, we recently adopted the Comprehensive Plan last year and we incorporated a future land use designation of Heavy Industrial. Additionally, we have an aggressive annexation policy in the City and in order to proceed smoothly with that, we have to have consistent zoning classifications in the City in order to bring those properties in.

Mr. Lloyd said so it's kind of moving with the times in trying to create different industries?

Ms. Ehly said well to incorporate those uses that are already allowed in the County as we incorporate those properties. The property owners have those rights attached to the property when with the zoning classification.

Mr. Lloyd said so we don't have an I-3 zone now. Where geographically is the I-3 zone going to be?

Ms. Ehly said currently I think there are a few properties in the pipeline on Orange Avenue and Glades Cut-Off.

Mr. Lloyd said but other than annexing, I mean, this is specific to properties that are in the process of being.

Ms. Ehly said currently there are no properties in the City that have the Heavy Industrial land use. It will occur as development occurs. Applications are made to change the future land use and zoning within the City.

Mr. Lloyd said but are there plans to take the map as it is now and in an area add that as an I-3, allow I-3 there as well or is it a case-by-case basis?

Ms. Ehly said well, generally land use changes and zoning changes are initiated by the property owner not the City so it would be case by case.

Mr. Lloyd said there are no plans at this time to create an I-3 zone in and of itself? For instance, take.

Ms. Ehly said like an overlay or an area?

Mr. Lloyd said exactly.

Ms. Ehly said no.

Mr. Lloyd said okay.

Ms. Dixon said Mr. Chair, just out of clarification. The recycling area that we just did, I see on here that as a Conditional Use this particular area would cover scrap, waste, land clearing and yard trash recycling operations. Are we definitely sure that, I mean I know this is the last one that this individual not need to maybe change the zoning to this particular zoning of this, am I making any sense on that?

Ms. Ehly said well primarily they take in the material at this property on Avenue D that we just had. They just package it in order to send it off to a facility that actually processes the material so there is no processing going on there. There are different levels of recycling activity. Their activity does fall into the Light Industrial zoning classification. There is a general City policy that we don't want to increase intensity of land use if that's not necessary.

Ms. Dixon said okay.

Chairman Reilly said any other questions of Staff? Is the applicant here?

Ms. Ehly said we do have a representative here.

Chairman Reilly said do you have any questions of the applicant? Does the applicant have any comment?

Ms. Wood said Mr. Chair? Just for clarification. I'm kind of assuming that this use list and I'm not sure who exactly I'm asking but if this use list was taken from the County's Code? Where did that derive from?

Ms. Angelos said Cynthia Angelos technically on behalf of the applicant. That mirrors the County's Code. What triggered this is a couple of properties were scheduled for annexation that currently have a Heavy Industrial zoning classification that doesn't exist in the City now. In order for them to be able to continue to have the rights that they now have with their properties, the City is enabling those properties to come in with the rights that they now have which is consistent with their rights under the law actually. The location of these particular properties is Southern Eagle on Glades Cut-Off and the other one is Turner Machine. Did you have any other questions Ms. Wood? I'm sorry.

Ms. Wood said I think that's it so basically you're copying what's already in the County's Code, attach it to this land and bringing it into the City so it'll stay the same?

Ms. Angelos said it was pretty easy, yes.

Ms. Wood said good thing we waived that application fee cause you did all that work.

Chairman Reilly said any other questions? Comment from the public for or against? If not, do we have a motion?

**Motion made** by Ms. Dixon seconded by Mr. Hayek to forward a recommendation to the City Commission to approve the proposed ordinance amending Chapter 22, Article III, Basic Zoning Districts, of the City code of Ordinances to establish the I-3 zoning district

Those in favor were: Ms. Dixon, Mr. Hayek, Mr. Knott, Mr. Lloyd, Mr. Poitier, Ms. Wood, Mr. Yates, Mr. Dannahower and Chairman Reilly.

Those opposed: none.

Chairman Reilly said they recommended approval. It will go to the City Commission. Good luck.

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The next item considered: **Item 7 b - Amendment of Ordinance K-516, Outside Storage** – Approval of an amendment to Chapter 22, Article IV, Supplemental

Regulations, Section 22-67(e)(5) of the City Code clarifying the effective date of cargo stacking.

Board Attorney Walker said respectfully Mr. Chair. About a year ago, the City adopted Ordinance K-516 which provided certain standards for commercial and industrial buffers governing commercial and industrial uses. One such standard was a limitation on stacking of cargo containers in excess of 30 feet high. Code Sections 22-101 and 103 provide that when uses or characteristics of uses become non-conforming that they may nevertheless continue under the grandfather provisions of the Code. In this instance, it's the City's understanding that Sections 22-101 and 103 do not apply and that the cargo stacking limitations take effect immediately upon the adoption of that ordinance. There is now litigation pending where the effect of Section 22-101 and 103 are being challenged wherein it's being claimed by the property owner that those sections protect the continuing ability to stack the cargo containers more than 30 feet high. The City is comfortable with its understanding that those grandfather provisions do not apply and that the stacking limitation is now in effect. However, to lay to rest any unnecessary questions in the judicial mind, the City is proposing this ordinance to clarify its intent that that stacking limitation was intended to take place immediately upon final passage of the ordinance.

Chairman Reilly said thank you. Questions of Staff?

Mr. Yates said how did we determine that the ordinance meant that the there was no grandfathering of stacking higher than the limit set?

Board Attorney Walker said Mr. Yates, I'll be happy to furnish you with a copy of our 20-page brief on this topic. However briefly, it is our contention that this is a measure passed under the police powers to protect the health, safety and welfare. It is not a use. The term use is defined in the Code as being those uses that are specifically set out as either semi-restricted uses or Conditional Uses. None of those apply to a stacking limitation. In addition to not being a use, the stacking limitation is not a characteristic of a use which is the subject of 22-103. Section 22-103, in discussing what is intended by characteristic of uses, makes reference to things like signs, off-street parking and landscaping. This doesn't come under that class of items. Therefore, we contend that the City has the right to impose reasonable regulations in this area and that reasonable regulations are not grandfathered in. That briefly is the tenor of the argument.

Mr. Yates said thank you Mr. Walker.

Mr. Knott said Mr. Chairman, if I could ask Mr. Walker. Mr. Walker, I'm just looking at the ordinance that is in our packet here. Are the two dates supposed to be the same: the October the 16<sup>th</sup>? One of them is 2007 and one is 2008 down in the body up in the "Whereas" section.

Board Attorney Walker said respectfully Mr. Chair, Mr. Knott, I believe you have fairly identified a typographical error. It should be 2008 and that "Whereas" will need to be corrected where it says October 16. It should be 2007 not 2008. So where it says in the

body of the ordinance October 16, 2008 it should read 2007. I appreciate you catching that.

Mr. Yates said and in the "Whereas" clause, I don't think you really meant 207. I don't think the City wasn't even formed.

Ms. Wood said you're missing a zero there.

Chairman Reilly said Mr. Walker?

Board Attorney Walker said I hope you didn't discover another typographical error.

Chairman Reilly said this ordinance is just basically saying you can't. Is the gist of it you can't grandfather, this is not a grandfathered item? Is that what we're saying?

Board Attorney Walker said that's exactly right. It's intended to make clear the City's understanding that the regulation that is being imposed is not a user characteristic of a use. The grandfather provision should not be so construed.

Chairman Reilly said thank you.

Mr. Hayek said Mr. Chairman? Mr. Walker, this all came up in front of the Planning Board last year. The Planning Board even approved to allow the Port to go four high. Since the City came down and said "No, we're only going to allow three high" the Port operators have taken their containers and put them all around the perimeter at three high whereas before when it was grandfathered, they went four high but kept it in the center of the property. It was less offensive then when they kept it in the middle at four high than it is now looking like a whole garrison of three high containers all the way around. I wish there was some way the City and the property owner could work together, allow them to go four high and put them in the middle of the property so it's less offensive to everybody. I don't know if I'm directing the right question to the right person or if there is anyway to go about trying to affect this with the City? Really, I'm trying to send a message to the City Commission that says "let's think this over".

Board Attorney Walker said yes Sir. Thank you.

Ms. Dixon said Mr. Chair, I have a quick comment on this one. I do remember when this came before us and there was a lengthy discussion about it but I really don't remember us ever mentioning the applicability of a grandfather or not of a grandfather or any form of discussion with regards to a grandfather clause. I may be wrong on that. Maybe I missed something on that but did we ever discuss anything about what our intentions were at that particular time?

Chairman Reilly said no I don't believe so.

Mr. Yates said I guess I've got a question again for Mr. Walker. Mr. Walker, by passing on this does that mean that we're trying to construe the intent of the City Commission

when they pass the ordinance limiting stacking to 30 feet and we're sending a recommendation to them that this is what they think they were doing? What we think they were thinking?

Board Attorney Walker said Mr. Yates, it is the City's understanding of its Codes and Ordinances that it has the ability to adopt reasonable regulations governing conduct on property so as to protect the health, safety and welfare. If hypothetically the Port owner was using a deadly chemical to fumigate cargo and the City adopted an ordinance to say you shouldn't use that chemical to fumigate the cargo where it will endanger the health of the neighbor, in so doing the City would not be precluded from protecting the public welfare because of the grandfather provisions. The use of the chemical relates to conduct on the premises. It is not a use as defined by the Code nor is it a characteristic of the use. In this case, the City wants to remove any possible questions about whether or not this particular provision is or is not subject to the grandfathering provisions of Sections 101 and 103. Therefore, this is a proposed ordinance that would make that intent clear.

Mr. Yates said thank you Sir.

Mr. Yates said Mr. Walker, I don't see how either stacking 3 high or 4 high is going against the health, safety, or welfare of the community.

Board Attorney Walker said whether this is a good provision or a bad provision is a matter within the prerogative of the City Commission composed of elected representatives of the people of Fort Pierce to decide. This ordinance doesn't address that. This ordinance only addresses the question of whether or not that stacking is intended to be grandfathered or not. It clarifies our understanding that Sections 101 and 103 don't apply. That's all it does. It has nothing to do with whether there should be stacking height restrictions or not. That's already been decided by Ordinance K-516. This merely makes clear that that is not subject to the grandfather provisions 101 and 103.

Mr. Yates said thank you Mr. Walker.

Chairman Reilly said Mr. Walker, just so I understand. Again, we're just looking at this one item which is about grandfathering; but, if we don't accept this item, then are we saying that they are to grandfather these containers in? Then in essence, are we really kind of looking back at the whole thing all over again? This is very confusing.

Board Attorney Walker said respectfully Mr. Chair. If this ordinance were to fail and not go forth with a recommendation of approval and the Commission didn't adopt it for whatever reason, the City's position before the Court would remain the same. All this does is make clear beyond any shadow of a doubt is this is what our Code says.

Chairman Reilly said thank you.

Ms. Wood said Mr. Chair, thank you. I have similar concerns as Mr. Hayek. I've always had difficulty with this particular issue and the way it's been addressed. I agree that

limiting the stacking really does solve the fundamental conflict or question and neither of those, putting a wall around the property, I mean, even the way the ordinance was originally adopted about walling off a public right-of-way. Well essentially, that would mean that you would walling off a waterfront as well given that the waterfront is a public right-of-way. I just don't agree with the whole approach. I completely understand Mr. Walker that this is just in fact a clarification. We're really not considering the ordinance. I've sort of struggled with how to deal with this particular item because in a way I don't really want to support the clarification of an ordinance that I don't think accomplishes anything. Having said that, I'd been interested to hear anyone from the public who is here to express concern about this item.

Mr. Lloyd said I'd just like to point out that when we were discussing the issue originally, I don't think the groups that were here in opposition to it would have been as forcefully opposed to the ordinance if they thought it wasn't going to apply to them. I think everybody knew that there was not going to be a grandfather type of situation. Otherwise, it would have come up where somebody would have said "well, of course this doesn't apply to you because your grandfathered in. It would only apply to you if maybe if you sold the property to somebody else". At least in my mind, it was pretty clear that there was not going to be any grandfather type of situation.

Ms. Wood said Mr. Chair, just in response to that, yeah, it's completely logical because obviously there would have been no need to pass the ordinance had somebody not been doing somebody that somebody didn't like in which case logic that it would apply to them. That makes sense.

Mr. Knott said Mr. Walker, in your legal opinion, the passing of this ordinance, does it weaken or will it weaken the intention of the grandfather clause for Sections 101 and 103 for future, are we setting a precedent here that the City can come back with this hammer at anytime that somebody says "I'm grandfathered in" and say "No, no wait a minute. We don't think you are".

Board Attorney Walker said Mr. Chair, Mr. Knott, no. Sections 101 and 103 were left fully in tact. They're not weakened or modified in any respect by this ordinance. This ordinance simply makes clear that in this situation this is a regulation, not a use and not a characteristic of a use. Therefore, it's not subject to those grandfather clause provisions. It would have no presidential value on other subject in other words.

Mr. Knott said thank you.

Chairman Reilly said any other questions of Staff?

Mr. Yates said I know it's not a good analogy but is this kind of a expose facto ordinance addressing this question or mere clarification of what was previously?

Board Attorney Walker said Mr. Chair, this is an expose facto measure. This merely makes clear that those grandfather provisions don't apply because this is a regulation.

Those grandfather provisions don't apply to a regulation at all. No regulation enjoys grandfather protection under 101 and 103.

Chairman Reilly said any other questions of Staff? Comments from the public for or against? Please state your name and your address for the record.

Ms. Mushier said good evening Mr. Chair, members of the Board and Staff. My name is Carole Mushier, President of the South Beach Association. We took a position on this whole ordinance before you. Some of you were here some of you were not. I think Mr. Lloyd I think you hit the nail on the head. There would not have been such opposition to this stacking ordinance had they thought they would be grandfathered in. I think your rule tonight is not to revisit. You are not revisiting the original ordinance as much as you would like to. However, this is to be moved on, I believe, to the Commission to reaffirm their position that we all understood that this was not to be grandfathered clause or ordinance and that no one was to be grandfathered in under this. As I said, you hit the nail on the head. They would not have been such opposition if they thought they would have been grandfathered. I think your role is to simply take your vote and move it on to the Commission thank you.

Mr. Yates said can I ask Ms. Mushier a question?

Chairman Reilly said yes.

Mr. Yates said I think you were here and were active in that discussion. Your memory may be better than mine, did they say then "hey, we've always done it like this. We've been allowed to do it". I can't remember myself.

Ms. Mushier said well I think there was a notion that they had been stacking four and five high as a matter of fact. It was viewed that they'd gone as far as five and said since we've done it in the past we should be allowed to do it but that's as far as it went. It wasn't saying that if the ordinance was passed that they would still be allowed to do that. They were just "hey we've been doing this so don't pass this ordinance". That was my recollection at any rate.

Mr. Yates said thank you Ma'am.

Mr. Yates said I certainly remember comments like "well if you limit me to three high I may not be able to make a living here." There were certainly comments like that. I'm sure the minutes speak for themselves. I seem to remember quite clearly comments like that.

Chairman Reilly said any other comments from the public for or against? Discussion or entertain a motion.

Ms. Dixon said Mr. Chair, just one quick comment. The only thing I have a problem with is being that we didn't discuss whether it would be a grandfather clause or not and I respectfully disagree with regards to whether or not somebody would throw out all their cards or all their defenses. I mean, yeah, they were saying that "this could put out us of

business” and they also said they had been doing that in past but just because they did not adamantly say “well, we should be grandfathered” to mean that doesn’t necessarily mean that they weren’t thinking that at the time. My other thing is when we did submit this over to the City Commission we didn’t discuss anything about grandfather one way or another. We said four and the City Commission changed it to three. I find it a little difficult for me to really say what their intent was one way or the other when I don’t have the minutes of that meeting to be able to read exactly. Unfortunately, I did not listen to all of that on the television broadcast of it so I really don’t know 100% what they intended other than the way the media threw it and said that they didn’t want the stacking at all. They didn’t want the Port but that’s just the negative stuff that I heard. I have a hard time on this one saying what their true intentions were.

Chairman Reilly said but what did you when you sat in the meeting what did you think? Did you think “oh they’re safe. They’re grandfathered in.”?

Ms. Dixon said I didn’t think one way or the other with regards to if they would be grandfathered or not. That didn’t cross my mind one way or the other. This was an ordinance that we were moving forward with. I didn’t think to think of if they would be grandfathered or not.

**Motion made** by Mr. Knott and seconded by Mr. Poitier to forward a recommendation to approve an amendment to Chapter 22, Article IV, Supplemental Regulations, Section 22-67(e)(5) of the City Code clarifying the effective date of cargo stacking.

Chairman Reilly said do we want to make changes to the dates?

Mr. Knott said yes with the corrections to the dates.

Chairman Reilly said Mr. Poitier are you still a second to that with a second with the changes to the dates?

Mr. Poitier said I second it.

**Amended motion made** by Mr. Knott and seconded by Mr. Poitier to forward a recommendation to approve an amendment to Chapter 22, Article IV, Supplemental Regulations, Section 22-67(e)(5) of the City Code clarifying the effective date of cargo stacking with the following corrections: October 16, 207 changed to October 16, 2007 and any reference to October 16, 2008 changed to October 16, 2007.

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

Those opposed: Mr Hayek and Ms. Dixon.

Chairman Reilly said I guess I’ll tell Mr. Walker this is getting forwarded to the City Commission with a recommendation of approval.

Board Attorney Walker said thank you Mr. Chair.

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The next item considered: **Item # 7c - Zoning Text Amendment – Parking Standards for hotels, motels and resorts and to redefine sleeping unit** - Approval to amend Chapter 22, Article IV, Supplemental Regulations, Section 22-60(d)(2)(b) of the City Code regarding parking standards for hotels, motels, and resort hotels; and amending Chapter 22, Article I, Section 22-3, Definition as – Generally revising the definition of a sleeping unit.

Mr. Carlin said I am happy this evening to bring this particular ordinance before you all. This is certainly going to help our analysis on upcoming projects for motels, hotels and resort hotels from the lengthy discussion that we've had on previous application. As you all know, the current parking requirements identified in the Code for hotels, motels and resort hotels in based on the number of sleeping units and sleeping areas within the Code. If you recall, the Code specifically asked that you'd had one space for the first sleeping area within a sleeping unit and a half of space for additional sleeping areas. If you recall, there are no definitions contained within the City Code governing what a sleeping area is. Consequently, Staff had to analyze the floor plans with a particular development and basically determine whether or not something was a sleeping area. That was somewhat challenging. If you recall, you actually postponed consideration of an application based on that motel and you asked Staff to come back with a preliminary definition of what a sleeping area would be. We came up with some preliminary language and that too was somewhat subjective and required some interpretation; and just really didn't basically get you the standard or get the Staff the standard and for others in the community, a standard that would be applicable across the board. The revised standard, based on the packet that you have, what Staff is recommending is to have the hotels, motels and resort hotels parked at 1.1 parking space for each unit that is less than 500 square feet and to have a parking requirement for 1.6 spaces for units greater than 500 square feet. In addition, the revised standard will also be based on a threshold for accessory uses that maybe would be contained inside of a hotel and motel such as a restaurant or retail shops. The way the Code was currently written required those accessory units to be parked at 1 space for 250 square feet for accessory uses open to the general public. There was some interpretation as to what may or may not be open to the general public so we're getting rid of that provision and we're substituting it with a 50% requirement. That requirement will be 50% of whatever the accessory use is with inside the hotel, motel or resort hotel. With this ordinance, the definition of a sleeping unit has also been revised in our definition section of the City Code where the sleeping area reference within the definition was eliminated. This again was to streamline the review process for motels, hotels and resort hotels when we were analyzing it for parking. The amendment that you have this evening does satisfy the criteria specified in 22-131 of the City Code. A legal review was conducted by the City Attorney's Office for form and correctness. Those comments have also been incorporated. There are no inconsistencies that were identified before the proposed ordinance and the Comprehensive Plan or Chapter 22 which is the City Code regarding zoning. Staff recommends that the Planning Board forwards a recommendation to the City Commission for approval of this ordinance.

Chairman Reilly said thank you Mr. Carlin. Questions of Staff?

Mr. Hayek said Mr. Carlin, most of the other municipalities had a one parking space for 500 square feet for a motel room but then they allowed spaces for employees whether it was one space for every three employees etc and I see ours as 1.1 per 500 feet or 1.6. Is that allowing for the employees?

Mr. Carlin said yes Sir.

Mr. Hayek said and there won't be any additional requirement for employee parking, etc?

Mr. Carlin said no. That number that you have is representative of those types of uses that are contemplated in there. There are all kinds of hybrids and variations that you can get into but it seems like a very representative figure to account for exactly that - employees.

Mr. Hayek said my fear is that Fort Pierce has such limited large parcels that some of these small motels are just squeezing by to get enough parking spaces. I don't want to be too restrictive on that.

Mr. Carlin said one thing that you have to keep in mind when you are looking at requirements for parking based on the number of employees, that can change. It can go up, it can go down. It's subjective thing if you will. It's difficult again at the Staff level to say "Okay. We'll you tell us how many employees that you are going to have". That's not an easy variable to deal with when you are talking about parking requirements and there are some municipalities that do it. I think this provision works out better.

Mr. Hayek said thank you.

Mr. Lloyd said the 500 square feet is that like an industry standard?

Mr. Carlin said it is fairly representative based on reviewing other floor plans from other motels or hotels that we've had. It's fairly consistent. When you start going above 500, 600 square feet, you are getting into multiple rooms. Those are much larger. If you think about a standard motel or hotel, you go into a room you might have a bit of a recreation area, a little table or coffee table and then you are into the room where there is a bed and that's it - standard size.

Ms. Wood said Mr. Carlin, did you have the ordinance reviewed by the other purveyors in the area? Have you had comments on this whether or not that's an appropriate allocation of parking spaces?

Mr. Carlin said Ms. Wood, this was not distributed out to other hotels for comment or review on that. Again, when we look at these types of changes we look at what other municipalities have to see if we're bringing up to industry-accepted standard if you will.

Chairman Reilly said so if you had a 20-room hotel you would have 22 spaces?

Mr. Carlin said Mr. Chair that would depend on square footage of the units.

Chairman Reilly said if you had a 20-room typical small mom and pop hotel, you would end up with 22 spaces so that would be for all your, I mean, if it was season you'd have all your rooms booked hopefully and you'd have one for the person who runs the reception I guess and then housekeeping would have one parking space. It appears to me that it seems like, and I'm not trying to put an extra burden on the hotel but it seems a little low to me the 1.1.

Mr. Carlin said again it depends on the square footage size. If you got up in square footage, it bumps up to 1.6. It doesn't count for the, you know, the larger the units maybe the more Staff you would need to service those units.

Chairman Reilly said like Mr. Hayek was saying, maybe there needs to be, and again you don't the know the size of the hotel or whatever but maybe there needs to be a minimum Staff parking requirement. I don't know because small hotels are what we probably looked at here a lot. They'd have limited parking it looks like.

Mr. Carlin said I'd also like to point out. Mr. Chair, just in regards to that, the comments that were provided by the public included the South Beach Association and they were certainly supportive of this particular change. The fractional requirement that you are speaking to is consistent with for example, St. Lucie County. They have a fractional requirement that contemplates that. It's not out of the question. But again, you bring up a valid point. It could be parked with an employee-based ratio but again, that can change, Staffing levels and things like that.

Chairman Reilly said does it also I mean if you had twenty-five spaces or twenty-two 500 square foot rooms would you then round up to the next space? Is that how this works?

Mr. Carlin said Mr. Chair, it's 500 square or greater require the 1.6. If it's less than 500 square feet it's 1.1.

Chairman Reilly said no. I'm saying okay you have a 22-room hotel. I hate to do all those little scenarios but, you have a 22-room hotel which means you are going to have 2 extra spaces plus a fraction of a space. Do you round up that additional?

Mr. Carlin said yeah. The City Code requires fractional spaces to be rounded up the way the Code is required now. So yes, you would be required to round up.

Chairman Reilly said any other questions of Staff? Comments from the public for or against? Please state your name and address for the record.

Ms. Mushier said good evening again all. Carole Mushier, President of the South Beach Association. I just want to support what Mr. Carlin has said. We have reviewed this and we support the Staff recommendation to the amend the City Code on the parking standard and to delete any reference to sleeping area. Thank goodness. You may recall that we took issue with the existing ordinance that required a definition of a sleeping area within a sleeping unit. I guess I kind of beat you to death on it. It required a subjective opinion by Staff to determine the number of parking spaces. This proposed revision eliminates the

subjectivity and uses a quantitative determination based on the square footage of each unit. This is now consistent with all other parking requirements within the City using square footage. As you have pointed out, the .1 space or 1 for every ten units now take into consideration employees Staff parking something that was missing in the original ordinance so we totally support the revision of the ordinance.

Chairman Reilly said any other comments for or against? Motion?

**Motion made** by Mr. Knott and seconded by Mr. Hayek to forward a recommendation to the City Commission to approve to amend Chapter 22, Article IV, Supplemental Regulations, Section 22-60(d)(2)(b) of the City Code regarding parking standards for hotels, motels, and resort hotels; and amending Chapter 22, Article I, Section 22-3, Definition as – Generally revising the definition of a sleeping unit.

Those in favor were: Mr. Knott, Mr. Lloyd, Mr. Poitier, Ms. Wood, Mr. Yates, Mr. Dannahower, Ms. Dixon, Mr. Hayek and Chairman Reilly.

Chairman Reilly said Mr. Carlin your item will move to the City Commission with a vote for approval. Good luck.

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The next item considered: **Item 7d - Zoning Text Amendment – Off-street parking lots as a Conditional Use** - Approval to amend the E-1, E-2, E-3, R-1, R-2, R-3, R-4, R4A, R-5, C-2, C-6, I-1, OS-1, OS-2, A-1 and A-2 zoning districts to permit commercial off-street parking lots as a Conditional Use.

Mr. Carlin said good evening Mr. Chair, members of the Board once again. Tonight, the proposed ordinance that you have before you all is being initiated to facilitate the goals, objectives and policies in the City's Comprehensive Plan regarding access to public recreational facilities. The zoning districts including the E-1, E-2, E-3, R-1, R-2, R-3, R-4, R-4A, R-5, C-2, C-6, I-1, OS-1, OS-2 and the A-1 Aquatic Zoning Districts will be amended to allow commercial off-street parking lots as a Conditional Use. The following elements of the City's Comprehensive Plan are applicable to the proposed ordinance: Section 7.5.6 of the Recreation Open-Space Element which specifies that parking areas shall be located in proximity to the primary attractions of each recreation site to the maximum extent that is possible and feasible; Section 1.7.3 of the Future Land Use Element which specifies that the City shall study opportunities for the creation and enhancement of public open spaces, small community centers, amphitheaters and address public access to the waterfront in the Land Development Regulations by 2010; and, to encourage the construction of shared parking facilities both public and private to meet the current and future demand. In addition, Section 5.9.6 of the Coast Management Element specifies that the City shall continue to identify potential locations for each access points, establish minimum design standards for each access facilities and determine annual funding sources for installation and maintenance of new facilities. Currently, the Fort Pierce Redevelopment Agency is currently under contract to purchase properties in the R-4A zoning district that will be used create additional parking for beach access. However, the R-4A Zoning District does not

specify this use. As such, in order for the City to provide greater access to public recreational facilities and to carry out the goals, objectives and policies in the City's Comprehensive Plan, the City Code must be amended to permit commercial off-street parking lots as a Conditional Use. Now, the proposed amendments are consistent with the Comprehensive Plan and the proposed amendment meets the standards identified in Section 22-131 of the City Code. A legal review of the proposed ordinance has been conducted as to form and correctness by the City's Attorney's Office and the comments have been incorporated. As no inconsistencies have been identified between the proposed ordinance and the Comprehensive Plan or Chapter 22 of the City Code, Staff does recommend that the Planning Board forward a recommendation for approval of the proposed ordinance that would allow commercial off-street parking lots as a Conditional Use in the zoning districts that I have described.

Chairman Reilly said thank you Mr. Carlin. Questions of Staff?

Ms. Wood said Mr. Carlin, I have a lot of concerns about this ordinance because it basically means, the way I'm reading it is, that in any residential neighborhood where any of us live somebody could come in, buy a few lots, tear down the houses and put in a parking lot. I understand that's a Conditional Use but I would argue that in no residential neighborhood is a commercial parking lot an appropriate use. If as you say in Staff report that the intention is to provide for access close to public facilities, beach access and such things which I'm completely in agreement with, why not just put in for example the OS-1 category and then require that parks rezone to OS-1 which is probably what they should be anyway. Why does it have to be in every zoning district?

Mr. Carlin said Ms. Wood you make a very good observation. All the residential neighborhoods allow parks and recreational areas as a Conditional Use. It's not inconsistent with that provision. This is just being placed in there to facilitate those types of recreational facilities.

Ms. Wood said but as with any other use that anyone might propose in any zoning district, parking would be an appropriate accessory use of the proposed use. If somebody is proposing a restaurant as a Conditional Use in a residential use they'd have to provide parking consistent with that restaurant. It might also be appropriate to add into a parking code a standard for parking spaces per acreage of a recreation facility.

Mr. Carlin said that certainly is a suggestion we can implement with the rewrite of the LDRs. It's certainly one of the biggest areas of concerns on the Staff level and from the members of the public with regard to the Code is the parking standards as you just saw. We continually revisit the issue of parking being either outdated or inconsistent with certain new ordinances that we've implemented within the City. Certainly that is something that can be contemplated. The only response I can give you on that is that there may not be room on the recreational areas that are already designated for parks and those types of things that are already in existence and providing opportunities for parking for those types of facilities would enable and mimic the Comprehensive Plan's goals, objectives and policies. You are right. Those uses that you would have for a restaurant ordinarily are

contained on site. However, the Code does allow for off-lot parking within certain distances as long as those requirements are met. Point well taken.

Chairman Reilly said so right now if we decide we're going to put a park in somewhere or beach access there is no requirement for parking on that for the beach access or the park?

Mr. Carlin said as it stands now, our Code for parking standards for parks and recreations let me flip to that and I'll tell you if we have that in there. I don't believe there is a provision in there. We have public and semi-public offices. No. The answer to your question is no. We don't have a provision for marina parking for a number of slips with all the marina and boat operations here. Again, there is another element of the Code that doesn't contemplate all the different uses. That's where the LDR rewrite is going to come into play to bring our parking standards up to and identify more uses and have been consistent with other municipalities. No, there is no provision in there.

Chairman Reilly said what this ordinance is trying to do is basically just give us parking for these beach accesses?

Mr. Carlin said recreational facilities.

Chairman Reilly said and those items can be a park? I don't know the Code by heart there. A park can be placed or a recreational use can be placed in any type of residential zone.

Mr. Carlin said via Conditional Use. This would also be implemented via via Conditional Use. There is a mechanism in place where the Commission can determine whether or not it's appropriate to in fact allow the parking lot to be placed in that particular area given the impacts that it may or may not have on the surrounding property owners. It also allows for the adjacent property owners or property owners within 500 via via the Conditional Use application to go ahead and provide public input as to whether or not that's something they envision for their area. Again, there is a balance that we're trying to strike here in trying facilitate the goals, objectives and policies of the Comprehensive Plan but also strike a balance of where it's appropriate.

Ms. Wood said and so as a follow-up to that, I think again my concern is that it's not, even though that may be the intent of the ordinance, that's not what's written. If the Conditional Use for the commercial parking lot were somehow attached to this park Conditional Use, then that would be a different thing but it's not. It's a separate thing and so anybody can apply for the Conditional Use for a parking lot in any neighborhood. I think I've beat that enough.

Mr. Knott said I just want to ask Staff. Are we talking public parking lots or commercial parking lots here?

Mr. Carlin said Mr. Chair, the only definition that is in the City Code at this time is for commercial off-street parking lot. That's the only thing we have in our City Code.

Mr. Knott said but what's generating this is for service to public facilities, correct?

Mr. Carlin said that is the intent of facilitating this order.

Mr. Knott said this is not the ten park all day for ten-dollar type parking lots that we're talking about here? We're talking about this is a public parking lot, correct?

Mr. Carlin said public parking lot but if you do read our definition in our City Code of what a commercial off-street parking lot is, it does reference providing it for.

Mr. Knott said but rather than through like Ms. Wood is talking about, rather than throw a commercial parking lot into residential areas why not go back to our Codes and write our thing for a public parking lot that the City can generate or construct a public parking lot in these zoning things with still a Conditional Use of some sort but rule out a commercial parking lot because I don't want people parking in my backyard as a commercial parking lot, a public parking lot, that's one thing where you have an access to public facilities.

Mr. Carlin said Mr. Knott respectfully there is no provision as I indicated in the Code that references different types of parking lots. What I can tell you, for example, if you've ever been to Fort Lauderdale, for example, on the beach they have parking lots right along the A1A there. You park your car, you go to a meter, you put a dollar in or whatever and it gives you an hour for parking there.

Mr. Knott said is that what we're trying to do with this?

Mr. Carlin said again we're operating within the confines of the only definition in the Code as it stands now is a commercial off-street parking lot. There is no other condition. If the Board is interested in clarifying in having additional language placed in the definitions of 22-3 by creating a different type of parking lot, we can certainly contemplate that.

Mr. Knott said but that is the intent of this. You don't have half a dozen vendors out there waiting for you to set up an allowance for them, a section of each of these zoning districts to build a commercial parking lot do you? This is just to serve the City's need for parking for public facilities correct?

Mr. Carlin said this is to allow these parking lots to be constructed there. I haven't gotten into the specifics as to whether these lots are going to be owned by the City or constructed by the City and maintained by the City. I have even delved into that issue.

Mr. Knott said I am very uncomfortable with throwing all these things into there without having a better description of who is going to own and operate these things and what kind of facilities, how much they can charge or whatever.

Mr. Carlin said let me read you the definition of a commercial off-street parking lot the way the Code currently reads it. It says "any area other than a public right-of-way which is used for the parking of cars. It is available to the public for a fee which includes all of the space for the movement of vehicles and people, landscaping and access drives." That's the only definition that we have in the Code referencing any type of parking. Again, the Code

doesn't have a definition in here of what a restaurant is but yet we have parking standards for restaurants. If there is additional language that you want to see implemented on this particular ordinance, you can certainly make that recommendation.

Mr. Knott said myself I'd like to see the word "public" in there rather than a commercial operation. The City could lease it, I guess, to somebody else. Anyway, that's the way I feel about it.

Mr. Poitier said Mr. Carlin my question is that like she said [Ms. Wood] you are leaving this wide open. If anybody wants to put a parking lot, build a parking space they could do it. You need to amend this a little better than this.

Mr. Yates said Ms. Wood, do you see a way that we could add language to this ordinance or should we just ask Staff to revisit it and vote on it as it is?

Ms. Wood said Mr. Chair, Mr. Yates, my original suggestion was to make it a Conditional Use in OS-1 and add parking requirements in the parking Code, 22-60 or whatever that section of the Code is and then have a park rezoned to OS-1 as it probably should be anyway because if you've got parks with all sorts of different zoning districts than you probably have no easy way to tabulate the park acreage in the City. Parks should be zoned as parks. They shouldn't have all of these different zoning classifications. To me, that was the most logical way to approach it if in fact the point is to provide easy accessibility to public park and recreation facilities. Why not make them have the zoning district classification that they're supposed to have anyway?

Mr. Knott said in other words Kara you're saying that if for the OS-1 if it's going to serve the OS-1 if the City purchase or whoever purchase an off-site site for the parking if it was zoned R-4 they would rezone it to OS-1 in association with the.

Ms. Wood said right. I mean, if that is the intention for the City purchasing the property. If the intention is for something else to develop it someday in the future inconsistent with R4-A, then that's a different thing.

Mr. Knott said all we've got in front of us is the parking. If that's what it's for then it should be just for that if that's all it's going to serve rather than cloud up all these other zoning districts.

Ms. Wood said yeah and I think again the argument about that parks are allowed as Conditional Uses in these zoning districts, well I mean, the reality is nobody comes in asking for a Conditional Use to change their residential lot to a park and then want to spend money to pave it to provide parking there. If you propose a park in a residential area, normally you are doing within the context of a development, a subdivision, a PUD. In which case if you are going through some type of PUD process, then the parking is provided consistent with your site plan and consistent with whatever the nature of that park is whether it's a little tot lot where you want to have some parking close by or if it's a clubhouse and you look at well how many people live far away from the clubhouse. It provides some context about what those parking regulations are.

Mr. Yates said to that end should we ask Staff to do that and vote not to send this on to the Commission?

Chairman Reilly said Mr. Walker what are our options?

Board Attorney Walker said respectfully Mr. Chair the Code is very clear that the Board has a duty to act upon a matter before it by recommending approval, disapproval, or recommending changes. The Board does not have the right or the ability to not forward something with it's recommendation except in the narrow situation set out by Section 22-143 which says that the Board can table a matter to a time certain if it needs more information. Otherwise, you may or may not disagree with a proposed ordinance. If you disagree, then you recommend disapproval and it goes on to the Commission and the Commission makes a final decision taking into account to recommend that it thinks best. If you recommend approval, it goes forward in either case. In either case, it goes forward. If you want to recommend disapproval or approval with changes, you can set out what you think those changes ought to be. A draft goes forward in any case along with the recommended approval but the Board does not have the ability to simply bottle up a proposed measure because it wants to see changes made. It has to act so that the Commission can then review the matter and make a final decision.

Ms. Wood said Mr. Chair, I have a suggestion if this helps. Perhaps we can, if the Board is leaning this way, perhaps we can forward a recommendation of approval to the City Commission with the condition that all of the zoning districts be stricken from the proposed ordinance with the exception of R4-A, OS-1, OS-2, A-1, and A-2. That would provide for the ability to have commercial off-street parking areas consistent with A-1 and A-2 which would be the, I guess the marina area. I don't even know what those are honestly but I assume that's why they're dumped in there as well. If it's the Commission's intention or F.P.R.A.'s intention to not change the zoning category for this particular collection of parcels that they're acquiring, as the Staff report says the intention is to provide for beach access as well as the other things that have been stated, then R4-A is in there.

Chairman Reilly said what were the zoning areas again you recommended?

Ms. Wood said R4-A, OS-1, OS-2. You can sort of take it or leave that one, it's really meant more for preservation and conservation rather than recreation so it really may or may not be appropriate. Generally, you don't want to be putting asphalt in areas that you're trying to preserve. Maybe it's just R4-A, OS-1, A-1 and A-2. Maybe Staff can weigh in.

Mr. Knott said I'll second that motion.

Chairman Reilly said we haven't had public comment.

Ms. Wood said that's why I wasn't actually making a motion. I was just sort suggesting it and leaving it on the table.

Mr. Lloyd said right now if somebody wants to build a parking garage is there a use where they can do that just on a parcel of land even in a commercial area?

Mr. Carlin said Mr. Chair, Mr. Lloyd, in a commercial area, yes that would be permitted.

Mr. Lloyd said that's a permitted use. Our real concern here is in the residential area. I guess I'm thinking to myself who in the heck would build a parking lot in a residential area to begin with in a City like Fort Pierce? The only thing that I can envision is if you have for instance, a restaurant. A restaurant is really all I can consider in a zone that abuts a residential area and they need more off-street parking for whatever reason. That's the only thing I can envision. At first, my thought was well it's still a Conditional Use. They still have to get the approval of the Board and I'd like to think that the Commission uses discretion in those areas but then I just can't envision anything in my head where a parking lot would be appropriate in a small town residential area in Fort Pierce.

Mr. Yates said I was hoping maybe I could tear down my house and put in a parking lot. People would walk to the new federal courthouse.

Mr. Lloyd said as long as you keep the cottage.

Mr. Yates said Mr. Lloyd might object at the meeting.

Ms. Wood said Mr. Chair, Mr. Lloyd. I sort of churned that around in my head as well when I was reading this and I think how I saw it playing out and not even just in the residential neighborhoods but in the other commercial neighborhoods that are not general commercial that are being added to this ordinance, my concern is that because I've had applicants come to me with these types of proposals before that it can be proposed as the definition in the Code says, "commercial off-street parking area for cars". Then it turns into a parking area for RVs, trailers, boats, anything else that a parking area could actually gain more income from than just a parking lot for cars. Then it becomes a Code Enforcement issue. Given that despite the wonderfulness of the Code Enforcement Staff in the City, they have not been able to make a difference for a decade in the twelve ex-convicts that are living across the street from me despite the fact that it's not allowed in the zoning district. I'm really thinking that Code Enforcement issues for a parking area are going to be at the bottom of the list. I don't want that to then trickle down to the other bevy of issues that other City departments have to deal with.

Mr. Lloyd said so what is spurring this on is this the purchase of the land on the beach?

Mr. Carlin said that's correct, Mr. Lloyd.

Mr. Lloyd said this is the whole reason this has even come up.

Mr. Carlin said that is the genesis for starting the analysis and after reviewing it it made sense to look at putting it in areas where there are park and recreational areas out there and facilitate the goals, objectives and policies. That's why we got here today. The FPRA

is in the process of closing on those properties and they do need to have, in order for them to facilitate that, they do need to have the Conditional Use provision.

Mr. Lloyd said and the zoning of those properties is what again?

Mr. Carlin said I believe it's R4-A.

Mr. Lloyd said and we don't have an objection to that type of, for this being a Conditional Use in R4-A as far as what we said. One suggestion would be exactly what to do with what Ms. Wood suggests is pick and choose what we definitely don't object to and then if later on you can always pass another ordinance if you want single-family to be included in that list for purposes of tonight.

Mr. Carlin said if I could just respond to that Mr. Lloyd. Just keep in mind with the R4-A, it does allow for single-family dwellings. It allows for a whole host of uses that are allowed in the R-4 and the R-3. The distinguishing factor between the R-3 and the R-4 that bumps it up is that neighborhood commercial uses are allowed in the R-4 and they are not in the R-3. I just wanted to point that out if that helps you.

Mr. Lloyd said but if we don't pass this then those properties that the FPRA is purchasing, I mean, it's going to defeat the whole purpose of purchasing those lands for public use. That's definitely a concern to me. I like what they're doing by creating access to the beaches.

Mr. Poitier said could I make a motion with a recommendation that we made?

Chairman Reilly said we still have to get public comment. We've just been kind of batting this around here. Are we done?

Mr. Hayek said Ms. Wood brought up a good point about asphaltting these parking lots. Because we don't have a Code other than a commercial lot, is under a commercial lot, is that required to be paved?

Mr. Carlin said Mr. Chair, Section 22-60 of the City Code sees subpart, I believe, 7 does reference that all off-street parking and loading must be done in accordance with Chapter 17 of the City Code and that references Engineering's specifications. My understanding is that asphalt is or some other hard surfaces required that there may be some provisions in that Chapter 17 that deals with brick pavers and some alternate type pervious, semi-pervious materials. Again, we don't administer Chapter 17 so I can't speak with 100% certainty but you do bring up a very good point and that is our City Code is again antiquated with regard to standards for pavement because we recognize that we are in an environmentally-sensitive area near beaches and we have wetlands. There may be need to be alternative-type parking standards that don't have all the runoff going directly into the lagoon with the oils or maybe natural percolation is another preferred type of parking specification that needs to be integrated as we go through the rewrite. This has come up several times on applications that have been before planning Staff and whether or not you can have pavement or not, it can be shell rock, things that.

Mr. Hayek said what about just leaving it as natural grass?

Mr. Carlin said well interestingly enough the City Code does allow for churches to have 50% of their parking to be grass. It's like, well then churches can do it why can't some other places do it. It's I think a weakness in the Code where it hasn't been brought up to today's standards. This was done many, many years ago and we recognize all the areas in the Code that need to be changed. This is one of them.

Mr. Hayek said perhaps could we not put a recreational parking area and rewrite the Code to allow for natural grasses to be the parking area to maintain the integrity of the beach and the look there? We don't want to pave over half of our beach area.

Mr. Carlin said it's a great idea in theory but until you actually get into the logistics of are there any implications with that those would have to be looked at and examined to see whether or not that is practical. It sounds good but the question marks would have to be answered.

Chairman Reilly said I'm going to move to comments for or against from the public.

Ms. Mushier said good evening again. Carole Mushier, President of the South Beach Association. Ms. Wood has kind of hit the nail on the head for what our concerns were. Greater access to public recreation is much needed particularly on the beach but we have concern about including E-1, E-2, E-3, R-1, R-2, R-3 because it could be problematic as you have stated particularly if it is not specified that such a parking lot in these zoning districts be located in proximity to the primary attraction of a recreation open-space small community center and for additional public access to waterfront and beach access points which has been used as part of the justification by Staff. Just to go on further and I think you are all on this page so I don't want to beat a dead horse about R-1 and R-2, I think I'm sensing that you folks would not see those zoning districts being included in this at this time but I would say I have a vacant lot next to me in an R-1 district and Conditional Use which everybody says "well they have to go through it". Again, do remember please and you know this very well it's determined by the City Commission and by a four-fifths vote they can grant Conditional Use even if all property owners within 500 feet say no and if you say no. That is possible. I can't imagine that they would do that. Not this Commission but I have to worry about future Commissions. I'm saying take out the ones that are inappropriate and I believe the FPRA is under a 60-day deadline for the contract on the purchase of the property so the R4A part I would suggest must go forward or else you are subjugating the purchase of those lots. What they will do is if they cannot have agreement, this is my understanding now I'm sure I'll be corrected, it is my understanding that if they do not have the provision of using that as a parking lot in an R-4A, remember R-4A is only on Hutchinson Island, then they will not go through with the contract. Hatefully said, the ball is in your court on that. Please do consider negating any of the purely single-family residential areas. Granted R4-A can be single-family but that is not the primary use in the R4-A. Thank you.

Chairman Reilly said thank you. Please state your name and address for the record.

Ms. Baker said good evening. My name is Marsha Baker and I live on South Beach and I have a 200 foot vacant lot next to my single-family house which is zoned R4-A. I'm across the street from a failed aborted hotel/motel condo development and across the street from a bordered up remains of this five-star hotel. I am very concerned about this not only because I live right next to a lot which is according to everyone supposedly okay to have turned into a parking lot but for all of the other families who live in R-4 locations around this City. There are many, many people in this City who live next to or across the street from commercial developments - commercial developments that have a lack of parking. There are a lot of empty lots in the City. If you take a 120' x 120' lot anywhere in the City where you have single-family or duplex homes and also have commercial use and you have an empty lot that can be turned into a commercial parking lot with the use of any of those nearby businesses. Let's take the subject property on South Ocean Drive which is the subject of this contract. It is surrounded by single-family and duplex and on the back of it is very expensive multi-family residences; on the Oceanside across the street, extremely expensive single-family residences all in R-4A areas. Hypothetically speaking, if this passes and then the Conditional Use is granted over the objections of the property owners which could be done, then these people just like myself if it happened next to me would have a tremendous deterioration in their property values. Who wants to be next to a parking lot? Who wants to be next to recreational vehicles coming and going all hours of the day with all the attendant things. Plus of course, on a small 120 x 120 foot lot the requirements for a parking lot in the City I don't believe could be met. Especially, since it fronts on South Ocean Drive which is a big State highway and has its own requirements. I don't see how they could have the ingress and egress which is required under the Code. This whole thing has just been a nightmare for anybody who lives as I do in the area and sees the potential for the whole area of South Beach and many other areas of Fort Pierce to be potmarked with commercial parking lots simply because there is a business nearby that needs extra parking.

Chairman Reilly said thank you. Any other comments from the public? Discussion?

Mr. Lloyd said Mr. Chair, I have another question for Staff. Is there anything in the Code that would prohibit recreational vehicles from parking overnight? I guess one of my concerns would be is lets say somebody if we allowed this ordinance and for instance the lot that the City has there or may have in the future somehow fell into private hands and then they turned into an RV place where people with RVs could park and sleep there overnight?

Mr. Carlin said Mr. Lloyd, the answer to your question is I'm not aware of any provision in the Code that would restrict that type of activity; However, we deal with Chapter 22, Zoning. There may be other provisions within the City's regulation that govern how late someone can park on the side of the street at night or those types of things. I'm not aware of anything in the Code that specifically addresses your question.

Mr. Lloyd said okay.

Chairman Reilly said Mr. Carlin if you change park zoning, if a park was currently where you proposed to have a park was in the R4-A and you wanted to change to an OS-1 is it a lengthy process?

Mr. Carlin said yes. It's a process that you have to go through. It doesn't happen overnight. There is analysis that is involved with doing that type of transaction.

Ms. Wood said I would argue not lengthier than a Conditional Use process.

Mr. Carlin said that may not be necessarily true because if you have to, future land amendment or something along those lines it would be really depend on the underlying land use so it wouldn't be equated, it shouldn't be equated being just a Conditional Use because it really depends on the underlying land uses and the type of change that is being requested.

Ms. Wood said OS-1 would be inconsistent with wetland use? It's an open-space zoning district. How would it or why would it be inconsistent with any of the land uses?

Mr. Carlin said well I'm not saying it is I'm just saying that the process depending on what the request is may necessitate changing things up. There's a process that goes with this. It can be done in a timely manner but it would involve going through a review process on that.

Chairman Reilly said any further discussion/questions?

Mr. Knott said I guess my only question is why the A-1, A-2, why they need to be included with this?

Mr. Carlin said well the aquatic zoning districts provide for those types of aquatic-type activities. Water-dependent recreational facilities, marine research educational facilities so there are some provisions there that.

Mr. Knott said okay, I just wanted to know. I'm just curious because we had talked about forwarding this onto a recommendation to trim it down to R4-A, OS-1 and 2, A-1 and 2, is that correct? Is that what we're talking about?

Chairman Reilly said it sounds like we're going with. Mr. Carlin, again back to I guess I keep saying this purchase of land, I'm trying to understand how the City works on this but if they decided to purchase the land anyway and change zoning after they purchased it, is that a hard thing to accomplish for the land owner being the City to change the zoning to OS-1 after they've purchased it? Is it risky them being the landowner?

Mr. Carlin said Mr. Chair, given the contract-type issues where things are contingent upon whether or not can or cannot do a certain use or do.

Ms. Wood said well they're still contingent. They still have the Conditional Use.

Chairman Reilly said you are still not going to have a Conditional Use right now. I just don't understand why if you have the landowner them being the City and it going before the City to have change of zoning why this just couldn't be under, like Ms. Wood said, why couldn't it just all be under OS-1? Why parks couldn't be under OS-1?

Mr. Carlin said Mr. Chair, theoretically if that was something the FPRA intended to do or follow through, they could certainly make that argument. Again, I don't know the specifics involved with the contract that they have for acquiring these particular properties in the timeframe by which that needs to occur.

Chairman Reilly said any other discussions/questions?

Ms. Wood said Mr. Chair, I'd like to make a motion if it's appropriate at this point? I'd like to motion that the Board recommend the approval of this ordinance with the condition that the residential zoning districts be removed and to include only the zoning districts R4A, OS-1, A-1 and A-2.

**Motion made** by Ms. Wood and seconded by Mr. Yates to forward a recommendation to the City Commission to approve the amend the City Code to permit off-street parking lots as a Conditional Use with the condition that the residential zoning districts be removed and to include only the zoning districts R4-A, OS-1, A-1 and A-2.

Mr. Lloyd said refresh my memory about C-2 and C-6, what do those entail; in general, just commercial?

Ms. Wood said I believe C-6 is Marine Commercial?

Mr. Carlin said that's correct.

Ms. Wood said and C-2 is sort of a Neighborhood Commercial. Again, I think a parking lot is not appropriate in itself in a neighborhood commercial zoning district. I think it very much compromises the sort of walkability that you intend to want to achieve in a neighborhood commercial type use.

Chairman Reilly said a motion and a second. Any other discussion? Roll call please?

Those in favor were: Mr. Lloyd, Mr. Poitier, Ms. Wood, Mr. Yates, Mr. Dannahower, Ms. Dixon, Mr. Hayek, Mr. Knott and Chairman Reilly.

Chairman Reilly said Mr. Carlin, it was hard talked battle but your ordinance will be going to the City Commission. Good luck.

Those opposed: none.

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The next item considered: **Item # 8a – Rezone - Trinity Lutheran Church** – Approval for the change in zoning classification OS-1, General and Recreational Open Space to R-2, Single-Family Intermediate Density, 5 dwelling units per acre. The property is located at 2011 South 13<sup>th</sup> Street. The owner/applicant is Debbie Manis, President of the Trinity Church congregation. The representative is Claude T. Hessee, Treasurer of Trinity Lutheran Church.

Chairman Reilly said could we have Staff report please?

Ms. Ehly said good evening Mr. Chair, Board Members again. The applicant is requesting approval for the change in the zoning classification on a 4.78 acre parcel located at 2011 South 13th Street from OS-1, General and Recreational Open Space to R-2, Single-Family Intermediate Density. The property consists of Trinity Lutheran Church which has been in existence as an organization since 1952. During the process of submitting a Conditional Use application to operate an accessory pre-school facility onsite, it was identified that the current zoning classification of OS-1 was inconsistent with the existing land use. Additionally, it was identified that at some point the property was zoned OS-1 along with the surrounding recreation and open space area without consideration of the existing land use. The applicant is requesting a change in zoning classification to R-2, Single-Family Intermediate Density zone because this is the lowest intensity zoning classification that allows for Churches, schools and daycare centers as a Conditional Use, per Section 22-25 (c)(2) of the City Code. Because this rezone application involves a church in existence for decades and the application does not include any new development, the impacts to public facilities are currently being absorbed by the public facilities. As the proposed rezoning is consistent with the surrounding properties as they have been co-existing for decades, is consistent with the Comprehensive Plan and as the rezoning satisfies the amendment standards specified by Chapter 22 of the City Code, Staff recommends that the Planning Board forward a recommendation to the City Commission for approval.

Chairman Reilly said thank you. Questions of Staff?

Mr. Knott said so if they want to put a parking lot in there.

Ms. Ehly said they can now but they won't be able to if they change.

Mr. Knott said better hurry.

Mr. Carlin said it could be grass though.

Chairman Reilly said was the church built before the OS-1 zoning?

Ms. Ehly said Mr. Chair, yes. There are no exact dates in our records as to when the zoning change occurred but they did acquire the OS-1 zoning at some point probably in the 70's. There has been several instances of that in the City where the zoning classification and the use that has been around for sometime is inconsistent.

Chairman Reilly said thank you. Any other questions?

Ms. Wood said has it been discussed at all in the land development revisions to propose some type of institutional zoning district? I remember this from this sort of inconsistent problem that there is not an appropriate zoning district for this particular use and so, in this case you are basically up-zoning a property just so that they can have a church?

Ms. Ehly said Mr. Chair, Ms. Wood we do have the Institutional Land Use Future Land Use and one of the goals of the rewrite is to make our zoning Code consistent with the Comprehensive Plan and to have zoning classifications that will implement the land uses that we have available. I'm expecting that they would have an institutional zoning classification.

Mr. Carlin said this book will no longer look like this book.

Ms. Wood said twice as big I'm sure.

Chairman Reilly said any other questions of Staff? Actually, comments from the applicant? Comments from the public for or against? Alright, do we have a motion or further discussion?

**Motion made** by Ms. Dixon and seconded by Mr. Hayek to forward a recommendation to the City Commission for approval for the change in zoning classification OS-1, General and Recreational Open Space to R-2, Single-Family Intermediate Density for Trinity Lutheran Church located at 2011 South 13<sup>th</sup> Street.

Those in favor were: Mr. Poitier, Ms. Wood, Mr. Yates, Mr. Dannahower, Ms. Dixon, Mr. Hayek, Mr. Knott, Mr. Lloyd and Chairman Reilly.

Those opposed: none.

Chairman Reilly said your zoning classification will move forward to the City Commission with an approval.

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The next item considered: **Item 8b – Breckenridge** - Approval for the change in zoning classification from County AG-1, Agricultural-1, to City R-5, High Density Residential, 15 dwelling units per acre. The property is located South of Okeechobee Road, West of the Turnpike. The applicant/owner is Zentex Ventures, LTD. The representative is Lucido & Associates P.A.

Mr. Knott said Mr. Chair, I filed the form 8B with the Secretary. I have a possible voting conflict with this parcel because I'm doing some work for one of the consultants of the applicant's. I'll have to recuse myself.

Chairman Reilly said thank you. Can we have Staff report please?

Ms. Ehly said the next item is a request for a zoning atlas amendment for a property that was recently annexed into the City in October. At that time, a future land use designation of MXD, Mixed Use Development, was applied. As the City Code does not include a zoning classification comparable to AG-1 that it had in the County, the property retained the zoning classification. The applicant is now requesting approval for the change in the zoning classification from County AG-1 to City R-5, High Density Residential in order to develop the property as an upscale multi-family housing development. The 79-acre property is located west of the Florida Turnpike and south of Okeechobee Road and is currently vacant. The change in zoning classification is consistent with the MXD future land use designation and surrounding future land use designations. Additionally, the location is ideal for a high density residential zoning district with access to regional transportation networks and in close proximity to commercial properties able to serve the development while keeping vehicular miles traveled low in accordance with new legislation passed in July. Part of the analysis regarding a rezoning application requires a comparison of the impacts to the capacity of the five public facilities for which concurrency is applicable. Specific concurrency requirements regarding public facilities will be evaluated during the time a site plan is submitted for review and the applicant will be required to complete an application for a certificate of concurrency. It should be noted that although the increased impacts to public facilities of the proposed zoning classification in relation to the current zoning classification are significant, the intensity is within the limits of the future land use designation and these impacts are anticipated to be absorbed as capacity inventories are based upon land use designation rather than zoning classification. As you can see by this slide, the change in zoning classification will result in an increase of 821 dwelling units. There is a significant increase in demand upon potable water and wastewater facilities. However, it should be noted that the property is currently located within the St. Lucie County urban service boundary and it is anticipated that the impacts regarding potable water and wastewater will be absorbed by this agency. There is an increased demand upon park and recreation facilities. The City is currently just breaking even with regard to capacity of neighborhood and community parks. Further analysis during development will determine if the adopted level of service will be affected and any mitigation requirements will be included in the terms of the certificate of concurrency. In accordance with Florida Statute, changes in zoning classification that result in an increase in residential dwelling units must be reviewed for school capacity. The change in zoning will demand an additional 109 student stations in K-8 schools and 47 student stations in high school. At this time, the Concurrency Service Area serving the City of Fort Pierce is anticipated to have adequate capacity. The change in zoning classification will result in an increased demand on transportation facilities by 478 PM Peak hour trips. It is anticipated that the improvements to Gordy Road will be a minimum requirement during development. In addition, the increase in density will require 13 times what is needed to serve the existing zoning classification for solid waste. As the proposed rezoning is not inconsistent with the surrounding properties; is consistent with the Comprehensive Plan and the exiting future land use designation retained by the property; and as the rezoning satisfies the amendment standards specified by Chapter 22 of the City Code, Staff recommends that the Planning Board forward a recommendation to the City Commission for approval.

Chairman Reilly said thank you. I have some questions real quick. Maybe I'm not remembering correctly but when we normally do a zoning change or change anything, don't

we normally have some type of site plan or drawings or anything to kind of have an idea of what development is going in there?

Ms. Ehly said I think at some times in the past you have. However, the analysis for rezone doesn't include the site plan or the future plans for development. You are looking at the impacts on the public facilities and the capacity of the City to be able to absorb those impacts.

Chairman Reilly said how do we, well then how do we come up with the impacts if we don't know if we're just going, I mean.

Ms. Ehly said it's based upon the intensity of land use. They'll have 15 dwelling units per acre.

Chairman Reilly said so were looking at the maximum.

Ms. Ehly said yes. In your packet if you look at the capacity analysis table it compares the current zoning in all of these public facilities, the current zoning and then the proposed zoning and then what would be the impacts. Is it an increase or a decrease? Sometimes it's a decrease. When we have the increase in impact, we have to determine from the FPUA or the Department of Solid Waste or whoever the agency is whether there is capacity for that increase in intensity. This is really just an exercise to maintain this information. Capacities are basically attached to the land use and the land use is MXD and already anticipates aquatic capacity at full build out of 15 units per acre.

Chairman Reilly said thank you. Any other questions of Staff? No?

Mr. Yates said I did have a question. Could this change in zoning or modification and maybe I'm not saying that right, this is not my area, but was there public comment? Do the neighbors have any input?

Ms. Ehly said Mr. Chair, Mr. Yates, they will get notification in the mail for requesting a response before the public hearing at the City Commission. This is one of those situations where that notification goes out after Planning Board.

Mr. Yates said thank you.

Chairman Reilly said I have a question for you. Just so that I understand this correctly. Do we get to review this, I mean, if we change the zoning which right now it's coming into our area is my understanding.

Ms. Ehly said it was already annexed in October.

Chairman Reilly said so right now we're changing to a?

Ms. Ehly said they retained the AG-1 because the City Code doesn't provide a comparable zoning district. It was one of those annexations where it retained the County zoning

classification until such time that the property owner submits an application for a rezone which is what he is doing at this time.

Chairman Reilly said okay and when a project comes up on this land, we will be able to review that project again?

Ms. Ehly said yes, under site plan review.

Chairman Reilly said right.

Ms. Ehly said and that's when the concurrency issues and mitigation for any impacts would come into place.

Chairman Reilly said okay, thank you.

Ms. Wood said for the record, I talked about this application with the applicant's agent this afternoon and my concerns with this application is that we're not getting a site plan concurrently with the application which is appropriate for a straight rezoning application. We would see a site plan if this were a PUD rezoning. This applicant had a site plan in process in the County before the property was annexed. I know they already have a site plan designed. If they had come through the PUD process, we could actually be considering both of these things simultaneously and while I don't have a concern with the density proposed in the area, I think it's appropriate given the location in proximity to the regional transportation system and all of that, I think that my concern is that the standards that are in the R-5 zoning district as we pointed out many times already tonight that the deficiencies in our Code is why we are doing a re-write exercise. My concern is the standards in R-5 are not in place to ensure that in all of these that you have a decent site plan, whatever that means that you have a site plan that's even consistent with the Comprehensive Plan. There is plenty of language in the Comprehensive Plan that requires for a level of service standards as Ms. Ehly pointed to, conservation element, even the description of the MXD land use itself. I would argue that by rezoning to R-5, you are already preventing a development consistent with the intensity from MXD I believe because I think that R-5 doesn't allow a vertical integration of uses. I think that some of the standards don't quite allow for the type of development that MXD calls for in the description. While I don't really disagree with Staff's assessment that it's consistent with the land use, my concern again is that by placing the zoning on it already we've already taken away the City's ability to apply another layer of review to the site plan in development of this parcel.

Chairman Reilly said thank you. Questions of Staff? Is the applicant here?

Ms. Ehly said yes, we have a representative.

Chairman Reilly said would the representative like to speak?

Ms. Angelos said good evening, Cynthia Angelos on behalf of the applicant. Excuse me, I just wanted to ask Mr. Walker if there was a duty to disclose because I have spoken with

many of you but in any event, I tried to reach everybody belatedly and I knew the planner was speaking with Kara. I did leave a message on Ms. Dixon's, I couldn't reach Mr. Poitier. This property did come before you a very short time ago. This is somewhat of a unique circumstance for the City which is why we are coming in part with the rezoning. This is a true voluntary annexation and it came in as such. The applicant filed a petition to annex this property. Most of the other annexations in the City or perhaps all of them are associated with the water and sewer agreement with FPUA. That is not the case with this property. This property will be serviced by St. Lucie County Utilities and this is within their service district. For that reason when we came in we did not have a zoning that existed in the City. This came in with the Mixed-Use land use that it had in the County and when annexed it kept the Mixed-Use land use but came in with the zoning of AG which does not exist in the City. It creates somewhat of a unique and not a great situation for either the City or the landowner because in addition to not having a zoning in the City, the zoning that it has is not consistent with the land use. It's just not a good situation. There was a desire on the part of the property owner to get a zoning that was consistent with the land use. Candidly, there was a desire on the part of the City to get this zoned quickly before December 1 so that it can go on the tax roll with the increased density. I'm just explaining to you kind of why we're, the PUD and I'm happy to talk about the plan. There is no secret about the plan whatsoever but in the City the PUD requires Engineering drawings which we don't have in place right now. The County has a procedure in that it allows for a preliminary and a final. We wanted an opportunity to fully work with Staff on the PUD but that which has been contemplated hasn't changed. With regards to the concurrency and the required concurrency, because we have gone to the extent of looking at this property, knowing this property, and having done all the preparation for filing of a site plan which we will be doing. I've got all the consultants here that I would like very briefly to be able to testify to you so I can put on the record the concurrency that does exist which is required. After that time, if I could just speak to you very briefly what the law is with regards to the rezoning. I think you'll better understand where we're at. With that having been said, if I ask Mr. Boggs to come up who is a Certified Planner and has worked on this project.

Mr. Boggs said Greg Boggs for the record with Lucido & Associates. We're probably over three years from the project already. Very familiar with the project. I'd like to start by addressing Kara's comment about the zoning classification. What the intent is for a multi-family residential project that doesn't really justify rezoning to PUD. Not to discount the PUD process, you will have your opportunity through the site plan process through straight zoning R-5. It would go through Staff. It would come before this Board and City Commission. You will have your control and your critique on the planning that a PUD would offer you concurrently with the zoning change because as you may know a PUD requires that the development plans be presented as part of the zoning change. It doesn't separate the importance of the approval but the approval for the site planning is independent at this point of the zoning that we're asking.

Ms. Angelos said I want to ask, sorry, so I can just put some things on the record. Before, the Board at this time is the existing map. You'll see that just to the east of the property is zoned Industrial. The Florida Turnpike is bordering the property as well. Mr. Boggs, with regards to the existing zoning map, any approved projects within a two-mile vicinity can you identify which of those are multi-family?

Mr. Boggs said well what we have out there is within a two-mile radius, Westside Baptist Retirement Village, which has 118 multi-family units; Creekside which is just to the project's northwest, it has 357 multi-family units; In addition, 439 single-family units. Also within a one-mile radius, I'm sure you are all familiar with this as you go on and off I-95 and the Turnpike is a mixture of commercial along the Okeechobee corridor and also a commercial parcel at, I'll give you the exact intersection that we talked about earlier.

Ms. Angelos said Coolidge.

Mr. Boggs said Coolidge. I think when you look at the overall pattern of development out there, that this multi-family residential project should be and would be considered a logical extension of that pattern of growth by providing the multi-family residential district.

Ms. Angelos said and is it your opinion that the zoning was consistent with the City's Comprehensive Plan?

Mr. Boggs said yes.

Ms. Angelos said and then if you could just bear with me. I'm just going to ask that the Project Engineer on this, thank you.

Ms. La Conte said yes, good evening. I'm Patrick La Conte. I'm a professional engineer. I'm the Engineer of record with the Firm of Boyle Engineering owned by AE Com and I have personally been involved in the project for approximately the past two years. The Firm has been involved for approximately the last three years. With regards to potable water and sanitary sewer, pursuant to our previous conversations with St. Lucie County Utilities, the service is available to the subject parcel in accordance with the local guidelines governing sanitary sewer and potable water. With regards to solid waste on site, solid waste collection facilities will be designed and sited in accordance with all applicable local guidelines governing solid waste collection. Stormwater, the stormwater management system shall be designed and maintained in accordance with all applicable local, state and federal guidelines governing stormwater management. Also with regards to Fire and E.M.S. protection, St. Lucie County Fire District shall provide Fire and E.M.S. protection. Fire Station Number 1 is located approximately four miles to the east of the subject parcel. Finally, law enforcement, the City of Fort Pierce Police Department shall provide law enforcement services to the subject parcel.

Ms. Angelos said and just to confirm please, you have had the opportunity to review the potable water/sanitary sewer. Is that correct?

Mr. LaConte said correct.

Ms. Angelos said and you've received confirmation that the same is available to the subject property?

Mr. Laconte said that is correct.

Ms. Angelos said and with regards to the stormwater, have you had the opportunity to ascertain whether a stormwater management system could be designed on this parcel that would be in accordance with all applicable local, state, and federal guidelines?

Mr. La Conte said we've had that opportunity and that is the case that we found that to be true.

Ms. Angelos said thank you very much and then Jason and Matt if I could just briefly address transportation. If you could just introduce yourself to the Board.

Mr. Madsen said good evening. My name is Jason Madsen, I'm a Professional Engineer with the Firm Kimley-Horn & Associates.

Ms. Angelos said and Mr. Madsen, how long have you been working on this project?

Mr. Madsen said approximately a little less than one year.

Ms. Angelos said have you had the opportunity to determine whether or not there are capital improvements committed to the project to the property where the area, the vicinity of the property that together with onsite improvements to the access that was under the property concurrent with regards to transportation?

Mr. Madsen said correct. Basically, there are a number of improvements in the area. One is committed by the Florida Department of Transportation which is the improvement of Okeechobee Road between Kings Highway Turnpike and Jenkins Road. There is a widening already assured and planned in the next three years as well as Gordy Road itself is being improved to an upgraded section with bike lanes, sidewalks to help accommodate the future traffic demand from this future project. In addition, at the intersection of Okeechobee Road there will be a turn lane improvement plan to help accommodate the ingress/egress from Gordy Road from this particular project.

Ms. Angelos said I'm sorry. If I could briefly ask Mr. Boggs. I apologize. Mr. Boggs, if you could address the recreation and open space that was discussed by Ms. Ehly.

Mr. Boggs said as part of the development plan, the parcel will have a mixture of passive and active recreational uses such as ball fields, basketball and swimming and a couple of clubhouses. In addition to that, you may know that south of the parcel down Gordy Road is a new County park that the residents can use. In addition to that, it's the Ten Mile Creek trail system that our parcel actually will become part of that allows a path, a recreational trail heading east/west down Ten Mile Creek. I think we'll definitely serve with our onsite in addition to the off-site recreation facilities.

Ms. Angelos said is there a necessary conservation area that is required for development of that site?

Mr. Boggs said the site has about a 20-acre hardwood and a probatious wetland that is part of our conservation area set aside. In addition, the site contains maybe 15, 20 pretty large Live Oaks that we're going to be working around and preservation of some of the understory along Gordy Road to act as a buffer between the Turnpike and the residential community. That will act as a conservation and passive recreation.

Ms. Angelos said and based on that site, that would be the required pasture part of a site plan?

Mr. Boggs said that would be required as part of our approval process through the City. Yes.

Ms. Angelos said and I appreciate and thank you very much for your patience. Just to close, I hope that you understood my explanation in moving forward with the rezoning because again, we're hanging out with a zoning. We don't have one in the City and it's not consistent with the existing land use. We will be coming before you with a site plan. We'll be proud to come before you with a site plan on this project. I did want to state for record purposes and perhaps to answer any questions of the Board that the Florida Supreme Court has set forth the standards and the burden for rezoning. Once the Applicant has shown that the rezoning is consistent with the Comprehensive Plan, in order for the Board to deny that rezoning, they must show that there is legitimate public purpose for the property not to be rezoned. To that end, I believe that we made that showing. In response to Ms. Wood's comments, and I understand it 100% and in a perfect world we wish we had all the time in the world. We'd go through the PUD processes and site plan but as to that comment about wanting to see that plans in the PUD, once again the Florida Supreme Court Board of County Commissioners of Brevard vs. Snyder said that "*A property owner is entitled to have his property properly zoned based on proper zoning concepts without regard to the one particular use which the owner might then intend to make of the various uses permitted under a proper zoning classification.*" In other words, we're happy to show you what we're doing but at this juncture it doesn't work for either the City or for the Applicant and the Board cannot deny a rezoning because we don't have our site plan ready. I thank you very much and we're more than happy to answer any questions that you may have.

Chairman Reilly said thank you. Questions of the applicant or were they all asked for us already?

Ms. Wood said well we're basically told we can't vote no so I don't know if I'm in a spirit to ask any additional questions.

Chairman Reilly said Mr. Walker, was that all correct as far as?

Board Attorney Walker said Mr. Chair, Counsel was citing to the Board of County Commissioners of Brevard County vs. Snyder, 627 7 second 469 and a court held as follows "*Upon consideration we hold that a landowner seeking to rezone property has the burden of proving that the proposal is consistent with the Comprehensive Plan and complies with all procedural requirements of the zoning ordinance. At this point, the burden*

*shifts to the governmental board to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose. In effect, the landowners traditional remedies will be subsumed under this rule and the Board will not have the burden of showing the refusal to rezone the property is now arbitrary, discriminatory, or unreasonable. If the Board carries this burden, the application shall be denied.*" Mr. Chair, in this instance, both the applicant and your Staff has testified without contradiction that the proposed zoning is consistent with the Comprehensive Plan and there is no suggestion that the procedural requirements of our Code are not being complied with. Indeed they are. Mr. Chair, were the Board not to grant the rezoning, it would leave the City in a very awkward position where the property owner is not in a classification currently recognized by the City's Code and it would be very difficult to justify or defend any refusal to rezone the property as here requested.

Chairman Reilly said thank you. Is there anyone from the public that wishes to come forward to speak for or against this?

Mr. Lloyd said Mr. Chair, I just wanted to disclose that I did speak with an agent with Ms. Angelos about the project before tonight.

Chairman Reilly said I think that's already been stated. That's fine. With no one here to speak for or against, do we have any further discussion? Do we have a motion?

Mr. Poitier said I so move.

Ms. Wood said Mr. Chair, here's the thing about this application that it's kind of being presented like "well, we're now in this bind because we have an inconsistent zoning and basically well you know we've proved it's all okay so you have to vote for it. Yet on the one hand, the Applicant has taken the initiative as Ms. Angelos has said to apply for a voluntary annexation beyond the previously annexation agreement knowing that there was an inconsistent zoning classification and knowing the City doesn't have a process in place for making it consistent upon annexation and then the City has taken upon itself to absorb this property knowing that that's a problem. Then forcing itself basically as I'm understanding it to require this process. I think that somewhere along the way it's just sort of like, somebody has got to take responsibility for putting the procedure in place so that we're not in this position so that the Applicant is not in a position of wanting to go through a quicker procedure than a PUD process which I completely understand and the City is not in a position of saying "well we're here so we've got to get behind this".

Ms. Ehly said Mr. Chair, just in response to that. The City does have a policy regarding annexed properties that don't have consistent zoning with City zoning. They retain the County zoning classification until such time that the applicant makes application for a City zoning classification in order to develop. They can't develop with a County zoning classification. They have to apply for a City zoning classification. It's within their rights to apply for any zoning classification that's consistent with their land use. As far as the City Code and what requirements are considered in an application, they are not required to submit a site plan with their rezoning application. Basically, the only thing they have to provide is why they want to rezone. That's it. Staff analyzes the impacts of that rezone

whether it's consistent with the Comprehensive Plan. We did point out that this is with the Comprehensive Plan: it's location, location to commercial properties and location to regional transportation network. This is not something that we're just sitting back and saying "oh well, this is what we have to do". We follow the policy all the way from the annexation application through now and then we will follow the policy when it comes in for site plan review. We will review it for concurrency and everything else and make sure that it's consistent with the MXD land use and what's that's required along with the R-5 zoning code.

Chairman Reilly said thank you.

**Motion made** by Mr. Poitier and seconded by Mr. Hayek to forward a recommend to the City Commission to approve the change in zoning classification from County AG-1, Agricultural-1, to City R-5, High Density Residential, 15 dwelling units per acre for the property located South of Okeechobee Road, West of the Turnpike.

Chairman Reilly said any further discussion? Roll call please.

Those in favor were: Ms. Wood, Mr. Yates, Mr. Dannahower, Ms. Dixon, Mr. Hayek, Mr. Lloyd, Mr. Poitier and Chairman Reilly.

Those opposed: none.

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The next item considered: **Item # 9a – Fort Pierce Meeting House - Fort Pierce Meeting House, Phase I** - Approval of a Site Plan and Conditional Use for the construction of four three-story buildings for seniors. One 43,016 square foot building will be used as an adult congregate living facility. The other three buildings (two 16,028 square feet and one 15,258 square feet) will be used as apartments for residents age 55 and older. The properties are located at 3955 South U.S. Highway 1 and are zoned C-3, General Commercial. The properties are owned by Finlay Interest 31 Ltd. The applicant is Meeting House Development LLC. The representative is Denuzzio Hopkins & Associates.

Chairman Reilly said can we have Staff report please.

Mr. Yazzie said good evening Chairman, Board Members. Tonight we have the Conditional Use site plan approval for the Meeting House. In accordance with Sections 22-58 and 22-31 (c) (6) and 22-87 of the City Code, the applicant is requesting the review and approval of a Conditional Use and Site Plan approval to construct four buildings which consist of an Independent Living Facility and a 55 and older Adult Congregate Living Facility. The project is located west of US Highway 1 and south of the old Sam's Club Warehouse, which is now called the St. Lucie County Logistics Center. To the south of the project is Platt's Creek. The property is approximately 15.18 acres in size. The zoning for the parcel is C-3, General Commercial. To the north is also C-3. To the east is the U.S. 1 right-of-way along with C-3 zoning and unincorporated SLC. To the south is also county zoning. However, to the southwest is City zoning, which is R-4, Medium Density Residential. To

the west is a mixture of R-4, I-1, Light Industrial, R-1, Single-Family Low Density and again unincorporated SLC. The site plan consists of constructing four buildings the height of which will be approximately 31 feet and 6 inches at tie beam. Parking for the project will consist of 263 parking spaces. Of these spaces, 24 are set aside for handicapped parking stalls. Out of the four buildings, one of the larger buildings will be 43,016 sq. ft. This building will be used as an independent living facility. The building will have is 104 units, each unit will have a kitchen and bathroom and sleeping area. As adult living facilities are allowed additional amenities according to Section 22-87 (D)(1) of the City Code, the amenities provided residents are as follows: a Kitchen and Dining Room, Ice Cream Shop, Coffee Shop, Fitness Center, a Library and a Theater all of which will be on the first floor. The first floor dining area of the Independent Living Facility will also be hurricane hardened as required by Policy 7.4.10 of the Recreation and Open Space Element of the City's Comprehensive Plan. Along with the larger Independent Living Facility, will be three additional three-story buildings for ages 55 and older. Two of the buildings will be approximately 16,028 sq. ft. and the smaller three-story building will be 15,258 sq. ft. All of the buildings are comprised of metal roofs, large overhangs for shading and outriggers to add an aesthetic element to the soffits. The façade of the building is primarily stucco with a variation of a clapboard exterior along the third floor. Window treatments vary as well. The first and second story windows have wide casings and along the header a crown feature is utilized. The third story window and façade treatments have a mixture of stucco and shutter detail. Stately columns are pronounced throughout each buildings patio and entrances. The entrances differ from the larger Independent Living Facility to those of the 55+ units. The 55+ units have large dome rotundas and columns whereas the larger Independent Living Facility will have a 14 foot overhead clearance porte-cochere. In addition to this entrance, the third story will have a covered entry with Corinthian style columns that also extend to the third floor. Above this covered entry is a cupola and a faux outlook. This entry encapsulates windows which allow light to flow through to the first floor. Landscaping for the project can be seen here in areas of green. All landscaping strips for right of ways, detention areas and off-street parking have been satisfied to the City Code requirements. Additionally, the applicant will be adding trees and shrubs to the interior courtyard to enhance this area. Along Platts Creek, the applicant is providing a 25 foot conservation easement and passive public access depicted here in red. As you can see, the buildings are situated in a manner as to create a courtyard. In this area are additional amenities to the property. Two swimming pools and decks with pergolas along with a security fence. In addition, the courtyard includes a putting green and a lake with a fountain. Also, the courtyard includes well-lit meandering sidewalks. The applicant has also supplied a tree survey which demonstrates that tree mitigation was required. As such, 65 palm trees are to be removed and 28 are to be replaced. Because more Palm trees are to be removed than preserved an additional 37 trees are to be planted. As for other trees such as Oaks and Pines, 142 inches of trees are to be removed and 28 trees will be preserved. However, because of the way the ordinance reads the applicant proposes to plant 191 inches of trees. Of those trees, 191 inches of trees only half a credit will be applied. The amount is 95.5 inches. As a result, an excess of one palm tree and 36.5 inches are being introduced to landscaping by the applicant as well as shrubs for buffering. Additional improvements the applicant has proposed are an emergency access from the North located on this slide in the lower left corner. A Trash compactor will be placed in the North corner of the larger Independent Living Facility. Next to the trash compactor will be a

designated loading zone. Along the entrance toward US 1, the applicant has proposed a north access and south cross access to the adjoining parcels. As such, a formal access agreement has been created by the applicant. As the driveway separation for the parcels along US 1 for this project and adjacent parcels are less than the required 150 foot for an arterial road, the applicant has proposed a deceleration and acceleration lane to the project along U.S. 1. This improvement may eliminate the nonconforming driveways. However, the City's Planning department has requested that the applicant receive an administrative variance from the City's Engineering department. Negotiations are still being formulated for both the cross access agreement and FDOT approval for the acceleration and deceleration lanes. Gates are also proposed at the midpoint of the entrance which is now highlighted. A Traffic study submitted by the Denuzzio & Hopkins and Associates demonstrated that the Project will impact a 5-mile radius. As a result, the applicant has agreed to pay a Proportionate Fair Share to the City of Fort Pierce toward the improvements located at the corner of U.S. Highway 1 and Virginia in the amount of \$14,648. In addition, St. Lucie County Growth Management Department has also requested mitigation for impacts to Midway Road. The outcome of those negotiations is still being formulated by the applicant and St. Lucie County Growth Management department. Finally, a Developer's Agreement between the St. Lucie County Fire District has been proposed between the applicant and the St. Lucie County Fire District. The outcome of those discussions is also still being formulated. As the proposed Site Plan and Conditional Use generally meet the requirements of the City Code, Staff recommends that the Planning Board forwards a recommendation to the City Commission for approval of the Site Plan with the following conditions: 1) provide updated landscaping documents showing the sidewalk along the entrance from U.S. 1 into the development; 2) the applicant must fulfill the requirements of the City of Fort Pierce Engineering department in regards to acquiring the Florida Department of Transportation Connection Permit Approval and a General Use Permit for construction of the required turn lane; 3) a developer's agreement between St. Lucie County Fire District and the applicant is finalized prior to City Commission consideration; 4) a developer's agreement between the City of Fort Pierce and the applicant be provided regarding payment of a Proportionate Fair Share in the amount of \$14,468 to U.S. Highway 1 prior to City Commission consideration; 5) an administrative variance granted by the City's Engineering Department; and 6) mitigation between St. Lucie County Growth Management Department regarding impacts to the Midway Road are to be finalized prior to City Commission consideration.

Chairman Reilly said questions to Staff?

Mr. Carlin said Mr. Chair, members of the Board, I would also like to point out the applicant's representatives are here if you have any questions for them.

Chairman Reilly said thank you.

Mr. Knott said Mr. Chairman, just a question. The south side of the property, they are showing, I'm trying to figure out, there is a 25 foot conservation easement?

Mr. Yazzie said that's correct. That was outlined in the report.

Mr. Knott said okay. Is that a wetland or something in there?

Mr. Yazzie said that's along Platts Creek.

Mr. Knott said oh that's Platt's Creek right there. That explains that. Also, do you know the parcel or the remainder of their parcel at the west end of their property.

Mr. Yazzie said the northwest end was formulated to become a memory-care unit facility but the applicant has chosen not to.

Mr. Knott said even though it's part of the site plan, it's just being blank right now. Is that right?

Mr. Yazzie said that will have to be a new submittal.

Mr. Knott said they will have to come back to modify the site plan.

Mr. Yazzie said but the applicant is here to elaborate on that.

Mr. Knott said I just saw a big open space. I just wondered what the deal was on that. Okay, that's all I have. Thank you.

Chairman Reilly said any other questions? Would the applicant like to come up and say anything? You don't have to. Any comment from the public for or against? Please state your name and address for the record.

Ms. Goodman said my name is Arlene Goodman. I live on Areca Palm Drive in White City not too far away from this place. I'm sorry I was out of the room. How many units are going to be here? How many apartments?

Mr. Yazzie said a total of 218.

Ms. Goodman said I have a question. Hopefully, you can answer it for me tonight. I understand a Conditional Use when you have a lot and you want to put maybe a car lot on it and if the people don't live up to what they are supposed to live up to with the car lot that's being conditioned on that piece of property, you can tell them "hit the road" because you are not living up to your Conditional Use. I do not understand so please help me. How can you conditionally use a building that has not been built and what do you do to it if they don't live up to their uses that you're conditioning? Are you going to throw him out? Not him, anybody. Joe Blow. I don't want to pick on this developer because I don't know him. I'm trying to grab this because this is the third developer who is coming into White City wanting to build an over 55 development. I'm assuming with this gentleman and I could be very wrong that this is going to be another tax credit development. We just went through one last night at the Improvement Club that is going to have 92 units and then there is another one that you all are going to hear pretty soon coming in at Regina Drive and Weatherbee Road with another 92 units. All of them are for 55 and over. Are we in essence over flooding a very small area within a five to six mile radius of developments for

over 55? The one that we listened to last night will be coming to you at Tumblin Kling and Oleander Avenue sometime after January. The Conditional Uses is what's puzzling me. What recourse do we have if they don't live up to what your conditioning them to use it for? How do you throw out a brand new building?

Chairman Reilly said I'm going to put that through to Staff to answer the question.

Ms. Goodman said I'm not against this unit by the drawings you have. I would just like some clarification please.

Mr. Yazzie said to clarify a portion of that. The definition with the adult congregate living facility outlines licensing by the State of Florida pursuant to Florida Statutes in Section 440.401 so they do have some type of regulation that they have to abide by.

Chairman Reilly said as far as though the Conditional Use is it if they do not meet the Conditional Use upon completion of construction do we withhold the Certificate of Occupancy? What governs a Conditional Use?

Mr. Carlin said Mr. Chair, members of the Board. The Conditional Use, let me just lay a foundation here. First of, the zoning district allows an adult congregate facility as a Conditional Use. The Conditional Use process is such that the City Commission may consider conditions that are necessary to impose on the development to protect the adjacent property owners. That is the intent of a Conditional Use application. By Code, the adult congregate living facility is permitted as a Conditional Use. There is no mechanism in the Code to control the number of adult congregate living facilities within a particular zoning district. I hope that answers your question with regard to procedures. The Conditional Use process, as you all know, notifications will be sent to property owners within 500 feet of the proposed development prior to City Commission consideration. Those property owners have an opportunity to approve or disapprove of the project. If more than 20% of those property owners say no, then the Commission has to have a four-fifths majority to approve the proposed development.

Chairman Reilly said does that answer your question?

Ms. Goodman nodded.

Chairman Reilly said is there anybody else from the public that would like to speak for or against? Do we have any further discussion? Do we have a motion?

Ms. Wood said I have a couple of really quick things for Staff. I was going to ask the applicant. Either way, it doesn't matter. The application talks about identified wetland on the parcel and South Florida Water Management District has jurisdictionally identified the wetland. I don't disagree with the assessment that providing mitigation for that impact is probably better than trying to preserve the questionable quality of the wetland as it is. I was just wondering if Staff has reviewed that and concurred and if you've gotten your environmental resources permit and that mitigation plan has been accepted by South Florida Water Management District.

Mr. Hopkins said we don't have ERP yet. We looked at the environmental condition of the wetland and had our Environmental Engineer assess what was going on and there was an artesian well there that was untapped flowing in from an occupier that was creating not a naturally occurring wetland but simply just a flooded area is what this was. It gives you an effect of a wetland because the ground had the moisture content and some of the vegetation there was consistent with a wetland. We capped the well which was something that South Florida Water Management actually appreciates we do and gives credit for that. Following that, the wetland area has been drying up. The Water Management District has some limitations on how often they will come out and delineate where this is. To that end, we had our Engineer make an assessment on the reducing quality of the wetland and the reducing acreage of the wetland and then given the amount of time, it would cease to exist. For that reason, in keeping with the requirements of the proper survey we showed it indicated on the survey but on the site plan it's not there because in all due time it won't be there. As required, we will mitigate the area.

Ms. Wood said okay but that mitigation plan is not in place now?

Mr. Hopkins said in terms of exactly how? Will we mitigate it?

Ms. Wood said yeah.

Mr. Hopkins said we'll be buying into a mitigation bank.

Ms. Wood said okay and is that, I'm just trying to figure out what you know. Okay. That's fine. Thank you.

Chairman Reilly said any other questions of the applicant? Thank you. Could I get your name? I don't know if you gave us your name and your address on that?

Mr. Hopkins said I'm sorry. George Hopkins. I'm the Engineer of record for Denuzzio & Hopkins.

Chairman Reilly said thank you. Any other further discussion or do we have a motion?

**Motion made** by Mr. Poitier and seconded by Mr. Lloyd to approve the Site Plan and Conditional Use for the Fort Pierce Meeting House Phase I.

Ms. Wood said is that with Staff's recommended conditions?

Chairman Reilly said I recommend it with the conditions.

Mr. Yazzie said pardon me. Does that include the mitigation for the wetland as well because that wasn't outlined in my analysis? That was not included in one of the.

Ms. Wood said that was where I was going with that line of argument but then sort of realizing that I'm not sure if there is a way to even implement that at the Staff level at what

point you would see the mitigation plan or the ERP. If you are approving the site plan now, then it's approved. We can leave it to South Florida Water Management District to govern its own conditions.

Chairman Reilly said okay, so the motion is for approval for the conditions listed under Staff recommendations?

Mr. Poitier said that's correct.

Chairman Reilly said and do we still have a second on that?

**Amended motion** by Mr. Poitier and seconded by Mr. Lloyd to forward a recommendation to the City Commission to approve the Site Plan and Conditional Use for the Fort Pierce Meeting House, Phase I with the following conditions:

- Provide updated Landscaping documents showing the sidewalk along the entrance.
- The applicant must fulfill the requirements of the City of Fort Pierce Engineering department in regards to acquiring the Florida Department of Transportation Connection Permit Approval and a General Use Permit for construction of the required turn lane.
- A developer's agreement between St. Lucie County Fire District and the applicant is finalized prior to City Commission consideration.
- A developers-agreement between the City of Fort Pierce and the applicant is provided regarding payment of a Proportionate Fair Share in the amount of \$14,468 to US Highway 1 and to the impacts to Midway Road prior to City Commission consideration.
- An administrative variance granted by the City's Engineering Department.

Those in favor were: Mr. Yates, Mr. Dannahower, Ms. Dixon, Mr. Hayek, Mr. Knott, Mr. Lloyd, Mr. Poitier, Ms. Wood and Chairman Reilly.

Those opposed: none.

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The next item considered: **Item # 10a - In Da Doghouse – 936 South U.S. Highway 1 -** Approval of a Waiver of Distance for a 2COP Alcoholic Beverage License for consumption of beer and wine on premises in a restaurant. The property is located at 936 South U.S. Highway 1 and is zoned C-3, General Commercial. The property owner is Kralhinkle Photography Group. The applicant/business owner is Monica Moody.

Mr. Williams said thank you Mr. Chair. Good evening Mr. Chair, members of the Board. For the record, I'm Paul Williams the Urban Forrester. Thank you for your time and attention. We have three Waivers of Distance tonight and I'm happy to say that all of the applicants are here tonight. They've patiently waited and will be here to answer any detailed questions on the actual restaurant and the establishment. Any questions like that. They have made a business decision to apply for a Waiver of Distance for their businesses. Section 3-7 of the City Code prohibits the City from granting approval for the sale of

alcoholic beverages by retail for consumption on the premises where the establishment is located within 1,600 feet of other licensed establishments, churches, or schools unless a Waiver of Distance is granted. The applicant is requesting a 2COP license to serve beer and wine for consumption on premises and the establishment is located within 1,600 feet of 3 other licensed establishments and a church. This aerial photograph shows the location of the property in red and it shows the one church and three establishments and their location to it. This zoning map shows the property is located in the C-3, General Commercial district. The surrounding properties are also zoned C-3 with the exception of the property to the east which is zoned OS-1, general and recreational open space. This is a photo the property looking from across U.S. 1 and you see it's on the intersection of Hays Road and U.S. 1. This is a plan showing the seating, kitchen area and parking. The seating is seen with the tables and the chairs next to them. Property owner notifications were mailed to owners within 500 feet. A total of 35 notifications were mailed. As of today, 10 responses have been received: 8 approve, 5 oppose. I'm sorry. My math is off there a little bit. That is 13 responses have been received: 8 approve, 5 oppose. As the proposed establishment does not appear to adversely affect community health, safety or general welfare and meets the requirements of all City Codes, Staff recommends to the Planning Board to forward a recommendation of approval of the Waiver of Distance for a 2COP Alcoholic Beverage License for the proposed establishment to the City Commission. Thank you Mr. Chair, any questions?

Chairman Reilly said thank you Mr. Williams.

Ms. Dixon said Mr. Chair, just one quick question. The residents near by or whomever businesses nearby what were the comments or did they leave any comments with regards to why they opposed?

Mr. Williams said no ma'am. There were no comments. Three came in and just said no.

Ms. Dixon said okay.

Mr. Knott said just a quick question Paul on this. The reason they qualify for this is because they have a seating capacity for so many people. Is this correct?

Mr. Williams said that is correct. One of the criteria is that they have 35 patrons.

Mr. Knott said and when you put them out on a patio like that it doesn't have to be a formal enclosed dining area? It can just be the patio and meet the seating requirement?

Mr. Williams said the Code requires 35 seats. It doesn't specify inside or out. The applicant is here to explain where they will be placed and it will be under.

Mr. Knott said so you can put them on the roof?

Mr. Williams said not on the roof. I'll let the applicant explain that.

Chairman Reilly said any other questions for Staff?

Mr. Yates said I need to make a disclosure Mr. Chairman. Today, I had a very tasty Italian beef sandwich at Da Doghouse unknowing that I would be here tonight and be faced with this particular issue.

Mr. Lloyd said I bet you wish you had a beer with it.

Chairman Reilly said I'm assuming Mr. Walker there is no conflict there.

Board Attorney Walker said that's correct Mr. Chair.

Chairman Reilly said any other questions of Staff?

Ms. Dixon said with regards to landscaping. I see that there is, I don't have any problems with bringing in the consumption on premises. I just wanted to make sure that we are bringing them, if we are able to, up to any form of Code with additional landscaping, any greenery or anything that we can possibly do because there is really not much there?

Mr. Williams said Mr. Chair, Ms. Dixon. I am working directly with the property owners and the applicants. There have been improvements made in the form of potted plant material because of the unique size of the property and location of it. Between Jiffy Photo and the Restaurant I am working with the applicants to bring it forward. They were just seeing if the Waiver of Distance would be approved before they make investments into the property.

Chairman Reilly said we can do those as a condition. Would the applicant like to come forward to speak or you don't have to. Does anybody have any questions of the applicant?

Ms. Moody said can I ask who opposed?

Mr. Williams said I'll tell you that later.

Chairman Reilly said anyone from the public that would like to speak for or against this Waiver of Distance. Without nothing said, do we have any further discussion or a motion?

**Motion made** by Mr. Hayek and seconded by Mr. Poitier to forward a recommendation to the City Commission to approve the Waiver of Distance for In Da Doghouse located at 936 South U.S. Highway 1 with the condition that the applicant works with Paul Williams and do some additional landscaping to the property.

Those in favor were: Mr. Dannahower, Ms. Dixon, Mr. Hayek, Mr. Knott, Mr. Lloyd, Mr. Poitier, Ms. Wood, Mr. Yates and Chairman Reilly.

Those opposed: none.

Chairman Reilly said thank you very much. Your Waiver of Distance will go forward to the City Commission with an approval from us. Good luck.

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The next item considered: **Item # 10b – Waiver of Distance - Capone’s Hideaway – 1124 Colonnades Drive** – Approval of a Waiver of Distance for a 2COP Alcoholic Beverage License for consumption of beer and wine on premises in a restaurant. The property is located at 1124 Colonnades Drive and is zoned C-5, Tourist Commercial. The property owner is B & L Development, LLC. The applicant/business owner is Anne Holleman.

Mr. Williams said Mr. Chair, members of the Board. 1124 Colonnades Drive is the location of the new Capone’s Hideaway and again as I had stated in the first Waiver there are 7 other licensed establishments within the 1600 feet. There are no churches or schools but because of the other establishments, the waiver is required. This aerial photograph shows the location of the property on South Hutchinson Island and also the 7 establishments that are within the 1600 feet. As you can very well on the map, it is there and I’ll be glad to answer any questions. I’m also happy to say that the applicants are here tonight to answer any questions about the facility that they are opening in Fort Pierce. The aerial photograph shows the zoning of the property. It’s zoned in the C-5 zoning district and is surrounded by C-5 on all sides except for the south where there is R4-A, Hutchinson Island Medium Density Residential zoned property. This is a photo of the entrance of the property. If you are all familiar with the plaza on Seaway Drive this is the location of the restaurant. Attached for your view is a floor plan showing the seating, kitchen, restrooms and office. Property owner notifications were mailed to owners within 500 feet. A total of 35 notifications were mailed. As of today, a total of 12 responses have been received. All 12 approve. All affected departments have reviewed the proposed Conditional Use and have approved it based on it meeting the requirements of the City Code. As the proposed establishment does not appear to adversely affect community health, safety or general welfare and meets the requirements of the City code criteria, the Waiver of Distance for a 2COP Alcohol Beverage License for the proposed establishment, we would like you to forward that to the City Commission for approval. Thank you Mr. Chair.

Chairman Reilly said questions of Staff?

Mr. Yates said briefly. Mr. Williams, where is the Dockside Tiki?

Mr. Williams said Mr. Chair, Mr. Yates. You might recall that the Board heard about the Dockside Tiki. It’s in the process of being built. I went ahead and included it because it was approved for an alcohol beverage license. That would be north of the Pelican if you look at the map. I just called it Dockside.

Mr. Yates said thank you Sir.

Chairman Reilly said is this in the same area where Crazy Nick’s is or it Crazy Nick’s’?

Mr. Williams said yes it was. They now have that space.

Chairman Reilly said were there other Capone's Hideaway? I thought you said that they were? Are there other Capone restaurants around or is this the only one? Oh, it's the only one. Okay.

Mr. Lloyd said Mr. Chair, just for the record. Angalina's went out of business a bit ago.

Mr. Williams said oh did it? Okay, thank you Sir. Thank you Mr. Hayek.

Chairman Reilly said any other questions of Staff? Would the applicant like to speak?

Mr. Angrao good evening everyone. We've purchased Crazy Nick's.

Chairman Reilly said please state your name.

Mr. Salvatore Angrao, owner and my wife, Anne Holleman. We are the owners of Capone's Hideaway.

Chairman Reilly said thank you.

Mr. Angrao said you're welcome. Basically, we're putting in an authentic Italian seafood restaurant. It has 65 seats and we're just waiting to get approval for our wine and beer license. I look forward to having you all at the restaurant.

Chairman Reilly said any questions for the applicant.

Mr. Hayek said Mr. Williams, doesn't the license go with the location? Crazy Nick's had a 2COP. Doesn't it go with the location?

Mr. Williams said Mr. Chair, Mr. Hayek. No Sir. They are non-transferable and any time there is a new change, it has to be reapplied through the State. They have their State application but the City cannot sign off until it goes through the Waiver of Distance process.

Mr. Hayek said okay, thank you.

Chairman Reilly said any comments for or against from the public? Alright. Any further discussion or motion?

**Motion made** by Mr. Poitier and seconded by Mr. Hayek to forward a recommendation to the City Commission for approval of a Waiver of Distance for a 2COP Alcoholic Beverage for Capone's Hideaway located at 1124 Colonnades Drive.

Those in favor were: Ms. Dixon, Mr. Hayek, Mr. Knott, Mr. Lloyd, Mr. Poitier, Ms. Wood, Mr. Yates, Mr. Dannahower and Chairman Reilly.

Those opposed: none.

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The next item considered: **Item # 10c - Fogoncito Latino – 214 North 25<sup>th</sup> Street -** Approval of a Waiver of Distance for a 2COP Alcoholic Beverage License for consumption of beer and wine on premises in a restaurant. The property is located at 214 North 25<sup>th</sup> and is zoned C-3, General Commercial. The property owner is Mustafa Waled. The applicant/business owner is Anolo Lilian Ramos. The representative is Omar Abolelquader.

Chairman Reilly said Staff report please?

Mr. Williams said thank you Mr. Chair. This application for a Waiver of Distance is for 214 North 25<sup>th</sup> Street. Again, this is our third Waiver of Distance. The reason the waiver is needed for this particular establishment is that it is located within 1600 feet of five other licensed establishments and a church. This aerial photograph shows the location of the property on North 25<sup>th</sup> Street just down from Orange Avenue, just north of Orange Avenue. As you can see, four of the establishments are convenience-type stores and I went ahead and included Walgreens there also. The church is located approximately 3 and a ½ blocks to the east of the proposed establishment. The zoning in the area, the establishment is in the C-3 zoning district and surrounded on all sides by C-3 except for the east which is R-3 zoning which is single-family moderate. The photo was taken today of the site. You can see the location of the restaurant is underneath the blue arrow. You see the landscaping in between the State road and the parking area. Attached for your information is a floor plan showing the location of seating, kitchen and restrooms. The site plan shows the existing parking up front and the proposed landscaping in the back. You can note on the photograph at the very top inside the blue line is a secondary parking area that the applicant will work with the City on if the Waiver of Distance process proceeds to a final conclusion where they get it. Again, property owner notifications were mailed to owners within 500 feet. Sixty-six notifications were mailed. As of today, we've had 14 responses received: 3 have approved and 11 oppose. All affected departments have reviewed the proposed Conditional Use and have approved it based on it meeting the requirements of the City Code. As the proposed establishment does not appear to adversely affect community, health, safety or the general welfare and meets all the requirements of the City Code criteria, Staff recommends the Planning Board forward a recommendation of approval of the Waiver of Distance for a 2COP Alcohol Beverage License for the proposed establishment to the City Commission. Thank you Mr. Chair.

Chairman Reilly said thank you. Questions for Staff?

Ms. Dixon said Mr. Chair, why were the 11 opposing if they did respond?

Mr. Williams said Mr. Chair, Ms. Dixon, the majority of the comments that I read and we keep all of them, basically were the same type of thing we've heard before from a residential area adjacent to this. So it's in the R-4 area that basically they just are stating that their concerned that there will be crimes committed and people loitering, stuff like that. I don't know. Mr. Chair, Mr. Poitier, I've noticed that in that it seems to be that folks living in a residential area when they get the Waiver of Distance notification the property owner notification, I get calls. They really don't understand it. They have an idea that liquor is

involved and I have to tell you that when I talk to these folks, they think that it's going to be for the sale to carry out into the neighborhood. I have to explain to them this is a 2COP where the alcohol is purchased with a meal and served inside the building. So there is some confusion and I will work with my team to see if there is anything we can do and in the letter of notifications to be a little bit more clear.

Chairman Reilly said any other questions? Is the applicant here? Would they like to speak? No. Any questions of the applicant?

Mr. Yates said I have one question. Does fogoncito have a particular meaning in Spanish?

Mr. Williams said Mr. Chair, members of the Board. I have noticed applicants are a little nervous about coming forward on TV so when you give them the option of not coming up, they always take that.

Ms. Colinas said good evening. What is your question?

Chairman Reilly said state your name.

Ms. Colinas said my name is Elsa Colinas.

Chairman Reilly said thank you.

Ms. Leoni said your welcome.

Chairman Reilly said and the question was?

Mr. Yates said does fogoncito have a particular meaning?

Ms. Colinas said fogoncito means fire like little candle, something like that.

Mr. Yates said okay, thank you.

Ms. Colinas said your welcome. Any other questions? Thank you.

Ms. Wood said Mr. Chair, I'm sorry I've interrupted public comment. I have to admit I've sort of zoned out. I exhausted myself earlier in the meeting and these sorts of things don't particularly concern me for the most part but since the responses have changed since we got our packet and there has been more residents in opposition just to me that just makes a difference about how we should consider the application. Perhaps Mr. Walker can speak to what we should or shouldn't be considering in this regard. Should that concern us that the neighbors are concerned?

Board Attorney Walker said respectfully Mr. Chair. The Board is to consider the criteria and Section 2-3, I think, that is brought to the Board's attention by Staff. I'm sorry 3-7. Excuse me just a moment Mr. Chair. Code Section 3-9 (8) states as follows: "A Waiver of

Distance requirements under this section shall be granted only in the event it does not adversely affect community, health, safety or general welfare and in connection therewith there shall be considered the following” and then it lists the six factors which are additionally set out in the Staff analysis. Does that fairly respond to the question?

Ms. Wood said yeah and I asked that probably because we did have these criteria in the report and the first one is really the only thing that one could I guess call into question because it doesn't actually give any criteria. It just says the actual location and the distance of proposed establishment with respect to the other thing but based on what? I mean, obviously there is a reason for the Waiver of Distance to be in the Code. I know I've listened to these discussion come to public hearing before and I've never quite gotten a clear of like what's the point of having it in the Code if there aren't other criteria to say whether or not it should be granted or not so it's always felt a little bit squishy. Is the short answer, really what I'm looking for is should we or is it not relevant that neighbors are concerned that are expressing opposition?

Board Attorney Walker said mere opposition by itself is not something to be considered. The Board is bound to apply the criteria set out in the Code and is additionally bound to consider facts that may be relevant to the application of those factors. There is a tendency, and this has been touched upon in the past, to give weight to opposition simply because people are opposed without considering whether or not such opposition is actually bringing out facts that can be fairly considered. The fact that there may be eight people who have written in opposing it is not by itself something to be considered as a basis for opposing the request. However, if there are facts set out there that say were not adequately addressed by Staff in this analysis, then to that extent the thing could be considered. Does that respond to your question?

Ms. Wood said perfectly. Thank you.

Board Attorney Walker said thank you.

Chairman Reilly said any other questions? Any further discussion? Do we have a motion?

**Motion made** by Mr. Lloyd and seconded by Mr. Poitier to forward a recommendation to the City Commission to approve the Waiver of Distance application for a 2COP Alcoholic Beverage License for Fogoncito Latino located at 214 North 25<sup>th</sup> Street.

Those in favor were: Mr. Hayek, Mr. Knott, Mr. Lloyd, Mr. Poitier, Ms. Wood, Mr. Yates, Mr. Dannahower, Ms. Dixon and Chairman Reilly.

Those opposed: none.

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The next item considered: **Item # 11a – Special Exception - King Maritime, Inc. – 910 North 2<sup>nd</sup> Street** - Application for a special exception to allow an expansion of a non-conforming structure. The property is located at 910 North 2<sup>nd</sup> Street/1001 Harbor Street

and is zoned I-2, Marine Industrial. The owner is King Maritime, Inc. and the representative is Ken Jason.

Chairman Reilly said can we have Staff report please?

Ms. Ploetz said Diann Ploetz, Planning Specialist for the Planning Division. In accordance with Section 22-102.1 of the City Code, the property owner and the applicants are requesting approval for an expansion to a nonconforming structure as a special exception. The applicant is requesting to allow for the expansion of a warehouse for a new maintenance area. The total size of the addition will be 4,000 square feet. The enlargement is compatible as the surrounding properties to the north, south, and east include the I-2, Marine Industrial Zone with properties to the west being I-1, Light Industrial. The existing structure is situated in a manner where the northeast side of the building extends into the required yard setback leaving only 8 feet from the property line adjacent to a public right-of-way. This encroachment into the setback results in the building being a non-conforming structure which requires the applicant to follow procedures set forth in Section 22-102.1 of the City Code for any enlargement or alteration of the non-conforming structure. The setback requirement for the I-2 zoning district is: the minimum yard depth for portions of the property abutting a public right-of-way or non-industrial district will be 15 feet. Based on the size of the addition and the size of the resulting encroachment, the enlargement is compatible with the surrounding properties. The property has inadequate parking for the existing and proposed expansion based on the plans provided with the submittal. The applicant intends to request a variance from the required parking requirements from the Board of Adjustment on December 18, 2008. Staff recommends approval of the Special Exception. Thank you.

Chairman Reilly said questions of Staff? I have one. Staff recommends approval but on the last part of this it says "proposed expansion does not meet criteria specified in 22-102.1"?

Ms. Ploetz said right. For the parking requirements, they are going before the Board of Adjustment hopefully on December 18<sup>th</sup> to get approval on that.

Chairman Reilly said so will that be a condition of the.

Ms. Ploetz said yes.

Chairman Reilly said okay. Any other questions of Staff? Is the applicant here?

Ms. Ploetz said the representative.

Chairman Reilly said please state your name and address.

Ms. Jason said Ken Jason, Fort Pierce, Florida. I hope I'm not going to be the only token no in the evening. Basically what we're trying to do is remove the maintenance facility that the Indian River Terminal occupies on Fisherman's Wharf Road. If you are familiar with that area, the City just purchased a substantial piece of property across the street from the

maintenance facility as it exists. This addition to the existing building on the adjacent property is going to replace that facility. So when we get this building built, we're moving the maintenance facility over there and the one on Fisherman's Wharf will be abandoned, the site cleaned up, new landscaping and other improvements made to the building. We're asking that this encroachment on the property as far as that Harbor Street this is actually Harbor Street's dead ends right there. That property is not really affecting anybody else but us. That's what we're asking for and why we want to move the building.

Chairman Reilly said any questions of the applicant?

Mr. Knott said just a quick question. Have you all sat down and talked with the Commissioners yet about this individually?

Mr. Jason said no.

Mr. Knott said I'm just curious to see.

Mr. Jason said we haven't talked to anybody other than Planning and the Building Department.

Mr. Knott said okay. You all do have a lawsuit against the City right now?

Mr. Jason said not that I'm aware of.

Mr. Knott said oh, you don't? Okay, very good.

Mr. Jason said I'm not aware of that.

Mr. Knott said alright. Thank you.

Chairman Reilly said it's your feeling that this is a win for the City because you are going to be moving the existing whole.

Mr. Jason said absolutely. Yeah. That's going to clean up Fisherman's Wharf Road. No longer will it be a driveway onto Fisherman's Wharf where there are vehicles and maintenance vehicles in and out of that area. That will be closed off and improved like we said.

Chairman Reilly said alright thank you. Any other questions?

Mr. Poitier said that's a good idea. It needs it.

Chairman Reilly said alright thank you. There is no one in the public. There is no one in the audience anymore. We've chased them away. I wonder how long I can keep this meeting going tonight.

Mr. Poitier said you're doing good. Keep it up.

**Motion made** by Mr. Yates and seconded by Mr. Poitier to forward a recommendation to the Board of Adjustment to allow an expansion of a non-conforming structure as a special exception for the property located at 910 North 2<sup>nd</sup> Street/1001 Harbor Street.

Chairman Reilly said do we have any further discussion? We have a motion and a second. Is that with the condition for the parking?

Mr. Poitier said yes.

Chairman Reilly said thank you.

Those in favor were: Mr. Knott, Mr. Lloyd, Mr. Poitier, Ms. Wood, Mr. Yates, Mr. Dannahower, Ms. Dixon, Mr. Hayek and Chairman Reilly.

Those opposed: none.

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

Chairman Reilly said I wasn't here for that. Mr. Hayek do you want to do the consideration of absences since you were here for that part of it?

**Motion made** by Mr. Knott and seconded by Mr. Poitier to excuse the absences of Mr. Harris and Chairman Johnson.

Unanimously approved by voice vote.

There being no further business, Chairman Reilly declared the meeting adjourned at 9:15 p.m.