



ZONING ADMINISTRATION  
DEVELOPMENT REVIEW  
COMPREHENSIVE PLANNING  
URBAN DESIGN  
HISTORIC PRESERVATION  
CULTURAL RESOURCES

# CITY OF FORT PIERCE

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

## DEPARTMENT OF PLANNING

*"IMPROVING THE WAY WE DO BUSINESS"*

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### Planning Board Minutes

OF THE RESCHEDULED MEETING OF THE FORT PIERCE CITY PLANNING BOARD  
HELD ON WEDNESDAY, NOVEMBER 29, 2006, IN FORT PIERCE CITY HALL,  
COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

Chairman Bergman called the meeting to order.

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Upon Roll Call, those present were: Chairman Don Bergman, Margaret Benton, Sunny Gates, Charlie Harris, Jeremiah Johnson, Tom Knott, Leslie Olson, Robert Poitier, and Edward Reilly; James Walker, Assistant City Attorney; Matthew Margotta, Planning Director; Peter Buchwald, Zoning Administrator; Travis Gibbons, Planning Administrator; Kara Wood, Urban Design Administrator; Paul Williams, Urban Forester; David Carlin, Development Review Planner; Robert Lane, Development Review Planner; Erica Ehly, Comprehensive Planner; Diann Ploetz, Administrative Secretary. Those absent: None.

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The next item considered - **#2 – Consideration of Absences.**

Chairman Bergman said I guess there's no "Consideration of Absences" since every body is here.

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The next item considered - **#3 – Approval of Minutes of meeting held October 10, 2006**

Chairman Bergman said has everyone had the chance to review the Minutes from the October 10<sup>th</sup> meeting? Are there any comments or corrections that need to be made?

Motion was made by Mr. Knott, seconded by Mr. Reilly, to approve the Minutes of the meeting held October 10, 2006 as submitted.

Chairman Bergman said we have a motion and a second to approve the Minutes. Is there any discussion? We can do a voice vote on this.

Unanimously approved by voice vote.

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The next item considered - **#4 – Kendall Masonry** - Application for approval of a Site Plan for two office/warehouse buildings totaling 12,369 square feet in size. The property is located at 4410 Prosperity Drive and is zoned I-1, Light Industrial. The owner/applicant is FM Properties of the Treasure Coast Inc.

Mr. Peter Buchwald, Zoning Administrator, said the applicant is proposing the construction of two office/warehouse buildings on a 1.98-acre property located at 4410 Prosperity Drive which is the Fort Pierce Business Park, west of Selvitz Road. The property is zoned I-1, Light Industrial, and the Comprehensive Plan identifies a Future Land Use of the property to be I, Industrial. The proposed project is consistent with the Comprehensive Plan. One of the buildings reportedly will be used by the applicant for their masonry business, and the other building will be leased for office/warehouse use. The buildings will total 12,369 square feet in size and will be located in the southeast and southwest portions. They will be of two stories in height and of masonry construction with metal roofs. Parking will be provided between the buildings, and landscaping will be provided in the parking lot medians and along the perimeter of the property. A concrete sidewalk will be provided along Prosperity Drive as part of the development. The northern portion of the property will be reserved for future expansion. The property is currently is vacant except for a staging area located in the north end of the site. This staging area is utilized by the facility located adjoining to the west and will be removed prior to further development of the site. The adjoining property located to the north of the site is vacant, unincorporated, and zoned IH, Industrial Heavy. The other surrounding properties are zoned I-1, Light Industrial, and are vacant or primarily contain warehouse uses. The proposed land use is consistent with the surrounding land uses. All affected Departments have reviewed the submittals and have approved the proposed Site Plan based on it meeting the requirements of the City Code. As the proposed Site Plan meets 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.

Chairman Bergman said thank you. Are there any questions of staff from the Board? No questions. We can open the public hearing if there is someone who would like to speak on behalf of this project.

Mr. Chris Pontello of WF McCain and Associates, said representing the owners. I am here to answer any questions that you might have.

Chairman Bergman said are there any questions of the applicant from the Board?

Mrs. Olson said in the elevations, I really have no problem with this plan so thank you for providing something that is done well. I was wondering if you might consider extending the architectural adornment around the entire building instead of only on the office half of it?

Mr. Pontello said I can discuss it with the owner. This is an industrial subdivision.

Mrs. Olson said I know. It is not that huge of a deal, but it is the only thing that stood out to me. I don't really like the banding around half way and then not the rest of the way. Maybe

even take it off. But that was something that stood out to me. But really that is my only comment and I appreciate a good project.

Mr. Pontello said thank you.

Chairman Bergman said any other comments or questions of the applicant? This is a public hearing and if anyone else would like to speak on this project? Ok, no one would like to speak, we will close the public hearing? What is the pleasure of the Board?

Motion was made by Mrs. Gates, seconded by Mrs. Benton, to forward a recommendation to the City Commission for approval of the site plan.

Chairman Bergman said we have a motion and a second, is there a discussion?

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

Chairman Bergman said you will be notified when it goes to the City Commission. Good luck.

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The next item considered **#5 – Deeken Plaza** – Application for approval of a Conceptual Development Plan for a 45-room hotel. The property is located at 400 Seaway Drive and is zoned C-5, Tourist Commercial. The owner is Hillcrest Development & Building and the applicant is Jerald Wurhman.

Mr. Buchwald said I am proud to introduce Robert Lane, one of our newer development review planners who will be presenting the staff report and has reviewed this project for you.

Mr. Robert Lane, Development Review Planner, said the applicant is requesting the review and approval of the Conceptual Development Plan for a 45-room hotel that is located at the southwest corner of Seaway Drive and Ocean Drive. Its current zoning is C-5, Tourist Commercial and the Comprehensive Plan has a Future Land Use of Commercial General and this proposed hotel use is consistent with the Comprehensive Plan. Some of the following amenities for use by guests of the proposed hotel: A front desk/reception area that includes a lounge/reading area and TV viewing parlor; a Club Room that includes a media center, computer/communications center, game and vending area, a buffet bar, and a fitness center in a multi-purpose gathering room. Staff has identified the following issues and concerns associated with the Conceptual Development Plan: No provisions have been indicated on the Conceptual Development Plan for the additional required right of way which will be required for Hernando Street and Binney Drive which currently only 50 foot right-of-way. An additional 5 feet will be a required contribution for the streets to meet current design standards. Also, it should be noted that Seaway Drive and South Ocean Drive are Florida Department of Transportation roads and no provisions were given there also in regards to additional right-of-way that may be required. There are other issues

dealing with access drives located on Binney Drive, which do not have adequate corner clearance. There are spacing issues with the drives between Hernando Street, which do not meet design criteria set out Section 22-61(2)(b) of the City Code for driveway spacing. So the design of the parking lot does not allow for connection of individual parking aisles. Accessing one of the parking aisles from another, a vehicle would be required to exit onto public right of way and it would something that should be considered as far as providing a more function traffic circulation for the site. Also the site plan as was submitted to us did not meet the parking requirements. The spaces provided were not designed to the minimum design criteria specified by Section 22-60 of the City Code. There were no sidewalks provided along Hernando Street or on South Ocean Drive. There was no information provided considering the Coastal Control Line or Flood Hazard Zones on this property which is only located 420 feet from the Atlantic Ocean. We also for consideration reviewed the plan with regards to the South Beach Overlay District, which is proposed. Looking at it with the proposed requirements of the South Beach Overlay District, some issues that would arise would be issues regarding density. The proposed South Beach Overlay District would allow 30 units per acre for Hotels and 40 units per acre for Resort Hotels. As proposed, with 45 unit hotel would exceed the Hotel density for the hotel requirements 18 units and would exceed the Resort Hotel density (36 units) by 9 units. There were also concerns with the Open Space requirement with 84% of the site being covered with impervious surface area, the project exceeds the 55% maximum limit for impervious surface coverage in the proposed South Beach Overlay District. There were not architectural plans given to asses any type of architectural requirements that maybe required by the proposed Overlay District and there was no provision to the required visual buffer along public right of ways. And although the Conceptual Site Plan is consistent with consistent with the zoning and future land use of the property, staff recommends denial of the Conceptual Site Plan due to its deficiencies in meeting parking requirements, access control, needed right of way dedication that was not provided, all things that would require this site to be significantly altered to go through the Site Plan review process and because of the those concerns we recommended denial.

Chairman Bergman said thank you. Has staff had a chance to discuss these deficiencies with the applicant?

Mr. Lane said yes, we have discussed them and I believe that Mr. Wurhman is here this evening to address any of those concerns that maybe needed to be addressed.

Chairman Bergman said is there any questions of staff from the Board?

Mr. Johnson said in the conversation with the applicant was there discussion regards to the proposed construction of Seaway Drive or A1A at that point.

Mr.Lane said he did discuss that he was aware of the plans and was willing to work with those plans. But, as I said, there was no indication of that on the Site Plan that was submitted for review.

Mr. Johnson said ok, thank you.

Mrs. Benton said was there any discussion by the applicant as to whether or not they would fully comply with the recommendations of staff?

Mr. Lane said he did discuss with complying with some of the concerns with staff, but as I said, we had to review the plan as it was given to us.

Mrs. Benton said just one more question, on the right of way on State roadway, what exactly would he have to do in order to number one, determine the amount of right of way dedication that would be required there and has he indicated that he will be checking with State on that?

Mr. Lane said I am not aware of the specific requirements right off the top of my head. I know that he did state that he has discussed that with the State, but I did speak with Engineering about some of the projects along A1A involving the roundabout at Seaway Drive and Ocean Drive, as well. It was not a large right of way requirement on those streets but on Hernando Street and on Binney Drive would be five feet.

Mrs. Benton said thank you.

Chairman Bergman said any other questions of staff?

Mrs. Gates said I am just going to question one thing and that is the proposed South Beach Overlay District, even though it has gone through the Planning process, it has not really been completed through the City Commission, is that correct?

Mr. Lane said that is correct. We simply wanted to review the project as an exercise to see how the proposed Overlay District may affect this project. Our recommendation was not based on the South Beach Overlay District requirements.

Mrs. Gates said that was my questions because I could not...I don't think I could make my decision based on that if it hasn't been technically passed by the City Commission. But the other areas that I am looking at are certainly concerns and I am glad that you brought this up. Thank you.

Mr. Reilly said is there some type of code or something as far as access parking aisles, one from the other without going on the street? I'm just curious because City Hall here I think you have to go out on the street to...

Mr. Lane said referring to Section 22-60(c)(4) which regards access control any parking space has to be given adequate access and as a design consideration when we reviewed this project we considered the fact that none of the individual access aisles for these parking spaces were able to be accessed individually except through entering on Hernando Street or you have to enter on Binney Drive. It was considered that generally and you are correct about City Hall's parking lot is a bit unusual in the way that traffic circulates there. But that is also in the B4 Business District and this does not have a B4 Business requirement so it does have to meet the more stringent parking requirements of the rest of the City.

Mr. Reilly said and this one currently is not meeting the size or the amount of lots requirements.

Mr. Lane said there is sufficient number of spaces provided, but the spaces when you measure them by the scale are incorrect in size except for a handful of them, which may simply be because it is a conceptual plan so it hadn't be as carefully planned as you would an actual Site Plan for review. but they do not meet the design criteria for parking in the City.

Mr. Reilly said just looking at it right now as far as it looks like it is getting a lot of stuff squished on the one small parcel, is it possible? I guess that is a questions for the applicant but you see it being possible to even put that many correctly sized spaces on this lot? Or maybe that is a question better for the applicant.

Mr. Lane said the Site Plan would probably have to be significantly reconfigured. It may be possible but it would probably a question better asked to the applicant and his staff that would be working on the Site Plan.

Mr. Reilly said ok.

Mr. Poitier said is the applicant here?

(Mr. Wurhman acknowledged himself from the audience)

Mr. Knott said if I just might ask staff or Mr. Walker, where are we with the Overlay District as far as in the approval? I know it is going back to the Commission pretty quickly. Is this correct?

Mr. Buchwald said it is scheduled for the next City Commission meeting to be considered at the next City Commission meeting, which is Monday.

Mr. Knott said so approvals haven't been given to the first reading or anything like that? It possibly could be the first reading on it or something?

Mr. Buchwald said they have been familiar with the process all along, but it hasn't been there. There have been no vote for consideration of it. It has been postponed, sent back to you, and came through again.

Mr. Knott said so it is back to the City Commission again and so they will be delivering on Monday at the meeting with some possible action, one way or another.

Mr. Buchwald said there will be a public hearing. There will be discussion. Whether or not there will be a decision, I can't answer that. I don't have my crystal ball.

Mr. Knott said in light of that, then if the applicant, with the plans submitted tonight for this Conceptual, to follow its normal life, he would go from here to the City Commission for their

approval and by the time he would go from this one and get onto the City Commission, is it possible, in your opinion, that the Overlay District could come into affect prior before he can make a real submittal for a Site Plan.

Mr. Buchwald said it is possible that it could be passed on first reading, but it would be subject to the second reading. It could be on the same agenda, which would be the second meeting in December. But conceivably, the second reading would be scheduled before the Conceptual Site Plan so it could be conceivably passed prior to the Conceptual being heard.

Mr. Knott said by the fact that the applicant is making this submittal for Conceptual, does that put him in the loop or into the system or is he exempt if he follows through all the way now and comes back, is he exempt from the new rules?

Mr. Margotta said this is a Conceptual review, no matter how you are going to look it, it is going to be non-binding.

Mr. Knott said he is not getting any vested rights towards...

Mr. Margotta said I believe it becomes binding upon the City Commission once they approve the Conceptual review.

Mr. Knott said oh, if they approve the Conceptual, then he has vested rights that he is still under the old rules even if new...

Mr. Margotta said I hate to use the word vested-right, but from there, any Site Plan that is substantially complies with the Conceptual Plan should be approved. It is expected that if he went through Conceptual review, went through the City Commission level, and they gave it Conceptual approval, then that is expected that that plan would come back substantially meeting that Conceptual Plan.

Mr. Knott said let me put it in some other words. If Mr. Wurhman is able to modify the plans submitted here tonight and go on to the Commission and it meets, more or less, the intent of existing ordinance and he gets City Commission approval at some point in the next month or so, prior to the adoption of the ordinance for the Overlay, would it be subject to the Overlay when he comes back to make his submittal to the City Commission. Will he be able to get the density that he has of the Conceptual or will he be under the...

Mr. Margotta said actually, the density in the South Beach Overlay District, I believe, is even higher than what he would be able to get under the current zoning. But I could be definitely wrong on that one. I don't even want to say "vested right" I really don't. the one that is coming into effect by the time that he turns in this Site Plan and he has to comply with that ordinance.

Board Attorney Walker said that respectfully is not a planning question. It overlaps considerably into the legal field. I would like to address that if I may. Whether or not the Conceptual approval exempts the applicant from application of subsequently adopted code

amendment would probably have a great deal to do with the way in which the Commission chose to approve any Conceptual Plan. The Commission could well decide to exempt the Conceptual Plan from application of any subsequently approved amendment. Or the Commission could well approve the Conceptual Plan subject to any subsequent amendments. In any case, the applicant would be on notice through this process that such an application such an amendment was pending and therefore the City would not necessarily be foreclosed or estopped, if I may use that term, from applying that amendment, if it was effective by the time the final Site Plan was being considered. Does that address the question?

Chairman Bergman said I believe so.

Board Attorney Walker said thank you.

Chairman Bergman said did that help you out, Tom?

Mr. Knott said I am still a little bit confused about the plan that he has here tonight I believe is 45 units. If he comes back under, if the Overlay is adopted, that he is only authorized 27 units, am I reading this right from your report?

Mr. Buchwald said if you recall, one of the purposes the whole reason for the South Beach Overlay District is the existing code does not have a specific density for Hotel uses. It was based on whether or not you can park it, whether or not it meets the requirements of the landscaping ordinance, hence some of the existing. Sandhurst Suites has a much higher density because it is able to be parked and the landscaping. So the affect of the South Beach Overlay District it puts a maximum density depending on the type of hotel it is, whether it is a resort-hotel, whether it is a typical hotel/motel. So, no, he wouldn't be able to have the type of density, the amount of density that is currently being proposed in this Conceptual Plan. Once again, according to 2-58 it is a Conceptual Plan. It is by no means binding by either the Planning Board or the City Commission on the decision. Either way, when he comes back through the process again with a new Site Plan, it would still have face administrative review, approved by all the departments prior to being in front of you so to ensure that it meets the requirements of the City Code.

Mr. Knott said I just don't want the Board or the applicant feeling that we are getting a comfy feeling here that we kind of agree with what you've got here that you have to make it work to our existing ordinance because we can't enforce the Overlay yet. If he reworks that and goes to the Commission and the Commission says "yeah, ok, that's fine." but then he resubmits two months later and the other ordinance is in effect and all of a sudden he has lost 9 or 10 units and he doesn't have a project anymore. I just don't want to put us in the position that we weren't up front with the gentleman.

Mr. Buchwald said his Conceptual Plan right now does not meet the requirements of the existing Code. He doesn't have enough parking. His parking spaces are inadequate how they are currently designed so, he has too many units. He has to either reduce the number of units so he can enlarge the number of parking spaces so he can meet the requirements of the Code and also change the access aisles. It needs a tremendous configuration.

Whether or not, when the applicant comes up we can ask him in terms of what he is looking for in terms of guidance from you, I think we have made it clear that the use of a hotel in that zoning district is permissible. So a hotel with a restaurant is permissible, but just as it is currently designed it doesn't meet the requirements of the Code. In terms of recommendation, how can we recommend its approval, if it doesn't meet the requirements of the Code? As with regards to the South Beach Overlay District, we did that in anticipation if any of you ask "well how will it face up to the South Beach Overlay District?" That is why we provided that additional level of review for you tonight.

Mr. Knott said Mr. Chairman, do you remember we had a situation like this once, maybe another Board member can remember, not too long ago where we were provided for a conceptual review and approval a project that didn't meet Code and I believe at the time I brought up I said "aren't we wasting everybody's time if we know that it doesn't meet our Codes now shouldn't we just say we are not going to make a ruling on this until you submit something that begins to meet Code." I mean, it has to meet Code. All of a sudden, we are a Board of Adjustment here already and we are wasting time.

Mr. Buchwald said Mr. Knott, we received an application. This is a Conceptual Plan. Obviously we met with the applicants numerous occasions over the course of the year, explained, and provided him with the Code and provided him with responses and he submits this with an application and required fee. It is incumbent upon us to give them due process to bring them before you and provide that type of feedback should you so see fit.

Mr. Knott said but let me ask Mr. Walker, are we obligated to review an incomplete or technically inaccurate application. It is not a completed application, therefore do we have rule on it. Can't we just table it until they can bring it back when it meets existing Code?

Board Attorney Walker said the purpose of this proceeding on the Conceptual basis is to allow the applicant a fair opportunity without incurring the considerable expense of preparing a formal Site Plan to identify all of the issues that may attend any such application and it is quite possible that even where this Planning Board to recommend approval and the thing then go on to the Commission that the Commission itself might voice additional concerns. So, it is very important, as Mr. Buchwald, indicates that the process be allowed to go forward and that way the applicant receives a full airing of all of the concerns identified with that so that hopefully the applicant will take those into account when subsequently submitting a final plan.

Mr. Knott said one more sentence and then I'll quite. To me our ordinances are very clear. When you make the application, if you don't have 9.5' parking spaces, if you violated technical portions of our ordinances, in my estimation you do not have a completed application and it does not anymore...

Chairman Bergman said yeah, but this is a Conceptual Plan.

Mr. Knott said yes, I know but he is...

Board Attorney Walker said if I may interrupt this. We have specifically litigated this very question in Circuit Court where the City has refused to entertain a Conceptual Plan because of the City's opinion that the Plan did not meet all Code requirements and the Circuit Court ruled that the applicant was entitled as a matter of right to the review.

Mr. Knott said really?

Chairman Bergman said that is the whole idea of the Conceptual. It is not technically completed. They are fishing for an idea or for a response.

Mr. Knott said ok, very good.

Chairman Bergman said I don't know if you were on the Board then, but we have had plans that were might as well have been done on paper bags.

Mr. Knott said again, that I have no problem with. If they say "we don't need all those parking spaces," they are going to have 3' parking spaces.

Chairman Bergman said then I think Peter will agree that the requirement for a Conceptual Site Plan is minimal, at best. You are not going to have dumpsters located. You may just have a scribble shown for a retention area. You may have a building showing. You may have an idea where the parking is going to go, but I think it is more to fish for feedback and comment than it is for technical input. I appreciate the fact that you went through and nailed him on all the things that you did. I mean, the parking, just looking at it is not something that I would design. I am sure Tom would agree it is just a poor design of the parking lot.

Mr. Buchwald said this kind of feedback is extremely helpful to staff because we now have a record, we have minutes, so that the next Conceptual Plan that comes in that is similar, we can say "are you sure? We can present these minutes and show their concerns." Much like when I present the Minutes of Commission meetings that the Commission has indicated reluctance for townhomes at this particular point. They have indicated a reluctance for one-car garages. They believe two-car garages should be in townhomes. I can show them the Minutes so that is acting as a conduit. It is just not staff's opinion. It is just an objective comment of what they have to face going forward. So this is very helpful to us. Thank you.

Mr. Knott said you are welcome.

Mrs. Olson said this is something on which I education and I am sure Mr. Knott could help more on this. Stormwater retention areas, I don't see any on this plan or for any place on this plan. I don't see any area where you could have any. Is that not required?

Mr. Lane said in discussing this with the applicant, I believe that he was going to use exfiltration system for the entire site.

Mrs. Olson said and what is that?

Mr. Lane said it is a system where all of the drainage would be handled on-site through filtering. I am not versed on all the technical details of that. I am not a civil engineer.

Mrs. Olson said but that is another option?

Mr. Lane said it would be another option and that would be the only route that he could go with the site since there is no area to provide any surface retention.

Mrs. Olson said ok, thank you.

Chairman Bergman said any other questions of staff?

Mr. Reilly said a couple of questions here. Where is the Coastal Control setback line? Is it running through this property? There was mention of it in the State setback of Coastal Control Line.

Mr. Lane said I am not specifically aware of exactly where it is on the Site Plan. He did not provide information with the submittal to asses that. It is relatively close to it.

Mr. Buchwald said the Coastal Control line, in this part of South Beach wavers. Sometimes it is on the east side of A1A, sometimes on the west side. For instance, there at Porpoise at the southwest corner, we have that development where it went right though the west side of A1A and the Coastal Control Line goes right through the middle of it. It is demarcated by the State. It is a requirement to indicate it on the Site Plan and he didn't indicate it on the Site Plan so we would have to go back and would have to do the transference ourselves. A surveyor typically would put that on the survey.

Mr. Lane said there are areas immediately to the south of that, west of A1A, that are within that boundary.

Mr. Reilly said close to this property.

Chairman Bergman said I think on this property, it is actually east of A1A and it goes west of A1A about a block or two south of here it starts to go across.

Mr. Reilly said ok. And this is probably me not reading my big thick book here, but what is the difference between a resort-hotel and a regular hotel and how does a boutique-hotel fall into that? When I picture a resort-hotel, I picture going in and sitting by a pool with a little tiki drink and all that stuff. Is this a resort-hotel or what?

Mr. Buchwald said a resort-hotel is defined in the Code book. Do you mean how the South Beach Overlay District will define it?

Mr. Reilly said yes.

Mr. Buchwald said because we have a more specific definition. It has additional amenities, like you said.

Mr. Reilly said exactly, it has additional amenities.

Mr. Buchwald said like a spa, pool, a...

Mr. Margotta said I might be able to get right down to the point on this one. A motel typically would be the type of transient lodging where you enter the room from an exterior door. The hotel, you enter your room from an interior door and there is likely to be some sort of, maybe, a restaurant or a restaurant or gift shop or something else on the site, some other amenity. A resort-hotel would be more of a destination. Again, you are probably entering from an interior or a secluded entrance into your lodging and it is intended to be more for an extended stay and have many more amenities. It could be a large pool and a bar or something like that. It just kind of steps up. It is a tiered system.

Mr. Reilly said ok.

Chairman Bergman said any other questions of staff? Hearing none, we will move to the public hearing phase and open the public hearing for anyone that would like to speak on this project,

Mr. Jerald Wurhman said the developer of the project. And it is apparent from the discussion that is taken place so far is emphasizing the reason why I am up here and why I submitted that as a Conceptual plan. If you will recall sometime ago, I was before this Board and before the City Commission when the property that I owned and if you look at the survey that you have as part of your package, I own five lots and there is three additional lots there. We submitted a plan jointly, the owner of the three lots and myself, submitted a mixed-use plan to the Planning Board and to the City Commission, which was reviewed, passed unanimously by the Planning Board, passed unanimously by the City Commission. However, that was prior to the time of the moratorium and all the issue over the condominium-hotel that transpired thereafter. The owner of the other property decided that in view of the City's uncertain approach to what would happen if this Overlay District became gospel, decided that he didn't want to proceed any further on submitting a final Site Plan for review. Didn't know whether the City would recognize it after we had the Conceptual approval of that mixed-use plan or not when the moratorium was in place and then after the moratorium, of course, then the Overlay District came about. So, he backed out of our joint arrangements there. I decided I wanted to go ahead with the hotel as a use by right in the C-5 based on the reason I bought the property in the beginning. So, on September 5<sup>th</sup> submitted an application for revised Conceptual plan review, paid the fee, and wanted to get on the agenda to review as quickly as possible the concept of a straight out hotel, not a condominium-hotel, not a resort-hotel, but just a straight out hotel that would encompass suites and then we were going to call it a boutique-hotel because we wanted to make a notch above the other Mom & Pop-type hotels that exist on South Beach and felt that the community needed something that type with all the money you are spending in the downtown area. so, I wanted to proceed forward to get a feeling from the Board and from the Commission for just a straight out hotel with some of these other amenities in it, not as a mixed-use site where it was going to have a public restaurant. It was going to have retail space it would be selling things in it, but as a straight out hotel that would invite people

down to South Beach area that would enjoy the rest of what the City has to offer in amenities. Well, from September 5<sup>th</sup> until November 29, this is the first hearing that we have had about this and I didn't see the issues that were issued about the Site Plan that we submitted until the day before the November 14<sup>th</sup> original scheduled Planning Board meeting. When we saw what was going to be objections to this Site Plan and there were points well taken and believe me I respect the questions that they raised and some of them were very good. We took it upon ourselves, I got that on a Friday, and the meeting was next week. Over that weekend, we revised the whole Site Plan to satisfy all of the issues that we raised in the staff report. Now, at that point in time, I asked whether or not they could review the revised Conceptual Site Plan to neutralize some of these objections that were made so that when you did have a chance to hear this issue, tonight, it would be on the basis of what we know we can do in neutralizing all of the objections. The parking spaces were always intended to be 9.5'. When they scaled, there weren't dimensions on the drawings so when they scaled it, there were not all 9.5'. So, Robert was right. But over that weekend we refined the plan, we improved the circulation in there which was a good point made. We actually ended up with more parking spaces than we originally had in it and we provided the loading space that wasn't there. We provided the access for the dumpster. We modified the entry to the hotel a little bit where it would be coming off of Seaway Drive. But we have solved all issues that were made and did that in the memo (while speaking, Mr. Wurhman handed a copy of the memo to the Board members) and unfortunately we don't have the staff's review of the revised Site Plan for you to have officially from them rather than just listening to me. We can give the five feet that is requested on Binney and Hernando Street and we will dedicate that along with the five foot sidewalk in there. We recognize that the Department of Transportation is wanting to take part of our north part of the property varies from 2' to about 5' across that Seaway Drive frontage there. We are willing to give to them if we get this plan blessed. So, as far as pervious, impervious areas, we are going to make the whole parking area pervious area. So, that should eliminate that question on it. As far as the access in and out of the parking lot is concerned, there seems to be a difference of opinion between the Planning Department's interpretation of spacing between the aisle ways and access points there and the Engineering Department. The Engineering Department have indicated that yes, you can have these two double loaded parking bays in there as long as they are over 50' apart. We have increased that to make it work. All of these issues that were raised, we are able to conform with. So, tonight it is very difficult for you to make a determination yourselves on the strength of the staff report, because you really haven't seen everything that we knowingly have been able to do to make the Site Plan work and conform with all the requirements of the present C-5 ordinance. Now, insofar as the impact of the Overlay District on this parcel if it gets adopted, it is also, I think, an exercise that has been very well worthwhile. Because what Robert did in pointing out the affect of the Overlay District on this site, reduces it from a 45-suite hotel with more than ample parking and conforming with all the requirements of the present C-5 ordinance to something that could be only 27 units. Big issue in there is the parking requirements of the Overlay ordinance where he showed you that based on the 1.5 cars required for each suite plus the accessory uses in the hotel. We had about 9,500 square feet of accessory uses all to be for the benefit of the members, the people living in the hotel and their guests, not the public. We are not going to have a restaurant that is going to cater to off the street people. We are not going to have retail store that is going to be selling...we are going to have all of these things for the benefit of

the people in the hotel and their guests. So why should you be penalized with that severe parking impact. Because, as he pointed out, it was 127 spaces versus what we had of somewhere around 50. So that in itself is a severe blow to a project of this type and probably others that would come up if you analyzed it that way. So I am glad that that was done, not because I want to become a victim of that but certainly to show to everybody here what the impact of that Overlay District is going to be on what could be a good project for Fort Pierce. So, I would like to ask you tonight to consider this as making a recommendation for approval subject to our conforming with all of the requirements of the present C-5 zoning district that's called for. If we do that as we have done, I would like to have this go on to the City Commission with the Planning Board's recommendation that if we conform with all of those things it would be an acceptable use for the property. Now, how it fits into the Overlay District, since I got Robert's report and since we made these changes, I have engaged a traffic consultant, Susan O'Rourke, who has presented many studies for you to evaluate and she has made the determination in a preliminary traffic report that its not going to create any severe impact at all as far as traffic on South Beach is concerned with the type of hotel that we are proposing. I have also engaged Engineering Design Construction here in Fort Pierce to analyze the civil engineering requirements for this site including the drainage concerns that you've expressed there. They have given me a design which I just got today. I got Susan's report today and I could make those available to you and I will make them available to the staff. But I am going to proceed and submit a final Site Plan application on the strength of the comments that have been made here so that we can get into the loop and we aren't going to become victimized by the possibility of the Overlay District ruling us out. So within the next 10 days, we will probably have an application in process for final Site Plan approval. Be that as it may, I would still like to go through with the Conceptual review and have you make a recommendation as I proposed here that if we could conform with all the requirements of the zoning ordinance that since it is a use that is compatible with the present zoning and future comprehensive land use that you feel that it would be a recommendation for the Commission to approve. And with that, if you have any questions, I would be happy to try and answer them.

Mrs. Benton said is there another plan that is not really before us tonight that you've done. You've indicated that you revamped and revised the original plan. Is that something that staff has had a chance to look at?

Mr. Wurhman said no they haven't. I wanted to give to them, but it was indicated that they had to review the plan as it was submitted with the application until the Planning Board had the chance to look at it. I think they would have liked to look at it. I think they would have liked to make some comments on it. But it was indicated that procedurally it just couldn't be done.

Mr. Buchwald said to clarify that, we had given the opportunity to the applicant once we provide the staff report to withdraw the application, resubmit a new application with the new plan, so that we have ample time to review it and bring that before you and chose not to resubmit an application at that time with the new plan.

Mr. Wurhman said and that's correct and we did that specifically because all this indecision over how this project is going to be looked at in view of the Overlay District, which I know is

in process. I got out of the Conceptual review from the staff what really was necessary which were their technical comments on the Site Plan. We reviewed, revised, and I am prepared to submit it as a final Site Plan review. And we are going to do that in the very near future. And then it will be back before you again with their comments on that and hopefully they will recognize that we've made those corrections.

Mrs. Benton said I guess the issue now is what the procedure is and you have already commented on the procedure with regard to whether we as a Board can actually do what the applicant is asking us to do and that is to take what he is saying about a plan that staff has not seen and it sounds like the plan that has been revamped or refined may well comply, but what procedure now so that we can get this...the applicant sounds like it wants to get conceptual review. So, what procedure now that will allow us to review the plan that he wants us to review and not this one?

Mr. Buchwald said the procedure will be for him to withdraw the current plan, because we are recommending denial of that plan. If you are considering, you would have to consider the plan in front of you, which staff has recommended denial because it doesn't meet the requirements of the Code. So, the procedure will be for if he doesn't withdraw that that you decide on this plan that is before you now. Otherwise he could chose to withdraw the plan and resubmit his new design as a different Conceptual plan and then we will review it similar to this one and bring it before you at a later date. So those are the two options.

Mr. Margotta said I think I need to add a little bit to that and Peter correct me if I've got this wrong. You have an application before you, a Conceptual review application, and the Planning Board's duties under our Code is to make recommendations for its approval or disapproval as it goes forward to the City Commission. Peter is correct. The applicant can decide to withdraw. He can withdraw it at any point. Tonight you should, I believe, make some sort of recommendation if he doesn't withdraw it. Another point that I think really needs to be made and we keep talking about the South Beach Overlay District, the applicant can rush in and turn in a Site Plan application tomorrow - that doesn't vest him for anything. Nothing is in stone until it is approved by the City Commission. It may take him several months to get his approval on a Site Plan from the City Commission and by then I can pretty much guarantee the South Beach Overlay District will be approved. So, all this rush and so on, I don't know how necessary it is. I don't necessarily know what the applicant is trying to accomplish there, but getting something in the wire for turning in a Site Plan application does not vest you to any sort of an approval.

Mr. Reilly said Mr. Wurhman, just going through this the question has kind of already been asked, but this is all done on CADD, I believe, CADD Tech was the company that did it for you and I am just wondering why and you would have been probably a lot further along in this process if the current Codes and ordinances would have been taken into account. If it was done on CADD also, most of those things have a scale and the scale is built into it. so if your parking lot was scaled, you should've had the correct scale there. So that, I think, you would have been further along if our Codes and ordinances would have been taken into account a little bit more. But enough of that. I have specific questions on this boutique hotel and what it makes it special. You are fitting a lot on this lot, these pieces of property, what makes this boutique hotel special, right now?

Mr. Wurhman said people tell us just putting it in a more distinctive flavor than a commercial business than a hotel. It is something that will give it a little bit better finishes in the hotel. There are suites; they are just not sleeping rooms in there. So, it is going to be something that will be more comfortable in than a regular hotel or motel room.

Mr. Reilly said if I was coming down here from wherever, the Midwest or wherever, so I would just know that this more comfortable than a regular place. Is it a better looking hotel than a regular place? Does it have better landscaping? Is it beautiful on the outside or is it just a...

Mr. Wurhman said hopefully you would interpret it as such. It is a subjective thing and there is no specifications say you go from here to there. But the objective would be to put nicer linens in the hotel, a little better décor in the rooms, more conveniences for the people that are there. Obviously, instead of \$75, it would probably cost \$110 for a night. But you are still only across the street from the beach and if you want that type of an atmosphere, you might prefer that compared to some of the other more conventional type.

Mr. Reilly said ok. So as far as a look you really don't have...right now when I just looked at the Site Plan I look at your CADD design where it is kind of...

Mr. Wurhman said as far as the flavor, it is the same as what we intended when we going to do the mixed-use hotel. I didn't submit it at the time because really it was a Conceptual review. The architectural flavor of the building isn't seemingly a major issue in it. It will be done in a similar flavor of what was presented before.

Mr. Reilly said ok, in your mind what is the hotel kind of fit into there? Is it a resort-hotel? is it a hotel-hotel?

Mr. Wurhman said it is not big enough to be called a major franchise-type hotel. it will probably be managed by a hotel company, a management company, but won't be a Hampton Inn or something of that type. At least that is not the intention.

Mr. Reilly said when I am looking at the ordinances and all, is it a resort, you think, or is it in between the two?

Mr. Wurhman said I consider it a mini-resort. It is going to have a swimming pool. It is going to have the club rooms in it where it is going to have all these different amenities for the members there. It is going to have a fitness center in it. It is going to have the things that you could call or would be part of a resort-hotel. I haven't envisioned it to call it a destination resort-hotel, but it certainly got the amenities in it. It doesn't have the tennis courts. It doesn't have the golf course and things like that. But we intend to provide access to those things. By the way, you raised a question about the Coastal Construction Line and Mr. Bergman pointed out we are not affected by it. We are west of the Coastal Construction Line and the flood hazard area that exists there we'll have to conform with.

Mr. Reilly said ok.

Chairman Bergman said any other of the applicant?

Mr. Johnson said there was a comment about the vegetation on site and I know staff had mentioned based on some aerials of the site, you mentioned that there was no meaningful vegetation, is it exotic species?

Mr. Wurhman said there is an aerial of the site. There are some bushes, but no trees of any kind.

Mr. Johnson said ok. Another question would be reducing the number of access drives and that would be provided one on each Binney and Hernando?

Mr. Wurhman said I put that in that memo. The memo was written right after we got the things from Robert on it, but after having met with the Engineering Department to discuss the one access on each street versus the two. They felt that the spacing between the two exit way as long as we move the one off of the corner far enough would be ok and conform with all the engineering requirements

Mr. Johnson said it looked like the spacing was ok on Binney so that is the one you are referring to that is closest to the corner?

Mr. Wurhman said no the one on Binney wasn't ok. That's the one we moved on.

Mr. Johnson said and then Hernando, they were actually too close together. What happened with those?

Mr. Wurhman said in the interpretation of the Planning Department's 22 whatever that is and as I pointed out there is a difference of opinion between the Planning Department and Engineering.

Mr. Buchwald said no, the interpretation is similar. Going back to 22-60, it depends on the type of road it is: local, collector, or arterial. The minimum distance between driveways on a local road is 50', 50' or more. Then also corner clearance, depending again on local, collector, collector, and the minimum corner clearance means where a driveway separation between the driveway and the corner is 50'. So the interpretation is the same whether it is Engineering or Planning. It is straight out of the Code, 22-61.

Mr. Wurhman said and that's true and that's why we moved it back to conform with that.

Mr. Johnson said so Hernando will or will not have two entrances?

Mr. Wurhman said as your Engineering Department has looked at this, they said it is ok to have two there and also have the two the Binney. The ones on Hernando are 68' center to center on two driveways. We reoriented the driveway so they are perpendicular to the road, which was another issue that was raised and they weren't in the beginning. But they have

been reoriented to where they are perpendicular to the road now. And 68' center to center which...

Mr. Buchwald said to clarify, the distance is measured pavement edge to pavement edge, not center to center. And that again is specified directly in the Code in 22-61. We can read that for you if you need it.

Mr. Wurhman said Peter, I don't know. There is just a difference of opinion between Engineering and that.

Mr. Buchwald said I am just taking it verbatim from the Code. I am prepared to read that for you.

Mr. Wurhman said because they have seen these double entrance ways with the 68' center to center and that is typical for a double loaded parking lot.

Chairman Bergman said at this point with a Conceptual plan, it is really not going to matter because when you do your Site Plan you are going to have to come up with the Code. At this point, there is no dimensions on your Site Plan. There is no sense in arguing about it.

Mr. Wurhman said they are on the revised, but not on the one you've got.

Chairman Bergman said we don't have that to see and I want to let you know that I appreciate the fact that you went ahead and addressed all of these comments but we can't act on a letter.

Mr. Wurhman said I understand. But I would hope that could act on saying you would approve this if I conform with all of the Code requirements of the ordinance.

Chairman Bergman said I don't think we can do that either. As the Planning Board, we would have to physically look at the submittal that you made and it would have to be reviewed by staff as well.

Mr. Wurhman said and that's fine. If you have to deny it on the strength of what you have in front of you, you have to deny it. I am not going to withdraw it and resubmit it and go through that whole exercise, just forward it on from here.

Chairman Bergman said ok.

Mr. Johnson said I just heard an interesting comment when you spoke in reference to pervious and impervious in regards to the parking lot. You stated that it would be a pervious constructed parking area to meet the pervious requirements. What would that be constructed of?

Mr. Wurhman said there are various types of pervious materials is, and Don could probably attest to, for parking lots that give you that benefit, that Tom could attest to.

Mr. Knott said are you speaking of the...

Chairman Bergman said not the concrete.

Mr. Johnson said I would like to know where you are going with it.

Mr. Wurhman said asphalt, you can do it with pavers where the space is left in the corners where you get drainage through it. So there are some techniques that you can do with materials to get a pervious parking lot.

Mr. Johnson said ok, that's what I was looking for. Thank you.

Mr. Wurhman said it costs more, but you can do it.

Chairman Bergman said any other questions? Thank you, Mr. Wurhman. This is still a public hearing. Is there anyone else that would like to speak on this project? I don't see anybody making a mad dash for the podium so we will close the public hearing. What is the pleasure of the Board on the Conceptual Site Plan?

Mrs. Gates said I have a question for Mr. Walker. We have to vote either approve or deny. We cannot table this. In other words, does it have to be withdrawn and brought back, right? Those are the two options?

Board Attorney Walker said respectfully, the Board does have a third option and that is set out in Section 22-143 governing public hearings. Subsection (e) provides as follows "the city commission, the city planning board or board of adjustment may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons that decides maybe interested in the proposal being considered. Upon recessing the date and time when the hearing shall be resumed shall be announced." There is no prohibition in the Code to an applicant's submission of a revised plan during the process based upon comments received. What the Board has been given tonight setting aside the question that it hasn't been given adequate opportunity to review it and further setting aside the fact that staff has not had an opportunity to review it is legally insufficient to be considered in place of the original application. Because Section 22-58(e)(1) provides that the Conceptual development plan shall include a map showing the general layout of the proposed development, statements describing in detail the character and intended use of the development and information bearing on the ownership and control of the proposed use." So, what the Board has been given tonight is really only a partial revision of the plan and the Board would therefore not be in a position to act at all on the proposed revision. So the Board really has four courses open to it: it can either recommend approval, it can recommend approval with conditions, it might recommend denial, or based on the authority conferred by Section 22-143 it may recess the hearing on this application to a time certain and therefore thereby give the applicant an opportunity to submit a revised plan based on the proposed amendments that have been raised here and thereby giving staff that further opportunity to review the revised submission and make appropriate recommendations when it does come back up again.

Mrs. Gates said thank you. Public hearing closed?

Chairman Bergman said public hearing is closed. We are waiting on a motion.

Mrs. Gates said I feel very strongly that Mr. Wurhman, I know, is trying to do a good project. But I also feel that this Board has a responsibility to recommend something to the Commission that has...that needs to see the revisions before it goes before the Commission.

Motion was made by Mrs. Gates, seconded by Mr. Knott with discussion, to recess this item until staff can have further time to review his revised Conceptual Site Plan and bring it back before this Board at the next Planning Board on the second Tuesday in December, December 12<sup>th</sup>.

Chairman Bergman said we have a motion and a second.

Mrs. Olson said I know Mr. Wurhman is planning on submitting his Site Plan soon. He has almost everything ready to go for his Site Plan. I am wondering if it might be more helpful for him to have a denial so he could be free to move forward with this Site Plan. Because if we table this, will he have to wait until we are done with the next meeting before he can file for a Site Plan?

Chairman Bergman said is there something in there about a Conceptual...I don't think there is anything in there that Conceptual Plan has to be approved prior to submittal of a Site Plan.

Mrs. Olson said no? Ok, then never mind.

Mr. Buchwald said he can submit for Site Plan at anytime for formal Site Plan review.

Mrs. Olson said ok.

Mr. Buchwald said if I may ask from the Board, if you could postpone...we have very little time before the December 12<sup>th</sup> meeting. We are putting together the agenda for that and it will be a very full agenda and we are trying to get that out to you a week before so you can review that. So, now to add that, please consider postponing it until the meeting in January, staff would appreciate it. But again, that is your call. But that doesn't give us much time in order to review the new plan and prepare the staff report in addition to all the other items that we will be having for you on the agenda. Like I said, it is going to be a very full agenda.

Mr. Wurhman asked do I have an opportunity to speak?

Chairman Bergman said no, the public hearing is closed.

Mr. Reilly said what are the benefits...I mean, maybe I didn't understand between the downside of denial versus moving this off for another meeting.

Chairman Bergman said I think tabling it gives Mr. Wurhman the opportunity to have his revision reviewed by staff and then we get to take a look at it again.

Mr. Reilly said but if he gets a denial, we can't look at it.

Chairman Bergman said when it goes to City Commission they are going to look at it being all the shortcomings.

Mr. Reilly said tabling it just moves it off, it doesn't go any further here.

Chairman Bergman said it stalls it before it gets to City Commission.

Mr. Knott said let me ask staff a question to help the applicant, if I can here. Staff's comments recommend denial of the Conceptual Site Plan because of the above list concerns. If what the applicant has provided us is true and he gives you the graphics and all the supporting information, what would your feeling be about supporting the project?

Mr. Buchwald said if the project meets the requirements of the Code, I think we have been consistent over the last year. If it meets the requirements of the Code, then staff recommends approval.

Mr. Knott said so these items that you have outlined here, if he can bring those up to meet our Code, then at this point conceptually, you would recommend approval of his project. Is this correct?

Mr. Buchwald said but without being able to review the plan, it is hard. Because our concern is what he is looking for is an approval of the number of units here that he said the number of rooms, his number of density, the amount of development here and right now it is not designed...

Mr. Knott said say it is a perfect world and he does do that. if he does that, then we can go on to the City Commission with your blessing, is that correct?

Mr. Buchwald said if it meets the requirements of the Code, staff would recommend approval. But I would like to wait until January in order to provide you that recommendation.

Mr. Knott said definitely wait, why we must. I am not saying we are doing that. I am just saying if he comes back in January and he has done all these items, then...

Mr. Buchwald said I think it is important also that this is...if he comes back and doesn't meet some requirements of the Code and we recommend rejection and you postpone again, we end up designing the project for him.

Mr. Knott said exactly.

Mr. Buchwald said I want to be sure that we are careful not to continue to do that in this particular case so that he is getting some free design work here.

Mr. Knott said I overspoke myself on that the way I feel about that too.

Chairman Bergman said we would be happy to send him an invoice.

Mr. Buchwald said that's why we ask them to resubmit and give us another fee. It covers our cost for that.

Mr. Knott said out of curiosity, does having a complete application, does he have to make...is it \$100? Do you all make him do that?

Mr. Buchwald said it is \$500.

Mr. Knott said what if they don't give that to you, does it still get to us?

Mr. Buchwald said they don't get anywhere without paying a fee.

Mr. Knott said thank you.

Chairman Bergman said any other questions under the discussion?

Mrs. Benton said is that a separate fee when he does a revision or is his trying to...

Mr. Buchwald said not if you guys table it at this point. No, we won't ask...you are directing us to review his revised application and bring it back before you again. Because of that, we wouldn't charge a fee. If we directed him, then we would, say, if he would withdraw it, he would do a resubmit under a new application and we would charge him a fee. But for this case, we wouldn't.

Mrs. Benton said got it, thank you.

Chairman Bergman said any other discussions? Roll call, please.

Board Attorney Walker said respectfully, I am sorry. I didn't hear whether the mover was accepting the proposed recommendation by staff to amend the motion for January rather than December.

Mr. Poitier said who made the motion?

Chairman Bergman said what are you doing to us next month?

Mr. Buchwald said it is the Christmas rush. There is about eight site plans coming through and some Waiver of Distance.

Chairman Bergman said is this going to be an all-nighter?

Mr. Buchwald said no, all the things meet the requirements of the Codes. But again, we have a full agenda. The thing is what we want to get out the packets to you as soon as possible in that week time frame. So, we are putting together staff reports and all the supportive material for those items. Those items have already been reviewed and they have already been determined that they meet the requirements of the Code and now if you push this in...as I said, it is a recommendation and that's all we are asking for. So it is at your discretion in terms of if you want to.

Mr. Knott said keep in mind, Mr. Chairman, that is only 12 days we are speaking about, too.

Chairman Bergman said I understand, but apparently Mr. Wurhman has already gone through and made the changes. It is up to you all. If you want to amend the motion, that's fine. If not, whatever you want to do.

Mrs. Benton said I was wondering to whether since you have already seen the plan that is not acceptable and he has amended that, would that make it easier for you to review it rather than as opposed to say having to look at a fresh plan that you have never seen before, in terms of time?

Mr. Buchwald said if the changes that are in order to make the requirements of the Code where not significant, I guess from that standpoint it would be less, but I have no idea without looking at the plans.

Mrs. Gates said it's up to me since I made the motion. It really doesn't make a difference to me as long as the applicant, I mean, if he is already prepared to do this and he would be willing to wait until January, its fine with me.

Motion was amended by Mrs. Gates, seconded by Mr. Knott, to come back before us in the January meeting, which would be the second Tuesday of January of 2007.

Mrs. Gates said that way we don't have to start the meeting at 3:00 in the afternoon.

Mr. Margotta said that would be January 9<sup>th</sup>.

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

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The next item considered **#6 – Eckle's Restaurant** - A request for approval of Waiver of Distance for a 2COP Alcoholic Beverage License in order to operate a restaurant selling beer and wine for on-premises consumption. The property is located at 1701 North 25<sup>th</sup> Street and is zoned C-3, General Commercial. The owner/applicant is Dave McDonald.

Mr. Buchwald said Section 3-7 of the City Code prohibits the City from granting approval for the sale of beer and/or wine 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 has acquired the property and business located at 1701 North 25<sup>th</sup> Street and is requesting a 2COP license to serve beer and wine for consumption on premises in a restaurant. However, three churches and Garden City Elementary School are located within 1,600. Therefore, in accordance with Section 3-9 of the City Code, the applicant is requesting a waiver of the minimum required distance of 1,600 feet. The restaurant is approximately 1,900 square feet in size and is located on a 0.29-acre property that is zoned C-3, General Commercial. The proposed establishment is not located in an area saturated with existing licensed establishments, and the churches and Garden City Elementary School appear to be situated in such a manner off of North 25th Street that it does not appear that traffic will be generated which may adversely affect the safety of those persons attending the churches or school. If you recall, the applicant previously submitted a request for a Waiver of Distance which was approved by you on June 20, 2006. However, the City Commission subsequently denied the request on August 7, 2006, due to a question as to whether the parking area located behind the establishment was owned by the applicant and due to objections from the surrounding property owners. Since then, the applicant has reapplied with a legal description boundary survey which was included in your packet which confirms that the applicant owns the parking area located behind the establishment. In addition, the applicant circulated a petition to the surrounding neighbors for them to complete if they did not oppose the Waiver of Distance, because the neighbors reportedly did not know during the first application that the business was under new ownership. It was reported that they believed that it was the previous business owners that they were having a problem with. Furthermore, the applicant has constructed a wooden fence along the west property boundary to provide buffering between the adjacent residential zoning district to comply with the City Code. A notification of the Waiver of Distance application was mailed to the owners of properties located within 500 feet of the establishment. A total of 78 notifications were mailed. As of today, a total of 11 responses were received, 4 of which approve of the Waiver of Distance, and 7 of which oppose the Waiver of Distance. Only one of those property owners opposed to the Waiver of Distance is located within a block of the proposed establishment. However, this property owner is also listed on the petition provided by the applicant. As part of the previous Waiver of Distance application, which you considered, 38 notifications were mailed. A total of 8 responses were received, only 1 of which approved of the Waiver of Distance, and 7 of which opposed the Waiver of Distance. Only two responders who have opposed to both request for the waiver of distance and the other responders appear to be a part of the expanded mailing that we did. As the proposed establishment does not appear to adversely affect community health, safety, or general welfare and meets the criteria specified in the Code, staff recommends that the Planning Board forward a recommendation to the City Commission for approval of the Waiver of Distance for a 2COP Alcoholic Beverage License for the proposed establishment.

Chairman Bergman said you did your homework on that one.

Mr. Buchwald said as opposed to the other ones, I guess.

Chairman Bergman said no, no, no, that was good. I mean we have had these 2COP Waivers for ever and I have never had a staff report like that. I really appreciate that, Peter.

Mr. Buchwald said thank you.

Chairman Bergman said no, I am really serious because a lot of times we never find out how many people the letters are sent to and how many people respond one way or another. That is generally reserved for the City Commission. But it is nice to hear that...

Mr. Buchwald said we are doing it little differently is we are sending it out, as required by Code, sending out the notices prior to Planning Board. so you have the opportunity to make a decision because the importance of your decision is if you deny it and it goes to Commission, it requires a four-fifths vote. So, the Commission's decision of whether it requires a super majority is not based on the negative responses, it is based on your vote as opposed to a rezoning or a conditional use permit. So that is why it is important that you have that information at the Planning Board level.

Chairman Bergman said what was the use of that building prior to it being purchased by this new owner?

Mr. Buchwald said it was a restaurant. It has been there for ever since it was constructed.

Chairman Bergman said that's what I thought. I just wanted to verify that. so, its had this use prior to the new owner.

Mr. Buchwald said ever since its construction it has always been that.

Chairman Bergman said did they serve beer and wine at the time?

Mrs. Gates said the previous restaurant?

Mr. Buchwald said it had a liquor license before. It served beer and wine. My understanding it also had a full liquor license at points in the past.

Mr. Knott said if I could ask Peter a question. There is a driveway that appears that connects one parking lot to the other, there is not a take-out window there, is there?

Mr. Buchwald said no.

Mr. Knott said where it goes by there?

Mr. Buchwald said no.

Mr. Knott said that's to get from one side to the other, is that right? And also on the summary sheet here, I heard you said there was the 78 property owner that were sent out, you said there was 7 that opposed, it says 6 on here, but did you say there were 7 now?

Mr. Buchwald said since the staff report was prepared several weeks ago, we have received another response.

Mr. Knott said so, 7 against and 7 for approval?

Mr. Buchwald said correct.

Mr. Knott said very good, that's were they stand right now. Thank you.

Chairman Bergman said was the petition, with all the people that supported the Waiver of Distance, was that in the packet or was that something separate?

Mrs. Gates said it was in the packets.

Mrs. Olson said its in mine.

Chairman Bergman said ok.

Mr. Reilly said he is talking about the one from the restaurant owner.

Mr. Buchwald said yes, that is the petition that the restaurant owner circulated and provided in the packet. Reportedly they went from door to door and had the people, should they not oppose it, sign it.

Mrs. Gates said in the neighborhood?

Mr. Buchwald said right.

Chairman Bergman said some of them have addresses.

Mr. Johnson said is there a number of seats that currently exists in the restaurant, I saw 1,900 square feet, but I did not see the number of seats available right not.

Mr. Buchwald said if you look on the floor plan prepared by the applicant, indicates the number of seats for their establishment. Code requires them to have a minimum of 35, it does not specify a maximum.

Mr. Johnson said ok.

Mr. Knott said Peter, since the Commission started all this and sent it back concerning the parking, do we concern ourselves with an application such as this with the amount of parking to serve the 35 seat restaurant?

Mr. Buchwald said the current parking provided meets the requirements of the Code for a restaurant, taking into the count the gross floor area. They have enough parking according to the City Code. They have enough spaces.

Mr. Knott said really? They are not marked off on here and I am just graphically trying to get a scale on here. Ok, if you are all satisfied that there is enough in there. How do you break that down?

Mr. Buchwald said a restaurant is one for 100, but you have to subtract out kitchen, bathrooms, utility room, to come up with the gross floor area.

Mr. Knott said so they would have their 15 or 20 spaces would probably be more than enough to take care of it. Ok, thank you.

Chairman Bergman said any other questions of staff?

Mr. Buchwald said to clarify, Mr. Knott, the Commission's concern at the time that they weren't sure that even those back parking spaces, we took those away then of course they wouldn't have any parking.

Mr. Knott said the ownership of it that was the issue.

Mr. Buchwald said but they did demonstrate that that is indeed their property.

Mr. Knott said I just didn't see any numbers of the amount they have here. But if you are all happy with it, it tickles me, too. Thank you.

Mr. Buchwald said I visited the site.

Mr. Reilly said the bar area looks really large in this place, just looking on their drawing. Is this a bar or is this a restaurant? Is there anything in the Code about...

Mr. Buchwald said for the purpose of a 2COP, it has to be...it just can't be just a bar, it has to have a restaurant for the purpose of serving food with beer and wine consumption. Hence, the permanent kitchen facilities. Hence, the at least 35 seats.

Mr. Reilly said so that is the only requirement is having a permanent kitchen and 35 seats? Ok.

Chairman Bergman said any other questions? If not, we will open the public hearing. If there is anyone that would like to speak on the Waiver of Distance.

Reverend Erlene Bernard said we are from the church establishment there and the papers that they said that were sent to us as a church, we have not received that packet. As a matter of fact, we was at the last meeting here and we had church members here to oppose this because what we are trying to do is we are trying to make our community better, rather than bringing some more alcoholic beverages to there. Secondly, there is about three establishments there in that neighborhood that sell alcoholic beverages. What we want to do is make sure that our kids are safe. When we have church conventions and things, our kids goes to a neighborhood store there and they are free each Sunday morning to walk down to that store and purchase. We don't feel that this is a safe thing to do for our

neighborhood. We are trying to make sure that we imbetter the neighborhood rather than allow something else to come in that is going to distract our community here. And secondly, with him saying that there is a big parking lot space, that is not really so. The space that is there is, well, I am not very good at numbers, but its really not what it appears to be here on paper. As a church community, we did not get a packet saying that that was going on. We did not get a petition. So, and had we gotten a petition, we would have gone through the community ourselves and done another petition. We did not get a petition and we have never seen a petition and the reason we are here is that we got a letter, a one-page letter, you know. It is really not feasible for our community and definitely for our kids. We are trying our best to imbetter our community. Even before we came up, I heard the gentleman talk about gospel and bless and that is what we are trying to do. We are trying to imbetter our community. And what has happened is we've watched several portions of our community, we watched Avenue D go down the drain with the alcoholic beverages and stuff and we are trying to protect and our school kids are there. We are trying to protect our community now. We see too many things go down the drain in the northwest section of town and we want better now. We do not need another alcoholic beverage place put there.

Chairman Bergman said which church are you from?

Reverend Bernard said the House of God at 1601 North 27<sup>th</sup> Street.

Chairman Bergman said so that would be the one that is the 799, Peter?

Mr. Poitier said that's the closest one.

Chairman Bergman said that's what I thought.

Reverend Bernard said if there is anything that we can do, I mean, the restaurant that was there before, I am very sure that they did not sell alcoholic beverages here. I am very sure that they did not and if they did sell alcoholic beverages, praise God that they are not there anymore with that. We are trying to make our community better. I don't think that alcoholic beverages exposed to our kids...when we turn out Sunday School on Sunday mornings, we allow our children to go there and patronize the little convenience store that is there. We have an adult to walk with the kids down there. So, there is no way that we want our kids exposed to another establishment there with alcoholic beverages on the premises. Is there anyway or anything that needs to be done, if we need to get a petition signed, we would gladly do that. Thank you.

Mrs. Olson said I have a question for the speaker: do you live in this neighborhood, as well?

Reverend Bernard said no, I live in the Sheraton Plaza area.

Mrs. Olson said all right, just curious. Thank you.

Reverend Bernard said but I have been a citizen here in St. Lucie County for more than 53 years.

Mrs. Olson said ok, thank you.

Mrs. Benton said Reverend Bernard, are you cognizant of the difference between a packaged store and a store that has a restaurant and you can only purchase the alcoholic beverage if you are eating? Did you understand that this the nature of this particular application?

Reverend Bernard said yes, ma'am, and I am also aware that when you come out of an establishment with alcoholic beverages in your system that you don't feel the same as you did when you went in there. So you are saying that it should be contained inside. I feel like that when a person go inside an establishment and they have taken in alcoholic beverages, they are not going to come out the way that they went into that place of business. Do that answer your question?

Mrs. Benton said yes it does, thank you.

Mrs. Gates said Reverend, I would like to ask you, you were talking about the children, the youth, that you are taking to one of the little stores down here. Is it on Sunday morning?

Rev. Bernard said yes, ma'am.

Mrs. Gates said I think that we have a law in the City limits that restricts sales of alcoholic beverages during that time. I am just questioning the time that you are talking about with your children that you are taking them to the store. If it is Sunday morning, I don't think that this restaurant would be allowed anyway to sell alcoholic beverages at that time of day.

Rev. Bernard said not only that, but our services are Wednesday evening. We have a service on Friday evening. We have our youth service on Tuesday evening and not only that we have our State-wide convention that's held every July, since 1992.

Mrs. Gates said so there is time when youth is there not just Sunday School.

Rev. Bernard said yes.

Mrs. Gates said thank you.

Chairman Bergman said any other questions of the applicant? Anyone like to speak?

Ms. Alberta Anderson said I do live across 25<sup>th</sup> Street, 23<sup>rd</sup> Street and Avenue O. Not only that, the church has been established there since 1992. We have been established and we are incorporated with other churches and when we have our convention in the summer, in July, we have churches all over the State coming in to the convention. Not only that, as Reverend Bernard said we have so many places with alcoholic license in the Lincoln Park area and there are enough of them already without getting another place that sell alcoholic beverages. We are trying to update our community. Like she said, Avenue D has gone down. We are trying to bring it back up. We don't want 25<sup>th</sup> Street to go down like Avenue

D went down. So, if we can do anything to help preserve it, we are trying to do that as a community.

Reverend Gardner said I am from the House of God Church, also. I'm the youth coordinator. I work with the youth in the community and what I do is I try to go into the areas and get young people to come to the church so they can teach them to resist alcohol beverages and things and to make it more convenient for them. And I deal with teenagers just like these young kids here to make it more convenient for them to go in a place. This young man is 18 years old and then to make it more convenient for them to get in a place and sit down and do things that a contrary to what we are teaching them about having more available that is what we are trying to resist. We know it is all about money for them, but we are trying to save our young people and that is what is about for us – saving the youth in our community. I know that they want to make money and we not trying to stop them from making money, but I know they can make money just like they are. All we asking for is, you know, you all help.

Chairman Bergman said thank you.

Reverend Haisley said I am also with the House of God Church and I am also the Sunday School Superintendent at the church and what I want to impress upon the Board this evening is that we are trying to promote a positive environment, not only for our young people, but for the adults that would be prospective number of our church. We don't want our areas around 1601 North 27<sup>th</sup> Street to be blighted areas with different things coming about in our community and we feel there could be more positive ways to promote and stimulate economic development of our people in our area other than with licenses that would promote alcoholic beverages in establishments where people come down and consume these beverages and then go back out into the communities. We have had problems in the past in our areas with break-ins in our cars and other situations in our community in our church areas and we want to be in a situation to where we would have a voice tonight. That's why I am here tonight, because I feel that not only as a church member but as a tax payer that I have a right to voice my opinion in the direction that our community is going and to allowing waivers and other things in our community, I feel it would be very detrimental to not only our church community but also to the Lincoln Park Community. Thank you very much.

Chairman Bergman said thank you.

Reverend McGee said I am one of the associated Pastors of that particular church and we know that when alcohol get involved, alcohol is like a wild fire. When you getting to drinking alcohol it is like a wildfire. People's drink and on Sunday morning we got our crews standing all outside blockading traffic. We know that. We've seen it and it escalates. I am not against the gentleman trying it. I am the one that helped build that place and I don't know where you got all that room you talking about. I helped build that place. Bonds, they shared a little small parking lot in the rear and I have not went inside and looked at it recently, but this sort of capacity that you talking about, I don't see it. You know, I am the one that helped build it. So, what we are saying to ya'lls, we are trying to better the community. We know that. We've seen all's our areas and different areas run down while

because of alcohol. Sooner or later the drug traffic is going to move in. We know that. You know it and I know it. We'll just, what we are on Avenue P, right on the corner of Avenue P and 27<sup>th</sup> Street, and we don't need that. so, we are going to ask you to fix it for us. Thank you.

Chairman Bergman said thank you. Anyone else like to speak?

Mr. Reginald Sessions said good evening Mr. Chair and fellow Planning Board members. I stand before you today on behalf of the applicant himself, Mr. McDonald, that I am accompanied with here this afternoon. And we would request that you would follow the recommendations of staff. I commend Mr. Buchwald as the Chairman indicated earlier, he has in fact done a thorough investigation and the applicant, in fact, met all the requirements with regards to the Code. Just to give you a little history about the building itself; this building was constructed by Mr. Lucas and after his construction, individuals went in and opened up a restaurant and it was opened for probably about 6 or 7 years and for whatever reasons the restaurant was in fact closed down. However, the building went at that point unoccupied for about 3 years and then there was another individual that went in and leased the building from Mr. Lucas and that was the previous owner before Mr. McDonald himself. But to answer your questions earlier, there was a question raised with regards to whether or not there was beer and wine on premises consumption before the applicant came forth and yes, in fact it was this individual leased that building and he did in fact have the beer and wine 2COP license to sell beer and wine on the premises for consumption in the restaurant area. What happened was that Mr. McDonald met with that owner and he subsequently leased the building from that owner in the month of November 2005 and he actually operated the business with that license, with the beer and wine consumption on the premises from November to May. However, Mr. McDonald decided that he would embark on buying the property himself. So, he purchased the building from Mr. Lucas and at that point he was under the presumption that he would be able to in fact continue status quo and have beer and wine consumption on the premises with the license. However, he found out that was not in fact the case and that is why we are here today. Had it not been for him buying the building itself, business would have continued and I am not aware of any complaints of that have occurred since November. I have checked into the Police Department and I am sure that staff has in fact checked into it; maybe they could elaborate more on that. But I am not aware of any problems that have occurred since he has been on the premises leasing since November up until May when he purchased the building. Now he is not able to sell beer and wine on the premises. I am going to be very candid with you – the business will fall under. The gentleman has a \$3,200 mortgage and his profits have suffered half since he has not been able to sell beer and wine on the premises. Ok? Also, it has been mentioned that a petition was circulated and you have a copy of the petition in your packet. Interesting enough the individuals that are closest to the building itself, for those of you who don't know her, specifically a Ms. Bush, a retired school teacher in our community is probably within 20 feet of the building from wall to wall. And as you can see on the petition, she actually signed the petition. If any of you know Ms. Bush, Ms. Bush has a zero tolerance level for disturbances. However, Ms. Bush did in fact sign the petition and she recommended that her neighbors continue to do business as they were doing previously before the license was taken away from them as a result of the ownership of the building being transferred. There was some questions raised about the size of the parking

lot. You have in front of you, which was also a question raised by the Commission too, you have in front of you a survey of the property and staff has indicated to you that there is sufficient parking in light of the number of individuals that would be facilitated in this particular building. Also, it was requested by staff that the applicant, Mr. McDonald, put in a wooden buffer fence and he has in fact invested in the fence and that fence is placed between the building and Mrs. Bush's property, which is her home. Like I said earlier within 20 feet of the building, itself. There is another gentleman that is next to, at least behind, Mrs. Bush's property that is second closest piece of property to the business itself and that is Mr. Reverend Eugene Monroe. And you can see, again, that he in fact signed the petition itself. On that note, again, I am going to be candid with you, the gentleman is not going to be able to survive without a beer and wine license in order to sell beer and wine on the premises, itself. The business will fold under. He has had to go into his trust fund for the last two mortgages themselves in order to keep the business afloat and satisfy the mortgage. But he has taken it upon himself to satisfy all the requirements of the Code. He purchased this building, again, under the presumption that he would be able to sell beer and wine on the premises as was previously being done. And this is not a situation where we are looking into a clear crystal ball trying to predict what would actually happen. This man has a track record and again, as I indicated earlier, I am not aware of any complaints of the Police Department and last, but not least, the individual closest to the property herself has not made any complaints. There were some concerns about Sunday consumption again, this is not a package store as Ms. Benton pointed out this is not a club, this is a restaurant. And those individuals chose to consume beer and wine will be able to do so. So I don't anticipate any problems and there haven't been any problems for that matter. The man has a track record and it speaks for itself. So, again, we are humbly requesting on his behalf that you would make the recommendation before the City Commission so that we can take it to the next level and it would be approved by the Commission. Thank you.

Chairman Bergman said thank you.

Mr. Johnson said I have a lot of questions. Based on the plan that was provided by the applicant, I noticed that you have nine tables proposed to meet a 36 or a seating capacity of over 35 persons, can you give me the dimensions of the tables that are proposed? Are they already there? I am just trying to figure out how 36 seats are going to fit, is my question.

Mr. Sessions said the only information that I have privileged to is what you have in front of you. In terms of the actual measurements of the tables themselves, I would have to rely on staff. They have had an opportunity to go out and investigate and actually look into the property and according to them, it has in fact met the prerequisites. But I don't have the actual dimension of the tables themselves. I would have to rely on staff, in that regard.

Mr. Johnson said I guess I have to defer to staff. We have made a premises visit to confirm 35 or more seats or greater capacity than 35?

Mr. Buchwald said when I visited, the interior of it was large enough to accommodate this many tables at this time. They didn't have those tables at that time. So relying on what's indicated here on the Site Plan in terms of that those will be the tables that they will

have there. But it was...I did visit the site and see it was large enough to accommodate these tables as they suggest here.

Mr. Johnson said ok, a typical table is approximately 3 to 4 feet, I would imagine, for this type of setting for a restaurant type of setting, minimum probably about 4 feet, either square, rectangular, or circular. I don't know how much room it takes for one sit, but I think design standards are somewhere around 18" for a chair to be sitting at a table somewhere 12" to 18" and then probably 12" to scoot your chair back to leave the table at that point. Just quick math gives you 4 feet of table, 18", 30" on each side for that person to sit down and then be able to leave that table, gives me a 9' diameter. I have 9' times the 6 tables proposed along the southern wall, makes 54'. According to the survey, the building is only 50'. You have 6 tables proposed along the southern wall that would encompass almost the dimension of the facility at hand. That doesn't even include the two doors that are along the southern elevation. I guess my question's are...it just looks like we are cramming a lot in to get the minimum 35 seat.

Chairman Bergman said Peter, can you put the plan up on that thing.

Mr. Johnson said and this is just my math based on a 4' table, even a 3' table would be approximately 8' of area required for person to sit at the table.

Chairman Bergman said I am going to step in because I know when they do these..

Mr. Johnson said are my numbers large?

Chairman Bergman said no, I think you are fine with your numbers but I know when they do these this is part of their application for their license and they just need to show a certain amount of tables.

Mr. Johnson said exactly.

Chairman Bergman said tables are moveable so they will move them to make fit typically.

Mr. Sessions said also, if you look on the site plan, on the west side where the pool table is located as you can see there is more than ample space to place additional tables that would certainly meet those requirements of what you are speaking of. This is a totally vacant area with the exception of a pool table and it is probably the biggest portion of the building itself. Again, I don't have the dimensions but I am familiar with the building. As you can see from the site plan it is bigger square footage wise so there is a vacant area there to accommodate additional tables.

Mr. Johnson said and I would agree with you if I had the numbers in front of me and I defer back to Mr. Reilly's comment earlier that that's quite a large bar area. I just don't know the number that is in front of me to say this is designated bar, this is designated pool table. You know when you play pool you have to have 20' around a pool table because of the nature of the sport. I am just not seeing it, I guess. I just see the number of tables and I know you

can move them around. How big is the kitchen? That's my next question, because there is only a 38' wall along the west or the eastern elevation.

Chairman Bergman said it's not to scale.

Mr. Johnson said I know it is not to scale and those are my problems. In regards to the number of seats, it just looks like we are cramming tables in to get the required number of seats.

Mr. Reilly said doesn't that equate to just nine tables?

Mr. Johnson said nine tables.

Mr. Reilly said and you've got basically 24 square feet per table, if you consider that, right? I guess you need a little bit more if you figured a 3x4 table, I guess about 36 feet per table. You've got 2,000 square feet overall approximately.

Mr. Johnson said I guess I was just looking for more information on how we were fitting the tables in this restaurant.

Mr. Buchwald said I can provide some insight, it is a poorly prepared site plan. It is not to scale, the tables are not in the...they are all jammed over here when they have all this open space so it is not spread out. That's not how they would obviously...based on my visit there. And this area large...unfortunately we don't require, the Code does not require them to do a site plan to scale and I guess that based on my inspection when I went inside it looked like it looked like it was and looking at these compared to other establishments that we have inspected, this had plenty of space for 36 seats to accommodate that and it had a permanent kitchen facility and so it met the requirements from that regard and I mean it was constructed in... I hope the previous who spoke who said that they built the facility I assume that when it was built as a restaurant that it met the requirements of that Code at that time and had appropriate parking. But taking away...just calculating the gross floor area, you figure it needs about 15 spaces and if you count there and again, it is not to scale, but there is about 15 spaces there represented on the site plan. I believe, I don't have the number in my notes, but I counted those little spaces and it appears to have adequate parking based on my inspection conducted several months ago.

Mr. Johnson said ok.

Mrs. Olson said Mr. Buchwald, when you went to go visit the site you said that there were no tables inside at that point, were they in business at that point?

Mr. Buchwald said no, I inspected prior to the first applicant at the time of the first application, if you recall. They had the tables in this area and they had some more seating in this area. They didn't have all the tables configured exactly like this. This was several months ago.

Mrs. Olson said but they did have seating for 35 plus?

Mr. Buchwald said oh yes, they were operating as a restaurant at the time. it just wasn't situation in this matter.

Mrs. Olson said I don't care how it is situated there.

Mr. Buchwald said they didn't have the pool table at the time either.

Mrs. Olson said ok, but they did have 35 plus seats?

Mr. Buchwald said yes, at that time, but it wasn't situated though in this manner though.

Mr. Johnson said but there were 35 seats? That's all I needed.

Mr. Knott said just a quick question for staff or Mr. Sessions on this. Since this whole reapplication was brought on by the Commission's concern about the parking and seeing a survey on this, just a technical and I don't even know if the ordinance speaks to it, I noticed that the survey that is provided here with the application is not a current survey. Its like 11 years old and I know our ordinance speaks to having a current survey with certain applications. Is it required to have an updated survey? To have the surveyor go back and say everything is still as it was 11 years ago?

Mr. Buchwald said no, a survey is not required as part of the application for a Waiver of Distance.

Mr. Knott said but when you're requesting or when they are providing one, should it not be...a lot of things could happen in 11 years.

Mr. Buchwald said they would have to subdivide the property in order to...they would have to change the property and to have recorded that and sell off that 20' portion of that piece of property for it to no longer be in ownership until that goes back to a minor replat and the whole administrative process that I am not sure if it would meet the requirements of the Code for them to be able to subdivide it in that matter, to resubdivide it in that matter. But no, we did not require an updated survey.

Mr. Knott said ok, I know for Site Plan you do require...this is not the same thing. That's fine. if you are happy with it and if the Commission has no problem with working off of a very old survey, then so be it.

Mr. Buchwald said the Commission didn't give any indication as to why they believed that that parking wasn't there other than just general knowledge.

Mr. Knott said well, they have documentation now, but its old documentation, but it is still documentation. Thank you.

Mr. Reilly said Mr. Sessions, real quick. Hours of operation? Is it just a serve lunch and dinner restaurant or what?

Mr. Sessions said yes, I can have them speak and they could be more specific and tell you the hours of operation of the business.

Mr. Dave McDonald, owner, said when I applied for the permit, I indicated to Mr. Buchwald that we would not sell beer or wine before 5:00. During school hours we wouldn't sell beer or wine because it is a restriction and I need the benefit to prosper and the people need the facility and they need all the fences there and everything. I am willing to comply whichever permits...

Mr. Sessions said what are your hours of business now?

Mr. McDonald said we start lunch about 10:00/11:00 in the day.

Mr. Sessions said and you close at what time?

Mr. McDonald said 9:00/10:00 at night. On Sundays, sometimes we doesn't bother to open. A lot of the church folks says they are not able to cook, so they always come over and buy dinner on Sundays, so we are open 12:00 up to 9:00/10:00 at night.

Mr. Reilly said and the size of the bar that we are talking about in here, is it just a small little bar?

Mr. McDonald said it is open space. It doesn't have a bar license, so we could use as a restaurant or whatever. So, it is a big open space as you can see up there, nothing is in it right now.

Mr. Reilly said what are your plans? Is it a small bar, is it a large...

Mr. McDonald said it is a small and see we have a drive-thru. The drive-thru is for the restaurant where most of our people buy from this to go. (inaudible) thru the windows. We never sell alcohol through the window, because we sell for consumption and not packaged.

Mr. Reilly said ok, that's my only two questions.

Mrs. Olson said I have a questions regarding how the COP waiver works. It seems like we have some positive input from residents in the immediate area and that some of the churches, on in particular, but some of the churches are concerned about it and I know that the waiver specifically, well, the Code prohibits specifically within 1,600 feet of churches and schools. So, if those churches object and maybe this is a question for Mr. Walker, I don't know, how do we weigh those things?

Board Attorney Walker said whether alcohol is a good thing or a bad thing is very much a legislative decision to be addressed by the Code through Code amendment. The Board itself has no alternative but to apply the Code as it finds it and the Board is required to base recommendation upon competent substantial evidence. The only evidence before this Board is the expert planning opinions that have been offered here. Emotional

neighborhood opposition is not evidence where that is not based upon the criteria that the Board must consider. The criteria are set out in Section 3-9(8) and it sets out 6 factors to be considered by the Board. The first factor is the actual location and distance of the proposed establishment as well as its distance from churches and schools. That information has been given. Sub (a) requires the Board to consider the type and size of the establishment, including any bar floor space and seating capacity and whether in view of its type or size that establishment is likely to create a public nuisance or traffic impediment by drawing crowds or persons milling about outside. Sub(c) is whether there is adequate parking and landscaping. Sub(d) is whether the facility is physically separated from or well buffered from all adjacent residentially zoned areas. Sub(e) is whether traffic generated by patron or pick-up and delivery vehicles will pass through low or moderate density of residentially zoned neighborhoods and Sub(f) is whether if the facility is located within 1,600 feet of a church or school it would generate traffic which may adversely affect the safety of persons attending such church or school. The only expert testimony or evidence that has been offered on this has come from staff. There is no contrary commentary that specifically addresses or impeaches those criteria. The planning process is much more than a matter of counting noses to determine which side has the most bodies there in a hearing. The Board must base its decision upon the narrow criteria that is provided by through the Code.

Mrs. Olson said thank you.

Chairman Bergman said assuming there is nothing else.

Mr. Sessions said thank you.

Chairman Bergman said thank you. I would really like to close this public hearing and move on with this, if we can. Can we have a motion?

Motion was made by Mrs. Olson, seconded by Mr. Poitier, to forward a recommendation to the City Commission for approval of the site plan.

Chairman Bergman said we have a motion and a second. Is there any discussion?

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

Chairman Bergman said for those of you were here, we are strictly recommending body and this will go to City Commission. You will certainly have the opportunity to take that up with the Commissioners.

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Chairman Bergman asked for a five minute break at 9:05 pm

Meeting came to order at 9:15 pm.

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The next item considered **#7 – Design Review Guidelines** – Approval of guidelines for the purpose of guiding the quality and compatibility of proposed development in the City. (Tabled from October 10, 2006 meeting)

Ms. Kara Wood, Urban Designer Administrator, said you have before tonight request for a approval of the Design Review Guidelines, which we had before you for discussion last month and in our discussion of our ordinance, there was actually little commentary of the text itself. It may have been that everyone was exhausted, but the jist of the conversation was they liked the direction that the text is going and we want to see what the graphics are going to be. So what I would like to do is go through the graphics first and review those with you and see if there are any questions. Then go through the text of the guidelines and review some of the few concerns that were brought up previously, both in the meeting and with conversations with individuals and go over how we intend to address those. The graphic supplement of the Design Review Guidelines are essentially broken up into two halves – the first talks specifically about styles that are referenced in the text of the ordinance. so I have broken those up into two categories of wood frame vernacular and it just talks about a little introduction of what that means and then a couple of styles that would fall under the overall structural systems of frame vernacular and some sort of stylistic bullet points and images associated with those that illustrate those. For the most part, text in the graphic supplement is taken from expert sources that have been published on these issues. I have not tried to recreate anything. I relied on people who are smarter and more qualified than I am, so it is all quoted from primarily a text on the American vernacular. Under the mason vernacular, couple examples of what falls into that category and what that very broad structural system is all about and then mason vernacular styles, which in some of these can cross into wood vernacular, too. It is not all clean cut. So, this is really meant to just to give an over arching, both text and visual guide to what these titles mean when we refer to Spanish eclectic mission and craftsman and such like that, what is the vocabulary that goes along with those things. After that description of the individual styles, there is a whole index of historic buildings that relate to those styles in some way or another. It was difficult to...it might have been more clear cut to categorize all these examples within those title of styles, but they don't always fall cleanly under those categories. A lot of these things borrow from multiple stylistic vocabularies to create their own interpretation for what characterizes Fort Pierce. If you have been around long enough, I am sure you have seen all of these drawings before. They have been published and drawn by former members of the Urban Design and Planning staff. The second half the graphic supplement talks about the primarily the goal to need for proportion as a way of analyzing the classical proportioning system of any kind of building. I admit its it a bit academic, it may a bit hard to handle and I don't expect everyone to understand all the certain mathematical and geometric analysis of the golden mean proportion, although I think that the text that this is taken from makes it pretty accessible. But, I think just in the first paragraph of this section of the guidelines I hope will sort of illustrate why it is included. It says, "in these times when there is an instinctive feeling that society is out of order, designers have at hand a means for achieving harmony." And in the last sentence of the first paragraph, "when translated spatially it enables designers to produce unity among the diversity of elements." So this whole section is really meant to start to have a way to tie the language in the ordinance that talks about proportion and a logic of design to something that is measurable so that in the end staff's assessment or the Design Review Board's assessment isn't just about well, I like

one style of architecture or another or I like the craftsman styling and shouldn't that be what it is. Is much more going to be based on does this building display a proportional system that relates to a classical proportioning system that is found in the vernacular buildings of the City. So, what I have done is taken this introduction, taken some scans of the catalogue from which this analysis is taken so that you can at least understand and other people can understand what the Golden Mean is about and how it is constructed and all of that. Then from there, and here are a couple of examples of the Golden Mean as applied to even modernistic buildings. So it is just not trying to say that everything has to be traditional, it is saying that every thing has to relate to a composition that makes sense that is harmonious. Then I have taken elevation drawings of these existing vernacular buildings that we have in the City and applied this proportionate analysis on top of these elevations to show how different configurations of these proportioning systems, whether you use a ratio of 1 to 1 or the Golden Mean ratio of 1 to 1.618 or 1 to 2, but that all these buildings in their various organizations of their elevations make sense within that system or within a system. So, again, this isn't...and then the whole thing ends with a list of references for which anyone can access these documents to get more information about the books that contributed to the creation of this graphic supplement. So, this isn't imply that when a designer for a project comes in he has to be ready to discuss at a Ph.D. level how the Golden Mean relates to his project, but it is a tool that staff can use to be able to argue "yes, this project is proportional to the architectural vocabulary that is chosen or not it is not." Just so far I have had a couple of requests, Mrs. Olson phoned me yesterday and specifically requested that all the buildings that are illustrated here be labeled with their location and most of them are local buildings, there are a few examples that...for example, this house I believe is not actually within the City limits of Fort Pierce, but it is on Indian River Drive. There is one image of the classical revival building that is taken from another publication, but it is close enough to styles in Fort Pierce that I believe is appropriate. But any case, Mrs. Olson requested that all the buildings be labeled with their address so that if anyone wanted to go and visit the building and see it in three dimensions that that could be done. So, we can do that and she also pointed out that there is a big thing that is missing is a stylistic description equivalent to this page that explains the terms Art Deco and Mid-Century Modernism. We can certainly provide that as well. Keep in mind that this document, the graphic supplement was fully intended to be separate from the ordinance so that staff can continue revising it as we implement this ordinance because as designers come in they will continue to have questions about "well, what do we do in this situation?" Well, when those questions come up, we can continue to provide illustrative examples of how one might deal with such a situation that doesn't necessarily relate to the great buildings of our history but that might speak to how do you really go about contemporary construction and development. That is our intention. Are there any questions first about the graphic material?

Chairman Bergman said I know you ask you this when we saw it the first time, are you going to do any specific detail examples for the specific styles that may be used as a reference or do you feel you are getting too far in depth of designing the building for people?

Mrs. Wood said I feel like we are getting too far in depth of designing the building.

Chairman Bergman said this is good. I am just thinking more in terms of some of the pattern books for some of these other developments that they get in there and I know Port St. Lucie has something kind of along that line for, I don't know if it is Gatlin Boulevard or the Port St. Lucie Boulevard area, but they've got necessarily...it is kind of different, but it is almost a pattern book for that development. They get into colors and things like that and I didn't know if that is what your aim was for this or if you wanted to try and get...I know it is not a design book, I guess it is more to give people direction in terms of what's available or what the City would like to see in terms of styles within the City without actually getting out to the point of saying "here is the type of door that you can use for this type of style, here is the type of window and the casing for this type of style."

Mrs. Wood said right, I think that that is also because as we are putting together this index of vernacular buildings, as I said, even a lot of the best illustrations of buildings that were perhaps demolished long ago don't fit neatly into a style so than if you tried to codify a particular architectural elemental vocabulary, then I think it is not even necessarily being true to the character of Fort Pierce, which actually does kind of agglomerate a lot of different things. I think there are a lot of reasons for that based on the urban history of development of Fort Pierce as opposed to a bigger City, like Miami. But in any case, it is not so clean cut and I would argue that that's what probably makes the historical architecture of this City much more interesting.

Chairman Bergman said absolutely. Well, I guess as staff, you would probably have to draw the line as to whether you are going to give graphic examples of some of the local architecture versus spelling out how things should be done for everybody that comes in here.

Mrs. Wood said right, I think that that's what I was hoping that the proportional analysis would at least demonstrate that even in things as minute as the windows of a simple wood frame vernacular structure fit into a clear proportionate system so that we are not giving you a window type, but we are giving you a system of window proportioning.

Chairman Bergman said I am glad you put that in there because not many people know what the Golden Mean is.

Mrs. Wood said yeah.

Chairman Bergman said I mean, you would be surprised, it is pretty astounding. People just throw stuff together and expect it to look good.

Mrs. Wood said right, like it is just a roll of the dice.

Chairman Bergman said I like what you have done. I think this ought to eliminate a lot of the questions. Because people come in here and just have no clue what direction you are talking about when you tell them to do something prairie architecture. You are trying to do something Mediterranean Revival or whatever the style is that you are referring to and they just don't have the slightest idea of what you are talking about. This at least gives them some direction, they can go look at it, or research it that particular style and at least start to

incorporate some of the elements in some of their designs. Because it would be nice to see some decent design work come through here with some really neat elevations because it is just...for a while we had a say in it, but we didn't have any teeth and maybe now we will have some teeth.

Mrs. Wood said and I suspect that there will be some difficulty like with any project you have some developers who are easier to work with and some who aren't and really the burden of proof of the cohesiveness of the design lies on the applicant. The applicant is required to provide images of precedent buildings that he is basic his design on. It doesn't mean the design of the new building has to look like the precedent, but you have to argue your case of how the new building is taking cues from the old building. And of course, I am biased because this is the way I was taught to design. You don't just sort of throw down the dice and see what happens and say "well, we need some light in this room, we need to get into it, so there goes the window and the door."

Chairman Bergman said oh, you would be surprised.

Mrs. Wood said not anymore I'm not.

Chairman Bergman said this will be good. Hopefully it will get around some of the egos people have when they come in and present their work and we can tell them that's not acceptable in terms of what we are looking for. I am sure I know, I have been through your design review, your steering everybody in the right direction, that's good.

Mrs. Benton said will there be any mixing and matching of these various design in a given area or once an area takes on a particular design, would all new comers have to comply with that design?

Mrs. Wood said you mean in terms of a stylistic theme?

Mrs. Benton said in terms of, yes, the buildings for example, if there were wood frame vernacular in a particular area and someone wanted to come in with another masonry vernacular or come in with one of the other designs that you have here, would they be allowed to come to an area that is already been defined by, say, the wood vernacular?

Mrs. Wood said I would argue that there are very few areas of the City that are so cleanly themed that you would be boxed into one style or another and the areas that are that way are historic districts, for example Edgartown is probably the most clearly defined Cracker vernacular neighborhood.

Mrs. Benton said where's that?

Mrs. Wood said Edgartown, just north of Downtown. Or perhaps Riversedge is pretty clearly a vernacularly defined neighborhood. But these are historic districts and they are reviewed by the Historic Preservation Board and there is a whole separate set of guidelines that are required for that and I think so that is distinct from this process. It is, again, up to the applicant to show and this is in addition to what is required for a site plan submission.

When you submit for design review, you have to show what is around your building, whether that is a montage of photographs with the drawing of your building inserted or measured drawn elevations, which it would be a dream to see that. But in any case, it is their responsibility to show that their building fits into the context with the surrounding buildings. I can't think of an example where they would have to match it stylistically, but they should match it proportionately, the mass, size, scale and general organization of the building elevation should be respectful of what's around it.

Mrs. Benton said thank you. Would the Planning Board sitting as the Design Review Board be sitting at a separate time or would that be incorporated into these meetings?

Mrs. Wood said this is structured so that design review runs concurrently with Site Plan review. So, when you get a Site Plan application before you, you will have as a piece of that the design review staff recommendation to accompany the staff report so it will all go at once.

Mrs. Benton said thank you.

Mr. Reilly said are we just kind of opening it up now or are we going to go further?

Mrs. Wood said well, I was going to go through in terms of the text of the ordinance, I was going to go through and I have about eight bullet points of things that either we asked at the last meeting and I wanted to address or just needed to be revised.

Mr. Reilly said ok. I'll just wait on my questions until the end.

Mrs. Wood said if it is about the ordinance itself, I just wanted to kind of go over anything that had to do with the graphics.

Chairman Bergman said continues.

Mrs. Wood said regarding the text of the ordinance, we did sit down with Mr. Walker and reviewed all of the potential legal issues so I think that we have ironed out all of that and that was really helpful to clarify some of the language. Starting at the beginning, 22-59(a) under Applicability, at the last meeting there was the applicability of the ordinance was quite broad and if you noticed we've clearly narrowed it down to in the first sentence, "all developments requiring site plan approval or development located along arterial roads which submits application for development..." and I have a map of the arterial road network. And in response to that when the question came up about what do we want to review and what do not want to review, Mrs. Olson specifically suggested that staff come up with a sort of laundry list of various things that we may want to look at along the arterial roadways systems to be able to control. I did that at first and at the same time I did a sort of general analysis of how much time it would take for staff to review these applications. So, realistically, one of the resources that are required to undertake this and given my experience with doing project management for site plan review and the way applicants communicate and we estimate that each application will take about eight hours to process. we are very concerned that if we add anything more than what is already in the ordinance,

we do not have the resources to do that and we do not have the resources in our budget year to hire additional staff. So we are recommending that we limit it to these things and if there is any discussion on that, we would be welcome to it, but that is why we didn't expand it any further. There's been some discussion about well, shouldn't the City, itself, in all of its sponsored projects, adhere to its own design guidelines. For the most part, any project that the City does would be subject to site plan review and all the same rules apply. But there are other things that the City does that, for example, the Community Services Department when they are building housing or sponsoring the building of housing, we would want that housing to conform to our own rules, even though the individual buildings aren't subject to design review. So we are proposing the text in the second sentence of sub (a), "in addition, all city sponsored development projects not subject to site plan review shall require administrative review and approval according to the guidelines in this section." So it is just a proposed addendum to Section (a) to basically, as I said, require the City to follow its own rules. Number two, Section 22-59(c) under Fees, there was some debate last time about should we include fees, should we not include fees, our feeling with a nominal filing fee of something like \$50 to \$100 is not that great of an expense for a developer so that is something like what we are proposing and we need to draft that for Section 22-142. Sub (e), Design Review Board action, the question was raised do we need clarification on the approval process with applications not subject to site plan review? What is the process for that? How it will work from a staff's point of view, we would have some kind of screening process when building permit applications come through the Building Department that we would catch those the same way we do for Historic Preservation and we review those and bring those to you as separate applications for review. So the questions stands, do we need to have language regarding that? So, that is something for your consideration. Sub (h)(2), (h) is the Architectural Improvement Guidelines section, number (2) is entrances. Under (b) says, "to accommodate a human scale and encourage pedestrian activity along the street the inside line of the yard requirements shall be considered a frontage line." It is in fact a little beyond encouraging pedestrian activity along the street, this is meant to have a consistent spatial experience along the streets of the City. This is perhaps the most possibly controversial or an initial speaking about a site plan application, sometimes the most upsetting to developers because it means you have to build on the setback line as opposed to putting a bunch of parking in front of your building and putting the building in the back. So, where this really come into play is in commercial developments. And it really depends on whether or not this is going to be an issue for the site. Sometimes it just depends on the nature of the parcel size. If you can put your building on one side and put the parking on the other side, it is really not a big deal, but in some cases, there's already been some concern raised about this. In most cases, it is not something that can't be done, it is just something that hasn't usually been done. But we feel strongly that this is a really critical aspect of having design consistency in the City is where you place the building on the lot. In some cases, this probably isn't necessary. In industrial districts, we probably don't want to be concerned about whether or not the building is right up to the street. As a matter of fact, we probably want something other than that. so, we have proposed adding a second sentence in that section which says "exception may be granted for development in the following zoning districts: OS-1, OS-2, I-1, CP-1, which is Commercial Parkway, C-6, which is Marine Commercial, and C-3 on properties backing onto a highway and fronting an internal access road." Next item, under the same section Entrances, under (d), Porches. It was suggested that we add in parenthesis "setback" after front yard for clarification that the

definition “yard”. Even though it appears in our code, often in other codes the word “setback” is used. So it was suggested that we add that in for clarification. Number four, which is Elevations (I), it was suggested that we add some clarification that this is about review rear façades that face the water. So that is another possible addition that could be put in. Number ten, Awnings, this is just a typographical error. The text should read “back lit” and not “back light”. And number eleven, Renovations, at the last meeting there was a suggestion that we delete this section as most renovations would occur at a small scale and that a large number of them would be on historic structures, which is reviewed by the Historic Preservation Board. We’ve actually chosen to amend the language to include “only development along an arterial road.” And we included the availability to administratively review and approve minor changes. So, for example, you know a small business who wants to redo their front elevations, we might just want to give them permission to replace the windows or whatever that minor alteration is. As another example, there is a large shopping center, which is currently in discussion with us about redoing the entire façade of the shopping center. That is probably something that we would want to review that would not be subject to site plan review because they are not building additional square footage. But we would want to have that reviewed by the Board.

Mr. Knott said excuse me, under that section, is Delaware considered one of your arterial road?

Mrs. Wood said no.

Mr. Knott said because I noticed that you’ve got on here Okeechobee Road, Virginia and all that, but that section of Delaware would not fall under this?

Mrs. Wood said no, because it actually runs along State Road 70, which of course, turns into Virginia.

Mr. Knott said so, that’s good, so that doesn’t apply to that section.

Mrs. Wood said right.

Mr. Knott said thank you.

Mrs. Wood said and that’s actually it for the line-by-line suggestions, questions, revisions. And just kind of to conclude, I want to point out that these guidelines are really considered as kind of a stop gap for our ability to review the design of buildings until we can rewrite our entire Land Development Regulations, which would be within the next year. So in some ways, this is kind of an efficient process whereby staff can really assess how this works, how the ordinance is implemented, and take that information into the rewrite of the LDR and it would be my assessment that it would be much more efficient to include this in some type of form base code, maybe not for all areas of the City, but for the areas that we want to control design. So, whereas this may take some more resources at the beginning, it is really just to kind of fill in the gap until we can address the issue more comprehensively. And that’s it.

Chairman Bergman said good. I think we tried to do this years ago and the issue was we were forcing an additional burden of excessive cost on the developers because they were going to have to provide...this was before elevations started to be provided for all these projects and then we started getting elevations for buildings and things like that even though it wasn't a requirement, it was kind of an understood thing that we wanted to start seeing what these buildings look like, because we had the wool pulled over our eyes a couple of times where "we are just doing this box" and that is what we got was a box. But the concern at that point was that the developer was going to bare this excessive burden of spending all this money to have these renderings done and these elevations generated and all these studies done to show how the building is going to look. Oh, well. We are doing it now everywhere. This is a little bit a step or two above what is being required of most other municipalities, but I think it is probably good because I am getting tired of seeing all the garbage. When you start to come into Fort Pierce, it would be nice to have some descent looking buildings when you get into the City limits that we can showcase. So, I think it is a good thing.

Mrs. Wood said I think in the need it doesn't really cost that much more to take a prism color to a piece of paper, its just that more than what we are used to and I think we are all familiar with not wanting to do more than what we have to do and so when someone is trying to raise the bar, we just kind of have to be up to the task.

Chairman Bergman said and that and with property values and the cost of construction, your better off to go ahead and spill the beans and let everybody see what you are trying to propose and get all the input that you can initially up front and then you get a lot support or you get a lot of opposition right up front. You know what you are up against. I think it is a good thing. I mean, it is something we needed to do for a long time, I guess we needed somebody on staff that knew how to do it.

Mrs. Wood said glad I can fill in.

Mr. Reilly said I've got some questions. I'm always scared of hearing about more government here, but I do like the idea. But I don't understand how it is going to work. is all of staff trained in...architects is more like an art-form, as I understand it. I am not an architect. Is everybody trained or is it just going to be you, Mrs. Wood, that is going to do all this and if so, what is the cost associated with it? If it is going to take eight hours per project, how many projects do we anticipate a month? What is the cost associated with doing this? Is it going to slow down the whole planning process? I mean, is it just you that is going to do it?

Mrs. Wood said well, there is a couple of questions in there. We do actually have an Urban Design Planner on staff who is really working in the Historic Preservation Division and her efforts are focused on project in that area, right now. But she does have a degree in Design. So we do have additional staff who can support this. I haven't done the calculations on if both of us are doing that, what does it actually cost. I don't know how many site plan submissions per month we are getting, so I can't calculate that for you. But to be quite honest, I do anticipate that this will become my full-time job once this is implemented. So luckily we now have other staff on board who can take over the things

that I was doing before. But yes, this will take resources. The other part of your question was does it add more time to the review process.

Mr. Reilly said well, I was going on fact. You, right now, come before us with other things that you are doing also, if each one these take eight hours a day, I don't know how many you are going to have in a month, you figured out already that they take eight hours to do one of these reviews, so that you means you are limited to 20 of these a month, if you are working a normal work day. So I just didn't know if we anticipate 20 of these? Does additional staff need to be pulled on board for this?

Mr. Margotta said I appreciate Mr. Reilly's concerns, however a lot this is dealing just with regular administration of your City and literally, if we get to the point where we need to provide another trained person, we will bring that person on board. We plussed up that staff, the Urban Design and Historic Preservation staff, in anticipation of this type of review for this fiscal year and right now it pretty much a wet sock against a wall that we are able to cover it until it becomes a problem. It is regular management and how you are going to cover it and provide the service to the community. So, just anticipate that maybe you are going to see another design professional on staff, if it becomes a problem.

Mr. Reilly said do you have any projections on cost on it right now? I remember I thought we were having a problem...

Mr. Margotta said I would only mention that how we project cost and staff and hours and level of service and everything is not the purview of the Planning Board.

Mr. Reilly said ok.

Chairman Bergman said it is on the need-to-know basis.

Mr. Reilly said exactly. I'll read about it in the paper later when we don't make our budget.

Mr. Margotta said I'll tell you what, I will tell you that I don't have the numbers off the top of my head and yes, we do look at the work load and we try to project it out, but it is never an exact science anyway.

Mr. Reilly said all right. Has this been done in other cities, Kara? Or is this something that...similar to this and its working out or is it...

Mrs. Wood said yes, certainly there are design review in other cities. It isn't always managed like this. Very often it is with an entirely separate board. In an ideal world, we would love to have a Board full of architects to do this. But I don't see that happening and it would, obviously as we said before, we are trying to construct this process to make more linear, more timely for applicants than having to go through another Board would just double the time.

Mr. Reilly said I have seen this in developments, I think we have talked about this before, I have seen this before and I think it does increase property values all the way around. A

beautiful City increases our property values makes more people want to move here. But, again, I am just very concerned about how it is going to move through and once you review, then we review, correct?

Mrs. Wood said yes, similar to recommendation for site plan, you will get a staff report.

Mr. Reilly said and we are all not versed, some are engineers, we have one architect, a couple of engineers, a builder, a couple others...

Chairman Bergman said don't throw engineers in with architects.

Mr. Reilly said and then it would go before the City Commission?

Mrs. Wood said yes.

Mr. Reilly said I guess my concern is that... and I think we talked about this at our last thing, is that we are putting all this in front of people who when we seen things, we know what we like. I guess we all just vote on it and give our opinions.

Mrs. Wood said and quite honestly, this concern has been expressed to me by other designers that are we now putting ourselves in the position of designing buildings by committee and how does that work for a Board to be doing to that. That question has been raised. I don't quite know how to answer that. Some people have expressed the interest in just having it be done administratively. I don't know if that is possible or if that is desired. But that option can certainly be floated, if that is something that you wish and the Commission wishes, we could structure it that way. I guess I would envision that it would either result in the Board essentially trusting my assessment and going with it or we just see what the comments tend to be. But I think that just like any comments on a site plan, you want that feedback to have some validity to it. So it would be up to the Board to start to become educated in those things to be able to place validity to those comments.

Mr. Reilly said ok, one last thing just as a builder concern, some of these things in here such as pitch breaks, different things like that, they add substantial cost to construction. Dormers and things like that, again, I am just telling you that. Plus I think they look better than regular things. But also gable roofs, I know from all the insurance certificates that I have to fill out raise insurance costs. A gabled roof versus a hip roof is a more expensive roof to insure.

Mrs. Wood said is it?

Mr. Reilly said yes.

Mrs. Wood said it is a good thing that is not required.

Mr. Reilly said I thought it was stated in here that we were encouraging gabled hips, flared hips, and other architectural features.

Mrs. Wood said well, yeah, that last sentence says “also allowed are gabled hips, flair hips where appropriate to mark an architectural feature or civic gesture, gable ends.” The use of the gable ends is historically it is often for a civic building, a temple has a gable end and a domestic structure would have a hip roof. We became less attached to those rules over time, but I think we have now swung back the other way probably because of how truss systems work and because of insurance costs and things like that. So, yeah, this is just an allowance. Yes, you can have a gable roof on your building.

Mr. Reilly said again, I think it is a great idea. I think it would help everybody out and it would help the City out, too. I am just bringing up little concerns that I have.

Mr. Johnson said on think you are on page 5 of 8, item (h)(1)(e)(7) “exposed half round gutters of copper or galvanized steel.” Is there any reason, and maybe it is mentioned and I don’t see it, that seamless aluminum gutters would not be included in that? I would not agree with seamless gutters in a case you would do a spike and ferial application, but they do have internal clips or hangers that can be used.

Mrs. Wood said you are over my head.

Mr. Johnson said in other words, seamless aluminum gutter, like you would put on your homes, not everyone is going to put a half-round copper gutter on their home, so a typical gutter application is a seamless aluminum gutter. It is not mentioned that I could see. My recommendation would be to include a seamless aluminum gutter as an option there but it would need to be with internal hangers instead of the typical spike and ferial application, which is where a nail is driven through the gutter into the fascia to hang the gutter. It doesn’t look very good.

Mrs. Wood said we probably won’t be that specific in the guidelines.

Mr. Johnson said right, but it doesn’t mention that anywhere.

Mrs. Wood said so, you suggestion is to include seamless aluminum gutter in the...

Mr. Johnson said with internal hangers.

Mr. Reilly said unfortunately, the seamless aluminum gutter doesn’t look as attractive, architecturally, as a half-round copper or galvanized gutter.

Mr. Johnson said but it is about the tenth of the cost.

Mr. Reilly said the cost of a seamless gutter compared to the cost of a copper gutter is, I think I priced it up recently, is 100 times more expensive to do a half-round copper gutter.

Mrs. Woods said and quite honestly, it probably not the level of detail that wouldn’t even be visible in the submission types that we are requiring. They may actually be more useful, because I think that is probably the only place where anything related to a gutter is specified.

Mr. Reilly said that's correct. The title is "Roofs and Gutters".

Mrs. Wood said you are accurate. So, it maybe I wonder a better solution might be to strike "and gutters" and strike number 7.

Mr. Reilly said a definite option.

Mrs. Wood said that would probably be best.

Mr. Johnson said my other question was on storm protection. Because of the 2001 Florida Building Code, structures are required to have some kind of storm protection. Typically you would use an hurricane impact glass application. But than if you don't want to get into that and you start looking at storm panels, you start looking at accordion shutters, you'll look at Bahama shutters, Colonial shutters, things that are hurricane impact rated. It works and it doesn't work in the architectural scheme.

Mrs. Wood said and at the same time, those are supposed to temporary things.

Mr. Johnson said but the Accordion shutter and the Bahama shutter is permanently mounted to the structure. You see it everyday.

Mrs. Wood said yes. So you are questioning on whether or not we should have specifications for permanently mounted shutters?

Mr. Johnson said I just know when you get into impact glass, where your window, your opening is hurricane impact rated, the problem with the industry is number one, the Fire District looks at it because it takes multiple blows with a fire-axe to get through that glass to get into a rescue situation and I mean multiple as in, I think some tests of 20 or greater blows with an axe just to get hole into the glass to get into the opening. So you have the Fire District could have an issue at some point. In addition to that is water intrusion. When you have...yeah, it will stop a 2X4 from blowing in during a hurricane, however, when the rain is blowing against it for 18 solid hours, guess what? It is probably going to leak. So, you have a lot of water infiltration into your home over the course of time. you know, during a hurricane event. Some developer's builders might look at that and say "you know, I don't like impact glass." So, they have to look at other options for hurricane protection and those type items might need to be addressed. It might need to be a whole section, I don't know. Because in 2004, they updated the Building Code in regards to hurricane protection in the State of Florida. It's just one of those things we might want to look at.

Mrs. Wood said yeah, and since this is really a process that is being run under the Planning Department and as a overall of the aesthetics and the proportions of the building, I would hesitate to get too deeply into those types of sort of structural or building code issues that first of all, I know nothing about it. Secondly, wouldn't even appear on the types of submittals that we require. Once again, it is kind of the same thing with the gutter, it is the level of specificity that we wouldn't even review it. So how we could control it in the

ordinance, I am not sure I would be able to suggest a useful way to do that. Does it make sense?

Mr. Johnson said it does. I guess it just gets into if you start putting Colonial wood, Colonial shutters on the building, how do you protect the opening in a hurricane?

Mr. Reilly said you can use a combination of impact glass and false shutters of you wanted to.

Mr. Johnson said correct.

Mr. Reilly said you could have aluminum TNG Colonial Shutters. You can use false shutters and storm panels. All they are trying to do, I think, is just have these elements introduced and then the architect has to figure out how to put it together.

Mr. Johnson said it definitely lays in the architect's lap. But just something you might want to keep in mind. Thank you.

Chairman Bergman said any other questions?

Mrs. Olson said I noticed that in the Design Review Guidelines and I just realized this this evening, you have wood frame vernacular, I am wondering if you are using that as a substitute word for the Cracker style. Like, is your description under wood frame vernacular your description for Cracker?

Mrs. Wood said you are referring to?

Mrs. Olson said first page. Because that's kind of a Cracker style two-story.

Mrs. Wood said it is and I think I avoided the use of the word Cracker in the ordinance or the graphics probably because it is a bit difficult to define. Those elements which would lend to something being characterized as Cracker can be found in, maybe, other styles. I didn't find a really codent description that I could attach.

Mrs. Olson said I have a good book, actually. I will give it to you. I just wondered if you meant to leave it out and you did. There is a lot of it in Fort Pierce.

Mrs. Wood said and partly because I did divide the stylistic descriptions between the two structural systems.

Mrs. Olson said something else I have been thinking of is that since Design Review is going to add to the cost of doing the site plan, I am wondering if that will then increase the number of conceptualls that we see come through. So, we will see a lot more conceptual site plans come through so that they know they are good, essentially. And then they will go through and they will do the full site plan. You don't think so?

Chairman Bergman said too much time. Developers, because when they have a project they want to go with, time is a big thing with them.

Mrs. Olson said I just wondered if it was going to add a lot more to our work load.

Chairman Bergman said they look at something taking another six months to get a project through, they won't do it.

Mrs. Olson said ok, they will just roll the dice and try to...

Chairman Bergman said I have a couple of projects we are doing now. We took one through Historic Preservation before we ever decided to go through site plan because that was going to be the toughest hurdle that we had to get through and Historic Preservation loved it. It was great, now all we have to do is get through site plan. I mean, the developers are not going to spend the money and then wait six months to get a site plan developed. They are going to give their best shot first time through and then staff has gotten to the point now that they don't miss much of anything so most of the site plans we get are pretty complete.

Mrs. Olson said ok, thanks. That's it for me.

Chairman Bergman said anybody else? I am sure you are looking for a motion tonight?

Mr. Knott said I have just one comment. Just some clarity on page 2 of 8, I do like this whole thing because we do need...if one thing that the City of Fort Pierce has needed for years, like Don said to me, we need guidelines, we need some rules. But under (2) Final Approval, items (e) and (f) having to do with the color issue of what you are going to do with your buildings, what is the intent of those two? Is it to improve the color or just to say "ok, you can go with that color"?

Mrs. Wood said it is just to make sure they don't want to paint the building purple.

Mr. Knott said what if they like purple? What if somebody, that's extreme, but what if...because we've had cases before where somebody was going to paint somebody's old house yellow at one time and we all chose up sides on the thing. If you are asking for that...or is there anyway you can be more specific with just...it is just an individual thing? You're going to have your shot at it, then we are going to have our shot at it and who is to say what's the right color? If someone wants to do a white building and you say that has no character, I want it to be a beige, where do we go?

Mrs. Wood said well, in previous versions of the ordinance there was a specific palette to choose from and we put together that whole thing. I think it's just with other issues, like not wanting to present a list of elements to choose from, we want for the architect to be able to say this is the appropriate palette for this style of building. What is appropriate to a Classical Revival building may not be appropriate to a Craftsman style building. Those in their context there are different choices to make, different design choices to make. So as with everything else, it is up to the designer to make the case that these choices are the

appropriate choices for this particular design. Now, you know, the degree to which this Board is going to have its own very strong opinions about whether or not blue is good for a particular building is entirely up to you. But I think it is important to be in there because if we get a blank elevation...

Mr. Knott said we are all just experts on color, I am sure.

Chairman Bergman said but you are going to find most developers when they bring an elevation of a project or a rendering, it is going to be done in neutrals. It is going to be very not descript, it is not going to be a purple, its not going to be a black, its not going to be a dark green, it might be...

Mr. Knott said what if we don't like non-descript, what if we want some trim on it or something like that? Can we dictate that style?

Chairman Bergman said I think it depends on the style of architecture that might be called out for especially if you get into start some of the Key West style building where they have a lot of color.

Mrs. Wood said and you would need to, if you are going to make that directive, you should be prepared to, I think, argue for that. If you are going to say yellow isn't appropriate, it should be blue, you should be prepared to substantiate that.

Mr. Knott said right.

Mrs. Gates said don't you think that also we should consider...I mean, I read it this way for that reason for that also, but I also think about compatibility with your surroundings and I mean, we just had something last night with the Historic Preservation Board that came before us. We all thought it was a great project. You have a developer here who is spending millions of dollars doing his right, well this one needs to also kind of compatible, I think, and I think that is in there for a purpose. Because this developer over here, for example, is compatible. It is totally different, but it is compatible. It is compatible with the neighborhoods so it is making the neighborhood not uniformed, but at least aesthetically good. I think that is a good thing for more than just one reason to be in there.

Mr. Knott said I am just leery of anything that gets that specific. We can approve or disapprove based on our taste. Deco Art, I don't see anything here about Deco or Deco style.

Mr. Reilly said all this is going to require some sort of...the colors is just one more element. Whether you like something or not, I am sure the guy who brought it up likes it a lot.

Mrs. Gates said but there's different shades of a color, for example. And if you stop and think about it, if you put a lot of money into your property and you have it...

Chairman Bergman said a nauseating color?

Mrs. Gates said you want your next door neighbor to be able to paint in...I mean know there is freedom of spirit in everything else and property owner's rights, but think about the surrounding neighborhood. That is what I am seeing when I see color. I am seeing something different here as far why I think it should be in there. I think it is a good thing to leave this in here.

Mr. Knott said going back to what Don had mentioned earlier, Port St. Lucie does have their corridor design books down there and I had clients that they actually gave...they do give you the palette that you can work with in that. Of course, that would be hard to do for the whole City, but they had a corridor. If you wanted a building, pick a color and that's all you get. We are saying you give to us and we will tell you if we like it or not. We'll see how it works. You have to start somewhere.

Mrs. Wood said again, not only am I not, I am hoping that you won't base your decisions on whether or not you like, I am not basing my decisions on whether or not I like it. as an example, last night at the Historic Preservation Board meeting, we had to decide upon a color for a building on Orange Avenue and there was a combination of a white and a yellow and a bright green. It was actually called Friendly Frog Green. Well, I really don't like the colors, but the organization of them on the building and in that context, you know, sort of in the Haitian neighborhood, it makes sense. So it was smartly presented and there was no basis for me on which to deny it. The fact that I didn't really like the color, I didn't think was a reason.

Mr. Knott said I agree with you, we do need to have something in there. This is a starting point.

Mrs. Gates said you are not going to be able to sit here and say "that particular orange or that particular peach" I don't think that is what we are looking for. But there is a palette of colors that are suitable for whatever. I think that is what she is talking about. Right, Kara? Not specifically a color.

Mr. Knott said it says that.

Chairman Bergman said color samples.

Mrs. Gates said color samples. But there is a range of that.

Chairman Bergman said like I said, most of these projects are going to be fairly neutral. You are not to find some of these people come in here with some real outlandish stuff.

Mr. Knott said these guys here in the first row here...

Mrs. Gates said they want to have it approved.

Mr. Reilly said also, like Don was saying, if it is a developer and he was going to sell that property, he doesn't want any wild colors.

Mr. Knott said I don't think we are going to have trouble with wild colors. I am talking about subtle color differences and somebody wants something reversed and the developer...I don't know, we'll see.

Mrs. Wood said honestly, I am not going to...I am not a color expert, I have some experience with how to use colors to differentiate elements of the building, but I can't imagine myself nit-picking on a color issue. If as a Board you are going to be that in-depth and your meetings are going to double in length because you spent an hour talking about color, then you will suffer for it and that is up to you to decide.

Chairman Bergman said we will be reminding Tom Knott about 2:00 in the morning, "Tom, this is your doing."

Mrs. Wood said go with the beige, Tom.

Mr. Reilly said what happens with, let's say they come up with a plan and they want to change their color when they are building the building, will they resubmit or how does that work? That happens all the time. I mean, what is the process? What is the turn around on something like that?

Mrs. Wood said I guess the answer to that would be that when they...if it is equivalent to the site plan review works, when they come back through a apply for a building permit, we are going to check at that time to make sure that the building design generally conforms to what has been approved in the site plan or the design review approval. And then really beyond that once the project is built, if we see something that we think doesn't conform, then we act on it. Once we've approved the building permit, we don't have any other recourse other than Code Enforcement, essentially. I mean, I think that is kind of the way it works with Historic Preservation, too. We approve something and then it gets built. If somebody happens to see that it not what we approved, then we go back and we try to solve it then.

Mr. Reilly said what if I legitimately wanted to change my color, do I come to you a month and do I go through the whole process again? I am an honest guy and I want to change my color or some architectural element to the building...

Mr. Margotta said and that does happen, quite honestly. During the process a whole another person might buy it, a development plan that we already approved and wants to slightly change the colors, I say it is not the whole process, but they do need to come back through and inform you. I don't know if we have codified that or caught it well, but give us some guidance. If you think that is something that staff can decide upon as a minor item, if it is close, the difference between beige and white, ok. We have maybe some discretion there. But it would be something that would subject the development back to review. It wouldn't open the whole door, just the color.

Chairman Bergman said what about on your color palette samples, instead of submitting specific samples you submit a range?

Mr. Margotta said sure.

Chairman Bergman said because that way it would give you something and maybe this range of color that once you build it it is this color, a couple of years down the road you say well you say well, we are going to go to the other end of the range and maybe do something a little different. I think that could be done administratively. I don't see a problem with that.

Mr. Margotta said I am twitching over here when we talking about colors, in general. There is no strong Fort Pierce likes everything to be purple or everything to be blue trim or whatever. There is no strong public opinion about these things. So I don't believe that yourselves as a Board, staff, itself, could ever put itself in the position where the whole decision comes down to what color the building is, just in general. Some day we may decide that is the case or a certain neighborhood, but I think its all going to turn out to be palettes just like Mr. Bergman explained that each development is going to have a choice of colors to from.

Mr. Reilly said so, if a development came in here with multiple buildings, they would have to pick out or they could just come in with a range of colors that they are going to use on the multiple buildings or do they have dictate exactly what...

Mr. Margotta said that choice is not something we are dictating to them. It is something they are telling us this is what they are going to do.

Mr. Reilly said but at the beginning they need to tell us here is what this building is going to be and this one and this one and this one.

Mr. Margotta said well, I don't know about each and every single building.

Chairman Bergman said if you've got a five building complex and they come in and say these buildings are going to be in this range of color, all we are looking at is that range acceptable and then we will look at it and say "just fine." if you see a color that is dark green or purple or something and you are going to go "well, everything is fine, except that." But most developers...we have done a couple of projects like that where we have had several multiple buildings and we've submitted color palettes on them. And you can't say this building is going to be this color and this building is going to be this color. This is the range of colors that they are going to be in. This the range that the trim is going to be in, this is the roof color. They are just going to give you a general feel for what they are going to look like. Most of developers don't have a problem doing that, because they like to commit up front. They will commit to an architectural style and with that goes a color scheme.

Chairman Bergman said any other questions?

Mr. Margotta said does that answer your questions?

Mr. Reilly said I am out of questions.

Board Attorney Walker said before we leave that section, could I just ask a quick question of staff? On sub sub (a), under Final approval, you see that written narrative describing how the project conforms to administrative approval and design review guidelines of Section 22-62?

Mrs. Wood said yes, your questioning the number 62 or what are you questioning?

Board Attorney Walker said well, my Code section for 22-62 deals with sidewalks.

Mrs. Wood said so you are saying it is the wrong number?

Board Attorney Walker said yes.

Mrs. Wood said thank you for pointing that out.

Board Attorney Walker said what is the right number?

Mrs. Wood said well the design review guidelines is Section 22-59.

Board Attorney Walker said 59?

Mrs. Wood said I believe it was misnumbered in a formal version and it wasn't changed. Thank you.

Chairman Bergman said Mr. Walker, do we have to have a public hearing on this or this is strictly a discussion item?

Board Attorney Walker said a public hearing is not required by Code for this.

Mr. Margotta said this is an ordinance.

Chairman Bergman said ok. That's why I asked. If there is no further questions, we will open the public hearing. Is there anyone that would like to comment on the Design Review Guidelines? If not, we will close the public hearing.

Motion was made by Mr. Reilly, seconded by Mrs. Gates, to approve the Design Review Guideline Ordinance with the revisions discussed tonight and recorded by staff.

Chairman Bergman said we have a motion and a second. Is there any discussion?

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

Mrs. Wood said thank you very much for your time.

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The next item considered - **#8 – Berth 1 & 2 Cargo and Berthing Facility** – For discussion only. Development of Berth 1 and 2 at the Port of Fort Pierce for proposed cargo export and import operations. The property is located at 10 Avenue M Extension and is zoned PUR, Planned Unit Redevelopment. The owner is Destin Beach Inc. and the applicant is CSM Engineers, LLC.

Mr. Margotta said this is discussion of I don't know if I want to completely call it a conceptual review, it is not a normal conceptual review process. The applicant is looking for guidance and some discussion at the Planning Board. It is also going before the City Commission next Monday. It is somewhat of a ad hoc process, but we had the opportunity for this development concept to come into the City I think to help the applicant understand what the City wants on that property, I shouldn't say the City wants, but the City's opinion on what is going on at the Port. it is somewhat of an important and a very...well, certainly, it is an issue that touches a lot of discussion. I recall it causes a lot of discussion and I guess I am trying to be as general and neutral as possible. At the staff level I am trying to introduce this subject rather than give a report. It is free format open discussion, Mr. Chairman you run it how you would like. As opposed to the normal process, it is not a public hearing or any else like that, it is just a discussion. What was provided to you in your packet is kind of an overview so you know where we are talking about and I will point this out on the map in a moment. But I also wanted to show you that staff has had an opportunity to do a very, very quick review on this and coordinate with the County. It is not even a complete review. We couldn't dare to call it a complete review, but understand that staff looked at it like staff normally does. We tried to find out where it conforms or doesn't conform with Code. So as this project evolves, you may find that staff's comments might change a little bit. So let the discussion begin in other words. Let me bring to where it is located. (Aerial map shown on screens) This is US 1, this is South Bridge and you are familiar with the Port Terminals. On the North side of that is an area that is zoned PUR and subject to the Port Master Plan that the City is adopting and is part of our Comprehensive Plan. The Berth 1 area is right along this water's edge, Berth 2 generally follows that water edge and then the Port Master Plan discussing a Berth 3 and a Berth 4. But tonight, we are discussing what happens at Berth 1 and what happens at Berth 2. Probably the most overriding document that staff saw was the Port Master Plan. Think of this in the long range planning, not necessarily development review level in the long range. What kind of land use would be appropriate in these locations and I think that one of the main things that the applicant is hoping to get out of the City. What types of things that occur there that the City would appreciate or feel would be appropriate? So, let me quickly turn to the site plan. (shows site plan on screens) To orient you, this is Berth 1, that direction is north. This is Berth 2 and the water's edge actually cuts along this area here. A landmark that might help is to the west of this is where the two silos are. 2nd Street is generally along this line and if you are familiar with 2nd Street up along where M Street Extension is there is a railroad crossing right about there. What the applicants are proposing is basically from Avenue M down to Berth 1 installing some rail lines, using this location for the mooring of the boat for unloading of aggregate material, I believe that is how they described it, and to be put into areas where the material will then be put onto either cars or trucks to be taken wherever it is going to be used. And I heard this aggregate material described as road based rock. I will let the applicant try to explain that better to you. Other features in the site is somewhat of a circulation system and the idea that retention is on-site. There is a bulkhead along Berth 1

and Berth 2. Staff does not have a recommendation on this, but if you want to ask us any questions, we are here. I think it is appropriate for the applicant to come forward and explain what they are trying to accomplish on the site.

Chairman Bergman said you said this is not a public hearing, correct?

Mr. Margotta said this is not a public hearing.

Chairman Bergman said ok, all right. Is the applicant here? There are not going to leave this soon.

Mr. Brian Root said I am with CSM Engineers.

Mr. Mark Youmans said with Jerner & Associates, Environmental Consultants.

Mr. Root said our proposal here for improving Berth 1 and Berth 2, but the majority is for establishing Berth 1 as a cargo vessel and cargo facility for importing, exporting agrigate materials.

Mr. Youmans said basically what we are proposing is originally Berth 4 was going to be used for the offload and loading of cargo. Now we are proposing to use Berth 1 for the actual loading and offloading of the agrigate material. Part of Berth 2 was agreed upon when we were up in Tallahassee as strictly for the temporary mooring of the boat until the ship moves off of Berth 1. So, there will be no offloading on Berth 2, strictly parking area. we are actually cutting into the property of the owner instead of filling out to the bulkhead line. This is basically with the blessing of both the Army Corps and the DEP. They much rather see dredging instead of filling. There are seagrasses located in this area. I have already had a preapplication meeting with the Army Corps and the DEP explaining all the issues that will be taken place. They understand and we think that with simply moving and transplanting the limited number of seagrasses are out there to nary that has been identified to the north. Everybody thinks that this will work out just fine. so basically at this point, we have a thumbs up with the Army Corps and the DEP on the environmental issues. We have already addressed them, we know their concerns, and everybody has a pretty good feeling on this. So, the pre-application meeting went well. What we are proposing at this point is moving forward with the streamline process. We have a very simple streamline design that we think fits in with the Port Master Plan. Can't get simpler than what we have here.

Mr. Root said but than also, I decided to raise issues that for Berth 2 for "future mega-yachts facility" we are only using partial of Berth 2. First of all, you will have to establish a bulkhead there for operational purposes due to the heavy equipment that will be operating in the area. Also, with that we are allowed to mooring of any temporary vessels that need to be moored there then they could be moved to Berth 1 for any temporary purposes. But the main thing is providing the bulkhead for operational purposes for heavy equipment. Then like I said, there you have the storage bin places for the agrigate materials. There will be a concrete structure with 8 foot walls to hold the agrigate and to also limit the visibility of it so you are not having this unsightly mound out there. Its giving is a little bit more aesthetic view. The retention area, we do have drainage system along the bulkhead and

the whole drainage is draining within the site itself. So no water from anywhere will be going into the Indian River, so all will be maintained on site. Then the traffic road will be for semis and for front-end loaders or whatever and then you will also have the traffic for the railroad, which will be designed by the FEC. These are just conceptual layouts.

Chairman Bergman said you mentioned the walls around the stockpiles are going to be 8 feet, how high are the piles going to be?

Mr. Root said that's why I have to calculate how big 20,000 tons of aggregate occupies. I mean, it probably will be above it, but not as noticeable.

Chairman Bergman said are we talking about 8 feet above the wall or a couple of feet above the wall?

Mr. Root said I have to calculate that out on high it will be.

Chairman Bergman said I am just wondering if 8 feet is enough.

Mr. Root said I think that was one criteria that, I can't remember who asked that, who placed a height limitation on the structure for that.

Chairman Bergman said I am not talking about doubling it, I am just wonder if 10 feet would be better depending on how high the pile is going to be.

Mr. Root said yes.

Chairman Bergman said that's why I was asking that question, do you have any idea of how high the pile will be that you are trying to contain?

Mr. Root said no, I do not have it. I haven't calculated that out yet.

Mr. Johnson said how's the aggregate offloaded?

Mr. Root said a conveyor belt system that is on the barge. The barge actually has a conveyor belt system that will swing out over into the aggregate pit and offload its cargo, the aggregate. Then on shore, it will be moved around by front-end loader or conveyor belt system to the railroad cars.

Mr. Youmans said don't they have the conveyor that can go all the way to the railroad cars directly from the ship? Is it long enough for that?

Mr. Root said no, its only 150 feet and due to the Berthing location that we have maintain a 10 foot buffer between the hull of the ship and the bulkhead for the Fish and Wildlife. It is reducing our operation limits of the conveyor belt system off the barge.

Mr. Johnson said describe to me temporary mooring of vessel at Berth 2.

Mr. Root said it will be a temporary mooring system.

Mr. Johnson said define the word "temporary". What is the length of time of temporary.

Mr. Youmans said less than a day.

Mr. Root said 3 or 4 hours.

Mr. Johnson said does that mean that it is just swapping places with another vessel or does that mean that 3 or 4 hours a day that will be the only thing moored there? There will only be one ship moored there or multiple ships over a 3 to 4 hours period?

Mr. Root said if there is multiple ships that do arrive than one could be moored there until the one offloads and then that one will leave and this one will replace it at Berth 1.

Mr. Johnson said what is the size of the vessel?

Mr. Root said it is 225 linear feet.

Mr. Johnson said and you are planning on offloading 2 or 3 of these at once or one at a time?

Mr. Youmans said one at a time.

Mr. Johnson said one at a time.

Mrs. Gates said are these ships coming from the Bahamas, Caribbean?

Mr. Youmans said yes, the local islands.

Mrs. Gates said ok.

Mr. Youmans said that was one of the big concerns that was raised earlier was the importation of unwanted exotics, basically, with ballast water and it was actually founded on a lot of disbelief. When you get to a mega-yacht facility that is going to be a different issue because that ballast water is not regulated. The ballast water coming in on the barges is regulated and you can guarantee the Coast Guard right off the way there is going to be watching everything. The log has to be maintained for years on this stuff. But there is no ballast water discharge. If there was, lets a torpedo hits this thing or it hits a rock or something and ballast water was leaking, its local water anyway from the Bahamas. So, its not really founded on anything substantial.

Mr. Johnson said how many vessels arrive at once? You can offload one at a time, whether it be just at Berth 2 and one offloading, at that point?

Mr. Youmans said correct.

Mr. Johnson said you've got 954 linear feet of bulkhead approximately across Berth 1?

Mr. Youmans said yes.

Mr. Root said that 954 goes to the property line on the right of way.

Mr. Johnson said so lets subtract out the 152 that you just referred to.

Mr. Root said that's 700 feet.

Mr. Johnson said so why would you need Berth 2 if you have 700 linear feet and you have a 250...

Mr. Youmans said parallel parking of a 225 foot ship can't be accomplished in a Wal\*Mart parking lot.

Mr. Johnson said I wouldn't think so. What is required?

Mr. Youmans said Mike, do you want to chime in on this one?

Mr. Mike Ravello said (from the audience) what was the question?

Mr. Youmans said how much room does it take to moor a 225 foot vessel? How much bulkhead is required?

Mr. Ravello said (inaudible)

Mr. Youmans said 100 feet in the front and 100 feet in the back?

Mr. Ravello said (inaudible)

Mr. Youmans said it is for moving up and down, is what you are saying?

Mr. Root said so you could hit all three agrigate pits.

Mr. Youmans said it gives you wiggle room to operate.

Chairman Bergman said so you would come all the way into the inside of the Berth to the west as far as you can to fill up the first stockpile and then back out as you go.

Mr. Youmans said yes.

Chairman Bergman said makes a little bit more sense.

Mr. Johnson said and you can't accomplish that with two ships in 800 linear feet?

Mr. Root said no, you do not have the maneuvering room. I mean, these ships fully loaded is 30,000 tons.

Chairman Bergman said its not like driving a Volkwagon.

Mr. Johnson said I understand. But I mean you have to look at the Berth 2 improvements for cargo operations are not permissible under the Port Master Plan. Was Berth 1 looked to expand that even further than 954 feet, like to the west? Is it not even feasible?

Mr. Root said no it is not due to the property adjacent as a fuel port and also per the Florida State laws increasing your water spaces, is not allowed for that amount of area and plus it just wouldn't be feasible due to the adjacent property. Like I said, you are dredging 28 feet down so you would add the actual installed bulkhead system all the way in on both sides to project the adjacent property.

Mrs. Olson said do you foresee the possibility of three ships ever coming in at the same time? Is this a possibility?

Mr. Ravello said (inaudible)

Mrs. Olson said ok. Is it mandatory for the way your operation works or for legal reasons or for whatever to have to moor at a pier while you wait? Can you moor out somewhere else while you wait?

Mr. Root said the City and County do not allow mooring out into the turning basin or out at sea for these types of vessels. And these vessels aren't really designed for that type of mooring, either for stand alone mooring.

Mrs. Olson said are you saying that if we cannot allow you to use Berth 2 for mooring, then you cannot use Berth 1?

Mr. Root said correct and also we need Berth 2 for installing the bulkhead system for operation of the heavy equipment. If you eliminate Berth 2, then we are not allowed to put any structure there and for operational purposes you need a bulkhead for operational to put the heavy equipment on shore.

Mrs. Olson said ok.

Chairman Bergman said any other questions?

Mr. Knott said if I could ask Matt, your letter to Mr. Bell, I am a little bit confused. Are you saying that the Port operation or the cargo operation that they are proposing for Berth 1 is in conflict with the Master Plan and Comprehensive Plan?

Mr. Margotta said negative. Berth 1 of the Port Master Plan actually states that limited cargo can occur there.

Mr. Knott said and this is limited cargo?

Mr. Margotta said I don't know if it goes into any much detail. you can tell me what limited cargo is.

Mr. Knott said that is what I am trying to find out if this...

Mr. Margotta said the land use, as far as limited cargo right there, is established and this could very well be limited cargo. It doesn't necessarily say aggregate material equals limited cargo.

Mr. Knott said so there is a gray area here?

Mr. Margotta said there is somewhat of a gray area there. I think we are looking for maybe a little guidance from the Planning Board and the City Commission. When they get to see this, I would expect them to maybe draw some parameters on what limited cargo consists of. It might be a limited type of use that means limited to aggregate material as opposed to containers or limited amount, I don't know. Port Master Plan talks about limited cargo and when that was developed somebody envisioned something happening there with cargo capacity.

Mr. Knott said so what you are saying is that what we are debating/talking about here tonight is the use of Berth 2 and not Berth 1, because Berth 1 is a given and they are allowed to do this, is this correct?

Mr. Margotta said I would follow that. tell you what, if I am pinned to that, that's where staff falls is that Berth 1 was set aside for cargo operation, some sort of onloading/offloading type of thing going on.

Mr. Knott said I just wanted to make sure...while we are throwing out all conditions and things and we are not going to come back and somebody is going to say "you can't even use it because the Comprehensive Plan says you can't do this, its not a limited."

Mr. Margotta said I think I need to clarify something, if you don't mind. When we are talking about not complying with the Comprehensive Plan or the Port Master Plan, it is not an easy fit and that's why you have to say it doesn't comply. It is not totally consistent with Comprehensive Plan or the Port Master Plan. In this case, Berth 2 does complicate the matter. Maybe it is somewhat a matter of site design that because Berth 2 or a portion of it is a part of this plan, it just complicates the matter.

Chairman Bergman said when do we expect them to submit a full blown site plan on this?

Mr. Root said I have the new updated site plans. I was not informed I had to have my site plans submitted by November 28, thus I did not meet the deadline to meet the criteria for this meeting to get approval.

Mr. Margotta said I think we are talking two different things. If you are talking about site plan, the actual site plan application, that's the question?

Mr. Root said for final site plan. We still have to obtain property survey, topos.

Chairman Bergman said I just didn't know if you guys were pushing, ready to go on this or if it something that is still being developed. It sounds like it is still in the works.

Mr. Youmans said what we are trying to do is basically whittle it down to something that everyone could work with. Initially, people wanted everything from the hotels and resorts and everything shown on these site plans and how big the parking space is going to be over there and how big the columns are going to be around the resort area and how deep the swimming pool is going to be and it was just an impossible task to waste that much money on such a far-fetched idea. So, we finally got it to the point where we know have a workable site plan and Berth 2 actually enhances the operations at the Port without impacting the mega-yacht facility that is going to be coming into the north. So, I think what we have here is a workable site plan that we can hopefully just kind of whittle down and fine tune. We got it down to trees.

Mrs. Olson said with these things listed by Mr. Margotta, what is your feeling about the things that they are asking for? Are you amenable? I mean, Berth 2, it looks like we are kind of at lagerheads on Berth 2, but there are other things that are probably pretty much give and take. How do you feel about these other issues?

Mr. Root said on the other issues, I can comply like the landscaping; the Stormwater retention, which I have addressed already; the roads and the construction of them; the security fence, which I have addressed; security lighting which I have addressed per Homeland Security guidelines for ports.

Mrs. Olson said a concern I have since the goal long-term for the Port is to have some kind of residential/tourist kind of use to the north is that since you are going to be offloading aggregate that is going to create, I would think, quite a bit of noise and dust and I am wondering what your plans for remediating these issues so close to non-industrial areas would be.

Mr. Root said for the noise, we will be operating from 7 pm to 6 am and then also to help reduce the noise, we are planning on proposing a buffer wall. We do have a buffer and the trees so we are also proposing putting in a buffer wall to reduce the noise. For aggregate, we will install a sprinkler system, a mist system to reduce your dust.

Chairman Bergman said did you say you were operating between 7 pm and 6 am?

Mr. Root said yes.

Chairman Bergman said so this is only a night time operation?

Mr. Knott said sleeping time?

Mr. Root said no, daytime.

Mr. Youmans said you got it backwards.

Mr. Root said oh, sorry.

Chairman Bergman said just about blew that foot off. So, it is 6 am to 7 pm?

Mr. Root said yes, sorry.

Mr. Youmans said just the size of the aggregate alone, it is not like we are offloading holders that will be clanking and clonking all over the place. We are talking stuff that's larger than a grape and smaller than a golf ball, like you would be mixing into cement.

Mr. Root said and that's also helps to reduce your dust because the rock is already washed, it is pretty much ready for use. It is processed rock so it has already been washed so the dust impact is already limited.

Mr. Youmans said I don't know if this matters or not, but I mean, Florida is hurting for decent aggregate. What they are mining out in Central Florida I can literally break it with my hands and they are mixing that into concrete and building all these buildings that we have around here with it. That's why you are getting a lot of structure failures here and there. This stuff that we have here is true rock, it is just not some kind of shell particulate that has been accumulated and pressed over the years. It is a high quality aggregate and I know DOT is chomping at the bit to get this stuff for roads. It will certainly help the building boom that is going on here because I can't even get coquina rock on my project anymore because that is in demand because they are grinding it up for concrete.

Mr. Knott said I don't know if I didn't hear, but did you discuss your hauling, you've got your road system you have here, what sort of truck schedule do you have for taking the material off-site? Will that be limited to the daytime too or are you going to have night-time shipments on that?

Mr. Youmans said that should be day-time.

Mr. Knott said that will go along with your...

Mr. Root said day-time only. It is a fast process, in and out and its gone.

Mr. Knott said it is stockpiled and then you would load it onto the trucks or rail and it would be taken out of there the same day so you don't have an access that has to be...you can ship all night? You don't load all night?

Mr. Root said no.

Mr. Youmans said no, it is work on site. It is prepped, ready to go, and off to its destination.

Mr. Knott said did you say how many trips you are anticipating on this with trucks and what have you on your busiest days?

Mr. Root said I would have to calculate how much an 18-wheeler can contain.

Mr. Knott said how many trucks?

Mr. Youmans said quite a few trucks.

Mr. Knott said and there is going to be a steady...

Mr. Youmans said yes.

Mr. Knott said how many days a week is this operation? 7 days?

Mr. Youmans said weekdays.

Mr. Knott said weekdays?

Mr. Youmans said 6 days a week.

Mr. Knott said and there will be probably constant trucks in and out of there.

Mr. Youmans said when the ships are in.

Mr. Knott said when they are in. but you don't know how many truck a day you will be taken in and out of there.

Mr. Root said you are allowed 48,000 pounds...

Mr. Ravello said (inaudible)

Mr. Johnson said what is the general direction of travel? Is there one? Is there is a set contract in place for delivery?

Mr. Root said within the property?

Mr. Johnson said once it leaves the property on a tractor-trailer load.

Mr. Knott said do you go to Rinker or some place?

Mr. Johnson said do you go to Rinker or Orlando, where do you go?

Mr. Ravello said (inaudible)

Mr. Knott said do you go out to the batching places, asphalter or concrete mixers?

Mr. Ravello said (inaudible)

{somebody from the audience ask him to go to the podium}

Mr. Mark Martin said any of the aggregate that would be leaving by truck would be going, basically, to supply your local requirements whether it be road based for streets and stuff for the County, for any of your municipalities around in here. The other would be graded aggregate, like we said the stuff that's mixed in for cement, that would go into the local plants. But you're basically operating within a 50 mile radius for trucking. So it would be very limited because of the 50 mile radius.

Mr. Knott said your road contractors, will they have their truck in and picking up or do you deliver to them? Will they bring in their trucks, like Dickerson?

Mr. Martin said there will be the possibility that a contractor will have, like Rinker, may say "ok, we've got XYZ company delivering my aggregate for me, I'll be sending you X amount of trucks a day." But all that again is regulated by how many trucks can cross the FEC line. It is all in their...how much traffic studies...it is all taken care of.

Mr. Knott said do you do any crushing or sorting here or is all just potluck?

Mr. Martin said not at this point.

Mr. Knott said do you have any plans to do crushing?

Mr. Martin said not at this point. All the processing is done at the mines. We are bringing a finished product. This is just a pass through.

Mr. Reilly said the majority of it going via rail?

Mr. Martin said the majority of it will be going via rail. I mean, you can only use so much in a 50 mile radius. When you are bringing in 30,000 tons of rock, although it weighs quite a bit, it goes through right very fast.

Mr. Johnson said 30,000 tons is the capacity per vessel?

Mr. Martin said less and more, but we can only go to a certain amount of capacity coming into the inlet because of the depth of the inlet. So that restricts how big of a boat, again how deep the channel is.

Chairman Bergman said any other questions?

Mr. Margotta said if I can make a point, I don't even know if it is a point. The applicant may be looking for some specific material so maybe it is worthwhile to ask them if there is something they wanted to specifically get guidance on from the Planning Board.

Chairman Bergman said well, you haven't done a review on what was submitted. There wasn't enough there.

Mr. Margotta said the first plan that was turned in, the plan that is currently on the screen is a next generation of the concept. The original plan that staff looked at is basically this one and it was Planning staff here at the City. We reviewed it based on the Port Master Plan and our Land Development Regulations just to see what kind of issues would come up and that is what this letter generally shows, plus the input we received from the County. Over there they gathered as a big team, their regular development review committee and provided a shotgun of information to us so it is all pretty much summarized in here. Sometimes it seems like it conflicts but that is normal in a half-baked staff review that you are going to get conflicting reviews.

Mr. Martin said what we are basically looking for to say "we are proposing this facility, we are asking you does this meet the current and future land use plans, does it meet the Port Plan, does the County and City moving forward in general." Obviously we haven't gotten into specifics. This is not a true site plan submission. This is a preliminary site plan submission to say "hey, is this going to be within what the guidelines that you guys have set basically on the old, the new, and the Port Master Plan."

Chairman Bergman said based on staff's review, they pretty much said that its not consistent with the County Comp Plan, it is not consistent with the Port Master Plan. those are the two things that I think you probably need to get with the County and staff on it and find out...

Mr. Martin said that was on the first one and they sent us a letter. We had an opportunity to revise and answer those questions and concerns that they brought up and they were supposed to have it yesterday, I guess on the 28<sup>th</sup>, they didn't have a chance to review it. but this meeting was scheduled, we wanted to get on this meeting and say "hey, here is the latest and greatest based upon the extensive review that they did." Again, I have a question in my mind when I submit a preliminary site plan, what's my guidelines? Nobody could really tell us, "ok, take a piece of paper and you go – I'm going to put this here, this here, this here and its going to be called this, does it meet the zoning and plans so forth?" And they said "well, we need a little bit more." So you give them a little bit more. Then they say "based upon what you've got here, you haven't addressed this." And it get involved, involved, involved. No.

Mr. Knott said can't stand it anymore, can you.

Mr. David Recor, Deputy City Manager, said first of all, I want to thank Brian Root and Mike Ravello for providing the information. We have actually been looking forward to reviewing a site plan on this property for some time and this was the first opportunity that we had to do so, so I do thank them for providing that. I do want to address a comment that was made earlier regarding an agreement that was made in Tallahassee and I want to correct that characterization. There was no agreement reached in Tallahassee. I was the City's representative in Tallahassee and we did have very specific discussions with Mr. Bell and Mr. Ravello, Larry Sellers, the attorney that is representing, I believe, Mr. Bell and Mr.

Ravello, regarding the proposed use of Berth 1. As you are aware, the County's spoil site is currently located on Berth 1. the whole purpose of this process, of this opportunity, and that's what it is is an opportunity for Mr. Bell and Mr. Ravello to submit a conceptual plan to the City to see whether or not their proposed use would be acceptable. That is what it was – it was an opportunity. It was an effort to have the application for use of Berth 4 withdrawn. So based on the feedback that you'll provide the applicant, the feedback that the Commission will provide the applicant on Monday, the applicant will decide whether or not they were going to formally withdraw the application for Berth 4. Matt and his staff have done a preliminary review of the site plan that was submitted. I think what is first and foremost, I think as I said in Tallahassee, the inclusion of Berth 2, as Matt said tonight, complicates the issue. Clearly Berth 1 is designated by the Port Master Plan for use as limited cargo and I have encouraged the City Commissioner, the Planning staff to look at that definition of "limited cargo" as the ability to mitigate the impact. If the hours of operation, the size and quantity of material that can be brought in per day, the number of vehicle trips per day that can come to and from this site, the number of railcars that could be loaded. There is an opportunity to once we had our hands around what the use really was going to be, the characterization of "limited cargo" gave us the ability to work with the applicant to mitigate that impact. Again, back to the issue that I think really complicates the application tonight and that is the proposed use of Berth 2. Now, I heard Brian, I believe, mentioned that he needed to bulkhead Berth 2 in order to stabilize the bank for the location of the equipment. I would suggest to you that there is possibly a difference between improvement of Berth 2 for that purpose and use of Berth 2. Clearly, I think, use of Berth 2 complicates the application and necessitates feedback from the staff and the Planning Board, for that matter, that the application as proposed would be inconsistent with the Port Master Plan, the City's Comprehensive Plan. You take out use and improvement of Berth 2 and I think that affects that feedback. So, I mean, that is a decision that they have to make - can they conduct the use without using Berth 2? We don't know. We have evaluated the proposal based on what they have submitted to us. That is a decision for them to make. With that, I have repeatedly said to Mr. Bell and Mr. Ravello that the level of feedback that you have received is based on the level of information that you provide. You are right, there is no limited list of requirements for what you have to submit for a conceptual review. but this was an opportunity for them to provide a level of information to you with the expectation that they get some feedback. So, the information has been coming in. I think we have a pretty good idea now of what's proposed for Berth 1 and Berth 1 and I hope that they have a clear message now that the inclusion of Berth 2 will necessitate a recommendation for denial, if that absolutely has to be included. Take that out and I think it's a different story. I'll stake it.

Mr. Reilly said Mr. Recor, was exactly is Berth 2? What is the City looking at putting in Berth 2? What do we want there?

Mr. Recor said I believe that Comprehensive Plan is silent on Berth 2. it goes on to provide language for...

Mr. Margotta said Marine Industrial.

Mr. Recor said the question was what does the Comprehensive Plan or what does the Port Master Plan provide for Berth 1 and 2?

{Mr. Ravello was explaining and speaking, not to the Board, but to Mr. Recor}

Mr. Recor said so there in lies the difference between use and improvement. I believe that staff would interpret the bulkheading and the improvement of Berth 2 to stabilize the location of equipment as one thing. The mooring of vessels is another. I know that I have been clear from the start in the discussions in Tallahassee, that I thought that the use of Berth 2 complicated the application.

Mr. Reilly said what is Berth 3 and Berth 4? I know where they are, but what is the Comp Plan say on 3 and 4?

Mr. Margotta said Berth 3 is also set aside for Marine Industrial use, mega-yacht facilities, and I believe Berth 4 is also mega-yacht facility or mixed-use development.

Mr. Reilly said and Berth 1 is just industrial or light industrial?

Mr. Recor said limited cargo.

Mrs. Benton said are you saying that Berth 2, there is no designation as to what that usage would be in the Port Plan?

Mr. Recor said as I understand, there is no specific reference to Berth 2 in the Port Master Plan.

Mrs. Benton so in light of that, what is your reason and staff's reason for saying that the usage of that would complicate the application?

Mr. Recor said because the Comprehensive Plan is silent as to the use of Berth 2, I would suggest and where as it references specific land use types for the other Berths, I would suggest that it did not contemplate use of Berth 2 for limited cargo operations.

Mrs. Benton said what do you think it contemplated it, if it is not designated?

Mr. Recor said it did not, it provided for a separation between the two land uses that were contemplated for Berth 1 and Berth 3.

Mrs. Benton said so in other words, no usage whatsoever at that other than a separation?

Mr. Recor said not for an active mooring facility for cargo.

Mrs. Benton said ok, obviously that is an interpretation and that is the City's interpretation at this point. Because there has been no designation of Berth 2, does that also leave it open to the possibility that it could possibly used also for limited cargo or for one of the other designations? I mean, does it leave it open for that?

Mr. Recor said certainly you could take that position and perhaps that's position the applicant is taken and that's the question they are asking. If that is indeed is the case, I think we simple agree to disagree.

Mr. Martin said there was also some design factors in there. To keep that Berth wall from being pulled over from the circulation of water, you would have back it up. The engineer can explain that to you and buck it up. Secondly, if we took Berth 2 and moved it out further towards Berth 4 and filled in land, which would be a very costly and you would have to go through a lot of other stuff to make Berth 1, is not feasible. So, what we did and our intent was to split it, use the minimal amount that we needed to make the operation functional, make the wall sound and have a place to...if we've got a ship that comes, because we had a little time delay in getting one ship unloaded, that that ship can stay there until this ship unloads and then moves it out of the way and then they juggle them in. you have to get Coast Guard out there and there is a whole lot of things that you have to go through to get the ship into the inlet. And we have no mooring facility outside the inlet for ships like that. You don't want them sitting in the turning basin, they are too large, they become a problem. So by utilizing that small portion of Berth 2 for potential staging of a ship to come into Berth 1, that was our best answer.

Mrs. Benton said again, loading and unloading?

Mr. Martin said no.

Mr. Root said temporary mooring.

Mr. Martin said you've got 350 foot and you have a 200 and something foot ship coming in there, he pulls in there, he is secured. If you have a nasty day or something like that, you don't want that ship just hanging out there sitting there with his propellers turning trying to keep the tide from pushing it one way or the other, you want to secure the anchor. The other ship can then come off, the tugs can take out, and then the other you jockey it into its place. You are talking about 30,000 tons of cargo plus the weight of the ship. This is not a fender-bender when these things connect with something.

Mr. Reilly said you are saying that structurally you have to have that tie-back going back the other direction.

Mr. Martin said absolutely. It is just like when you go out here in the ocean and they put the little...if you look down the whole coast, you get the washout. If you look at this picture, you will see the washout that has happened in Berth 1 up there in the corner. This has to do with the movement of water in the Southeast. That's why you get this filling in here. That's why you get this eaten away over here. Same thing you do on the beach erosion. It is the same geological things that happen to where you have to have that in your design to stop that erosion or otherwise you lose your bulkheads.

Mr. Youmans said the current naturally wears away that point.

Mr. Martin said you look up and down the east coast, their putting in all those wiers and they've fought it, now they are trying to go to armor plating with big boulders. They have tried everything for that erosion that is a natural erosion that happens.

Mr. Root said you also need the actual bulkhead as far as the mooring of the vessel.

Mr. Martin said we are looking at safety. You know, you've got a turning basin out there, but you've got little sailboats out there. You certainly don't need a 250 foot ship just kind of maneuvering in 40 mp winds.

Mr. Knott said will you all be required, because its within your property line, are you required to get a submerged land lease?

Mr. Youmans said we avoid all kinds of complicated...this is a streamline process and makes beautiful sense. The DEP and Army Corps are very happy with us right now because we threw a lot of different...we were able to sidestep a lot of steps so they don't even have to deal with it. we are not dealing with State lands anymore, even though there is an existing submerged land lease right on the other side of that bulkhead line, we don't need it now. We are in our property lines, so Georgia Vince was like "thank you." The only thing standing in our way is...we have addressed all the manatee issues already with Fish and Wildlife. We have hit all of their criteria. We got good feedback from Berth 4. we have exceeded all their stuff. They only require a five foot buffer, we've got a ten for the bumpers. The only thing that we are having to go up against is there are seagrases out there. They have already been mitigated for with the first project that was denied and held up along time ago. Johnson Seagrass does appear there. Fortunately, it is appearing out there because no other grass can really grow really well because it is more like a weed. It like to grow where other grasses can't. because it is so rocky, so shallow, and so beat up out there, Johnson is now forming up in some of the areas. Fortunately for me, my job is I can scope it up and transplant and move it down to an area which has the same kind of conditions to the north. It will grow fine. it is kind of like planting Bahia in a way. So they are happy with that.

Mr. Knott said so, you all...that 383 feet of Berth 2, you are not going to be doing any unloading, at all?

Mr. Youmans said no, that is one of the limitations. We are not doing any unloading there.

Mr. Knott said because you can't stockpile along there.

Mr. Youmans said it is a temporary mooring area.

Mr. Knott said Mr. there is no way that the City would be comfortable, I guess legally to just stipulate that that portion of Berth 2 can only be used mooring. There is no activities that are going to happing there. There is not going to be any of the actual port operation. There are just going to be a big boat.

Mr. Recor said certainly I would like to take a closer look at the Comprehensive Plan and not just pull a particular provision but rather read the Port Master Plan in total. Again, I am told there is no reference to Berth 2. However, I would like to read that for myself again in total so I could draw a better conclusion. I think the City Commission could very well decide that issue for us, however, in deciding what limited means and they could very well say limited means one ship a day. That obviates the need for mooring a ship at Berth 2. So, I will be prepared to offer a better informed in obtaining an interpretation of that on Monday.

Mr. Margotta said the Port Master Plan does talk about a transition of uses from the cargo area to the resort or towards oriented items to the north. So you would envision less of an intensity of use along that way.

Mr. Knott said that is the question, again, since we are trying to give these folks a feel for where this Board is going on this tonight. Staff, is the City comfortable...I know that looking, if I remember when this was all started years ago, there was a transition area right in the middle here between the Port operations and the...

Mr. Martin said the old plans called for 29 cargo, 29 flex-zone, 20 multi-use.

Mr. Knott said right. So this use that is here that is being proposed tonight, the stockpile, if I am understanding the site plan is only going to happen on the southern portion of it. The rest of it is at grade rail activity and then truck traffic. Now, is that acceptable as a transition?

Mr. Recor said I think you are an issue that we are all wrestling with and that is recognition of the property rights that are called out in the Port Master Plan, but at the same time wanting to make sure that those property rights don't adversely affect the future development of what's going to occur to the north. We recognize that the Port Master Plan calls for some limited cargo activity here. But at the same time, we are trying to be sensitive to the affect that that will have on future developments. This is the jewel of Downtown Fort Pierce.

Mr. Youmans said I would like to point out something that a boat or a ship is moored silently on a temporary basis in Berth 2 does, in my opinion, count for a quite transition zone right next to the powers of the mega-yacht facility that will be built right next to it which will also act as a sound barrier. If I am not mistaken, what is the ceiling height on the thing, some 90 some odd feet, I don't know, its huge, absolutely huge. So I think a boat moored up against that is going to be dwarfed by comparison by that behemoth. But at the same time, you have to understand, right now this is the biggest sandbox in Florida. There are no jobs occurring on this lot. I work in Fort Pierce. Believe me, poverty is horrible here. You guys need jobs. This place will move this off of the Planning Board and actually into creating jobs.

Mr. Knott said do you have a longevity perspective on this operation? Is this something based on what you can bring in from over the Islands, is it got 50 years life to it?

Mr. Martins said how long will you need roads? How long will you need concrete?

Mr. Knott said I mean the material, there is a source of material...

Mr. Martin said it is all over the Caribbean.

Mr. Knott said as long as there is a demand...

Mr. Martin said this facility has the potential to supply this area for several lifetimes.

Mr. Knott said ok.

Mr. Martin said and provide jobs, provide tax rolls. Every dollar that will go to one of these involved in this, will roll through the community at least 13 times.

Mr. Knott said I can remember about 5 to 10 years ago, I believe was this parcel, they were proposing a crusher and the whole operation for that...

Mr. Martin said like everything else in modern day when you used to crush with hammers and then you used to crush with a big ball coming down from a crane, now we have major crushers that are more efficient at the mine and the finished product comes out.

Mr. Knott said that's what I am saying, anything that...

Mr. Martin said you would want to buy a finished product that they can use immediately that they can turn into a finished.

Mr. Knott said in my personal feeling, if we are moving in this direction, I would like to see some conditions in here that ties it to – this is worse that it is ever going to get. We are not going to be coming in here with a bunch of side operations of crushing and sorting and that type of manufacturing.

Mr. Recor said I will tell you that there is some validity to what the applicant has said tonight. Specifically in Tallahassee, Mr. Bell reached into one pocket and he pulled out some traditional aggregate material, he robbed it together and practically crumbled it in one hand. He reached in the other pocket and he pulled out the material that he was going to be bringing in and he rubbed it together, and they are literally stones. You can envision the type of material, if that is what it is, changing the way the roads are built and it being the future of subbase material for roads and it being very popular. You can envision that, if you move these stockpile areas away from the water front and they are contained within an area and the access roads are paved to address the performance conditions that one of you asked about dust and whatnot. You can envision the use being consistent with an industrial land use but transitioning to what is obviously the future development of the Port to the north.

Mr. Johnson said you guys were questioning Berth 1 and the depth, is that correct? Like how deep is Berth 1?

Mr. Youmans said 28 feet is what's going to be there.

Mr. Johnson said no, the depth of the actual water. How deep within the land mass? Within that square?

Mr. Youmans said we are cutting into...

Mr. Johnson said I heard someone say the use of land. How deep do I get to use?

Mr. Youmans said this is the actual property boundaries, right here. We are actually going to dig and build a bulkhead.

Mr. Johnson said you're talking about land surface area. I thought I heard a question of how deep... can I go all the way to the north to the Avenue M Extension. I heard a question of that nature.

Mr. Ravello said first one is 29 acres as far as the Charrette goes. It wipes out Berth 2 completely.

Mr. Johnson said that was your question, that's right. You were asking...

Mr. Martin said that wipes out Berth 2 completely.

Mr. Johnson said so you are asking David how deep do I get to use? Where is the definition?

Mr. Ravello said that's what I am saying, so what I put in my drawings, there is 700 feet of bulkhead there, I took half and I left the mega-yacht people or whoever wants to build the park half. So that somebody both got use out of Berth 2. if not, my Berth 1 wipes out Berth 2 anyhow.

Mr. Youmans said we are trying to leave as much additional Berthing area for the rest of what's to be done with the marine industrial. If you notice, it goes at an angle.

Mr. Johnson said you won't like my response, but I am challenging you to say as deep as you want to go with Berth 1, Berth 2 should be at equal depth and you are not allowed to use it. That's what I propose.

Mr. Youmans said we would be glad to take another 750 feet.

Mr. Ravello said we would be going this way then.

Mr. Johnson said which way?

Mr. Ravello said to the north.

Mr. Johnson said exactly, so how ever far north you go, is how far Berth 2 comes that way.

Mr. Ravello said we turned the whole...you've got the front and I've got the back and we run our operation.

Mr. Youmans said see where we cut it off here to try and give some angles. If we went 750 feet here and 750 feet here, we would actually encompass the original 29 acres of the original Port Master Plan.

Mr. Ravello said if he says if I take 300 feet here I have to give him 300 feet over here so I am losing 300 feet north.

Mr. Recor said I think we have stumbled on the issue that is going to be the focus of the discussion. I don't think that you are going to resolve it tonight and we are not going to ask you to resolve it tonight. I think that you have heard enough feedback to move it forward and they will have an opportunity on Monday. No action is required from you tonight. You don't need to make a recommendation. If you have some further feedback, please provide it but I think the discussion has been helpful and certainly the Commission will have this kind of discussion on Monday, as well.

Mr. Root said are there any concerns that are really glaring that we need to address early on that you think are going to be popping up here in the next few days?

Chairman Bergman said we don't have the Port Master Plan sitting in front of us to compare this to. So it is kind of hard for us to say yes it does or doesn't comply or there is yes or no. we don't have that sitting in front of use to be able to give you a decent comment on anything. Based on staff's comments, I think we can all see where the issues are. I think that is going to be something that you are going to have to wrestle with the City Commission because I am sure they are going to have some pretty strong opinion on what they think should be going in there.

Mr. Knott said the only concerns that I may have is that a public hearing I see several people here in the audience that have a lot of history with this and I you all haven't talked Jack Cahill or Mr. Hearn or anybody like that, I think that you need to talk with them. Because once you get into a public hearing, you are going to hear some of the concerns.

Mr. Youmans said we are familiar with what they have to say.

Mr. Knott said ok, fine, as long as you have worked with them and they're happy with what you are doing. Because when I was trying to find out from the City if they were happy with what you were proposing here because it looks like you are trying to keep your activity to the south end near the Port so this other transition area be what it is supposed to be.

Mr. Root said so your guidance to us it also the operation of the trucking, hours of operation for trucking, and the number of trucks allowed and also the trains, which we will have to addressed with you all and getting a traffic study.

Mr. Knott said if you all can come up with some sort of a range of what you anticipate, I think the Commission is going to probably want to hear that or some of the people are going to want to know how much traffic you will throw on the roads out there and wind and all this kind of stuff.

Mr. Root said do you have any concerns or information on improving the roads into the area, anything we have to address there?

Chairman Bergman said we don't know your traffic route, what your traffic patterns are going to be.

Mr. Root said so we would need a larger site plan showing traffic routes.

Chairman Bergman said you are going to have to show us where these truck are going because if you've got X number of truck going down US 1 during six days of the week, then I will say everybody in this room is going to have some issue with that.

Mr. Martin said we will just use Indian River Drive.

Chairman Bergman said maybe with that excess weight they will just roll over into the River.

Mrs. Olson said I do think you are going to need to plan on road improvements, budgeting for that. I think you are going to impact the roads enough that we are going to expect that you are going to need to be doing some improvements outside of your property. Plan on it.

Mr. Roots said I read in the comments from the County that 2<sup>nd</sup> Street is going to be turned into a 4-lane.

Chairman Bergman said I don't see that happening, not 2<sup>nd</sup> Street.

Mr. Root said North 2<sup>nd</sup> Street. I've got the comments.

Chairman Bergman said do you mean north of Seaway? Possibly there, but not south of there.

Mr. Root said but their access point is right there.

Mr. Margotta said we are going real long tonight, but he is correct. The County is actually working with the City right now to improve North 2<sup>nd</sup> Street, north of Seaway to make it a 4-lane road.

Mr. Reilly said to where? Fisherman's Wharf?

Mr. Margotta said basically between Fisherman's Wharf down to Seawy.

Mr. Johnson said that doesn't do much good. Aren't you coming out Avenue M Extension?

Mr. Margotta said there is much more to the plan. Let that one percolate.

Mr. Knott said there supposed to be a fly-over up there too as some point.

Mrs. Benton said I just have one question for clarification as to Berth 2, are you using only half of that? Is that the idea for mooring? Only half?

Mr. Root said only half. We are also going to include the 383 feet is also maintained as a buffer, which is your landscape buffer, and the buffer is required by the City and the County.

Mr. Johnson said what is the typical storm plan for an Atlantic born storm? Because you are traveling from Caribbean to Fort Pierce, which is obviously in the Atlantic, what is your storm protocol? To moor them up and leave them there in Fort Pierce?

Mr. Root said the vessels will have to leave port. I believe at 50 mph winds and that's Coast Guard rules.

Mr. Johnson said 50 mph winds within how many radius miles? How close to the storm before you take off?

Chairman Bergman said 50 mph winds.

Mr. Johnson said but what if it is 50 mph winds in Cancun, Mexico?

Mr. Ravello said if we are expecting bad weather, we have to get out of there the day before.

Mr. Root said 24 hours.

Mr. Johnson said 24 hours, that's what I am looking for.

Chairman Bergman said thank you.

Mr. Root said thank you.

Mr. Youmans said thank you.

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

Chairman Bergman said do we have any discussions?

Board Attorney Walker said earlier today I received a call from my boss, the City Attorney, and he asked that the record be clarified. Mr. Margotta, it is my understanding that Mr. Bell had filed an application which was withdrawn, is that correct?

Mr. Root said that is incorrect.

Mr. Margotta said the application for this is...I had not seen a withdrawal.

Board Attorney Walker said it was not withdrawn?

Mr. Root said no.

Board Attorney Walker said Mr. Schwerer seemed to be laboring under the impression that it was, at the direction of Mr. Bell, and he asked that that understanding of his be made explicit at the meeting.

Mr. Root said the application is still going forward. It has not been withdrawn.

Board Attorney Walker said ok.

Mr. Lloyd Bell said it is very easy to pick-up a telephone and confirm the things that I have said and what I haven't said. Seems as though people have an aversion to knowing the truth. It was made perfectly clear yesterday and it was amplified by a letter from Doug Anderson that I received today that I picked up at his office, I did not at any time infer in anyway that I have withdrawn anything.

Chairman Bergman said thank you. There you have it.

Mr. Margotta said I have two matters for discussion. The first is I believe that most of you that one of your Planning members has decided to resign for personal reasons and we typically and we would also like to continue a certain acknowledgement of what they have done with the Planning Board. I imagine this is somewhat of a plaque or a gift and Mr. Chuck Enns has served on this Board for a very long time. So I just want to get your guidance of which way you would like to go or if you have any ideas yourself, Planning staff would put something together so that either yourselves or the appropriate Board can honor him, bring him in here and thank him for his service.

Mr. Knott said a trip to Acapulco.

Mrs. Benton said then we would all resign.

Mr. Reilly said for us.

Mrs. Gates said he would like Vegas better.

Mr. Margotta said ok, trips are out of the questions. We were talking about plaques.

Chairman Bergman said we have done plaques before in the past.

Mrs. Gates said I think that would be nice.

Chairman Bergman said that is something they could remember it by.

Mr. Poitier said do you need it by vote or do you just want voice?

Chairman Bergman said I think they are looking for suggestion. Gifts are almost impersonal. I think from the City.

Mrs. Gates said it would mean something and it would mean something to Chuck. As a Board member, I don't know whether you all realize he resigned, I did find out and I told him how sorry that we were. I think Chuck has given a lot of his time to the City and has been a very serious and he has taken his job very seriously and I think he is a great member of this community. I, for one as a Planning Board member, will miss Chuck and wish him well in all his new endeavors and think he has done a great job serving on this Board.

Mr. Margotta said so some kind of plaque or something.

Chairman Bergman said ok.

Mrs. Gates said we have that plaque that we gave to Mrs. Reed, on the Preservation Board, and that was a beautiful plaque. I don't know if any of you all saw it, but it was a very, very nice plaque.

Mr. Margotta said I think we are going to go along those lines. Thank you. The other item is the City Commission, some of the City Commission has identified that the Planning Board has somewhat of a history of not having great attendance. So there is several of the Planning Board members that they would like to discuss attendance, in general. Some of you that I sent letters to just to let everybody know that cross the board, there has been an increase in the lack of attendance. It really puts us, the Board, the City, staff in a bad position when we have to reschedule these special meetings. So consider that. It is tough enough to be up there, you are not paid, we recognize that. You are put in a position where you have to understand a lot of material, but when you don't show up to the Board meetings, it puts everybody in an odd position and it doesn't look good for the City. I believe that the City Commission would like to understand what kinds of things are maybe leading to the excessive lack of attendance or drop in attendance. It could be a number of things and I believe that is the spirit of why they wanted to speak with some of you. so, I am not going to call anybody out in the carpet, but I can say that is what the intent was.

Chairman Bergman said next time, you send me a list with the number of meeting that I have missed, make sure you have go back 20 years and include all the meetings and you will see that I have probably a 95% attendance record.

Mr. Margotta said I am sure that is the case.

Chairman Bergman said and I will go over with you each of the five meetings that I have missed and explain to you every one of them. I don't have a problem with that. I don't miss meetings for no reason.

Mr. Margotta said I can guarantee that I am sure that is the case.

Mr. Poitier said I was sick a whole two months. I had an operation. The ones I miss I couldn't help it.

Mr. Margotta said thank you.

Mrs. Benton said since everybody has been outed, I better also respond. Often I am in another City in the evenings finishing up and cannot many meetings and because of distance conflicts, I am not here on a couple of meetings. But I, too, say if you go back a number of years, you will see my attendance ratio is very high.

Mr. Margotta said thank you. I can't tell you how very comfortable that was for me to bring up the subject and I appreciate you all's open discussion, but...

Mr. Knott said if it makes you feel better, we didn't have this problem til you started here.

Mrs. Gates said I do watch most of the City Commission meetings. I wish that they would make up their mind what they are going to do with us because quite frankly, there is verbiage in our Code to take care of the problem, if they find it to be a problem. I don't think any of these Board members, I can speak for myself, that I think I can speak for all of them serve for any reason other than they care about their City and I feel very strongly. I mean I think you see from tonight that these people take this very seriously and I don't think any of us would expect payment. They can keep their \$10 a month from me and put it to a charity or good use because I don't serve for that reason and I really don't think that any of these people sitting up here do that. I think we do take it very seriously and I think sometimes the Commission thinks that maybe we miss too many times, but I think these people mostly have very good reason why they don't come. Unfortunately it has been in a few cases that there has not been a quorum, but that's not been often. This is my feeling after watching the Commission meeting, this continues to come up and it kind of insults me in a way because I feel like I try very hard and every time I turn around every couple of months, this is coming up before the Commission and I wish they would realize sometimes how that makes us feel in the fact that if they are going to make changes, make them, but don't continue to bring it up every two month or every three months because that kind of intimidates us, for me it does anyway.

Mr. Knott said at the end of that meeting that you are talking about, I was couraged where they did have the moxie to say that they did not need to take action on the ordinance that was brought before them that they had that right and they did, so there was no action taken.

Mrs. Gates said if they don't a member to serve, we serve at their wishes.

Mr. Knott said because I share your feelings on that, too. Had they not done that, I think there would have been more vacancies on the Board.

Mrs. Gates said they may not like this when they read the minutes, but that is how it makes me feel and I hope that you would convey to the Commissioners that if they are going to make changes, make them. But every couple of months, don't continue to bring it up

because it just makes me feel like “now what” and that’s hard, I think. When I am up here or when we are up here trying to do our best it is because we love our City and care about the future of our City and that is why I serve. I am sure that is why the rest of us are sitting up here.

Mr. Margotta said I thank you.

Chairman Bergman said feel comfortable now? Anything else?

Board Attorney Walker said yes, let me just clarify something on public meetings. The question came up about whether the Code amendment was being considered as a public hearing or not. This is a public meeting, but not all public meetings are public hearings. Under our Code Section 22-128 very explicitly says that “the commission hears an amendment as a public hearing” it doesn’t say that as to the Planning Board and it is important to understand the difference because if it is called a public hearing, then certain notification requirements come into play that you have before the Commission, but you don’t have in front of the Planning Board. So, unless the Code specifically says it is “public hearing” then it is not. We still do have our rules, though, which say that as you have discussion, you have a proponent and opposition and what not, people can still speak, but it is not a public hearing. Thank you.

Mr. Knott said so what you are saying is when Don say he is opening it up to the public, he is not opening it up to a public hearing, he is just opening it up to the public.

Chairman Bergman said for comment.

Board Attorney Walker said pursuant to our rules. It is not treated as a formal public hearing, though, for purposes of the Code.

Mr. Knott said are we then obligated then to open this to the public since it isn’t a public hearing. If we don’t want to hear the public, can we just say we are not going to open this issue to the public?

Board Attorney Walker said well, I mean, we’ve got rule 10, which says a procedure for discussion and it says “the following procedure will normally be observed” now that phrase “normally be observed” implies that there is a certain amount of discretion and latitude in the Chair.

Mr. Knott said if we had a whole bunch of disgruntled public out here, you can say “I’m sorry this is not a public hearing, this is just a public meeting, therefore I am not going to open this up to the public.”

Chairman Bergman said any thing else? Thank you.

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There being no other business, meeting adjourned at 11:45 pm.