



CITY OF FORT PIERCE

PLANNING BOARD

Planning Board Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON WEDNESDAY, DECEMBER 9, 2008, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

Chairman Johnson called the meeting to order.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Chairman Johnson, Secretary Charles Hayek, Dan Dannahower, Irene Dixon, Charlie Harris, Colin Lloyd, Robert Poitier, and Kara Wood.

Those absent: Thomas Knott and Edward Reilly.

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

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

Chairman Johnson said is there a motion to excuse the members?

Motion made by Mr. Hayek and seconded by Mr. Dannahower to excuse the absences of Mr. Knott and Mr. Reilly.

Unanimously approved by voice vote.

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

Chairman Johnson said there are no alternate members tonight so we'll skip that one.

The next item considered - **# 5 – Approval of Minutes of November 12, 2008.**

Chairman Johnson said has everyone had a chance to review? Are there any additions or corrections that need to be made? I entertain a motion.

Motion made by Mr. Poitier and seconded by Mr. Hayek **to approve the minutes of the November 12, 2008 Planning Board meeting.**

Unanimously approved by voice vote.

The next item considered: **Item # 6 - Voluntary Annexation - Bethel Baptist Church** – A request to annex a 5.28-acre parcel identified as being contiguous to the municipal boundaries of Fort Pierce. The property is generally located on 37th Street, north of Whiteway Dairy Road, south of Deberry Road and east of Hartman Road. The property owner is Mount Bethel Baptist Church. The applicant/representative is Engineering Design & Construction, Inc./Rod Kennedy.

Chairman Johnson said can we have staff report please?

Ms. Ehly said good evening Mr. Chair and Board members. Pursuant to Section 171.044 of the Florida Statutes, the applicant has submitted a petition for annexation regarding a 5.28-acre parcel located on 37th Street, north of Whiteway Dairy Road; south of Deberry Road; east of Hartman Road. The property has a current future land use designation of County RU, Residential Urban, and a current zoning classification of County RS-3, Residential, Single-Family. The proposed future land use designation is City RU, Residential Urban and proposed zoning classification is City E-3, Residential Single-Family 3 units per acre. Staff recommends that the Planning Board forward a recommendation to the City Commission for approval of the annexation via application.

Chairman Johnson said are there any questions to staff from the Board? Seeing none, anyone here from the public that would like to speak on this request? I entertain a motion from the Board.

Motion made by Mr. Poitier and seconded by Mr. Hayek **to approve the voluntary annexation of a 5.28-acre parcel generally located on 37th Street, north of Whiteway Dairy Road, south of Deberry Road and east of Hartman Road.**

Those in favor: Mr. Dannahower, Ms. Dixon, Mr. Harris, Mr. Hayek, Mr. Lloyd, Mr. Poitier, Ms. Wood and Chairman Johnson.

Those opposed: none.

The next item considered: **Item # 7 - Zoning Text Amendments - Student Housing** – Approval of a zoning text amendment to permit student housing as a conditional use in the R-3, R-4 and R-5 zoning districts and to create a definition of student housing.

Chairman Johnson said could we have staff report please?

Mr. Carlin said good evening Mr. Chair, members of the Board. Tonight, the applicant is proposing to amend the City Code by creating an ordinance to permit student housing as a Conditional Use in the R-3, R-4, and R-5 zoning districts to facilitate future housing needs for those that would interested in attending Indian River College. In order to establish this use, the definition was created which describes the typical uses that are associated with student housing such as food shops, cafes, coffee shops, laundry services and the like. In addition to that, restaurants has also been included with this definition. The definition also further specifies that the student housing building itself will consist of separate units and contain a common area with a kitchen that would normally be associated with the student housing-type dorm configuration. This type of configuration does differ from the traditional type dwelling unit that you would ordinarily consider for multi-family or single-family home and as such the proposed use would not be subjected to the density requirements as outlined in the Code. In addition, the proposed description identifies that all tenants occupying the rental units must be residents of the College. The proposed amendments in the ordinance are consistent with the Comprehensive Plan. In addition, the amendment proposed by the ordinance satisfied the standard specified in Section 22-131 of the City Code. A legal review has also been conducted of the proposed ordinance for form and correctness and the comments have also been incorporated into the ordinance. As there are no inconsistencies that have been found between the proposed ordinance and the Comprehensive Plan or Chapter 22 of the City Code, staff recommends that the Planning Board forwards a recommendation to the City Commission for approval to amend the City Code creating the definition of student housing to permit student housing as a Conditional Use in the R-3, R-4, and R-5 zoning districts. The applicant's representatives are here this evening to answer any detailed questions that are behind the request tonight.

Chairman Johnson said okay, thank you. Any questions of staff? Ms. Wood.

Ms. Wood said I guess may be also a question for the applicant but is there a particular project that has been associated so far with this zoning text amendment or right now it's just a zoning text amendment?

Mr. Carlin said Mr. Chair, Ms. Wood, at this time, there has been no application made for site plan or anything of that nature. I think this is the very stepping stone to facilitate that.

Ms. Wood said this is specifically outlined for the provision of student housing for the College but has there been a needs assessment in relationship to the College? Have they provided any input on this?

Mr. Carlin said we have not been provided a needs analysis per say to just that but the conversations that we have had with the applicant's representative indicate that there is a desire to have this type of set up. They can certainly get into the logistics of what basis they have to bring this forward.

Ms. Wood said there is a provision in here for the requirement for residents to prove that they're students of the college. It seems that would be something that would be really difficult for the City to enforce. How would that work?

Mr. Carlin said you bring up an interesting question. Certainly, we do have Code enforcement. They can certainly look at those types of things to see whether or not they are students or whether there are other types of activities. That is one mechanism. This was discussed in the original meetings with the applicant's representative. How was it that they're going to account for student housing and it's not going to be used for some other type of traditional multi-family development where now we're seeing multi-developments occurring, you know, restaurants, things of that nature. I think that's going to really come down to, you know, the individual owners who are going through this during the review I mean certainly when they come through Planning, if that certainly occurs based on the size of the development, we can certainly be looking at those types of variables. As of right now, there is nothing in Chapter 22 that would, any type of mechanism in there to ensure that.

Ms. Wood said right. Otherwise, the description sounds like pretty much like a rooming house. The only thing that identifies it as a dormitory is the fact that students are living there. Otherwise, it's sort of a Conditional Use for a no-density limitation rooming house.

Mr. Carlin said I wouldn't go so far as to say it's a rooming house but there is a clear distinction between a dwelling unit and something along those lines where you just have a room with someone whether it's a hospital or even ACLFs where there are no facilities inside. There is clearly a difference between those types of uses. You do bring up an interesting question and maybe the applicant can certainly guide that discussion.

Chairman Johnson said Mr. Hayek?

Mr. Hayek said Ms. Wood's last question was my question. It has been answered. Thank you.

Chairman Johnson said any other questions of the staff? I'd like to invite anyone from the public to come speak?

Mr. Walker said Travis Walker of Weiss, Handler, Angelos & Cornwell on behalf of the Applicant. Basically what you have before you, we do have a client who is looking in the general vicinity of IRSC campus to provide student housing. With the IRCC as it was, it had a huge demand on student housing. River Hammock as it was provided residency to less than 200 students. What we have contemplated is similar to what is in a lot of other university towns where you see more than one student living in an establishment where they have close access to the college. To address the issues concerning how the rooming houses and that type of thing this is why we were going with staff they wanted it as a Conditional Use so that the City Commission would have the authority and the jurisdiction to apply Conditional Use standards to the project. That was something that was made in there. As far as the Code Enforcement, the alternative would be not having any kind of discretion and not kind of having any kind of requirements for what type of persons would

be allowed inside the building. That way, we try to delineate something that would be as close as possible to what we were trying to establish.

Chairman Johnson said thank you very much. Any questions?

Ms. Wood said I didn't hear any type of response to, and I'm sorry. What's your last name again?

Mr. Walker said Walker.

Ms. Wood said Walker. I should know that by now. I guess when I was first reading this application I was kind of having some difficulty categorizing this to be something like what I've seen before. I spend a good deal of my adult life as a student. I can completely appreciate the need for affordable housing; especially in my experience. I've been in cities where housing is particularly unaffordable. The first thing that struck me was I graduated in high school in this area. A lot of my friends went to IRCC but obviously most of them did it for cost reasons and they were living at home. It seemed odd to me that there was need for student housing for what has been historically a community, and maybe that is changing now it's offering bachelor programs and maybe that's the reason for that. That was the **impitence** for my question for a needs analysis. Has that been done?

Mr. Walker said a needs analysis wasn't done but in discussions with IRSC officials and discussions with students with the college we have come to the conclusion quickly that there is a great demand for student housing close enough where certain students that didn't have the availability of automobile resources or other resources would have close housing to the school. Actually what's contemplated is close to what you see. I was looking at an example of Seminole Oaks and things like that in Tallahassee where you have four roommates on a floor. They each have their own access to their own kitchen. They have their own access to their own bathroom and then there is a kitchen in the middle where it's kind of a general access area. What our client contemplates eventually is something that would be in an affordable range, somewhere in the \$400-\$500/month range for each student. As IRCC became IRSC, we did have much more demand in bachelorary programs and therefore, there are a lot of students that are coming from out of town in order to attend the college. As far as the needs analysis, it's more market-driven than a needs analysis.

Ms. Wood said okay and your client, again in my experience, student housing is primarily something that's provided by the University itself. Maybe I might have limited experience and I have an experienced private developer coming in to do that particular typology to fill a need. Do you have a client that has done this before in other places or is it just exploratory?

Mr. Walker said it's more exploratory, obviously. The reason why we wanted to provide it as a Conditional Use it to alleviate any of those types of concerns so that the Commission has an opportunity to look at the building and look at the area and say this is something that would be compatible with the area and the developers of the project are going to do a good job. We wanted to protect that as much as possible. They have previous experience

with developments but obviously being local builders we don't have a large campus to have done experience within the local area.

Ms. Wood said that also makes me believe that there is not a particular parcel or series of parcels that you are contemplating or are there?

Mr. Walker said they are contemplating something on the north side of Virginia Avenue that way it would be close enough to the college where it would be within walking distance. Originally, we tried to make it very conservative text amendment for Planning staff within a small radius within the college and completely delineating the units in going into great detail. As we were discussing things, we discovered that it was going to be much more difficult to allow other people to come in and do similar types of work. They don't have a specific parcel in mind but it is going to be obviously open to the general vicinity of IRCC.

Ms. Wood said in my brief review of my zoning and the patterns of residential zonings in the City, it appears to be that the R-4 zoning is mostly what is around the campus. That's also what's mostly available for development. It appears to be unplatted or unbuilt. My remaining concern is really just it's application to the R-3 zoning district. It appears to me that pretty much all of the R-3 zoning in the City is already platted and mostly are already developed. Arguably, a lot of it could be appropriate for redevelopment. But in any case, I would think that a form like this and the associated uses would not be appropriate for what are now at least mostly existing single-family residences. This is really a question I guess for you and staff and kind of a proposal to the Board if we would consider eliminating R-3 from the proposed zoning text amendment.

Mr. Carlin said Mr. Chair, Ms. Wood, to answer your question. Not so much that it should be restricted because it's not developed on an R-3 or is developed in on an R-3 but I do believe there are some parcels to the north west of IRCC that is zoned R-3. I think there are some pockets there. I think that's one of the reasons why that were incorporated. There is some mixed zoning in that area. Some C-3, there's some R-3, there's some R-4 so I think that was the justification for including that zoning district within the ordinance.

Mr. Walker said to concur with Mr. Carlin, Chair, Ms. Wood, there are some local R-3 lots in the area. We didn't want to completely make those out of the region for future, for current people who maybe looking to do this type of project.

Ms. Wood said I understand that. Again, in my analysis of where the majority of those R-3 clumps were, there are pieces of it in Hibiscus Park, Oakland Park, up north of the Avenue D area. It seemed to be an inappropriate use in those areas. In the interest of protecting the existing fabric and not just the use, it's just that generally it requires a larger building footprint, the associated services that you were discussing and that were listed in the ordinance, just requires more space than not only what's available in the pre-platted lots but what's available in the block structure as a whole. That was the real nature of my concern but I'll finish up and turn it over to see what the rest of the Board thinks.

Chairman Johnson said I would tend to agree with you if you are talking about Indian River State College in general. However, if an applicant were to come forward to start a college

or university next to Hibiscus Park, now you have R-3 that could be utilized in such a manner to create student housing. That's one of the comments I just want to put on the record is that it does state specifically Indian River State College. I'm not too sure that detail needs to be there but it's one of the items that I think that should be discussed because it could say college or university of some sort instead of just pin pointing it. I understand within the City Code on these, on the ordinance that we're creating or the modification of the ordinance of the Code I mean, it's good to say that. However, we just went through a name change with IRSC and if we did this three years ago, then it would have said IRCC. Now today we have IRSC. Not that there is any plan to change again; however, it's just a general comment. I understand what you are saying about the R-4 but then again if you were to look at different areas of the City, because we are talking about a City Code, we're not talking about IRSC Code. I'm almost okay with the R-3 because of that reason.

Board Attorney Walker said Mr. Chair, would you allow me to interject here on that point?

Chairman Johnson said sure.

Board Attorney Walker said thank you. Mr. Chair, you will recall that we discussed this draft ordinance in a meeting and you brought that point up most appropriately and it occurs to me that there is a conceivable potential for equal protection, arguments, where we are to create what is being seen as an ordinance strictly for the benefit of one college to the exclusion of any others that might present under the same circumstances in some future time. It would therefore be my recommendation, Mr. Chair, that the Board recommend as an amendment to the draft at line 4 where it says "Indian River State" that phrase preceding the word college, that in place of that three word phrase there be substituted the phrase "a bona fide" so that it would read "attending a bona fide college" and that might thus eliminate any such potential equal protection concerns which is the point the Chair was raising. Thank you.

Chairman Johnson said thank you Mr. Walker.

Mr. Carlin said Mr. Chair, to follow up on the zoning, we don't have zoning maps on this computer but I was able to pull up some other presentations that we have presented before you. If you take a look, to answer your question, there is a mix. The large area in bright green in the lower right hand portion of your screen is the area of Indian River College. Just to the north, you can also see a very dark blue. That's R-4, to the left of that is R-3 and to the north of that is even some R-2. Of course, this zoning map is about a year old. It might not be the most up to date with annexations and things like that but you can see just to the north and west of Indian River College you can see the consortium of zoning. Of course it doesn't show the South but this does reflect the different zoning districts that Ms. Wood had inquired about.

Chairman Johnson said okay, very good. Any other questions for Mr. Travis Walker? Thank you very much. Any persons that would like to speak today on this request. Seeing none, I entertain a motion from the Board at this time. Don't forget about the change recommended by our attorney please.

Motion made by Mr. Hayek and seconded by Mr. Poitier to forward a recommendation to the City Commission to approve the ordinance as drafted with the one change of deleting "Indian River State College" in saying attending "any bona fide college".

Chairman Johnson said any discussion on that motion?

Ms. Dixon said I had a question. Do we need to elaborate more with saying "college and/or university" or is it sufficient enough and this may be for Mr. Walker, sufficient enough to just simply say college?

Chairman Johnson said I think you can make that recommendation or ask the motion maker to do that if you so choose because Mr. Walker was just trying to get rid of the finite detail of Indian River State.

Ms. Dixon said I agree with that. I just didn't know if we are limiting ourselves once again to just a college or do we need to say "college and/or university or higher learning". I don't know.

Ms. Wood said or for that matter a large technical school.

Board Attorney Walker said that is an entirely legitimate concern. You have community colleges, you have colleges, you have universities, you have technical school and one might raise the question at some future term about whether the term "college" was being used in a technical sense or whether it was in fact intended as a generic reference. One might avoid the whole issue by substituting some more generic term such as institution of higher learning or some such.

Mr. Carlin said Mr. Chair, Board Members, if that is the case, if you are going to amend it to represent a bona fide college or something along those lines, you are going to have to also make the motion to include a modification approving that the students attending the university are the ones that the facility is for. In other words, you need to change out tenants occupying the rental must be students attending. You might want to take a look at that as well. You may want to consider how that is also worded depending on how you are going to word.

Mr. Lloyd said I just want to elaborate further on that. You could say "college, university and/or institution of higher learning" rather than just putting, so they know what the intent is.

Mr. Hayek said I always thought that all universities are colleges but not all colleges are universities. I thought that was the definition because a university attains a higher status and is called a university but it is still a college.

Chairman Johnson said you made the motion with a "bona fide college". Is there are?

Mr. Poitier said I second that.

Mr. Lloyd said if the intent is not to exclude an institution of higher learning, you probably need to spell it out a little bit more and make it as general and as broad as you can.

Ms. Wood said and a bona fide institute of higher learning will cover all of them.

Mr. Lloyd said I don't think you also hurt anything by also stating "colleges, universities and/or institution of higher learning". I think that shows your intent is to be broad.

Mr. Hayek said we'll amend the motion of that, universities, colleges and institutions of higher learning.

Chairman Johnson said a bona fide college, university or institution of higher learning, correct?

Mr. Hayek said bona fide is fine.

Ms. Wood said I just have a quick comment for staff. I think it just says in their staff report approve the proposed site plan based on it meeting the requirements of the City Code. I assume that's just an error.

Mr. Carlin said thank you for that clarification. We'll make sure that's removed from our editing.

Chairman Johnson said Mr. Carlin, what you were referring to just a second ago about the student housing? You made a comment three minutes ago.

Mr. Hayek said it's the same line here. It says "must be students attending".

Chairman Johnson said okay, very good. Any other comments? Your second is still good on his motion modified? [Mr. Poitier nodded]. Okay, could we have roll call please?

Amended motion by Mr. Hayek and seconded by Mr. Poitier **to forward a recommendation to the City Commission for approval of the zoning text amendment to create a definition of Student Housing and permit Student Housing as a Conditional Use in the R-3, R-4 and R-5 zoning districts with the condition that under Section 1. Sec. 22-3, 4th line "Indian River State College" be replaced with "colleges, universities or institutions of higher learning".**

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

Those opposed: none.

The next item considered: **Item # 8 a - Bethel Baptist Church** – A request to change in zoning classification from E-3, Residential Single-Family to R-2, Single-Family Residential.

The property is located at 37th Street, north of Whiteway Dairy Road, south of Deberry Road and east of Hartman Road. The property owner is Mount Bethel Baptist Church/Pastor Clarence Glover. The applicant/representative is Engineering Design & Construction, Inc./Rod Kennedy.

Chairman Johnson said can we have staff report please?

Ms. Ehly said the next item is a request for a zoning atlas amendment for a property that is currently being processed for annexation. The property currently has a future land use designation of RU, Residential Urban in the County in the County and the proposed future land use is City RU, Residential Urban. In addition, a compatible zoning classification of E-3, Residential Single Family is being proposed in accordance with City policy. The applicant is concurrently requesting approval for the change in zoning classification from E-3, to R-2, Single Family Intermediate Density to construct a church while retaining the building coverage of 30% allowed in the County. City E-3 allows for 25% building coverage. The 5.28-acre parcel is currently vacant and is located on 37th Street, north of Okeechobee Road, west of Hartman Road. The site is bounded to the north by City R-1, to the west by County RS-3, to the south by County Utilities, and to the east by County Commercial. The proposed zoning change is not inconsistent with the surrounding land uses in the vicinity. In addition, the property location is consistent with the R-2 zoning classification as it is located within the FPUA Urban Service Boundary. Part of the analysis regarding a rezoning application requires a comparison of the impacts to the capacity of the five public facilities for which concurrency is applicable. Concurrency requirements regarding public facilities will be specifically evaluated during the site plan review process and application for a Certificate of Concurrency. In addition, it should be noted that the change in zoning classification is not a guarantee of development build-out density. As you can see by this slide, the change in zoning classification will result in an increase in 30 dwelling units. The change in zoning will increase demand on potable water/ wastewater by 7,800 gallons per day. As the change in zoning is an increase in residential density, there will be an increased demand upon park and recreation facilities. Further analysis during development and concurrency review will determine if the adopted level of service will be negatively affected and whether any mitigation requirements will be included in the terms of the certificate of concurrency. In accordance with Florida Statute, changes in zoning classification that result in an increase in residential dwelling units must be reviewed for school capacity. The change in zoning will demand an additional 9 student stations in K-8 schools and 4 student stations in high school. At this time the Concurrency Service Area serving the City of Fort Pierce is anticipated to have adequate capacity. The change in zoning classification will result in an increased demand on transportation facilities by 15 PM Peak hour trips. In addition, the increase in density will require 3 times what is needed to serve the existing zoning classification regarding solid waste disposal. All respective departments have reviewed and approve the application, and as the proposed rezoning is not inconsistent with the surrounding properties; is generally consistent with the Comprehensive Plan and the exiting future land use designation retained by the property; and as the rezoning satisfies the amendment standards specified by Chapter 22 of the City Code, staff recommends that the Planning Board forward a recommendation to the City Commission for approval of the change in the zoning classification from E-3 to R-2.

Chairman Johnson said very good. Any questions of staff? Seeing none, I'd like to invite the applicant forward. Anything you'd like to add to the report. State your name and address for the record.

Mr. Rutherford said Daniel Rutherford with Engineering, Design & Construction representing the applicant. I don't really have anything to add. A lot of the information that was provided and you see a lot of everything going up, you know, the Solid Waste, Utilities, we do have a project in mind for this and it's not single family. We're going to be applying for a Conditional Use for a church. All of the additional infrastructure impact although it may look large there on some scale, we have no plan to build an additional units of 15 units of single family housing. The only reason we requested to be rezoned from E-3 to R-2 is to retain our 30% building coverage which was allowed under the current County Code. That was the only purpose.

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

Motion made by Ms. Dixon and seconded by Mr. Harris to forward a recommendation to the City Commission to approve the change in zoning classification from E-3, Residential Single Family to R-2, Single Family Intermediate Density for the property generally located at located at 37th Street, north of Whiteway Dairy Road, south of Deberry Road and east of Hartman Road.

Ms. Wood said Mr. Chair, I just want to make a brief comment because I'm going to not vote in favor of this application. It's really not because I have anything against the rezoning in itself. I did a little research since the last meeting. The rezoning application that was before us then and in my reading of the State Statutes, after annexation a land use amendment should be done to incorporate the parcel into the municipal boundaries. That's my reading of the State Statutes according to Chapter 171. That clearly has not been done because we just voted on the annexation five minutes ago. I just think that the process that has been created; and I know that there are really good and valid reasons for the process as it exists and I'm not going to get into that because it's really policy level decision, but I'll just not vote on this application.

Chairman Johnson said okay, very good. Any other discussion on the motion? Could we have roll call please?

Those in favor: Mr. Harris, Mr. Hayek, Mr. Lloyd, Mr. Poitier, Mr. Dannahower, Ms. Dixon and Chairman Johnson.

Those opposed: Ms. Wood.

Chairman Johnson said okay, your request will be forwarded with a recommendation.

The next item considered: **Item # 8 b- Brookside** – An application to request a change in zoning classification from E-3, Residential Single Family to R-4, Medium Density Residential. The property is located at South of Peterson Road, East of Jenkins Road. The property owner is Ward Snyder/Walton River, LLC. The applicant/representative is Land Design South/Bradley Currie.

Chairman Johnson said can we have staff report please?

Ms. Ehly said the second rezone this evening is a request for a zoning atlas amendment for a property that was recently annexed into the City in October. The property was assigned a future land use designation of RM, Residential Medium in the County and at the time of annexation a City future land use designation of RMO, Moderate Density Residential was applied. In addition, a compatible zoning classification of E-3 was assigned in accordance with City policy. This zoning classification is compatible with the RS-3 in the County. The applicant is now requesting approval for the change in the zoning classification from E-3, R-4 in order to develop the property as a multi-family housing development. The 19.36 acre parcel is currently vacant and is located South of Peterson Road, east of Jenkins Road. The site is bounded to the north, west and south by County Medium Density Residential with a PUD zoning classification and to the east by City Medium Density with a PUD zoning classification. The proposed zoning change is not inconsistent with the surrounding land uses in the vicinity. In addition, the property location is consistent with the R-4 zoning classification as there is adequate access to Jenkins Road, an urban minor arterial road, via Peterson Road and is within the FPUA Urban Service Boundary. Here is the analysis though I'm not going to say it all over again. It's the same as the previous one we had. An increase in 116 dwelling units; the increase in demand on potable water/wastewater is 30,200 gallons per day; and then we have the impacts on parks which if any mitigation is required that will be done during site plan review as an application for Certificate of Concurrency. The impact on schools, there is an increase demand in K-8 of 8 student stations and an increase in the high school of 4 student stations. There will be an impact on the transportation facilities of 31 p.m. peak hour trips. It requires 3x the Solid Waste removal of the existing zoning classification. All respective departments have reviewed and approved the application and as the proposed zoning is not inconsistent with the surrounding properties; is generally consistent with the Comprehensive Plan and the exiting future land use designation retained by the property; and as the rezoning satisfies the amendment standards specified by Chapter 22 of the City Code, Staff recommends that the Planning Board forward a recommendation to the City Commission for approval of the change in the zoning classification from E-3 to R-4.

Chairman Johnson said very good. Any questions to Staff from the Board? Can you go back to the map? The PUD to the east is?

Ms. Ehly said Bent Creek.

Chairman Johnson said okay. Thank you. Then the one to the west is the underdeveloped parcel on Jenkins Road but it had infrastructures in place if I'm not mistaken.

Ms. Ehly said there's the aerial. Well, that's probably old.

Chairman Johnson said any other questions of staff? I'd like to invite the applicant forward at this time.

Ms. Wood said Mr. Chair, I'm sorry. I have a brief question. Staff, I'm not really clear how a zoning provides for a density of 10-12 units to the acre is consistent with the land use that provides for a maximum of 9 units to the acre?

Ms. Ehly said well the land use is the umbrella maximum density which will be 9 units per acre. That's going to be the limit of development.

Ms. Wood said and you think it's appropriate to apply a zoning that has more maximum density than the land use?

Ms. Ehly said well the land use overrides the zoning. It's really not an issue.

Ms. Wood said so in your analysis, when a project comes through for application, the density that's allowed in the zoning district essentially wouldn't apply. It would be taken over by the land use?

Ms. Ehly said right.

Ms. Wood said okay.

Chairman Johnson said Mr. Walker, would that present a challenge for the City when an applicant comes forward with a site plan approval legally?

Ms. Ehly said the Planning Act precludes the City from issuing any development orders that are inconsistent with the plan. The applicant would not be permitted to obtain approval for any plan providing for a density greater than what is provided for by the Comprehensive Plan. Does that fairly respond to your question?

Chairman Johnson said yes Sir. Thank you. Good evening.

Mr. Currie said good evening. For the record, Brad Currie of Land Design South representing the applicant in this rezone request. We do understand that our maximum density on the piece is going to be 9 units to the acre. Again, the density and overall design and the type of use that will go on this property is going to be discussed more in detail at the site plan stage. We are getting our zoning now. You guys will see this application again when it comes in for site plan. Staff mentioned that it was going to be designed as a multi-family development. We're not sure what it is right now. What we do know is that the zoning needs to be consistent with the land use and right now the zoning is E-3 which is a single-family zoning designation. The least intensive multi-family zoning designation that you guys have in the City is R-4. That is what we're requesting. We're not requesting anything more. The R-4 while it does allow a higher density, the development regulations is really what we're looking for. It has development regulations that relate to multi-family and a smaller single-family lot even if we wanted to do that. The density we

understand is a maximum of 9 but we'll discuss density when we come back in for site plan approval. I've prepared a Powerpoint but staff did a great job. I think the only other thing I wanted to state is that this piece is completely surrounded by proposed development. To the north is Whispering Oaks and the west is Celebration Point by Mercedes Homes. To the east is Bent Creek. All of those have the same 9 unit to the acre land use designation and were approved as PUDs, all of them in the County actually. Then the Bent Creek got annexed into the City after PUD approval. If you have any other questions, I'll be happy to answer them.

Chairman Johnson said any questions of the applicant? Mr. Currie, you analyzed the densities of those existing PUDs?

Mr. Currie said those PUDs are somewhere around between 5 and 7 but they do have multi-family portions of them that have densities much higher than 8 or 9. Their multi-family portions are over 10 units to the acre if you just looked at that section by itself. Both of them are very dense - Celebration Point and Whispering Oaks. Bent Creek does not have a multi-family portion associated with them. We're separated from Bent Creek by the extension of a canal there and then Bent Creek also did a park. We are separated from that single-family portion of Bent Creek.

Chairman Johnson said and Whispering Oaks you said it's to the north?

Mr. Currie said to the north. Yes Sir. That has a multi-family portion. I believe, they were all approved around just a little over 5 I believe is what it was approved at. They all have a component of a larger single-family. Those are much bigger developments. We're looking at a 28 acre piece here. Those other properties are much larger and so they were able to have a mixed of uses where they had a multi-family pod and then the single-family pods, several different lot sizes that went along with that. The intent of this piece is to provide hopefully a different product than what's there; not your typical townhouse development. We are trying to do something a little bit different. I keep hearing at the meetings that I'm with other clients that there is a push for an active adult rental. It's a rental community that's geared towards the 55 and older crowd that has a pretty substantial clubhouse component and then the people are there but it's a rental. You don't have to pay. In a lot of the ACLFs that you're seeing you usually have to pay a huge upfront cost to get involved with them. This is trying to be something a little bit different here. We are weighing our options but with the economy the way it is right now, we're trying to make sure that we get our zoning before we spend a ton more money because it does take more money to get further along in the Planning process, we want to make sure we have our zoning before we make that next step.

Chairman Johnson said okay, thank you. Any other questions from the Board? Thank you very much. Anyone here from the public that would like to speak for or against this request? I entertain a motion from the Board.

Motion made by Mr. Poitier and seconded by Mr. Harris to forward a recommendation to the City Commission to approve the request to change in zoning classification from E-3,

Residential Single Family to R-4, Medium Density Residential for the property located at South of Peterson Road, East of Jenkins Road.

Those in favor: Mr. Hayek, Mr. Lloyd, Mr. Poitier, Mr. Dannahower, Ms. Dixon, Mr. Harris and Chairman Johnson.

Those opposed: Ms. Wood.

Chairman Johnson said your request will be forwarded with a recommendation. Thank you.

The next item considered: **Item # 9 - Conditional Use - Robinson Project** – An application for Conditional Use to operate a neighborhood grocery store in the R-4 zoning district. The property is located at 1103 North 13th Street and is zoned R-4, Medium Density Residential. The property owner is Cathy Robinson. The representative is Cook & Menard Architecture.

Chairman Johnson said can we have staff report please?

Mr. Yazzie said good evening Chairman Johnson, Board Members. In accordance with Section 22-27 (C)(11) and Section 22-30 (B)(2) of the City Code, the applicant is requesting the review and approval of a Conditional Use to allow a grocery store in the R-4 zoning district. The property is located at 1103 North 13th Street between Avenue K and Avenue J on the west side of 13th Street on approximately 0.27 acres. The zoning for the property is R-4, Medium Density Residential. The surrounding zoning is also R-4. The property currently has a duplex and a two-story building. The two-story building has not been in use since the beginning of 2007. However, the duplex is in use at this time. The history behind the two-story building started in February of 2007 where the local Fire Marshall had cited the building with violations to the property owner. Soon after, the Building Department and Code Enforcement Department had cited their own cases on the property. On April 2007, the applicant was given the opportunity to rehabilitate the building by the Building Department with the issuance of an Unsafe Letter with the opportunity to rehabilitate. Receiving no responses from the applicant, the Building Department issued another Unsafe Letter. However, this letter did not include the ability to rehabilitate. The property went before the Construction Board of Appeals many times. The Board eventually ruled that the applicant may have the opportunity to enter into the process for Conditional Use; at which time, the Construction Board of Appeals will wait on any final ruling until the Conditional Use is either granted or denied by the City Commission. The Conditional Use process was implemented due to the fact that the properties usage was not continuous and as mentioned had lapsed more than a year. Because of the Conditional Use process, the property was evaluated for zoning compliance; for example, parking for the type of use and existing landscaping. As you can see in this picture, the existing parking lot is not adequate to today's standards of the City Codes. Here is another picture looking towards the 2-story the northwest and the two-story building and the duplex. Due to the nonconforming nature of the property and its intended use, the applicant has proposed various improvements.

The parking areas will be poured with concrete and striped. A total of 12 parking stalls will be implemented into the project. Of the 12 parking stalls, one designated handicapped parking stall will be near the entrance to the store. Landscaping will also be introduced in accordance with the requirements of Section 22-187. The applicant will be providing a total of 15 trees throughout the property. Adequate landscaping strips will be installed along Right of Ways and vehicular use areas, as well as around a retention area. Additional lighting will be utilized to enhance the minimum requirements for the parking areas and sidewalks. New parking lights will be placed adjacent to the parking area and existing City lighting will also enhance visibility. A drainage system is also required due to the storm water runoff that the new parking lot will impact. As mentioned, vegetation will be placed around this detention area. A traffic statement prepared by the applicant's Engineer notes that the a.m. and p.m. trips will be of little impact. Therefore, no mitigation will be required. As all departments have reviewed and approved the Conditional Use, staff is recommending approval of the Conditional Use for the grocery store usage in an R-4 zone with the condition that the applicant dedicates a 10 foot sidewalk and drainage easement along Avenue J for future improvements. This easement shall be recorded prior to issuing a Building Permit.

Chairman Johnson said very good. Any questions of staff from the Board?

Mr. Hayek said while I feel any improvement to this building will be an enhancement to the neighborhood, I have a bad feeling about trying to keep their garbage within the confines of the grocery store because grocery stores are notorious for generating a lot of trash. By having the grocery and the two units above, I almost feel they need a separate dumpster for their trash in trying to keep everything inside. Whereas if you go to the floor plan, there is very little room inside their building to keep the quantity of trash that they accumulate. How are we going to propose to do that?

Mr. Yazzie said Chairman Johnson, Member Hayek. That was discussed with the applicant about curbside pick up. However, you can make a recommendation for approval with that consideration.

Mr. Hayek said thank you.

Chairman Johnson said Mr. Lloyd, did you have a question?

Mr. Lloyd said yes, is there irrigation for this new landscaping that they're putting in?

Mr. Yazzie said a dry retention area is noted here in Orange. However, the applicant's representatives are here to elaborate on that.

Chairman Johnson said any other questions? One quick question. Go back to the parking requirements if you would. Are we right at the allowable parking or do we have an extra space?

Mr. Yazzie said we are at the threshold at this point. We are at the threshold for parking requirements.

Chairman Johnson said very good. Any other questions? I'd like to invite the applicant forward at this time or the representative.

Ms. Cathy Robinson said Cathy Robinson, the owner.

Chairman Johnson said anything you'd like to add to the report?

Ms. Robinson said basically it's not going to be a grocery store. It's going to be a convenience store for the neighborhood which is always was one when my Grandparents built it back in 1957. It always was a convenience store in the bottom. My Grandparents lived above the store. It's basically not going to have a lot of trash there. It's going to be a dumpster there where my grandmother used to have her dumpster. It's just basically like maybe a cigarette, beer store - chips and stuff like that. It's not going to be like selling deli meats and stuff like that. It's just a basic convenience store for different items that people would need that's close to that area. It's not going to be like a grocery store. It's just going to be a local convenience shop store.

Chairman Johnson said and the dumpster you're referring to is just a curbside pick for the City of Fort Pierce?

Ms. Robinson said yes.

Chairman Johnson said any questions of the applicant? Anyone else here to speak?

Mr. Lloyd said yes, my question. Are you going to have irrigation for the new landscaping?

Ms. Robinson said yes.

Mr. Lloyd said okay, great.

Chairman Johnson said I have a question with probably the civil drawings, possibly. In regards to sidewalk and how it ties into, well, it's actually existing if I'm not mistaken, and how it does not tie into the new proposed duplex concrete parking area. Basically, if you were walking along Avenue K or if you took a western turn from North 13th Street onto Avenue K on the property there on that sidewalk, then it really just dies into the property. It doesn't extend through the new parking area or past that parking area along the curb and gutter or whatever is there now. Basically, my recommendation is to extend that concrete and tie it in instead of just having it die where the back of the building is if you kind of see where I'm talking about.

Mr. Mennard said I don't know what you're talking about.

Chairman Johnson said okay. If you were to traverse along North 13 Street, take a left on Avenue K on that sidewalk, right where the highlight is, that sidewalk now dead ends to the property and does not continue along Avenue K because the concrete stops. If we go back to the other drawings or at least the pink shows where new concrete is going, I don't know

if the photos show that or not. Do you have the couple of photos of the north elevation of that building?

Mr. Yazzie said I have additional photos I can show that should possibly show the.

Chairman Johnson said I just think that concrete should be tied in. If we need to create some kind of a landscape median there for that Oak tree that's being proposed, it's look like there's an Oak tree being proposed or some kind of tree. Actually, I shouldn't say Oak, some kind of tree. Is it an Oak? I thought it was.

Mr. Mennard said that sidewalk proceeds back to the main parking towards Avenue J. Are you referring to connecting to the?

Chairman Johnson said just connecting to the duplex parking area because a pedestrian along that roadway would then have to exit the sidewalk for 15 feet and go further to the west and then enter the duplex concrete parking area that's now proposed.

Mr. Mennard said just a four foot extension of the sidewalk where it jogs around the Oak tree.

Chairman Johnson said four foot or whatever that triangle shape is right there. I still want to maintain the Oak tree or whatever the Oak tree you told me was proposed. We need to maintain the Oak so we need to extend the concrete.

Mr. Mennard said the sidewalk jogs around the Oak tree just connect it into the concrete parking?

Chairman Johnson said correct. It's very minimal concrete. Alright, any other questions or comments? I still want to see that picture. Don't worry about the highlighter. I thought there was a picture there that's, right there. Is that a roadway? Is there another view? I think there was a view from 13th Street, another picture view? Right there. Basically, it's that grassy area we saw on the other picture. Unfortunately, overall it's a bad design but I don't want to further create a problem by putting in parking and then we have grass in between or sidewalk and parking where we could extend that fairly easily I think. That's all I had. Any other comments? Thank you very much.

Ms. Robinson said thank you too.

Chairman Johnson said anyone else here from the public that would like to speak for or against this request? Seeing none.

Mr. Hayek said I have a question for staff if you don't mind. When you say curbside pick up? Are you talking about a small dumpster on the side?

Mr. Carlin said Mr. Chair, Mr. Hayek, I would interpret curbside pickup as having trash cans out in the side but certainly Solid Waste can elaborate further on that and we can certainly

follow up with them prior to Commission to know exactly what they intend to do with this particular development.

Mr. Hayek said perhaps we can have them shield it with landscaping or something just to enhance it a little.

Chairman Johnson said well they are going to be roll around trash cans that we all use in the City of Fort Pierce.

Mr. Hayek said oh, those kind.

Chairman Johnson said the green 60 gallon whatever it is.

Mr. Hayek said okay, thank you.

Chairman Johnson said okay, entertain a motion from the Board.

Motion made by Mr. Poitier and seconded by Mr. Harris to forward a recommendation to the City Commission **to permit a neighborhood grocery store as a Conditional Use for the property located at 1103 North 13th Street.**

Chairman Johnson said what about the sidewalks.

Mr. Poitier said recommendation from Planning Board to go along with that.

Chairman Johnson said to put in the extension of the sidewalk?

Mr. Poitier said right.

Chairman Johnson said to tie into the duplex parking?

Mr. Poitier said that's correct.

Chairman Johnson said okay, is there still a second?

Mr. Yazzie said Chairman Johnson, does that include the recommendation by the Engineering Department to include that recorded easement off of Avenue J?

Chairman Johnson said that was my next question.

Mr. Poitier said another one?

Chairman Johnson said there was a recommendation from the Engineering Department to include a 10 foot easement along Avenue J on the south side of the property.

Mr. Poitier said I accept that. I go along with that too.

Chairman Johnson said that's in your motion?

Mr. Poitier said right.

Chairman Johnson said still a second?

Mr. Harris said second.

Amended motion made by Mr. Poitier and seconded by Mr. Harris to forward a recommendation to the City Commission to permit a neighborhood grocery store as a Conditional Use for the property located at 1103 North 13th Street with the conditions that the sidewalk on Avenue K is extended to tie into the duplex parking and to include a 10 foot easement along Avenue J on the south side of the property.

Very good. Any discussion? Could we have roll call please?

Those in favor: Mr. Lloyd, Mr. Poitier, Ms. Wood, Mr. Dannahower, Ms. Dixon, Mr. Harris, Mr. Hayek and Chairman Johnson.

Those opposed: none.

Chairman Johnson said alright. Your project is forwarded with a recommendation. Thank you very much.

The next item considered: **Item # 10 - Site Plan - Kendall Masonry** – An application for an approval of a Site Plan for the construction of two (2) contractor service buildings consisting of 12,369 square feet. The property is located at 4410 Prosperity Drive and is zoned I-1, Light Industrial. The property owner is First Mortgage Properties of the Treasure Coast. The representative is Steve Watkins of Ron Kendall Masonry, Inc.

Chairman Johnson said could we have staff report please?

Mr. Williams said yes, good evening Mr. Chair, members of the Board. The applicant is proposing the construction of two office warehouse buildings on a 1.9 acre property located in the Fort Pierce Business Park west of Selvitz Road. This slide shows what the property looks like currently. The property is zoned I-1, Light Industrial and currently is vacant except for a staging area located on the north end of the site. The staging area is utilized by the facility locating adjoining to the west side and will be removed prior to any development. The adjoining property located to the north of the site is vacant, unincorporated and zoned I-H, Industrial Heavy. The other surrounding properties are zoned I-1, Light Industrial and are vacant for primarily contained warehouse uses. The proposed land use is consistent with the surrounding land uses. This proposed site plan shows that one of the buildings will be located on the south portion of the property and will

contain approximately 3,514 square feet of office spaces on two floors and approximately 2,905 square feet of warehouse space. The other building will be located on the southwest portion of the property and will contain approximately 3,514 square feet of office space on two floors and 2,436 square feet of warehouse space. The elevation enclosed in your packet shows that the proposed building will be of masonry wall construction using single split-face masonry units with smooth stucco, adjacent bands and highlights. This elevation shows the front or the north and south elevations and the roof will be standing seam metal over and engineered truss system. This view of the western and east elevation is for your and the audience's convenience, the windows will be of impact resistant glass block. The buildings will have canvas canopies over the main entries and emergency exit doors. The landscape plan is shown and it meets the requirements of the Code with a mixture of Magnolias, Live Oaks, and East Polaca Hollys. A traffic impact study prepared by Culpepper & Terpening indicates that 103 average daily trips will be generated by the proposed development with 13 a.m. peak hour trips and 14 p.m. peak hour trips. The traffic study further indicates that the traffic concurrency is met in accordance with the City Code and no roadway related improvements are required for the project. All affected departments have reviewed the submittals and have approved the 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 of approval of the Site Plan.

Chairman Johnson said very good. Any questions of staff on this project? I'd like to invite the applicant forward at this time. Good evening.

Mr. Watkins said good evening Board. Thank you Mr. Williams. My name is Steve Watkins. I am Senior Estimator and Project Manager with Ron Kendal Masonry. This is a project that we've had planned for some time. In part due to our ignorance, we found and made a costly mistake by not building it on our first site approval. Nothing changed. We are moving forward with the same buildings that were originally planned but we did have to have a traffic study done this time. Everything concurs. I did bring the larger artist's rendering for our buildings which you all have. It is up on the screen. We are doing masonry block buildings. That is what we do. The color board that was submitted; I couldn't get a sample of the glass block. Most people know what they are but I brought one. We are building the buildings to meet impact Codes and resistance. After the hurricanes and the storms, we want to make sure these buildings stand. Currently, we are going to be the only tenant in the buildings. We have experienced some outstanding growth. While everybody else seems to have their problems, we are growing. In part, that's why we didn't build it the first time. We were busy bidding projects and keeping our people working. Being General Contractors, we are going to build it ourselves. That's pretty much it. Thank you very much.

Chairman Johnson said any questions of the applicant from the Board. Okay, thank you very much. Anyone here from the public that would like to speak for or against this request? Seeing none, we'll return to the Board and entertain a motion.

Motion made by Mr. Lloyd and seconded by Mr. Hayek to forward a recommendation to the City Commission to approve the site plan for the construction of two (2)

contractor service buildings consisting of 12,369 square feet for the property located at 4410 Prosperity Drive.

Those in favor: Mr. Poitier, Ms. Wood, Mr. Dannahower, Ms. Dixon, Mr. Harris, Mr. Hayek, Mr. Lloyd and Chairman Johnson.

Those opposed: none.

The next item considered: **Item # 11 - Preliminary Platt - Okeechobee Crossings** - An application for approval of a Preliminary Platt to reconfigure 3 parcels into 5 separate tracts. The properties are located on the northeast corner of Okeechobee Road and Jenkins Road and are zoned C-3, General Commercial. The property owner is NNN/1031 No. 16 SR 70 Jenkins, LLC. The applicant is Roderick J. Kennedy, P.E., Engineering Design & Construction, Inc.

Chairman Johnson said can we have staff report please?

Mr. Yazzie said good evening Chairman Johnson, Board Members. In accordance with Section 18-9 of the City Code, the applicant is requesting the approval of a preliminary platt to section off the current three parcels into five separate parcels. The property is located at the intersection of Okeechobee and Jenkins Road. The property is zoned C-3, General Commercial. To the south is C-3, to the west is C-3 as well as unincorporated St. Lucie County. At the east is C-3 and unincorporated St. Lucie County. To the south is of course the Right of Way Okeechobee Road. Parcels 1, 2 and 3 make up the current boundary configurations combined. They total 8.71 acres. As you may recall, this project was submitted to be reviewed as a site plan and a preliminary platt. The project was to be built in phases 1 and 2. Phase 1 was to include tract 1, 2, and tract 4. Tract 4 has been designated specifically for the property's retention area. Phase 2 was to include Tract 3 which was to be built at a later date. The project went before the City Commission on June 4, 2007. At that time, the City Commission approved the project with conditions. Conditions of approval were to include turning lanes into the development for safety. One turning lanes exists off of Okeechobee Road and two other decelerating lanes were created off of Jenkins road. Additionally, a thoroughfare for staging and cross access was also created to the north east of the property. At this time a new Walgreens has been built and is nearing completion. To the west of the properties along Jenkins road a 30' right of way was also included in the approval. The applicant has submitted the right of way dedication to St. Lucie County and is awaiting the final approval from St. Lucie County Property Appraisers Office. At this time the applicant is here before you for the approval of a new Preliminary Plat which ultimately splits Tract 2 in half. Although this is a split of 2 parcels, it is not a minor re-plat because the properties were not recorded to the Property Appraiser's office as approved by the City Commission. This new preliminary plat will consist of 5 tracts: Tract 1 – 1.72 acres, Tract 2 – 0.98 acres, Tract 3 – 3.24 acres and Tract 4 – 1.50 acres, and Tract 5 – 0.83 acres and the remaining 30 foot Right of Way of 0.44 acres. As all affected departments have reviewed and approved of the proposed Preliminary Plat,

staff recommends that the Planning Board forward a recommendation of approval to the City Commission.

Chairman Johnson said very good. Any questions of staff from the Board? Seeing none, I'd like to invite the applicant forward.

Mr. Walker said Travis Walker of Weiss, Handler, Angelos and Cornwell on behalf of the applicant. I can answer any questions. I have the Engineer as well if you have any questions. Thank you.

Chairman Johnson said any questions of the applicant? Anyone else here from the public that would like to speak for or against this request? Seeing none, I return to the Board.

Motion made by Mr. Poitier and seconded by Mr. Harris to forward a recommendation to the City Commission to approve the Preliminary Platt to reconfigure 3 parcels into 5 separate tracts as follows: Tract 1 – 1.72 acres, Tract 2 – 0.98 acres, Tract 3 – 3.24 acres, Tract 4 – 1.50 acres and Tract 5 – 0.83 acres and .44 acres to be dedicated to St. Lucie County for future expansion.

Those in favor: Ms. Wood, Mr. Dannahower, Ms. Dixon, Mr. Harris, Mr. Hayek, Mr. Lloyd, Mr. Poitier and Chairman Johnson.

Those opposed: none.

The next item considered: **Item # 12 - Abandonment - Crossroads Park Phase 1, Lots 4- 7** – An application for approval of an abandonment of two unused 12 foot-wide utility easements. The utility easements are located at Crossroads Park Phase 1, Lots 4-7 and are zoned CP-1, Commercial Parkway. The applicant is Pierce Management.

Chairman Johnson said can we have staff report please?

Mrs. Ploetz said good evening. Diann with the Planning Division. The applicant is requesting the City of Fort Pierce to abandon two 12-foot wide utility easements running through the front 1/3 of Lots 4, 5, 6 & 7 of Crossroads Park Phase 1 to allow for future development of these parcels. The water and sanitary mains which caused the easement dedications were replaced back in 1991 by water and sanitary mains that were installed in the public right of way of Crossroads Parkway. These properties and the properties adjacent to the north, south, and east are zoned CP-1, Commercial parkway with C-3 zoning to the northeast and northwest. The adjacent property to the west has a County Zoning designation of RM-5. The size of the easement abandonment is approximately 22,093 square feet or 0.5072 acre in size. The estimated value of the easements are \$93,895.25 which is \$8.50 per square foot minus 50% for damage. The proposed compensation to the City is \$10.00 by a Quit Claim Deed. All affected Departments have reviewed the proposed abandonment and have approved the request for abandonment based on it meeting all requirements of the City Code. Based on the approvals received

from all affected City Departments, staff recommends approval of the proposed abandonment with the condition that the applicant compensates the City the full appraised value of the two 12-foot easements. Thank you.

Chairman Johnson said read your recommendation again.

Mrs. Ploetz said with the condition that the applicant compensates the City the full appraised value of the two 12-foot easements.

Chairman Johnson said which is? What was the number again?

Mrs. Ploetz said it's \$93,895.25 which is \$8.50 per square foot – 50% for damage.

Chairman Johnson said any questions of staff? Seeing none, we'd like to invite the applicant forward at this time.

Mr. Walker said Travis Walker, Weiss, Angelos, Handler & Cornwell on behalf of the applicant. The condition for approval was not made known to the applicant prior to this meeting. We're going to have to object to that condition. We have had discussions; we went to the TRC meeting and had no indication that that was going to be a requirement prior as a condition for approval. We've had discussions with several levels of different parts of the City and have no indication that that was going to be a requirement. If the Planning Commission wants to recommend that for approval, that is at their own discretion but for the record I would like to object because of lack of notice. Thank you.

Chairman Johnson said any questions of the applicant? Anyone else here from the public that would like to speak for or against this request? Seeing none, I'll return to the Board.

Ms. Dixon said Mr. Chair, the only concern that I have on this one was.

Chairman Johnson said let's make a motion before we talk about it. Let's make a motion. Then we'll talk.

Mr. Walker said I would like to add something real quick if I could please if it's possible? Did you close the public discussion?

Mr. Poitier said yep.

Mr. Walker said I apologize.

Mr. Poitier said I make a motion that we accept the report as read.

Chairman Johnson said okay. There's a motion on the table. Is there a second?

Mr. Hayek said does that include the?

Chairman Johnson said as proposed.

Mr. Poitier said we're going to discuss that.

Motion made by Mr. Poitier and seconded by Mr. Hayek to approve the abandonment of two unused 12 foot-wide utility easement for the property located at Crossroads Park Phase 1, Lots 4-7 with the condition that the applicant compensates the City the full appraised value of the two 12-foot easements.

Chairman Johnson said there's a motion and a second. Now we're ready for discussion.

Ms. Dixon said Mr. Chair, my concern is if indeed that there were not any discussions with the applicant or any form of information, the applicant having any form of information with the amount that we're asking under the condition, I'm a little hesitant towards moving for approval with that. Obviously, the funds would be, I feel there should be some form of compensation but I also feel that there should be some form of notice to the applicant that that is a condition.

Chairman Johnson said okay. Any other discussion?

Mr. Poitier said we could postpone it or table it for the next meeting but they are going to have to pay that money.

Board Attorney Walker said respectfully if I may? Mr. Chair, this is a point that periodically comes up over the years. The reason that it does is because the Code is less than clear on the subject of the Planning Board's ability to condition abandonment on payment. What the Code says at Section 2-223 is as follows: "*No real property shall be leased by or disposed of by the City until proposal for the leasing or disposition of the same is submitted to the Board for its recommendation provided however the City Commission shall have authority to overrule the disapproval of the Board on any such proposal.*" So there are no real written guidelines or standards as such to guide the discretion of the Planning Board. However, in the past Mr. Chair, it has been most respectfully submitted that the question of whether or how much compensation is appropriate are policy matters addressed to the sound, fiscal discretion of the City Commission and lie outside the scope of the Planning Board's charge so that really what the Planning Board should be considering in these matters is whether retention of the property serves a public purpose. If it does, and that public purpose outweighs the private purpose that's being advanced by the application, then the application should be denied. But if there is no real public/planning purpose to be served by retaining the property, then it's appropriate for the Planning Board to recommend approval but it's not necessary to get into the question of whether the City should be paid for the property that's being abandoned or not. That really is a matter for the City Commission I believe Mr. Chair. That is the advice that I have given over the years to previous Planning Boards on this subject.

Chairman Johnson said very good. Thank you. Mr. Poitier, basically the motion should be a recommendation to abandon the easement and then whatever fiscal responsibility is left over to the City Commission.

Mr. Poitier said well he said we could deny it or accept it.

Chairman Johnson said right, as long as there is no stipulation in the motion that says anything about the money which is fine but the recommendation from staff, I guess you'd have to make a motion a little bit outside of what staff recommended. That would be my opinion.

Ms. Wood said Mr. Chair, I don't know if this would be the appropriate time if we need to solidify the motion but it seems to me and I recognize that the input that Mr. Walker has given and I think that makes sense and yet the recommendation regarding the compensation in this case really isn't coming from the Planning Board; it's in the staff report. It's also in the applicant's package. It would seem to me and especially with the piece of Code that Mr. Walker just read to me when I reviewed this, that agenda item, it implied that that was the compensatory package that was being offered and then I saw the Quick Claim Deed for \$10 and I didn't even understand. It just doesn't equate. To me, the whole appraisal and analysis is being offered for the value of the land that opens up the question first of all and then it's also contained in the staff report. In my assessment, it seems that we're just supporting what has already been offered to us in the recommendation.

Chairman Johnson said I could agree with that. Mr. Lloyd, you had a comment earlier. Do you have anything? Maybe not.

Mr. Poitier said I have a question. Could we send it back to the Board so they could can inform the individual about it that they could pay a balance and come back to us.

Chairman Johnson said well, we have a motion and a second so why don't we just go with the motion because your motion is to recommend that we abandon the easements. Right?

Mr. Poitier said yes.

Chairman Johnson said and that includes some compensation back to the City. Is that correct?

Mr. Poitier said that's correct.

Chairman Johnson said whatever it is. It defines it in Staff report but it doesn't define it in the recommendation.

Mr. Poitier said well we won't put the amount there.

Chairman Johnson said don't worry about the amount? Okay. Is that right?

Mr. Poitier said no. The lawyer said we can't do that do that.

Chairman Johnson said correct. I'm just clarifying the motion.

Chairman Johnson said there was a second by Mr. Harris or Mr. Hayek?

Mr. Hayek said Mr. Hayek said I did.

Chairman Johnson said to recommend the easement and there will be some compensation back to the City. I don't think we can stipulate that number or quantify that number in detail. However, there is some compensation that is due to the City.

Mr. Dannahower said Mr. Chair, just so that I understand the motion. It does not contain an amount it's just that the City be compensated?

Mr. Poitier said that's correct.

Mr. Dannahower said alright. Thank you.

Board Attorney Walker said Mr. Chair, if I may? Respectfully, just to clarify a point. An abandonment is merely a relinquishment of any interest in the property by the City period. No compensation is involved. Now where we typically see this is with alleyways between separately owned properties and when the City Commission elects to simply abandon that property, then the halves of that alleyway go to the adjoining property owners in fee simple. If the Board is wanting compensation, then the Board is in effect denying the application for abandonment and insisting on a sale of the property. That's really a Commission decision. If the property is to be sold, then you're going to have to put it out to bid and give other people an opportunity to bid on the property. You just got to go through that procedure. I did want to bring to the Board's attention that there is a technical difference between abandonment of property and sale of property.

Mr. Lloyd said if we voted just to strictly abandon, somebody made a motion to just strictly abandon, it doesn't preclude the City Commission, and this is probably a question for Mr. Walker, that doesn't preclude the City Commission when they vote of putting a price tag on it at that time if they wanted to?

Board Attorney Walker said that's entirely correct and it is the City's decision in the end to either abandon the property or sell the property. Yes, but the procedures are entirely different.

Mr. Lloyd said so at this level, why don't we keep it simple and just abandon.

Mr. Poitier said that's what I want to do with the abandonment.

Mr. Lloyd said I would suggest that maybe you amend the motion just to simply abandon.

Mr. Poitier said I'll amend it.

Chairman Johnson said to just abandon the easements?

Mr. Poitier said right.

Chairman Johnson said very good. Still a second?

Mr. Hayek said yes.

Motion made by Mr. Poitier and seconded by Mr. Hayek to to approve the abandonment of two unused 12 foot-wide utility easement for the property located at Crossroads Park Phase 1, Lots 4-7.

Those in favor: Mr. Dannahower, Ms. Dixon, Mr. Harris, Mr. Hayek, Mr. Lloyd, Mr. Poitier, Ms. Wood and Chairman Johnson.

Those opposed: none.

Chairman Johnson said forwarded with a recommendation to abandon. That was very good.

The next item considered: **Discussions.**

Chairman Johnson said anything from the Board that we need to discuss? Anything from staff?

Mr. Carlin said no Mr. Chair. We hope you all have a nice holiday. It's been a very busy year. We've processed a record number of site plans and probably the largest development in the history of Fort Pierce. A lot of annexations so we'll kick off the new year probably with additional annexations and more input from you all as we write our Codes so we look forward to that. I don't think there is anything else.

Chairman Johnson said very good and you can contact us when the updates of the Codes come around? Are there any more meetings that are happening?

Mr. Carlin said as of right now the representative from Duncan & Associates will likely be back in January. He is putting together a packet of everyone's input thus far and then he will be traveling down here January and we'll start the process of making the suggested changes.

Chairman Johnson said very good.

Ms. Wood said Mr. Chair, I'd just like to quickly thank staff for delivering the packets before the weekend. It was really helpful and that's fantastic. You can never get that done.

Mr. Carlin said we certainly try to get them out before the weekend. Unfortunately, when we came back last month, we had a little bit of a shortage of staff in trying to coming off Commission agenda items. We normally like to get those out to you all no later than Friday but sometimes once in a blue moon we have those days.

Mr. Poitier said you all have been doing good all year.

Mr. Carlin said we try to get them to you by Friday.

Ms. Wood said thank you.

Chairman Johnson said Mr. Walker, anything?

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

There being no further business, the meeting was adjourned at 7:35 p.m.