

## PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 7, 2011**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

Board members present were: Henry Minneboo, Chair; Aneta Ott, Vice-Chair; Linda Wise; Peter Aydelotte; Clyde Thodey; Jerry Jagrowski; Robert Ludwiczak; John Stone; Ron McLellan; Robert LaMarr.

Staff members present were: Cindy Fox, Planning, Zoning & Enforcement Manager; Morris Richardson, Asst. County Attorney; George Ritchie, Planner II; Paul Body, Planner I; Candy Hanselman, Zoning Support Manager.

The Chair, Henry Minneboo, called the meeting to order at 3:00 p.m.

There were eight regular members, and two alternates, present. Seven of the regular members, and the alternate from District 5, voted throughout the meeting. Linda Wise left the meeting at 3:57 p.m. and did not vote on items 1 and 2.

The items were heard in the following order: 6, 5, 3, 4, 1, 2. These minutes are in agenda order.

Henry Minneboo – This is the Planning & Zoning Board, and this is an advisory board to the Board of County Commissioners. All the items today that we undertake will be given to the Commission on March the 3<sup>rd</sup>, back in this room here, March the 3<sup>rd</sup>. And that'll be at 5:00 p.m. So those of you all that are concerned with some of these items today, as it progresses along, you need to mark that date down. Each applicant today will be given 15 minutes to convey his or her project, and each person speaking for or against will be given five minutes. Did everybody have an opportunity to look at the minutes of January the 10th?

Motion by Aneta Ott, seconded by Jerry Jagrowski, to approve the minutes from the Planning & Zoning Board meeting on January 10, 2011. The vote was unanimous to approve the minutes, as submitted.

### DISTRICT 4

**V.B.1. (Z1102401) – THE VIERA COMPANY** – (Sheryl Denan/Verizon Wireless) – requests a Conditional Use Permit for Towers & Antennas in a PUD zoning classification, with waivers to setbacks from all property lines, on 0.2754 acre or 12,000 sq. ft., +/- . Located approx. 900 ft. west of Lake Andrew Dr. and approx. 400 ft. north of Judge Fran Jamieson Way.

**P&Z Recommendation: McLellan/Thodey – Approved. Vote was unanimous.**

Laura Belflower – Good afternoon. My name is Laura Belflower, and I'm a land planner, and an attorney, here representing Verizon Wireless. This is a request for a conditional use permit for a 192-foot flagpole style communication tower. As indicated in the application material, and the staff report, the request does meet all of the applicable standards and requirements of the Code, except for one. The one requirement is the 200-foot setback from property boundaries. We meet the other setback from residential, as there's no residential in this area. The way the tower is proposed to be located on the property, all directions, except to the west, it would be able to meet it from the larger property. But the property owner, Viera Company, was concerned – there was some question as whether or not this 200 feet would apply to development coming to the tower. I mean, normally, you would think this is a setback to keep the tower away from existing development. But there was some question as to whether or not it would restrict other development on the rest of this property. So in abundance of caution, and at the advice of staff, the conditional use area was shrunk down to just the tower area, the tower lease parcel, tower compound. And so the setbacks would be measured from those boundaries. The only side that is next to a property line that isn't – wouldn't meet the 200 feet from the Viera Company property is next to the School Board overflow parking lot to the west. As we've indicated in the application, the waiver of the setbacks is justified, because the tower is designed to satisfy all safety code

requirements. And in the extreme event, extreme possibility, that it could collapse, it would be designed to collapse within the tower compound area itself. So it would be within the boundaries of the conditional use area. Also, as to any aesthetic issues that would be addressed by the setback, they are addressed by the design of the tower, which is, as I indicated, a flagpole type tower. We'll fly a flag. The antennas are inside of the tower so that it's completely camouflaged. It will just appear like a very tall flagpole out there flying a flag. Since the request does meet all of the Code requirements, except the one, and the waiver is justified, we ask that the conditional use permit be approved. And we're here to answer any questions you may have.

Henry Minneboo – Any questions by the board? Jerry.

Jerry Jagrowski – Yes, ma'am. Are they planning on putting other types of things for cell phones for that tower?

Laura Belflower – Yes, sir. It will be designed for co-location, with equipment area in the base. And, in fact, we have several carriers that are interested in going on it, already.

Jerry Jagrowski – How many do you plan on putting up there?

Laura Belflower – I believe it is designed for five carriers, which I think is all that there are on the market these days, anyway.

Jerry Jagrowski – And what color are you gonna be?

Laura Belflower - I believe it's white.

Jerry Jagrowski – White?

Laura Belflower – Yes.

Jerry Jagrowski – Thank you.

Clyde Thodey – Is there any radiation that comes off of that?

Laura Belflower – It's radio waves, and that's the way the cell phone signal travels. But they are totally within all the requirements, the FCC requirements, for such facilities.

Clyde Thodey – Well, does the FCC also tell you what the maximum usage of cell phone outlets are on there? You're saying that you're gonna have five.

Laura Belflower – Five carrier potential, yes.

Clyde Thodey – Does the FCC say you can have up to five, without potential harm to anybody?

Laura Belflower – Yes. It has to be – it's a combination of the power of the different antennas. And you would consolidate them all together that they would have to meet the design. It's a height, and distance, and the power combination things. But yes, sir, that will be taken into consideration. And it happens frequently to have that many on a (unintelligible) tower.

Robert Ludwiczak – Mr. Chair.

Henry Minneboo – Yes, sir.

Robert Ludwiczak – When you say this is gonna be a flagpole design, is it your intent to actually fly a flag?

Laura Belflower – Yes, sir.

Robert Ludwiczak – Is it your intent to have that lighted?

Laura Belflower – Yes. The plan is to have the lighting at the bottom to light the flag, as is normal with a flagpole. The tower has to be lighted because of your mosquito control requirements.

Robert Ludwiczak – Well, I was more concerned – by law, you cannot fly a flag at night.

Laura Belflower – Right. We'll meet that requirement, yes, sir.

Henry Minneboo – O.K. Any other questions here? (no response) Let me go out to the audience here. Is there anybody would like to speak for, or against, this item? So far, one.

Rick O'Hanley – I'm Rick O'Hanley, with the Viera Company. I just want to clarify one item, or maybe two. Regarding the flag – well, first of all, the lease is being negotiated still with Viera Company and Verizon. So it's not finalized yet. There is a provision in there that allows for the flag. It does give the Viera Company the option of taking the flag down. So it's sort of it will be there, or it will not be there. But, again, it's the Viera Company's option. But if it is there, we light it. The only thing we're looking for a clarification on from the board – and I don't have an objection to what she said – is that the property where the flag is, or where the tower is going, is not developed yet. And what we're just concerned with, 'cause we want to make sure we understand clearly that the board is okay with this, is that when we sell the property surrounding this cell tower to someone else that they don't have to get anything conditional for them to be able to build there, that essentially the waivers that allow this tower (unintelligible) to be here today allow them to sell – us to sell that property to anyone else there, without having to come back and get a waiver for those buildings. So let's say, for instance, we get a residential building wants to come in around that tower, that we're not then going and applying for a conditional use permit for us to build that there, that this has already granted that to the rest of the bounds of the property. So it's just sort of – I just want to make sure that part is clear. Because we're okay with the tower. We think it's a good idea. You want to minimize tower sites. It gives co-location. All those things are good but, at the same time, because the tower is going first, we don't want to jeopardize the sale of the rest of the land.

Henry Minneboo – We all right?

Cindy Fox – Yeah, you're fine.

Henry Minneboo – Yeah.

Cindy Fox – There's nothing that you'll have to do for the future development regarding the tower.

Henry Minneboo – I'll have them put that in the – if it's approved.

Rick O'Hanley – O.K. That'll be fine. That was the only – we just wanted...

Henry Minneboo – It's a good comment.

Rick O'Hanley - ...that clarification.

Henry Minneboo – But don't build a building next door to it, either.

Rick O'Hanley – Well, I think that it allows us to build anything that's allowable in the zoning.

Henry Minneboo – I understand.

Rick O'Hanley – O.K.

Henry Minneboo – You might be putting that tower on top of your building. O.K., anybody else in the audience? (no response) Seeing none, I bring it back to the board. Motion by Ronnie (Mr. McLellan's motion was made without a microphone; therefore, it is not audible on the record), second by Clyde (Mr. Thodey's second was made without a microphone; therefore, it is not audible on the record), to approve.

Henry Minneboo called the question, and the board recommended approval of the request. The vote was unanimous.

Several board members spoke without a microphone.

Henry Minneboo – Well, I just made that without you all.

Aneta Ott – I just want to make the comment that I think it's wonderful that we are finally putting towers that, aesthetically, would be pleasing to the eye, rather than the other ugly ones. So I congratulate you on that.

Henry Minneboo – Nice comment for the phone people, huh?

## **DISTRICT 1**

**V.B.2. (Z1102101) – WHITE SANDS BUDDHIST CENTER, INC.** – (Dr. Duc Chau) – requests a change from RRMH-1 to IN(L) on 16.11 acres. Located on the south side of Aurantia Rd., approx. 0.2 mile east of I-95. (4640 Knost Dr., Mims)

**P&Z Recommendation: Thodey/McLellan – Approved. Vote was unanimous.**

Duc Chau – Good afternoon, sir. My name is Dr. Chau, and I'm working for Department of Army, and I'm the professor at University of Central Florida. The reason is the – right now, (unintelligible) our properties from the residential. And we would like to convert it to the – rezoning it to the institution so, later on, we can use it for the worship for the religion.

Henry Minneboo – Boy, that'd be terrible if we didn't let the Air Force have this, wouldn't it? Robert, I know – you better ask this gentleman a question.

Robert Ludwiczak – And I didn't hear what your question to him was. And if you can just repeat the last sentence you said for me, please. When he made reference to the Air Force – I heard you were from the University of Central Florida. You're a professor there. But what does this have to do with a Buddhist temple?

Duc Chau – Oh, I'm the Vice-President of the Buddhist Temple at the property. And, right now, existing. And we have the 16.11 acres, and is residential. And we would like to just for the rezoning so, later on, we can use it for the worship and religion.

Robert Ludwiczak – Yeah, I don't have any problem with worship and (unintelligible). What is the opinion of the people who live in that area about this going up? And, again, I have no problem with it, any more than I have a problem with any worship center going up anywhere in this country. But have you gotten feedback from people about this site?

Duc Chau – Yeah, we have the couple, our neighbor, in here. And they show up in here. And they agreed to support the – to do the rezoning for this one.

Henry Minneboo – O.K. Everybody here is in support of this (to six people in the audience)?

Duc Chau – Yes.

Henry Minneboo – O.K., just so I'll know.

Aneta Ott spoke without a microphone.

Henry Minneboo – Well, I'm gonna find out here, real soon, what's what. O.K., is there any other questions for this gentleman? (no response) If there's anybody out in the audience in opposition, please come forward. I see nobody in opposition. And we all – nod your head. You don't have to do too much. Everybody over here in favor of this? (The six people in the audience nodded their heads.) Good. Thank you. O.K., I bring – and you are, too. Good. They're everywhere today. Great. O.K.

Clyde Thodey – Motion to approve.

Henry Minneboo – O.K. Motion by Clyde, and seconded by Ronnie (Mr. McLellan's second was made without a microphone; therefore, it is not audible on the record), to approve.

Henry Minneboo called the question, and the board recommended approval of the request. The vote was unanimous.

Duc Chau – Thank you, very much.

Henry Minneboo – Do you know to go – come back here on...

Duc Chau – Yes.

Henry Minneboo – O.K. All right, sir.

Duc Chau – Thank you, very much.

Robert Ludwiczak – Mr. Chair, just for my own edification, all we approved here was a worship center...

Henry Minneboo – That's all.

Robert Ludwiczak - ...nothing more, nothing less.

Henry Minneboo – No. No, sir.

Robert Ludwiczak – Thank you.

**THE FOLLOWING ITEMS WERE TABLED FROM THE P&Z MTG. ON 1/10/11:**

**V.B.3. (Z1101101) – BRUCE L. ANDERSON** – requests a change from GU to AU on 1.01 acres. Located on the south side of Dalhi St., approx. 170 ft. west of Knoxville Ave. (3215 Dalhi St., Cocoa)

**P&Z Recommendation: McLellan/Ott – Approved. Vote was unanimous.**

Cindy Fox – If you'll recall, this item was tabled. The applicant was not here at the last meeting. So he's here this time.

Henry Minneboo – Yes, sir. State your name and address for the record, please.

Bruce Anderson – Bruce Anderson, 3215 Dalhi Street, Cocoa, Florida, 32926. I'm here today to request a change in my zoning from general usage to agricultural for the purpose of growing mangos and avocados next year, come spring. And I'm also – have a building permit before the Building Department for an eight-foot fence, privacy fence, across the front of my property, set back off the street on the front side of the house, actually probably about the mid part of my house, to contain American pit bulls that I'm raising. I have two that can clear a seven-foot fence from a sitting position. And my concern is public safety on erecting an eight-foot fence on the front side.

Henry Minneboo – O.K., sir. Any board member here have any questions?

Clyde Thodey – I do, Henry.

Henry Minneboo – O.K., Clyde.

Clyde Thodey – You say you're gonna put – you want to get an eight-foot fence? Is that what you're gonna ask the Zoning Department for?

Bruce Anderson – The Building Department, yes. I submitted a building application for an eight-foot fence along the front of the property. A privacy fence because, you know, I have a couple of dogs that they see a cat, a squirrel, they're over a seven-foot fence. I mean, they jump a six-foot fence, sitting down. On the run, I have one dog that can just about clear an eight-foot fence.

Clyde Thodey – If I'm not mistaken, don't this have to go through the Board of Adjustment to increase the front side of that...

Cindy Fox – Well, as part of the rezoning to AU, fences are allowed to go up to eight foot. So he would not need a variance, if he gets the zoning change.

Clyde Thodey – Thank you.

Henry Minneboo – Do you understand that, what she said?

Bruce Anderson – Yes.

Henry Minneboo – O.K.

Jerry Jagrowski – Yes, sir. Is eight foot gonna be tall enough?

Bruce Anderson – Yes.

Jerry Jagrowski – You said that one could almost make it. Are you sure...

Bruce Anderson – He's about six inches from making it. I don't think he's – he's pretty near maturity now. I don't think he'll get much further than that. I haven't had a dog yet that can clear an eight-foot fence.

Jerry Jagrowski – O.K. Thank you.

Bruce Anderson – You're welcome.

Robert Ludwiczak – Mr. Chair.

Henry Minneboo – Yes, sir.

Robert Ludwiczak – I'm looking at the information we have before us, and it says that you are looking for the AU qualification because of the desire for fruit trees. Are you looking at it from a fruit tree standpoint or specifically from a dog standpoint?

Bruce Anderson – Actually, both. I'm looking at the public safety. And, like I say, I was also wanting to raise avocados and mangos on a pretty large scale.

Robert Ludwiczak – Can you describe the surrounding area to where we're talking about here? I mean, what are your neighbors like?

Bruce Anderson – They're pretty quiet. It's a dead-end street. Dalhi is – let's see, there's two, four, five, six, seven, maybe eight or nine houses on that street. You turn off of Knoxville to the west. They're all kind of quiet. They all have one-acre lots, or larger.

Robert Ludwiczak – Are they aware that you're asking for this fence for the purpose of the dogs?

Bruce Anderson – Well, the notice has been posted in my front yard for – since Christmas.

Robert Ludwiczak – O.K. And no one's filed an objection to that?

Bruce Anderson – No, sir.

Henry Minneboo – O.K. I'm gonna bring it out to the audience. Anybody in the audience would like to speak for, or against, this particular item? (no response) Seeing none, I bring it back to the board.

Ron McLellan spoke without a microphone. He made a motion to approve the request, which is not audible on the record.

Henry Minneboo – Well, it's – do we want an eight-foot fence around it?

Aneta Ott – Second the motion.

Henry Minneboo – To include the eight-foot fence?

Aneta Ott – Yes.

Henry Minneboo – Well...

Cindy Fox – You're not approving the eight-foot fence. He's – no, he's gonna go through the permitting process and get the fence.

Henry Minneboo – O.K. I didn't want to mix and mingle the two. That was my only thought.

Bruce Anderson – You are correct. There is quite a few AU's in the area.

Ron McLellan spoke without a microphone.

Bruce Anderson – Surrounded by them. And my next-door neighbor has an eight-foot privacy fence.

Ron McLellan – Yeah, but that's not our concern.

Bruce Anderson – Right. I understand that.

Henry Minneboo – Your neighbor doesn't have one that goes out in the front, right on Dalhi, does he?

Bruce Anderson – No, but...

Henry Minneboo – I didn't...

Bruce Anderson - ...it runs right out to Dalhi.

Henry Minneboo – I didn't think so.

Aneta Ott – But I would suggest you wouldn't use that, not to say anything about the fence. That's not what this zoning is about.

Henry Minneboo called the question, and the board recommended approval of the request. The vote was unanimous.

## **DISTRICT 2**

**V.B.4. (Z1101202) – NICHOLAS M. & LAURA J. STIPANOVICH, CO-TRUSTEES** – (Clifford Repperger, Esq.) – request a Amendment to an existing BDP in a BU-2 zoning classification on 1.48 acres, +/- . Located on the southeast corner of Tangerine Ave. & N. Tropical Trail. (140 Tropical Trail, Merritt Island)

**P&Z Recommendation: Ott/McLellan – Tabled to the P&Z mtg. on 3/7/11, for applicant to go back to MIRA with revised Binding Development Plan. Vote was unanimous.**

Cindy Fox – Board members, I'll draw your attention to some copies that were left for you. These were recent changes that were not in your package. They were handed out and put at each place today.

Clyde Thodey – Let me get a clarification from staff. The one that we have in here on the binding development plan, this is out, and the new one that you put in is in?

Morris Richardson – That's the request.

Cindy Fox – He's just handing out some larger copies, just in case your eyes would prefer the larger copy. We also do have a letter of objection in the file on this item.

Henry Minneboo – Was that the one I got? Who sent that one? Who sent the objection? Not that it matters. Let's see if I – for Aneta, it matters.

Cindy Fox – The objection is from Gary Dover, Certified Public Accountant. It looks like he has an office there in the same area, 360 Tangerine Avenue. I'll pass this around so you can read the letter.

Henry Minneboo – Yes, sir.

Cliff Repperger – Good afternoon. My name is Cliff Repperger. My business address is 1795 West Nasa Boulevard. I'm an attorney with the law firm of Gray/Robinson, and we represent the applicants, Nicholas and Laura Stipanovich, this afternoon. What you have before you is an amendment to a binding development plan that was entered into in 2005, when the property was rezoned from BU-1 to BU-2, with a BDP covering the activities on the property. The original intent of the applicant in 2005, which is still the intent today, is to develop the site as a ministorage warehouse facility site. At the time that the BDP was requested, and the rezoning was requested, the applicant had, and still continues to operate, a lawn service and sweeper business from that facility, and storage of outdoor equipment – outdoor storage of equipment associated with that business. The applicant has operated that business on-site for approximately 30 years. When the binding development plan was entered into, it had certain conditions written into it in terms of the storage of outdoor facility related to the business, in terms of the integration of that business into the new site, or the proposed site plan with the mini-warehouse that was being proposed at the time. What was not contemplated at the time that the BDP was entered into in 2005, was what would happen in the interim period before the site was developed and the business continued to operate. And the applicant, since the time of the BDP, ran into some financing and financial issues, obviously, with the development of the site. Development did not occur as quickly as the applicant would have liked. And, consequently, because the applicant continued to operate its business from the site, the applicant was subject to a Code Enforcement violation in 2009, for storage of the outdoor equipment associated with the lawn care maintenance business that's currently operating on the property. So, in order to cure those violations, what we've brought back to you is an amendment to the binding development plan. And the proposed language that was originally added in your original package that I believe you got is changes to paragraph 11. And what those changes are intended to do is to allow the applicant to operate the existing, or continue to operate, the existing lawn care and sweeper business, and storage of outdoor – or outdoor storage of equipment associated with that business, on the property until such time as the property is developed in accordance with the original intent, which is still to develop it as a ministorage warehouse facility. To that end, you will see that we have passed out copies of the site plan that was approved February of last year by Land Development for the site to be developed as a ministorage warehouse. And that's the site plan that is currently active right now, which the applicant has every intent, at this moment in time, of moving forward with. That being said, when we were going through this process, in between the MIRA meeting and this meeting, we discovered that the site plan had some issues in terms of whether – and there was some grayness in terms of whether this site plan is completely consistent with the binding development plan. And so, in order to take care of any issues related to whether it is or isn't consistent with the binding development plan, I revised language that is additional to what you saw in your original package, which is paragraph 13, which essentially references the site plan as being consistent with the intent of the binding development plan. And so that's the essence of what we're asking for. Now, you will note that in addition to referencing the actual site plan that was approved by Land Development - and in our discussion with staff, we've discovered that we may need to amend the site plan that was approved to reflect the outdoor storage, because the applicant's intent was originally to store the equipment inside of the mini-warehouse facility. But,

according to staff, pursuant to Code, that cannot happen. So we need to modify the site plan to reflect the outdoor storage of that equipment. And so the paragraph 13, at the end, allows that modification of the approved site plan for the purpose of reflecting outdoor storage, which we'll do subsequent to this hearing. When we went to the MIRA meeting, there were various conditions - and I've included, also, a summary of those conditions - and the applicant's position with regard to those conditions that MIRA had recommended as part of the consideration of what we're asking for today. And I'll just walk you through those conditions and what the applicant's response is. The MIRA recommendations, first of all, was that there be no expansion. The first condition was that there be no expansion of the existing lawn care business, and associated ancillary equipment storage, prior to development in accordance with the approved site plan. And the applicant does not have any objection to that request of MIRA, or that recommendation, being included as part of an approval of this project. The applicant would say that we would like to make clear that that prohibition would not be interpreted to preclude the applicant from replacing existing lawn service equipment when that equipment is in need of replacement. The biggest condition is condition number two. And MIRA had asked the applicant, or recommended, that the entire site - until the site plan is developed, the entire site be - the perimeter of the site be enclosed with a six-foot high wooden stockade fence, except for the eastern side of the property. And the applicant, although they understand MIRA's concern with regard to the shielding of the storage of the outdoor equipment, believes that that recommendation maybe goes a little bit too far. And we have somewhat of a compromise that we believe is a more acceptable recommendation, rather than shielding, or enclosing, the entire perimeter of the site with a wooden stockade fence, and that's to locate the equipment behind a fence, a penned in, or corral type, area, where the equipment would be located, rather than to enclose the entire perimeter of the site. Enclosing the entire perimeter of the site with a wooden stockade fence is - it would be very expensive. It's really a temporary arrangement, anyway, until such time as the site plan is developed. And, in addition to that, the original intent that the applicant had offered up in terms of shielding was an opaque barrier to come into compliance with Section 62-1833.5 of the Land Development Regulations. It's questionable as to whether the applicant actually falls under that provision. But what the applicant was intending to do was to provide for the shielding of the outdoor storage of the equipment, not simply shielding of the entire site as it is today. I think MIRA had some concerns, or question, about the appearance of the site today, and that's why they had requested the entire shielding. But the applicant doesn't believe that that's necessary with regard to the storage of the equipment. What the applicant is proposing, in the way of a pen, is a - if you look at your site plan, where the property dips to the south - on the south property line, it takes a little "L" jog to the south - at that point, the applicant is proposing to construct an area which would have fencing going north, instead of south, on that line, 100 feet over 90 feet, and then back down 100 feet. So, it's essentially a 100- by 90-foot pen that the applicant would then - which would be a wooden fenced-in pen that the applicant would store the equipment associated with the business in. And the specific equipment that the applicant maintains, associated with the business on-site, are three sweepers, two dump trucks, five trailers, three tractors, one front-end loader and seven work trucks. And those would all be stored within that penned-in area. The next condition of MIRA was that any area outside of the fenced-in area, that would be maintained to prevent overgrowth. And the applicant doesn't have any problems, obviously, with coming into compliance with whatever's required in the County Code, as far as maintenance of property, and overgrowth on the property, and would certainly comply with that. And then the fourth condition that MIRA had placed on the applicant, or had recommended be placed on the applicant, was that the amendment be valid for a five-year period. In order to show good faith of the applicant that the applicant does intend to move forward with the proposed site plan, and the approved site plan, the applicant does not have any problem with putting a five-year limitation on that. They've already got one year under their existing site plan. They have two years left in their existing site plan. That would give them one more cycle under that site plan, if they had site plan approval, from the time that it expired. So that would give them five years. And they certainly don't have any problem with that, although they would like the ability, written into the BDP, to come back to the Board of County Commissioners, if necessary, to request an extension of that time period if, for whatever reason, they can't get it done within five years. And so that is, in a nutshell, the essence of what is being requested here today. And, with that, I'm sure the board has questions, so I'll gladly open it up for questions.

Henry Minneboo – Jerry.

Jerry Jagrowski – Yes, sir. You made some additional recommendations or changes. What did MIRA say about that?

Cliff Repperger – MIRA did not see that additional language with regard to the site plan reference. When we were before MIRA, MIRA knew that the site plan reference – or knew that an approved site plan – a site plan had been approved in February. They had not seen it. The issue as to whether the site plan is or isn't consistent with the binding development plan was not raised at the MIRA meeting because, quite frankly, we weren't really sure of it, or aware of it, until we got to this stage of the game. So they did not – MIRA did not actually look at the site plan with regard to the BDP. The glaring issue that exists, in terms of the discrepancy between the site plan and the binding development plan, is that the binding development plan specifically requires the eight-foot wall around the entire property. And the intent was, I think, to shield the equipment, the outdoor storage of the equipment. And what you have here in this plan is, in fact, shielding of the equipment by way of the wall. It's just that the way that the property is – the way that the site plan is laid out, the front end of the building shields the back portion of the property. And then there's a wall going around the south and the east sides of the property. And the outdoor storage of the equipment would be in the southeast corner of the property. And so the intent of requiring a wall around the entire property is really served by having the building in the position that the building is in right now, as reflected on the site plan.

Jerry Jagrowski – Are you prepared to go forward to MIRA with the changes? And, if so, when?

Cliff Repperger – If that's the recommendation of this board. If the board is requiring us to go back to MIRA, we'll go back to MIRA. It was the applicant's position, at this time, that we did not believe that we were required to go back to MIRA. But if that's the will of the board, then we'll live with that.

Henry Minneboo – Has MIRA – if I may, has MIRA historically given us a checklist of stuff they would like to have seen on these sites?

Cindy Fox – There...

Henry Minneboo – In the past.

Cindy Fox – There's a letter in the package that shows what they would...

Henry Minneboo – But not with these additional changes that occurred between their meeting and here.

Morris Richardson – No, they're not aware of that issue. And the wall would be a big issue, 'cause that's something that clearly - at the time of the MIRA meeting with the requested change, they were under the impression that the wall eventually would go up and surround the property, specifically on North Tropical Trail and Tangerine. And the site plan completely omits the wall from that. The building seems to be intended as a substitute for the wall, which also affects – I just wanted to point out for the board, there are a few other elements in the original BDP that would be altered if you allow the site plan to substitute, essentially, for the BDP requirements. Another one would be the requirement of landscaping on the outside of the wall to soften the appearance of the wall. The site plan doesn't depict any landscaping on the exterior of the wall, currently. "The parking of vehicles or equipment to be contained entirely within the wall." That's a little bit difficult since the wall no longer surrounds the entire complex. It's only on one side. The vehicles might be behind that. They may or may not be shielded by the building, depending on where they're placed. And it's hard to tell from this site plan, since the parking area's not indicated. And finally, again, it says, "All lawn maintenance and

street sweeper equipment and materials used in association with the business shall be contained within the compound.” And, again, because the site plan differs from the intent of the BDP with the wall around it, it’s hard to say exactly what that means, if you substitute the site plans for those requirements, sir.

Henry Minneboo – Thank you. Anybody else got some questions?

Robert Ludwiczak – Mr. Chair, I have a question.

Henry Minneboo – Yes, sir.

Robert Ludwiczak – On the last BDP, was it a 2013 timeframe for expiration? And you’re asking for a 2015 timeframe now?

Cliff Repperger – In the...

Henry Minneboo – Not exactly.

Cindy Fox – It’s not the binding development plan that had an expiration date. It was the site plan.

Robert Ludwiczak – The site plan. I’m sorry.

Cliff Repperger – Correct. We’re not asking to extend the timeframe for approval of the site plan. We recognize that we have until 2013 to build the site plan. The reference in the BDP was simply to allow for the changes, those proposed changes in the language, to exist for an additional five years before reverting back to the original language. And that was per MIRA’s recommendation...

Robert Ludwiczak – Now, looking at...

Cliff Repperger - ...which we did not have a problem with.

Robert Ludwiczak – Looking at your number 13, as referenced earlier, it says, “The parties specifically agree that the project reflected on the 12-page master site plan prepared by Bussen Mayer Engineering, dated January 2, 2008, revised October 13, 2008, had a permit issued, dated February 5, 2008, with an expiration of February 5, 2013.” Has the applicant known all of this, going back to 2008?

Cliff Repperger – No. The site plan was approved in February of last year. And, at that time, for whatever reason, those issues of consistency with the BDP were not specifically addressed. Now, I do believe that the applicant had some level of discussion with staff as to whether the proposed site plan was in accordance with the BDP and may have gotten some positive feedback on that. But I don’t – there was not a comprehensive analysis, I do not believe, from staff’s perspective, saying, you know, here, point by point, is how the site plan meets the intent of the BDP. But everybody kind of proceeded along the lines of believing that the site plan was consistent with the BDP, until we got to the MIRA meeting. And once we got out of the MIRA meeting, upon talking to my client, and discussing the issues related to the BDP and the approved site plan, and then having some further conversation with staff, we discovered that there are some inconsistencies in the site plan with the BDP. And while we’re going through this process of addressing the existing use on the property, we might as well take care of this consistency issue while we’re here now, because this is the plan that the applicant intends on moving forward with. And if it’s not consistent with the BDP, we didn’t want to wind up with another Code Enforcement action as soon as the binding development plan is built out, or as soon as the site plan is built out. So that’s why we’re now referencing that in the amended changes to the BDP. And that’s why it was only picked up at that time.

Henry Minneboo – Clyde.

Clyde Thodey – Cindy, I'm trying to think. Is this the site that had all the mobile homes on it?

Henry Minneboo – Yes, it is.

Clyde Thodey – O.K.

Cindy Fox – Yes, sir.

Clyde Thodey – I know exactly where it is. Did they – didn't he come before either this board, or come before the variance board, too?

Morris Richardson – Yes, sir.

Clyde Thodey – And at the time I was chairman of the variance board, he stipulated that he would put – and if you go back and read the record – he would put a concrete wall all the way around that property. He would put all the landscaping in, and everything else, and make it look beautiful, if we passed his...

Morris Richardson – Variance.

Clyde Thodey – His variance.

Morris Richardson – And he did receive that variance. It was a variance to allow for an eight-foot wall along the entire property, instead of six foot. And it was a specific – one of the things that you required, that your board required, was cascading vegetation every 20 feet along the wall, I believe, and things of that nature. Yes, sir, you're remembering accurately.

Clyde Thodey – Thank you. I don't understand why he's not doing that now.

Cliff Repperger – Can I answer that question?

Clyde Thodey – Sure.

Cliff Repperger – And I'll do that by passing something out to you, if you don't mind. This is a rendering of what the applicant – and it's a partial rendering - but a rendering of what the applicant sees as the viewpoint from North Tropical Trail of the facility. What you'll note in the rendering – and the only reason why I'm giving it to you – and I'll address what the inconsistency with the site plan is in a minute – is that the applicant believes that rather than having an eight-foot wall surrounding the property on North Tropical Trail and Tangerine, and making the site look like a compound behind a wall, that this concept, a softer concept, with a building front face, is a better concept, overall, from a beautification and aesthetics standpoint, than having an overall eight-foot wall surrounding the property. Now, what you don't see on this rendering, admittedly, is the wall. And where the wall is intended to be is where you see that wrought iron gate on the rendering. Take this for what it's worth, the concrete wall would adjoin to that area of fencing and then go around the south end of the property, and go around the eastern end of the property. Then, if you look on your site plan, and you reference the other access point off of Tangerine, you will actually see that the eight-foot wall goes – takes a jog to the west, and then there's a gap for purposes of the gate for access to that area of the property, and then the wall continues on to the front face of the building. So the entire south and eastern side of the property is enclosed behind that concrete wall. So the concrete wall is still a part of the project. The applicant does not intend to do

away with a wall, fully intends on having that wall to shield any outdoor storage of equipment associated with the business, but felt that the project, as a whole, was better without the wall surrounding the entire property. And so that's why you see what you see today, in terms of the site plan.

Clyde Thodey – Well, what I'm hearing also, Mr. Repperger, that you're saying earlier that he's gonna put a stockade type fence there. I think that's gonna be ugly on that trail. And what we talked about, back then, was it was going to be a definite concrete wall with stucco on it, and some planters even on top of that wall, to make it go, if my recollection is correct. I mean, he went the ultimate mile to make it sound like, back in getting this variance, that it was gonna happen.

Cliff Repperger – And I think that is true. But, at that time that those representations were made, the applicant did not have a site plan developed at that time, didn't know what was going to be included in the site plan, didn't know specifically where the outdoor storage was going to be. And the eight-foot high concrete wall was something that the Board wanted to see at that time. And the applicant had no problem with agreeing to that. But, again, in concept, when you got into the development phase, this project made more sense, from an aesthetic standpoint, and the wall was still incorporated for purposes of shielding the equipment, which was the original intent, anyway. Addressing the stockade fence, again, number one, that's a temporary issue. And, number two, you know, that was an issue that was never addressed at the time that the BDP was put into place, because at the time of the BDP, no one ever addressed what would happen if the site wasn't developed. The only thing that was talked about at the BDP hearings, and the rezoning hearings – the only representations that were made were with regard to development of the site. There was never any reference, whatsoever, either from the applicant's standpoint, or from the Board's standpoint, as far as the existing business on the property and whether it could operate, or whether it couldn't operate, or what the conditions on that existing business were. And the applicant's position on that is, is that the applicant would not have agreed to the binding development plan at that time, wouldn't have pushed forward. Who knows what would have happened with the rezoning? I can't answer that question for you. But there was not an intent, at that time, from the applicant's standpoint, to abandon the business at that moment, if the site plan wasn't developed immediately.

Clyde Thodey – But, also, we had, in that meeting, several condo owners in the back, back there, who did not like the idea of that not being a wall around there, because not only the sound, but he has a lot of lawnmowers. Those are commercial lawnmowers. And we took that into advisement at that particular time. And he was doing this whole renovation type of program that he was gonna put together.

Cliff Repperger – A couple of points on that. All of the equipment, other than the equipment that I had just listed specifically, is not being stored on this property, anymore. There's an off-site facility in which those mowers, or other equipment, is being stored right now.

Clyde Thodey – And they're not gonna come back to this property, at all?

Cliff Repperger – The only storage of outdoor equipment on that property associated with the business was the equipment that I just read off, specifically. That's the only intent here. So, other than that...

Morris Richardson – Mr. Chair, if I may, in fairness to the applicant, I did want to point out that when they came forward with the binding development plan that doesn't show the wall all the way around, it was approved by the County, at some point. I believe it was Rick Enos who looked at it. He was Zoning Manager at the time. He thought it was consistent with the BDP, as far as the wall, because he believed that the building, the way it was situated, could substitute for the wall. Now, I'll tell you my reading of the BDP with a legal eye, rather than a zoning eye – and I think Cindy might differ with Mr. Enos, too – is that it certainly conflicts with the BDP, and it could cause enforcement problems in the future, if they were to build according to this site plan without

changing the BDP. So I think to develop it this way, they certainly need the BDP changed to remove the requirement of that wall all around the site. But I just wanted to be fair to the applicant and say that at some point, at least, staff had agreed with them that that was something that could be accomplished. I think Mr. Enos felt that the idea of the wall was largely to visually shield that equipment, and as long as the wall is on the south, and what is it, south...

Cliff Repperger – Southeast.

Morris Richardson - ...and east, and the building will shield from the north and west - as long as that equipment's not visible, then the building was as good as the wall, Mr. Enos felt. And I – this board may differ in its opinion. MIRA might very well differ in its opinion. The Commissioners might. But I just wanted to share that.

Cliff Repperger – And, honestly, the original intent was to put the equipment inside of this ministorage building. But because of the fact that the Code prohibits that, which we've recently found out, now we have to go back and think about the outdoor storage, and that would be in that southeast corner.

Clyde Thodey – But you have a dump truck there, too. So how is that gonna be hid?

Cliff Repperger – Well, it will be behind the wall. I mean, if you look at the site plan that's there now, that wall extends from just short of North Tropical Trail, all the way along the south line, north on the eastern property line to that gate area, and then over to the building, with the gap for the gate. So, I mean, there is – there is a concrete wall there that would shield that equipment.

Clyde Thodey – Well, Mr. Repperger, just in all sincerity, if you're putting the lawnmowers somewhere else, why can't the dump truck go somewhere else? If your plan is to do this building here, and shield as much as possible, I wouldn't want to see a dump truck, with all those nice condos we got across the road there. I mean, you know, I just don't under...

Cliff Repperger – Again, the original intent was shielding, and that's what the applicant is intending to comply with.

Ron McLellan spoke without a microphone.

Cliff Repperger - There were two dump trucks.

Ron McLellan again spoke without a microphone.

Cliff Repperger – The southeast corner. Correct.

Ron McLellan again spoke without a microphone.

Henry Minneboo – I'm gonna ask you some questions. You know, the problem I got, other than all the semantics we've talked about today, and partially defending this board, is the fact that in 2005, we did a binding development plan. And here we are in 2011. He did nothing. And that really gives me some heartburn and indigestion. Other than moving those trailers – that was in his best interest – he has done nothing.

Cliff Repperger – Well, let...

Henry Minneboo – Now, you said – this board doesn't take those binding development plans real lightly. We expect everything that we require here to be accomplished in a timely manner. It's been six years. I'm just personally reluctant to support anything, because I just think he's just blown this whole board full of smoke.

Cliff Repperger – I'll address that in two ways. One is to say there was substantial cleanup of the site from what it was before, and that was in the removal of the mobile homes. And the applicant did take action to do that. Now, addressing the issues that the applicant has had since the time of the BDP approval – I do have the applicant here with me today. And Don Spurlock, who has represented the applicant, as well, can come up and tell the board about what has happened since the time of the BDP, until now, as far as their development efforts on the property, and certainly would be willing to inform the board of the difficulties that they've had since the binding development plan was approved. And, again, you have to understand that Land Development site plan approval was granted in February of last year. They did put time and effort into development of this site plan, and do intend to move forward with it. So, you know, it's not like the applicant has done nothing and is coming to you with nothing before you. We have an approved site plan, which we intend to move forward with. We have taken action on the site. And I'll have Mr. Spurlock again describe to you what development efforts they've gone through. But it would be a mischaracterization to say that the applicant has done nothing in this case, to this point. But I'll let...

Henry Minneboo – Let me – 'cause I know a little about this site. And I don't want to get into a debate here, but did they share with you that the septic tanks were in their public right-of-way?

Cliff Repperger – I understand that there were issues related to that. I definitely understand that.

Henry Minneboo – You've got a client to represent, and I'm a little concerned about...

Morris Richardson – Mr. Chair. I'm sorry. One of the things, going back to that, historically - and staff had wanted to note this, because it's not clear in the documents here – as part of the BDP, back then – and we're talking about development of the site plan, really focusing on the development of the mini-warehouse business. And the applicant seems to have been under the impression that he could keep doing business as usual, in perpetuity, if he didn't develop the mini-warehouse, ultimately. The problem was, back then, before you did the BDP, he was RU-2-15. So he needed the BU-2 zoning to do those businesses on there. And part of the deal to let him get that zoning and keep the businesses on there was that the businesses were gonna be enclosed in this wall, this buffering, that has never been put up. And so even though the warehouse hasn't been developed, the reason he's before Code Enforcement right now is that Code Enforcement says, and the BDP supports, that even to continue doing those businesses, even if he never turned dirt on the mini-warehouses, they were supposed to be visually buffered. That was part of the deal. To keep doing business there and get your zoning, you need the visual screening, and the wall. And that's why MIRA has requested, at least temporarily, a stockade fence, or something to get that visual buffering that was contemplated in the BDP. Now, admittedly, what's missing from the BDP, neither side put any timeframe for him to develop it in there. We didn't put an outside timeframe within which he had to, and he didn't put in a minimum amount of time he needed. Both sides seemed to kind of assume that it was just gonna, forgive me, but miracle itself there immediately, is what the BDP kind of contemplates, because it only allows operation of the continuing businesses inside that wall, as if that wall was gonna go up the next day. So that's how we're at the crossroads we are now with regard to the Code Enforcement action.

Aneta Ott – I have a question. Is it - MIRA pretty much a stickler on what they would like? And is it possible for us to table this until MIRA can hear their new proposal?

Morris Richardson – That would be in the discretion of this board. If this board wants to recommend that it go back to MIRA for consideration of the new proposal – and given the extent it's gone to, that it would necessarily entail removal of the wall, and things like that, you know, that's something this board could certainly consider.

Aneta Ott – Well, I don't like it, at all. And I would rather have MIRA say how they feel about the new proposal. And if there's more discussion, fine, but I would like to make a motion to that.

Henry Minneboo – O.K. The only thing I want to do – I have no problem with this motion. But if there's people here today to hear this, or talk about it...

Aneta Ott – That's what I said.

Henry Minneboo – O.K. We're gonna let them do it. Not necessarily the applicant. You got a good attorney here that's represented him. Unless this board wants to listen to it. So there's a motion by Aneta, and seconded by Ronnie (Mr. McLellan's second was made without a microphone; therefore, it is not audible on the record), to table this item, and to bring it back to the MIRA Board for their full understanding and approval.

Clyde Thodey – I'd like to hear further discussion, Mr. Chairman.

Henry Minneboo – O.K.

Robert Ludwiczak – Mr. Chair, I'd like to also see that – in that proposal that Aneta's made, that we limit the amount of time that we're talking about with this applicant. He wants to go out another two or three years. And he's had now many years, thus far? And if we decide to proceed with this, we ought to pull that back to a certain - timeframe certain.

Aneta Ott – Time certain?

Henry Minneboo – A time constraint, yeah. O.K. Can we – I think we can approve this, or deny it, before we listen to the audience. But if there's somebody out here in the audience, I think they need to be heard.

Robert LaMarr – Mr. Chairman, may I ask a question, please?

Henry Minneboo – Sure.

Robert LaMarr – With the MIRA, that district is a redevelopment area from years gone by. Is there a matching grant funds, or any (unintelligible) grants, available through MIRA that would help the applicant?

Henry Minneboo – I would think if there is, MIRA would share that information with them, Rob. I'm not – you know, I'm not sure. I'm sure there is, but that's probably out of our forte here. I'm gonna vote on this first, Clyde. Then we'll listen to the people. O.K.? All in favor – oh yes, sir, sure. Go ahead.

Jerry Jagrowski – I'd like to go along with Aneta's idea, because there are too many disconnects between the plan and the proposal, and everything. So I think what Aneta is suggesting is a smart way to go.

Henry Minneboo – O.K. That...

Robert Ludwiczak – Mr. Chair, is it possible for us to hear from the audience before we vote on this?

Henry Minneboo – Yes, sir.

Robert Ludwiczak – It may definitely change...

Henry Minneboo – If that's the pleasure of the board, I have no problem with that. Is there anybody out in the audience would like to speak for, or against, this item? (no response)

Clyde Thodey – Well, we had Mr. Spurlock...

Henry Minneboo – I'm not gonna let the applicant up here. He's got a high-powered attorney here. Unless this board wants to listen to him.

Clyde Thodey – Well, if he's gonna testify what happened to the land, and why it's taken him six years to go, I'd like to hear what that's about. Why did it take six years? How much effort was put into doing the dirt, or whatever he had to do? I'd like to hear that from Mr. Spurlock.

Henry Minneboo – O.K.

Aneta Ott – I think that what he needs to do is convey that to MIRA, and so they are better prepared with approval, or disapproval, from MIRA, when they come back and present that to us again.

Robert Ludwiczak – Mr. Chair, I would agree with that, also, and I decided we – I decided – I would like to suggest that we proceed with Aneta's...

Henry Minneboo – Good.

Henry Minneboo called the question, and the board tabled the request, as stated above. The vote was unanimous.

Cindy Fox – March 7<sup>th</sup>? Are we...

Henry Minneboo – Hold on, we need to – Cliff, are you guys ready for...

Cliff Repperger – Well, whatever meeting would get us to a MIRA meeting and then back here again. So whatever that's gonna be.

Cindy Fox – Typically, MIRA has their meetings at the end of the month. So you would have to try and get on their February agenda.

Cliff Repperger – O.K. Is that something staff will assist us in scheduling, then? Is that how that works?

Cindy Fox – Certainly. We can call them and...

Morris Richardson – Contact them and let them know. I believe it's on the third Thursday, MIRA, is that right?

Cindy Fox – I think so.

Morris Richardson – I think it's the third Thursday of every month, maybe the fourth, but I believe third.

Cliff Repperger – I mean, we'll work it out with staff. Whatever the meeting after the MIRA meeting would be, we would be agreeable.

Morris Richardson – March 7<sup>th</sup> would be the next meeting after...

Cindy Fox – March 7<sup>th</sup>.

Morris Richardson - ...the MIRA meeting this month.

Henry Minneboo – Good. I just didn't want to put a date on there and you have some logistical issues. Thank you.

### **DISTRICT 3**

**V.B.5 (Z1101301) – SEBASTIAN INLET MARINA, LLC** – (Thomas P. Kennedy) – requests a CUP for Alcoholic Beverages for Consumption on Premises in a BU-2 zoning classification, in conjunction with a restaurant only, on 2.85 acres. Located on the east side of U.S. 1, immediately opposite of the easterly terminus of Daytona Blvd. (8685 Hwy. 1, Micco)

**P&Z Recommendation: Ott/McLellan – Tabled to the P&Z mtg. on 4/11/11. Vote was unanimous.**

Cindy Fox – We have a representative in the audience, and they, I believe, are also requesting tabling 'til the March 7<sup>th</sup>.

Henry Minneboo – Is a representative here?

Cindy Fox – I'm sorry. This is a staff request to table this item, V.B.5.

Henry Minneboo – Do you want – you don't want to take the credit, then, for this, do you?

Cliff Repperger – I'd love to, but I'll gladly give it to staff.

Cindy Fox – I'd like you – are we good with the March 7<sup>th</sup> date, or you wanted to go out further?

Cliff Repperger – Well, the intent was, we were here last time, and the request was that we would have the parking issue somewhat dealt with by the Board of County Commissioners' consideration of the marina parking ordinance, which is working its way through the system right now. So we would like to delay at least until the – the intent, the original intent, was to delay until that had been fully considered. I think that'll be the April P&Z agenda, by the time...

Cindy Fox – That would be April 11<sup>th</sup>.

Cliff Repperger – And we would be agreeable to continuing until that time, and then we can revisit it, if the ordinance is not through by that time.

Henry Minneboo – Are we gonna try to do those simultaneously? In other words, potentially pass – what happens if ours doesn't pass here?

Cindy Fox – Well, the legislative – we have to get legislative intent from the Board. And we'll try and do our best to marry them up.

Cliff Repperger – The legislative intent already was granted on that.

Cindy Fox – O.K.

Cliff Repperger – The...

Cindy Fox – It needs to come...

Cliff Repperger – I believe the proposed adoption schedule has you all considering that ordinance in March. So it will not be at the same meeting. It will be considered in March, and then we would go in April. That's why we're requesting April.

Henry Minneboo – O.K. Great.

Cindy Fox – That's right.

Henry Minneboo – O.K.

Aneta Ott – So moved.

Henry Minneboo – What's the pleasure – Motion by Aneta, seconded by Ronnie (Mr. McLellan's second was made without a microphone; therefore, it is not audible on the record), to table until April.

Henry Minneboo called the question, and the board tabled the request, as stated above. The vote was unanimous.

Cindy Fox – O.K., let me just recap. That last item, V.B.5, Sebastian Inlet Marina, has been tabled 'til April 11<sup>th</sup>. O.K.?

#### **DISTRICT 4**

**V.B.6. (Z1101402) – DIAMONTE SANDS, LLC** – (Jack Spira) – requests a Small Scale Plan Amendment to change the Future Land Use Designation from Res 15 to CC; and a change from RU-2-15 to BU-1, with a Binding Development Plan for an Assisted Living Facility with 18 total units, on 0.37 acre. Located on the east side of Hwy. A1A, immediately opposite of the eastern terminus of Berkeley St. (501 Hwy. A1A, Satellite Beach)

**P&Z Recommendation: Jagrowski/McLellan – Tabled to the P&Z mtg. on 3/7/11. Vote was unanimous.**

Henry Minneboo – Is this the second tabling?

Cindy Fox – This would be – the staff, or the Parks and Rec Department, tabled this item the first time. So this would be the applicant's first time, if they choose to. And there is a representative here, if you would like to call him up.

Henry Minneboo – O.K. Is a representative here? State your name and address for the record, please.

Vaheed Teimouri – My name is Vaheed Teimouri. My address is 32 East New Haven Avenue, Melbourne. First hearing, I believe it was requested by Parks & Recreation to be tabled to – they didn't know about the project. And, since then, we met with them, and we suggested – they suggested that we meet with the property owners surrounding that. And we've been in touch with them, trying to meet with them, as well. Our

attorney, Mr. Spira, is in – has a conflict today with another hearing in Orlando. That's why we we're requesting a postponement for next hearing.

Henry Minneboo – O.K. Do we give them a date, if the board approves that?

Cindy Fox – The next hearing would be March 7<sup>th</sup>.

Henry Minneboo – O.K. What's the pleasure of the board? Motion by Jerry (Mr. Jagrowski's motion was made without a microphone; therefore, it is not audible on the record), and seconded by Ronnie (Mr. McLellan's second was made without a microphone; therefore, it is not audible on the record), to table this item 'til the 7<sup>th</sup> of March.

Henry Minneboo called the question, and the board tabled the request, as stated above. The vote was unanimous.

#### **LOCAL PLANNING AGENCY AGENDA:**

1. An ordinance of the Brevard County Board of County Commissioners amending Ordinance No. 09-98E, imposing a two-year moratorium on the collection of transportation impact fees from residential or commercial projects; providing for an extension of the moratorium.

**LPA Recommendation: Thodey/Jagrowski – Approved. Vote was unanimous.**

Steve Swanke – Mr. Chairman, and board members, on January 11<sup>th</sup>, the Board of County Commissioners directed us to prepare an ordinance that will extend the transportation impact fee moratorium by one additional year. We have done that, and it was included in your package for consideration. If you have any questions, I'll be glad to answer it. But all the provisions of the ordinance would remain the same, with the exception of the expiration date of the moratorium.

Clyde Thodey – Mr. Chairman, I make a motion to approve, as submitted.

Henry Minneboo – O.K. And for a little bit of discussion, Steve, would it make you all's job a little easier if we recommended to the Board, in the event that they may extend it one more year, that you guys don't come back? Or, by ordinance, you have to come back?

Steve Swanke – I believe, by Code, we have to come back.

Henry Minneboo – I was just trying to save you from coming back.

Steve Swanke – There was some discussion at the Board level about whether or not to extend this for two years, or one. It was the preference of the Board to go one year at a time. So there is some possibility that they will consider a further extension.

Henry Minneboo – O.K., sir. All right, there was a motion, who was that, by Clyde? And seconded by Jerry (Mr. Jagrowski's second was made without a microphone; therefore it is not audible on the record), to approve – make the improvements on this for one more year.

Henry Minneboo called the question, and the board recommended approval of the ordinance. The vote 7:1, with Peter Aydelotte voting nay.

Cindy Fox – Just a reminder, you will still have an LPA meeting this month.

The meeting was adjourned at 4:09 p.m.