

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 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; Bill Cannon; Aneta Ott; Linda Wise; Peter Aydelotte; Jerry Jagrowski; Robert Ludwiczak; Tony Masone; Robert LaMarr; and Loretta Goggin.

Staff members present were: Robin Sobrino, Director, Planning & Development Department; Cindy Fox, Planning, Zoning & Enforcement Manager; Christine Lepore, Asst. County Attorney; Lydia Evans, Planner I; and Candy Hanselman, Zoning Support Manager.

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

There were nine regular members, and two alternates, present. The nine regular members, and the alternate from District 5, voted throughout the meeting.

Motion by Aneta Ott, seconded by Jerry Jagrowski, to approve the minutes from the P&Z meeting on February 7, 2011. The vote was unanimous to approve the minutes, as submitted.

Henry Minneboo – This is the Planning & Zoning Board meeting, which makes recommendations to the Board of County Commissioners. And everything heard here today will be in front of the Board on April the 7th, at 5:00 p.m., and it will be back in this particular room. So those of you all that have applications here today, it'll be heard April 7th, 5:00 p.m. Each applicant today will be given 15 minutes to express their request, and each person speaking for and against will be given five.

THE FOLLOWING ITEMS WERE TABLED FROM THE P&Z MTGS. ON 1/10/11 & 2/7/11:

DISTRICT 2

V.B.1. (Z1101202) – NICHOLAS M. & LAURA J. STIPANOVICH, CO-TRUSTEES – (Clifford Repperger, Esq.) – request an 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/Jagrowski – Tabled to the P&Z mtg. on 4/11/11. Vote was unanimous.

Cindy Fox – Board, for your direction, the applicant took this item back to the MIRA Board on February 24th, and the MIRA Board has tabled their request so that there can be some language for the binding development plan worked out between the two parties, or the two attorneys. So, if this board wished to table this request, the MIRA Board will hear it again on March 24th, and your next P&Z that it could be heard would be April 11th. But that's your decision to make.

Aneta Ott – So moved.

Henry Minneboo – What do you want to do? You want to table it, or do you want to address it, Aneta?

Aneta Ott – No, I would like to table it.

Henry Minneboo – O.K. There's a motion on the floor to table the item. Motion by Aneta, and second by Jerry (Mr. Jagrowski's second was made without a microphone; therefore, it is not audible on the record), to table it until...

Cindy Fox – April 11th.

Henry Minneboo – April 11th.

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

DISTRICT 4

V.B.2. (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/Ott – Denied. Vote was unanimous.

Henry Minneboo – I was gonna say, Mr. Spira, would you identify yourself, but...

Jack Spira – Yes, sir.

Henry Minneboo – Please identify yourself, and address, for the record.

Jack Spira – Mr. Chairman, members of the board, my name is Jack Spira. I'm the attorney representing Diamonte Sands, LLC. My address is 5205 Babcock Street, in Palm Bay. The property that's the subject matter of this request is what's known as the old Perkins site on A1A, which is adjacent to the ocean, requesting a BU-1-A "sic" (should be BU-1) with a binding development plan. And I just want to correct this. You said 18 units. Eighteen beds for 18 residents, not 18 units. Let me give you some background on this property. In the past, this property had been zoned BU-1, when Perkins restaurant was on the property. It incurred – the restaurant incurred significant damages in the hurricanes in 2004-2005. That was purchased at that time by my clients, with the idea of building condominiums on the property. Again, as indicated by staff, that was rezoned RU-2-15 in 2005. As we're all aware, the condominium market is really nonexistent, and it's nonexistent for a good period of time. In the meantime, we've had problems with the property. When the old Perkins incurred hurricane damage, there was a problem with the roof. The intention was not to do anything as far as take the building down, until such time as they decided how to develop it. There were cited by Code Enforcement because of the roof that was damaged, so the building had to come down. After the building came down - you may be aware, this is adjacent to SPRA Park, which is the park that gives access to the beach at that location, which is used by a lot of surfers and individuals. The clients were incurring problems, because the people who would park in SPRA Park would also use this parking area of the building location for parking. The parking at the park is very limited. I think there's 11 spaces at that location. So the problem occurred when the residents, or the individuals using the park, were parking on this property. There was a question of liability, of course, and my client put up a fence so that people wouldn't park on the property. People who were parking there, I guess didn't like that fence being there, because it took away their parking. So they tore the fence down, or knocked it down. And then my clients were cited again for having a fence in disrepair. So then, of course, they had to take the fence down. At the present time, or most recent past, they had a "no-parking" sign there. They were towing cars away, who were using this property for parking. And, of course, that caused some problems, I think, with complaints to the County Commissioner in that area. At the same time, my clients were trying to determine what to do with the property, certainly, with the mortgage on the property, and the taxes. And they've discovered that there's a tremendous demand, and there's gonna be continuing demand, increasing demand, for assisted living facilities, not only mainland, but also beachside. The problem you have – not the problem, but the reality of it – is that those people who lived down beachside,

or live on beachside, if one of their family members, the husband or wife, has to go into this assisted living facility, they have to go on the mainland side. They're not particularly fond of doing that. They want to stay beachside. So my client tried to determine whether there was an interest in having some type of assisted living facility beachside, and put up a sign. As a result of that sign, there were quite a few responses from individuals asking for an assisted living facility on the beachside, because this is where they lived for many years. This is where they want to remain as they become older. The property, at the present, this current zoning allows a 14-bed, or 14-resident, assisted living facility. We're asking for this rezoning to the BU-1, with a binding development plan to allow 18 residents. And there's some confusion. I know there's been problems. We've seen some of the letters, the correspondence, the letters in opposition. In the past, when this property was zoned for condominiums, that was zoned allowing five units on that property. Five units, possibly, whether there's three or four units within a residence, could allow 15 or 20 individuals living there. We're talking about 18 residents that would be living there. They feel that this property would be conducive. It allows people to be beachside. There's been some confusion. There's been a lot of emails going back and forth, which some of the residents feel that the County is giving up this park. But that is not the case. It has not been the case. There's some confusion came about because of when – the time when this property was sought to be rezoned for condominiums, there was some discussion about a tradeoff of some property for park – to enlarge the park – that never came about. But the County is not giving up the park, at all. This property will not intrude on that park. What we've asked, we've suggested, is a tradeoff. If the County would allow the additional residents from 14 to 18, we have indicated to the County that, part of the binding development plan, that we would give an easement to the County along the building, which would allow probably another ten parking spaces. So not only are we not looking to take away the parking from the residents, we're looking to add, or give the residents, some additional parking. That will be utilized only for the public. The question came about whether that will be used for the employees, or the residents, at this assisted living facility. The answer is no, that we would agree to that as part of the binding development plan. Parking would be underneath. I have with me today, Mr. Teimouri, who is the engineer. So, certainly, he can address some of those questions there. As far as the impact to the surrounding areas, these are individuals who pretty much can deal on their own. They need some help with some of the day-to-day – some day-to-day chores. So, certainly, they're not gonna have cars. They're not gonna add any additional traffic. I think even the study by the staff as to the traffic shows the traffic impact for this assisted living facility with 18 units is about the same as it would be for a five-unit condominium. The people don't have cars. It's gonna be the employees. There's also some concern been expressed about what would occur in the event of a disaster, hurricane, something like that. The requirements by Florida Statutes require that there would be a plan in place for this assisted living facility to contract with another facility, mainland, to have a bus available to take people out of the facility in the event of some storm. So there would not be any additional impact on County services for that. So, again, we – as it stands right now, we do not require – we will not require any additional variances. We can do a 14-resident facility at the present time. We're hoping that it can be a win-win situation. We're asking for four more units – not units, but four more residents – to be permitted there. And we would agree, as part of the binding development plan, to set aside an area that would be used for additional parking for the park. If you have any questions, I'll try to answer them. Mr. Teimouri...

Henry Minneboo – Anybody on the board have a question? Robert.

Robert Ludwiczak – Yes, Mr. Chairman. In terms of your comments that there will be 18 residents, not 18 units - the way that you're going to establish this, looking from what we have before us, there shall be one bathroom for two bedrooms, and the bedrooms will be (unintelligible) 75 feet. Will there be a unit with two people in a unit sharing a bath?

Jack Spira – No. It...

Robert Ludwiczak – So is this gonna be a dormitory style, where they're just all lined up?

Jack Spira – Let me ask Mr. Teimouri to address that question.

Vaheed Teimouri – Good afternoon, my name is Vaheed Teimouri, with Teimouri & Associates, 32 East New Haven Avenue, Melbourne. Excuse me, I have a cold, and my voice goes back and forth. Each unit has its own bathroom and has one – it will be occupied by one person. And we submitted those to Planning & Zoning, I believe, that floor plan for each level.

Robert Ludwiczak – So that if what was just said earlier, we're back to 18 units, then. You're gonna have 18 people.

Vaheed Teimouri – That's 18 beds.

Jack Spira – Let me just - I didn't mean to confuse the issue. The point I want to make is, units – generally, when you have a condominium for 18 units, you can have three or four people in a unit. This is just residents. Generally, when I think in terms of units, that could be a housing unit where you'd have three or four people. This is 18 residents. It would be limited – it could be, certainly, 18 bathrooms to serve those residents, but it's just individual, one person in a residence, not three or four such family members, something that would normally be in a unit.

Robert Ludwiczak – I guess the question that I was looking for of an answer was that there was some concern over whether or not this would be 18 units. I'm still not sure how you use the terminology of what is a residence occupancy in terms of space.

Cindy Fox – The...

Henry Minneboo – Let me see if I can just help. I don't have an answer. How many bathrooms, total, are you gonna have in this building?

Vaheed Teimouri answered from the audience; therefore, his remarks are not audible on the record.

Henry Minneboo – Eighteen. So you're gonna have an 18. But what about the staff?

Vaheed Teimouri again answered from the audience; therefore, his remarks are not audible on the record.

Henry Minneboo – So there could be 20 bathrooms. Does that help a little?

Robert Ludwiczak – No, I own some condos. And we have what is considered assisted living, for all practical purposes. Everybody has their own unit they live in, and they have their own bath. And it's in a condominium complex. And I had a mother in a nursing facility, where they had one person on this side of the wall, the other person on the other side of the wall. They both shared a common bath. And they considered it so many units. And I'm not sure, 'cause what staff says here is some concern over having 18 units. And they're recommending, basically, there should be a total of 12 units, instead of 18. So how do we get from 18 to 12?

Cindy Fox – What is your question, I mean, specifically? I mean, I can tell you that what they – what you could do to give them the 12, or what the applicant's requesting for the 18.

Robert Ludwiczak – Well, my question is, he says it's not 18, it's 18 people.

Cindy Fox – It is – as far – when you get into the request, as far as assisted living facilities, and the definition, it is beds. And the two – when you talk about units and beds, that's interchangeable, when you're talking about specifically assisted living facilities.

Robert Ludwiczak – O.K., having said that, and you're the staff who wrote this, so then it's (unintelligible) to me. "The properties in this area east of Highway A1A are residential in character. Even though the previous use of the property was a restaurant, the property has not had a commercial future land use designation. Given this request would introduce commercial, community commercial, on the east side of Highway A1A, the board may wish to consider the IN(L) zoning classification, instead of a BU-1, and retain the Residential 15 future land use designation. This would allow a maximum of 12 total units, instead of 12 "sic"." So you're using units, and he was using persons, and I'm not sure...

Cindy Fox – It's the same. The units and the persons is the same in this case.

Robert Ludwiczak – So are we saying we only want to have 12 people in this residence?

Cindy Fox – That's correct.

Robert Ludwiczak – O.K. Now I'm clear.

Henry Minneboo – Jerry.

Jerry Jagrowski – Yes, sir, I got a question about parking. In your comments before, you talked about the park using parking on your facility.

Jack Spira – At the present time, with the building torn town, yes, sir.

Jerry Jagrowski – But before, when they came here, with my recollection that they were worrying about the residents using parking from the park...

Jack Spira – You mean the residents using some of the parking that's now allocated for park?

Jerry Jagrowski – Correct. If you could please comment.

Jack Spira – I think the concern – and we've had meetings with Parks & Recreation on this. That was why it was tabled, originally. And one of the items they voiced a concern about, how do we assure that the residents won't be using the park facilities. And, certainly, we can make that – one, we have to show that we have sufficient parking on our site. Two, we can make that part of the binding development plan that there will be no parking permitted for staff. The residents generally won't have a car. But no parking permitted for staff on that easement, or that area that's gonna be utilized by the public for parking.

Jerry Jagrowski – How about the guests for the residents? I mean, the residents are gonna take care of the staff. But how about I'm going visiting my mother? How about me?

Jack Spira – That's a valid question. (Mr. Spira spoke to Mr. Teimouri.)

Vaheed Teimouri replied from the audience; therefore, his remarks are not audible on the record.

Christine Lepore – He needs to be on the record.

Jack Spira – Yeah. Why don't you go ahead and address this.

Vaheed Teimouri – There are slightly over nine, which rounds up to ten, required by code for any facility. We're providing in excess of 14.

Jerry Jagrowski – But wasn't that underneath, that you're gonna park those underneath?

Vaheed Teimouri – That's – there are probably two or three outside that they can use for turnaround or waiting area, as well as communicating, coming inside and using the interior...

Jerry Jagrowski – How many slots will be available on your site for guests or residents? Will that be enough...

Vaheed Teimouri – There would be total of, I believe, 15 or 16. All code requires, as a minimum, is ten for this typical facility. When they figure out parking for any sort of facility, for instance, restaurants, they figure it out based on the number of seats. If you have 200 seats, they say, for instance, one per every three seats, or so many square footage. At the end of the day, they may end up with 50 parking spaces that is required, and nobody's gonna say what is those people gonna wait for, you know, people to get into a restaurant. That's what is a minimum requirement. We exceed that requirement by 60 percent.

Jerry Jagrowski – O.K., thank you.

Henry Minneboo – Peter.

Peter Aydelotte – Yeah, after reviewing all this information, I – is it staff's opinion, I guess, that the community commercial is what they're against, and that's why they're going for the lower amount of units to 12 units, versus the 18? And is it possible – because, I mean, 18 ones-ones, versus what could be built with eight units there originally has the potential of being, let's say 20 units with 14 bathrooms, and what they're doing now is 18 beds with nine baths. And is it possible to do like the IN with the conditional use permit to allow them the extra beds? If what they're considering is the community commercial, is what you don't like because, apparently, that'll change the zoning east of U.S. 1, which means more community commercial could be developed? Is that the staff's concern, or no?

Cindy Fox – Certainly, that's one of the things that we highlighted in the comments, that their request would introduce the community commercial future land use on the east side of Highway A1A. That certainly was highlighted in our comments. The alternative that we suggested that the Board could consider to that request to introduce the commercial would be to leave the future land use designation Residential 15, as it is currently, and rezone the property to institutional. And that's where the 12 units, or beds, comes from, is that if you were to leave the comp plan the same, but go ahead and make the change from the multi-family to the institutional, they would yield the 12 units. There's no CUP provision for you to go above the 12.

Peter Aydelotte – So it's either change it so they can do the 18, or...

Cindy Fox – Well, the community commercial is part of their request because they wanted more than the 12.

Peter Aydelotte – Thank you.

Jack Spira – You know, I could expand upon that for a second. I think it's a valid point. Part of our concern, the way it sits right now, we can do 14. What staff's saying, you can go to institutional, and it'll bring you down to 12. We can do 14 right now. Why would we go to institutional? And I think – but I think the same thing, that the problem is when we came to staff and said, "Look what do we need to do to go to 18?", they indicated you

have to go commercial. We don't care what it is. We could certainly do institutional. We could do 18. We could – if it could be residential, we could do 18. The staff said that's what we have to do, and I guess that's the way it's structured. But that's why we would agree to a binding development plan. And I understand the problem with introducing BU, a commercial category, but I think, with a binding development plan, it's limited to assisted living facility to there's nothing else can be built there.

Peter Aydelotte – So, if you were to go to 14 units, that would mean – let's just say – play Devil's advocate here. You go to 14 units, that means your cost for the individual to use that unit's gonna go up. It's more economically feasible, naturally, to do 18, so you're lowering the costs.

Jack Spira – Your fixed costs. You have certain fixed costs stay the same. This way, you can reduce the over – exactly. You hit it right on the head.

Henry Minneboo – Any other questions for the attorney?

Loretta Goggin – I've got some questions back to the parking. I count ten spaces. So help me understand. How do you provide enough parking space for the residents? Like you said, perhaps it's a couple that don't want to be separated. One may be driving, which means that they would have a vehicle.

Jack Spira – No. The point I made with that is you may have a husband and wife who live beachside. The husband has to go into assisted living facility. The wife still lives beachside. She doesn't want to have to travel all the way to mainland. They like living on the beach. I didn't anticipate where the wife would be there, and she'd be driving. But they're both...

Loretta Goggin – Irregardless, ten parking spaces for an 18-bed unit, plus staff, plus visitors – where do the visitors park?

Jack Spira – Well, again, as Mr. Teimouri indicated, I think the requirements are ten, and we have 14 or 15. Can you show her where – 'cause, evidently, all she's doing is seeing ten there.

Cindy Fox – While he's looking at that, can I just add a couple clarifications? The numbers are, I know, getting confusing for everyone. In the current zoning classification, RU-2-15, which is a multi-family zoning classification, they could have five condominium units. O.K.? When he refers to 14 as being what they're entitled to, you know, rather than the 12 or the 18, he's referring to the group home numbers. So they would be able to do a group home in the current zoning classification, but that's not the same as a condominium type unit. So let me get this straight for everybody so I can remember, too. Five multi-family condo type units that could go up to 14 as a group home in the zoning classification that they have. If they want 12, they can be institutional, assisted living facility. If they want more than the 12 in the institutional, you got to change the zoning to get up to the 18. Now, also, they are – and to their credit, they are offering the binding development plan to limit it to 18. Without the binding development plan, they could have many more than 18. And then, also, just for the record, the code requires - for assisted living facilities, for parking, it says, in Section 62-1826 - and this is at the bottom of page 43 of your staff comments – actually, it's probably not 43 anymore – I'm sorry, I have the wrong copy – but it says, "There shall be two parking spaces, per two additional parking spaces, for every five occupants for which the facility is permitted." And he has – so that would mean that there are only six spaces required, and they've provided 14. And if I differ from Mr. Teimouri, he can tell me.

Vaheed Teimouri approached Mr. Goggin and showed her the parking drawings.

Loretta Goggin – O.K., he's showing them to me on the map. And, on our notes, it shows that they are ten-foot spaces, so there's ten – most of them are 10 feet, and one is 12?

Vaheed Teimouri – Handicapped.

Henry Minneboo – Yeah, handicap's got to be 12. Before I turn it over to the audience here, do we have any of these anywhere on the A1A under our purview, meaning the unincorporated area?

Cindy Fox – This board saw one not too long ago, and approved it as institutional. I believe that was Indianalantic area.

Henry Minneboo – Down in Indianalantic?

Cindy Fox – Yes.

Henry Minneboo – So there's only one other one?

Cindy Fox – There may be others, but that's the one that comes to mind.

Henry Minneboo – I'm a little concerned. You know, we gave the first CUP for alcohol on Merritt Island, and now everybody has one. I didn't know if we were – O.K. That was my only question. Anybody else? (no response) I turn it over to the audience. Please come up to the podium and give us your name and address. We'd like you to try to not be redundant, unless you just absolutely have to be, you know. This board's pretty knowledgeable, and there's a lot of intelligence up here, except for the chairman. So you don't have to tell them the same thing two or three times. They catch on pretty quick. So just a little – yes, ma'am.

Ayn Samuelson – I'm Ayn Samuelson, 494 Sandpiper Drive. And I live in the unincorporated area. I'm also President of South Patrick Residents Association. And let me just give you a little bit of an idea, or background, about who we are. Our association serves about 3,000 homes and businesses on the beachside, south of the Pineda and north of Satellite Beach. And we enjoy two oceanfront parks, one of which is SPRA Park, which is our namesake park. SPRA is our acronym. And we believe that all property owners should be able to develop their property within the current zoning. Zoning confers specific property rights and expectations for development, yet it's also true that no one can expect to enhance their property rights if it conflicts with, or is incompatible with, the current land uses and the character of the surrounding area. This is the case of the request of Diamonte Sands that seeks to change the zoning from the residential to BU-1 and change the comprehensive plan to allow community commercial right on the oceanfront next to SPRA Park and residentially-zoned properties. We have a lot of condominiums. A lot of residents live in the condominiums there. This would also change the density and intensity of the property from the planned eight residential units that the owners had originally planned to build. And I understand that they can also build a 14-unit group home under the current zoning, but not an assisted living facility. They would have to then change that to BU-1. And then, if they wanted to build more units, they would then have to change to community commercial to change – actually change the comp plan. And then what you're looking at is the 18 units, which is a business, without sufficient land to even provide a buffer zone to the condominiums or the park users. So that is a huge issue. I was informed that we, the people, would also be given the benefit of more public parking. But can public parking be termed a specific benefit for us if it cannot be actually reserved solely for the citizens? I don't know how you can enforce the extra five, or so, parking spaces that have been talked about to be only used for the park residents – the park users. I don't see how that can be enforced. So I don't see that it's a conferring of any additional benefit to the public, while there would be, we believe, more traffic that might adversely also affect the usage of the park, as well as impact safety, because what you have is you have, then, no alignment between the southern exit on A1A on the oceanfront and Berkeley Street, on the west side of A1A, where there is a light, but there is no alignment then. With additional traffic, that could also be a problem. I think a big issue is that community commercial would set a precedent, a bad precedent,

for other such comp plan changes along the fragile oceanfront, and also open the door for other potential future uses, when and if the property would be sold. Now, someone can correct me on that, if that – the binding development plan also follows the property. Or does it follow ownership? So, when one looks at the permitted uses that could be allowed along the oceanfront in BU-1, institutional or community commercial, it certainly raises red flags. Finally, and this is not easy to say, but the developers need a bailout. While we can all sympathize that the partners carry a large amount of debt - the 1.45-million dollars that was paid for the property in 2005 was a huge sum. In fact, the seller, at the time, had been in negotiations with the County to try to add that property to SPRA park; however, Diamonte Sands was the high bidder. So, in sum, any zoning or comp plan changes conflicts, and is incompatible, with current land uses and the character of the area. Changes would affect the density, intensity, increase the traffic with a business there, disallow a sufficient buffer zone, and set a precedent for other zoning or comp plan changes, all with too many costs and without additional benefit to the public. Thank you.

Henry Minneboo – Thank you. Who's next? Yes, ma'am.

Tania Hanlin – My name is Tania Hanlin. I live at 452 Thrush Drive, in South Patrick Shores, beachside. I just have a few comments and observations. There is a 48-unit facility, assisted living facility, beachside, not oceanfront, but beachside. And there are others beachside. As far as oceanfront, on 0.37 acres, next to a resident park, which was just dedicated about two years ago – the restaurant was a single story. I don't know how many stories... (Ms. Hanlin turned away from the mic and spoke to the applicant). Four stories. And I don't know how many parking spaces underground. Because I've been to many assisted living facilities. I've had relatives. And there is constant visitors, employees, emergency vehicles. It may sound silly, but it's true. Anything can happen in an assisted living facility. And 0.37 acres on the ocean, A1A, no traffic light, just pull in and out, it's just, to me, just doesn't make sense. How many parking spaces in lower level? (The applicant answered from the audience; therefore, the remarks are not audible on the record) Ten parking spaces underground. And they have – I know a lot of assisted living facilities that I've been to, they have functions where a lot of people come to take part in. And so we're looking sometimes, I'm sure, at overflows as far as parking goes. So it's just – to me, it just seems like – it shouldn't happen. It should remain designated as it is. And, you know, the park is there. It's small, but it's used by residents all the time of South Patrick Shores. And, as Ayn mentioned, the alignment with the traffic light is very important, and that doesn't exist. I don't know if any of you have taken a look at this area, at this lot, and everything else. But I'm just a concerned resident. And I know that there are assisted living facilities beachside, only not on oceanfront, and one, in particular, that's just expanded to 48 units in the last week. And it's only a few block away from the ocean. So there are others beachside, for sure. Thank you.

Henry Minneboo – Thank you, ma'am. Jerry.

Jerry Jagrowski – Yes, ma'am. I got a question. Since you obviously investigated other ALF's, do you have any idea what the occupancy rate of the other units are, the other ones? I mean, are they 50 percent occupied, 75, 100? I don't know.

Tania Hanlin – I can't answer that. I really didn't investigate it. I have had relatives in facilities in Florida and in other states. And I have a friend now who is looking for a place to place her father in the Titusville area. So I told her I'd go on-line and help her, 'cause she's busy with her job. And I found seven or eight private ones, you know, in the Titusville area. But as far as occupancy, I don't know. I'm sure there's turnovers, and everything else. But I do know they have activities. And, you know, there are employees. There are visitors. They're very busy places.

Jerry Jagrowski – Thank you.

Henry Minneboo – Thank you. Next person? Yes, sir.

Dave Wilson – Hi, my name is Dave Wilson, from 124 Berkeley Street. I live right down the street from where they want to put the building. And I know they own the property, and they can build on the property, but if you were to go there and look – if you were to go there – I don't know if you have a picture of how it's laid out. But the park is an L-shape, so they really don't have any beachfront access, at all. And, from what I gather, they want to put the walls closer. They don't want to – they want it closer to the road, closer to the property line, closer to the beach. And I thought it was 35 feet, maximum, but I gather four stories – and so when we sit at our boardwalk, we're probably gonna be, oh, probably about 25 feet from a wall, and that's what we'll have behind us at our boardwalk at our beach. And I just think it's sad that it's gonna come down to this. But I wish we could have done something with the County, you know, as far as the park goes. But it's a shame that it has to go. And I just think they should be held with what they bargained for when they bought the place. Thank you.

Henry Minneboo – Thank you. Yes, sir.

Peter Barnes – My name's Peter Barnes. I live at 217 N.E. First Street. My sister and I own property in the Berkeley Plaza Townhomes, directly adjacent to the park. Everything the lady said, and the gentleman said, plus some more. When we talk about the zoning that it's zoned for now, that's zoned per acre. These folks have got less than half an acre. That would indicate the reason why they were only approved for five townhouses, previously. Secondly, the variances requested ignore the County's requirement for a breezeway. There's no breezeway provided. You're supposed to have 30 percent of the property as a breezeway. They seek to mitigate this by giving the 15 feet to the park, but that's not sufficient. That's not what's required by code, and it shouldn't be done. Secondly, the parking is not in accordance with County code. They require two, plus two, spots for every five persons. If you have 18 units, which is 18 people, that's four slots for every five people. Four times – four slots for every five people. That's three groups of five. That's 12 people. With three-fifths left over, that's 14 parking slots. There are not 14 parking slots in the plans which they have submitted, so they're not in accordance with code there, either. They say that they will have others on the outside. Well, if you're gonna lot line on the park and meet the setbacks from the oceanfront and front the road – so there is no parking slots available on the outside of the building. Further, they seek, in their proposition, to close the entrance, ingress and egress, from the park that we have now and require that all entrance to the park go through a proposed entrance and egress in the front of their building, adjacent to – across from the stoplights. This will allow private control over County property, and they can fence that at any time they want to. That's private property. I'm opposed to it on that account. Let me tell you my work history. I'm a former social worker, and social work supervisor, for the State of Florida, in the areas of adult services, developmental services, nursing home payments and nursing home services; further, as a vocational rehabilitation counselor to the severe, and most severely, disabled, and a supervisor in north and south Brevard County for that. There's a considerable difference between an institutional living facility and an adult facility – excuse me, assisted living facility. Florida Statute 429 addresses the assisted living facility. People who are in an assisted living facility are not you and me 20 years from now because we don't want to have to drive to the golf course, or we don't want to make our beds, or we don't want to have to cook any longer. People in an assisted living facility are severely developmentally disabled, or severely physically disabled, or severely emotionally disabled, or any combination of the three, to the point where they cannot perform activities of daily living by themselves. And to approve this facility on the ocean, where the brunt of a hurricane can come through at any time – and we only have to look back a couple of years to see what that'll do. To think that you're going to do an evacuation once, twice, a year for the next how many decades for people like this, who's going to go with them? Where are they gonna go? And where is the care gonna be placed on them? If it is approved, then the County is giving tacit approval that this is a good thing, and we don't want these kind of folks, who are nice people, usually, to be in such a precarious position. I'm opposed to it. I don't see any reason for it. And I think the developers have gotten in over their heads and are looking for a way out. And that's that. Thank you.

Henry Minneboo – Thank you. Anybody else?

Paul Allen – My name is Paul Allen. I live at 188 Clairbourne Avenue, in Sea Park. I use that park quite often. I've been surfing there for some 34 years. I've been in the neighborhood for 21 years. I am not opposed to someone building on the property, but what I am opposed to is an oversized building going onto there. As far as them giving us 15 feet of their land, they can keep it, because there is no room for parking there, like they're saying. When the waves are very well, that parking's already used. People are backing into cars. There's cars – there is no room for additional parking on that little strip of land that they said that they would give. So that's all I've got to say. Thank you.

Henry Minneboo – Thank you.

Dave Wilson asked, from the audience, if he could bring up one other point.

Henry Minneboo – No, sir. O.K., seeing none, Mr. Spira, you want to address some of these issues?

Jack Spira – I've been doing this 37 years. And this is one of those situations where there's been a lot of misconceptions, misinformation, going around. Let me try to address some of these things. The gentleman just before the previous gentleman said the variance request was a tradeoff for this 15 feet. There is no variance request, no re-variance request, needed. We meet the breezeway requirements. He took issue with the parking, the number of parking that our computations, or calculation, for parking is incorrect. He's incorrect. I think staff will agree that our calculations are correct. He said that the – it calls for closing the entrance to the park. That is not part of the application. The park entrance will not be closed. So, again, I don't know where this information is coming from, but it's misinformation. It's incorrect. He stated that individuals living within assisted living facilities are severely mentally or physically disabled. That is not correct. That is incorrect as to the type of people who live in assisted facilities. With regards to Ms. Samuelson, I had the opportunity to talk to her for some time on the phone – very, very pleasant lady. I did offer her – I said, "We would like to meet with members of your association to discuss some of these issues." We were turned down. We certainly want to address some of these issues. As far as the – indicating there's conflicts between assisted living facility and existing use of that property, the existing use of that property is condominiums. It's all condominiums. This is – even though it's called BU-1 because that happens to be the way it's structured within the County, it is basically residential type of facilities. Indicated the concern about the enforcing the parking. Right now, we can do 14 units there. So, certainly, if we build something there, (unintelligible) that we're willing to make a commitment that basically what we're gonna do there is, under the binding development plan, that it cannot be used by residents, cannot be used by employees. The increase in the density. I think that comment came out. Again, if you're familiar with that area, you've got condos all along there. It is not going to increase the density. It's gonna increase traffic. Well, the traffic studies by the County indicates that the amount of traffic generated by an assisted living facility of this size is about the same amount of traffic that would be generated by a five-unit condominium. So I think – the gentleman made a comment that the wall would be closer to the ocean. In fact, the wall will be further from the ocean. The wall of this facility would be further from the ocean, because now you have the coastal construction setback line. It will be further from the ocean than the Perkins restaurant was. So, again, it's misinformation. I just – you know, talking about this, the lady said how many stories. Four stories. The four stories is the same height as the adjoining condominiums. We're not building four stories where everything else is single stories. So there's a lot of misinformation. The fact is – and I think the people indicated, well, they bought this thing, they could sit there, and they could deal with it. We can't. We have to do something with it. There's no question about it. But all we're doing is trying to find something that makes sense. We can do 14 units there now. We don't have any limitations, any requirements. We're trying to find something to give additional parking to what's needed there because, in fact, there is a parking problem there. And all we're trying to do is increase – is

trying to increase some of the safety there, because you do have that parking. The parking problem exists there because of that light. That light has always been a problem. The County is in the position they can't do anything at the present time. We've offered it to the County. They can't – they don't have the funds to buy it. And that's fine. But the client needs to do something with the property. And we think this is a – this is a reasonable use of the property. Thank you.

Henry Minneboo – O.K. Is there any – do we have any questions? Peter.

Peter Aydelotte – I'm just interested from the point that condos, apartments and assisted living facilities throughout the State of Florida, and probably nationally – I'm only familiar with the State of Florida – that term is being used a lot lately, 'cause when condos don't sell, they can turn them into apartments. They'll renovate something, because assisted living facilities, right now, is the big thing. We're getting an older community. And the only problem I have with this is the fact that we're changing the zoning. And to make an assisted living facility, we're required to change that zoning, which could impact other decisions down the road, versus you can build more units. So was your decision to go for the assisted living facility because that's the thing right now, financially, that is – benefits – and also benefits the community?

Jack Spira – I think the reality of it is these baby boomers reach retirement age, and you're gonna see just a continual need for this type of facilities. It's gonna continue being in demand. That's why you're seeing more and more pop up. And that's going to be what people need, because people don't really need condominiums, because they need an assisted living facility. So I think that's gonna be the demand down there. And that's the reason for it.

Robert Ludwiczak – Mr. Chair.

Henry Minneboo – Linda.

Linda Wise – I just have one question, I think, for the engineer. When you look at the sketch of how the building looks, the four-story, I see a garage door on the front. I'm not sure how people are gonna be able to use the parking spots underneath, if there's a garage door.

Vaheed Teimouri – The garage door remains open during certain hours of the day. I mean, those are operational. I don't really have that answer as to – I'm just the engineer. For operation of the facility, there are many facilities that have gates. They have communications, but they open the doors and close them.

Linda Wise – I didn't know if the sketch was done prior to your talk with the County and...

Vaheed Teimouri – Again, these are conceptual, as far as showing the garage doors. But, again, the garage could remain open for – just at night. I don't really know, as far as operational goes.

Henry Minneboo – Robert.

Robert Ludwiczak – I have a question that may apply to the applicant, or it may apply to the social workers up here. When I hear the term "assisted living", I'm under the impression that those who are in an assisted living facility are ambulatory, and must be ambulatory.

Jack Spira – That's correct. And my understanding is they have difference levels of assisted living. You have some that are not ambulatory. This would be for ambulatory individuals that just need help, you know, maybe with bathing some time, but certainly can get around. They can go downstairs to have dinner. But it would be ambulatory, yes.

Robert Ludwiczak – And then are you going to have rules, or policies, that say when you're no longer ambulatory, you have to go to a nursing facility?

Jack Spira – Exactly right. Exactly it.

Robert Ludwiczak – Now, I don't know whether that's true. I mean, I'm saying that from my understanding. But, from what I heard earlier, where he said that basically these are people who are disabled to a great extent...

Jack Spira – I think that's categorically incorrect. I totally disagree with the statement. He may believe that. I believe he sincerely believes that, but that is incorrect. And, basically, this would be totally ambulatory. The requirements would be that once they move to the next transition, they would have to move to another facility that can care for them. This would be ambulatory.

Henry Minneboo – O.K. Anybody? (no response) O.K. Closing it. What's the pleasure of the board?

Loretta Goggin – I've got some comments that I'd like to address...

Henry Minneboo – O.K. Yes, ma'am.

Loretta Goggin - ...to the board.

Henry Minneboo – All right.

Loretta Goggin – I actually have quite a few comments. But to answer that last question about what was the definition, I have the emergency management planning criteria for assisted living facilities. And the gentleman was correct when he said the owner of the assisted living facility does have to go through and develop an emergency plan, which includes how are you going to get those clients out of there. In that plan, you also have to define how are you going to support your clients for 72 hours. Now, according to the criteria, the client could be a person with Alzheimer's. "Type of resident, patient, served in the facility that include, but are not limited to, (a) person with Alzheimer's, persons requiring special equipment, or other special care, such as oxygen or dialysis." And then you have to list the number of patients that are self-sufficient. When I think of an assisted living facility, I think of a vulnerable population. They're there because they need help. It could be they could be vulnerable because they have diminished mental capacity. They could have diminished physical capacity. But this is a vulnerable population. And what we're wanting to do is take 18 individuals, if I understood it right, or is it 12 - eighteen individuals in that category that need some help, and put them right on the beach. And I know exactly what happened to Perkins. I was there. I've been there through the hurricanes and seen what happens when the sand washes away. This is really – pardon me for getting emotional about this, but imagine if it was your next door neighbor or your parent that you had in this facility, or me, come way down the road, and all of a sudden, we get a warning that we have to evacuate. What happens to us now, when we say we have to evacuate? We rush around, and hurry around. And, here, you've got a vulnerable population that you're expected – they're expected to gather their personal belonging together for three days and go to who knows where. According to the plan, the owners have to have a agreed-upon mutual agreement site for those people to go to. They cannot go to a special needs population shelter. They cannot go to a shelter. They have to be accepted by another facility with a mutual agreement. Now, my concern is having this type of facility right there, right here, on the water that is vulnerable to hurricanes. The causeways close at a Cat 1. So Heaven forbid that that assisted living facility manager, the director, who's on paper, doesn't make the decision to evacuate soon enough. Then what happens to your next door neighbor, your mother, your father, your friend? They have to ride out that storm. And I think, as a board, we shouldn't be faced with having to make those decisions.

Henry Minneboo – O.K. Is there anybody else like to say something before we – Jerry.

Jerry Jagrowski – I'm very concerned about the parking, and also the changes to the comp plan. As a result, I'd like to make a motion that we deny this opportunity.

Aneta Ott – Second.

Loretta Goggin – Second.

Henry Minneboo – There's a motion by Jerry, and then second by Aneta, to deny this request.

Henry Minneboo called the question, and the board recommended denial of the request.

Henry Minneboo – That passed unanimously "sic" (see next paragraph for vote).

Tony Masone called the Planning & Development Department on March 9, 2011, to say that he had voted nay to the motion to deny the request, and had done so without turning on his microphone. He said he wanted his nay vote reflected in the minutes of the meeting. Therefore, the vote was 9:1, with Tony Masone voting nay.

After conclusion of the regular agenda, discussion took place, as follows:

Henry Minneboo – We have some – I think last time, we had a little bit of conversation about potentially – I think Robin, you're here. We need to – during the week, I had the opportunity to chat with Robin a little bit, and I shared with her some of our concerns about some of the board – all of our concerns about possibly consolidating some of our meetings, et cetera, et cetera. Robin kindly said she'd give it some thought and maybe explain to us both sides of the issue. And, hopefully, we...

Loretta Goggin – Mr. Chairman, before we start, I see two board members, and I think we should welcome them to the board. Perhaps they don't know what we're wanting to discuss.

Henry Minneboo – Oh. O.K.

Loretta Goggin – And I apologize for being so emotional. I don't normally get that way.

Henry Minneboo – I think I introduced Rob the last time.

Robert LaMarr – My name is Robert LaMarr, Chairman of the Board of Adjustment for the City of Rockledge.

Henry Minneboo – Yeah, we were lucky to get somebody with some good experience. And then we have Tony here.

Tony Masone – Tony Masone.

Henry Minneboo – Welcome aboard. You'll love the pay that you get here. It works out real well. We welcome you both. O.K., Robin, you want to – I think I did a little overview there, but...

Robin Sobrino – Yes, sir. Thank you, Mr. Chair. This is an issue that we've talked about on several occasions, already. I know that there's been some resistance on the part of the Board of County Commissioners to accept your request to consolidate meetings. We certainly can appreciate this is a sacrifice of your time and

energy to show up at these meetings. One of the challenges that I feel very strongly about is the fact that it is so hard to anticipate exactly how controversial an application can be. I would suggest to you that, for example, today's meeting, with only two items on it, I believe that had the other item not been tabled today, we still would not have gotten to this item yet. So even with a two-item agenda, it's very conceivable that this board could end up spending a couple, three, hours talking about things. So that's my only real concern about this, is that it's so tough to gauge how much dialogue there is going to be on an application. I truly feel terrible when you do show up, give of your time, and then 15 minutes later, it's ta ta, thanks for having come, and you've spent more time in the car than you have here. So I certainly relate to that. And, quite frankly, I believe that we would not personally mind having to deal with only one meeting a month, rather than two, so Candy would have less mailings to do, and all of that kind of thing. So it's not that we're really fixed in this two meeting a month thing. It's more that we find that, historically, it's just worked. It helps to separate you wearing your Planning & Zoning hat from your LPA hat, 'cause sometimes the lines tend to blur in one's mind. It confuses the audience. And, often, a lot of the LPA matters are really staff functions. So it means that you've got other agencies that are kind of stacking up in the wings waiting to present an ordinance to you while we're waiting for the outcome of a public hearing for a zoning item. So that is really our concern, is the experience of the customer, how are we best serving our customers. Very often, our LPA meetings are also paying customers. They want to get a comp plan amendment. They paid very good money for it. And so it becomes, well, who should go first, the zoning applicant who's paid money or the comp plan applicant who, in some cases, may have been waiting four months for this momentous day to arrive when their large scale amendment gets before the board. So those are some of the things that we would need to tackle. Be that as it may, we're here to serve. Again, if you want us to bring forward a recommendation to the Commission that you'd like to see this reconsidered, that's fine. I'm here to serve you.

Henry Minneboo – Well, I'm gonna eject, but I'm sure other – I think others will say the same. But, you know, you all, Robin, get a pretty good handle whether an issue is gonna be controversial, or not. You can tell by the amount of phone calls, at least – you can't, Candy? I mean, I used to be able to have some knowledge that – you know, when I would get 500 calls, I felt there'd be at least 200 there, you know.

Robin Sobrino – That's usually after the notice has gone out and the word filters out to the neighborhood. And so, by then, you're committed to a date.

Henry Minneboo – Right.

Robin Sobrino – That's the difficulty.

Henry Minneboo – Yeah, that's – you know, that's – it just – I just wish there – it just makes it easier on everybody. We got a full load here today, and we struggled at the LPA, you know. So, you know, that's...

Robin Sobrino – For what it's worth, I happen to know that even though development is in kind of a slow down right now, one of the things that staff is doing is going back and working on ordinances to help fine tune our code to make it more responsive, more streamlined. We're still looking at our comp plan to get rid of duplicative policies, try to make that a more user-friendly document. So I do believe that you're gonna be seeing a lot more of the ordinances coming through to you than you had in the past, when we were so busy just trying to field all the zoning applications and comp plan applications.

Henry Minneboo – Anybody else have some questions? Or has she – yes, Linda.

Linda Wise – Robin, I kind of brought this up before. At least in the months that the Commission is taking off, you know, December, June, can we all agree that that makes sense to skip those?

Robin Sobrino – I would agree, absolutely, because we know that the Commission doesn't hear zoning items in June, and they don't hear them in January. So we always end up stacking up the P&Z agendas in December and January so that they get heard in February. So certainly we could make your schedule work better with them that way.

Henry Minneboo – O.K.

Aneta Ott – I'd just like to know how many times we're gonna discuss this. It's only been a couple of months that we talked about this. And I may not live as far away as some people, but I'm paying \$4.55 a gallon, too, to come here. And I think, when we agreed to do this job, we understood the importance of it. And I think we should let this thing lay.

Henry Minneboo – O.K. Robert, you got...

Robert Ludwiczak – Mr. Chair, just a point of discussion here. I'm gonna be out of the country from April 1st to April 17th, so if I'm not here, and you don't have a quorum, it wasn't because I had no intent of being here. I'm just not available.

Several board members had a discussion, away from their microphones.

Robin Sobrino – Actually, that's very helpful to know your schedules, when you're able to share them with us, because then we can make sure that, at least, when we reach out to an alternate that we know for sure that a regular member is not attending, and they get the feeling that, well, at least I know I'm really needed here, and make a point of coming.

Henry Minneboo – Candy, are we doing a good job telling you that we're gonna be here, or not be here? I mean, within reason, I mean.

Candy Hanselman – Pretty much.

Henry Minneboo – Pretty much. O.K. I didn't know if that helped. Pretty much. O.K., what's – any – the board – do we sort of agree on when the Board's out, we're out? The Board of County Commissioners are out? Does that sound good to everybody? Bill? Good. Loretta, it sound good to you? I mean, when the Board of County Commissioners are inactive. And that's the months of June and December, right?

Robin Sobrino – That's what you would want to do?

Henry Minneboo – Yes.

Robin Sobrino – No meetings in June and no meetings in December.

Henry Minneboo – Right. Right.

Robin Sobrino – O.K.

Henry Minneboo – To run consistent with the Board of County Commissioners, yeah. I think that would be a nice way to say it.

The meeting was adjourned at 4:04 p.m.