

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JANUARY 11, 2000

A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 7:30 p.m. by Mayor John A. Buckley.

1. Reverend Bruno Malara, Lighthouse Assembly of God, gave the invocation.
2. All present gave the Pledge of Allegiance to the Flag of the United States of America.
3. Roll Call.

Present:	John A. Buckley	Mayor
	Ed Palmer	Vice Mayor – Dist. #2
	Steven Beltz	Council Member – Dist. #1
	Priscilla M. Poole	Council Member – Dist. #3
	Grace Walker	Council Member – Dist. #4
	Cheryl Palmer	Council Member – Dist. #5
	Loretta Isenberg-Hand	Council Member – Dist. #6
	Henry J. Hill	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Bud Emerson	Assistant City Manager
	Peggy Braz	Planning and Zoning Administrator

4. PROCLAMATIONS AND PRESENTATIONS

Reverend Small, First Assembly of God, presented a 1971 painting of Ballard Park to the city. Reverend Small explained that the painting hung in the church for years; however, due to recent renovations, there is no longer a place in the church. Mayor Buckley thanked Reverend Small and stated that the city would find a suitable location for the painting.

5. APPROVAL OF MINUTES - Regular Meeting – December 14, 1999

Moved by Beltz/E. Palmer for approval. Motion carried unanimously.

6. CITY MANAGER’S REPORT

Mr. Hill referenced the City Manager’s report, which indicates that enforcement of the vehicle impound ordinance will begin around mid-March. An item is scheduled to appear on the January 25 agenda to appoint the special masters for the hearing process.

Additionally, Mr. Hill noted that City Hall will be closed Monday, January 17, in recognition of the Dr. Martin Luther King, Jr. holiday.

7. PUBLIC COMMENTS

Sam Franklin, 4377 Mt. Carmel Lane, submitted a petition from area residents asking for the city’s help in getting a traffic signal installed at the intersection of Babcock Street and

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Sun Lake Road. Mr. Franklin reported on the accidents that have occurred at this intersection and the difficulty residents have accessing Babcock Street.

Later in the meeting, under petitions, remonstrances, and communications, Mr. Hill informed Council that he would draft a letter to the Florida Department of Transportation regarding this issue.

John Wilt, 3108 Country Club Road, thanked the City Manager and staff for help in working towards resolving the noisy air conditioner issue at Florida Tech. He described the excessive noise being generated by the air conditioning system at the newly constructed Florida Tech Engineering and Life Sciences building.

Mrs. Walker commented that when she drove out to the Florida Tech site to investigate this issue, she noticed illegal parking along Country Club Road.

UNFINISHED BUSINESS

8. ORDINANCE NO. 99-77 (CPA-1999-07, CPA-1999-08, CPA-1999-10 AND CPA-1999-12): (Public Hearing/Second Reading) A proposed ordinance to implement Comprehensive Plan Amendments to make the Future Land Use designations conform to the existing zoning on four parcels. (First Reading 12/14/99)

Attorney Gougelman read Ordinance No. 99-77 by title. There were no comments from the audience.

Moved by C. Palmer/Hand for approval of Ordinance No. 99-77 implementing CPA-1999-07, 08, 10, and 12, including the elimination of the site-specific policy based on the findings of the Planning and Zoning Board.

Mrs. Poole stated that she would oppose this item because of CPA-1999-08, the Oaks Shopping Center. She said that she does not believe that an industrial land use is proper for this area.

The question was called. The roll call vote was:

Aye: Beltz, Walker, C. Palmer, Hand, E. Palmer, and Buckley

Nay: Poole

Motion carried.

9. RESOLUTION NO. 1620: A proposed resolution supporting a Zone D Siting Zone to be included in the Brevard County Manatee Protection Plan. (Requested by the City of Cocoa) (Postponed by Council 12/14/99)

Attorney Gougelman read the resolution by title.

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This item was postponed at the December 14 meeting at the request of Council Member Poole to allow time for review. The Cities of Titusville and Cocoa Beach have requested that we approve a resolution providing an amendment to the Manatee Protection Plan that will encourage the redevelopment and/or expansion of existing marinas in lieu of new marinas. We have analyzed the request and the impact and believe that it will benefit the City of Melbourne.

The amendment adds an area "D" which addresses the current marinas and allows them to omit the requirements for powerboat to shoreline ratio requirements. The stricter conditions include appropriate manatee awareness signs, slow speed zones, water enforcement by the municipality of 20 hours per week, and provision of sewer pump out facilities. Also, one of the conditions under this zone is that the site have a basin or natural contour of sufficient depth to provide at least one foot of clearance between the bottom of the boats to be moored and the bottomlands.

The Planning and Zoning staff reviewed the proposal. Staff recommended a change to require the water enforcement to be an average of 20 hours per week as opposed to a minimum of 20 hours per week.

Moved by Walker/Beltz for approval of Resolution No. 1620. Motion carried unanimously.

10. ORDINANCE NO. 99-80 (A&V #230): (Public Hearing/Second Reading) A proposed ordinance to abandon and vacate the western three feet of a 10-foot wide public utility and drainage easement along the eastern property line of Lot 25, Rio Villa North, Phase 1 (541 Rio Bello Corte) (Petitioners – James and Judith Lucker) (First Reading 12/14/99)

Attorney Gougelman read Ordinance No. 99-80 by title. There were no comments from the audience.

Moved by E. Palmer/C. Palmer for approval of Ordinance No. 99-80. The roll call vote was:

Aye: Beltz, Poole, Walker, C. Palmer, Hand, E. Palmer, and Buckley

Nay: None

Motion carried unanimously.

NEW BUSINESS

11. COUNCIL ACTION RE: Water Main replacement along Melbourne Causeway, Project No. 96301, Stormwater & Underground Inc., Titusville, FL - \$619,115.00.

Mr. Hill reported that the project consists of replacing the two existing iron 20-inch water mains along the Melbourne Causeway at two crossings - the central relief bridge and the

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east relief bridge near Riverside Drive. Provisions have been made to include construction of temporary water mains along the Melbourne Causeway to maintain adequate flow to the beachside during construction. The contractor will have 180 calendar days to complete this project.

The recommendation is to award the contract to Stormwater & Underground, Inc., Titusville, in the amount of \$619,115 to complete the work as described.

Moved by Poole/Hand for approval of the recommendation.

Mr. Palmer asked what type of material would replace the iron water mains. Mr. Ralls explained it would be ductile iron with coating; the lifetime expectancy is 40-50 years.

Mrs. Palmer asked for an explanation of the construction contingency. Mr. Hill explained that contingency is not part of a bid. It is an amount the city reserves in case the project runs into any problems. If contingency is not used, it becomes available for other projects. If it is necessary to use contingency, it returns to Council in the form of a change order. Typically, 10% - 15% is built into a project for contingency.

The question was called. Motion carried unanimously.

12. COUNCIL ACTION RE: French Drain replacements Buick Avenue, Plymouth Drive, Pontiac Circle North and South, Project No. 97606, Santa Cruz Construction, Merritt Island - \$162,185.80.

Mr. Hill explained that this construction effort will combine three separate capital improvement projects for french drain replacement. French drains, or underdrains, are needed in areas with high water tables to protect and prolong the life of the street pavement. Pavements under which the road base is constantly saturated with ground water will deteriorate. The french drains, installed along the curb line, intercept the ground water and carry it off to the storm drain system – effectively lowering the ground water level beneath the street.

The replacements will take place on North and South Pontiac Circle, Buick Avenue, and Plymouth Drive. A total of 4,024 linear feet of perforated underdrain pipe will be installed. The contractor must complete the work within 120 calendar days.

The recommendation is for approval of the contract with Santa Cruz Construction, Inc., Merritt Island, in the amount not to exceed \$162,185.80.

Moved by Beltz/E. Palmer for approval of recommendation.

Mrs. Walker asked if the french drains are routinely maintained or inspected. Mr. Ralls elaborated on the process and noted that if constructed properly, they will last 30 – 40 years.

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The question was called. Motion carried unanimously.

13. COUNCIL ACTION RE: Consent Agenda

Mr. Hill confirmed for Mr. Palmer that the downtown security force (item “d”) is paid from the Downtown Redevelopment Fund.

Moved by Hand/E. Palmer for approval of the consent agenda, items “a – j”. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Resolution No. 1622: A resolution relating to approval of an option and lease agreement with BellSouth Mobility, Inc. on property located adjacent to the Southeast corner of the intersection of Hibiscus Boulevard and Evans Road.
- b. Resolution No. 1623: Lease Agreement with Browning Pharmacy and Health Care for that part of the Fee Avenue Park on the east side of the creek abutting their property.
- c. HOME rehabilitation of residence at 2816 Kingston Lane, Kramer Building, Palm Bay, FL - \$21,620.00.
- d. Contract for Downtown Security Service for the unit price of \$7.95 per hour, G&S Security Agency, Melbourne, FL – annual cost will exceed \$10,000 (estimated cost range \$27,000 - \$32,000)
- e. Contract for the purchase and delivery of 4,000 Armortec 3510 blocks and Mirafi FW500 Fabric for the Ballard Park Shoreline stabilization project, R. H. Moore, Tampa, FL - \$12,125.00.
- f. Pavilions at Lipscomp/Ruffner/Wells Parks, Project No. 9903, G. L. Karel Builders, Melbourne, FL - \$49,285.00.
- g. Columbus Avenue paving, Project No. 99-18, William Turnbaugh Construction, West Melbourne, FL - \$45,209.00.
- h. Purchase of Police uniforms, for unit prices, Ten-8 Fire Equipment, Inc., Bradenton, FL – estimated annual cost will exceed \$10,000.00 (estimated annual price range \$87,093.28 to \$112,130.58).
- i. Contract for repairs at Pineapple Park Pier, Johnsen Amphibious Contractors, Inc., Merritt Island, FL - \$48,115.00.
- j. Purchase of fire rescue truck, Hall-Mark Fire Apparatus, Ocala, FL - \$65,347.00.

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14. COUNCIL ACTION RE: A request for a waiver of the six month waiting period to reapply for rezoning consideration of a zoning change from R-1AA (Single-Family Residential) to C-1A (Professional Offices and Services District) on a 0.24-acre parcel located on the southwest corner of Babcock Street and Edgewood Drive. (Owner/Applicant – S. Parker)

At the November 30, 1999 meeting Council denied Ordinance No. 99-70, a request to rezone a 0.24-acre parcel located at the southwest corner of Babcock Street and Edgewood Drive from R-1AA (Single-Family Residential) to C-1A (Professional Offices and Services District). The applicant, Mr. Shawn Parker, has requested a waiver of the six-month waiting period to reapply for consideration of this action.

Mr. Parker intends to meet with the neighbors in the Hickory Hills Estates to discuss the property at 11 Edgewood Drive and to design improvements that would be acceptable to the area residents. In this way he hopes to assure their support of the zoning application.

Shawn Parker, property owner, 11 Edgewood Drive, reviewed his request and reported that he has met with a few of the neighbors and has received support of his plan. He would like an opportunity to continue meeting with the neighbors and reapply for a rezoning. He also pointed out that he is now the owner of the property, which changes the situation. He concluded by saying he believes the majority of the residents will favor his request.

In response to Mrs. Walker, Mr. Parker explained that he previously had the property under contract and the sale was contingent on the rezoning. He has since purchased the property. Mr. Parker displayed a map indicating the residents in the area who are no longer opposed. If given an opportunity, he would submit the map and petition as part of his reapplication.

Moved by C. Palmer/Beltz to approve the waiver of the six-month waiting period to reapply for a rezoning.

Mrs. Poole asked Mr. Parker if he planned on selling the property and if he had repaired the irrigation well and upgraded the landscaping. Mr. Parker said his plans are to maintain an insurance business on the site. Additionally, no changes have been made to the property because the purchase was completed two days ago. However, he plans to put a significant amount of money into the property.

The question was called. Motion carried unanimously.

15. ORDINANCE NO. 2000-01 (A&V #231): (Public Hearing/First Reading) A request to abandon and vacate a 20-foot wide right-of-way easement south of NASA Boulevard between Babcock Street and Apollo Boulevard along the southern property line of Parcel 256. (Applicant – Myles H. Wilkinson)

Attorney Gougelman read Ordinance No. 2000-01 by title.

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The original 1963 easement was intended as a right-of-way and easement for public utilities (storm drainage, water, sewer, power, gas and other public uses). A parking lot is currently situated on the easement. The only facility located in this right-of-way easement is city storm drainage piping. The easement was never used as a right-of-way.

City departments and local utility companies were asked to provide comments on the requested vacating. The Streets and Stormwater Division identified a 36-inch CMP storm drain installed in this right-of-way easement. The storm drain system runs the entire length of the easement (Babcock Street to Apollo Boulevard).

There were no objections to the request and the recommendation is for approval.

Mayor Buckley opened the public hearing. There were no comments.

Moved by Hand/Walker for approval of Ordinance No. 2000-01. Motion carried unanimously.

16. PRELIMINARY PLAT APPROVAL (SD-1999-04/PINE CREEK SUBDIVISION): (Public Hearing) A request for preliminary plat approval for Pine Creek Subdivision on a 42.07-acre parcel zoned R-1B (Single-Family Residential) located north of Eber Road and east of Dairy Road. (Owner, applicant and representative - Courtelis Company, Elias Vassilaros, and Hassan Kamal, BSE Consultants, Inc.) (P&Z 12/30/99)

Ms. Braz briefed Council. The property is located north of Eber Road and east of Dairy Road. Council approved a preliminary plat for Pine Creek on March 9, 1993. That plat has expired. The property and the proposed subdivision include 163 lots with several streets extending from a single street accessing Eber Road. This street will align with the entrance to the Bayberry Subdivision at the intersection with Eber Road. A proposed retention pond (Tract D) will be located on the central portion of the plat. The pond will outfall to the drainage right-of-way to the north. Tract B will be used for recreation facilities, including a small clubhouse and community pool. Tracts A and C will be maintained as open space. Tract E will be maintained as an open space median in the center of Strongbark Drive and will be maintained by the homeowners' association. All proposed lots comply with the requirements of the city's subdivision regulations and the requirements for R-1B zoning.

City Code, Chapter 29, Section 29-6 (b)(1) b. and c. requires that a street connection be made to compatible, similarly zoned or used property surrounding the vacant parcel slated for subdividing. The parcel to the west, also owned by the applicant, is zoned R-2 (Cap 6) and is proposed to be developed in conjunction with a small commercial tract surrounded by residentially zoned property. Extending a street by constructing a bridge across the canal will allow for the Code-required connection to be made.

There appears to be no hardship as identified in Section 29-8 of the subdivision regulations that would warrant granting a variance from the Code. Additionally, this requirement will reduce the number of trips onto Eber Road by providing a connection to

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Dairy Road. Access to the commercial property proposed to the west with interconnected access was one of the arguments used by the applicant to support the zoning change. The street connection will reduce sole reliance on Eber Road. This will also reduce the number of trips using the intersection and result in fewer trips passing by the entrance to South Oaks Subdivision.

A sidewalk is required along the Eber Road frontage. Since it is planned that Eber Road will be widened to four lanes in the next few years the applicant shall make payment into the bikeways/sidewalk trust fund instead of constructing the sidewalk.

The Environmental Impact Assessment report indicates that there are five active gopher tortoise burrows on the property. However, the report also indicates that there are no gopher tortoise burrows located on the property. This conflicting information will require a permit from the Florida Fish and Wildlife Conservation Commission. The site is primarily covered with pine trees, most of which are less than 8-10" in diameter.

The applicant has requested a variance from the required street connection to the west, which is included in the Council package. The Planning and Zoning Board supported the applicant's request and did not include the stipulation proposed by staff. There is a memo included in the agenda package from the City Attorney that provides an analysis of the action by the Planning and Zoning Board. If a variance is granted, eliminating the requirement for the street connection, the entrance street will have to be constructed to be 32 feet wide at least to the intersection of Pine Meadow Lane. The applicant has indicated there is no objection to that requirement.

The proposed preliminary plat is consistent with the Zoning Code, Land Development Regulations, and Subdivision regulations, with the exception of the lack of a street connection to the property to the west.

The Planning and Zoning Board recommended approval of SD-1999-04, Preliminary Plat for Pine Creek Subdivision, consisting of a one-sheet plan prepared by BSE Consultants, Inc. of Melbourne, Florida, dated November 5, 1999, with the findings as outlined in the agenda package and the following conditions:

- a. The applicant shall make payment into the city bikeways/sidewalk trust fund for the length of the subdivision boundary abutting Eber Road. Said trust fund payment shall be used to offset the construction costs of a sidewalk on the north side of Eber Road when Eber Road is widened.
- b. Any change to the preliminary plat will require its reevaluation by the city's Planning and Zoning Department and Engineering Department. Any substantial change to the preliminary plat will require review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change in the preliminary plat includes, but is not limited to: a) any decrease in the number of access points including public or private streets to or from the subdivision, and b) an increase of more than 10 lots.

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- c. The owner/developer shall provide a permit from the Florida Fish and Wildlife Conservation Commission to mitigate or relocate gopher tortoises found on the property. Should other threatened or endangered species be found on the site prior to or after commencement of construction all construction shall be suspended until adequate permits are acquired or appropriate jurisdictional agencies provide approval to proceed with development.

Additionally, staff recommended the following stipulation:

- d. The applicant shall amend the preliminary plat to provide a street connection to the property to the west to comply with Section 29-6 (b)(1) b. and c. of the city's Subdivision Regulations.

Mr. Beltz said it looks as if the surrounding neighborhoods are single entrance. He asked the reason. Mrs. Braz said the requirement in the Code to require a connection changed 3 –5 years ago. She noted that the connection would split the trips thereby reducing the number of trips on Eber Road. Additionally, in response to Mr. Beltz, she stated that she believes the streets are intended to be public, rather than a gated community.

Mrs. Palmer asked if there is a specific location where the connection will be made. Mrs. Braz said it would depend on the best place to cross the canal. It would require the use of a lot, but they could probably add a lot somewhere else.

Mr. Beltz asked if the applicant would have to return with a revised plan if the stipulation requiring the connection is approved. Mrs. Braz replied no and noted that it would simply be a stipulation. She added that the applicant would have to return for final plat approval.

Mrs. Braz clarified for Mrs. Walker that the connection would not be made immediately. A stub out would be provided and when the adjacent property developed, then the connection would be made.

Mrs. Braz confirmed for Mr. Palmer that the adjacent property, where the connection would be made, is zoned R-2.

Hassan Kamal, BSE Consultants, representing the Courtelis Company, agreed with stipulations "a – c". Regarding the street connection, they are asking for a variance. He noted that in 1993 they had preliminary plat approval; however, in 1994 the requirement for connections was implemented.

Mr. Kamal addressed the reasons they believe the variance should be granted. There are major canals on the west and north sides of the property with 100' rights-of-way. They estimate a minimum 6' x 10' box culvert would be required to cross the canal. The cost of that would be fairly significant - \$50,000 - \$70,000. Additionally, depending upon the right-of-way and the easements, the connection could affect two lots. They do not believe they would be able to make up the two lots elsewhere in the development. This

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would result in his clients bearing the cost of the roadway, canal crossing, and one – two lots. Also, the requirement would involve the connection of a single-family community to a multi-family parcel. He noted that his research revealed that has not been required on any other plats since the rules changed in 1994. He explained that it has been their experience that when a multi-family project is permitted to connect to a single-family project, there are a lot of unhappy residents.

Continuing, Mr. Kamal reviewed the documents submitted, displayed a site plan showing the two properties, and discussed the surrounding uses.

Mayor Buckley read the following excerpt from Attorney Gougelman's December 17 memorandum: *"From a legal standpoint, given the fact that the land use for both parcels is low density residential and that the zoning for the Pine Creek Subdivision parcel is R-1B and the zoning for the western vacant portion is R-2 with a density cap of six units per acre, it would appear to me that the land use and zoning of both parcels are legally compatible, if not virtually identical as to what can be built on the parcel."*

In response to Mr. Beltz, Mr. Kamal said they have no objections, if the stub out is not required, to constructing the entrance road to a greater width.

Mrs. Palmer asked if there would be a connection between the multi-family parcel and the commercial parcel and Mr. Kamal replied yes. He added that a staff recommendation was to provide pedestrian access to the canal right-of-way for a future greenway. They have modified their plans to accommodate that. Therefore, there will be pedestrian or bicycle access from this parcel to the multi-family and commercial parcels.

Mrs. Palmer asked if the concern was that traffic from the multi-family parcel would cross over and exit onto Eber Road. Mr. Kamal replied yes and added they are also concerned about the cost of construction and the loss of one – two residential lots.

Mrs. Poole asked about the conflicting environmental assessment reports. Mr. Kamal responded that they have secured a permit from Florida Fish and Wildlife. That agency is satisfied with the study. He confirmed for Mrs. Poole that his studies indicate that there are probably gopher tortoises on the property.

Mrs. Poole stated that in her opinion there appears to be no hardship with the variance request. She cited James Landing as being a successful multi-family project being connected to a single-family development. Additionally, she stated that she is opposed to approving a variance because people feel the requirement will cost too much money. Mrs. Poole concluded by citing the City Attorney's opinion and pointing out that when the R-1B zoning was granted, the applicant indicated that the connection would be made.

Mrs. Palmer asked if we have granted similar variances since the rule change was implemented in 1994. Mrs. Braz replied several times and Mr. Hill added that approval of variances has been the rule rather than the exception. Mrs. Braz said that typically staff recommends denial; however, Council approves the variance.

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Mr. Beltz asked about the wider entrance. Mrs. Braz stated that when the city lowered the street width from 28' to 24', it was based on the number of trips. However, with only one access, there would be enough trips to require a wider right-of-way. The wider right-of-way would possibly make the entrance safer if there was an accident at the entrance. Mr. Kamal confirmed that the right-of-way at the entrance is wide enough to accommodate a wider road.

Mr. Kamal listed the subdivisions that have been recorded since 1994 that have only one entrance. Mrs. Poole noted that many of those listed are gated communities. Further, she stressed that if this variance were granted we would be doing a disservice to the future growth of the area.

Mr. Gougelman informed Council of a recent appellate court case regarding variances. The court noted that while precedence may seem pertinent, each variance must stand on its own and be evaluated against the standards.

Mr. Beltz's motion for approval of the preliminary plat with stipulations "a – c" did not receive a second.

Moved by Hand/C. Palmer for approval of Preliminary Plat SD-1999-04 for Pine Creek Subdivision subject to stipulations "a – d".

Mrs. Palmer said in her opinion, although there is a cost involved, having another entrance/exit would enhance the safety of the residents. She added that she believes it is hypocritical for an owner to have a problem connecting to his own multi-family project.

Mr. Beltz stated that since it appears to be the will of Council, he would vote for this item. However, he pointed out that staff has stated that this is a flow/connectivity issue as opposed to an emergency access issue. He does not believe moving people over a canal is a great idea.

Mayor Buckley referenced the letter from Ed Bollinger, Bayberry Estates, dated January 11. Mr. Bollinger expressed concern about the amount of traffic, the need for a signal, and the need for a second connector road. Based on this, the Mayor said he would go along with the motion.

The question was called. Motion carried unanimously.

17. ORDINANCE NO. 2000-02 (CU-1999-11/SUNNYSIDE ASSISTED LIVING HOMES): (Public Hearing/First Reading) A request for a conditional use to develop a congregate living facility in an R-2 (One-, Two-, and Multiple-Family Residential) zoning district located on the south side of Parkway Drive approximately ¼ mile west of Wickham Road. (Owner/Applicant – Tung Yao Hung/Sunnyside Assisted Living Homes, Inc.) (P&Z 12/30/99)

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Attorney Gougelman read Ordinance No. 2000-02 by title.

Ms. Braz briefed Council. The 6.0-acre vacant property is located on the south side of Parkway Drive approximately ¼ mile west of Wickham Road. The property was annexed in 1988 (Ordinance No. 88-56) and R-2 zoning was established (Ordinance No. 90-05). The Future Land Use is Medium Density Residential.

The property consists of the west six acres of the original 10 acres annexed in 1988. The property is covered with long leaf pines, palmetto scrub, a few oaks, and wax myrtle. The property to the south is the site of the Lake Washington Downs apartment complex zoned PUD (Planned Unit Development), to the east is the remainder of the parent property zoned R-2, which is also vacant. Farther east is a county enclave with Commercial (BU-1) zoning. To the west is unincorporated property zoned EU-2 (Estate Use) which contains a single-family home on a 5.0-acre parcel. To the north across Parkway Drive is the Parkway Meadows Subdivision, zoned R-1A (Single-Family Residential). The Zoning Code requires a conditional use for a congregate living facility in an R-2 zoning district.

The proposed plan consists of a 120-unit assisted living facility with 10 buildings, 12 units per building. Each building is 5,487 square feet. A total of 59 parking spaces will be provided for the 120 assisted living units. This development is considered an intermediate care assisted living facility where the required parking is 47 spaces. The buildings will be single-story structures with a maximum height of 21'-10". Two retention basins will provide stormwater treatment with discharge into the large ditch along Parkway Drive. A single access driveway will be provided to Parkway Drive.

The Environmental Impact Assessment report indicates that the site does not contain any endangered or threatened species. (Note: see later discussion for correction of this.) The tree survey indicates the site is mostly covered with pines with a few oaks. Only three oaks will require removal.

The site will be developed with a less intensive use than what could be constructed on the site under the existing Code. The site could be developed as a 15-unit per acre apartment complex. This use would generate significantly fewer trips per acre as an apartment complex or a single-family subdivision.

The Planning and Zoning Board and staff recommended approval subject to the findings in the agenda package and the following conditions:

- a. The conditional use and the proposed plan of development shall be consistent with the two-page site plan for Sunnyside Living of Melbourne, prepared by Ron Howse, P.A., of St. Cloud, Florida, with project No. CUSDP 3 dated November 11, 1999.
- b. Any change to the site plan will require reevaluation of the site plan by the City Engineering Department and Planning and Zoning Department.

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Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes, but is not limited to: a decrease of 5% of the open space or vegetative areas on site; any increase in the number of access points shown on the site plan; and a 10% or more increase in building size or number of units.

- c. All trees shall be preserved unless located in a driveway, paved parking lot, building pad, or retention area. All structures, driveways, parking spaces and aisles, and retention areas shall be shifted whenever possible to preserve trees.

Initially, trees shall only be removed for driveways, drainage facilities, and paved parking spaces and aisles. Trees in the footprint of the structure shall be removed only in conjunction with a building permit. All trees to be removed shall be identified by Code Enforcement personnel and an evaluation shall be made to determine the possibility of saving trees. Trees to be preserved must be protected by barricades to the drip line during construction.

(Note: See later discussion for additional stipulation imposed to address the gopher tortoises.)

Mrs. Poole expressed concern about this development. She added that she couldn't believe the environmental impact assessment indicates that the site does not contain any endangered or threatened species; the vegetation on site is typical for gopher tortoises. Additionally, once all of the units are built, she does not believe there will be many trees remaining. Regarding the retention basins discharging to the ditch along Parkway Drive, Mrs. Poole said this is the area that experienced so much flooding after the hurricanes. The county had to bring in pumps because it was so bad.

Mrs. Braz explained that this is a site plan, not an engineered drawing. It is a policy decision of Council to decide whether to allow an assisted living facility on the site, not how the drainage flows.

Mr. Palmer pointed out that the density on this property (15 upa) would result in 90 units; however, the request is for 120 units. Mrs. Braz replied that the development is not considered in "units."

Continuing, Mr. Palmer reported that the parking has been based on that required for a convalescent nursing home rather than a congregate living facility. This, coupled with the density, leaves a lot of unanswered questions. He added that the density allowed by the Comprehensive Plan could not be exceeded.

Mrs. Braz responded that there are 2.2 people per unit in an apartment. However, this development will have one person per unit. The density is half. Because of the Code, we do not consider density with a congregate living facility. If Council wants a policy where density is considered with a CLF, then that is a policy staff will implement.

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Regarding the intensity and number of trips and services, Mrs. Braz recommended the applicant explain further.

Brian Cale, representing Ron Howse, PA, and Mike Noonan, Director of Development, Sunnyside Homes, addressed Council.

In response to Council, Mr. Noonan explained that they have one community under development in St. Cloud and another is planned for Rockledge. The facility is a small home, 5,000 s.f., with 12 bedrooms that surround a living/kitchen/dining area. Ten of the bedrooms are for one person and two are considered semi-private. The facilities stand by themselves; staff does not interact between the homes. Three meals are provided to the residents each day and the residents rarely leave the home. All of the medical needs are taken care of off-site. He noted that this facility would be considered a level four. The state assigns levels based on the type of care. Mr. Noonan distributed a floor plan and answered questions about the layout and staffing level. He stressed that they do exceed the state standards with regard to the size of each room.

Continuing, Mr. Noonan stated that approximately six to eight trips would be generated each day per home; the trips are generated mainly by staff and visitors.

Mrs. Poole asked who performed the environmental impact assessment. Mr. Noonan replied Morgan Environmentalists from Winter Park. Mrs. Poole asked about the firm's credentials.

A brief discussion followed regarding the size of the homes and the typical resident. The majority of residents are single, 80-85 years of age. Mr. Noonan stressed that this would not be considered a convalescent home or a nursing home. It is a home that would take care of individuals who need assistance with the daily activities of living but do not need a nursing home.

Mr. Palmer asked why the parking requirements for a convalescent home were used. Mrs. Braz said the majority of residents would not be driving. The parking is more in line with that of a convalescent home. She added that with this project, staff discovered that definitions need to be revised to coincide with the different types of facilities.

Following a brief discussion, Mrs. Braz corrected the record and stated that the environmental impact report indicates that there are gopher tortoises; therefore, a permit will be required. An additional stipulation will be added to the ordinance (as follows):

*The owner/developer shall provide a permit from the Florida Fish and Wildlife Conservation Commission to mitigate or relocate gopher tortoises found on the property. Should other threatened or endangered species be found on the site prior to or after commencement of construction all construction shall be suspended until adequate permits are acquired or appropriate jurisdictional agencies provide approval to proceed with development.*

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Mr. Cale agreed with the stipulations.

Moved by Hand/C. Palmer for approval of Ordinance No. 2000-02.

Mr. Palmer stated that he would vote for this; however, we need to set the record straight with congregate living facilities. He noted that he asked months ago for Planning and Zoning to develop guidelines.

Mrs. Poole asked about the drainage on the property. Mayor Buckley asked Mr. Cale to be prepared to discuss the drainage at the next meeting.

Mrs. Palmer asked that drainage information be included in the write-up on all new development.

The question was called. Motion carried. (Mrs. Poole voted nay.)

Mrs. Poole stated that if the report on drainage is good at the next meeting, then she would vote for this item.

Recessed: 9:12 p.m.

Reconvened: 9:23 p.m.

18. ORDINANCE NOS. 2000-03, 2000-04, AND 2000-05 (AR-1999-126/CPA-1999-16/Z-1999-889/FORTIER RESIDENCE): (Public Hearing/First Reading) A request to annex, establish low density residential land use and establish R-1A (Single-Family Residential) zoning on approximately .22 acres located west of Croton Road and north of Aurora Road. (Owner/Applicant – Joane Fortier) (P&Z 12/30/99)
- a. Ordinance No. 2000-03: An ordinance to implement AR-1999-126.
  - b. Ordinance No. 2000-04: An ordinance to implement CPA-1999-16.
  - c. Ordinance No. 2000-05: An ordinance to implement Z-1999-889.

Attorney Gougelman read each ordinance by title.

Ms. Braz briefed Council. The property, which contains a single-family residence, is located within an unincorporated enclave of the unplatted Pritchard's Subdivision. The Brevard County Land Use on the property is residential, which permits up to 30 units per acre. The current county zoning is RU-1-11 (Single-Family Residential). The property is bounded on the south by residential property recently annexed into the city, on the west by the existing Aurora Heights Subdivision, zoned R-1A (Single-Family Residential), and on the north by RU-1-11 (county) zoning. This property is located within the Aurora Road enclave, an area of unincorporated Brevard County completely surrounded by Melbourne.

Annexing this parcel will ensure that the property will receive more efficient service from the municipal service provider. Once annexed, the owner's water and sewer billing rates

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will decrease to the inside city rate. Although the property is now outside the city, it is served by city sewer and water.

The Planning and Zoning Board and staff recommended approval with the findings listed in the agenda package.

There were no comments from the public.

Moved by Poole/C. Palmer for approval of Ordinance No. 2000-03. Motion carried unanimously.

Moved by E. Palmer/Poole for approval of Ordinance No. 2000-04. Motion carried unanimously.

Moved by E. Palmer/Walker for approval of Ordinance No. 2000-05. Motion carried unanimously.

19. ORDINANCE NOS. 2000-06, 2000-07 AND 2000-08 (AR-1999-127/CPA-1999-17/Z-1999-891/HORNSBY RESIDENCE): (Public Hearing/First Reading) A request for annexation, low density residential land use and R-1A (Single-Family Residential) zoning on a .20-acre lot located north of Pine Hill Drive and east of Wickham Road. (Owner/Applicant - Roger and Lynn Hornsby) (P&Z 12/30/99)
- a. Ordinance No. 2000-06: An ordinance to implement AR-1999-127.
  - b. Ordinance No. 2000-07: An ordinance to implement CPA-1999-17.
  - c. Ordinance No. 2000-08: An ordinance to implement Z-1999-891.

Attorney Gougelman read Ordinance Nos. 2000-06, 2000-07, and 2000-08 by title.

Ms. Braz briefed Council. The property, located within an unincorporated enclave, is part of the Pine Hill Subdivision and is occupied by a single-family residence. The Brevard County Land Use on the property is residential and permits up to 30 units per acre. The current county zoning is RU-1-7 (Single-Family Residential). The property is bounded on the north by property zoned R-1A used as a parking lot for a commercial establishment (restaurant), on the west by property zoned C-2, which consists of a business, and to the east by a single-family home also located in the city and zoned R-1A. The property to the south, across Pine Hill Drive is located within the enclave and is zoned RU-1-7 (Single-Family Residential) by Brevard County.

Annexing this parcel will ensure that the property will receive more efficient service from the municipal service provider and lessen the size of the often difficult to service area of the county. Once annexed, the owner's water and sewer billing rates will decrease to the inside city rate. Although the property is now outside the city, city sewer and water serve it. The property will be eligible for transition zoning upon adoption of the zoning ordinance.

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The Planning and Zoning Board and staff recommended approval with the findings as noted in the agenda package.

There were no comments from the public.

Moved by Poole/E. Palmer for approval of Ordinance No. 2000-06. Motion carried unanimously.

Moved by Walker/Hand for approval of Ordinance No. 2000-07. Motion carried unanimously.

Moved by Poole/Walker for approval of Ordinance No. 2000-08. Motion carried unanimously.

20. ORDINANCE NO. 2000-09 (CU-1999-19/KOL MASHIACH SYNAGOGUE): (Public Hearing/First Reading) A request for a conditional use for a house of worship on a 2.0-acre parcel located on the southeast corner of Lake Washington Road and Stewart Road. (Owner/Applicant – William Ferrell/Kol Mashiach, A Messianic Synagogue.) (P&Z 12/30/99)

Attorney Gougelman read Ordinance No. 2000-09 by title.

Ms. Braz briefed Council. The property is undeveloped and was not included with the platting of the adjacent Meadow Cove Subdivision in the late 1980's. The proposed project involves the development of a synagogue on the 2.0-acre parcel zoned R-2. The Zoning Code requires a conditional use for a house of worship in the R-2 zoning district.

The property to the east and south is zoned R-2 (Cap 6) and consists of the Meadow Cove Subdivision. The property across Stewart Road to the west is zoned R-4 (Two-Family Dwelling) and consists of duplexes, and the property to the north across Lake Washington Road is vacant and zoned R-2.

The proposed site plan provides for a 7,500 square foot building with a total of 160 seats. Fifty-nine parking spaces are proposed with the structure. Twenty-six of the parking spaces will be unpaved and stabilized, which is permitted by Code. Retention will be provided along the south and east sides of the property. The parking, building and retention will be located on the property to save most of the trees. Approximately six of the 41 oaks will be removed. The improvements will be located as far as reasonably possible away from existing residences. Supplemental landscaping will be provided in areas where the site will be disturbed. The use will not generate a significant volume of traffic to/from this site. A total of 12 multi-family units could be constructed on the site under the existing land use and zoning.

The Environmental Impact Assessment report did not indicate endangered or threatened species inhabit the site.

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The proposed plan complies with all Code required setbacks, building height, parking and landscaping requirements. A portion of the adjacent Stewart Road pavement and the sidewalk encroach onto the property and are located within a drainage easement. This drainage easement is used for other area properties and will be used by this site. The west 20 feet of the easement shall be dedicated as public right-of-way as a condition of approval of the conditional use. After such dedication the Code required landscape buffer would still be provided.

The Planning and Zoning Board and staff recommended approval with the findings as listed in the agenda package and the following conditions.

- a. The development shall substantially comply with the one-page site plan submitted by Mosby and Associates date-stamped December 8, 1999.
- b. Any change to the site plan shall be reviewed and approved by the city Planning and Zoning Department and the Engineering Department. Any substantial change to the plan shall be reviewed by the Planning and Zoning Board and City Council. A substantial change consists of (1) an increase of 10 percent or more in the size of the building, (2) an increase of more than 10 percent of the amount of impervious coverage on the property, and (3) an addition of a driveway to/from the property.
- c. The owner/applicant shall dedicate to the public the west 20 feet of the property for right-of-way for Stewart Road.

Mrs. Poole asked about the stabilized parking. Mrs. Braz said it has to have a base. Although there are various types, it cannot be gravel and it has to be something that doesn't get too muddy.

Jacie Stivers, representing the synagogue, stated that this property is not conducive to a residence; the corner has become too busy. She stated that a house of worship is the highest and best use of the site and she agreed with the stipulations.

There were no additional comments from the public.

Moved by C. Palmer/Walker for approval of Ordinance No. 2000-09. Motion carried unanimously.

21. ORDINANCE NO. 2000-10 (Z-1999-890/McWilliams Property): (Public Hearing/First Reading) A request to change the zoning on an approximate .589-acre portion of a 60' wide section of a parcel from R-2 (Cap 10) (One- Two- and Multiple-Family Residential with a cap of 10 units per acre) to C-1 (Neighborhood Commercial) located west of U.S. 1 south of Post Road and north of Dixie Way. (Owner/Applicant – River Oaks Partnership) (P&Z 12/30/99)

Attorney Gougelman read Ordinance No. 2000-10 by title.

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Ms. Braz briefed Council. The property was most recently rezoned from R-A (Residential Holding) and C-P (Commercial Parkway) to the current zoning in 1984 (Ordinance No. 84-37). The applicant is requesting the change because the Florida Department of Transportation is acquiring the east 60 feet of the property for the widening of U. S. 1. The specific request is to rezone that portion of the property to create/maintain an approximate 300' deep portion of the property with C-1 zoning. This will move the existing west line of the C-1 zoned portion of the property to the west and thus decrease the portion of the property zoned R-2 by 60± linear feet or .589 acres. The adopted future land use is mixed use Commercial/Medium Density Residential. The proposed zoning is consistent with the adopted land use.

Mrs. Braz referenced the petition of objection received, which indicates 7.9% in opposition. The petition does not reflect why the residents are opposed. However, the property abuts the north side of Grandview Shores and there is continued concern in that area about the impact of the former Aware Woman Clinic on the neighborhood. There also seems to be a hope that the property will not develop.

Currently the zoning would allow multi-family development on this property. The request is to allow neighborhood commercial uses (C-1) on the site to compensate for the loss of commercial zoning because of the taking as a result of the widening of U.S. 1. The strip of property to be added to the commercial area is a little less than 60 feet wide abutting Grandview Shores. The impact will not be significant. Any commercial development will be required to provide a significant buffer between any parking, loading or dumpster area and the single family residential neighborhood. There is no similar requirement for medium density residential development. Since the land use allows for the C-1 zoning, the city would need to demonstrate that granting the zoning would be detrimental to the area in order to deny it. No matter what develops on the property, we will do all that we can to preserve the trees on the site.

The Planning and Zoning Board and staff recommended approval with the findings as listed in the agenda package.

Mrs. Palmer asked how many residential parcels abut the property in question. Mrs. Braz said it looks as if two properties would be affected.

Mrs. Poole asked when this property was last rezoned. Mrs. Braz replied in 1984. Mrs. Poole said that is not the information she received today. Area residents told her that it had been rezoned in the past six months.

Mrs. Poole questioned if this change would encourage commercial to move throughout this area. She noted that the property owner was compensated by FDOT for the taking of his property. Mrs. Braz noted that staff is fully aware that property owners were compensated.

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Mr. Palmer said it appears to be common sense that the applicant is simply trying to get land to the west to make up for the loss of the 60'.

Mrs. Palmer said it sounds as if staff feels the property owner should be compensated for the loss of his property. She asked if the city is required to make this change. Mrs. Braz said compensate is not the right term. The applicant is asking for a rezoning so that he may have a parcel that is again 300' deep. He is not entitled to this by right, rather it is an issue for City Council to decide.

Mrs. Palmer asked if every property owner who lost a portion would call upon Council to make this same change. Mrs. Braz said each parcel would need to be looked at on an individual basis. She stressed that in this case, it is a totally undeveloped piece of property, which does make it different.

Mrs. Palmer stated that this change will back commercial up to residential property and would be intrusive.

Mike McWilliams, applicant, explained that the 250' frontage will provide them the optimum opportunity to take advantage of trees, drainage, and parking. It provides the best layout for a commercial development when you have that kind of depth. They could develop with less, but it would not be in the best interest of the city as far as having a good layout for the property. He noted that retention would be along the area where they would abut residential and he believes that would provide a good buffer.

In response to Mr. Beltz, Mr. McWilliams stated that he would accept a stipulation that the retention area would be located at the southern end of the property.

Mrs. Poole asked the applicant if there were specific plans for the property. Mr. McWilliams replied that they plan to have a center core boulevard that will split the property. A person is interested in building a bearing distribution center on the north parcel and he expects a similar use on the other parcel. He confirmed for Mrs. Poole that a clinic is not planned for the site. He added that they bought the property in 1984; however, they have not been able to develop because of the location of the former clinic.

Mrs. Palmer stated that if this were approved, they would be allowed to put anything on the property that is allowed in a C-1 zone.

Dorothea Breon, 1624 Dixie Way, referenced the petition of opposition from the residents of Grandview Shores. They believe the property owner was well compensated for the property that was taken for the widening of U. S. 1. She reported that the abortion clinic is gone and they would like to preserve their neighborhood. The pregnancy outreach facility, located across from the former clinic, said they would move after the clinic was gone; however, they have not left and they have no intentions of leaving. If the applicant's rezoning is approved, the residents feel the pregnancy outreach clinic will fight for the same right. She referenced a recent rezoning in the area and said the residents thought the property behind their homes would be rezoned I-1. The information on this

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was not clear. She concluded by stating the residents are concerned and would like for their area to be preserved.

Mr. Beltz asked about proposed wording of a stipulation requiring retention to be on the south side. Mrs. Braz said Council could require a 50' buffer where the property abuts any residential property.

Moved by Beltz/Walker for approval of Ordinance No. 2000-10 with the stipulation that a 50' buffer be provided between the property and any single-family residences.

A brief discussion followed regarding what could be placed in the buffer. Mr. Beltz said it was his intent to allow retention or vegetation in the buffer.

Mrs. Palmer stated that the people of Grandview Shores have had their lives interrupted for quite some time. She understands their fears about commercial development at their backdoor. She added that it would establish a bad precedent to replace commercial zoning that was taken by a state road widening project. Therefore, she will not support the motion even with the 50' buffer. Mrs. Hand stated that she has the same concerns.

Mayor Buckley said the 50' buffer would give quite a bit of protection. Additionally, the property owner had a commercial parcel. DOT took just enough so that they could not develop properly without rezoning this parcel.

The question was called. The roll call vote was:

Aye: Beltz, Walker, E. Palmer, and Buckley

Nay: Poole, C. Palmer, and Hand

Motion carried.

22. SITE PLAN APPROVAL (SP-1999-06/Florida Tech gymnasium and pool): (Public Hearing) A request for site plan approval on a .73-acre portion of the Florida Tech campus located west of Babcock Street and south of University Boulevard. (Owner/Applicant – Florida Institute of Technology/John Milbourne) (P&Z 12/30/99)

Ms. Braz briefed Council. The property has been developed for many years. The classroom buildings to the west of the site were recently completed. The master site plan for redevelopment and expansion of the campus was approved in 1994. The property is zoned I-1 (Institutional) with an adopted Future Land Use of Public Lands and Institutions. The site of the proposed gymnasium is now the site of the physical plant office, the existing gym and a row of six portable classrooms. The property to the east is zoned C-C-1 and is the site of a service station, a convenience store and a retail/office building. The property to the north, west and south is part of the Florida Tech campus.

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The applicant now proposes to demolish the existing structures and reconstruct a new state-of-the-art gymnasium/athletic center. A swimming pool will be located to the south of the gym. The new gym will slightly exceed the size of the existing gym, maintenance building and portables. The physical plant maintenance building is being relocated to the southwest portion of the campus. The area of redevelopment now contains 119 parking spaces and will contain 160 spaces after redevelopment. Access will be provided from University Boulevard and through existing connections to the interior surrounding parking lots and driveways that also connect to Babcock Street. This will substantially preserve the traffic circulation patterns on the present site. There are five hardwood trees on the site. Two of these trees will be removed as a result of the redevelopment and should be relocated on the site.

The proposed retention pond serving this redevelopment will be located in front of the gym between the front entrance of the gym and University Boulevard. The proposed site plan is consistent with the Land Development Code, Land Development Regulations, Zoning Code, and Chapter 33 – Vegetation.

The Planning and Zoning Board and staff recommended approval of SP-1999-06 consisting of a two-sheet plan prepared by Frazier Engineering, Inc., of Melbourne, Florida, with File No. 9951SP, dated December 8, 1999 with the following conditions:

- a. Any change to the plan will require its reevaluation by the city's Planning and Zoning Department and Engineering Department. Any substantial change to the plan will require its review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change to the plan includes, but is not limited to: an increase in the total square footage of the building by more than 10% as shown on the site plan and a decrease of more than 10 parking spaces than shown on the site plan.
- b. Relocate all oaks impacted by the proposed redevelopment on this site or elsewhere on the campus.

Mr. Palmer disclosed that he spoke with Mr. Wilt, who did not have an opinion either way; however, Mr. Wilt hopes that Florida Tech does not continue to harass the neighborhood with noise from the air conditioning system. Mayor Buckley said he spoke with Mr. Wilt, who hopes the gym does not have a noisy air conditioner. Mrs. Braz reported that the air conditioner for this facility would be at ground level.

John Milbourne, Director of Facilities Management, Florida Tech, displayed a site plan and rendering of the project. He agreed with the stipulations.

Mrs. Walker asked if there would be access to Country Club Road and Mr. Milbourne replied no. He added that the hours of the facility would vary; there will be daytime and evening activities.

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Moved by C. Palmer/Hand for approval of Site Plan SP-1999-06 with the stipulations.  
Motion carried unanimously.

23. ORDINANCE NO. 2000-11 (CU-1999-13/SPEEDWAY): (Public Hearing/First Reading)  
A request for a conditional use for an automotive service station on property zoned C-2 (General Commercial) located on the northeast corner of the intersection of U.S. 1 and Aurora Road west of Avocado Avenue. (Owner/Applicant – John W. Holloway/Marathon Ashland Petroleum L.L.C./Leonard Spielvogel) (P&Z 12/3099)

Mr. Gougelman read the ordinance by title. Mrs. Poole disclosed that she spoke with Gary Nelson, Nelson's Nursery, about the tree on the site.

Ms. Braz briefed Council. The land use was changed on the easterly one-half of the property in 1998 when the Comprehensive Plan was amended. The property was then administratively rezoned from R-2 (cap 6) to C-2 as a result of this land use change. The U. S. 1 fronting lots have been zoned C-2 since at least 1972.

This project is proposed on the site of the former ABC Liquor Store. The developed site is largely covered with asphalt and the existing 9,120 square foot building. The Zoning Code requires a conditional use for an automotive service station in the C-2 zoning district. The proposed service station and convenience store will consist of a 3,362-square foot store with six pump islands. Specialty racing fuel (high octane) will also be available. Driveways will be provided from U. S. 1, Aurora Road and Avocado Avenue. Since the site is largely impervious now, the site will not have to provide a retention basin because the total amount of impervious area will be reduced. However, a remedial retention basin will be provided that will improve drainage and water quality in the area. The site does not overlay an aquifer recharge area. An exemption from providing an Environmental Impact Assessment report has been granted because the site is now developed and a tree survey was provided.

A large oak tree is within the parking lot at the rear of the existing building. Three professional arborists, our staff and two county staff experts have evaluated the tree. Although the tree is beautiful, it is not structurally sound and cannot be saved, although it may last for several years. The experts agree that much of the damage to the tree is below the ground and that the root system is not able to sustain the tree. As a mitigation measure, the Code required seven 65-gallon hardwood trees should be replaced by seven 6" – 8" caliper live oak trees and the other 19 hardwood trees should be a variety of species with containerized minimum of 65 gallon trees. Additionally, the landscaped area along U. S. 1 should be increased from 10 to 15 feet to provide adequate growing room for the number of required trees on site.

The proposed development will generate an average of 1,953 trips per day. Most of these will be pass-by trips to/from U. S. 1, however, a significant number of trips will be from the side streets and from pedestrians in the neighborhood. Based on this volume, Aurora Road will need to be improved between U. S. 1 and Avocado Avenue. This will primarily involve providing an extended westbound left turn lane approaching U. S. 1.

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This will create a three-lane section of Aurora Road between U. S. 1 and Avocado Avenue. U. S. 1 will be six-laned in front of this site beginning next year. Two other conditional uses for the same type of use on two of the other street intersection corners were granted by the City Council in 1982 and 1986.

The site plan complies with the city's land development regulations and is consistent with the City Code.

The Planning and Zoning Board and staff recommended approval with the findings as listed in the agenda package and the following conditions:

- a. The conditional use and the proposed plan of development shall be consistent with the one-page site plan for Speedway Station, prepared by Avid Engineering, Inc., of Palm Harbor, Florida, with drawing No. 8879-2, dated November 18, 1999.
- b. Any change to the site plan will require reevaluation of the site plan by the city Engineering Department and Planning and Zoning Department.

Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes, but is not limited to: a decrease of 5% of the open space or vegetative areas on site; any increase in the number of access points shown on the site plan; and a 10% or more increase in building size or increase in the number of pump islands.

- c. The owner/developer shall improve Aurora Road by providing a three-lane section between Avocado Avenue and Harbor City Boulevard (U.S. 1) as generally depicted on the plans and locate the U.S. 1 driveway to comply with access regulations per F.A.C. Rule Chapter 14-97, \*subject to FDOT approval. (This requires the driveway to be located at least 230' north of the Aurora Road intersection or at the location of the existing driveway.)

\*Note: During her presentation, Mrs. Braz revised this stipulation.

- d. The owner/developer shall mitigate for the loss of the historic live oak on site by increasing the size of the 26 required hardwood trees. This shall require seven live oaks with a six – eight inch caliper and 19 trees, being a variety of hardwoods to be approved by the city, and a minimum of 65 gallon containerized trees.
- e. Increase the landscaped area along the U. S. 1 frontage from 10 to 15 feet.

Mrs. Braz reported on her efforts to save the tree. After the site plan came in with the building located in such a way that the tree would have to be removed, she required a new plan, which would save the tree. Sally Scalera, a Horticultural Agent with Brevard County, evaluated the tree and found that it was infested with fungus and not expected to live more than five years. Mrs. Braz stated that she was not happy with that answer;

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therefore, she hired a certified arborist to examine the tree. He also found that the tree had fungus and the life expectancy was only several years. He did indicate that if the tree were trimmed and pavement removed, it might last 10 years. Based on that, Mrs. Braz told the applicant that the tree needed to be saved. The applicant then hired Karen Kraus, a certified arborist, who evaluated the tree and determined that the tree was not structurally sound and could fall over. Additionally, she stated that removal of the asphalt could adversely impact the tree and that the tree would not live more than five years. Mrs. Braz said she then contacted Reba Floyd who has been evaluating site development for the county for years. It was Ms. Floyd's opinion that it might be possible to stabilize the tree; however, no guarantee. Ms. Floyd's final opinion was that she would have the tree removed.

Mrs. Braz referenced the mitigation that would be required and noted that the applicant has agreed to the mitigation requirements.

Mrs. Poole expressed concern about the required trees being placed beneath power lines on the site. She noted the utility company would cut them back. Mrs. Braz stated that would make it a requirement that the trees not be placed beneath power lines.

Leonard Spielvogel, attorney representing the applicant, confirmed Mrs. Braz's presentation about attempts to save the tree. He noted that Mrs. Braz was adamant about saving the tree; that was the only issue. Mr. Spielvogel distributed pictures of the tree and noted they depict a canopy that lacks substance, the diseased trunk, and the electrical lines and light that were installed in the tree years ago. He added that the message he got from the review of the tree was that it is structurally unsound.

Mr. Spielvogel stressed that they were not cavalier about removing the tree; they did a site plan, which preserved the tree, and presented it at the Planning and Zoning Board meeting. However, they have been told by more than one expert that the tree is unsound. At best, it has a 10-year life expectancy. This is not a long period of time in the life of an oak tree. If someone is injured on the site because of a collapsed limb, his client will be looking at compensatory and punitive damages because they are on notice about the condition of the tree. He has no choice but to advise his client that they cannot locate the building on this property and maintain the tree. He concluded that they agree with the mitigation efforts and noted that the parcel will be heavily wooded as a result.

Mrs. Poole indicated that she did not believe Mr. Spielvogel was concerned about the tree; she believes he was more concerned about whether the city would get a second opinion. Referencing the report from Ms. Kraus, Mrs. Poole commented that she is bothered by the extent people will go to in order to get people to make statements.

Continuing, Mrs. Poole reported that she had someone look at the tree and she has a completely different report. She trusts the person who looked at the tree; he is honest and truthful. Mrs. Poole reported that the tree has had to struggle because of the asphalt. The asphalt needs to be removed and the base of the tree landscaped. She added that pictures (submitted by Mr. Spielvogel) could be made to look any way.

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Following a brief discussion, Mrs. Braz explained that 51 trees would be required. There can be 25 palms or other trees, plus the 26 trees required in stipulation “d”.

Mr. Spielvogel stated that he took exception to Mrs. Poole’s remarks. He added that he did not induce any of the experts to form the opinion that they did and it is improper for Mrs. Poole to make that suggestion. He repeated that safety is his concern. This plan will remove a diseased tree and replace it with a goodly number of well trees that will grow and prosper; it is an appropriate trade off. Credit should be given for the effort made to save the tree.

A brief discussion followed.

Moved by Walker/C. Palmer for approval of Ordinance No. 2000-11.

Mr. Beltz stated that he appreciates staff’s effort in analyzing and investigating the tree; a first class report was presented. Mrs. Walker agreed and thanked Mr. Spielvogel for his professionalism.

Mr. Palmer said he does not think anyone is pleased with the demise of the majestic old oak. But, if the tree has problems, then he understands that it has to be removed. He added that we have to accept that answer when it is necessary.

Mrs. Poole said it is sad; however, she believes the tree is being removed without any effort to save it. She also complained that Council did not get to see the plan that saved the tree.

The question was called. Motion carried. (Mrs. Poole voted nay.)

24. FINAL PLAT APPROVAL (SD-1997-07/North Drive Industrial Plaza): (Public Hearing) A request for final plat approval to re-plat a substantial portion (22.25 acres of the 25.77 acres) of the North Drive Industrial Plaza located west of North Drive, south of Sarno Road and north of Dow Road. (Owner/Applicant - CEI Realty, Inc., General Partner/North Drive Limited Partnership by ME Construction, Inc.) (P&Z 12/30/99)

Ms. Braz briefed Council. The property was originally platted as the Plaza North Subdivision in the mid-1980’s and replatted as North Drive Industrial Park on July 28, 1997. The property is zoned M-1 (Light Industrial) with an adopted Future Land Use of Industrial. The property is vacant and bordered on the north by vacant Tract “A”, to the west and south by vacant industrially zoned property, and to the east by developed industrial property and North Drive. The applicant now proposes to further subdivide the property by creating four additional lots and a street right-of-way. All proposed lots comply with the minimum lot size required in the M-1 zoning district. The applicant has constructed a single street (Digital Light Drive) extending west from North Drive to provide access to the new lots.

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The applicant has partially developed the street to collector street design standards and will dedicate the right-of-way in an effort to help create a continuous Code complying collector street extending from North Drive to John Rodes Boulevard. The westerly extension (1,190 feet) of the proposed collector roadway will not be included in the plat, but instead will be conveyed by deed prior to recording the plat.

As part of the efforts to secure the right-of-way and construct a portion of the road, the applicant or the applicant's successors may be requesting transportation impact fee credits at some future date. Prior to consideration of credits, the roadway must first be constructed as a collector roadway and all necessary right-of-way must be secured to ensure that the street will qualify for classification as a collector. The Comprehensive Plan established this corridor as a collector roadway. Access and road access easements and the proposed deeded right-of-way will provide for the continuous collector road right-of-way from John Rodes Boulevard east to the westerly line of Digital Light Drive. The existing easements will need to be formally dedicated as right-of-way and the street constructed within this right-of-way in order to enable persons who contributed to the development of the road to be eligible for impact fee credits. If this is accomplished, Council and the City Engineer should consider an impact fee credit. The first phase of the street consists of a 650-foot long temporary cul-de-sac with a temporary easement adjacent to Lots 31 and 32.

The applicant has constructed the single cul-de-sac extending 650 feet west from North Drive. The street right-of-way will be between 80 feet in width exceeding the minimum standard for a collector street. This street will become a collector street when the extension is made to connect with John Rodes Boulevard. However, the street will not be completed until the adjacent properties are built upon.

A proposed retention pond serving these properties will consist of a Tract "A" located on the south central portion of the re-plat and eventually by several retention easements. Each lot will be provided with shared retention basins as permitted by the latest stormwater agreement for the existing plat and as permitted by the St. Johns River Water Management District. Tract "A" will treat stormwater run-off from Digital Light Drive. Prior to final plat approval a stormwater maintenance agreement, title opinion and any property owner documents related to the subdivision will be required.

The proposed final plat is consistent with the Land Development Code, Zoning Code, Land Development Regulations, and the Subdivision Regulations.

The Planning and Zoning Board and staff recommended approval with the findings as listed in the agenda package and the following conditions:

- a. Any change to the plat will require its reevaluation by the city's Planning and Zoning Department and Engineering Department. Any substantial change to the plat will require its review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change in the final plat includes, but is not limited to: a) an increase in the number of lots which results in the

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creation of more than three lots as indicated on this plat; and b) a change in the status of dedicated rights-of-way.

- b. Convey by warranty deed the westerly strip of land (remainder of Tract B, Block B, North Drive Industrial Park) to the city for public right-of-way. Said deed shall be recorded in the public records prior to or simultaneously with the recording of the plat. The owner/applicant may qualify for transportation impact fee credits for deeding the roadway extension of Digital Light Drive west from North Drive to John Rodes Boulevard if constructed to collector streets standards as defined in the city's Subdivision regulations. Construction of the roadway or portions of the roadway by others shall entitle such developers to an impact fee credit. Impact fee credits shall only apply for the value of the property in proportion to the roadway right-of-way, design, permitting and construction costs.
- c. Prior to recording the Final Plat, the owner/developer shall execute a City of Melbourne Stormwater Maintenance Agreement in form and substance acceptable to the City Manager and City Attorney.
- d. The owner/developer shall convey, by warranty deed, water and sewer lines and other city maintained public utility lines within the street section of the plat to the City of Melbourne.
- e. Provide a title opinion prior to recording the plat. Any party having an interest in the plat properties shall be required join in and consent to the plat. Any joinder shall be identified on the plat and or included as a separate instrument to be recorded simultaneously with the plat.

John Wilt, 3108 Country Club Road, representing the applicant, agreed with the stipulations.

Moved by E. Palmer/Walker for approval of Final Plat SD-1997-07 subject to the stipulations. Motion carried unanimously.

At this point, Item 29 was heard. After Item 29, Council resumed with the order of the agenda.

25. ORDINANCE NO. 2000-12 (LDR 1999-09 AND FOC-1999-09/Non-conforming sign regulations): (Public Hearing/First Reading) A request to adopt changes to the Land Development Regulations that require the replacement of non-conforming signs over time within the scenic corridors of the city (Wickham Road, Eau Gallie Boulevard, U.S. 192 and U.S. 1, A1A, NASA Boulevard, Dairy Road and Airport Boulevard) (P&Z 12/30/99)

The attorney read Ordinance No. 2000-12 by title.

Ms. Braz briefed Council. There is a problem with the existing Code that allows not only the repair of non-conforming signs, but also replacement. It was never the intent to allow replacement of a non-conforming sign. This ordinance makes that correction and allows

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repairs for up to 50% of the replacement cost of the sign structure. The proposed changes are consistent with the Comprehensive Plan and all other Melbourne City Codes, including Appendices B and D. The adoption of the proposed changes will enable the Building Division to manage non-conforming signs more aggressively than what is now permitted. The results will become evident over a three to five year period.

There were no comments from the public.

Moved by Poole/E. Palmer for approval of Ordinance No. 2000-12.

Mrs. Palmer asked if this change means a person cannot rebuild their sign if it is 50% - 75% destroyed in a hurricane. Mrs. Braz said that is correct.

The question was called. Motion carried. (Mrs. Palmer voted nay.)

26. ORDINANCE NO. 2000-13 (LDR-99-08 AND FOC-99-08/Impact Fees Exemption for Building Expansion and Redevelopment): (Public Hearing/First Reading) A request to allow an impact fee exemption for building expansion or redevelopment up to 100% of the existing gross floor area which applies to all lands within the city. (P&Z 12/30/99)

Attorney Gougelman read the ordinance by title.

Mrs. Braz reviewed the agenda report. In March 1999, Council authorized a variety of changes to the impact fee laws, including this concept. The term used at the March 9, 1999 meeting was "reconstruction". The intent was to encourage redevelopment, which can be done by expansion as well as reconstruction. If it is Council's intent to permit the waiver only when a building is demolished, the words "or expansion" need to be removed from the ordinance.

The Planning and Zoning Board and staff recommended approval.

Moved by C. Palmer/Walker for approval of Ordinance No. 2000-13. Motion carried unanimously.

27. COUNCIL ACTION RE: Density values for Congregate Care Facilities. (Requested by Vice Mayor Ed Palmer)

From the agenda report: Mr. Palmer has requested that the City Council consider establishing a density for congregate living facilities. Congregate living facilities are permitted by conditional use in multi-family residential areas and are permitted uses in commercial areas. The city has never regulated density on congregate facilities. There are a number of different types of congregate facilities, some are considered independent living and some are assisted in varying degrees. They are licensed by the state but unlike a nursing home, no certificate of need is required.

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The density allocation in a residential area relates to the impact that the development will have. Although there are fewer trips per unit in multi-family than in single-family, multi-family has a greater impact because the number of units is usually greater. A congregate facility has little impact due to the trip generation and generally has little impact on community services. As a result it is handled without regard to density. Additionally, it is difficult to measure the “unit” in many cases. There may be two people per room or there may be a two-bedroom apartment. The units may have complete kitchens, mini-kitchens (just a microwave and a refrigerator) or no kitchen at all. There may be a combination of styles within any facility. The one key that hooks them all together is the common dining room. All congregate facilities must have a commercial kitchen and a dining room for the residents that offer at least one meal per day.

Because the impact on an area is much less from a congregate care facility than it is from a multi-family development and because it is very hard to adequately define, we recommend that density not be a direct consideration when evaluating the site of a congregate living facility. However, if Council believes density should be part of the consideration for a conditional use permit, the Code could be amended to add the following language under conditional uses:

*“...The Planning and Zoning Board and the City Council shall take into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity and how the density or the intensity of the proposed conditional use will impact the area, which will include a comparison of the impact of permitted uses on the site.”*

Mr. Palmer said Council needs guidelines in order to be consistent. The Comprehensive Plan and the density established by that plan need to be taken into consideration.

Mayor Buckley asked that staff and the Planning and Zoning Board develop categories for these facilities and include recommendations for density, parking, and other issues.

Following a brief discussion, Mrs. Braz said staff will have to do some research; the facilities are divided into categories by the state. She will start by obtaining information from the state; however, their regulations don't address parking or trips.

28. COUNCIL ACTION RE: A request for approval of a Disaster Relief Funding Agreement between the State of Florida and the city for expenses related to Hurricane Irene.

This is the Disaster Relief Funding Agreement between the State of Florida and the City of Melbourne to provide federal and state financial assistance to the city to reimburse some of the costs associated with Hurricane Irene. The federal share is 75% and the state share is 12½%, leaving the city to fund the remaining 12½%.

This document is identical to the agreement recently approved for damages resulting from Hurricane Floyd. It provides requirements for both the state and the city and again

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provides the caution that if the federal or state governments fail to appropriate sufficient funds, then no reimbursement will be made to the city.

The city has already submitted project worksheets documenting costs associated with Hurricane Irene for the following categories:

Debris removal	\$ 27,303
Emergency protective measures	70,865
Utilities	82,450
Recreation facilities	<u>245,265</u>
	\$425,883

The remaining project worksheets will be submitted next week.

The recommendation is for approval of the Disaster Relief Funding Agreement (00-RM-aa-06-15-02-011) and authorization for the City Manager to execute the agreement and any and all documents pertaining thereto.

Moved by Poole/Hand for approval of the recommendation. Motion carried unanimously.

29. ORDINANCE NO. 2000-15 (Strawbridge Avenue Street Name Change): (First Reading) A request for a street name change of West Strawbridge Avenue to Alex Boyer Lane. (Requested by Council Member E. Palmer) (Approved by Council 12/14/99)

Attorney Gougelman read Ordinance No. 2000-15 by title. Mayor Buckley opened the item for public comments.

Mayor Buckley read a written statement of support submitted by Suzan and Steven Kundrat, 108 Peekskill Place.

Constance Chiappetta, 101 W. Strawbridge Avenue, #B2, stated she is opposed to the change because of the confusion it will create and the time it will take to change all of her documents. She added that Social Security checks could possibly be delayed. Additionally, she listed all the contacts that would have to be made in order to change and noted that it will require much time and expense. She concluded by saying there should be a better way to honor Alex Boyer.

Michael Stringfellow, 29 W. Strawbridge Avenue, #F6, said he has not experienced any problems with police or fire not being able to locate this street. He explained the difficulty the older residents will experience in making all the necessary changes and recommended the church consider some other way to honor Reverend Alex Boyer.

Jack Ryals, 5365 Sand Lake Drive, representing Holy Trinity Church, explained how Strawbridge was selected as the street for the renaming and noted that Father Boyer is well known as a community leader as well as a pastor. His civic accomplishments have stood on their own beyond the accomplishments of the church. In checking with

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emergency management, it was noted that West Strawbridge was a problem for service personnel and a potential problem for emergency personnel. The change would also mean the church's address would change to Alex Boyer Lane.

Mr. Ryals confirmed for Mr. Beltz that the church has volunteers whom would be willing to help the area residents with the name change. Mr. Ryals noted that they sent out reply postcards to 96 Pentagon Apartments residents; they received 13 replies – eight negative and five positive. He felt the negative responses were due to the inconvenience of completing change of address cards.

John Chapman, attorney representing the Pentagon Apartments, stated they are opposed to renaming the street. He noted that Ms. Jordan does not have a problem with honoring Alex Boyer; however, she is opposed to the expense and inconvenience the 96 tenants of the apartments will experience. Many of their residents are elderly. Mr. Chapman distributed a letter from Alex Boyer indicating that he thought Peachtree was going to be changed because of the inconvenience this change would cause the residents of Strawbridge Avenue. Mr. Chapman asked Council to consider the viewpoint of Alex Boyer.

Tracy Shank, 25 W. Strawbridge Avenue, #G8, stated that it will cost money to get all the addresses changed. She added that the residents were never notified that the church members would help people with the change. She asked who would help pay for changing driver licenses, checks, etc.

Phillip Stonebrook, 105 W. Strawbridge Avenue, #A8, said he sent a card back to the church voicing his objection. He is opposed for the same reasons noted by everyone else – the cost and inconvenience involved in changing and notifying bank accounts, credit cards, insurance, utilities, friends, and family. He requested the street name remain West Strawbridge Avenue.

Robbie Dowell, 37 W. Strawbridge Avenue, #D8, stated that changing the name of Peachtree would affect a few homes versus changing Strawbridge, which would affect over 96 people.

Angela Smith, Manager, Pentagon Apartments, referenced the good working relationship the apartment complex has with the church. She noted they have always been great neighbors. However, on this issue, they cannot agree. She has 96 units that this name change would affect. A lot of work would be involved in changing the lease packets, etc. for all the units. It will be a burden on the residents. Ms. Smith submitted a petition containing 27 signatures from residents who could not attend the meeting, but who are opposed to the change. She also referenced the correspondence from Father Boyer previously submitted indicating that he does not agree with the name change of Strawbridge.

Ardith Muir, 25 W. Strawbridge Avenue, stated it would be a hardship for her to change all of her records. She noted that Strawbridge is well known and the residents don't have

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any problems getting packages delivered. She added that she believes after the name is changed, it will simply become a short street that can't be found on the map.

Mary Evans-Houghton, 3554 Egret Drive, said the name change is not only to honor Reverend Boyer, but also to more accurately provide an address. She said that she is sure the church would be willing to pay the residents' costs involved in changing documents; however, she noted that she is not authorized to make this offer.

Mr. Beltz referenced the letter from Reverend Boyer and said he is not sure about the proposed change. Ms. Evans-Houghton replied that if Father Boyer does not want the change, then it should not be made.

Mary Volberding, 308 W. Vesta Circle, reported that the post office would continue to deliver mail for 12 months after the name change. This would allow residents to use their supply of checks. She added that she believes in the normal course of events, this will not be a big hardship. Regarding Father Boyer's letter, she said he would never want to harm anyone and would side with whomever wrote the letter.

That concluded the comments from the public.

Moved by Hand/E. Palmer for approval of Ordinance No. 2000-15.

Mrs. Walker stated that as much as she respects Father Boyer, she has to think of the problems that this will cause the 96 residents at Pentagon Apartments. She added that we also have to consider the history of Melbourne and suggested that something else be done to honor Father Boyer.

Mr. Palmer said we are attempting to eliminate the confusion of having two Strawbridge Avenues with this change. Additionally the change will honor an individual who has made significant contributions to the betterment of our city.

Mr. Beltz agreed and said he is more concerned about rectifying a somewhat dangerous situation. Although there has been no information indicating problems with emergency response, Brevard County has stated that this is a dangerous situation. Based on that, he said he would support the motion.

Mrs. Hand pointed out that the church members have stated that they would help the residents make the change.

Mayor Buckley said that after listening to the residents, he is opposed to the ordinance. He has no problem with renaming Peachtree and stated that Alex Boyer should be honored. However, he objects to imposing all these problems on the residents who live on Strawbridge Avenue. He concluded by saying he believes our emergency personnel have had no difficulties locating West Strawbridge.

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Mrs. Palmer agreed and noted that this change will impact many residents. She does not believe it was the intent of Holy Trinity to cause problems for the residents of Pentagon Apartments and she would gladly support the renaming of Peachtree.

Mrs. Poole informed Council that this portion of Strawbridge Avenue was never contiguous with the portion located Downtown. She discussed the historical significance of the Strawbridge name and pointed out that our emergency services have not had any problems locating this street. She agreed that Alex Boyer should be honored and recommended the new high school or Peachtree Street be named in his honor. Additionally she questioned the way this item was handled by a Council Member placing it on the agenda rather than allowing the residents on the street to have a say. She believes the procedure in the Code was circumvented and does not believe Father Boyer would want this.

Mr. Palmer recommended this item be postponed to allow the members from the church to consider the comments made and return to Council with a recommendation.

Moved by E. Palmer/Buckley to postpone this item until the next meeting. The roll call vote was:

Aye: Beltz, Hand, E. Palmer, and Buckley

Nay: Poole, Walker, and C. Palmer

Motion carried.

Recessed: 11:32 p.m.

Reconvened: 11:39 p.m.

After the recess, Council continued with Item 25.

30. COUNCIL ACTION RE: A request for approval of contract with Blue Cross/Blue Shield of Florida, Florida Combined Life Insurance Company and Standard Insurance Company for the city's employee benefits program.

This is the city's annual renewal of health and life insurance coverage. The contracts with current providers expire April 1, 2000. Requests for proposals were sent to over 50 insurance companies and agents covering the benefits of medical insurance, life insurance, short term disability insurance, long term disability insurance and flexible benefits. The city's consultant, Price WaterhouseCoopers, and the city's Insurance Advisory Committee met with representatives from the three unions and non-union employees and reviewed the proposals. The details, analysis, and recommendations are included in the package

Moved by Poole/Beltz for approval as recommended. Motion carried unanimously.

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Mr. Hill informed Council that this may be the last year we can continue with the PPO component; it is becoming unaffordable to retain that option.

31. ORDINANCE NO. 2000-14 (National Electric Code): (First Reading) A proposed ordinance relating to building and construction related codes, providing for the adoption of the 1999 edition of the National Electric Code.

Attorney Gougelman read Ordinance No. 2000-14 by title.

Moved by E. Palmer/Hand for approval of Ordinance No. 2000-14. Motion carried unanimously.

32. COUNCIL ACTION RE: A request by Mayor Buckley to attend the "Satellite 2000" Conference with the Economic Development Commission, February 2 - 4 in Washington, D.C.

Mayor Buckley has requested to attend and participate in the trade mission, "Satellite 2000," with the Economic Development Commission. The conference and exhibition will be held in Washington, D. C., February 2 - 4, 2000. Funding is available from the Mayor and Council's training and education account. Since the trip was not budgeted, the account will have to be supplemented at second or third quarter budget review.

Moved by E. Palmer/Hand for approval. Motion carried unanimously.

33. COUNCIL ACTION RE: A request by Council Member Poole to attend the Local and Regional Leagues' and Municipal Lobbyists' "Strategies for 2000 Session," in Tallahassee on January 20, 2000.

Council Member Poole withdrew her request; the session has been canceled.

34. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mr. Hill updated Council on a meeting held between Melbourne, West Melbourne, Palm Bay and the county regarding the Palm Bay Water and Sewer Reserve Area Litigation. The parties are close to resolving this issue and have discussed stipulating that Palm Bay would provide service to areas west and south of Palm Bay. Water would be provided in the northwest section by the party that could most economically/efficiently provide the service. Additionally, Mr. Hill distributed a map outlining this proposal. Council seemed to be generally agreeable with this proposal.

Regarding Mr. Franklin's comments made under item 7, Mr. Hill stated that he would draft a letter to FDOT.

Mrs. Palmer asked if any progress has been made in conducting a roundtable discussion with the parties involved with our stormwater utility and with our stormwater issues. Mr. Hill said he is following up and a meeting should be conducted hopefully before March.

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Mayor Buckley asked Council if they would be interested in having a sister city from China. Council replied no.

Additionally, the Mayor asked members to notify him if they were interested in sitting on the Beach Erosion Advisory Committee.

35. ADJOURNMENT

Moved by Poole/E. Palmer to adjourn. Motion carried unanimously.

The meeting adjourned at 12:05 a.m.

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City Clerk – 1/21/00

Approved by Council: \_\_\_\_\_