

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2003

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. The invocation was given by Pastor Toney Laboy, Rapha Christian Center.
2. Pledge of Allegiance.
3. Roll Call.

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| Present: | John A. Buckley | Mayor |
| | Richard Contreras | Vice Mayor, District 1 |
| | Ed Palmer | Council Member, District 2 |
| | Pat Poole | Council Member, District 3 |
| | Grace Walker | Council Member, District 4 |
| | Cheryl Palmer | Council Member, District 5 |
| | Loretta Isenberg-Hand | Council Member, District 6 |
| | Jack M. Schluckebier, Ph.D. | City Manager |
| | Paul R. Gougelman, III | City Attorney |
| | Cathleen A. Wysor | City Clerk |
| | Peggy Braz | Planning & Economic Development Director |

4. PROCLAMATIONS AND PRESENTATIONS

The Mayor recognized students in the audience from Florida Air Academy.

Mayor Buckley presented the “Life Insurance Week” (April 14-20, 2003) proclamation to Sheila Gaylor, President, Steve Volk, Past President, and Bob Massel, Public Relations Coordinator, Space Coast Association of Insurance and Financial Advisors.

5. APPROVAL OF MINUTES - Regular Meeting March 11, 2003

Moved by Hand/Walker for approval. Motion carried unanimously.

6. CITY MANAGER’S REPORT

No additions/no discussion.

7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. SITE PLAN APPROVAL (SP-2003-03/PRAIRIE TRACE APARTMENTS): A request for site plan approval to develop a 344-unit apartment complex on a 38.5-acre parcel zoned R-2 (Cap 8) and R-2 (Cap 13) (One-, Two-, and Multiple-Family Residential with a cap of

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eight units per acre and 13 units per acre), located on the east side of Stewart Road, north of Lake Washington Road. (Owner/Applicant – BreFrank, Inc.) (Representative – Earl H. Masteller) (P&Z Board – 2/20/2003) (Postponed by Council at the request of the applicant – 3/11/2003)

Mrs. Braz reviewed the agenda report. The Planning and Zoning Board recommended approval of the site plan, consisting of a four-page plan prepared by Masteller & Moler, Inc., of Vero Beach, Florida, with Drawing Number 0204, dated May 22, 2002, with final revision date of January 22, 2003, with the findings in the Planning and Zoning Board memorandum and the following conditions:

- a. Any change to the site plan will require reevaluation of the site plan by the Engineering Department and Planning and Economic Development 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: 1) a decrease of 5% of the open space or vegetative areas on site; 2) any change in the number or use of access points shown on the site plan except the connections to Maderia Drive; 3) an increase in building size or height; or 4) an increase by more than ten percent in the total number of units.

- b. All hardwood 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 Compliance personnel and an evaluation shall be made to determine the possibility of saving hardwood trees. Trees to be preserved must be protected by barricades to the drip line during construction. All invasive non-native vegetation shall be removed from the site. A natural existing native-vegetation buffer 25 feet in width along the length of Stewart Road shall be preserved.

- c. The applicant shall obtain appropriate environmental permits from the Florida Fish and Wildlife Conservation Commission to relocate or take gopher tortoises and from the U.S. Fish and Wildlife Service to take scrub jays and scrub jay habitat. Appropriate permits must also be obtained from the St. Johns River Water Management District and/or the Corps of Engineers to remove wetlands. Should threatened or endangered species be found on the site after commencement of construction for which a permit has not been granted, then the owner/applicant shall cease construction until the appropriate permits are obtained.

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- d. Obtain the necessary easements from the adjacent property owner to the southeast to construct the driveway connection to Lake Washington Road.

Mayor Buckley asked if the size of the recreation area had been increased (compared to the first Prairie Trace site plan denied by Council June 28, 2002). Mrs. Braz replied yes and confirmed that the setbacks have increased. Mrs. Poole referenced the backup material and asked if this plan provides for 32 or 33 buildings. Mrs. Braz replied 32.

Mayor Buckley called for disclosures:

Vice Mayor Contreras said that on March 21 he met with Ralph Jacobson and Gary Koolik, Brefrank, Inc. The plan was discussed; however, no conclusion was reached. Council Member Ed Palmer noted that he met with the same individuals and discussed the plan. Council Member Poole stated that the same individuals contacted her; however, she noted that she does not believe it is proper to meet with developers prior to the meeting. Council Member Walker said that she received messages on her voice mail; however, she did not speak to anyone. Council Member Cheryl Palmer noted that she received a call from Mr. Jacobson; however, she was not able to meet with him. She added that she also makes it a policy to not meet with developers outside of Council meetings. Additionally, she received a call from a homeowner asking that the plan be denied. Council Member Hand stated that she received a message from Mr. Jacobson; however, she did not return the telephone call. Mayor Buckley reported that on March 6 he met with Renee Sandell, Regency Development (development, which will accommodate the hearing impaired). Ms. Sandell indicated that depending on the outcome of this meeting, Regency may have an interest in the property. On March 21, he met with Mr. Jacobson and Mr. Koolik who wanted to know where Council stood on the issue. The Mayor said that he indicated to both that they would have to attend the meeting to learn Council's decision.

Gary Koolik, Brefrank, Inc., applicant, reported that his family has owned the property since the early 1980's. The property was zoned pursuant to agreements with the city. He stated that they have complied with those agreements and the property has been developed according to the agreements. Additionally, he stated that they gave the right-of-way for and built Stewart Road. They have paid taxes on the property for years based on this density.

Mr. Koolik pointed out that their engineer is present. He concluded by asking Council for approval.

In response to Mrs. Poole, Mr. Koolik confirmed that Prairie Trace is the first proposal that has been made for this property. He explained that they sold off other parcels; however, for market reasons, this parcel remained.

John Boyer, Masteller & Moler, Inc., engineer representing the applicant, stated that the property meets the city's regulations. He noted that he is available to answer civil engineering questions about the property.

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Mr. Contreras asked if the plan is for 32 or 33 buildings. Mr. Boyer replied 32. Mrs. Braz added 32 plus the clubhouse.

Nellie Fuentes, 1621 West Shores Road, discussed the access driveways on Stewart Road and Lake Washington Road. She questioned how Stewart Road will be able to accommodate 2,160 more trips. Since Stewart Road is proposed as the main access, she asked if it could be moved farther north to provide a break.

Mayor Buckley clarified that the 2,160 daily trips will be shared between Stewart Road and Lake Washington Road.

Anne Street, 2529 Brett Court, Vice President of the Croton Park Homeowners' Association, discussed her concerns about the traffic and pointed out that traffic will back up on Lake Washington Road through a school zone. She recommended that the main entrance be from Lake Washington Road or moved farther north towards Monaco Estates.

John Esposito, 1710 PGA Boulevard, asked if this development would connect to Monaco Estates Subdivision.

Mrs. Braz replied that there is a possibility of connection; however, it is not required.

That concluded comments from the public.

Mrs. Palmer asked the applicant how he arrived at the location for the access and if it could be moved farther north.

Mr. Boyer said the location was selected in order to provide a central location into the site as well as the required distance separation from the Lake Washington Road intersection. He said it could be moved; however, he would hesitate to say that is a good idea because moving the access could result in some larger oaks being removed.

Mr. Boyer confirmed for Mrs. Palmer that he is not familiar with the traffic analysis related to the site. He added that the existing infrastructure is sufficient to support this site. The entrances as proposed meet the city's requirements.

Mrs. Palmer asked if both entrances are intended to be equally used. Mr. Boyer said the main entrance is intended to be from Stewart Road. However, which is used more will depend on the residents and their destination.

Mrs. Palmer asked again if the entrance could be moved north. Mr. Boyer replied yes and added that it is not recommended.

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Mr. Koolik added that the entrances are the result of placement of the buildings. If the road were moved north, one of the buildings would be gone and they would have to reconfigure the site.

A brief discussion followed regarding the ability of residents to exit the site during peak hours and whether moving the connection north would conflict with existing connections.

Mrs. Poole asked the applicant if he has reached an agreement with the church (to share a driveway leading to Lake Washington Road). Mr. Koolik replied that it has not been formalized; however, he is confident they can reach agreement.

A brief discussion followed regarding the leasing office, whether apartments would be leased by the month or year, proposed rent, etc.

Mr. Koolik confirmed for Mrs. Poole that the current applicant is not involved with the original applicant that was denied last year. Mr. Palmer asked if the property will be sold if this plan is approved. Mr. Koolik said the property is for sale either way. He added that they “are almost” under contract with Regency.

Mr. Contreras’s motion for approval of the site plan with the proposed conditions did not receive a second.

Mrs. Poole stated that this project is too intense and is not compatible with the neighborhood. Mrs. Palmer said that she understands that the city approved this density quite some time ago. She asked if this application complies with all of the City Codes. Mayor Buckley replied that is what the Planning and Economic Development Department has indicated.

Mrs. Hand stated that she is concerned about traffic. She noted that Croton Road is a disaster at peak hours and until such time it is widened, there will be traffic backup in that area.

Mrs. Poole discussed the history of this property and noted that times have changed – the area has experienced intense development and the roads are congested. The Environmental Impact Assessment notes that the site contains threatened species along with the endangered Wood Stork. Wetlands exist on the site and 33 buildings at eight and thirteen units per acre are not compatible with adjacent single-family homes. She noted that it doesn’t take a traffic study to show that the area already experiences bumper to bumper traffic. She recommended that the plan be denied for the neighbors, schools and the environment.

Moved by Poole/Hand to deny the site plan.

Mr. Palmer said that the problem with the plan is the density. It will create a traffic jam and adversely impact the people living in the vicinity. He said he realizes that the density

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was established a long time ago; however, the owners sold off other parts of the property, which created these problems.

Mrs. Palmer said that this plan is so incompatible with the single-family development, not to mention the environmental concerns. By selling the best property first, the owners locked themselves in. She added that if they returned with a plan for a single-family development, they may see a different point of view from Council.

Mrs. Walker said that she shares the feelings that have been expressed. Based on the environmental concerns, density and the traffic, she can't support the site plan.

The question was called. The roll call vote was:

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

Nay: Contreras

Motion carried.

9. ORDINANCE NO. 2003-18: (Public Hearing/Second Reading) An ordinance amending Chapter 26 of the Code of Ordinances, entitled "Solicitors, Canvassers and Peddlers" as recommended by the City Code Review Committee. (First Reading – 3/11/2003)

Attorney Gougelman read Ordinance No. 2003-18 by title. There were no comments from the public.

Moved by Hand/Contreras for approval of Ordinance No. 2003-18. The roll call vote was:

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

Nay: None

Motion carried unanimously.

10. ORDINANCE NO. 2003-19: (Public Hearing/Second Reading) An ordinance amending Chapter 28 of the Code of Ordinances, entitled "Streets, Sidewalks and Other Public Places," clarifying the public hearing notice requirements for abandon and vacate requests. (First Reading – 3/11/2003)

Mr. Gougelman read the ordinance by title. There were no public comments.

Moved by E. Palmer/Poole for approval of Ordinance No. 2003-19. The roll call vote was:

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

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Nay: None

Motion carried unanimously.

11. ORDINANCE NO. 2003-20: (Public Hearing/Second Reading) An ordinance amending Chapter 31 of the City Code, entitled "Traffic", as it relates to vending, displaying or advertising goods, services or a place of business in the public right-of-way. (First Reading - 3/11/2003)

The attorney read the ordinance by title. There were no public comments.

Moved by Poole/Walker for approval of Ordinance No. 2003-20. The roll call vote was:

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

Nay: None

Motion carried unanimously.

NEW BUSINESS

12. CONSENT AGENDA:

Moved by Hand/E. Palmer for approval of Items 12 "a" through "g" as recommended.

Mrs. Poole and Mrs. Palmer discussed concerns with Item "g." Mrs. Poole said that Council had been told that money for the riverwalk project would take years to obtain. She questioned how much in-kind will be provided from the city.

Mrs. Palmer asked if there are other projects that fit the criteria more closely that would be considered a necessity. Mr. Schluckebier replied that the city is not proposing anything else at this time, which more precisely fits the objectives of this grant program.

A brief discussion followed. The item was not removed from the consent agenda. Mrs. Palmer noted that there are waterways within the city limits that need to be dredged; she considers this to be a necessity. Mrs. Braz said she does not know why dredging was not suggested; however, she pointed out that a match would be required. Through other grants and programs, the city feels it can obtain the \$100,000 match required for the riverwalk project. Mrs. Braz confirmed for Mrs. Palmer that the city would not be precluded from applying for more than one FIND grant. Mrs. Palmer asked staff to start looking now for grants that could be used to address dredging projects.

The question was called. Motion carried. Mrs. Poole voted nay because of Item "g."

The consent agenda was approved as follows:

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- a. Purchase of two Thompson Model 6TSV-DJDRT-4045-SK pumps, Thompson Pump and Mfg. Co., Port Orange, FL - \$65,600.
- b. Purchase of a 2003 Ford F-450 Truck with an 11-foot utility bed, Duval Ford, Jacksonville, FL - \$29,736.
- c. Purchase of Pavement Striping Services, Fausnight, Stripe & Line, Inc., Longwood, FL, at a unit cost of \$.11 per linear foot, estimated annual cost of \$33,000.
- d. Agreement with William Lane for an easement to support the Wickham Road 30" Waterline Relocation to L5/L6 Canal 24" Waterline, Project No. 02301 - \$5,000.
- e. Renewal of agreement with Brevard County to provide for billing of the County's sewer services on the City's utility bills for an initial term of five years with automatic annual renewal unless notice to terminate is provided.
- f. Babcock Street Right-of-way Use Agreement between Brevard County, the City of Melbourne, and the Babcock Street Community Redevelopment Agency.
- g. RESOLUTION NO. 1815: Authorizing the City Manager to submit a grant application to the Florida Inland Navigation District (FIND) for \$100,000 or 50% of the actual cost of the project, whichever is less, for the construction of a segment of the Eau Gallie Riverwalk.

Council convened as the Babcock Street Community Redevelopment Agency for the following item:

13. COUNCIL ACTION RE: Babcock Street Right-of-way Use Agreement between Brevard County, the City of Melbourne, and the Babcock Street Community Redevelopment Agency.

(Reference Item 12 "f" on the agenda.)

Moved by E. Palmer/Hand for approval of the Babcock Street Right-of-way Use Agreement between Brevard County, the City of Melbourne and the Babcock Street Community Redevelopment Agency. Motion carried unanimously.

Council reconvened for the remaining agenda items.

14. COUNCIL ACTION RE: Request by the Women's Center for HOME Rental Rehabilitation Funds for renovation of property located at 1611 Elizabeth Street in Melbourne.

Melinda Thomas, Housing and Community Development Director, reviewed the agenda report.

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In response to Mr. Palmer, Mrs. Thomas said there are no Section 8 vouchers attached to the units; however, there would not be a prohibition against the use of Section 8.

Mr. Palmer asked for clarification on the number of people to be accommodated. Mrs. Thomas said this could accommodate five families at one time. If the turnover is on a six-month basis, approximately 30 people will be served. Mr. Palmer said this appears to be a worthwhile endeavor and will solve the problem for families with children who need a place to live.

Mrs. Braz confirmed for Mrs. Poole that she is involved with a community service organization that has agreed to furnish the apartment that the Women's Center is proposing to develop.

Mrs. Poole said she cannot support this request because of the effect it would have on the long-time residents of Elizabeth Street. She reported on the problems the residents experienced when the same two houses were occupied by an assisted living facility – a wrought iron fence was placed at the entrance to keep the clients confined and one custodian was provided to take care of both homes. The county has since closed that facility.

Continuing, Mrs. Poole said this is a good project in a wrong location. She questioned if we are overlapping services and pointed out the services offered by the Salvation Army. Mrs. Poole stressed that the residents should not have this facility in their area disrupting their homes. The Women's Center has no previous experience; therefore, the city should not support an experimental project. She questioned why all the services and organizations must be concentrated in this area of the city.

Mrs. Walker said that she spoke with Mrs. Harper on Elizabeth Street who said her home was damaged by the (prior) occupants of the homes across the street. The prior residents stood at the door screaming, crying, begging and yelling. She added that the Harpers believe their health problems have been aggravated by the occupants of these homes. Mrs. Walker concluded by saying she is in favor of helping the homeless; however, Council needs to consider the residents who have lived in this area for years.

Mrs. Palmer stated that sometimes when services are concentrated in one neighborhood, it becomes a strain on that neighborhood. She agreed that the Downtown Melbourne area has a concentration of facilities that would probably be better spread out or placed in an institutional setting. She added that she will vote to make this contribution because the service will be provided with or without Melbourne's assistance.

Mr. Palmer said he understands the concerns with the previous facility; however, that facility has been closed. He explained that the Women's Center has a reputation for quality service and he believes this effort would be an upgrade to the two homes. It is advantageous to try this in this area and if it doesn't work out, then it should be closed.

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Mrs. Hand said our community is growing and there is no way to stop that. We have underprivileged people who need help. The Salvation Army offers services, but there is a need for additional resources.

A brief discussion followed.

Moved by Hand/E. Palmer for approval of an award of \$41,500 in HOME Rental Rehabilitation Program funds to the Women's Center for rehabilitation of the property located at 1611 Elizabeth Street and authorization for the City Manager to execute an agreement with the Women's Center for the implementation of the project.

A brief discussion followed.

The question was called. The roll call vote was:

Aye: E. Palmer, C. Palmer, Hand, Contreras and Buckley

Nay: Poole and Walker

Motion carried.

Mrs. Poole voted nay because she feels the Women's Center should continue with its current operation rather than taking on a new project. Mrs. Palmer said when the Women's Center returns for additional funding, her decision will be based on performance.

Recessed: 9:02 p.m.

Reconvened: 9:13 p.m.

15. COUNCIL ACTION RE: Request by Melbourne Housing Authority for SHIP Rental Rehabilitation Funds for Tucker Heights (PHA Project N. FL56-5).

Mrs. Thomas reviewed the agenda report. The recommendation is for approval of the following:

- a) A technical revision to the 2001-2004 SHIP Housing Assistance Plan to increase the maximum per-unit subsidy under the SHIP Rental Rehabilitation Strategy from \$5,000 per dwelling unit to \$12,000 per dwelling unit when the assisted property is a public housing development and a corresponding revision to the City's Rental Rehabilitation policies.
- b) A proposed budget adjustment to provide adequate funding for the Melbourne Housing Authority's proposed 10-unit rehabilitation project.
- c) An exception to the current policy to waive the 50:50 matching funds requirement for this project.

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- d) An award of \$100,000 in SHIP Rental Rehabilitation Program funds to the Melbourne Housing Authority for the rehabilitation of rental property known as Tucker Heights (PHA Project N. FL56-5) located at 1101 and 1103 Mathers Street and 1780 Steele Street.
- e) Council authorization for the City Manager to execute an agreement with the Melbourne Housing Authority for the implementation of the project.

Mrs. Poole objected and pointed out that the units are only 18 years old. She said that the condition indicates that the units have not been cared for. The Melbourne Housing Authority has not kept the property in good repair. This is way beyond what the city should be asked to do.

Mr. Palmer asked when the units were last rehabilitated. Mrs. Thomas said they have not been rehabilitated with our funding. She added that the funding the Housing Authority receives from HUD is not adequate to keep up with renovations to public housing; major capital repairs are difficult to fund.

A brief discussion followed.

Moved by Hand/C. Palmer for approval as recommended.

Mrs. Poole said that this is located in the worst drug area. She added that the majority of funding from the city goes to the Booker T. Washington area and this is not a good idea unless people are taught to take care of what they have.

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

16. FINAL PLAT APPROVAL (SD-2002-05/PINEAPPLE RIDGE SUBDIVISION): (Public Hearing) A request for final plat approval for Pineapple Ridge Subdivision on a 20.18-acre parcel, zoned C-1A (Professional Offices and Services) and R-2 (One-, Two-, and Multiple-Family Residential), located on the south side of Eau Gallie Boulevard, east of Wickham Road. (Owner – Beverly Anne Rouede, Trustee) (Applicant – Diamond Bay Builders, Inc.) (Representative – Jake Wise) (P&Z Board – 3/6/2003)

Mrs. Braz reviewed the agenda report. The Planning and Zoning Board voted for approval of the final plat, consisting of a two-sheet plan prepared by John W. Walker of Grusenmeyer, Scott & Walker, of Rockledge, Florida, with survey completion date of 5-14-02, with the findings in the Planning and Zoning memorandum and the following conditions:

- a. Any change to the final plat will require its re-evaluation by the Planning and Economic Development and Engineering Departments. Any substantial change to the final plat will require review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change in the final plat

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includes, but is not limited to: 1) any increase of more than two lots, or 2) the relocation of the Holland Avenue right-of-way and retention ponds.

- b. The applicant shall provide a form of surety in a form acceptable to the City Manager and City Attorney, equal to 110 percent of the construction costs as required by City Code.
- c. The applicant shall provide a Stormwater Maintenance Agreement in form and substance acceptable to the City Manager and City Attorney.
- d. The applicant shall provide all documents required by City Code prior to recording the final plat including: an executed water and sewer agreement; warranty deeds conveying Tract B to the homeowners' association; a Bill of Sale for the water lines; Covenants and (Deed) Restrictions documents and any other documents that the city needs to assure proper development of the plat.
- e. Tract C and Tract A shall be constructed to city standards and deeded to the city prior to any certificates of occupancy being issued for development on Lots 1 or 4.
- f. Approval of the plat shall include a variance to waive the sidewalk on the west side of Holland Street extension with the condition that the sidewalk/pedway on the east side be a minimum of six feet where necessary and up to eight feet in width.

Jake Wise, civil engineer of record, agreed with the presentation and conditions.

Moved by E. Palmer/Contreras for approval of SD-2002-05 subject to the proposed conditions.

Mrs. Poole stated that she cannot vote for 15 units per acre, regardless of the assigned zoning.

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

17. SITE PLAN APPROVAL (SP-2002-28/PINEAPPLE RIDGE APARTMENTS): A request for site plan approval to develop a 216-unit multiple-family apartment complex on a 15.22-acre lot of the Pineapple Ridge Subdivision zoned R-2 (One-, Two-, and Multiple-family Residential), located on the south side of Eau Gallie Boulevard, east of Wickham Road. (Owner – Beverly Anne Rouede, Trustee) (Applicant – Diamond Bay Builders, Inc.) (Representative – Jake Wise) (P&Z Board – 3/6/2003)

Mrs. Braz reviewed the agenda report. The Planning and Zoning Board recommended approval of the site plan, consisting of a one-page plan prepared by Construction Engineering Group Inc., of Melbourne, Florida, dated 2/4/03, with the findings in the Planning and Zoning memorandum and the following conditions:

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- a. Any change to the site plan will require re-evaluation of the site plan by the Engineering Department and Planning and Economic Development 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: 1) a decrease of 5% of the open space or vegetative areas on site; 2) an increase by more than 12 units as shown on the site plan; or 3) a change in the building size, height, or setbacks, which exceeds the minimum setbacks required by code.

- b. All hardwood trees, including scrub oaks of less than 4" caliber, 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 Compliance personnel and an evaluation shall be made to determine the possibility of saving hardwood trees including scrub oaks. Trees and scrub oaks to be preserved must be protected by barricades placed at the drip line during construction. All invasive non-native vegetation shall be removed from the site including along or within the wetlands areas and the drainage easement.

- c. The applicant shall obtain appropriate environmental permits from the Florida Fish and Wildlife Conservation Commission to relocate or take any gopher tortoises. Should threatened or endangered species be found on the site after commencement of construction for which a permit has not been granted then the owner/applicant shall cease construction until the appropriate permits are obtained.
- d. Plan approval is subject to final approval and recording of the Pineapple Ridge Subdivision (SD-2002-05).
- e. Convey the right-of-way and retention basin to the city by Warranty Deed upon completion of the Holland Avenue extension acceptable to the city.
- f. Provide an opaque buffer between the parking spaces facing the residential lots to the south and east of the site.

Jake Wise, civil engineer of record, reported that the site meets all the codes and Land Development Regulations. He elaborated on the layout and explained that these will be higher rent apartments; therefore, the area must be aesthetically pleasing. He agreed with the conditions and said that the improvements to this site will help address flooding that occurs to the west.

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In response to Mr. Palmer, Mr. Wise elaborated on the number of apartments, square footage, etc.

Moved by Hand/Walker for approval of SP-2002-28 subject to the proposed conditions.

Mrs. Palmer said she appreciates the large buffer that was left between the buildings on this property and the adjacent single-family homes. She noted that will prevent a lot of problems in the future.

Mrs. Poole discussed the layout of the site and questioned how a lot of trees will be saved. She added that an additional 1,432 trips proposed to be generated by this site is quite a bit. Mrs. Poole concluded by saying the adjacent single-family area is not harmonious with the apartments, and the apartments will cause devaluation of the single-family homes.

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

18. ORDINANCE NO. 2003-21 (CU-2003-01/SP-2003-01A): (Public Hearing/First Reading) An ordinance granting a conditional use to allow for a mini-storage building on a portion of a 6.05-acre parcel located east of Wickham Road and south of Mariah Drive (Owner/Applicant – Boozer Properties) (Representative – Vaheed B. Teimouri) (P&Z Board 3/6/2003)

Attorney Gougelman read Ordinance No. 2003-21 by title. Mrs. Braz reviewed the agenda report. The Planning and Zoning Board recommended approval of the site plan with the findings in the Planning and Zoning memorandum and the following conditions:

- a. The conditional use and the proposed plan of development shall be consistent with the one-page site plan (SP-2003-01 and SP 2002-01A) and site rendering by Eric Moravecky, for 4855 Wickham Road, prepared by Teimouri and Associates, Inc., of Melbourne, Florida, dated January 15, 2003 with revision date of February 12, 2003.
- b. Any change to the site plan will require reevaluation of the site plan by the Engineering Department and Planning and Economic Development 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: 1) a decrease of 5% of the open space or vegetative areas on site; 2) any increase in the number of access points shown on the site plan; 3) a change, which would reduce the landscape buffer along the easterly portion of the site; or 4) any increase in the size, height or dimensions of the storage unit building.

- c. Storage units only shall be accessible by a central interior building corridor and no rental unit shall be directly accessible from the outside of the building.

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- d. The owner/developer shall provide a permit from the U.S. Fish and Wildlife Agency to take/mitigate for scrub jay habitat impacts and from the Florida Fish and Wildlife Conservation Commission to mitigate or relocate gopher tortoises found on the property in order to proceed with development of the site. 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.
- e. Provide an opaque fence or wall along the total length of the east property line.
- f. No construction traffic shall park along the Mariah Drive right-of-way.

Mrs. Palmer asked what is planned for the south border. Mrs. Braz replied that she believes a creek or drainage canal is located in that area. She confirmed that there are no plans for a landscape buffer or fence.

Mr. Contreras referenced the information in the agenda package regarding the new elementary school proposed for the west side of Wickham Road. Since it is likely that a signal will be erected at Wickham/Mariah as part of development of the school, he asked about existing distance requirements. Mrs. Braz said she believes the existing signals on Wickham Road are far enough apart to meet the minimal requirements for a signal.

Mr. Contreras discussed the possibility of placing “no parking” signs on Mariah Drive. Also, he referenced the Ensco development to the south, which has a stub out street, and asked if there is a potential to make a connection to relieve traffic. Mrs. Braz said she does not believe connection would be an option because there is a large canal in that area.

Attorney Gougelman pointed out the inconsistency between stipulation “a” in the agenda report and stipulation “a” in the ordinance. He read additional language, which adds the site rendering to condition “a” of the ordinance.

Moved by Contreras/C. Palmer to include the language in condition “a” of the ordinance as read by Attorney Gougelman.

In response to Mrs. Poole, Mr. Gougelman clarified that the architectural elevations of the building are to be built consistent with the drawing. In other words, “what you see is what you get.” However, added language states that the Zoning Code and Land Development Regulations will prevail.

The question was called on the motion to revise stipulation “a” as noted by Attorney Gougelman. Motion carried unanimously.

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Mayor and Council received a letter dated March 25 from Liz Alward who asked Council to require the developer to have a separate construction access off Wickham Road. Additionally, Council made the following disclosures:

Mr. Contreras spoke with the following residents from Live Oak Subdivision: Ron Larson, March 20, who had safety concerns. Vivian Kohn, March 22, who indicated her concerns about the development. Richard VanDyk, March 22, who said he was not against the development, but concerned about the roadway and the narrowing portion of Mariah Drive. John Joyce, March 25, Live Oak Board of Directors, who indicated his concerns about traffic on Mariah Drive and that he would be presenting a petition to Council. Dan Dempsey, March 25, who asked him to vote no. Anita Shaw, March 25, who addressed her concerns about ingress and egress. Teresa Dimaria, March 25, who has concerns about traffic. Beverly Price, March 25, who discussed the traffic on Mariah Drive. Mr. Contreras also disclosed that on March 24 he drove by the site.

Mr. Palmer spoke with the following: John Joyce about the petition, traffic on Mariah Drive and ingress/egress to Live Oak Subdivision. Anita Shaw and her concerns about traffic and ingress/egress from Mariah Drive.

Mrs. Poole received a call on March 21 from Sherry Deno who is concerned about access to Mariah Drive and traffic congestion. Spoke with Dick Normand, President of the Homeowners' Association. Ben Williams asked her where he could obtain a petition. Spoke with John Joyce about his concerns. Received a call on March 24 and March 25 from Anita Shaw. On March 24 she drove through the subdivision and looked at the property. And, she received a call from Liz Alward who asked that the developer use a separate construction road from Wickham Road (rather than through Mariah Drive).

Mrs. Walker spoke with Mr. Larson. And, received messages on her answering machine from residents opposed to increased traffic that this development would generate.

Mrs. Palmer spoke with John Joyce who said he would be presenting Council with a petition opposed to the conditional use. Spoke with Liz Alward who asked Council to include a stipulation about no construction traffic from Mariah Drive.

Mrs. Hand said that Anita Shaw phoned her today; she objects because there is only one road in/out of the development, the funeral home has an overflow of traffic and ambulances can't access the development. She received a call from Liz Alward asking for support on the construction access stipulation. And, she drove through the neighborhood today and noticed that the road is very narrow.

Mayor Buckley said he was not contacted.

Vaheed Teimouri, representing Boozer Properties, asked to hear the comments from the public before speaking to Council.

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Mr. Contreras asked Mr. Teimouri if he would be amenable to the widening of Mariah Drive if Council approves the conditional use. Mr. Teimouri replied that he believes the road is wide enough; therefore, the answer is no.

In response to Mrs. Poole's questions, Mr. Teimouri responded as follows: yes he is aware that illegal clearing was done; yes he understands that permits are required (from the regulatory agencies); indicated on the overhead the location of the dumpsters; 902 daily trips will be the total for the site; he is not sure how Brevard County calculated required parking, but he is meeting the Melbourne Code; yes, he prefers an opaque vegetative buffer over a fence; he will apply for a permit from Brevard County for a Wickham Road cut; the property is not an aquifer recharge area; there are no wetlands, no scrub jays and no gopher tortoises; this is not a scrub jay habitat; and the majority of the property is in a flood zone that is flooded often, which does not lend itself to scrub jay habitat.

Mr. Contreras asked if any discussions took place with the homeowners following the Planning and Zoning Board meeting. Mr. Teimouri said no and noted that the majority of the discussion at the Planning and Zoning Board focused on a traffic light, the funeral home and use of Mariah Drive. He added that if the city eliminates the use of Mariah Drive, vehicles will have to make a U-turn on Wickham Road, which creates more of a safety problem. Regarding the request for limited construction access, he said this would force concrete and materials trucks to make a U-turn on Wickham Road. That is why the driveway has been pushed as far back as possible – in order to save as much vegetation and trees as possible.

Continuing, Mr. Teimouri said that the site will have good internal circulation; it provides a good buffer and this is a good plan. He stressed that it would be a mistake to eliminate access from Mariah Drive.

Ron Larson, 4843 Erin Lane, stated that he is not opposed; however, the plan needs more foresight. He made the following comments: a car parked on each side of Mariah Drive takes up the majority of the roadway; Mariah Drive is lined with parked cars for approximately 400 feet when the funeral home has a memorial service; discussed the number of traffic lights in a one-mile and five-mile stretch on Wickham Road; suggested restricting parking on Mariah Drive from Wickham Road east for a distance of 500 feet to allow a path for emergency vehicles; there is not enough room at the entrance to the subdivision for large trucks to navigate; during a brush fire a few years ago, there was no access to/from the subdivision because the entrance was blocked by emergency vehicles; and the residents will be at the mercy of warehouse renters with regard to items stored in the units.

Richard Normand, 4847 Erin Lane, President of the Homeowners' Association, referenced the petition, containing 224 signatures, submitted to Council. (The petition states that the residents of Live Oak oppose the conditional use and the site plan because of safety issues due to an increase in traffic flow.)

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Regarding the illegal clearing that occurred, Mr. Normand advised Council that they have been razing this property for years. He suggested that the plans be reviewed to make it friendlier for the residents. They don't mind progress, but can't live with the plan as proposed. Exiting Mariah Drive now is tough and will become even tougher if this project is approved. The new school will just add to that.

Ralph Grimaldi, 4910 Erin Lane, said there is one way in/out of the subdivision. He referenced the cut-out for the Ensco development and said that could be widened. Mr. Grimaldi asked Council to vote against access on Mariah Drive and pointed out that U-turns would not be a unique situation for traffic.

John Joyce, 4851 Erin Lane, Board of Directors of Live Oak Subdivision, spoke in opposition to access from Mariah Drive. He discussed the difficulty in entering/exiting the subdivision. He recommended access from the Ensco site be considered and pointed out that constructing a road over a ditch or drainage canal isn't impossible. Regarding the site plan, Mr. Joyce said it looks busy with little space between buildings.

Anita Shaw, 4838 Erin Lane, discussed the new and proposed development in the area and the increase in traffic. She questioned how the residents are supposed to enter/exit their subdivision. The additional trips that will be created by this development do not include the number of trips as a result of the funeral home. She encouraged Council to consider the total formula of new/proposed development in this quarter mile area.

Ms. Shaw recalled the difficulty an ambulance experienced in reaching her home; there was a 10-minute delay. She encouraged Council to consider these factors and added that this might not be the right development for this corner.

Mrs. Palmer asked what caused the delay in the ambulance. From the audience, a speaker said it was the result of cars parked on both sides of the street (Mariah Drive).

Mr. Teimouri returned to the podium and said that he would be angry, too, if he could not access his home. He added that it seems like he is being punished for what other folks are currently doing. The funeral home parking in public right-of-way is a code enforcement issue; there should be no parking allowed on that road.

Regarding discussion about accessing this site from the Ensco site, he said that does not make sense. A bridge would have to be built and they would have to obtain an agreement to permit a private drive over a county maintained canal to access the site. There are a lot of traffic problems on Wickham Road now; however, this development has nothing to do with the Pineda Extension, the proposed school, etc. The project as proposed is one of the lowest traffic generators that could be placed on this site. An all office plan would generate more trips and would not require a conditional use.

Regarding the concern raised about the contents of the storage units, he said that the facility would have to condition what the renters could/could not store.

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Mr. Teimouri stressed that the issues about traffic do not relate to this development. The proposed plan takes into account the anticipated traffic. He concluded by saying he does not believe that this project warrants a traffic light.

Mayor Buckley asked Mr. Teimouri if he could use the entrance off Wickham Road during construction. Mr. Teimouri said he could; however, it would be dangerous with the large trucks making U-turns.

Responding to Vice Mayor Contreras, Mr. Teimouri said he does not believe the proposed development will worsen the situation that already exists on Mariah Drive. If Council decides that the widening of Mariah Drive is warranted, then he will agree to widen it. Additionally, he would strongly advise against restricting all access to the Wickham Road entrance, and he would be amenable to a decel lane.

Mr. Palmer asked the feasibility of providing “no parking” signs on Mariah Drive. Attorney Gougelman said Council could direct the City Manager to do that; however, it should not be part of this ordinance, which relates to private property. Mrs. Poole objected and noted that it would require a lot of police presence in order to enforce this.

Mrs. Palmer asked Mr. Teimouri if he agreed to limit construction access to Wickham Road only. Mr. Teimouri said yes. Additionally, he agreed with all other stipulations.

By consensus, Council directed the City Manager to erect no parking signs on Mariah Drive.

A brief discussion followed regarding a decel lane and required county permits.

Mayor Buckley’s motion to approve the ordinance with an additional stipulation that construction traffic be limited to Wickham Road only did not receive a second.

Attorney Gougelman provided language for the additional stipulation and said that it would be included in the ordinance.

Mrs. Hand recommended that the item be postponed to allow the applicant time to determine if another road, other than Mariah Drive, can be identified.

Moved by Hand/Contreras to postpone this item until the next meeting. Motion carried.
C. Palmer and Buckley voted nay.

19. ORDINANCE NO. 2003-22: (First Reading) An ordinance repealing Chapter 24 of the Melbourne Code of Ordinances, entitled “Secondhand Goods.”

Attorney Gougelman read Ordinance No. 2003-22 by title.

Moved by E. Palmer/Poole for approval of Ordinance No. 2003-22. Motion carried unanimously.

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20. ORDINANCE NO. 2003-23 (LDR-2002-05/FOC-2002-05/VEGETATION CODE): (First Reading/Public Hearing) An ordinance, which transfers the provisions of Chapter 33 of the Melbourne Code of Ordinances, entitled "Vegetation," to the Land Development Regulations, Appendix D, Chapter 9, and revises the Vegetation Code in accordance with changes recommended by the City Code Review Committee, Section 4, and the Planning and Zoning Board (P&Z Board – 3/6/2003)

Mrs. Poole requested the item be postponed to allow more time for review. She added that this is the first draft Council has received.

Moved by Poole/E. Palmer to postpone this item until the next meeting. Motion carried.
C. Palmer and Buckley voted nay.

21. COUNCIL ACTION RE: Authorization to proceed with obtaining Legislative funding for the Melbourne Military Memorial Park located at Wells Park.

Moved by E. Palmer/Contreras to authorize staff to proceed with obtaining legislative funding for the Melbourne Military Memorial Park. Motion carried unanimously.

22. COUNCIL ACTION RE: Agreement with the International Association of Firefighters (IAFF), for the period October 1, 2002 - September 30, 2005.

Moved by Poole/C. Palmer for approval of the proposed collective bargaining agreement with the International Association of Firefighters (IAFF) for a three-year period, October 1, 2002 to September 30, 2005, and authorize the City Manager to execute a contract with the IAFF including those items detailed in the ratified Memorandum of Agreement. Motion carried unanimously.

23. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mayor Buckley said that at a meeting with the Brevard Cultural Alliance, he learned that the Florida House of Representatives has recommended a reduction by half (\$500,000 reduced to \$250,000) and the Senate has recommended a reduction to zero for the money requested for the arts.

Mrs. Poole said that approximately eight weeks ago she introduced the subject of historic preservation and a request to amend the Comprehensive Plan, which Council agreed to. Since that time, staff (Planning and Economic Development Department) has indicated that an ordinance would be appropriate (as opposed to an amendment to the Comprehensive Plan).

Mrs. Poole stated that an ordinance would not accomplish historic preservation. She asked what is delaying this and noted that the city is going to lose historic properties. Additionally, she requested that the Henegar Center appear on the next agenda. Although staff has indicated that only the Architectural Review Board would review the proposed elevator and

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front entrance, City Council should be able to say how it feels about these changes.

By consensus, Council agreed with placing the Henegar Center on the next agenda. Mr. Schluckebier added that he would invite representatives from the Henegar Center to the meeting to discuss this issue with Council. He also noted that he has not received a response from Jerry Brees, Executive Director, on the letter that was sent regarding this issue.

Regarding historic preservation, Mr. Schluckebier explained that some cities have handled this with land development regulations, some with a Comprehensive Plan Amendment, and some with both. He added that Mrs. Braz has done some preliminary research and staff is preparing to return with an agenda item seeking direction from Council.

Mr. Schluckebier reported on the following:

- NUI City Gas Company has notified the city that it has over-collected utility tax funds. NUI has already rebated approximately \$100,000 to its customers. The city is in the process of negotiating and is seeking an independent verification from our external auditor.
- A Melbourne Police Officer who was recently highlighted in the newspaper for drawing his weapon in Palm Bay has resigned.
- The Comprehensive Annual Financial Report dated September 30, 2002 was distributed to Council. Mayor and City Council will advise the City Manager if they wish to have a presentation at a future meeting.
- City staff has taken necessary steps to ensure we are adequately addressing homeland security issues as they relate to city operations.
- Meetings have been conducted with county representatives regarding enclave and annexation issues. The goal is for the county to understand our needs prior to the city pursuing Special Act annexation of identified areas.
- An agenda item will return to Council regarding a proposed list of capital projects to be funded by a one-cent Local Option Infrastructure Sales Tax.

Mrs. Palmer informed Council that she will be out of town April 6 through April 14.

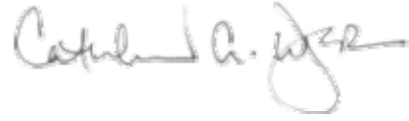
Mr. Contreras asked that the status of relocating Fire Station No. 4 appear on the next agenda.

24. ADJOURNMENT

Moved by Hand/Walker to adjourn. Motion carried unanimously.

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The meeting adjourned at 11:58 p.m.



City Clerk – 4/4/2003

Approved by Council: _____