

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
JANUARY 10, 2000  
NationsBank, Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA**

**I. CALL TO ORDER**

Mayor John Mulholland opened the meeting on Monday, January 10, 2000, at 9:00 a.m.  
Council members present at the meeting: Ray Murphy, John Mulholland, Anita Cereceda and Garr Reynolds.

Excused absence: Vice Mayor Daniel Hughes

**Town Staff present:** Town Manager Marsha Segal-George, Pam Houck and Attorney Richard Roosa.

**II. PLEDGE OF ALLEGIANCE**

All assembled recited the Pledge of Allegiance.

**III. PUBLIC COMMENT ON AGENDA ITEMS**

None.

**IV. PUBLIC HEARING: ISLAND COZY CAFE. VAR1999-00016.** A variance in the C-1 district from LDC 34-1145 Table 2, which requires a minimum rear yard setback of 25 feet, to permit a rear setback of 5 feet. The property is located at 1021 Estero Blvd.

**Ex parte communications:** Mayor Mulholland met this morning with Brad Benson off the property in question and they chatted for five minutes.

Councilwoman Cereceda said she has spoken with Brad Benson about this project on and off for the last four years and spoke most recently with Brad and Cindy last night.

**County Presentation:**

Dan Faulk of Lee County Development Services advised that the LPA has made a recommendation to approve the request with two conditions. The Staff recommendation was to deny the request for the 5-foot setback, but instead recommended approving a setback of 13 feet.

Subject property is located in the pedestrian commercial land use category, and Staff has found that the proposed addition to the Island Cozy Cafe is consistent with the pedestrian commercial land use category in the development that is intended in that category and also that the proposed addition is absolutely compatible with what is developed down in Times Square.

The Downtown Overlay District does permit 100% lot coverage and zero setbacks on the street right-of-way, as well as 0-foot side setbacks. But the land development code does require that they maintain a 25-foot rear setback if the property chooses to be in the Downtown Overlay. Staff's interpretation of that is that the intent is to preserve a space behind property for access, garbage, storage. Staff's recommendation for 13 feet was so that the proposed addition aligned with the existing two-story structure. Staff felt that approving the 13-foot setback would allow a substantial addition to the property and would also meet the intent of the land development code.

There have been several other variances granted in the Times Square District on rear setbacks. Each variance must be looked at individually and Staff felt that there were some major differences between this request and previous variances.

**Questions from Council:**

Councilwoman Cereceda wondered why Dan Faulk had specified the two-story part of the

structure, when the actual physical structure that has been there forever goes back further than the two-story part which is a relatively recent addition. The addition would create trapped space. The kitchen portion of the Cozy Cafe isn't going to be removed, so they'd basically be creating a pocket and she's not sure what purpose that would serve. Mr. Faulk explained that the land development code requires 25 feet and he guesses that Staff just felt that was a good compromise. It's going to provide an extra 8 feet of space and will align with the existing two-story structure and be somewhat architecturally consistent with this structure.

Councilwoman Cereceda stated that the 5-foot setback portion of the building is the entire Cozy Cafe as it exists now. So in actuality there would be a portion of that property that would be at the 5-foot setback line and then a portion that would be at the 13-foot setback. She was told this was right.

Councilman Reynolds felt that for all intents and purposes the storage and garbage space would be closed off. He finds this confusing. Dan Faulk said he would point specifically to number 3 of the Staff's recommendations, findings and conclusions that the variance, if granted, is the minimum variance that would relieve the applicant of an unreasonable burden caused by the application of the regulation in question. He guesses that Staff believed that 13 feet would be more appropriate to do this than 5 feet.

Mayor Mulholland wished to know from where the 13 feet was measured. He does not see 13 feet available from where the building ends and where the fence is. Maybe the fence is in the wrong place. He can see 5 or 6 feet from the end of the building to the fence, but he can't see 13 or 14 feet. According to Dan Faulk, Staff's recommendation was based on the site plan that was submitted showing the two-story structure at 13 feet from the rear property line. The kitchen is at 5 feet from the rear property line.

**Agent Input:**

Patrick Hunt, Vice President of Land Investment Services, said they are the agents for the owner, Brad Benson. He remarked that the property is zoned C-1, pedestrian oriented, and is in an intense activity center described in Policy 4-3-6. The land development code allows for a 100% buildout in this area as described in Table 34-844, note i. The same table allows for 0 front and side yard setbacks. The rear setback requirements are consistent both in the Fort Myers Beach Downtown District Times Square Overlay and the Town's general land development code requirements, which will be the governing regulations until such time as owner opts in the Overlay District. Parking is not required at great expansion in the Overlay District, as described in Table 34-844, note #c, but would be required if the owner did not opt into the Times Square Overlay.

The existing structure is a two-story building with a restaurant/cocktail area on the first floor and a special events room on the second floor with offices in the rear. Presently there is a deck located on the outside front and east side of the building. To the rear is an enclosed storage area for the restaurant, which is one story in height. It is constructed to within 4 feet of the rear property line. The fence that was mentioned is approximately one foot inside of the Sea Breeze property. It's not on the property line.

The overhead power lines are located adjacent to the parcel along the 6-foot easement along the West Coast Surf Shop. The power lines extend along the rear of the parcel and the owners are requesting a reduced rear setback adjacent to the parcels that have previously received reduced rear setbacks of five feet or less. Sea Breeze received approval in 1993 for reduction along the rear under the old land development code before the city incorporated. The parcel to the east, the West Coast Surf Shop, received approval in 1997 for a 0 rear setback, which allowed them to build a staircase. Propane tanks are presently located to the rear of the former parking lot, which is along the east side of the existing building. The propane distributor visited the site and sent correspondence regarding his approval to relocate the tanks to the northwest corner of the existing structure. When the Times Square Overlay was being discussed, Mr. Benson

retained an attorney to attend the hearings, as he was concerned about the existing parking that he had; and with the pedestrian-oriented theme of the Times Square Overlay, Estero Boulevard has been blocked off and he has no car access to his street now. He left the meeting with the idea that he would be able to build out 100% on his site using up all his parking on the area. He did not realize that we had this 25-foot rear setback. He thought it was 0 on all four sides. In fact, the 25-foot rear setback accounts for 41% of the property. With the current request, he could achieve 92% coverage, or a 36% increase by approval of this rear setback reduction of five feet.

Fire access is not a limiting factor of this building. The existing building is sprinkled, as will be the expansion. This is the only building that is sprinkled in the Times Square overlay area and the safest of all the buildings surrounding it. The property will have access on the sides and the rear. There exists on the west side of the existing building a utility parcel by Florida Cities Water that is two feet in width. It's not an easement but a free-standing parcel. The existing building along that west side fronting that parcel is currently 2-1/2 feet off that line.

There exists adjacent to the east property line an easement for overhead power lines that is entirely upon the property of the West Coast Surf Shop. This would provide adequate access to the rear, as well as the access that they have provided through the center of the building for a fire tower, which has a minimum of a 36-foot wide egress entirely through the building to the rear. And, finally, the rear area is proposed to have a setback of 5 feet along the building expansion.

The power line access is adequate at this time. It should be noted that there are no utilities along the rear of the property and the power lines and poles currently encroach upon Mr. Benson's property. He's had ongoing negotiations with the power company and these issues will have to be resolved prior to the issuance of a building permit. There is the possibility of underground power, which would eliminate an unsightly condition and result in safer conditions as far as high winds, hurricanes or other disadvantages. Additional permits will be required to construct this building addition, including a permit from the FDEP, Beaches and Shores Division, as well as building permits and architectural review.

The owner wishes to proceed with all due haste, and clearly his request should be considered on its merits.

(At this point Mr. Hunt gave additional information regarding the owner's plans and he used an easel to indicate different areas on the property, but he moved too far away from the microphone to be audible to the typist.)

#### **Questions by Council Members:**

Councilman Cereceda referred to Mr. Hunt's comment regarding heading toward underground utilities. She asked him to elaborate on this.

Mr. Hunt advised that the power company is encroaching upon Mr. Benson's property in the rear. They have no easement. The power code requires that no portion of a building can be within 13 feet -- a radial distance -- around the wires. The new building that's proposed along the rear would come within 13 feet unless something is done and there will be a problem at building permit review time unless that issue is resolved. It appears that they're going to obtain an easement from him to put that portion underground along the east side. He may have to pay for that portion or that part of the building may have to be redesigned.

Mayor Mulholland asked Mr. Hunt if his presentation was the same as the one he presented to the LPA recently. Mr. Hunt said there had been no changes. Mayor Mulholland also ascertained that the handicapped entrance would bring one to the first floor of the existing building and there would be none for the upper level.

Asked if he was comfortable with the condition that the LPA placed upon approval of the 4-1/2 feet, Mr. Hunt said that he had argued against it. The condition was that they get approval from Florida Cities Water. Florida Cities Water is in limbo right now, but they are going to be acquired by either the Town of Fort Myers Beach or Lee County Utilities. They don't have any objection to the Cafe accessing the property. It's a matter of what form of paper work is needed if

that is going to be a final condition. There are three options. If we would accept a letter of no objection, there wouldn't be a problem. If we need to get an easement, then we get an easement from them to walk on the property, or Mr. Benson buys the property and gives them an easement back. They have a problem with their piece of property in that they can't access 2-foot wide and maintain their line, portions of which appear to be outside their property. But with the 4-1/2 foot access requirement, if the existing one-story addition is removed on the west side of the building where a staircase is proposed, they could actually proceed to the building permit with that condition. However, Mr. Benson would be restricted to a maximum of 50 people for fire access, life safety code access, to the second story of the building. If he can get the second means of access, then he would only be restricted by the use and activity for the gross square footage of that area on the second story.

Anita Cereceda asked Attorney Roosa what he thought of that letter of no objection. Attorney Roosa felt that the letter of no objection was not binding, but that the variance is. The better way would be an easement. It seems to him that they probably need a cross easement if, in fact, there's some question of access by Florida Cities. Ms. Cereceda said she was concerned about placing a condition on the approval of this variance in anticipation of that. It doesn't seem like something that we should question for the variance. Mr. Roosa said there is justification in that it addresses the issue of access to the rear of the property.

Councilman Reynolds asked where the chair lift would go since it didn't go to the second floor. Mr. Hunt explained that the existing structure is elevated about 2-1/2 feet above grade and the chair lift would take customers from the brick pavers on the grade level up to the first story of the existing structure. The new building is proposed to be constructed at a lower elevation, which would be accessible through a ramp from the ground floor elevation similar to what the West Coast Surf Shop has.

Mr. Reynolds said he wondered why they didn't have a ramp rather than a chair lift and was told because it uses up too much of the property. The existing ramp that Mr. Benson has out there now is in the right-of-way.

Because it says a minimum of 4-1/2 feet, this doesn't mean that they have to go out there, does it? Councilman Reynolds asked. Explained was that the 4-1/2 feet is a restriction whereby if they want to place that second staircase, they could not do it without getting whatever the ultimate decision of the board is regarding the type of approval they need from Florida Cities, if they need anything at all. If they do that, it would place an unfair burden on Mr. Benson because it would restrict the type of business he does. He currently has a special events room up there for meetings and private parties.

Mr. Hunt said that in closing, he'd like to remind us that this is a secondary means of access. They do have a primary means of access straight through the buildings. Access requirements are a minimum of 36 inches wide on the doors. They could make them wider, they could have double doors if that's what we want. They have 6-foot staircases approaching the accesses.

Councilwoman Cereceda noted that in the Overlay one can have zero setbacks on the sides. Patrick Hunt explained zero setbacks are for three sides. They would have to go to public hearing for the rear. Ms. Cereceda said then this 4-1/2 feet thing is irrelevant really and Mr. Hunt remarked that was his opinion, except that it's been placed as a condition.

**Public Comment:**

**A. Bill Whitaker**

Owner of the Dairy Queen, Bill Whitaker stated that he was excited as this was quite an improvement for the Times Square area. There is not one business there that's not going to benefit if this development is approved. It's a beautiful site plan. Anything that echoes the Surf Shop, he thinks, can't help but be a winner. When you look at all the other buildings in the area and their setbacks and the ones that have been approved, it doesn't make a lot of sense not to give

Brad the same opportunity. After all, his primary building, the one that occupies most of the space, goes very close to 4-5 feet of the rear property line, so do we need this big half of unused property sitting behind the proposed new building?

This guy gave up a very valuable and important parking lot. He's made a sacrifice. He needs a break. He hopes we will consider that.

**MOTION:** Made by Ray Murphy and seconded by Anita Cereceda to approve the Resolution, striking "not exceptional" in paragraph A, striking "not" in paragraph C, striking Condition 2 and also striking "disapproved" in the "Therefore" paragraph.

John Mulholland said that he did not think that striking are, or not or is or is not, etc., are necessary. Mayor Mulholland also ascertained that the only condition would be Condition 1.

**Discussion:**

Councilman Reynolds said that he agreed that the property is a good addition to Times Square and he hopes that others will make a move in that direction too. He thinks it should be 13 feet in the back of those properties. As he said earlier, our Town Manager was trying to reserve some space behind those buildings for the removal of trash, etc. He would like to think that the planning staff did good research on this and he thinks they gave pretty well when they said we'll go from 25 to 13 feet. Then along with that space and the space from the other property, we're going to have a lot of space there to get in and out of that for utilities in the future and also for garbage removal, etc.

Mayor Mulholland said he cannot support the motion as made because he believes that the access corridor should be present allowing access to the rear of the building of 4-1/2 feet as the LPA has stated.

Councilman Murphy stated that if you go to paragraph 1 of the Whereas clause, what they're asking for is a variance from a rear setback of 25 feet to 5 feet. Where the 4-1/2 feet come in is on the side setback wherein we say that side setbacks may not be less than 4-1/2 feet. We're already saying that in the Overlay District side setbacks are 0. So, as far as he's concerned, in his motion the 4-1/2 feet for side setbacks is not required but the 5-foot setback in the rear is still in. There is some confusion here.

Attorney Roosa stated that it's not a 4-1/2-foot side setback, because 2 feet of that is provided by Florida Cities Water. It's a 2-1/2 foot setback. The question then becomes do they have adequate access to the staircase to provide the maximum use of the upper level. If they're able to obtain the easement, that would be resolved. If they can't obtain the easement, then they would be limited in their use of the upper staircase. But that's really not an issue before this Council now.

Mayor Mulholland said that he understands as Councilman Murphy and Councilwoman Cereceda have pointed out that 0 access is a fact of life in the Times Square Overlay. Also, after reading the minutes of the LPA meetings, he sees that a side access of a minimum of 4-1/2 feet is part of their conditions. As Mr. Roosa points out, part of that is also being used for water access.

Councilwoman Cereceda said she would like to persuade him to her opinion by reminding him that we have put into place an ordinance of the Times Square Zoning Overlay to encourage the rehabilitation of that area. In that ordinance it stipulates that any business owner may improve his property to a zero setback on sides and front but must maintain a 25 foot setback in the rear. The only reason that the Bensons are here today is to ask for a rear setback variance. They do not have to comply by our original ordinance with any side setback request. We have already put that law into place. The only thing they have to ask us for is to go from 25 to 5. And there doesn't seem to be an argument there. But what Mayor Mulholland is proposing is that we impose on them a condition that is an exception to our existing law. And she doesn't think that is

fair to them and she thinks it would set a very poor precedent for other business owners in the Overlay District area if we should now begin to make exceptions to our original ordinance, which says 0 setbacks on the sides and the front.

Councilman Reynolds said he had a better understanding now of the ordinance. He does think however that 25 feet down to 13 feet in the back is a good reduction and he would hope that we would give some serious thought to that.

Mayor Mulholland said that a motion has been made and seconded to approve the Resolution as received in our packets with one condition, and the condition is that the variance is limited to the proposed structure as shown on Attachment B of the submitted site plan, which is attached hereto and incorporated herein by reference. That is the only condition on the Resolution.

**MOTION:** Made by Ray Murphy and seconded by Anita Cereceda to approve the Resolution, striking "not exceptional" in paragraph A, striking "not" in paragraph C, striking Condition 2 and also striking "disapproved" in the "Therefore" paragraph. Motion passes 3 – 1 with Garr Reynolds dissenting.

### **B R E A K -- 5 MINUTES**

#### **V. PUBLIC HEARING: PINK SHELL RESORT, 95-01-034-03Z.03.01.**

A) a variance request to amend commercial planned development (Pink Shell Bay Side) to remove 47 units, and B) a request to amend planned unit development (Pink Shell Gulf Side) to add 47 units to a 4 unit building, increasing the height of the building from 6 stories over parking to 9 stories over recreation area and lobby/administration area.

#### **Staff Presentation:**

Pam Houck, Service Delivery Coordinator for the Town of Fort Myers Beach, explained the amendment awaiting approval. A number of issues were considered, the two primary issues being consistent with Policy 4C8 -- density transfer, and consistent with Policy 4C4 -- height limitation. Ms. Houck detailed five. There are binding restrictions placed upon the property. In her review she found that #2, close proximity to each other and #4, the planned development rezoning process were clearly complied with. She believes that the applicant has satisfied #s 1, 3 and 4. The transfer is clearly in the public interest because the applicant is providing a number of conditions: 1) the dune will be restored on the gulf side and, 2) they will build a public walkway that meanders along the bay side parcel from from its north end to its south end through a park-like area and will also provide vistas of the bay when traveling along Estero Boulevard.

The property is in the mixed-residential land use category. Density is vested through the planned development zoning process and she believes this condition has been complied with.

A condition of Ms. Houck's recommendation is that the applicant must submit documents that will guarantee the permanence of the transfer, and these documents are now being reviewed. Height is determined by existing height in the area. The bay view is consistent with requirements of the relocation of the units.

Ms. Houck has recommended approval of applicant's request with a number of conditions that are included in her staff report on pages 2 and 3. Included in these conditions are the assurance that the units will not be relocated to the bay side parcel; that the buffers are enhanced in both the bay side parcel and the gulf side parcel; that rick rack be added along the Aquatic Preserve on the bay side parcel to enhance the Water Management system on the bay side parcel, which will also enhance the walkway by providing some natural vegetation; conditions that will ensure the dune restoration.

Mayor Mulholland asked for the disclosure of any ex parte communications at this point, but none were forthcoming.

**Questions by Council:**

Mayor Murphy asked if the documents that were prepared pertained only to the walkway. Ms. Houck advised that the documents will assure that the view is maintained and that the density will not be allowed back onto that parcel. They will also ensure that the interpretive walkway will be there in perpetuity and available to the public.

Asked by Councilwoman Cereceda about a pier that extends from the middle of the parcel, Ms. Houck acknowledged that the pier was part of the parcel.

Councilman Reynolds stated that the interpretation of 4C8 and 4C4 bothered him because we have another permit applicant who is also going for 10-story buildings similar to this one with probably even less units, and her interpretation is that that is permissible. He voted against the comprehensive plan, and she is pointing out some of the reasons why he voted against it. This could be the beginning of many similar requests for 10-story buildings. We keep saying 9 stories over parking or administrative offices, but that's a 10-story building and that's where he's really having problems with this. And is she telling us that her interpretation of 4C8 allows Council to go to whatever number of stories they see fit? Ms. Houck's response was, yes, as long as whatever criteria set forth in that policy is met. Mr. Reynolds stated that then they could really go 12 or 15 in that location. Ms. Houck said that they could if they could find it consistent with the surrounding development and that it meets the test.

**Agent for Applicant Input:**

Beverly Grady's firm represents the Boykin Lodging Company for both Boykin Hotel properties and Pink Shell. Presented to the Council today is a request for an amendment to the Pink Shell approved plans which they are very excited about. Mrs. Grady detailed the amendments. She introduced the team that worked on the project.

Mrs. Grady advised that this is the first time we've had an amendment to a PUD, the forerunner of modern planned developments, and its regulations were very detailed. She pointed out two exhibits on the side wall that were not in our packets. Both showed approved plans. The bay side CPD plan is labeled Exhibit 1. The PUD gulf side plan is labeled as Exhibit 2. Applicants are here today to present to us an amended plan which they believe is creative and positive and better for the Town, the public and for Pink Shell. It has received a positive staff recommendation, unanimous approval by the Local Planning Agency, and in our packets are support from members of the public.

On the bay side plan, 47 units have been eliminated. On the gulf side plan, 30 feet in height has been added to the approved 45 unit, six-story structure. It would now with this approval contain 92 units. We will find that there is a footprint of 24, 975 square feet on the approved plans. With the elimination of the six-story building and the two cottages, the footprint of the single 92-unit structure is 15,200 square feet.

In today's approved plan, all the gulf side cottages are to be removed except for two. Should there be an interest on the Beach in having some of those cottages moved to another location, the owner is willing to work with the program that offers some of them without any compensation.

The proposed plan for the bay side will open the bay vista to the traveling public on the north end. We will have 300 feet of passive use divided between each end of the property. We'll see the green space. We'll see the landscaping. In addition to the 300 feet divided between the two ends, we'll see there has been created a valet parking opportunity that's reduced the amount of land normally dedicated to parking. Also being created is a pedestrian interpretive walkway that meanders through the south end of the property along the bay, over the dock, and then meanders back to Estero Boulevard. There will be a sidewalk provided along Estero Boulevard on the bay side. There will be landscaping along both sides of Estero Boulevard. Extensive landscaping will buffer the parking lot. The plan proposes 7,500 plants. There will be beach vegetative

plantings.

Exhibits submitted to Council are a traffic analysis, a PUD plan and a CPD plan.

Dan McCahey, an architect, was introduced. He exhibited a collage of photographs to analyze what is existing. A big issue in this project is the creation of a tunnel corridor along Estero Boulevard. And Mr. McCahey showed how this would be done.

Carleton Ryffel, an engineer, was introduced by Mrs. Grady as an expert in land planning. He advised he had taken the plan that was prepared and had compared it to the land development code to determine whether or not it was in full compliance with it and found that it was. It was also consistent with the comprehensive plan. He outlined the many positive aspects of the plan.

John Naylor, the general manager of the Pink Shell Resort, stated that the biggest thing the plan brings to the table is guest safety. He emphasized that the Pink Shell is a family resort. Indicated was that cottages are no longer in demand by guests.

Mr. Naylor advised that he worked for Miromar, the company that manages the property for Boykin, owner of the property, and his perspective is operational. Boykin has had a presence in Lee County for over 20 years. Mr. Naylor described them as first-class people who are interested in doing quality projects.

Mark Bishop, Sr. Vice President for Boykin, was introduced. He stated that the Boykin Company is long-term oriented and have been around since 1959. What excites him is that they can bring the Pink Shell property into the 21st century and cure a lot of the ills.

Beverly Grady re-reviewed the improvements that would be made to the Pink Shell property and requested our approval.

**Questions from Council:**

Councilwoman Cereceda praised Mrs. Grady for the thoroughness of her presentation.

Mayor Mulholland asked Mrs. Grady if there was any change in what she is proposing this morning from what was presented to the LPA, and was told no, nor had she presented anything to us that had not been presented to the LPA.

Councilman Murphy wished to know what assurance we had that the bay side parcel would be accessible to the public in perpetuity. Mrs. Grady said they are required to submit and have recorded a document that assures that the units from the bay side portion of the PUD are permanently eliminated and that there will be a walkway dedicated to the public.

Ray Murphy advised he appreciated the owners' benevolence in making the cottages available to the public. He would like for the Town staff to be notified ahead of time when any cottages are to be removed.

Mayor Mulholland commended the applicant and all the folks who made this presentation to us.

**Public Comment**

**A. JOHN BOUCHET**

Mr. Bouchet, an owner of a unit in the Estero Island Beach Villas, said he had carefully reviewed the plan and sees a lot of positives in it. A concern he has, however, is that the existing pool is being removed.

**MOTION:** Made by Ray Murphy and seconded by Anita Cereceda for approval of the Resolution as submitted to us in our packets.

Pam Houck advised that the master concept plan that's in our packets reflects the LPA's review and was submitted between the LPA's hearing and this hearing. We should, therefore, change the date from November 30, 1999 to December 22, 1999 in Condition 1 on page 2 of her staff report. Also they changed the title from conceptual landscape plan to master concept plan.

**MOTION:** Made by Ray Murphy and seconded by Anita Cereceda for approval of the Resolution as submitted, excepting that the date in Condition 1 on page 2 of the staff report should be changed from November 30, 1999 to December 30, 1999. Also, the title of the plan has been changed from conceptual landscape plan to master concept plan.

**Discussion:**

Councilwoman Cereceda asked if there was a proposed time line for the actual construction and development of this project. (Reply inaudible.)

Councilman Murphy said he'd also like to commend the applicant and staff for their presentation. The proposals will be a benefit to the Town. What is happening here today is not the approval of a high-rise, but a transfer of an existing PUD to a CPD.

Councilman Reynolds stated that there was no place in the Resolution indicating that the 3.2 acres is going to be dedicated with the walkway. Mr. Reynolds was informed that Conditions 1-10 found on pages 2 and 3 of the staff report refers to the walkways. Those recommendations become part of the Resolution.

Mr. Reynolds said he thinks the plan is a very fine one but he cannot approve of any buildings over six stories. He feels that we are going beyond the intention of the comp plan.

**MOTION:** Made by Ray Murphy and seconded by Anita Cereceda for approval of the Resolution as submitted, excepting that the date in Condition 1 on page 2 of the staff report should be changed from November 30, 1999 to December 30, 1999. Also, the title of the plan has been changed from conceptual landscape plan to master concept plan. Motion passed 3-1 with Garr Reynolds dissenting.

**VII. ADJOURNMENT**

The meeting was adjourned at 11:00 a.m.

Respectfully submitted,

Lorraine Calhoun  
Transcribing Secretary