

**FLAGLER COUNTY
PLANNING AND DEVELOPMENT BOARD
REGULAR MEETING
Flagler County Government Services Building
Board Chambers
1769 East Moody Blvd., Bunnell, FL
MEETING MINUTES
Tuesday, August 14, 2018 at 6:00 PM**

Adopted 10/9/18

1 **MEMBERS PRESENT:** Chairman Mark Langelo, Timothy Conner, Lauren Kornel, and Anthony
2 Lombardo.

3
4 **MEMBERS ABSENT:** Michael Boyd (excused)

5
6 **STAFF PRESENT:** Adam Mengel, Planning Director; Gina Lemon, Development Review Planner
7 III; and Wendy Hickey, Planner.

8
9 **CONSULTANT:** Sally Sherman, of JMI Consulting

10
11 **BOARD COUNSEL:** Kate Stangle, of Broad and Cassel

12
13 **Chairman Langelo** called the meeting to order

14
15 1. **Roll Call.**

16 Attendance was confirmed by Ms. Lemon and a quorum was present.

17
18 2. **Pledge of Allegiance.**

19 Chairman Langelo led the Pledge of Allegiance to the Flag.

20
21 3. **Approval of the July 10, 2018 regular meeting minutes will be postponed to the September**
22 **11, 2018 regular meeting.**

23
24 4. Quasi-judicial requiring disclosure of ex parte communication:

25 Application #3101 – **APPLICATION FOR A SITE DEVELOPMENT PLAN OVER 5**
26 **ACRES IN THE AC (AGRICULTURE) DISTRICT** – request for review of a site development
27 plan in the AC (Agriculture) District at 2925 State Road 100 West. Parcel Number: 07-12-30-
28 5550-00160-0030; 8.53+/- acres. Owner/Applicant: Polonia Society of Korona, Fla., Inc.; Agent:
29 J. Brett Markovitz, Sr. VP, CPH, Inc.

30
31 **Chairman Langelo** asked for ex-parte disclosures; no disclosures were made.

32
33 **Mr. Adam Mengel, Planning Director**, presented the staff report giving a brief history of the
34 project and recommended that the Planning and Development Board approve Application #3101,
35 a Site Development Plan Over 5 Acres in the AC (Agriculture) District for an approve Semi-
36 Public Use as a Cultural Center for the Polonia Society of Korona, Fla., Inc. located at 2925 State
37 Road 100 West, finding that the Site Development Plan meet the technical requirements of the
38 Land Development Code.

39
40 **Chairman Langelo** asked if the applicant would like to give a presentation.

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1
2 **Mr. J. Brent Markovitz, Senior Vice President, CPH Engineers Inc. 520 Palm Coast**
3 **Parkway SW, Palm Coast,** applicant, gave a brief overview of the project and thanked the staff
4 for their help.

5
6 **Chairman Langello** opened the Public Hearing. Seeing no one approach the podium, he closed
7 the Public Hearing.

8
9 **Chairman Langello** asked if the Board had any questions.

10
11 *Motion to approve made by Mr. Connor, seconded by Ms. Kornel.*

12
13 *Motion carried unanimously.*

- 14
15 5. Quasi-judicial requiring disclosure of ex parte communication:
16 Application #3141 – **VARIANCE IN THE PUD (PLANNED UNIT DEVELOPMENT)**
17 **DISTRICT**– request for 3.46 foot side yard setback variance from the 7.5 foot minimum side
18 yard setback for a single family home located at 42 Heron Drive within Palm Coast Plantation
19 PUD Unit 3 subdivision. Parcel Number: 27-11-31-4893-00000-0180; Owner: William F. and
20 Virginia L. McLeod H&W/Applicant: Saltwater Homes, Inc.

21
22 **Chairman Langello** asked for ex-parte disclosures; no disclosures were made.

23
24 **Mr. Mengel** presented the staff report and the history for this variance request and the staff
25 recommendation that the Planning and Development Board find that all variance criteria as listed
26 in the guidelines at the Land Development Code Section 3.07.03.E have been met and therefore
27 approves a 3.46 foot variance from the minimum 7.5 foot side yard setback for a single family
28 residence at 42 Heron Drive subject to the condition that the homeowner route the existing
29 downspouts from the roof along the left (South) side of the home away from the side yard,
30 directing the roof drainage to the rear of the property, with a yard drain added in the low spot
31 between the center of the home and the rear of the parcel, with the yard drain then piped to the
32 rear lot line to the West.

33
34 **Chairman Langello** asked if the applicant would like to give a presentation.

35
36 **Nicolle Waltman of Saltwater Homes, Inc., 205 Palm Coast Parkway, NE, Suite 607, Palm**
37 **Coast,** applicant, described how during the building and construction process numerous surveys
38 indicated that the home met the minimum setbacks and if it wasn't for the new construction next
39 door the error in the surveys may have never come to light. She noted that they as the contractor

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1 have agreed to coordinate any permitting and installation of the County-requested drainage
2 improvements.

3

4 **William and Virginia McLeod, 42 Heron Drive, Palm Coast**, property owners, stated they are
5 working with the neighbors to address some encroaching shrubs.

6

7 **Chairman Langello** asked the applicant what did the original surveyor, the surveyor throughout
8 the project, say was the error?

9

10 **Ms. Waltman** stated that he said the initial four property corners for the lot were not placed
11 correctly, which created a domino effect and the house was not placed correctly on the lot.

12

13 **Chairman Langello** this lot is not a rectangle and is deep so it is unique.

14

15 **Chairman Langello** opened the Public Hearing. Seeing no one approach the podium he closed
16 the Public Hearing.

17

18 *Motion to approve made by Ms. Kornel, seconded by Mr. Lombardo.*

19

20 *Motion carried unanimously.*

21

22 6. Quasi-judicial requiring disclosure of ex parte communication:

23 Application #3142 – **VARIANCE IN THE PUD (PLANNED UNIT DEVELOPMENT)**
24 **DISTRICT** – request for a 2.6 foot rear yard setback variance from the 20 foot minimum rear
25 yard setback for a single family home located at 21 Bristol Lane within the Sea Colony
26 subdivision. Parcel Number: 20-10-31-5365-00010-1580; Owner: Barbara C. Jones/Agent:
27 Dennis Bayer, Esq.

28

29 **Chairman Langello** asked for ex-parte disclosures; no disclosures were made.

30

31 **Mr. Mengel** presented the staff report and recommendation that the Planning and Development
32 Board finds that all the variance criteria as listed in the guidelines at Land Development Code
33 Section 3.07.03.E have not been met – specifically criterion 1 and 2 have not been met – and
34 therefore denies the 2.6 foot rear yard setback variance from the minimum 20 foot rear yard
35 setback for the expansion of living area at 21 Bristol Lane (Parcel #20-10-31-5365-00010-1580).
36 The Board finds that the owner’s requested 2.6 foot rear yard setback variance is denied, since the
37 property in question is not unique within the Sea Colony subdivision and the need for the variance
is caused by the owner’s action extending the home’s living area into the rear setback.

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1 He also provided the Board with *Alternative Approval Language*: The Planning and Development
2 Board finds that all variance criteria as listed in the guidelines at Land Development Code Section
3 3.07.03.E have not been met and therefore denies the rear yard setback variance for 21 Bristol
4 Lane (Parcel #20-10-31-5365-00010-1580). The Board finds that: as to variance criterion 1, this
5 lot is unique through the removal of the pool and deck and the decrease in impervious area through
6 the porch addition; as to criterion 2, the conditions requiring the variance were not created by the
7 affirmative actions of the owner and the owner acted at all times in good faith; as to criterion 3,
8 the requested variance would not cause substantial detriment to the community or impair the
9 purpose and intent of Article III of the Land development Code; and as to criterion 4, use of the
10 lot as a single family residence is permitted by the Sea Colony Planned Unit Development (PUD).

11 **Mr. Connor** asked if the waterways in Sea Colony were pledged as density credits?

12
13 **Mr. Mengel** replied that he did not know.

14
15 **Mr. Connor** questioned there was no emergency access by water, asking if the Sea Colony
16 development predated zoning?

17
18 **Mr. Mengel** replied no.

19
20 **Dennis Bayer, Esq., 109 6th Street, Suite #200, Flagler Beach**, for the applicant, stated that for
21 this request he comes before the Board with the approval of all the neighbors and the HOA which
22 is unusual. He also noted that the house does not sit square on the lot, and thinks that is unique to
23 this property. He also acknowledged that there is some inconsistency in the application, noting
24 his client completed the application. He stated that what his client is asking for is a setback of
25 17.8 feet from the rear property line. He also added that his client relied on the nature of the
26 development in the neighborhood as to what would be allowed.

27
28 **Chairman Langelo** opened the Public Hearing. Seeing no one approach the podium he closed
29 the Public Hearing.

30
31 **Chairman Langelo** asked about in the applicant's narrative it talks about other variances granted
32 in the area. Have there been any variances in the immediate area of this site and if so how many?

33
34 **Mr. Bayer** replied that he had been involved in a few variance requests, such as a rear porch
35 addition.

36

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1 **Chairman Langelo** stated that maybe since the HOA is in favor and give approval for these
2 things, maybe they should change the PUD allowing for maybe a 15 foot rear setback.

3
4 **Mr. Lombardo** stated that he was familiar with this development and the situation of the size of
5 the properties.

6
7 **Mr. Connor** stated he thought that the developer should have drawn the lot lines to include the
8 water since all it is being used for is stormwater retention. I find it hard to see how this meets
9 criteria 2 of the variance requirement showing that the owners didn't know they were coming to
10 this situation. A minimum level of due diligence would have alerted the land owners that they had
11 a small lot and it was going to be restricted for development.

12
13 **Ms. Kornel** stated that as a planner, she would ask about setbacks, but many lay people when
14 they buy an old home and they look around the neighborhood they think it should be fine based
15 on what they see in the area.

16
17 *Motion to approve made by Ms. Kornel, seconded by Mr. Lombardo.*

18
19 *Motion carried unanimously.*

- 20
21 7. Quasi-judicial requiring disclosure of ex parte communication:
22 Application #3143 – **APPLICATION FOR A SEMI-PUBLIC USE** – request for a church
23 within the I (Industrial) District located at 7855 U.S. Highway 1 South in Favorita Acres
24 subdivision. Parcel Numbers: 16-13-31-1875-00000-0130 and 16-13-31-1875-0000-0140; 3.5+/-
25 acres. Owner: Gospel Association for the Blind, Inc./ Applicant: Slavic Baptist Church of Palm
26 Coast, Inc./ Agent: Tuan K. Huynh, P.E., Project Manager, Upham, Inc.

27
28 **Chairman Langelo** asked for ex-parte disclosures; no disclosures were made.

29
30 **Mr. Mengel** presented the staff report, a brief history of the parcel, and staff's recommendation
31 that the Planning and Development Board recommend approval of Application #3143 for a Semi-
32 Public Use for a church at 7855 U.S. Highway 1 South finding that sufficient factual data has
33 been presented, subject to the conditions:

- 34
35 1. This Semi-Public Use approval shall be binding upon the applicant and subject to all
36 conditions as included within the applicants submittal package, including the application and
37 site plan;
38 2. This Semi-Public Use shall run with the land and shall survive conveyance and transfer to
39 another owner or owners provided, however that the conditions contained herein are
40 maintained in perpetuity;

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- 1 3. Obtaining all other agency permits prior to issuance of a Flagler County land development
2 and/or building permit;
- 3 4. County staff will continue to monitor the site to ensure that health, safety and welfare of
4 parishioners is maintained but not exceeding the maximum occupancy of any building while
5 also verifying that off-street parking does not exceed the capacity provided on site; and
- 6 5. Any lighting on-site will be the minimum necessary and will be shielded and aimed downward
7 so as to minimize the effects on adjacent properties.

8
9 **Chairman Langelo** asked Ms. Stangle if there was anything special as it relates to churches.
10 **Ms. Kate Stangle, Esq., Planning Board Counsel,** replied no, everything Adam has presented
11 is valid, we do not want to treat this with bias or favoritism. Churches are allowed within this
12 zoning category so you are not discriminating against it as long as it meets all the other
13 requirements as an acceptable use.

14
15 **Tuan Huynh, P.E., Project Manager, Upham Engineering, 265 Kenilworth Avenue,**
16 **Ormond Beach,** for the applicant, noted that the applicant accepts all the conditions and added
17 that the assembly would occur two to three times per week so the impact would be very minimal
18 as there is existing services and infrastructure to the property.

19
20 **Chairman Langelo** asked about the assembly area, that it looks to be 2,100 square feet in area
21 and the occupant load seemed to be low for the size. How do we determine the occupancy load?

22
23 **Mr. Mengel** replied that the project was reviewed by the Fire Marshal, the Life Safety Code has
24 some calculations and the Fire Marshal was comfortable with the 88 persons noted in the
25 application packet.

26
27 **Mr. Huynh** also added there is an additional access point in the rear of the building.

28
29 **Chairman Langelo** stated that it was parking that was his concern.

30
31 **Mr. Huynh** responded that based on the 88 occupancy the parking requirement is 22 but has
32 provided an additional 5 spaces and there is also a large amount of greenspace that if necessary
33 could be used for overflow on the 3.58 acre property.

34
35 **Chairman Langelo** opened the Public Hearing. Seeing no one approach the podium he closed
36 the Public Hearing.

37
38 *Motion to approve made by Ms. Kornel, seconded by Mr. Lombardo.*

39
40 *Motion carried unanimously.*

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- 1 8. Quasi-judicial requiring disclosure of ex parte communication:
2 Application #3145 – **VARIANCE IN THE R-1 (RURAL RESIDENTIAL) AND THE PUD**
3 **(PLANNED UNIT DEVELOPMENT) DISTRICT** – request for a 49 foot variance from the
4 150 foot maximum height of a telecommunications tower within the R-1 (Rural Residential) and
5 PUD (Planned Unit Development) Districts located at 1250 South Old Dixie Highway. Parcel
6 Number: 04-13-31-0650-000D0-0040; 19.69+/- acres. Owner/Applicant: Board of County
7 Commissioners of Flagler County.

8
9 **Chairman Langelo** asked for ex-parte disclosures; no disclosures were made.

10
11 **Chairman Langelo** asked if Mr. Mengel was doing the presentation.

12
13 **Mr. Mengel** replied yes, but that Sally Sherman, the County’s consultant will represent Mr. Shupe
14 our Innovation Technologies Director in his absence with any questions; she is very familiar with
15 this project. So if you have any specific questions there I am not trying to advocate wrongly for
16 the County even though I am a County employee.

17
18 **Mr. Mengel** stated that this had just gone through the Special Use approval. We didn’t have the
19 variance timing for the notice to go out quick enough when the site was picked out, for the
20 northwest corner of the property. The park property where we are going to put the tower sits in
21 an R-1 zoning district. So, R-1 residential uses have a special criteria that is listed in our Special
22 Use considerations for towers that says you can’t exceed 150 feet in height if you are constructing
23 for two (2) or more users in a residential zoning district. So that is what has prompted this request.
24 The request is specifically for a 49 foot height variance allowing for 199 foot total height
25 emergency services telecommunications tower, being part of that overall network this being the
26 tower that moved from the Plantation Bay Utility site. The FAA determination of No Hazard to
27 Air Navigation is pending. The Special Use approval noted the FAA determination as a condition.
28 I had a discussion with Ms. Jane Gentile-Youd, she is present to request additional lighting that
29 is not required by FAA. FAA says 200 feet or greater you are marking the tower orange and white
30 and you are also lighting the tower. When we went through the Special Use approval I showed
31 the proximity to our airport and also the airport in Ormond. Staff’s recommendation is that the
32 Planning and Development Board finds that based on the testimony and evidence presented that
33 all variance guidelines have been met and approve Application #3145 for a 49 foot variance from
34 the maximum tower height of 150 feet to permit a 199 foot self-supporting emergency services
35 telecommunications tower within the R-1 (Rural Residential) district at 1250 South Old Dixie
36 Highway.

37
38 **Chairman Langelo** thanked staff for the presentation.

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1 **Ms. Sally Sherman, Consultant, JMI Consulting**, for Flagler County as the applicant, we have
2 been working on our telecommunications system for several years now and it is all based on that
3 we have voids in our system as it relates to our law enforcement and our fire rescue personnel
4 trying to communicate to each other in the field so this is a critical part of our infrastructure that
5 is going to enable them to communicate by radio. I think one of the things that really came to light
6 was as an example if a law enforcement officer is in a certain area of the county after a perp and
7 they lose communication by radio, we have no way of knowing where they are and what is going
8 on so we are trying to close those gaps and that is a very important aspect of that closure this
9 location. We do follow the circulars that the FAA puts out and they don't arbitrarily make changes
10 to what they recommend or what they are proposing to give us guidance of because the flying
11 population kind of dictates where they are because of tower height locations and if you were to
12 sometime attach another system on to that then they assume they are at a certain height. We are
13 committed to adhere to what FAA is going to require us to do and install lighting if required by
14 them.

15
16 **Chairman Langello** asked if anyone on the Board had any questions for Ms. Sherman. Hearing
17 none he then opened the Public Hearing.

18
19 **Ms. Jane Gentile-Youd, 3 Magnolia Drive North, Ormond Beach**, taxpayer and resident,
20 stated we do need towers. Years ago I was against them, but we definitely need them, everybody
21 needs them. The County said that a request for a lighting waiver is not needed as long as the tower
22 is less than 200 feet in height. The County is going to be borrowing \$13 million upfront to pay
23 Motorola for the six towers, lighting is relatively inexpensive today. There is LED lighting, we
24 don't need to worry about blinding people the residents. Right behind the property there is ICI
25 future Westlake, I don't know if they even know about this. But the people are going to be living
26 very, very, close now let me ask you, if you lived close by and you do with the county I don't
27 know does the FAA know that about a half a mile to the east is a five million dollar water plant?
28 Does the FAA know that less than five miles to the north is an airport? An airport that has no
29 radar at this time and we are leasing space to student pilots who fly at all times day and night. We
30 are the lightning capital of the United States and for one foot we are not going to put up lights? I
31 am going to call the FAA tomorrow and I am going to give them all the facts. It seems to me
32 absolutely stupid and dangerous and look at the liability that tax payers we will face if a plane hits
33 that tower we are going to say we didn't need a light because the tower was one foot below 200
34 feet and there is a playground and homes and an airport with no radar and lighting is inexpensive
35 and considering we are borrowing \$13 million with interest at only 3½% over 20 years. Please
36 make lighting mandatory.

37
38 **Chairman Langello** asked Ms. Gentile-Youd if she was against the variance or are you only
39 asking them to put lighting on the tower?
40

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1 **Ms. Gentile-Youd** replied absolutely, we need the tower. I just want them to be safe.

2
3 **Mr. Mark Youd, 3 Magnolia Drive North, Ormond Beach**, Flagler County resident, stated that
4 making this tower 200 feet and not installing lights, I don't know if it is a financial thing or an
5 arrangement with Motorola. I have been in the aviation industry for over 35 years and I have seen
6 my share of dumb, stupid and dangerous things. Does anyone really believe a tower at 199 feet is
7 safer than one at 200 or 201 feet? I don't think so. Last night the weather we had by 7:00 p.m.,
8 we had a thunderstorm I haven't seen this bad in years. I couldn't see 50 feet to my neighbor's
9 house. Do you think these conditions for a pilot flying in trouble struggling to maintain altitude
10 and he's got no tower and no radar. I'm sorry even if he has instrument readings he is not going
11 to see a tower 200 feet up in the air if it doesn't have any lighting in those conditions. I'm sorry,
12 last night I couldn't see my neighbor's house. So I am asking for this to be denied based upon
13 lack of lighting and at least delayed until the Flagler Airport gets a tower and radar installed.

14
15 **Chairman Langello** asked if the Board had any questions.

16
17 **Ms. Kornel** asked staff if the Board could move to approve the variance and put conditions on it?

18
19 **Mr. Mengel** replied yes.

20
21 **Ms. Kornel** responded okay, that's all.

22
23 **Chairman Langello** asked that based on the public comments, in the building business, I often
24 know this we have steps so when you get to this level, this triggers if you get below it you don't
25 trigger it and it is not uncommon in the public, I should say the private sector to look at that and
26 we may do something up to the limit because we know if we go a little more we are going to
27 trigger that thing, so in the private sector we often do that to save money.

28
29 **Ms. Sherman** commented that the tower height is the recommendation from the tower company
30 we are working with, this is their recommendation for the height. As I had indicated Flagler
31 County has been working on this for a number of years and this is not the first time we had tower
32 requests that are 199 feet, this is what they had recommended. Also as I had indicated it is our
33 goal and our desire to work with FAA with regard to their recommendations on what they want
34 us to do with regard to the tower location and any proximity to any other location within Flagler
35 County. As you may recall, when we came forward a number of years ago with cell towers there
36 was a lot of outcry because people did not want lighting and so that was one the things that was
37 taken into consideration as well as we moved forward with these current requests. But it is not
38 related to a financial aspect. It is what is needed for the location and also working with FAA to
39 determine what they would want to see in regard to lighting. Again it puts us in a difficult
40 position, we are being dictated to do something that FAA may come back and say no it is not

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1 allowed or we don't want it in that location. We are not opposed to it. Again, we are working with
2 the FAA on it.

3

4 **Chairman Langelo** asked Ms. Sherman that this lot has two (2) different zoning classifications
5 and if we were to place this thing in the rear, the variance would not be necessary?

6

7 **Ms. Sherman** replied you are absolutely correct.

8

9 **Ms. Langelo** asked how many feet away are we from roughly from where it changes?

10

11 **Ms. Sherman** stated I think it was about 20 feet.

12

13 **Mr. Mengel** added, assuming we measure it out, I want to say it is about 200 feet deep so that as
14 Ms. Sherman had said there would be about another 20 feet further to the south then you have that
15 boundary line showing up.

16

17 **Chairman Langelo** added that it is not practical to put it there obviously.

18

19 **Ms. Sherman** stated that is correct based on the recommendation of the engineer.

20

21 **Chairman Langelo** replied I was saying to Adam that this is not the first time we have asked to
22 have a variance and the height of the towers and without getting into whether or not we meet all
23 this criteria that we do on all these variances. It would be nice again that staff would be looking
24 at this thing and maybe these tower heights aren't correct anyway and need to be adjusted. If the
25 County needs that amount of height it is not unreasonable to believe that somebody else is going
26 to need it. So it would be nice if this issue was corrected. So, I would just wish you would correct
27 some of these issues instead of keep coming back for variances.

28

29 **Chairman Langelo** asked for a motion.

30

31 *Motion to approve with the condition that the tower be lit made by Ms. Kornel, seconded by Mr.*
32 *Lombardo.*

33

34 **Chairman Langelo** stated that he was not in favor of that only because he thought they should
35 get the variance. I don't want to dictate whether the lighting is required.

36

37 *Motion with the condition of lighting carried 3 ayes to 1 nay with Chairman Langelo*
38 *dissenting.*

39

40 **Chairman Langelo** asked staff if there would be more people to sit on this Board soon.

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1
2 **Mr. Mengel** replied yes sir, we have some things in the works.

3
4 **Chairman Langelo** stated as you can see we are down again, we have not had a full five member
5 of our seven member Board and if any other member didn't show up we would not have had a
6 meeting tonight.

7
8 **9. Staff Comments**

9
10 None.

11
12 **10. Board Comments**

13
14 None.

15
16 **11. Public Comments** - Each speaker will be allowed up to three minutes to address the Planning
17 and Development Board on any item or topic not on the agenda.

18
19 **Ms. Jane Gentile-Youd, 3 Magnolia Drive North, Ormond Beach**, added I want to say thank
20 you. I wish that you would consider revisiting the C-2 Code. I am here and taking advantage of
21 the three minutes. We have an antiquated C-2 code that really has a lot of people very concerned
22 that the current C-2 code is so out of date and allows all types of businesses to have only a 50 foot
23 buffer from single family homes including Bus Stations, Night Clubs, Assisted Living Facilities.
24 If you look at the list under C-2, it looks to me like 1985 when this was written. In 1985, I was
25 living in Dade County and I think that at that time the County was the Wild Wild West back then
26 because the different uses listed are not consistent or compatible with the surrounding areas. At
27 this point, the current C-2 zoning is inconsistent and incompatible with our quality of life. I hope
28 you can revisit doing something with that C-2 code.

29
30 **12. Adjournment**

31 *Motion made by Mr. Connor at 7:17 p.m.*

32
33 Prepared by: Wendy Hickey
34 Reviewed by: Adam Mengel