

DEPARTMENTAL CORRESPONDENCE

TO: Mayor A. Craig Fletcher and
City Councilmembers

FROM: Timothy J. McGarry, AICP
Director of Planning and Development 

DATE: December 17, 2012

SUBJECT: **First Public Hearing on Ocean Drive/Cardinal Drive
Commercial Overlay District-Supplemental Staff Report**

First Reading

The above referenced draft ordinance, based on the detailing and refining the recommendations contained in the adopted *Vision Plan (2005)* and *Ocean Drive/Cardinal Drive and Beachland Boulevard Master Plan (2007)*, was presented to the City Council for First Reading after being unanimously approved by the Planning and Zoning Board on November 1, 2012. The final draft ordinance, which was prepared in response to direction from the City Council, is the product of five public workshops and two public hearings conducted by the Planning and Zoning Board over the last year.

At the First Reading, the City Council requested staff to prepare an amendment to the draft ordinance to allow four story buildings for hotel properties fronting along the east side of Ocean Drive. This staff report presents a suggested amendment to the draft ordinance to incorporate this revision along with supporting background information and commentary.

Background

The proposed ordinance limits buildings to a maximum of 3 stories and a height limit of 50 feet (35 feet with an additional 15 feet for embellishments). The City’s current regulations set no limits on the number of stories, but do set the maximum height limit to 50 feet. [The reader is referred to the staff report dated November 26, 2012, contained in the agenda package for the First Reading of the ordinance that explains the rationale and policy basis for the limitation on number of stories.]

At the ordinance’s First Reading, a representative of the owners of the Holiday Inn property on Ocean Drive suggested eliminating the three-story restriction for hotel properties along the beachfront to allow for better design and facilitate redevelopment of his client’s property with the constraints of the current maximum 50 foot height limit. He further stated that to be competitive in the market, beachfront hotels need to maximize the number of rooms with an ocean view. The proposed three-story limitation would make it more difficult for his clients to achieve this objective.

In the City Council's follow-up discussion, the staff indicated that it had no significant issue with allowing beachfront hotels with more than 100 linear feet of frontage along the east side of Ocean Drive to redevelop to four stories under the supplemental development standards of Section 62.508. This proposed modification should not conflict with site and building design requirements of the proposed overlay, as the proposed ordinance already provides that beachfront hotels with 100 feet or more of linear frontage along Ocean Drive may be set back to a maximum of 80 feet from the front property line with the approval of the Architectural Review Commission. However, to ensure that any four story hotel built under this provision is not incompatible with "store-front" corridor character to be achieved for properties along Ocean Drive subject to the 15 to 20 feet build-to-line requirements, a provision should be added to require a minimum build-to-line along with the maximum build-to-line requirements.

The staff would not recommend that the four story limits be allowed throughout the district. It would be counter to the overall storefront-look trying to be achieved in the district and may well encourage incompatible design, especially as the minimum ground floor ceiling height requirements have been eliminated from the proposed ordinance. The special location requirements for beachfront hotels, including the modified build-to-line requirements for large hotel properties, support the planning and policy rationale to treat these properties differently than other properties along Ocean Drive.

Proposed Revision to Draft Ordinance

The staff proposed that Section 62.508(d)(5), page 20 of the draft Ordinance, be revised to read as follows (words underlined are additions and words with ~~strike through~~ are deletions):

- (5) With the approval of the architectural review commission, the build-to-line requirements of subsection 62.504(d) and the maximum number of stories of subsection 62.504(b) may be modified for hotels with 100 or more feet of property frontage along the east side of Ocean Drive, subject to the following provisions:
 - a. The approved build-to-line shall be no greater than 80 feet from the front property line.
 - b. The maximum number of stories shall be no greater than 4 with the condition that the approved build-to-line shall be not less than 30 feet from the front property line.

To approve such modifications, the architectural review commission shall ~~makeing~~ findings that the project design is consistent with a purpose of the overlay district and that the project fully and appropriately integrates in its site and building design the streetscape zone requirements of this section. In approving any modification, the architectural review commission may attach reasonable conditions to its approval.

Recommendation

The staff recommends that the draft Ordinance be amended to include the text amendment suggested by staff in this report or as may be modified by the City Council.

TJM/tf

cc: James O'Connor, City Manager
Wayne Coment, City Attorney

ORDINANCE NO. 2013- _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF VERO BEACH, CHAPTER 62, NONRESIDENTIAL DISTRICTS BY CREATING ARTICLE XIII, OCEAN DRIVE/CARDINAL DRIVE COMMERCIAL OVERLAY DISTRICT; PROVIDING FOR DEVELOPMENT AND BUILDING DESIGN STANDARDS; PROVIDING FOR DEVELOPMENT INCENTIVES; PROVIDING FOR CONDITIONS OF APPROVAL AND WAIVERS FROM USE REQUIREMENTS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Ocean Drive/Cardinal Drive and Beachland Boulevard Master Plan (hereinafter called “Master Plan”) adopted by the City Council on February 27, 2007, which expanded upon and further detailed the City of Vero Beach Vision Plan, provides goals, strategies, and development guidelines for the development and redevelopment of the Ocean Drive and Cardinal Drive commercial district; and

WHEREAS, the Planning and Development Department staff, working in conjunction with the Planning and Zoning Board, has prepared this Ordinance with input from stakeholders and interested members of the public; and

WHEREAS, this Ordinance is intended to implement the recommendations of the adopted Master Plan through the creation of a commercial overlay district (hereinafter called “Overlay District”); and

WHEREAS, the geographic boundaries of the Overlay District are to be established by an amendment to the City’s Official Zoning Map through the adoption of a separate ordinance; and

WHEREAS, the City Council finds that the adoption of this Ordinance is in the public interest, consistent with the standards of Section 65.22(i)(2)-(3) of the City of Vero Beach Code and will facilitate implementation of the recommendations of the Master Plan and Vision Plan;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Adoption of “WHEREAS” clauses.

The foregoing “WHEREAS” clauses are hereby adopted and incorporated herein.

Section 2. Amendment of the Code of Ordinances.

The Code of the City of Vero Beach, Chapter 62, Nonresidential Districts, is hereby amended to add Article XIII, Cardinal Drive/Ocean Drive Commercial Overlay District, which shall read as follows:

**ARTICLE XIII. CARDINAL DRIVE/OCEAN DRIVE COMMERCIAL
OVERLAY DISTRICT**

Sec. 62.501. Purpose and applicability.

(a) Purpose. The purpose of the Ocean Drive/Cardinal Drive Commercial Overlay District (herein referred to as “overlay district”) is to encourage the responsible development and redevelopment of the Cardinal Drive and Ocean Drive commercial areas in order to:

- (1) Retain and promote a pedestrian-oriented, mixed residential-commercial district characterized by small-scale specialty retail and services, restaurants, and related supporting uses on the ground floor with office, residential, and hotel uses above the ground floor;

- (2) Retain and promote small to medium scale quality hotel development and redevelopment compatible with the commercial uses and overall pedestrian-oriented character of the district;
- (3) Encourage development that exhibits the physical design characteristics of pedestrian-oriented storefront shopping streets; and
- (4) Promote the health and well-being of residents by encouraging physical activity and greater social interaction.

(b) Applicability. The provisions of this article shall apply to all real real property within the boundaries of the overlay district as depicted on the City's official zoning map.

c) Underlying zoning. The underlying regulations of the C-1A zoning district shall remain in full force and effect except as specifically modified or superseded in this article. To the extent that any conflict may arise between the regulations of this article and the regulations of the C-1A zoning district, the provisions of this article shall prevail.

Sec. 62.502. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

Authorizing authority: The planning director or planning and zoning board.

Build-to-line: The line parallel to and measured from the front property line along which the front of the principal building façade is required to be built in order to create a compatible line of buildings along frontage streets while providing for a streetscape zone.

Call center: A business office for the primary purpose of receiving and transmitting a large volume of requests by telephonic transmissions, operated by a company to administer incoming product support or information inquiries from consumers, including outgoing calls for, but not limited to telemarketing, clientele and product services, and debt collection.

Hotel: Any building operated, used, maintained, advertised, intended, or held out to the public as sleeping accommodations, for rental to guests for a period of time of less than 30 days.

Liner space: Retail and other commercial space located between the public right-of-way and hotel rooms, surface parking lots, or above-ground multi-level parking structures designed to eliminate “dead space” created by such uses along the public street.

Office uses: Uses permitted in the C-1A zoning district listed as administrative services, business and professional offices, cultural and civic activities, and financial institutions.

Project: Development or redevelopment approved pursuant to the standards of this article and Code.

Public open space: Outdoor areas open during normal business hours to access by the public, such as, but not limited to, terraces, gazebos, patios, boardwalks, fountains, gardens, outdoor dining and sales areas, art and sculpture display areas, benches, tables, and landscaped areas.

Public-private multi-level parking structure: An above ground multi-level parking facility with a minimum of 20 percent of the parking spaces available to the public.

Retail uses: Those uses permitted in the C-1A zoning district listed as restricted sales and services.

Side street: -Azalea, Bougainvillea, Camelia, Dahlia, and Flamevine lanes.

Streetscape zone: That area between the public right-of-way and the required front façade build-to-line.

Streetwall: An opaque wall or fence designed and constructed to screen the view of parking areas from public right-of-way.

Substantially improved building or structure: Any existing building or structure when improved in excess of 50 percent of its most recent just valuation as determined by the Indian River County Property Appraiser.

Underground parking: Parking areas with a finished floor constructed completely or partially below the existing or finished grade on all sides, excluding entrances and exits.

Sec. 62.503. Permitted and prohibited uses.

(a) Uses. Uses permitted in the overlay district shall be the same as those in the underlying C-1A zoning district, except the following uses shall be prohibited:

(1) Drive-in, drive-through, or drive-up facilities for any establishment.

(2) Single restaurant establishments with more than 6,000 square feet of floor area.

(3) Call centers.

(4) Any other use not listed as a permitted use in a C-1A zoning district.

(b) Vesting of large restaurants. Any lawfully established restaurant existing on [the effective date of this ordinance] exceeding the floor space limitations of this

section shall be considered in conformance with the provisions of this section, as long as there is a no net increase in floor area.

Sec. 62.504. Site and building development standards.

(a) *Applicability.* New or substantially improved principal buildings shall be required to meet the site and building development standards of this section to the maximum extent practicable as determined by the appropriate authorizing authority based upon documentation provided by the applicant.

(b) *Maximum number of stories.* The maximum number of building stories shall be 3.

(c) *Building height and measurement.* The maximum height of buildings shall be as provided in section 62.38, which is 35 feet with an additional height allowance of 15 feet for embellishments. The measurement of building height shall be pursuant to section 60.15, except that the starting point of measurement shall be the average front façade sidewalk elevation or 18 inches above the required Florida Department of Environmental Protection elevation if the building is located seaward of the Coastal Construction Control Line, whichever elevation is greater.

(d) *Build-to-line.* The build-to-line requirements of this paragraph shall supersede the front yard setbacks requirements of the underlying C-1A zoning district. The build-to-line shall be as follows:

- (1) Between 15 and 20 feet from the front property line along Ocean Drive, Cardinal Drive, and Sexton Plaza.
- (2) 20 feet from the front property line along Beachland Boulevard.
- (3) 10 feet from the front property line along side streets.

(4) A minimum of 50 percent of the street façade of the building shall be constructed on the build-to-line and any building façade recess shall be a maximum of 6 feet from the build-to-line. The width of such recess shall be no greater than 25 percent of the street facade of the building, except that the building façade recess may be up to 25 feet from the build-to-line to accommodate public open space as long as the linear distance of such a recess is not more than 25 feet in width or 20 percent of the street facade, whichever is lesser.

(5) The street façade of the building may have architectural articulations or jogs of 18 inches or less in front or back of the build-to-line.

(6) Awnings, canopies, and similar forms of weather protection on ground and second floors may project 5 feet beyond the build-to-line.

(7) Balconies on the second floor may project up to 8 feet beyond the build-to-line.

(8) The build-to-line of a building on a corner lot of the intersection of Cardinal Drive, Ocean Drive, or Beachland Boulevard shall be modified if the main building entrance is on the intersecting corner of the lot pursuant to section 62.506.

(e) *Build-to-line exception.* Notwithstanding subsection (d) above, a project involving substantial improvement or the replacement of existing principal buildings that are located 10 feet or less from the front property line may be constructed to a build-to-line of 10 feet. However, the project shall not be eligible for any of the development incentives provided in section 62.508 of this article unless the authorizing authority

makes a finding that the project has met the site and building development standards of this section to the maximum extent practicable based on documentation provided by the applicant.

(f) *Side yard setbacks.* The side yard setback requirements of this subsection shall supersede the side yard setback requirements of sections 62.38 and 62.44 of the underlying C-1A zoning district. The minimum side yard setbacks shall be 0 feet except as follows:

(1) 7.5 feet for properties with a lot width of 100 feet or greater along the east side of Ocean Drive.

(2) 25 feet where the side yard of a property abuts a residential zoning district including a landscaped buffer strip pursuant to (i) below.

(g) *Side yard setback modification.* Notwithstanding (f) above, in order to create the required street façade any new principal building or substantially improved principal building shall be built to the side property line where the existing principal buildings or structures on the abutting lot are located along such common property line between the two properties and on the required build-to-line in this article.

(h) *Rear yard setbacks.* The rear yard setback requirements of this subsection shall supersede the rear yard setback requirements of sections 62.38 and 62.43 of the underlying C-1A zoning district. The required rear yard setback shall be 0, except where the rear yard of the property abuts a residential district. If the rear yard abuts a residential zoning district, a setback from the rear property line of 25 feet shall be provided, including a landscaped buffer strip pursuant to subsection (i) below.

(i) Landscaped buffer strip requirements. A 10 foot wide landscaped buffer strip shall be provided along the property line of any project abutting a residential zoning district. Said landscaped buffer strip shall consist of a continuous hedge of at least 4.5 feet in height at the time of installation, which hedge shall be located inside the buffer strip and not less than 2 feet from that portion of the property line that directly abuts the residential zoning district.

(j) Streetwalls. If required by section 62.505 to meet parking design standards, streetwalls shall be installed and constructed pursuant to the following design standards:

- (1) Streetwalls shall be constructed of the same or complementary materials as the principal buildings and may be a combination of “wall” and metal “fence” materials, except that chain link fencing shall not be allowed.
- (2) Streetwalls shall be 4 feet in height and shall have a 6 inch projection or a recess at least every 10 to 12 feet of streetwall length.
- (3) The total length of any streetwall shall be no longer than 50 feet per street frontage unless otherwise approved by the planning and zoning board based on a demonstration of good cause by the applicant.
- (5) Notwithstanding the requirements of section 72.04 of this Code, a minimum of 5 foot-wide landscaping strip facing the street shall be required with shrubs of at least 2 feet in height spaced 3 feet on center at the time of planting together with ground cover other than grass.

- (6) No two streetwalls shall adjoin on a common property line unless otherwise approved by the planning and zoning board based on a demonstration of good cause by the applicant.

Sec. 62.505. Parking design standards.

In addition to the other requirements of this Code, the following parking design standards shall apply for any and all new or substantially improved principal buildings, new surface parking lots, above-ground multi-level parking structures, and the expansion of existing parking by more than 10 spaces:

- (a) Parking spaces shall be located in the rear of the property or on the side yard of the property no closer than 5 feet from the front façade build-to-line unless otherwise approved by the planning and zoning board upon the demonstration of good cause by the applicant.
- (b) Streetwalls shall be required where a surface parking lot or entrance abuts Cardinal Drive or Ocean Drive and such parking is located within 50 feet of the property line without any intervening principal or accessory buildings to screen such parking from the public right-of-way. Such street walls shall be in conformance with the design standards provided in section 62.505.
- (c) Except for public or public-private multi-level parking structures, all above grade parking shall be in surface lots.
- (d) Any above-ground public or public-private multi-level parking structure shall have liner space of at least 20 feet in depth containing commercial uses on the ground floor facing any public street.

- (e) The perimeter landscaping requirements for off-street parking adjacent to a public alley may be waived by the planning and zoning board based on a demonstration of good cause by the applicant
- (f) Perimeter landscaping requirements for off-street parking along side lot lines may be waived by the planning and zoning board based on a demonstration of good cause by the applicant.
- (g) Parking lots/areas on adjoining sites may be physically interconnected only for so long as the affected property owners maintain an executed and recorded cross-easement between or among them permitting such interconnection and access to each other's property. The applicant shall provide proof of such cross-easement satisfactory to the planning director. The design and redesign of parking lots that cross property lines may require landscaping meeting the requirements of section 72.04 of this Code, if the planning and zoning board so determines.

Sec. 62.506 Building design standards.

(a) Applicability. New or substantially improved principal buildings shall comport with the building design guidelines of this section and all other applicable code design provisions to the maximum extent practicable as determined by the architectural review commission. No project may be approved by the appropriate authorizing authority unless the architectural review commission makes the determination that the overall design of the project is consistent with the intent and provisions of this article to encourage physical design characteristics of a pedestrian-oriented, mixed residential-commercial district with storefront shopping streets. The architectural review commission

may approve minor variations from the design guidelines in this section to accommodate varying architectural styles based on a demonstration of good cause by the applicant.

(b) *Building entries.* The main doorway for public entry into a principal building shall be from the street façade and shall be clearly defined. A building on a corner lot may have its main entrance on the building corner corresponding to the lot corners. If the main entrance is provided on the corner of the building, rather than meeting the build-to-lines that intersect at the corner, the building facade shall be angled to face the intersection and have architectural features in place making such corner of the building prominent. There shall be no difference in the elevations of a building entry and adjacent sidewalk, unless Coastal Construction Control Line standards apply.

(c) *Modulation.* Building elevations shall repeat features that create a logical pattern from each street view. Acceptable features to help define each façade elevation include:

- (1) Consistent window patterns;
- (2) Porches or covered entries;
- (3) Balconies or bay windows;
- (4) Alternating dormers, stepped roofing or gables; and
- (5) Material changes according to building plane, light fixtures, trellises, or key landscape features.

(d) *Passageways.* Any building that exceeds 200 feet in length shall provide a pedestrian walkway or passageway at the ground floor in a location that provides convenient access to parking at the rear of the building. The walkway/passageway shall not be less than 10 feet in width and may include outdoor dining, retail displays, or other

amenities associated with public open space as long as such amenities are otherwise approved under this Code and a 5-foot passage for pedestrians is maintained. The walkway/passageway shall be open to the public and shall not be included in the FAR.

(e) Colors. No more than 3 colors on the exterior façade plus one accent color shall be allowed. The 3 colors shall be in a compatible range.

(f) Roofs. The following design standards shall be followed for roofs:

(1) Roofs may be hip, gable, or flat with a pitch of between 4:12 to 12:12.

(2) No mansard roofs shall be allowed.

(3) All pitched roofs shall have an overhang of at least 12 inches and may extend to a maximum of 30 inches beyond the building façade.

(5) Buildings with flat roofs shall include a parapet on the street façade and all side facades pursuant to the following guidelines:

a. The top of the parapet shall be no less than 24 inches in height, but no higher than 48 inches, as measured along the face of the façade from the top of the flat roof.

b. Parapets shall be treated as unique architectural elements on the facades of flat roof buildings with special attention paid to the use of articulation, signage, details, inlays, friezes or other appropriate elements.

(6) Street façades, that are 100 linear feet or greater in length, shall incorporate in at least 2 locations a, minimum 3 foot change in the roof edge and/or parapet treatment from the dominant roof design.

(g) Building materials.

- (1) Exterior wall building materials shall include any of the following:
- a. Stucco;
 - b. Precast concrete;
 - c. Stone;
 - d. Wood siding;
 - e. Cementitious board products;
 - f. Masonry brick (texture masonry shall be permitted); or
 - g. Tile.
- (2) No more than 2 materials in (1) above shall be used in a façade, except for trim elements.
- (3) Except for flat roofs, that shall have no material specifications, roof materials shall include any of the following:
- a. Metal standing seam;
 - b. Clay or concrete tile;
 - c. Composite tile; or
 - d. Slate or synthetic slate (no asphalt or fiberglass shingle shall be permitted).
- (4) Doors and windows shall include any of the following:
- a. Painted or stained wood frame;
 - b. Metal; or
 - c. Vinyl clad wood frame.
- (h) Windows. Windows shall adhere to the following standards:

- (1) Street level windows shall be clear or lightly tinted glass; no heavily tinted, mirrored, or reflective glass of any kind shall be permitted.
- (2) A minimum of 50 percent of the linear dimension of the ground level street façade shall consist of windows or glass doorways.
- (3) No street façade shall continue uninterrupted by a window or a functional public access doorway for a maximum linear distance of greater than 12 feet.

Sec. 62.507. Use of public right-of-way.

The following uses of public right-of-way may be permitted subject to approval of a right-of-way permit or license as provided in chapter 71 of this Code:

- (1) Outdoor dining associated with an indoor restaurant on the property may encroach on the public sidewalk adjacent to the private property so long as a minimum 3.5 foot clear passage for pedestrians is maintained along the area between the outdoor dining and adjacent vehicle parking areas or roadway.
- (2) Awnings may encroach into the right-of-way so long as the awning is no lower than 8 feet above the sidewalk.

62.508. Development standards and incentives for eligible projects.

(a) Purpose. In order to encourage and promote pedestrian-oriented, mixed use development, specific development incentives are provided in this section for eligible projects that meet certain development or use requirements. These incentives are in the form of modifications or waivers to the underlying C-1A zoning district regulations in exchange for meeting specific land use mixes and site and building design standards.

(b) Application. As part of the applicant's development permit application to be submitted for project approval pursuant to chapter 64, article I, development review, of this Code, the applicant shall identify the specific development incentives being requested for the project.

(c) Supplemental development standards. No project may receive a development incentive unless the architectural review commission makes a determination that the project meets the open space and streetscape requirements of this section and that the site design of the project meets the intent of this article by encouraging physical design that increases pedestrian-oriented activity and social interaction in the overlay district. In addition to meeting the development standards pursuant to sections 62.504 through 62.506 of this article for new or substantially improved principal buildings, any project receiving a development incentive pursuant to this section shall be required to meet the supplemental development standards, as follows:

- (1) Net loss of public access. The project shall not result in a net loss of public access to the ocean and beach areas.
- (2) Required streetscape zone. New and substantially improved buildings shall be required to provide a streetscape zone if the subject project abuts Ocean Drive, Cardinal Drive, or Beachland Boulevard. Existing development that does not involve the construction of a new principal building or substantial improvements to an existing principal building shall provide a streetscape zone to the maximum extent practicable as determined by the architectural review commission. The following are the streetscape zone requirements:

a. Along Ocean Drive and Cardinal Drive, the area contained within the streetscape zone shall provide for an interconnected sidewalk to adjacent properties and include shade trees and landscaping and may include other pedestrian features such as, but not limited to, terraces, gazebos, patios, outdoor dining, art and sculpture displays, fountains, gardens, benches, tables, trash receptacles, and other special features approved as part of and in conjunction with the site plan approval for the project.

b. Along Beachland Boulevard, the area contained within the streetscape zone shall provide for an interconnected sidewalk to adjacent properties and shall require the planting of live oak trees at least 6 inches diameter at breast height (DBH) at a ratio of one tree for every 50 feet of street frontage along Beachland Boulevard excluding driveways.

(3) Open space. Following are the open space requirements that shall be met:

a. The minimum open space shall be 20 percent of the property. Any project not involving the construction of a new principal building or substantial improvements to an existing principal building that exceeds this minimum shall be deemed in conformance with the provisions of subsection; however, no further decrease in the amount of open space shall be permitted.

b. At least 40 percent of the required open space shall be accounted for as “public open space.” Public open space may be within

streetscape zones and side and rear setbacks, but shall not include landscaped areas required for parking or any required landscaped buffer strip.

c. At least 50 percent of the “public open space” shall be landscaped with trees, shrubs, and ground cover.

(4) Permitted uses by floor level. Any project to be approved pursuant to this section shall meet the following use requirements by floor level:

a. Ground floor - Only office, retail, restaurant, and hotel lobbies and accessory retail and restaurant uses located within a hotel building shall be allowed on ground floors, except that hotel rooms may be allowed on the ground floor under either of the following conditions:

1. If a minimum 20 foot deep liner floor space containing other uses permitted on the ground floor is provided between hotel rooms and the build-to-line; or

2. If that portion of the building containing ground floor rooms is setback more than 50 feet from the front property line along the east side of Ocean Drive.

b. Second story – Any permitted use may be allowed on the second floor.

c. Third story – Only residential and hotel uses are allowed on the third floor.

(5) Third story setback. The façade of the third floor of any building shall have a setback of at least 6 feet for at least 50 percent of the building facade from the build-to-line.

(d) Development incentives. The following development incentives shall apply to a project approved pursuant to this section:

(1) The maximum lot coverage of principal buildings shall be 50 percent. Any project that does not involve the construction of a new principal building or the substantial improvement of an existing principal building that exceeds this maximum lot coverage shall be deemed in conformance with the provisions of this subsection; however, no further increase in lot coverage shall be permitted.

(2) The off-street parking and loading requirements of chapter 63, off-street parking and loading requirements, of this Code shall be modified, as follows:

<u>Use</u>	<u>Standard</u>
<u>Residential</u>	<u>1 space per unit</u>
<u>Retail</u>	<u>1 space per 300 square feet of floor area</u>

(3) Any hotel lawfully existing on [effective date of this ordinance] that has an FAR of more than 1.0 shall be deemed to be in conformance with FAR provisions of this section subject to the condition that proposed improvements to the property will not result in an increase in floor area and the principal use of the property will remain as a hotel.

- (4) Any hotel lawfully existing on [effective date of this ordinance] that has a density of more than 30 rooms per acre and average lot size per room of less than 1,450 square feet shall be deemed to be in conformance with the density and average lot size per room provisions of the C-1A zoning district subject to the condition that proposed improvements to the property will not result in an increase in the number of rooms.
- (5) With the approval of the architectural review commission, the build-to-line requirements of subsection 62.504(d) may be modified for hotels with 100 or more feet of property frontage along the east side of Ocean Drive, subject to the provision that the approved build-to-line shall be no greater than 80 feet from the front property line. To approve such modification, the architectural review commission shall making findings that the project is consistent with a purpose of the overlay district and that the project fully and appropriately integrates in its site and building design the streetscape zone requirements of this section. In approving any modification, the architectural review commission may attach reasonable conditions to its approval.
- (6) A projects shall be eligible for a FAR bonus incentive if it meets the following use threshold requirements:
- a. Hotel and accessory uses shall have a maximum FAR of 1.0 or the existing FAR of the hotel, if greater than 1.0, subject to the conditions in (3) above.

b. Any project with 50 to 74 percent of its ground floor area in retail and/or restaurant uses shall have the following maximum FARs based on uses and number of stories:*

i. 2 stories at 0.7;

ii. 2 stories with residential and/or hotel use on 2nd floor at 0.8; or

iii. 3 stories with residential and/or hotel uses on 2nd and 3rd floors at 0.9.

c. Any project with 75 percent or more of its ground floor area in retail and/or restaurant uses shall have the following maximum FARs based on uses and number of stories:*

i. 2 stories at 0.8;

ii. 2 stories with residential and/or hotel uses on 2nd floor at 0.9; or

iii. 3 stories with residential and/or hotel uses on 2nd and 3rd floors at 1.0.

* The floor area of any parking structure and elevator shafts shall be excluded in determining these use threshold requirements.

(7) Underground parking shall be excluded from FAR calculations and underground parking levels shall not be considered stories for determination of compliance with subsection 62.504(b).

(e) Conditions of approval for uses and FAR incentive bonus. At a minimum, any project approved pursuant to this section shall be required to maintain the mix of

permitted uses by floor level of subsection (c)(4) above. If the project received a FAR bonus incentive pursuant to this section, it shall be required to maintain the minimum threshold mix of uses by floor for the FAR incentive bonus pursuant to subsection (d) above. Subsequent to approval of the project, no floor space may be occupied by a use that results in any use or a mix of uses that does not comply with this article unless a waiver is first obtained from the planning and zoning board pursuant to section 62.509.

Sec. 62.509. Waivers from use requirements.

(a) Purpose. The purpose of this section is to provide a process for granting relief to owners of projects that have been approved pursuant to section 62.508, which owners, due to unforeseen and uncontrollable marketplace conditions, are unable to maintain the minimum mix of uses by floor level required for all projects and projects receiving a FAR incentive bonus.

(b) Waiver eligibility. A project approved pursuant to section 62.508 shall not be eligible to apply for a waiver until at least one year from the date of the certificate of occupancy for the subject building, or if the approved project does not require a certificate of occupancy, no sooner than one year from the date of the development approval of the project.

(c) Waiver duration. Any waiver granted by the planning and zoning board shall be for a period of not more than 2 years. No later than 60 days prior to the waiver's expiration, the property owner may submit an application for a one-time extension of the waiver for one additional year pursuant to subsections (e) and (f) below.

(d) Waiver expiration. Upon expiration of the waiver the project shall become a non-conforming use until the applicable provisions of subsection 62.508(c)(4) or, if

applicable, subsection 62.508(d) are met. As a non-conforming use, the project shall comply with the provisions of article II, non-conforming uses, of chapter 64 of this Code, except that the vesting provisions of section 64.27 shall not apply to any floor area above 0.5 FAR not existing on the property prior to the project's approval pursuant to section 62.509.

(e) *Waiver application process.*

(1) Every application for a waiver pursuant to this section shall be in a form prescribed by the planning director and accompanied by a nonrefundable fee in the amount established from time to time by resolution of the city council to defray the actual cost of processing the application and provision of any required notice.

(2) The completed application shall be submitted to the planning and development department for review. The planning director shall review the application and provide a written report with his findings and recommendations to the planning and zoning board and to the applicant. The planning director shall cause the application to be advertised in a local paper of general circulation no less than 14 days before the date of the hearing.

(3) The planning and zoning board shall conduct a public quasi-judicial hearing on the waiver application. The planning and zoning board shall make findings based on the criteria in subsection (f) below and issue its written approval, approval with conditions, or denial of the application.

(f) Waiver review criteria. To approve the waiver or an extension to an existing waiver, the planning and zoning board must find, based on competent substantial evidence, all of the following:

(1) That the applicant has diligently and in good faith tried to secure a mix of uses that meets the permitted uses by floor level required in section 62.508(c)(4), and, if applicable, the minimum use mix thresholds by floor level required for a FAR bonus incentive granted pursuant to section 62.508(d); and,

(2) That the granting of the waiver will permit the continued use and maintenance of the subject property while providing additional time for the applicant to bring the property into compliance.

(g) Conditions on waivers. In granting a waiver, the planning and zoning board may include reasonable conditions to ensure the applicant is diligently working toward bringing the subject project into compliance.

(h) Appeals. Appeals of the planning and zoning board's waiver decision shall be to the city council pursuant to section 64.08 of this Code.

Section 3. Conflict and Severability.

In the event any provision of this ordinance conflicts with any other provision of the Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this ordinance, the provisions of this article shall apply and supersede. If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 4. Existing Code Violations.

Nothing in this ordinance shall affect or prevent any past, pending or future prosecution of or any action to abate a violation of the C-1A zoning regulations existing prior to adoption of this ordinance.

Section 5. Effective Date.

This ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the _____ day of _____, 2012, and was advertised on the ___ day of _____, 2012, as being scheduled for a public hearing to be held on the _____ day of _____, 2013, and was also advertised on the _____ day of _____, 2013, as being scheduled for a second public hearing to be held on the _____ day of _____, 2013, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor A. Craig Fletcher	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Tracy M. Carroll	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Pilar E. Turner	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Jay Kramer	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Richard G. Winger	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

A. Craig Fletcher
Mayor

Approved as to form and legal sufficiency:



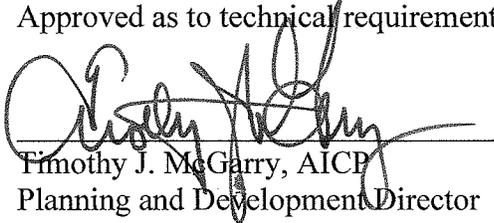
Wayne R. Coment
City Attorney

Approved as conforming to
municipal policy:



James R. O'Connor
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

PLANNING & ZONING BOARD MINUTES

Mr. Pelan referred to page 32, item h, "Notice of the public hearing shall be sent by regular mail, no less than 14 days from the date of the public hearing, by the Planning and Development Department to all owners of real property within 300 feet of the property." He was not in favor of mailing notices as he felt that posting the property was sufficient.

Mr. Lauffer suggested changing "300 feet" to "adjacent properties."

Mr. Mucher noted that a neighbor could be out of town and therefore would not see the posting of the property.

After a brief discussion, the Board members agreed to keep it the way it is (mailing notice to real properties within 300 feet).

B. Draft Ordinance Establishing an Ocean Drive/Cardinal Drive Overlay District

*Please note that this item was heard prior to item IV-A).

Mr. McGarry went over the staff report on the Draft Ordinance establishing an Ocean Drive/Cardinal Drive Overlay District with the Board members (please see attached).

Mr. Pelan asked if they decide that this needs to be mandatory, is it still an overlay district or is it conceivable that this could be a new zoning district with new criteria.

Mr. McGarry said that they could go to a single district, but the nice thing about the overlay district is they can refer to the underlined zoning. He explained that the Overlay District is easier to do because he could justify that it doesn't need a Comprehensive Plan change.

Mr. Pelan said there were five or six big topics, which were height, FAR, open space, parking, land use, and incentive of a third floor.

Ms. Susan Smith introduced herself to the Board members. She noted that she was a member of the Vision Team, the Vision Implementation Team, and the Architectural Review Commission. She reported that the Vision Team met for about a year and a half, the Vision Implementation Team met for about one year and none of the things they came up with was done lightly, nor was there an overall general consensus on everything. There were some very heated discussions and a lot of compromises that they worked out. In the end, the Vision Plan was endorsed 100% by all the members of the Team. She said that they held a lot of meetings with the public to get their input on what they wanted. She said the vision was to have Ocean Drive be a pedestrian scale, which is why they put in the incentives for retail businesses. She said that she would like Ocean Drive and Cardinal Drive done simultaneously.

Mr. Ben Bailey introduced himself to the Board members. He said that he also served on the Vision Team and the Vision Implementation Team. He said that when he was visiting Naples, Florida, he and his wife were sitting at a sidewalk café and they wrote down things that they liked about the area.

What they liked was the pastel colors, sidewalk cafés, and low impact signage. He felt that low impact signage was very important and they really needed to look at this. Other things that they liked were that there were no electrical lines on the street, they had benches along the sidewalks, pavers on the crosswalks, and great landscaping. He noted that landscaping was the cheapest thing that they could do. He felt that at some point in time they need to look at having parking garages. He noted

that there are very good designs that would make parking garages look like a building. He suggested having parking meters. He said that they could have one low impact parking meter on each block. Another suggestion was to have tasteful streetlights. He noted that parking was not a problem, although it is a problem at times during the season. He was pleased that the City was bringing this back up.

Mr. George Lawrence introduced himself to the Board. He said that he also was a member of the Vision Team. He said that there are a lot of shops in the area that are going out of business because they are not generating the kind of traffic that they could. He felt that landscaping could create an atmosphere for the shops, which was critical.

Mr. Pelan asked if they felt this should be mandatory or optional and what is their opinion regarding the height issue.

Mr. Lawrence said that they have to be prepared for redevelopment and the incentive to redevelop is to go to three stories. He was in favor of three stories.

Ms. Smith said that she would like to see three story buildings that have banks or real estate offices on the first floor.

Mr. Lawrence felt that it was critical to keep office structures on Beachland Boulevard. Signage along Beachland Boulevard was also critical.

Ms. Smith felt that signage should be mandatory, but within a framework that they do not look exactly alike.

Mr. Bailey said if they had low signage along Beachland Boulevard then people would be able to find what they are looking for. He felt that low signage should be mandatory, understanding that some areas would need to be grandfathered in for a certain amount of time. He said that they would not need a long period of time to be grandfathered because signs don't last forever. They could give them three, four, or five years to replace their signage. He said that he was very much in favor of landscaping and there were areas that they could make the landscaping uniform.

Ms. Smith said the Vision Team also suggested interconnecting the parking lots along Beachland Boulevard so they wouldn't have everyone pulling out onto Beachland Boulevard and then pulling into the next area. She said that this should be done Citywide.

Mr. Pelan said in the County when a site plan is submitted for approval they ask that a stub out is put in so the next person can connect or that it is agreed that the person submitting the site plan would agree to granting an easement at the appropriate time.

Mr. Lauffer felt that the landscaping along Ocean Drive was good, but what stops it from being great was that everyone has done their own thing and it doesn't carry over. He said that he visited Naples, Florida, and they had areas along the street line where they had fountains and benches with stores wrapped around them. He suggested granting waivers on setbacks for dining, fountains, etc.

Mr. Bailey said the 800 pound gorilla is parking. They have to do something to offset an increase in density.

Ms. Smith said people say there is no parking on Ocean Drive, but they are the people who are up closest to Mulligan's Restaurant. But, if they go down in front of Harris Trust there is a big open parking area.

Mr. Lauffer asked are the alleys being utilized as respectively as they could be. He said that he has seen alleys in other areas where they bridged over them.

Mr. Pelan said there were ways where they could reorganize Azalea, Bougainvillea, Camelia and Dahlia to have parallel parking or angle parking on one side. These are improvements that would be the responsibility of the public sector unless they can figure out a way for the private sector to fund it.

Mr. Mucher said there currently is on-street parking located on the east end of Dahlia.

Mr. Lauffer asked if they would be interested in having the public assume landscaping to make it more consistent and if they would be willing to give up individual landscaping to have it replaced with something that has more of a designed criterion.

Mr. Bailey said that if there was a good landscape plan he would take his landscaping out and go along with the design.

Mr. Howle felt that there was room for improvement and landscaping was the cheapest and easiest thing to do.

Mr. Bailey said that there were not that many property owners there. He felt that if there was a way to improve their property that they would go for it.

Mr. Pelan was just as concerned with the street façade as he was with height because there is a different feeling on Ocean Drive as there is on Cardinal Drive where the buildings are separate from each other and there is not a cohesive street front.

Mr. McGarry felt that they needed to move forward with the landscaping and do the sign Ordinance as a separate entity.

Mr. Lauffer asked have they established priorities. He said that they have discussed a number of things, but he did not think that they prioritized them.

Mr. Pelan said it is not a matter of priorities, but a matter of moving forward with writing an overlay district.

Mr. McGarry said the signage could be part of the Overlay District Ordinance or it could be a separate Ordinance. He said there are some landscaping requirements currently in the proposed Ordinance, but if they are thinking about having a Comprehensive Landscape Plan, that is beyond what the City can do at this point.

Ms. Smith asked Mr. Bailey to speak with the property owners on Ocean Drive to see if they would be interested in the landscaping concept.

Mr. McGarry felt that they should speak with the Oceanside Business Association (OBA).

Mr. Lauffer said that they also need to look at the style of lighting fixtures.

Mr. Curley excused himself from today's meeting at 3:12 p.m.

Ms. Smith suggested that they speak with the business owners and maybe the OBA would be willing to pay to have a Comprehensive Plan.

Mr. Bailey did not think anyone in the area would be against spending money for improvements. He felt that the OBA was a good place to start.

Mr. McGarry said that he would start working on the signage and the overlay. He suggested that they hold workshop meetings to discuss their ideas.

Mr. Lauffer suggested because of the time that they postpone the remaining items on today's agenda.

Mr. Pelan suggested that they take a 10-minute break, reconvene at 3:30 p.m., and plan to adjourn the meeting at 4:00 p.m. The Board members agreed.

At this time, the Board took a 10-minute break.

The meeting was called back to order at 3:30 p.m. and the Board members discussed item IV-A).

V. PLANNING DEPARTMENT MATTERS

Mr. McGarry reported that he and Mrs. Peggy Lyon, Assistant City Attorney, met with the Chamber of Commerce regarding the Sign Ordinance. He said that there were some changes made and he would bring them back before the Board at their next meeting.

VI. BOARD MEMBERS' MATTERS

None

VII. ADJOURNMENT

Today's meeting adjourned at 4:02 p.m.

/sp

Mr. Daige said that both neighborhoods are concerned with their quality of life and how it would impact them. If it is going to have a positive impact then they would look at it. He said that there are a lot of non-profit organizations in his neighborhood and they are all planning to expand. He noted that non-profit organizations do not pay taxes.

Mr. Pelan wanted to know how many non-profit organizations owned buildings and how many were leasing space.

V. PLANNING DEPARTMENT MATTERS

Mr. McGarry reiterated that the April 5, 2012 meeting will be with the two neighborhoods. He said that they probably would also hold a public hearing on the Comprehensive Plan amendment regarding the land use compatibility around the Airport. He reported that he would not be here for the April 19th or the May 2nd Planning and Zoning Board meetings. He suggested that they wait to hold their meeting on the Overlay District of Ocean Drive and Cardinal Drive when he returns. He said that if the Board does not want to wait he could probably be back for the May 2nd meeting.

Mr. Pelan was not opposed to include the Overlay District on their April 5th agenda and if it gets too late they could table it.

Mr. McGarry suggested that they hold a Special Call meeting.

Mr. Howle was not opposed to holding a Special Call meeting to discuss the Overlay District.

After a brief discussion, the Board members agreed to hold a Special Call meeting on Thursday, March 29, 2012 at 1:30 p.m.

VI. BOARD MEMBERS' MATTERS

None

VII. ADJOURNMENT

The regular meeting of the Planning and Zoning Board adjourned at 2:21 p.m. and they immediately went into their workshop meeting.

WORKSHOP DISCUSSION

I. Revised Draft Ordinance Establishing an Ocean Drive/Cardinal Drive Overlay District

Mr. McGarry briefly went over staff's report on the draft Ordinance Establishing an Ocean Drive/Cardinal Drive Overlay District with the Board members (please see attached).

Mr. Pelan suggested that Mr. McGarry go through the draft Ordinance with the Board members page by page. Then the Board members would go through the Ordinance page by page with their questions and comments. He suggested that the Board member's comments be placed in the margins or in an additional paragraph rather than making the corrections. This way the Oceanside Business Association (OBA) can see what suggestions were made by the Board.

At this time, Mr. McGarry went through the draft Ordinance Establishing an Ocean Drive/Cardinal Drive Overlay District with the Board members (please see attached).

Mr. Shupe referred to page three of the draft Ordinance. He felt that the use of the word “transients” was undesirable.

Mr. Pelan said the definition of build-to-line talks about a horizontal distance, but a build-to-line is really the front setback line. He said that the word “line” means one thing to him, but then it states “distance,” which to him is a measurement and not a “line.”

Mr. Mucher referred to “prohibited uses” located on page five. He questioned grandfathering.

Mr. McGarry said that they would add to the Ordinance “existing are not considered not conforming.”

The Board members briefly discussed pages five and six, the maximum number of stories, building height measurement, and the build to line.

Mr. Shupe referred to page nine. He suggested that they add a definition for “deck.”

Mr. Pelan questioned the one deck limit.

Mr. McGarry said that he would put a question mark under this for discussion.

Mr. Howle asked Mr. McGarry to explain “existing parking spaces by more than 10 spaces.”

Mr. McGarry said that this has to do with what threshold a development has to come into compliance.

The Board members briefly discussed the parking design standards, located on page nine.

Mr. Pelan referred to the phrase “steeped roofing or gables.” He asked is “steeped” the correct wording.

Mr. McGarry said that he would look at this.

Mr. Shupe referred to page eleven, “three colors shall be compatible.” He asked who determines what is compatible.

Mr. McGarry felt that “compatible” needed to be defined more clearly. He said that he was working on Architectural Review standards and he would look at putting in more precise language.

Mr. Lauffer suggested that they put in there that it would have to be reviewed by the Architectural Review Commission (ARC).

Mr. Mucher asked what about one color that is not compatible.

Mr. McGarry said that he would look at this further. He noted that they would put a provision in the

Ordinance on what the ARC would review.

Mrs. Minuse questioned passageways. She asked what if there are benches or an outdoor café.

Mr. McGarry explained that this would be a public open space area. If it is wide enough then a café could be okay.

Mrs. Minuse asked would it be included in the FAR.

Mr. McGarry explained that they do not include outdoor dining in the FAR. He will put language in that the Board is looking into this.

Mr. Pelan referred to page fifteen, "open space." He thought that the number was a little high. He felt that this should be an area of discussion.

Mr. Shupe referred to page sixteen, "50% of the public open space shall be landscaped areas with trees, shrubs, and ground cover." He asked who determines what the landscape items are.

Mr. McGarry said there are not any requirements on the type of landscaping allowed. He said that it might be good to have a landscaping plan that they follow so that they all fit together.

Mr. Pelan referred to page seventeen, under retail, it states "one space per 200 square feet" and it should be "300 square feet."

Mr. Mucher referred to page sixteen, "Any use may be allowed on second floors if retail uses occupy at least 50 percent of the ground floor." He felt that it should state "any allowable use."

Mr. Pelan referred to page eighteen and asked if FAR was the best way to regulate this.

Mr. McGarry explained that the FAR was not to regulate it. He was looking at it as an incentive to develop the property.

The Board briefly discussed the FAR incentives.

Today's workshop meeting adjourned at 4:01 p.m.

/sp

**PLANNING AND ZONING BOARD
REGULAR AND WORKSHOP MINUTES
Thursday, April 5, 2012 – 1:30 p.m.
City Hall, Council Chambers, Vero Beach, Florida**

PRESENT: Chairman, Keith Pelan; Vice Chairman, John Shupe; Members: Honey Minuse, Mark Mucher, Lawrence Lauffer, and Alternate Member #1, Harry Howle **Also Present:** Planning and Development Director, Tim McGarry; Vision Implementation Manager, Cheri Fitzgerald; Assistant City Attorney, Peggy Lyon and Deputy City Clerk, Sherri Philo

Excused Absence: Brian Curley

I. PRELIMINARY MATTERS

A. Agenda Additions and/or Deletions

None

II. APPROVAL OF MINUTES

A. Regular Meeting – March 15, 2012

Mr. Mucher made a motion to approve the minutes of the March 15, 2012 Planning and Zoning Board meeting. Mr. Lauffer seconded the motion and it passed unanimously.

III. PUBLIC COMMENT

None.

IV. PUBLIC HEARING

A. An Ordinance of the City of Vero Beach, Florida, Requested by Vero Property Investment II, LLC, Amending Chapter 62, Article III, Commercial Districts of the City of Vero Beach Code; Amending Section 62.35 to Add Adult Congregate Living Facility and Nursing or Convalescent Home as Permitted Uses in the C-1, Commercial District; Providing for Conflict and Severability; Providing for an Effective Date.

Mr. Pelan reported that this item was withdrawn at the request of the applicant. He then read the Ordinance in its entirety for the record.

Mr. Tim McGarry, Planning and Development Director, reported that this item would be coming before the Board possibly in May.

V. PUBLIC WORKSHOP

A. Revised Draft Ordinance Establishing an Ocean Drive/Cardinal Drive Overlay District

Mr. Pelan asked the audience present for today's meeting to try to keep their comments pertinent to the written part of the draft Ordinance.

Mr. Ital Veron, 280 Pepper Tree Drive, reported that he was a member of the Vision Team. He said the proposed overlay completely rejects the planning template presented in the 2005 Vision Plan, which had great citizen participation. He said that the procedure took one year and they were lead by a nationally recognized planning firm. He said that there were 500 people who attended meetings and workshops and there were 1,600 people who responded to a questionnaire. This was deeply participated in by the community. He said that the current overlay rejects the Vision Plan because it increases the number of floors on West Ocean Drive and West Cardinal Drive from two floors to three floors and possibly four floors. He asked why not five, six or seven floors. He asked where does it end. The Vision Plan stated three-two, three-two. That was the consensus agreed upon. The overlay increases the building lot coverage while decreasing the open space requirements. He asked how can they do that and retain the character of the community that they have. The overlay arbitrarily reduces the parking requirements and increases the Floor Area Ration (FAR). It creates developer incentives for future use waivers. He did not see any reason to tweak a plan that falls so far short of the planning objectives established in the visioning process. He considered the proposed overlay plan an affront to the many hours of community input for the Vision Plan. It was his opinion that it exemplifies the reason for citizen's distrust in government, or at the very least its bureaucracy. He recommended that the Board instruct Mr. McGarry to start over and incorporate the recommendations of the Vision Plan before they hold any more workshop meetings. He said that he read all the minutes from the Vision Team meetings and he went through every page of the Vision Plan and he supported what he just presented to the Board.

Mr. Mucher said one thing that he has wrestled with since the Vision Plan is whether or not it was written in stone and could not be varied from. He noted that he was on the Vision Implementation Team. He asked Mr. Veron how much time was devoted to the three – two, three – two.

Mr. Veron said there was a great deal of discussion. He noted that there were big issues, which were keeping the character of the community, height limitation, and parking. He said that the Vision Plan is very specific on what they should do with the height on the beach.

Mr. Mucher did not recall a lot of time being devoted to the three-two, three-two. He noted that currently anyone can build three stories anywhere. It was his understanding that they want to make this more pedestrian friendly and a mixed use area. Therefore, there would have to be some changes made in order to do that. In other words, they can't have a one story building and have retail on the ground floor with residential above.

Mr. Veron said yes they can. The Vision Plan did specify retail 100% on the ground floor, with residence on the second floor. The Vision Plan also speaks specifically to a third floor on the East side of Cardinal Drive, which would be setback 15-feet so that the profile would remain a two floor structure.

Mr. Lauffer reported that he was a member of the Vision Implementation Team and the consensus on this Team was not as specific as the Vision Team members were. He said that he has not gone back to read the minutes of those meetings, but he did not think the Vision Plan was cast in stone.

Mr. Veron was surprised that this overlay states that heights could now go to three stories or

possibly four.

Mr. McGarry clarified that this could be done under the current Ordinance.

Mr. Veron said that it was not his fault that the Vision Plan has not been implemented.

Mr. George Christopher, 945 Painted Bunting Lane, said the Master Plan states three-two, three-two, just as the Vision Plan states three-two, three-two. He said that this was a major issue with the Vision Implementation Team. He said that they were not dealing with just one district, but four districts. The east side of Ocean Drive is a hotel district, which there was no argument that three stories should be there. On the West side of Ocean Drive the Team felt that the small town look should be there. On Cardinal Drive they debated three stories on both sides and agreed to allow three stories on the East side in order to encourage hotels in that area. He said that the Vision Plan can be revisited, but it is up to the City Council to decide that, not City staff or this Board. He said that they were throwing to City Council a time bomb. The City Council has not asked that the Vision Plan be revisited.

Mr. Pelan said that is not true. He said that Council has asked them to revisit portions of the Vision Plan.

Mr. Christopher said that the Vision Plan should be implemented, but that is not what this is doing. This is taking the heart of what was proposed and gutting it. It is a change to the Vision Plan and a change to the Master Plan.

Mr. Mucher said that there was controversy with the three-two, three-two during the Master Plan and Vision Plan process.

Mr. Victor Demadio, 29 Sailfish Road, said this is a brand new document and it has lost all continuity of the Vision Plan. He felt that this was a travesty that all the accumulated knowledge has disappeared from the document.

Mr. Ben Bailey, 941 Sand Fly Lane, said the important thing is that they want to make the Crown Jewel of Vero Beach even better. They don't have to reinvent the wheel on this. He said that the three things the Vision Team discussed the most were the height limits, the overall appearance of Ocean Drive, Cardinal Drive and Beachland Boulevard, and the parking situation. He did not have a problem with having three stories on the ocean, but he did not like three-two, three-two because it was not symmetrical. When they look at the building there they could see that they are not built for three stories. The new buildings going on Cardinal Drive are built and designed for two stories. He said that they don't have to make things up. All they have to do is look at what other areas have done, such as having pastel colors tasteful sidewalk cafés, low impact signage, benches on the sidewalks, pavers on the crosswalks, great landscaping, no electrical lines along the street, tasteful streetlights, etc. He said that having a parking garage does cause questions, but he has seen parking garages that you wouldn't know were parking garages.

Mr. Pelan asked Mr. Bailey what is his position was on the building height.

Mr. Bailey said that his preference would be three, two, two and two.

Mr. Lauffer said nothing they are proposing is changing the height limitations.

Mr. McGarry explained that it does with the redevelopment incentive as they would build from the sidewalk level going up.

Ms. J.J. Wilson, 855 Riomar Drive, said that she has lived at this address since the 1930's. She was not against change, but there is a fear that the balance is tipping too much towards "bling." She felt that when they have words like vision, regulatory, etc., they were setting themselves up for disappointment on all sides. She said that making a vision into a reality does not always come out the way expected. She felt that the thought of politics and economic advantages coming in was scary. She did not want Vero Beach to become an imitation of communities like Winter Park, Stuart, etc.

Mr. Jack Berrigan, Board of Directors of the Reef Ocean Resort, stated that he represented 3,000 owners and they don't want any change.

Mr. Derrick Arden, 950 Beline Drive, asked is "substantial improvement" defined anywhere.

Mr. McGarry said it is defined in the City's Code as more than 50 percent of the value of the improvement.

Mr. Arden asked does that include interior.

Mr. McGarry answered yes.

Mr. Arden said that he was involved in a few remodel projects and his concern was that they would be getting away from being able to improve the look of a building because changes could come into effect.

Mr. McGarry said the intent is when making changes in the footprint or adding additional stories to a building. He said that he would look at other language for interior remodeling.

Mr. Lauffer said he spoke to a gentleman who was concerned that if they were to have storm damage of 50 percent that he would be required to meet the newer codes and therefore would change the character. Mr. Lauffer felt that this knife could cut two ways and therefore, they need to be cautious on how this is written and how they present this to the City Council.

Mr. McGarry said that staff would look at this.

Mr. Howle appreciated the opinions of everyone who spoke today. He did not want to see Vero Beach change either, and it was not the Board's intent to change Vero Beach into an area like Palm Beach. He said that they were doing the best they could to make improvements and he hoped that they could come to a conclusion that would make as many people as happy as possible.

Mr. Pelan said that they were currently looking at a build-to-line of 15 to 20 feet back from a right-of-way line, so in many cases they might find that buildings being rebuilt would have a greater setback than they do currently. He did not agree that they would be reducing open space because there were things in the document that might increase open space depending on the building design.

He said that there has always been an issue with parking and felt that this Ordinance attempts to start to recognize for a property owner that there is a lot of parking that, to date, no one gets credit for. He said that because there is parking available, then they don't necessarily have to provide as much parking on their property. He appreciated everyone's input today, but he did not think that they were giving away the store with regards to parking.

Mr. Lauffer thought that the proposed Ordinance indicated that they were trying to follow suit with the Vision Plan as opposed to negate it. He thought the only thing controversial that he heard today was the three-two, three-two issue. He said it seemed to him that height was more of an issue than they might have thought. It did not matter to him if a building was three stories or two stories as long as it is complimentary to the community. He would not be in favor of anything over than the current height limits.

Mr. Mucher said that they were trying to transform the Vision Plan, with a lot of public input, into law and it is not a pretty sight. It is not as idealistic or as easy as a vision is. He suggested that the Board members go through the draft Ordinance page by page.

Mrs. Minuse had enormous respect for the Vision Plan and the fact that so many people in the community came together and so much went into it. She said that she sees changes throughout this draft Ordinance. One is the Master Plan states that there is a major need for parking and that there should be a parking survey. It was stated today that parking is not a problem, but there are stakeholders who are stating that parking is a problem. This is telling her that there is a need for the public to participate in this process to identify if they do or don't have a problem.

Mr. McGarry said that a parking study was done and there was not a parking issue during peak times. That doesn't mean that they don't have a parking issue every now and then.

Mrs. Minuse said they are increasing a density, but decreasing parking requirements as an incentive.

Mr. McGarry said that is increasing intensity of the building (FAR).

Mr. Lauffer said if they don't give retail a little bit of a break on parking, then they would not have retail. They would have offices, real estate offices, law offices, etc. He agreed to give them a little bit of a break as a tradeoff.

Mrs. Minuse said this is exactly the kind of conversation that she would like the public involved in. She said that she would like to see the waiver process tightened up.

Mrs. Minuse said that the Board previously discussed having a landscaping plan and asked can they consider doing this. She asked has the Architectural Review (ARC) had a meeting.

Mr. McGarry said that they could work on the landscaping, but felt that it was more important to move forward with this draft Ordinance. He said that the landscaping plan could be done separately. He didn't know if it should be part of this Ordinance. He reported that the ARC have met and they are working on a concept paper to go before the City Council so they know if they want them to go forward with changes in the architecture review section of the City's Code.

Mr. Lauffer felt that the probability of an existing two-story building going to three stories were

highly remote based on the structural aspects, as well as the cost.

Mr. Mucher did not think that they would see that in their lifetime or their children's lifetime because it would require a complete tear down and replacing everything.

Mr. Shupe stated that the Vision Plan is not a bible, it is a plan. He read from the Vision Plan, "*Implementation is not the culmination of the visioning process. Rather it is part of a continuing cycle of public input analysis, community development, implementation actions, evaluations, and updating.*" He said that is what they are doing. He continued to read from the Vision Plan, "*The Vision Plan calls for more detailed feasibility studies, such as the Master Plan, for the key commercial districts.*" He did not think that what they were doing was a travesty or an assault to the Vision Plan. The Vision Plan is a tool for the City.

Mr. Mucher referred to the definition of "offices." He wanted to clarify whether call-centers were a permitted use in the C-1A District.

Mr. McGarry said that he put it in more detail that it includes call centers.

Mr. Mucher said at their last meeting they discussed the Ocean Grill and that it was 6,000 square feet. He said that in a recent article in 32963, they stated that Mulligan's Restaurant and Waldo's Restaurant were over 6,000 square feet.

Mr. McGarry said that he would go back and look at this. He said that they could state that a Restaurant could not have more than 4,000 square feet on the bottom floor.

Mr. Mucher felt that they should remove the reference to "four" stories from the draft Ordinance. He referred to the setback and the build-to-line. He asked how could they have a hotel with a build-to line, particularly on the East side of Ocean Drive.

Mr. McGarry thought that they took care of that in the draft Ordinance, but he would have to go back and check.

Mr. Mucher referred to page eleven, item (a), where it states, "*Parking spaces shall be in the rear of the parcel or, side of the parcel no closer than five (5) feet from the front façade build-go-line unless otherwise approved by the Planning and Zoning Board upon the demonstration of good cause.*" He asked how could that occur with an Oceanfront hotel.

Mr. McGarry said that he would look at it.

Mr. Mucher questioned "transparent glass."

After a brief discussion, Mr. McGarry said that he would look at this again to see if they could come up with different language.

Mrs. Minuse referred to page 13, item (d), where it states "*Additionally, provisions for allowing the use of the passageways for outdoor dining, retail displays, and other amenities allowed in public open space have been included.*" She asked are they opening a can of worms.

Mr. McGarry said when they are allowing some retail in open space areas to have paintings, etc.

Mr. Lauffer referred to page 13, item (e), where it states, “*No more than three (3) colors on the exterior façade plus one accent color shall be allowed. The three (3) colors shall be in a compatible range.*” He felt that limiting or not limiting colors would be better served with a different Commission.

Mr. McGarry said that they discussed this at their last meeting and agreed that should be handled by the ARC.

Mr. McGarry said that he would make the suggested clarifications and changes and they would hold another workshop on this.

Mr. Lauffer asked Mr. McGarry to go over the suggested changes made today with the Board so they can discuss whether or not they agree with them.

Mr. McGarry reported that the suggested changes were; 1) definition of “*call center*,” 2) look at the East side of Ocean Drive as to the build-to-line and parking, and 3) to change “*Single restaurant establishments of more than 6,000 square feet of floor area*” to “*Single restaurant establishments of more than 6,000 square feet of floor area on the first floor.*”

Mr. Pelan asked Mr. McGarry to find out for their next meeting if the buildings on Azalea Lane are sitting on the right-of-way line.

Mr. Pelan referred to page eight, item (7), “*The third story of any building shall have a setback of 10 feet from the edge of the front building façade.*” He asked are they setting it back 10 feet from the street level of the building or from the second floor of the building.

Mr. McGarry said it would be from the ground floor of the front building façade.

Mr. Pelan suggested stating “*an average of 10 feet.*”

Mr. McGarry suggested that they state “*the build-to-line.*” The Board members agreed.

Mr. McGarry referred to (d), “*Any multi-level parking structure shall have liner spaces of at least 20 feet in depth containing commercial uses on the ground floor facing any public street.*” He liked the idea of this being an incentive, but the problem with this is that they don’t have any guidelines.

Mr. Pelan asked is there an executive summary of the parking study that was conducted.

Mr. McGarry answered yes and he will send it to the Board members.

VI. PLANNING DEPARTMENT MATTERS

Mr. McGarry suggested that they cancel the April 19, 2012 Planning and Zoning Board meeting.

The Board members agreed.

PLANNING AND ZONING BOARD WORKSHOP MINUTES
THURSDAY, JUNE 7, 2012 - 1:30 PM
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

PRESENT: Chairman, Keith Pelan; Vice Chairman, John Shupe; Members: Honey Minuse, Mark Mucher, Lawrence Lauffer, Alternate Member #1, Harry Howle and Alternate Member #2, Brian Curley **Also Present:** Planning and Development Director, Tim McGarry; Vision Implementation Manager, Cheri Fitzgerald; Assistant City Attorney, Peggy Lyon and Deputy City Clerk, Sherri Philo

I. PUBLIC COMMENT

Mr. Pelan explained that if there was anyone wishing to speak on anything other than what is on today's agenda that now is the time.

Mrs. Phyllis Frey, 275 Date Palm Road, said that she recently spoke before the City Council regarding building heights.

Mr. Pelan asked Mrs. Frey to wait and make her comments when item II-A) is heard on today's agenda.

II. WORKSHOP DISCUSSION

A. Proposed Ocean Drive/Cardinal Drive Commercial Overlay District

Mr. Tim McGarry, Planning and Development Director, reported that he made the recommended revisions to the proposed Ordinance creating the Ocean Drive/Cardinal Drive Commercial Overlay District that the Board made at their last workshop meeting. He briefly went over the proposed Ordinance with the Board (please see attached).

Mr. Pelan noted that the Board would discuss the specifics of the Ordinance after public comment.

Mr. Derrick Arden, 950 Bowline Drive, said that he was present for today's meeting representing several property owners of 11 commercial buildings in the central beach area. He reported that they do not want to see any further restrictions on building height going below three stories. They feel that the parking restrictions and the FAR is enough to keep anything higher from being built. He said that they have a concern with "substantial improvement" that is mentioned throughout the Ordinance in that if an existing property owner wants to remodel their building they would be hindered in having to do a more substantial redevelopment of the property in order to meet the new Code.

Mr. McGarry said there is a threshold of more than 50% of improvements to the building. He noted that in the case of a storm event, there are provisions in another section of the Code that allows a property owner to rebuild what they had.

Mr. Arden said the concern is if someone is remodeling the interior of their building to bring in a new tenant, it could get very expensive. It could create a situation where they start to lose tenants or people are not able to bring the building up at all because they don't have the money to do the whole building.

Mr. McGarry said that they may need to have an appeal procedure. He said that he would look into this further and go into more detail.

Mr. Arden said another concern they have is the section restricting uses because it is hard enough to lease space now.

Mr. McGarry explained that the only restrictions on use would be if they were going for development incentives.

Mr. Arden asked if a property owner took advantage of the incentives, would it stay with the property forever. In other words, if they have 50% retail on the first floor and then the retail tenant moves out and an office moves in, would they be restricted.

Mr. McGarry said that they would be restricted, which is why they have the waiver provisions.

Mr. Arden asked what happens if they don't have 50% retail on the first floor.

Mr. McGarry explained that is the minimum if they want the incentive.

Mr. Arden asked if an existing building has office on the third floor and the building sustains damage or going through an extensive remodel, would they lose the ability to have an office on the third floor.

Mr. McGarry answered no.

Mr. Pelan referred to the permitted use on the second floor. He asked what if it is not fifty percent on the first floor.

Mr. McGarry said to get any FAR bonus the minimum is 50% retail on the first floor. He said that he would look at this again.

Mr. Jerome Beasock, 855 29th Court, said that he owns property located at 2901 Ocean Drive and the two lots in back (The MacWilliam Building). He was very opposed to the two story ordinance on that side of street. He felt that it was discrimination, almost like spot zoning. He asked what stops someone from buying property from Cardinal Drive to Ocean Drive and putting their building on Cardinal Drive in order to have three stories and then putting a parking lot on Ocean Drive. He knew of three properties that could do this right now. He said limiting Ocean Drive to two stories is not the way to go. He said by not allowing three stories on Ocean Drive they would be taking millions of dollars off the tax rolls. He did not understand 3-2-3.

Mr. Mucher noted that both the staff and the majority of the Board support three stories across the board. The problem that he may have would be with the City Council.

Mr. Pelan said that Mr. Beasock brought up a good point and the Board would discuss it in more detail after they are finished with public comments.

Mrs. Nancy Offutt, 686 Date Palm Road, said that she and her husband own a condominium office in a professional building located on the corner of Cardinal Drive and Dahlia Lane. Currently they are allowed three stories, but the proposed Ordinance would only allow two stories. She said that they do not support a reduction in their building rights.

Mrs. Phyllis Frey, 275 Date Palm Road, said that if they are going to consider changes in the community they need to learn from the past in order to plan for the future. She said that the Vision Plan was established to best preserve the qualities of the small town atmosphere. There were over 500 residents who attended workshops and meetings, there were hundreds of thousands of dollars spent and there were over 1,600 questionnaires completed. She said that there were parameters in the Vision Plan to protect the Oceanside area from overdevelopment. She said that 50-foot structures are not in accordance with the small town architectural feel of our area. She felt that the stipulations controlling height in the Vision Plan should be upheld.

Mr. Pelan explained that the proposed Ordinance uses the term “stories” and not “feet” because under the current Code someone could conceivably squeeze in four floors into the current height limit.

Mr. Lauffer felt that what they were trying to do was allow property owners variables to work their way through the process so that they can get more of what the Vision Plan wants without having expansion. They would be allowing flexibility.

Mr. Mucher said that he attended most of the meetings of the Vision Team and there was very miniscule mention regarding the number of stories on Ocean Drive and Cardinal Drive, but there was a huge amount of discussion regarding mixed use, restaurants, retail, residential, etc.

Mr. Ben Bailey, 941 Sand Fly Lane, stated that he was a member of the Vision Team. He felt that the Vision Team did a bad job on 3-2-3-2. He said that is not in keeping with the character. They need to maintain and improve upon the charm that they currently have. He would urge the City Council to stay at three and get away from the 3-2-3-2.

Mrs. Emily Reeves Tremml, 3905 Indian River Drive East, read a prepared statement (please see attached).

Mrs. Nancy Cook, 710 Riomar Drive, said that she owns several properties in the area being discussed. She felt that the idea of 3-2-3-2 came from Kansas City. She said the members of the Vision Team were discussing “height” and someone from Kansas City mentioned having different heights on different sides of the street. That is where it started. She was very concerned about having an on-flow with a height restriction.

Mr. Brian Carman, Executive Director of the Indian River Neighborhood Association, said that the Vision Plan was done by a hardworking group of people and the result and consensus of the Vision Plan was to maintain the integrity of the beach area. The intent of the Vision Plan should be contained in the City’s Code and not be changed at the last minute. He encouraged the Board and the City Council to remain with the intent of the Vision Plan.

Mr. Lauffer asked Mr. Carman if he was suggesting that the Vision Plan take precedent over the existing Code and that the property owners should have to go along with the Vision Plan, which is taking away what they presently have.

Mr. Carman felt that they should go along with the intent of the Vision Plan. The idea is that the Vision Plan stated that the character of the beach area remains intact and to keep that in tact they mentioned 3-2-3-2. Now at the eleventh hour, there seems to be an issue to change that. He said that they have a unique opportunity here as Vero Beach has not been tainted by bad taste and poor

planning.

Mr. Shupe said that he has studied the Vision Plan and it states that future Comprehensive Plan amendments, Ordinance changes, and administrative adjustments may be pursued. He said the Vision Plan is a guide, not a bible. He said it is a beautiful document and he did not think there was anyone there who was not following the Vision Plan.

Mr. Carman understood what Mr. Shupe was saying, however they need to understand the intent. He said that they have a path that was given from people who spent a lot of time on the Vision Plan and to deviate from it to the extent they are willing to go three stories along the entire area does not give respect to the people who envisioned this.

Mr. Shupe felt that they were respecting the Vision Plan.

Mr. Mucher believed Mrs. Cook's statement that the 3-2-3-2 came from Kansas City was true. He said the Vision Team wanted a consensus on the Vision Plan, stating that they would deal with this later and that never happened. They took a vote and went home.

Mr. Carman asked the Board to go back and look at the intent and not frivolously through it away.

Mr. Bailey said the Vision Team did not discuss nearly enough about some of the things they were discussing today. The Vision Plan is a set of recommendations, some of which are very good and some that were not that great. He said that the Vision Team did not do a good job on the 3-2-3-2 because they were rushed to take a vote. He felt that 3-2-3-2 was a bad mistake. He said that there is much more to this other than a height restriction, such as signage, green areas, encourage pastel colors, outdoor cafés, pavers, benches, landscaping, etc.

Mr. Pelan noted that they were using the word "stories" and not "height" to try to dictate what could happen, but they were not changing the definition of building height or how it is measured.

Mrs. Cook said that when the Vision Team had their last meeting, there were members who had "yellow" marks on the final draft of the Vision Plan and one member of the Committee stood up and dressed them down because they wanted to make corrections. They were talked to as though they were interfering with all the work that had been done. They were told that there would be a time to make corrections and if they tried to do it at that last meeting, before bringing it to Council, that they would be undoing all the work they had already done.

Mr. Beasock asked what does Vero Beach have to do with Kansas City. He said that if they were going to look at something they should have looked at something compatible. Not Kansas City.

Mr. Pelan closed public comments at 3:00 p.m., with no one else wishing to be heard.

At this time, the Board went over each page of the draft Ordinance.

Mr. Pelan referred to page seven, where it states that the build-to-line shall be between 15 to 20 feet from the front property line along Ocean Drive, Cardinal Drive, and Sexton Plaza. He felt that they should just pick a number.

Mr. McGarry noted that "15 to 20 feet" was in the Master Plan.

Mr. Pelan said that they were stating that the minimum build-to-line is 15 feet, but the current front setback is 10. Therefore, they were pushing the building back five-feet. He said that he was not opposed to 10-feet, which is the way it is currently.

Mr. Lauffer liked the variable because it allows some movement of the buildings, as opposed to them being in a straight line.

Mr. Howle agreed.

Mr. Lauffer felt that was part of the Vision Plan to get some definition in the buildings, as opposed to a “shopping center” look.

After discussion, the Board agreed to keep the build-to-line at 15 – 20 feet.

Mr. Pelan referred to page eight, item (2), where it states that the build-to-line shall be a minimum of 20 feet. He asked do they need the word “minimum.”

After discussion, the Board agreed to remove the word “minimum.”

Mr. Pelan then referred to item (5) and questioned if they need it in the Ordinance.

Mr. Lauffer agreed that they do not need item (5).

Mr. McGarry said that he would go back and relook at that.

Mr. Pelan referred to page nine, items (8) and (9), where it discussed awnings, balconies, and the build-to-line of five-feet. He said that page 17, item (2) states that awnings may intrude upon the public sidewalk so long as the awning is no lower than eight-feet above the sidewalk. He felt that this statement should be moved to page nine.

Mr. Mucher felt that they should change “five-feet” to “eight-feet.”

The Board agreed.

Mr. Pelan questioned item (1) where it states that the side yard setback for properties along Beachland Boulevard shall be 15-feet. He did not know why they would go from what they currently have to the extreme of 15-feet.

Mr. McGarry said that he would delete item (1) from the Ordinance.

Mr. Pelan referred to page 10 stating that this has to do with the statements made by Mr. Beasock with regards to parking.

Mr. McGarry said that he would look into this. He said that they could require that they have to have commercial or retail space and not just parking.

Mr. Pelan referred to page 16, item (3) and suggested changing “30-inches” to “36-inches.” He then referred to item (4), and suggested changing “10-feet” to “eight-feet.”

The Board agreed.

Mr. Pelan referred to the bottom of the page stating that “indoor restaurant” should be “outdoor restaurant.”

Mr. Pelan referred to page 17, item (2), where it states awnings may intrude upon the “public sidewalk.”

Mr. McGarry said that “public sidewalk” should be “right-of-way.”

Mrs. Minuse referred to page 26, Section 3, where it states that “Nothing in this ordinance shall not affect any pending or future prosecution of or any action to abate a violation...” She questioned the word “not.”

Mr. McGarry said that he would delete “not” from the statement.

Mr. McGarry said that they would hold one more workshop on this and then it would go for public hearing.

III. PLANNING DEPARTMENT MATTERS

Mr. McGarry reported that the neighborhood meeting with Osceola Park and Original Town will be held on Monday, June 25, 2012 at 5:30 p.m. in the City Hall, Council Chambers.

IV. BOARD MEMBERS' MATTERS

None

V. ADJOURNMENT

Today's meeting adjourned at 4:02 p.m.

/sp

site.

Mr. Ken Daige testified that he has been sworn in. He asked the Board to go back to the question brought up earlier by Mr. Mucher concerning the roadway situation and do they have standards or not.

Mr. Pelan did not know if it was a matter for this Board to settle.

Mr. Mucher thought that maybe they could suggest to Council that such standards be adopted.

Mr. Pelan knows that there is consistency, but it is not in the Code.

The public hearing closed at 2:53 p.m., with no else wishing to be heard.

Mr. Pelan made a motion to approve staff's recommendation subject to the conditions that they have listed in the departmental correspondence. Mr. Lauffer seconded the motion and it passed unanimously.

[Quasi-Judicial]

5. **An Ordinance of the City of Vero Beach, Florida, Amending Chapter 62, Nonresidential Districts of the City of Vero Beach Code by Creating Article XIII, Ocean Drive/Cardinal Drive Commercial Overlay District; Providing for Development and Building Design Standards; Providing for Development Incentives; Providing for Conditions of Approval and Waivers from Use Requirements; Providing for Conflict and Severability; Providing for an Effective Date.**

Mr. Pelan read the Ordinance by title only. He asked the Board if they have had any ex parte communication.

Mrs. Minuse did not have anything to disclose, but mentioned that in her relationship with the Indian River Neighborhood Association she has excused herself from any discussions that took place concerning this matter.

Mr. Pelan disclosed that he had a meeting the other day with Derrick and Hamilton Arden regarding another topic and while they were meeting this subject did come up. The Arden's shared some of their ideas with him and sent him a letter that they received from Mrs. Nancy Cook that went to all the commercial property owners. He provided copies of the letter to the Clerk who gave a copy to each of the Board members. He also ran into Mrs. Cook and they had a brief conversation about this subject.

Mr. Lauffer also disclosed that he had some brief conversation with Mrs. Nancy Cook about this.

At this time the Clerk administered the oath for the audience that was not present earlier in the meeting.

Mr. McGarry stated that he was not going to give a long presentation of this issue because it has come before the Board numerous times. The Ordinance that they have incorporates the revisions that they requested at the last workshop. He said that there are two things that have come up since he prepared the agenda. The first thing is that a representative from one of the hotels met with him and was concerned about redevelopment of the hotels. He said part of what they are trying to do here is to have redevelopment that was called for in the Master Plan. He said that there are at least one or more hotels that have more hotel rooms than are

allowed under the Code. He said if the hotel was to redevelop under the current Code, they would have to lose hotel units. They are only protected if there was an act of God then they could rebuild to their current figuration. He recommended that they include this to protect existing hotel units. The second item is they have the requirement for the ground floor ground to ceiling. The intent of that was for floor space abutting the frontage roads. He felt that needed to be clarified to say that their intent is for store front floor space rather than floor space located away from the roads. He said that staff finds these regulations consistent with the Comprehensive Land Use Plan and for the record recommends that this Board consider these recommendations, as well as the suggestions that he just mentioned, and approve to send this forward to the City Council.

Mrs. Minuse referred to page 20, where they were excluding structured parking and elevators in determining the threshold requirements. She asked about the impact that this would have.

Mr. McGarry explained that there are certain thresholds of uses and all this does is exclude that floor area from that calculation. He said that you are just looking at useable floor area. It is very clear that this only goes to the threshold requirements.

Mr. Mucher brought up preserving the number of units for hotels under certain circumstances. He said that when Mr. McGarry states preserving the units he should probably be saying preserve units-floor area.

Mr. McGarry explained that under the Code if someone goes with the additional requirements and want to take advantage of these incentives then the hotels would be protected to one automatically under that. They could construct larger rooms as long as they don't exceed the FAR.

Mrs. Minuse still had some concerns over the salt water intrusions and how they are looking at new standards for development.

Mr. Pelan explained that there are other agencies that the City looks towards for those things.

Mr. Pelan did not know at what point they trigger this 50% rule. He called the Building department today to see if he could get an answer, but he could not get in touch with anyone. He does not know at what point they interpret the value of the building permit to apply that it is more than 50% of the assessed value of the building. He wanted to make sure before this goes to Council that this is clarified. He would hate someone to get stuck complying with this Ordinance if all they were doing was work that needs to be done when a new tenant moves into their building.

Mr. McGarry explained that if someone came in and all they were doing were some interior renovations, changing windows out, bringing their roof into compliance with new wind storm regulations, etc., and 50% or more of the buildings value has depreciated then he thinks that the property owner has a legitimate renovation. He said to make them tear a whole building down in order to come into compliance would not be fair. He would look at this further and come up with some additional language to put in the Ordinance clarifying this.

Mrs. Peggy Lyon, Assistant City Attorney, also suggested talking to the Building Official about this. Mr. McGarry said that he would.

Mr. Pelan opened the public hearing at 3:14 p.m.

Mr. Michael O'Haire, Attorney, stated that he owns property on both Ocean Drive

and Cardinal Drive and ever since the notion of different height levels on one side of the street as opposed to the other side of the street first came up he has always said that to him that is nonsense. He said that there is no good reason to make that differential between the west and east sides of the streets. He hoped this would not continue. The second point he made was that he cannot understand what interest the public had in interior ceiling heights not visible from the streets other than what might be provided by the building code for health and safety reasons. He does not think that a public body should impose a limitation of ceiling heights other than what might be affecting health and safety.

Mr. Pelan clarified Mr. O'Haire's point about the height limit and said that they are in agreement to keep it at three (3) stories throughout the district.

Mrs. Nancy Cook, testified that she has been sworn in, and owns properties in the area that they are discussing in this Overlay District. She also was a part of the visioning process. She has some concerns about turning so much control over to the Planning and Development Director and this Board, because the same people sitting in place today might not be there in the future. She agrees that the public body should impose a limit on ceiling heights. She showed the Board pictures of different buildings in this area that she took this morning. She had two sets of pictures. One set of pictures showed where some buildings would not conform to the new Ordinance and the second set of pictures showed where this Ordinance would work just fine. The buildings that would conform to this new overlay are financially oriented buildings. She said retail has been tried in all of those buildings and it has failed. She doesn't think they have discussed a lot of issues and she doesn't want this to go any further in its current form until they have settled some of these issues. There has not been enough discussion with the stakeholders. They want property owners to have more input. She gave the Clerk signatures in a letter that she sent to some property owners who could not be at today's meeting (on file in the Clerk's office). The letter they signed was saying that they were in agreement with stopping the overlay and new regulations on their property.

Mr. Mucher disagreed with the fact that they haven't talked about this too much. It has been done in the absence of the stakeholders and they would have loved to have had them at their meetings. He said that if there are enough questions and interest from the stakeholders then he would suggest postponing this and having the stakeholders provide them with a list of what they like and don't like.

Mrs. Cook made it clear that the stakeholders did not ask for visioning in the first place. Most of them feel if they want the City to do something then they will ask for it.

Mr. Lauffer referred to the proxies (signatures from property owners) that they received and noted that the people who signed them represent a larger ownership in this area and they want this Board to slow down on this process. He said that this matter came to the Board and they were asked to do this. They (the Board) thought that they were serving the stakeholders and following their guidelines.

Mrs. Cook commented that it is hard to get all of the property owners together when so many are gone for the summer.

Mrs. Minuse agreed that the discussion needs to continue.

Mr. Shupe commented on the number of workshops that they held concerning this matter. He questioned where all these people were when these discussions were taking place. He thinks that the Board has done a noble job and he remains dismayed that the people were not here during the four workshops that they had.

Mr. Pelan was also disappointed. He said that this is the fifth time that they have

talked about this Ordinance with very little input from the property owners. These signatures (referring to the letters that Mrs. Cook gave them today) are on a piece of paper attached to a letter. He questioned the validity of these signatures. He said that they are probably from people who have not seen this Ordinance or read it. He referred to the letter where it states "on good advice from a P&Z member, property owners need to all stand together to stop the overlay and visioning process." He asked who that Board member was. Mrs. Cook told him that it was Mr. Lauffer. Mr. Pelan did not feel that their current Code in place was in their best interest. He felt that this Ordinance was good protection to enhance and preserve Ocean Drive incorporating the Vision Plan.

Mrs. Cook commented that she has some problems with the window height.

Mr. Pelan expressed that they cannot throw this whole Ordinance out. He would not know where to restart.

Mrs. Cook felt by legislating the window height and other things that it is too much government control.

Mr. Mucher wanted to hear more from the public. He agreed that they could not throw this whole Ordinance away, but he did not think that they could adopt it at this time.

Mrs. Phyllis Frey, testified that she had been sworn in, and resides at 275 Date Palm Road. She expressed that she was not part of the visioning process and she is not against progress or growth. However, she is in favor of private property rights and they need to support the small businesses.

Mr. Derrick Arden, testified that he was sworn in, and was at today's meeting representing six (6) properties on the beach. He felt that the height of the building is restricted by mainly parking. He said to be able to go up in stories you have to have the correct parking. It is not easy for a normal person to understand what is in this Ordinance. He suggested taking some of these buildings on the beach and implementing this Ordinance and see how it works out. He commented that the building code has changed so much and the cost is going through the roof.

Mr. McGarry alluded to the design drawings and discussions about doing a realistic photo design. He said that a lot of design principles seen here came from the Master Plan. He said that they can look at doing that, but he would need some help in being able to get it done.

Mrs. Cook commented that one of the property owners she has been talking to owns the convenience store on Cardinal Drive. The lease on the convenience store is up in four (4) years and the property owner wants to do something with the building. He realizes that convenience stores have been ruled out. She said that this might be one of the properties to hypothetically look at in implementing this Ordinance and see how it works out.

Ms. Drina St. John, testified that she has been sworn in and resides at 1815 1st Place, and along with her brother owns property at 3006 Cardinal Drive. She said that she was not familiar with the visioning process. She noted that her brother, Scott Morton is out of town. She said that she has printed this Ordinance and has read it. She first heard about this when Mrs. Cook notified her. The cost in changing some of the businesses is not conducive to the people who own the property. She said that the property she owns is a rental and it is a laundry mat. She was concerned with the drive thru at the laundry mat being allowed to remain. Mr. McGarry told her that the drive thru for the laundry mat can remain in place. Ms. St. John continued and said by telling property owners what they are allowed to do with their property sounds like a property owner's association. She felt that

too many people were trying to tell other people what to do with property that they do not own.

Mr. Brian Carmen, testified that he had been sworn in, and was a member of the Indian River Neighborhood Association. He agreed with Mr. Mucher that maybe they should slow this down a little and get some more input.

Mr. Kenneth Kaleel, Attorney representing Oceanside Holiday Inn, agreed with just about everything said by the previous speakers. He said that his client would very much like to redevelop their property at some point. He is prepared to work with staff and come up with what their proposals mean and what the economic realities are. His client has a unique parcel in the sense that it abuts the ocean and the two side streets. It has a different feel to it then some of the other properties. The plan that they have in place is to encourage parking in the rear. He said with their piece of property the rear would be the ocean. He is very much willing to work with the Board and staff to come up with proposals that will work and everyone is happy with. He said that they only found out about this because of Mrs. Cook's letter.

Mr. Lauffer asked Mr. Kaleel if he was suggesting that they slow down or does he like what they have done in putting the Ordinance together.

Mr. Kaleel suggested stopping to take a look at this and how the impact will be on the community, especially his client. He has an architect who is starting to work on this to see how it will impact their property. He said at first glance of this Ordinance he felt that it would be very difficult to redevelop the property. He said there is a unique character to this property because hotel is different than other uses. He recognizes the time that this Board has put into this and they are prepared to work with them in revisiting this. He liked the suggestion of coming back with a list of things that work and things that don't. He will provide that list to the Board.

Mr. Mucher reminded Mr. Kaleel that the Vision Plan says that only two (2) stories can be built.

Mr. Keleel did not hear anyone say that they adopted the Vision Plan in total.

Mr. Lauffer asked Mr. Keleel how much time he thought that he needed.

Mr. Keleel asked when they were planning to bring this up again. He explained that they want to accomplish what the community and stakeholders want. He felt within the next 60 days he could come back to them with what their needs are.

Mr. Pelan felt that this conversation has been great and the whole idea of looking at the convenience store property is a good idea. He said if Mr. Keleel is willing to have an architect take a look at what this means for redevelopment of the Holiday Inn, he wants to hear it. He challenged Mr. Keleel to not come back to them with "here is why it won't work", he challenged him to get creative and give ideas and suggestions. He said that if this can be done within 60 days then he would like to see it happen.

Mr. Irv Roberts, was sworn in, and represents Ocean Resort where Bobby's Restaurant is located. He participated in the Vision Plan workshops and was involved mainly with parking. He said they have 3,000 owners representing the Reef and 60 units there that are all deeded properties. He is here to listen and to try to help and would like to keep things on an even keel.

Mr. Hamilton Arden, 710 Lagoon Road, stated that he has been sworn in and owns six (6) buildings in this area and has owned some of them since the late sixties. He said that two (2) of his buildings are located on Cardinal Drive and they are retail

and occupied. He has began replacing windows in some of his buildings as the economic climate allows him to do so. He mentioned that he receives notices of the meeting anytime there is something being discussed in this area. He supports this Ordinance and would like the Board to move forward when they think it is appropriate.

Mr. Mucher asked Mr. Arden if he had any plans to do something immediately under this Ordinance and if they should move faster.

Mr. Arden answered no.

Mr. Pelan closed the public hearing at 4:28 p.m., with no one wishing to be heard.

Mrs. Minuse voiced her concern over the height limitations. She said if they are going to allow three (3) story buildings backing up to residential neighborhoods they are not protecting those neighborhoods. She was not comfortable with this.

Mr. Mucher asked Mr. McGarry if someone is beating down his door to get this Ordinance passed.

Mr. McGarry answered no. He knows of one property owner who wants to do some work, but this Ordinance would not affect him.

The Clerk was asked to email copies of the proxies that were given to her by Mrs. Cook to the Board members.

Mr. Mucher asked if they wanted to make a motion to continue this public hearing until their first meeting in October.

Mr. Lauffer reiterated that a lot of stakeholders are out of town. He said maybe they should be discussing this when they believe the stakeholders would be returning.

Mr. Pelan suggested holding a workshop meeting at their second meeting in September and the public hearing in October. Mr. McGarry told him that was too soon.

Mr. Mucher expressed that if they have another workshop then they want to have some people show up.

Mr. McGarry hoped to get the materials in writing that they have been promised. He said that he would send out another notice to the property owners asking for their comments.

The Board agreed to hold a workshop in October.

Mr. Mucher made a motion to postpone this public hearing until their November 1, 2012 meeting. Mrs. Minuse seconded the motion and it passed unanimously.

- [Quasi-Judicial]
6. **An Ordinance of the City Of Vero Beach, Florida, Designating the Ocean Drive/Cardinal Drive Commercial Overlay District by Amending the Official Zoning Map of the City of Vero Beach; Providing for Conflict and Severability; Providing for an Effective Date.**

Mr. Pelan opened and closed the public hearing at 4:37 p.m., with no one wishing to be heard.

Mr. Mucher made a motion to postpone this public hearing until their November 1, 2012 meeting. Mrs. Minuse seconded the motion and it passed unanimously.

V. PLANNING DEPARTMENT MATTERS

Mr. McGarry mentioned that the Board would not meet again until September and at that meeting they will be reviewing adult regulations outlined in their Code.

VI. BOARD MEMBERS' MATTERS

Mrs. Minuse was not sure of what documents that she could get rid of. She was told to get with the Clerk's office before disposing any documents.

VII. ADJOURNMENT

Today's meeting adjourned at 4:42 p.m.

/tv

PLANNING AND ZONING BOARD WORKSHOP MINUTES
Thursday, October 4, 2012 – 1:30 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Keith Pelan; Vice Chairman, Jack Shupe; Members: Mark Mucher, Lawrence Lauffer, Honey Minuse and Alternate Member #1, Brian Curley **Also Present:** Planning and Development Director, Tim McGarry and Deputy City Clerk, Sherri Philo

I. PUBLIC COMMENT

Mr. Craig Fletcher, Vice Mayor, reported that the City Council rejected the proposed change in the notification radius from 500 feet to 300 feet (referring to the Ordinance amending the development review and approval process).

II. WORKSHOP DISCUSSION

A. Proposed Ocean Drive/Cardinal Drive Commercial Overlay District

Mr. Tim McGarry, Planning and Development Director, reported that not many property owners responded to the letters that were sent out asking for suggestions on how to improve the Ordinance. He said that he spoke with Mr. Kenneth Kaleel, Attorney representing Oceanside Holiday Inn, this morning and he is present for today's meeting to go over their suggested changes with the Board. Mr. McGarry briefly went over the changes to the proposed Ordinance with the Board members (attached to the original minutes).

Mr. Mucher referred to Section 62.502 – Definitions, where it states, "*Public-private multi-level parking structure: An above ground multi-level parking structure where a minimum of 20 percent of the parking spaces are available to the general public.*" He asked what kind of enforcement mechanism would they have. He asked would they require signage on every space.

Mr. McGarry said there is an area on 14th Avenue that has public/private parking that is marked, but this item is referring to parking garages.

Mrs. Minuse asked would the City be involved in any kind of cost share.

Mr. Pelan said that they could. He wanted to make sure that even if 20% of the parking spaces are public that they count towards the parking requirements for the property they serve.

Mr. McGarry said that he would put that wording in the Ordinance.

At this time, the Chairman opened the floor for public comment.

Ms. Drina St. John, of 1815 1st Place, said that she and her brother own property located at 3006 Cardinal Drive. She asked for a short synopsis on why this was being done.

Mr. McGarry gave a brief explanation on the Vision Plan and the Master Plan. He noted that this has been on-going for at least seven years.

Ms. St. John said that her and her brother inherited the property about two years ago. She said that when she read the information it sounded to her like the City wanted to make the property owners invest in building things that were not necessary.

Mr. Pelan explained that this Ordinance does not affect existing buildings that are not going to be modified. He explained that if someone purchased her building and wanted to build something new then this Ordinance would take effect.

Mr. Kenneth Kaleel, Attorney representing Oceanside Holiday Inn (Ocean Properties, Ltd.), gave the Board members a catalog of hotels and resorts showing them that they strive to do what is right for the community (on file in the City Clerk's office). He appreciated the opportunity to discuss the Overlay District and how it would impact their property.

Mr. McGarry said one important issue that they have is the build-to-line on the East side of Ocean Drive. He would suggest that if the Board agrees to modify this that they modify the larger parcels over 100 feet, which would give hotels a little more flexibility in design and placement of buildings.

Mr. Pelan asked what is the reason they have an issue with the build-to-line.

Mr. Kaleel said that it is a corner lot with the ocean in the back of them and they are constrained in what they can do in the front of the building in terms of drop off, entrances, etc.

Mr. Mucher asked why can't they just exclude hotel uses with a certain amount of rooms from certain sections and let the Architectural Review Commission handle it.

Mr. McGarry said that they would have to put in language to guide them as to how that could be done.

Mr. Mucher felt that Mr. Kaleel had a long list of concerns that could be quickly handled if they excluded hotels from some of these sections. He suggested that they look through the proposed Ordinance and identify the sections that do not apply to large hotels.

Mr. Pelan felt that they should listen to their concerns.

Mr. McGarry said another concern is underground parking. Mr. McGarry felt that underground parking should be excluded from the number of stories and from the FAR. The Board members agreed.

Mr. McGarry would work with staff to come up with the appropriate language.

Mr. McGarry reported that another concern is the 15-foot side yard setback.

Mr. Kaleel said currently the side yard setback is at zero and they want to keep it at zero. He explained that if they keep it at zero they could put in landscaping along that line. It would be very difficult not to encroach on a 15-foot setback.

Mr. McGarry said the intent of the 15-foot setback was to keep a view of the ocean.

Mr. Pelan said if they leave it at zero the adjacent property could build right up next to them.

Mr. Kaleel said they could do that now.

Mr. Pelan asked would they build to that line.

Mr. Kaleel answered no, but they would encroach on a 15-foot setback.

Mr. Mucher suggested that they allow a 7.5 foot side yard setback.

Mr. Kaleel said that a 7.5 foot side yard setback would be okay.

Mr. Shupe said that a building in a ziggurat style where they stack the floors back would eliminate the look of a solid wall. He said that they could even put landscaping on each one of the steps as they go back.

Mr. Kaleel said they want the maximum design flexibility that they can have. That also would bring in the third floor setback. They don't want that type of floors in a hotel because it creates a wedding cake affect and architecturally it limits what they could do.

Mr. Kaleel said that they were making requirements in the Overlay District that runs afoul. An example is the requirement of the passageway not being less than 15 feet in width. He said that they want to be symmetrical with the rest of the building and this would not work.

After discussion, the Board agreed to change it from not less than "15" feet in width to not less than "10" feet in width for hotels.

Mr. McGarry mentioned the third floor setback.

Mr. Pelan said that they would like the third floor setback reduced to six (6) feet (from the build-to-line) and only require the setback at 50% of the building facade to meet the setback. The Board agreed.

Mr. McGarry said they have some vesting for FAR, and he felt that they needed to vest rooms.

After a brief discussion, the Board agreed that any existing hotels that are over density should be vested if they choose to seek development incentives and meet the additional design standards.

Mr. McGarry stated that the streetscape zone would need to be modified if they were given more flexibility to the build-to-line. This would give flexibility to the streetscape zone. He said there may be enough leeway where this may not be an issue.

After discussion, it was decided that it was not an issue and that the Architecture Review Commission would be addressing the streetscape zone requirements.

Mr. McGarry said there was a concern that the maximum recess from the build-to-line of three feet was too short and should be expanded to six feet for hotel development. He did not see a problem with this. The Board agreed.

Mr. Craig Fletcher, Vice Mayor, said that they have been going through all the militia of this and he felt that they lost contact with his key issue and the key issue of the Council. He asked is this in any way going to diminutize the rights of the property owners as it exists today (to build as they do today). This is what they have to keep in mind. He noted that this was very important and a deal breaker for him. He said that he did see some problems that he was concerned with.

Mr. Mucher said in his mind any change to the mandatory parts changes the property owner's rights.

Mr. Fletcher agreed with Mr. Mucher and said that is why he was before them today.

Mr. Lauffer said that he heard from property owners in a petition that said they were uncomfortable with this. That concerns him because if he is not representing them then that is a mistake. He felt that what they were doing was good, but if it is not the will of the stakeholders then he had a problem.

Mr. Pelan was a little skeptical of the feedback that was given in the petition because of the letter that was written to get their feedback. He asked Mr. Fletcher if he had concerns with this then he needs to tell them what they are.

Mr. Mucher felt that because there were only two members of the public in the audience today that it didn't imply that they (stakeholders) were satisfied, but implies that the property owners were giving up on the Board and were going to go to the City Council level.

Ms. Minuse asked Mr. Fletcher to voice his concerns.

Mr. Fletcher said that he would ask the people who spoke to him to attend the next City Council meeting.

Mr. McGarry suggested that staff make the changes to the proposed Ordinance and go over them during a workshop at their next meeting.

Mr. Pelan suggested that staff makes the proposed changes and bring the final draft to a public hearing and if they need to make more changes then they could do it during the public hearing. The Board members agreed.

III. PLANNING DEPARTMENT MATTERS

Mr. McGarry reported that the City Council instructed him to make sure that the fees charged will cover full cost of service.

IV. BOARD MEMBERS' MATTERS

None

V. ADJOURNMENT

Today's meeting adjourned at 3:23 p.m.

/sp

[Legislative]

- C. **An Ordinance of the City Of Vero Beach, Florida, Comprehensively Amending Chapter 73, Article I, Flood Damage Prevention of the Vero Beach Code of Ordinances; Providing for Adoption of Flood Hazard Maps, Designation of a Floodplain Administrator, and Adoption of Procedures and Criteria for Development in Flood Hazard Areas; Providing for Conflict and Severability; and Providing for an Effective Date (#Z12-000006-TXT).**

Mr. Pelan read Ordinance by title only.

Mr. McGarry gave a brief overview of his October 24, 2012 departmental correspondence on the proposed Ordinance (on file in the City Clerk's office).

Mr. Mucher asked does this tie in with the new maps.

Mr. McGarry answered yes. He noted that the new maps would be in affect on December 4th.

The Chairman opened and closed the public hearing at 2 p.m., with no one wishing to be heard.

Mrs. Minuse made a motion to recommend the proposed Ordinance to the City Council. Mr. Curley seconded the motion and it passed unanimously.

[Quasi-Judicial]

- D. **An Ordinance of the City of Vero Beach, Florida, Amending Chapter 62, Nonresidential Districts of the City of Vero Beach Code by Creating Article XIII, Ocean Drive/Cardinal Drive Commercial Overlay District; Providing for Development and Building Design Standards; Providing for Development Incentives; Providing for Conditions of Approval and Waivers from Use Requirements; Providing for Conflict and Severability; Providing for an Effective Date.**

Mr. Pelan read the Ordinance by title only.

The Deputy City Clerk swore in all witnesses testifying under this item.

There was no ex parte communication reported.

Mr. McGarry briefly went over the changes made to the proposed Ordinance with the Board members (on file in the City Clerk's office). He reported that letters were resent to all property owners and he has not received any response. He handed out suggested language to add as item (5) on page 20 (please see attached).

Mr. Lauffer asked is the Holiday Inn satisfied with the proposed Ordinance.

Mr. McGarry answered yes. He said that they have answered all their concerns.

Mr. Pelan opened the public hearing at 2:21 p.m.

Mr. Steve Henderson, Attorney, reported that he was asked to speak on behalf of a gentleman who owns six buildings on the beach and who is satisfied with the proposed Ordinance. Mrs. Nancy Cook reported that she owns property in the area being discussed. She said that

she attended the Southeastern Regional Planning Council meeting and it was the same pattern and information that they experienced with the visioning process. She said that during the time she served on the Vision Team she was not educated on where the source of this was coming from. Since then she has educated herself and all of these policies are coming from Agenda 21, which the goal is very detrimental to private property rights. This proposed Ordinance has 26 more pages of control over private property owners. She said that what she is concerned with is the ceiling height noting that air conditioning space above eight feet is useless. Another concern she had was the window height because large windows are not energy efficient. She felt that it should be up to the property owner. She said that the Vision Team wanted to keep the area the way it is. The more regulations they put in place the more they are going to lose their uniqueness. She felt that there were going to be consequences in making a lot of regulations. What they currently have on Ocean Drive is working. She mentioned the provision regarding the streetscape, which states they have to use Live Oak Trees. She felt that did not make sense because they are very messy and don't withstand hurricanes well. If they were to use Palm Trees and they were blown down, they could be stood back up and they are not as messy as Live Oak Trees.

Mr. Mucher said a compromise as far as window height would be to include the words "upon a variance granted by the Architectural Review Commission."

Mr. McGarry said they could always request a variance.

Mrs. Cook did not feel that they should have to apply for a variance.

Mr. Curley asked where did the 10-foot height come from.

Mr. McGarry said the Architectural Review Commission strongly endorsed it.

Mr. Mucher agreed with Mrs. Cook with regards to the issue of property rights. He asked her if she was recommending that the Board throw out the provision on ceiling and window heights.

Mrs. Cook felt that they should leave the decision with the property owner. She said that high ceilings at restaurants are very noisy. Low ceilings provide a cozier atmosphere. She felt that there were some things in the proposed Ordinance that were over regulating.

Mr. Curley agreed with Mrs. Cook with regards to the Live Oak Trees.

Mr. McGarry said that if the Board wants to leave that out of the proposed Ordinance then he would. The only reason it was put in there was as a continuation of the existing Oak Trees that are in that area.

Mr. Kenneth Kaleel, Attorney representing Oceanside Holiday Inn (Ocean Properties, Ltd.), asked for confirmation that hotels are allowed to build up to one FAR.

Mr. McGarry said that was correct.

Mr. Kaleel referred to page 19, item D-1, of the proposed Ordinance. The only issue they have is that they would like the maximum lot coverage of principal buildings to be 60% instead of 50% if the parking garage is a grade level.

Mr. Mucher suggested keeping it at 50% except for hotels, which would have 60%.

Mr. McGarry thought that the current Ordinance was 40%, which would mean a significant increase in the coverage.

Mr. Michael O'Haire agreed with Mrs. Cook in that the public has no interest in what interior ceiling heights are and there is no reason to prescribe what the heights should be. He felt the same way about window heights.

Mr. Ben Bailey, 941 Sand Fly Lane, felt that as they go down the line on the public hearings it would be a lot easier for the public to understand if they had schematics to show things, such as FAR, architecture embellishments, setbacks, etc. He asked where are they in the process of implementing some of the things from the Vision Plan, such as the landscaping, pavers, etc.

Mr. McGarry explained that once they finish with this Ordinance they would begin working on the landscaping.

Mr. Pelan closed the public hearing at 3:03 p.m., with no one else wishing to be heard.

Mr. Pelan did not think it was unreasonable in a higher density hotel type situation where they have a layer of covered parking on the ground floor to allow that part of the structure to cover up to 60 % of the lot. He noted that the building itself should stay at 50%.

After a brief discussion, the board agreed to keep it at 50%.

Mr. Curley felt that the property owner and their tenants should desiccate what the building should be like (referring to ceiling and window height). He said that he would vote against the ceiling height, window height, and dictating the trees to be used.

Mr. McGarry clarified that they were not mandating the ceiling and window heights, it only occurs if someone was going for the incentives.

Mr. Pelan would not have an issue if they removed the reference to ceiling and window heights.

Mr. McGarry referred to page 15 of the proposed Ordinance. He suggested that they take out item three (3), storefront window sills shall be a maximum of 36 inches above the adjacent sidewalk grade and item four (4) storefront window headers shall be a minimum of eight (8) feet above the adjacent sidewalk grade. He then referred to page 19 of the proposed Ordinance and suggested that they eliminate item six (6), all ground floors with any nonresidential floor space shall have a minimum finished floor to finished ceiling height of eleven (11) feet.

The Board agreed.

Mr. Curley made a motion to approve the proposed Ordinance with the above changes. Mrs. Minuse seconded the motion and it passed unanimously.

[Quasi-Judicial]

E. An Ordinance of the City of Vero Beach, Florida, Designating the Ocean Drive/Cardinal Drive Commercial Overlay District by Amending the Official

Zoning Map of the City of Vero Beach; Providing for Conflict and Severability; Providing for an Effective Date (#Z12-000007-MAP).

The Deputy City Clerk swore in Mr. McGarry.

There was no ex parte communication reported.

Mr. Pelan opened and closed the public hearing at 3:25 p.m., with no one wishing to be heard.

Mr. Curley made a motion to approve the proposed Ordinance. Mrs. Minuse seconded the motion and it passed unanimously.

V. DISCUSSION OF ANNUAL REPORT TO CITY COUNCIL

Mr. McGarry said that he would work with the Chairman on their annual report and they would bring it before the Board at their December meeting.

VI. PLANNING DEPARTMENT MATTERS

Mr. McGarry suggested that the Board cancel their November 15, 2012 meeting as he does not have anything to bring before them.

VII. BOARD MEMBERS' MATTERS

None

VIII. ADJOURNMENT

Today's meeting adjourned at 3:30 p.m.

/sp