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**MINUTES
REGULAR COMMISSION MEETING
CITY OF HOLLY HILL, FLORIDA**

JANUARY 24, 2006

1. CALL TO ORDER

A. Roll Call

Mayor Via called the meeting to order in the Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 7:08 p.m. Attending with Mayor Via were Commissioners John Penny, Gilles Blais, Mark Reed and Traci A. Anderson.

Also attending were City Manager Joe Forte, City Attorney Butch Simpson (arrived at approximately 7:40 p.m.), City Engineer Chris Hurst, Public Safety Director Don Shinnamon, Building Official Tim Harbuck, Finance Director Brenda Gubernator, Community Development Director Stuart Buchanan, Community Redevelopment Coordinator Marsha Radulovich and City Clerk Valerie Manning.

B. Invocation

Pastor Baker from Open Bible Baptist Church, delivered the invocation.

C. Pledge of Allegiance to the Flag

2. PRESENTATIONS & PROCLAMATIONS

None.

3. CONSENT AGENDA

- Minutes of the Special City Commission meeting – January 3, 2006
- Minutes of the City Commission Workshop w/ Chamber – January 10, 2006
- Minutes of the Regular City Commission meeting – January 10, 2006
- Minutes of the City Commission Workshop – January 10, 2006
- Contribution to the Holly Hill Chamber of Commerce
- Labor to Remove and Install 40 Hp Gear Reducer
- Replace roof at Boys & Girls Club
- Grade Crossing Rehabilitation 6th Street Mile Post
- Law Enforcement Trust Fund (LETF) Expenditure Request
- Digital Display Sign Policy & **Resolution (needs to be adopted)**

*Commissioner Reed moved **APPROVAL** of the items on the consent agenda, seconded by Commissioner Anderson.*

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The motion **CARRIED** 5-0 on roll call: Reed – Yes, Anderson – Yes, Blais – Yes, Penny – Yes, Mayor Via – Yes.

4. AUDIENCE PARTICIPATION **Regarding items not on the agenda.**

Jim Legary, 342 Burleigh Avenue, stressed his concerns that for the last ten or eleven days between 8:15 a.m. and 8:30 a.m., there has been a City-owned sewer vacuum truck in front of his house.

Mr. Forte stated this is the first time that he is hearing about this. He will get him an answer as soon as he can. He doesn't know if it's related to Marina Grande at all. It may be part of the sewer rehabilitation program that the City is doing right now. He would have to get back with him.

Mr. Legary stated someone told him that the sewer system is broken down, so everyday the City has to come and extract it.

Mr. Forte stated he will find out from the City's engineer and get back with Mr. Legary.

5. SPECIAL EXCEPTION FOR FLAG LOT – 1506 & 1508 RIVERSIDE DRIVE – APPLICANT: VALLI J. LOGAN

Mr. Forte stated on August 23, 2005 this came before the City Commission and that Commission approved it. There was a conflicting date on the notice that went out to the neighbors regarding the meeting. Therefore, the neighbors did not show up to the meeting on the 23rd to voice their opinion on the flag lot request. Therefore, it has been re-noticed to the neighbors to come back before the Commission. During that time, Mr. Forte learned that ten years ago the Commission at that time granted the special exception request for the same owner, Valli Logan, and they granted that request with conditions on it. One of the conditions was to relocate an existing house to the rear lot. What's placed before the Commission tonight is a request for a special exception to create a flag lot. Mr. Forte stated he thinks it's important that the Commission knows that there was a condition placed on it ten years ago but he also thinks it's important that they know that the Commission does not have to place conditions on it. What they have to do is judge the conditions of the flag lot based on their current Code. According to the City's current Code, the flag lot would meet all conditions to be created. The purpose of tonight's meeting is to allow the neighbor's to come up and voice their opinion. Valli Logan is represented tonight by her boyfriend and attorney who are present.

Mayor Via opened public participation.

Jerome Mitchell, P.A. of Riggio and Mitchell Law Firm, 400 South Palmetto Avenue, Daytona Beach, gave a brief presentation regarding the flag lot located at 1506 and 1508 Riverside Drive. As mentioned earlier, they were here once before and it was approved by the Commission. As the City Manager mentioned earlier, this particular flag lot tonight does meet all the criteria mentioned in the current Code.

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Mayor Via asked if it was an option at all to move the house to the rear of the property.

Attorney Mitchell stated he seriously doubts it. He doesn't believe that's an option at this time.

Charles Holbein, Jr., 1508 Riverside Drive, stated when he proposed and bought this place, he wanted to know if the City would let him do what he wanted to do with the property. But, after he did the square footage and the tax millage, his taxes right now are close to \$8,000 from \$2,200. If he would have done what he proposed to do, his taxes would probably be \$3,000 or \$4,000 a month.

Mayor Via asked if it was homesteaded.

Mr. Holbein stated, no. They chose not to homestead the property so their taxes are grossly out of whack of what they want to do. He is not interested in paying the government or whomever, \$3,000 a month if he puts a humongous home on it and makes that a guest house like he wanted to and build a 60 foot garage in the back. It isn't feasible for a retired person so he scrapped the whole idea. It isn't feasible for him to move it either. He is going to sell it as a package but there is so much land there, why not flag it if it meets all the restrictions?

Mr. Forte stated one item that the Commission needs to be made aware of is the two homes that they are talking about tonight, the one that's owned by Valli Logan and the other that is owned by the Capers, sit very close to the property line. One is probably within 10 feet and the other is probably within 5 feet. There is also a noise issue between the neighbors. It's generally a privacy issue. But these homes were built prior to when the City had setbacks.

Attorney Mitchell stated one of the requirements of a flag lot is the principle structure placed on the rear most lot meet or exceed the minimum yard sizes. This will do that.

Mr. Forte stated the request meets all of the standards to create the flag lot under the Codes that the City has today.

Mayor Via asked if Mr. Holbein plans to sell the flag lot or sell the front lot.

Mr. Holbein stated he is selling it as a package.

Attorney Mitchell stated but with the ability that it is a flag lot.

Commissioner Penny asked Mr. Holbein why wasn't the house moved ten years ago.

Mr. Holbein stated do the numbers. Build a mansion out front and build a 60 foot garage in the back and make that a guest house. It's a tax issue.

Commissioner Penny stated he understands that the request ten years ago was that the home in the front would be relocated to the back and that would be creating a flag lot and then there would be a new residence built somewhere in the vicinity close to Riverside Drive.

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Mr. Holbein stated correct but he chose not to do it for the property tax issue.

Attorney Mitchell stated he doesn't know what the new owner would do. They had a contract which fell through because of this alleged notification problem.

Joseph Capers, 1512 Riverside Drive, handed out an updated version of the proposed flag lot located at 1506 and 1508 Riverside Drive. Mr. Capers briefly went over the survey with the Commissioners and Mayor. This shows a garage in the backyard, which now would be a front yard for the said piece of property that wants to be flagged, it wouldn't meet the 35 foot minimum front yard that everyone in Holly Hill has. Also, there are two porches that got adjusted from when the survey was made ten years ago. They can also see the air conditioner that has been added. For the Commission to give an educated decision on a property, they need to have proper information to make that decision and he doesn't think the proper information was submitted to the Commission to begin with. Mr. Capers showed the Commissioners and the Mayor updated pictures of what the proposed property looks like now. He has been told seasonally that this house would be moved.

Commissioner Reed asked Mr. Capers how long has he been in his home.

Mr. Capers stated, 14 years.

Commissioner Reed asked was the neighbor's home there at that close proximity.

Mr. Capers stated, yes. There was also two homes on that property. There was a problem with an Ordinance when they sold the house. They couldn't have two homes on a new property once it's sold. So one of the homes had to be removed.

Mayor Via stated the applicant is under legal application to do that.

Mr. Capers had other concerns about the request. He read the legal description of said property to the Commissioners and Mayor at this time. When they take this one legal description and split this property into two, it becomes *two* legal descriptions. *Two* legal descriptions need to comply with *two* pieces of Holly Hill's City property rules! They both need to meet the setback rules and 15 feet off the property line rules, no garages in the front yards, etc. They believe this is a big deal! One person's property value is going to go up 25% or more and one person's property value is going to go down 25% or more depending on their decision tonight.

Mayor Via stated Mr. Forte, is Mr. Capers correct that if they take one piece of property and divide it into two, there are two new legal descriptions?

Mr. Forte stated, yes.

Mayor Via asked, and is the previous property grandfathered in?

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Mr. Forte stated they will get two new legal meets and bounds properties out of this. He thinks that Mr. Capers is correct in the second lot, the rear flag lot, if it does have a shed on it, technically that shed should be removed because it would be a nonconforming use on that property; they are creating a new piece of property and that would be in the front yard so that would have to be removed or relocated. As for the home, he is not quite sure if Mr. Capers is correct on saying that because they created this new lot, this home has to be moved, because they are not making the conditions of that house any more *nonconforming* than what it already is. On the second lot, Mr. Capers is correct, the shed should have to come down because it would be in the front yard. On the front lot, the home is not going to be anymore nonconforming than what it already is and it's basically grandfathered in.

Mr. Capers didn't agree with Mr. Forte. That is something that should be brought up and voted on to make sure in the future that something can't be grandfathered in. This is 2006 not 1929! When are we going to say enough is enough!

Mayor Via stated in the original proposal that the house was being moved and a new house up front, would Mr. Capers have opposed this?

Mr. Capers stated, no. He signed off on it the first time. That was ten years ago though and nothing has been done!

Jennifer Capers, 1512 Riverside Drive, stated the reason why my husband signed off on it was because he was told over and over that the house next to them would be moved.

Mr. Capers stated there were two homes presently on the lot at that time. One was demolished and one was to be moved. The one to be moved never got moved! He has been waiting for ten years!

Mrs. Capers stated every time they turned around, the neighbor's were adding things to the house and/or property. They have other neighbor's who are here tonight that don't want this. They don't want to set up precedence of everybody who has enough room in their backyard to start sticking houses back there. Her neighbor has an efficiency that she's not even allowed to use on her property but yet, Mr. Holbein is allowed to flag his property.

Mayor Via stated he is allowed to because of the parameters of the application is allowed to be that way. They have to at least consider the application.

Mr. Capers stated not with the information that Mr. Holbein submitted and not with what I showed the Commissioners tonight.

Mayor Via stated they now have the original and Mr. Capers.

Commissioner Reed asked Mr. Capers where is his air conditioner located.

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Mr. Capers stated up towards the front of the house probably 12 feet or so from Mr. Holbein's property. This is going to be more than just an air conditioner issue. It's way more than that now. This is going to affect property values.

City Attorney Butch Simpson arrived approximately 7:40 p.m.

Mayor Via mentioned to Mr. Simpson that they are on Item #5 and gave Mr. Simpson time to review and go over with the City Manager the discussions held tonight so far.

Commissioner Reed asked if anyone knows when the accessory structure was built.

Mr. Capers stated it's not on the survey that was submitted.

Mayor Via asked Mr. Capers if it was there when he moved there.

Mr. Capers stated, no.

Commissioner Reed asked Mr. Capers if he was there when Mr. Holbein built the accessory structure.

Mr. Capers stated, yes.

Commissioner Reed stated so it's been built within the last 14 years.

Mr. Capers stated yes; about four or five years ago.

Commissioner Reed asked if they would have to have a permit for that.

Mr. Harbuck stated, yes. For something like that it would require a permit.

Mrs. Capers stated they got four notices about trying to come here and state their claim on what they wanted to do.

Mayor Via asked when.

Mrs. Capers stated within the last few months.

Attorney Simpson stated if he correctly understands the issues and he will recite some of them so if he doesn't, they can correct him. The couple who are here tonight contend that they essentially weren't afforded due process with respect to the meeting that was held where a special exception was granted. He thinks they have to take their word for that. The Commission should reconsider the special exception here tonight and let the Capers have their say. As far as he is concerned the special exception was granted, the one that was granted without due process, is invalid so the Commission reconsiders it tonight. Attorney Simpson asked if the applicant was here tonight.

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Mayor Via stated, yes.

Attorney Simpson asked if the applicant is prepared to present their case for special exception tonight or would they like some time to prepare for that.

Attorney Mitchell stated they have done that.

Attorney Simpson stated he understands that but they are going to get an opportunity to do it again. Are they prepared to do it again tonight?

Attorney Mitchell stated, yes. They did it tonight.

Mayor Via stated they opened this item tonight assuming the process was not followed and they were opening it new again. They are in the public hearing part of the item now.

Attorney Simpson stated that's the right way to do it. At the conclusion of the public hearing then the Commission will vote whether or not to grant this special exception.

Mayor Via stated there was a question that came forward earlier with respect to when you take one piece of property with a nonconforming structure on it and you turn it into a deed with two brand new addresses with two brand new legal descriptions, does the existing house (nonconforming house), does it have to meet the new legal description which is defined under the 2006 City Codes or does it revert back to the old City Codes when it was built?

Attorney Simpson stated he doesn't think that the special exception, provision of the Ordinance, addresses that.

Mr. Forte stated once the flag lot is established, it would then have to get recorded with the County. That's what happened ten years ago; it was not recorded and as of this time, after the August meeting, it had not been recorded.

Commissioner Penny asked is it still within their power to grant the special exception but to require the home to be moved.

Attorney Simpson stated there is nothing in the special exception provision pertained to flag lots that addresses the lot that they are concerned about with a structure on it. There is a provision in the special exception Ordinance itself saying that the City Commission may prescribe appropriate conditions and safeguards in conformity with this subpart which he thinks gives the Commission the right to make that determination if they choose to that they want the remaining lot to comply with setbacks. That is a prerogative that the Commission has but there is nothing in the special exception section of the ordinances that say they have to. They don't have an absolute right to that. The Commission can say, "We think it's reasonable to impose this condition as a condition of the special exception".

Commissioner Reed asked are there other conditions that the Commission may impose besides the setbacks.

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Attorney Simpson stated, yes. Section 82.345 says, *“The City Commission shall before granting any special exception confer with a planning staff seeking the planning staff’s recommendation in the matter from the standpoint of land use planning and the affect of the special exception on the general area in which it is proposed to be located. The planning staff’s recommendation shall in no way have the affect of limiting the judgment of the City Commission in its final decision concerning the special exception except that the reasons for non-acceptance of the recommendation shall be written into the record of the meeting. The City Commission may prescribe appropriate conditions and safeguards in conformity with this subpart.”* In other words, what the Commission is to consider in granting this special exception is whether or not from the standpoint of land use planning and that has to do with setbacks, and the affect of the special exception on the general area in which it is proposed to be located, does the City Commission think they want to impose some conditions that would be consistent with what the Commission thinks is appropriate? This doesn’t say that the Commission *has to* require the applicant to meet setbacks, it says the Commission has the prerogative to do that as a condition of granting the special exception. That would include, in his view, both the flag lot itself and the remaining lot.

Helena Blair, 1522 Riverside Drive, stated she is three houses away from the proposed property and two houses away from Mr. and Mrs. Capers. Ms. Blair stated when she bought her house 15 years ago in March, they had a lot of rules. They tore down a house and they built a brand new one. Mr. Harbuck will tell the Commissioners, they had to abide by every single rule. If they don’t do for one, you better not do for the rest! She further stated if Mr. Holbein builds or sells that property to whomever and they build rental, we live here. We’ve lived there since 1982. The house on the corner of 15th Place and Riverside Drive is divided and it’s a rental house. There has been bad people living in there and questionable people living in there. That place needs to be torn down! The City needs to do something more with that than have Mr. Holbein get his way with what he wants to do.

Steve Smith, 1410 Riverside Drive, stated he is about eight houses south of the proposed property. When the house was sold at 1506 and 1508 Riverside Drive there were two houses side-by-side, they tore one house down and had conditions that the other one would be moved. Over the last eight years, there has been additions to the house and remodeled and now it’s even closer to Mr. and Mrs. Capers house. They are talking about the quality of life. Mr. and Mrs. Capers have put up with the talk of moving the house and that has never happened. Now Mr. Holbein wants to sell it and walk away from it with another house plan there. That doesn’t fit with the quality of life there. There has been broken promises regarding moving the house and a house that is way too close to Mr. and Mrs. Capers house. Mr. Holbein’s house is a much bigger house now than it was eight years ago.

Attorney Mitchell stated he is hearing a lot about the existing structure and the fact that it’s close to another house. They are here tonight to ask for a flag lot which has been reviewed, approved by staff, recommended by staff and has met all the requirements. Whether or not this is granted isn’t going to magically move that house even if the Commission does, as they did ten years ago, put conditions upon moving the house, it doesn’t mean it’s going to happen.

Mayor Via closed public participation.

*Commissioner Reed moved for **DISCUSSION**, seconded by Commissioner Anderson.*

Commissioner Reed stated it's his understanding that Mr. Holbein wants to sell this property, he wants to sell it as a package and if the Commission were to grant him this exception and make this a flag lot, this would increase the value of the property, is that correct? Would Mr. Holbein ask for more money if it's a flag lot zoning?

Mr. Holbein stated, yes.

Commissioner Reed asked does he think that added value would more than compensate for whatever expense he would have for moving the house on the property.

Mr. Holbein stated he doesn't think that he has to. He doesn't think that he has to move a piece of property to make a neighbor happy!

Commissioner Reed stated, sir, this is not about making the neighbor happy, this is about getting approval for his flag lot. He is trying to cooperate with Mr. Holbein and he would like to see Mr. Holbein cooperate with the City. "Moving the existing home, that would cost you some money wouldn't it?"

Mr. Holbein stated, correct.

Commissioner Reed stated, "but don't you think having this flag lot would more than compensate you for whatever expense may come from moving that home? Don't you think you could have it both ways?" That Mr. Holbein would be able to move the home and get the flag lot and sell the property and everybody would be happy. Doesn't he think that could work?

Mr. Holbein stated, no.

Commissioner Reed stated then he makes a motion to deny the request for the flag lot.

*Commissioner Reed moved for **DENIAL OF THE FLAG LOT** located at 1506 and 1508 Riverside Drive, seconded by Commissioner Anderson.*

Commissioner Penny asked if Commissioner Reed would withdraw his motion for denial so they can discuss this further.

Commissioner Reed agreed.

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Commissioner Penny stated the only way he would be able to support this would be if the original lot were to conform with the current setbacks, whether that means moving the house in the front 15 feet to the right or moving it 70 feet to the rear. It's his opinion and he agrees with Commissioner Reed that if this home was relocated to the rear lot, the front lot is the valuable piece of property. Mr. Holbein will have a greater gain if he relocates the existing home to the rear and market this property as a Riverside Drive address. That is the only way he will be able to support this request.

Commissioner Blais stated he has the same feeling on this. Mr. Holbein would regain any financial loss over the years regarding to taxes if he would move the house to the rear lot and then conform to the new City Codes. If Mr. Holbein does that than he would be in favor of the request.

Commissioner Reed stated he believes the applicant has expressed the fact that he does not want to do that.

Commissioner Anderson stated she agrees with what everyone has said. She believes it can be rectified by moving the house to the rear and everybody would be happy. She thinks that the way the Commission should go.

Mayor Via stated he agrees with moving the house to the rear lot. This is a major thing to do to develop another lot and have a flag lot. What the Commission is doing is they are land use planning. He would like to see a motion on the floor that would concurrent with 10 years ago which would be essentially to move the house to either to the rear of the property or off the property line to the proper setbacks.

Commissioner Penny stated by approving that motion, the Commission is *not* requiring the applicant to do that. The Commission is giving the applicant the *option* to do that if he chooses to.

Mayor Via stated if Mr. Holbein wants the second lot, he would conform to the Commission's condition.

*Commissioner Penny made a motion to **APPROVE** the flag lot located at 1506 and 1508 Riverside Drive with the condition that both lots meet current setbacks, seconded by Blais.*

Mr. Forte stated under the condition that they just placed on the property, does that mean that the flag lot doesn't get filed with the County until the house is moved or the flag lot gets filed and they have up to a year to move it? That's going to make a difference.

Attorney Simpson stated it depends on how the Commission word the condition. What he heard Commissioner Penny suggest is that all structures on the newly created flag lot and the remainder lot meet current setback requirements. Attorney Simpson stated it was his impression that this needed to be addressed as a condition of the special exception.

Commissioner Penny stated, correct.

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Attorney Simpson stated they would not file this until that condition has been met.

Mr. Forte stated Mr. Holbein would have up to one year to relocate the house, shed/garage (accessory structure) because then the special exception would expire again.

The motion **CARRIED** 5-0 on roll call: Penny – Yes, Blais – Yes, Anderson – Yes, Reed – Yes, Mayor Via – Yes.

6. PUBLIC HEARING – SECOND READING OF ORDINANCE 2743, AMENDMENT TO THE FUTURE LAND USE MAP – 327, 331, & 403 RIDGEWOOD AVENUE, 326 DAYTONA AVENUE – 7.5 ACRES

Mr. Simpson read by short title:

ORDINANCE NO. 2743

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2265, THE COMPREHENSIVE PLAN, AS PREVIOUSLY AMENDED, BY REVISING FIGURE II-6, THE FUTURE LAND USE MAP, TO CHANGE THE FUTURE LAND USE DESIGNATION OF APPROXIMATELY 7.5 ACRES LOCATED AT 327, 331, & 403 RIDGEWOOD AVENUE AND 326 DAYTONA AVENUE WITH TAX PARCEL ID 4244-01-23-0150; 4244-01-23-0170; 4244-01-23-0130; 4244-01-23-0220; 5337-33-02-0050 FROM “GENERAL RETAIL COMMERCIAL” AND “LOW DENSITY SINGLE FAMILY RESIDENTIAL” TO “RESIDENTIAL MIXED USE” PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HERewith; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

Mr. Forte stated this is the legislative act of the land use change and Item #7 is the Planned Unit Development Agreement (PUD).

Mr. Buchanan gave a brief presentation. The previous City Commission voted at first reading to approve the change in future land use and then held off for the second reading until such a time that the new City Commissioners would be seated and so that the rezoning could be approved with all the restrictions in the PUD Agreement at the same time. Mr. Buchanan showed an aerial view of the future land use map located at 327, 331, and 403 Ridgewood Avenue and 326 Daytona Avenue. Mr. Buchanan gave a brief description of the property. Mr. Buchanan briefly discussed the changes that were recommended by the Commission regarding the rezoning request for 3rd Street and Ridgewood Avenue, Item #7. He discussed the changes to the PUD at this time. He went over the aerial view map of the rezoning request due to some of the changes that were requested from the previous meeting. The map shows an open public plaza. Another change made to the site plan was that they add an extra exit out of the parking garage on Ridgewood Avenue. They also included a “right-turn only” onto 3rd Street and removed the full

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access entrance. The applicant changed the parcel along Daytona Avenue to leave the single-family residential house in place. That will be part of the condo documents. They pulled the retention pond back as requested by the Commission and left the landscaping and the masonry wall that will be behind the house. There will be onsite amenities and a clubhouse which is centrally located above the parking deck between the two structures. The parking deck itself is enclosed, the applicant carries the architectural theme all the way down along the façade which is on the street.

Mr. Forte stated he asked the applicant to modify something that was in the original document, and that is originally they talked about 6,325 square feet of a courtyard opened area for the public and when staff looked at the plan and they saw all the open area which is part of the dry retention, he asked the applicant to include that in the entire public area. (Referring to the map), this area will still remain as the courtyard but then the applicant can landscape his dry retention or the outsides of the dry retention to make it more of a park-like setting but on this document I would like to include the minimum courtyard dimensions. In addition to that, the language in the PUD agreement states that there will be a minimum of \$50,000 for the improvements not including soft costs or engineering and permitting.

Mayor Via asked Mr. Rainey if he had a timeframe of starting this project.

Mr. Rainey stated the architectural work is going to take approximately six months and then they will be in the permitting process. They certainly didn't want to start architectural drawings until they knew what they were going to be drawing.

Mayor Via stated in the public portion of the plaza he would be amenable to ideas that the Commission might come up with in that amount of time that he would work with them on that.

Mr. Rainey stated, absolutely.

Commissioner Reed stated on some of the paperwork he noticed that there is a name "John Rainey", is that his father?

Mr. Rainey stated, yes.

Commissioner Reed stated, and he has been a successful developer here in Volusia County for quite some time, hasn't he?

Mr. Rainey stated, yes.

Commissioner Reed asked he has built some big projects.

Mr. Rainey stated, yes.

Commissioner Reed asked Mr. Rainey if he has built a project of this size before?

Mr. Rainey stated he has been involved with his father in developments as he is with this project.

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Commissioner Reed stated he was under the understanding that his father is semi-retired now, is that correct?

Mr. Rainey stated he is rather active. He wouldn't say he is retired at all.

Commissioner Reed stated that's good because you on your own have not built something like this. "Because I have a strong suspicion, Mr. Rainey, that you will sell this property as soon as you get it approved and some other developer may come in and the City will deal with some other developer." Instead of dealing with someone the Commission knows and respects, they are going to deal with whomever buys it. Is that a possibility?

Mr. Rainey stated anything is possible.

Commissioner Reed stated thank you Mr. Rainey. He doesn't think anything anybody says here tonight is going to change anybody's mind but he appreciates Mr. Rainey's forthright answers.

Mayor Via stated if this project is approved it would be contingent upon a site plan that must be approved by staff.

Mr. Forte stated, yes. They are approving a PUD and a site plan, the footprint should this get approved then they have to go through the whole permitting process of a site plan review by staff, the tree survey, etc. The same thing they would do for any other development.

Mayor Via asked if the scenario happens that Commissioner Reed mentioned and it's Mr. Rainey's right to sell the property to another developer, that developer would be beholding to the approved site plan.

Mr. Forte stated, yes. They are approving a site plan and development agreement not a person/developer. He hopes that Kevin and John Rainey build this project. He has developed a professional relationship with them and he would like to see it through just as he would Marina Grande dealing with Bret Dill and Randy Fultz. If it doesn't, that's okay. This is a business relationship. He will deal with the next businessman that comes in to build this under the conditions that the Commission set forth in this document. Anything above a minor amendment would come back to the Commission for approval.

Mayor Via stated he believes there is a safeguard there then.

Commissioner Reed stated he thinks it's very disappointing. He thinks it amounts to corporate welfare when they make an approval and the applicant turns it around and flips it. He has a problem with that.

Mr. Rainey stated this property is not under contract with anyone; nobody is purchasing it from him or his father at this point. If someone were to come by and offer them a fantastic deal, who knows, they may take it but currently they are moving forward as though they are building this project.

Mayor Via opened public participation.

Steve Tyler, 721 Ridgewood Avenue, stated he is here to represent the Holly Hill Chamber and reiterate the Chamber's strong support for this project and he is here as an individual business person and business owner in Holly Hill and he would like to register his support for this project. This can do nothing but good for everyone in the City be it business or resident and it is a project that should go forward. The Commission has made some interesting possibilities for changes in it and he thinks they are rather good ones.

Jim Legary, 342 Burleigh Avenue, stated he is not in favor of this project. They spent a great deal of time talking about a flag lot and the possible increase of the value of the property value. He is not in anyway opposed to anybody making money. He is a businessman himself. As Commissioner Reed suggested, this is kind of a corporate welfare thing. They seem to be involved in subsidizing people that already have a considerable amount of money. If this project is approved, the voters that elected this Commission in the last election, are going to be...they are not regarding what it is the citizens want. They are not regarding the quality of life, what it is they have here within the City. He has heard discussions from the last meeting about what courage it takes to build a property in Florida. He has yet to see anything that wasn't sold out! Mr. Legary further stated when he listened to Mr. Buchanan's presentation he is just overcome with all the amenities in the building. They don't have the same consideration for the current citizens. He hopes that this project is turned down.

Maureen Monahan, 215 – 5th Street, talked about the future land use change. Ms. Monahan stated not all of the property is currently in the CRA, specifically Daytona Avenue. If the Commission makes this change then that property on Daytona Avenue will be part of that parcel and it will be included in the CRA.

Mr. Forte stated if it's not currently in the CRA, it will not be in the CRA. Just like the Marina Grande project in which the Blue Tide Apartments is not in the CRA. It would be part of the project and it will be the work of the property assessor to separate that as far as where the ad valorem taxes go but it will not become part of the CRA.

Ms. Monahan stated she thinks it's important whether or not any of the adjoining properties on the property line might be considered CRA. That's important to people who are currently paying taxes in the City of Holly Hill.

Mr. Forte stated anyone who is not currently in the CRA will not be considered CRA.

Ms. Monahan stated during the last meeting, and she is looking for clarification, if any changes are going to be required or asked of the developer, on a small scale they don't have to go back in front of the Commission but on a large scale they do and she was under the impression that if it's under 10 acres it's considered small scale which means it does not have to go in front of the Commission.

MINUTES

Mr. Forte stated she is confusing a small scale and a large scale comp plan amendment versus a small amendment to the PUD agreement or a large amendment to the PUD agreement.

Ms. Monahan stated she believes this project is a spectacle. It does not belong in Holly Hill. She opposes the height and the density. How high is this projected to be?

Commissioner Reed stated 170 feet not to include the heating and air conditioning and the aesthetics or the roof. He believes that is the top ceiling.

Ms. Monahan asked how many stories is that.

Mayor Via stated at this time it's been presented as being 15 stories.

Ms. Monahan asked not including the top.

Mayor Via stated, correct.

Ms. Monahan asked if the Federal Aviation Administration (FAA) has been involved with this.

Mayor Via stated he is not sure that they need to be involved.

Mr. Buchanan stated there is only one restricted flight path in the Daytona Beach area and they know where that is and it's not in Holly Hill. It's on the east end of the runway towards Nova Road.

Ms. Monahan further stated that traffic has not gone down in her neighborhood as far as drugs and prostitution. She takes this as an offense, personally. She is not going to speak for the citizens anymore, most of whom are sick and tired of coming and didn't come tonight because they have already taken it upon themselves to know that this is going to be voted for. Seven stories is one thing but fourteen, fifteen, sixteen, possibly seventeen is another thing and it's going to be looking right over in her backyard. She takes great offense to it. She believes it's an invasion of her privacy and she would like to know what kind of provisions are going to be made during the construction phase of the project because right now she doesn't live anywhere near the Marina Grande but yet she hears the noise every morning when she sits in her backyard. She would like to know that there is going to be some provision for her quiet enjoyment which is her right under the Charter of the City of Holly Hill.

Micky Pedersen, 801 Ridgewood Avenue, stated he is for the project and thinks it's beautiful. However, some people stand to make a lot of money off of this and he is for that as well but he thinks Mr. Rainey is fortunate as well to have come into a City like Holly Hill and buy up something that's zoned for something completely different. Mr. Pedersen briefly mentioned how he was hoping that someone in the City would have suggested to Mr. Rainey to give back something to the City. For example, some money back from each unit that is sold or money to improve Hollyland Park.

MINUTES

Ron Bagwell, 1176 Alabama Avenue, asked what is the density height for this project.

Mayor Via stated, 55 units per acre.

Mr. Bagwell mentioned the Chambers Website in regards to citizens. He thinks there is a 27% increase in population based upon their current density of four people per household. They are not prepared for this type of growth school wise, police wise, infrastructure wise, or road wise. This Commission is increasing the density of Holly Hill by that many people without thinking of what it's going to do to the rest of the citizens.

Mayor Via closed public participation.

*Commissioner Penny made a motion to **APPROVE** the Second Reading of Ordinance 2743, seconded by Commissioner Blais.*

The motion **CARRIED** 3-2 on roll call: Penny – Yes, Blais – Yes, Anderson – No, Reed – No, Mayor Via – Yes.

7. PUBLIC HEARING – SECOND READING OF ORDINANCE 2759, BLACKRIVER, LLC – REZONING REQUEST – MPUD – 7.16 ACRES LOCATED EAST OF RIDGEWOOD AVENUE AND NORTH OF 3RD STREET WITH A PORTION WEST OF DAYTONA AVENUE

Mr. Simpson read by short title:

ORDINANCE NO. 2759

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2352, THE LAND DEVELOPMENT REGULATIONS, AS PREVIOUSLY AMENDED, BY REZONING APPROXIMATELY 7.16 ACRES LOCATED ON THE NORTHEAST CORNER OF RIDGEWOOD AVENUE AND 3RD STREET FROM CC-1 (COMMERCIAL CORRIDOR DISTRICT) AND R-2 (LOW-MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT) TO MPUD (MIXED USE PLANNED UNIT DEVELOPMENT); APPROVING A MASTER DEVELOPMENT PLAN AND INCORPORATING IT INTO THIS ORDINANCE FOR THE PURPOSE OF REGULATING THE USE AND DEVELOPMENT OF THE PROPERTY; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HERewith; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

MINUTES

Mayor Via opened public participation.

Maureen Monahan, 215 – 5th Street, stated she forgot to ask about water and sewer impacts regarding the project.

Commissioner Anderson stated she doesn't know enough about it because she has to still do a lot of reading on it because it's very complicated and she doesn't want to give the wrong information out.

Ms. Monahan stated that's a very good point that Commissioner Anderson makes because this is a very complicated issue that they are making a decision on tonight. It affects the future of Holly Hill today, in the year 2010, 2025, 2050 and beyond. That's part of it.

Mr. Forte stated the engineers at the workshop said that the City has enough water supply in the wells and the capacity in the water plant to provide water up to the year 2025, which they projected to be about just under 18,000 people.

Mayor Via stated, correct.

Roger Healy, Charter Oaks, asked why was there only one financial lender that they could go to. Originally they were talking about seven story buildings.

Mayor Via stated it's none of the Commissioners business where Mr. Rainey gets his money. His application was for 15 stories not seven stories. Mr. Rainey's request is will the Commission grant his request for 15 stories.

Jim Legary, 342 Burleigh Avenue, briefly mentioned his concerns about the traffic. If they are going to have these non-existent residents coming out onto 3rd Street, he is wondering what impact that is going to have. He further mentioned his concerns about the water issues. How is this in anyway going to uplift the current residents economically? If they go to the Marina Grande, he sat the other day at check out time, at 3:30 p.m., there was nothing but Mexicans working there.

Mayor Via stated that really has nothing to do with this.

Mr. Legary stated, "It has something to do with me Roland because unlike yourself and the other Commissioners, the people that I speak with are saying that their quality of life is going away and they're going to have to live somewhere else! They're going to have to move somewhere else because they're not going to be able to afford Holly Hill!"

Mayor Via closed public participation.

MINUTES

*Commissioner Penny made a motion to **APPROVE** the Second Reading of Ordinance 2759 with the amendments to the PUD agreement and site plan as mentioned earlier by staff, seconded by Commissioner Blais.*

The motion **CARRIED** 3-2 on roll call: Penny – Yes, Blais – Yes, Reed – No, Anderson – No, Mayor Via – Yes.

8. COMMITTEE REPORTS

Members of the Commission are encouraged to give a brief report from the various committees on which they serve.

Mayor Via mentioned the MPO meeting, WAV, and VCOG. He then reminded the Commissioners about the Florida League of Cities dinner on Thursday evening.

9. COMMUNICATIONS

A. City Manager

Mr. Forte stated GSG out of Tallahassee is the consultant that's doing the work on the City's Police, Fire, Parks and Recreation Impact Fees. They are going to be sending him a draft of the report and they would like to meet with the Commission one night other than a Commission meeting night. There was consensus from the Commission to have GSG come on March 21st and to also have "Commission Day" on March 21st.

B. City Attorney

Attorney Simpson apologized for being late to the meeting tonight.

C. Mayor & Commissioners

Commissioner Reed thanked Pastor Baker for coming tonight.

Commissioner Penny thanked the citizens, the City, and the employees for all their thoughts and prayers during his father-in-law's recent illness.

Commissioner Blais thanked everyone for showing up tonight.

Mayor Via mentioned the Union negotiations will be starting soon.

MINUTES

10. ADJOURNMENT

The meeting officially adjourned at approximately 9:55 p.m.

Attest:

City of Holly Hill, Florida

Valerie Manning
City Clerk

Roland D. Via
Mayor