

**FINAL**  
**PLANNING AND ZONING BOARD MEETING**  
**WEDNESDAY, MARCH 25, 2009**  
**CITY COMMISSION CHAMBERS,**  
**HALLANDALE BEACH, FLORIDA**

**Members Present**

**Attendance**

Michael Butler	Y
Terri Dillard (Alternate)	N (excused)
Seymour Fendell	Y
Sheryl Natelson	Y
Irwin Schneider	N (excused)
Eudyce Steinberg	Y
Armin Lovenvirth	Y
Arnold Cooper	Y

**Staff in Attendance:**

Richard Cannone  
Christy Dominguez  
Sarah Suarez  
Sheena James  
Cindy Bardales

Mr. Cooper called the meeting to order at 1:35PM

**Approval of Minutes**

Mr. Cooper: pointed out that page 10 of the summary minutes from the meeting held on January 28, 2009, showed a motion being made by Mr. Butler, as retracted by Mr. Lovenvirth. He asked for corrections to show that the motion was made and retracted by Mr. Butler. He further asked for staff to verify the end time of the last meeting as he recalled it being approximately 3 hours long rather than the reflected 1hr 10mins.

Mr. Butler: also pointed out that on page 21 (top) it should state ninety (90) Oak trees were removed, rather than nine (9).

Staff agreed.

MOTION: MS. NATELSON MOTIONED TO APPROVE THE MINUTES OF BOTH THE DECEMBER 10, 2008 AND JANUARY 28, 2009 PLANNING AND ZONING BOARD HEARINGS WITH THE REQUESTED REVISIONS.

MS. STEINBERG SECONDED THE MOTION

MOTION CARRIED BY ROLL CALL VOTE (6-0) FOR APPROVAL.

**Old Business**

None

**New Business**

1. Application #18-09-V by Francisco Figueroa requesting a variance to maintain a car canopy in the front yard of a single-family home located at 1101 NE 4<sup>th</sup> Street.

The variances requested are as follows:

- a) Section 32-152(d)(4)(a) of the Zoning and Land Development Code requiring a minimum 25 foot front yard setback for single-family homes in a RS-6 Zoning District.
- b) Section 32-152(d)(4)(c) of the Zoning and Land Development Code requiring a minimum 7 ½ foot side yard setback for single-family homes in a RS-6 Zoning District

Mr. Cooper: opened the Public Hearing by allowing the applicant to make his presentation to the board.

Mr. Figueroa: stated he was cited by Code Enforcement and required to apply for a permit which he did and April 2008. He added that he was approved by the Building department but denied by the Zoning department.

Mr. Figueroa: acknowledged that what he did was wrong but he wanted to rectify it. He stated that he would not have a problem changing the size of the canopy by shortening the length; however it would be a problem changing the width since it would need to be rebuilt entirely.

Mr. Figueroa: pointed out that he has a good relationship with all his neighbors and did not believe they would disapprove of his canopy. He added that a couple of his neighbors wanted to come before the board in his behalf but he explained to them that it wouldn't be necessary unless they had any complain against the item.

Mr. Cooper: closed the public hearing.

Ms. Natelson: asked if the canopy protruded onto any of the neighboring properties since it extends over his property boundaries.

Mr. Figueroa: stated that the issue of the 7 ½ feet over doesn't affect the neighbors since both have hedges planted in between the property line. He added that the driveways are extremely far from of his property.

Mr. Fendell: asked if he built the canopy or was it built by someone else.

Mr. Figueroa: stated that he has a friend that is a certified welder and they spent three weekends assembling the canopy and then brought it over to his property. He added it withstands 90-110 mph winds without removing the canopy and if he unlaced the canopy it can go on forever.

Mr. Fendell: stated that they did a perfect job on the canopy, but wanted to know why he didn't ask for a permit to do the actual construction?

Mr. Figueroa: stated that where he is from things are done differently.

Mr Cooper: pointed out that he is now living in Hallandale Beach. He asked if his friend was a contractor, because as a contractor he should have provided him with a contract stating that he would work with a permit and show he was licensed just in case something were to happen he wouldn't be liable.

Mr. Figueroa: confirmed

Mr. Figueroa: stated that he would have appreciated if, when applying for the building permit, they would have told him from the beginning that Zoning would deny it and he wouldn't have to continue spending money.

Mr. Fendell: stated that it was a beautiful canopy but would find it to difficult to live by it since he found it be too large and protruding. He recommended Mr. Figueroa address the issue with his contractor since it was partly his responsibility.

Mr. Figueroa: stated that his friend was just trying to help him.

Mr. Fendell: further stated that his friend in actuality didn't help him because now he has problems with the City.

Mr. Figueroa: pointed out that Mr. Fendell has the right to his opinion. He added that none of his neighbors have a problem with the canopy.

Mr. Figueroa: stated that the notice that was sent to his neighbors stated that if they were to have an issue with the canopy they would have to come in front of the board and dispute it. He added that all of his neighbors work and didn't want to intrude by having them come before the Board and speak on his behalf.

Mr. Figueroa: commented that Code Compliance officer (Shelly) went by his home

and gave him a letter instructing him to come in and apply for a building permit.

Ms. Natelson: asked if when the code officer was conscience of the dimensions when she/he went by his residence and did they not explain to him that he was outside of the code of the city?

Mr Figueroa: confirmed

Mr. Figueroa: stated that when he first applied, the Building Division rejected his application because they need the wind storm calculation for the canopy. He added that he needed to consult with an engineer to get this information which cost him approximately \$475.00. He was also asked to provide a welder certification. Although he provided all of this information to the Building Division, when Zoning reviewed his application they denied it because of the variance issue with the setback.

Ms. Natelson: asked if the dimension of the canopy has changed since it was last inspected?

Mr. Figueroa: no changes where made

Mr. Cannone: clarified the procedure that when someone applies for a building permit. He explained that applicant applies at the building counter and from that point, various trades look at it and ultimately zoning reviewed it last. This is normal procedure and In Mr. Figueroa's case, it was rejected for obvious reasons.

Mr. Cooper: stated that he thought that when the zoning department was always first to revise and if there was any problem they wouldn't proceed with the application.

Ms. Dominguez: pointed out that applications are first received they are distributed to all the different divisions and then the comments are compiled and sent to the applicant at the same time. She was not sure how Mr. Figueroa had received the building comments first as it not part of the protocol.

Mr. Figueroa: clarified that he had a printout from the building department that was mailed to him (Dated 7/15/08).

Mr. Cooper: stated that he was looking at the pictures and had gone by Mr. Figueroa's residence. He agreed that it was a nice canopy, but would not like to live next door to him. He added the many reasons why he should have the canopy removed. He explained that if everyone in his block decided to put up a canopy it would decrease the value of his home: they are not permanent structures and are subject to the weather and after a while, if you don't take care, it will start to fade.

Mr Figueroa: stated that the canopy is marine applicable and has a 25 year

warranty on the material.

Mr. Cooper: pointed out that he saw a walkway made out of brick and a fountain and it isn't shown on his survey. He added that the landscaping percentage would be affected.

Mr. Cooper: asked the applicant if he had a permit for these items?

Mr. Figueroa: stated that he did have a permit for the walkway, but not for the fountain. He added that the last hurricane caused a lot of damage in front of the house so he decided to add the fountain.

Mr. Cooper: asked when did he close in the garage?

Mr. Figueroa: stated that when he moved in to the house the garage was already closed.

Mr. Cooper: questioned if it had a permit since there was no garage at that house, just a driveway

Mr. Figueroa: confirmed

Mr. Cooper: stated that he wanted to read a summary to the applicant from staff who do a thorough job and go through the zoning ordinances for his house and have provided an explanation of the reasons for setbacks. He added that setbacks are required in order to maintain comfortable distances between structures and property lines. In addition, they provide for adequate front, side and rear yard setback which help create and maintain a uniform appearance without imposing physical encumbrances on neighboring properties. The applicant is proposing to maintain a car canopy that was erected without building permits; therefore, changing the appearance of the neighborhood.

Mr. Cooper: stated and agreed that zoning ordinances are to protect everybody and the Board needs to think in generally and not specifically. He sympathizes with the applicant but stated that when you make a mistake you have to pay for it.

Mr. Cooper: pointed out that the City staff has recommended denial of his application and he personally believed it should be denied as well.

Mr. Figueroa: asked if they would reconsider if the size of the canopy is reduced?

Mr. Cooper: pointed at they are not considering anything. They have not made a motion yet.

Ms. Steinberg: commented that she disliked how the canopy looked in the picture

and if she was his neighbor this would upset her.

Mr. Lovenvirth: agreed the canopy in the middle of the block does not do anything to enhance the area as it looks very commercial and the rest of the street is residential.

Mr. Cooper: asked staff if the Board's decision would be final or if it would go on to City Commission?

Mr. Cannone: stated that their decision would be final. However, the applicant has the ability to appeal their decision and go before the City Commission.

Ms. Natelson: questioned whether reducing the size would make it more consistent with the residential appearance of the neighborhood?

Mr. Cooper: stated that he does not believe so as it would still be within the required setback.

Ms. Natelson: She added that the Board was looking at two different things and that she wanted to make a careful decision because they are considering the interest of the property owner to do things on their property for their own benefit while at the same time conforming to the City's Code. She feels that people are giving their own opinions of what looks good and what doesn't and the decision is made according to what is permitted.

Ms. Dominguez: stated that the City has not permitted canopies for many years although, they still have a few around the City that are grandfathered in. She explained that the code was changed to prohibit canopies within setbacks and a variance has never been granted for one.

Ms. Natelson: pointed out Mr. Figueroa's previous statement that his canopy can withstand 90-110 mph winds. She added that a 90-100 mph winds are a minimum for a hurricane and she assumes safety is part of the reason why the City does not allow those structures in the City

Ms. Dominguez: stated that granting a variance for the canopy would set precedence in allowing them within the front yard setbacks.

Mr. Lovenvirth: stated that there was a discrepancy with the application number in the staff report.

Ms. Dominguez: clarified that it is application #18-09-V

MOTION: MR. FENDELL MOTIONED TO DENY APPLICATION #18-09-V BY

FRANCISCO FIGUEROA REQUESTING A VARIANCE TO MAINTAIN A CAR CANOPY IN THE FRONT YARD OF A SINGLE-FAMILY HOME LOCATED AT 1101 NE 4<sup>TH</sup> STREET.

MS. STEINBERG SECONDED THE MOTION

MOTION CARRIED BY ROLL CALL VOTE (6-0) FOR DENIAL

2. Application #17-09-PA By Highland Park Ventures, LLC requesting a Local Future Land Use Plan Amendment to change the land use designation of the property located at 112 NE 3<sup>rd</sup> Avenue from Residential, Low Medium Density to Residential High Density on the City's Future Land Use Map. The applicant proposes to construct a 53 unit multi-family development on the subject site in accordance with the conditions of approval on April 16, 2008.

Mr. Cooper: Opened the Public Hearing

Richard Shan/Applicant (Shanco Building Group, located 224 S Dixie Highway): began by stating that this was a follow up application for the Highland Park Village Project which is a co-venture with the City for affordable housing in NW Hallandale.

Mr. Shan: added in April 2008 he presented an application to the Planning and Zoning Board as well as the City Commission at which time the city allocated a number of reserve units in order for the project to be approved and move forward to with their sales and building permits. He further added that as a condition of approval they where requested to recoup those reserve units and do a Small Scale Land Use Plan Amendment with City of Hallandale and Broward County which is the reason for this application .

Mr. Shan: explained that if the Board denied the application it would save him money from having to go to the County and pay their fee for an application with them that would be more expensive.

Mr. Shan: added that this application would not change the project in anyway as the application was issued only to allow the City to recoup the allocated reserve units which they are required to do under the executed Development Agreement.

Mr. Cooper: asked if a correction was necessary on page 2 as it listed the existing zoning as RM-25 Low to High Density. Should it be City 14 County 10?

Mr. Cannone: explained that the City previously processed a rezoning application to increase it to 25 units per acre and allocated the reserve units to increase it even further. He added that a condition for approving Planned Development Overlay District (PDD) and as part of the development agreement it is a

requirement for the applicant to re-apply for the change in land use to allow the City to recoup those reserve units.

Mr. Fendell: also pointed out an error on page 3 on the date of approval as it should be reflected as April 16, 2008 rather than April 16, 2009.

Mr. Cannone: confirmed

Mr. Cooper: pointed out that this application, if approved would allow the City to recapture the 23 reserved units for the project and will be returned to us and hopefully the County would approve the change in the land use.

Mr. Cannone: stated that he did not see any reason for the County to be in disagreement.

Ms. Natelson: asked for clarification as to what is considered affordable and asked for the unit pricing.

Mr. Shan: explained the condo/ townhouses are geared toward buyers that mainly are 80% of medium income and below. He added that the purchase price would be based on his set price as well as both City and Federal subsidies which will be applied.

Mr. Shan gave a gross estimate after subsidies for 2 or 3 Bedroom units with a price range of approximately \$120,000- \$150,000, brand new and good quality construction.

Ms. Steinberg: needed clarification and asked if the City was subsidizing?

Mr. Shan: The City subsidizes the buyer directly with a second mortgage that is fully repayable for the next ten years. He continued to explain that if a 2 bedroom unit sells for \$171,000 and the person falls below the 80% medium income, that homeowner qualifies for the \$50,000 Home Buyer Assistant Grant, which would bring down the price to \$121,000.

Mr. Shan: further stated that there is also another \$10,000 the buyers may qualify for from the Federal Home Bank as well as stimulus funds, a tax credit for another few thousand dollars that could continue to reduce the price all depending on the applicant's circumstances.

Mr. Shan: stated that individuals between 80% to 120% of the median income are also qualified to get a \$25,000 Home Buyer Assistant Grant.

Mr. Fendell: stated that notwithstanding the subsidies, how it was being determined that the price being offered was comparable to other developers in the area for a medium income owner?

Mr. Shan: stated as far as the payment goes, the standard for the unit is set by the County and the CRA Department

Mr. Fendell: interjected by stating that he was asking about the price of the unit not the payment.

Mr. Shan: stated that the payment was not the direct element to consider, but rather the carrying costs of the unit which would include the mortgage, taxes and maintenance and these are not factored into the cost of the unit.

Mr. Shan: added that that in actuality, the units could be sold for \$250,000 however, there are subsidies and grants that have been able to reduce the price significantly. He continued by explaining that if a potential buyer for a 2 bedroom unit went to City National Bank for a mortgage, they have a 4% interest rate offer for someone who is on a affordable/good credit and an overall monthly housing payment of approximately \$1,050.00 per month. He stated this scenario would allow any medium income family making \$35,000.00 combined income annually, able to afford the unit.

Mr. Fendell: asked if the same price would be available to someone who was in a much higher income bracket.

Mr. Shan: explained that there were income restrictions and thus that individual would not be allowed to buy. He added that anyone interested in purchasing a unit must go through a screening process and must have their income verified by the City as well as the developer. He further added that the applicant should be below 120% of medium income and it would also depend on the number of people in the family.

Mr. Shan: explained that they have already had persons with substantial income inquire about purchasing units and have had to turn them away. He also added that if an individual who has owned a home within the three years would not qualify to purchase.

Ms. Natelson: pointed out the Board needed to keep in mind this project was to build to provide affordable housing to individuals such as police, fire fighters school teachers, nurses and those that provide necessary service to our City. The City of Hallandale has had high price on condo/luxury homes and not a lot of housing for the lower income level. When first started negotiation this project the concept was so that there would be units available for buyers with a lower income level and high income level wouldn't be able to purchase a home in this project.

Mr. Shan: confirmed and added that the project would also bring new development to an area that had not previously been developed but was an RV Park which had numerous complaints from the surrounding neighbors.

Mr. Shan: stated that approximately 65% of the people that have registered and gone through the process have been for Hallandale Beach, Miami and Hollywood and they want to get the word out.

Ms. Steinberg: asked if any of the units have already been sold?

Mr. Shan: stated that they are over 50% sold out.

MOTION: MS. STEINBERG MOTIONED TO APPROVE APPLICATION #17-09-PA BY HIGHLAND PARK VENTURES, LLC REQUESTING A LOCAL FUTURE LAND USE PLAN AMENDMENT TO CHANGE THE LAND USE DESIGNATION OF THE PROPERTY LOCATED AT 112 NE 3<sup>rd</sup> AVE FROM RESIDENTIAL, LOW MEDIUM DENSITY TO RESIDENTIAL HIGH DENSITY ON THE CITY'S FUTURE LAND USE MAP.

MS. NATELSON SECONDED THE MOTION

MOTION CARRIED BY ROLL CALL VOTE (6-0) FOR APPROVAL.

Mr. Cooper: asked about the scheduling of the next meeting April 22, 2009

Mr. Cannone: confirmed that there will be a meeting as he is currently working on a code amendment related to property maintenance standards for sites under construction. He acknowledges that it has been a hot topic for many people and will be brought back for discussion at the April meeting.

Mr. Cooper: explained that he drove past the first applicant's (Francisco Figueroa Application #18-09-V) home at 1101 NE 4<sup>th</sup> Street and noticed that the public hearing sign was smaller and not 4x4.

Mr. Cannone: explained that the 4x4 signs are used only for major developments instead of having such big sign in residential area. The Planning and Zoning Division is presently using smaller yellow sign that are easier to read and are similar in size to a real estate sign.

Mr. Cooper: confirmed and asked if there was any update after City Commission meeting?

Ms. Dominguez: added that in the last meeting the City Commission adopted the ordinance reducing the notice requirement for minor projects from 1,000 feet to

300 feet. She also added that another ordinance regarding the expiration dates of development approvals during the pendency of litigation was also approved.

Mr. Cooper: asked about an inquiry he had in a previous meeting about street lights at Hallandale Beach Blvd. never being finished. He confirmed that had received a notice from staff; however, he wanted confirmation that the City Commission had been notified that the work had not been completed on the street lights.

Mr. Cannone: stated was that he was almost sure they were notified, but he would double check.

Mr. Fendell: stated that he was unsure whether or not it was the appropriate time to discuss the issue of Commissioners appearing before the Board.

Mr. Cooper: stated that his question was already answered by the City Attorney in previous minutes.

Mr. Fendell: pointed out that he does not agree with the answers given. He added that it was brought to his attention that in other cities, Planning and Zoning Boards have their own attorneys they can refer to with such matters.

Ms. Steinberg: stated she has not heard of that.

Mr. Cooper: stated that this is the City of Hallandale Beach and we have a City Attorney which gave an explanation that the Commissioner came before the Board as a citizen and it was noted in the minutes.

Mr. Fendell: clarified that he doesn't have anything against Commissioner London and the many things that he does, but does not agree with him coming before the Board as a citizen because he feels that whatever he says has some influence upon the Board's decision and it is not proper since it is likely that it will be presented to the City Commission for approval anyway.

Ms. Steinberg: stated that she thinks it is okay for a Commissioner to attend a meeting.

Mr. Cooper: advised Mr. Fendell that he has the right to explain to the City Commission how he feels.

Ms. Natelson: stated that while she prefers that elected officials not come before Boards as private citizens, she understands that it is within the rights, while she also doesn't want to feel like she is being hampered in any way from exercising independent judgment to offer an advisory opinion or vote. She stated that she believes it is a grey area that she would prefer not happen. However, she believes it is acceptable for commissioners to sit and observe the meetings.

Ms. Steinberg: clarified that when she was mayor she attended many meetings, but she never spoke up.

Ms. Natelson: reiterated that she would prefer that commissioners not speak and only observe especially since they will get a chance to vote anyway. The Commission should allow the Board to exercise their own opinions.

Mr. Cannone: stated that there are certain requirements and a protocol manual that the City Attorney read at the last meeting. He added that Melissa Anderson, Deputy City Attorney is there to answer any questions the Board may have. There are certain requirements when it is a quasi-judicial hearing and you are required to be impartial

Mr. Cooper: stated that this was not something that was done in private and in violation of the Sunshine Law; however he does not believe that they have the power to tell someone that they cannot speak at a public hearing.

Melissa Anderson: The Board has rules in which they can govern themselves by which may or may not restrict who can speak at that hearing.

Ms. Natelson: stated that it is not her or their intention to prevent people from speaking on a public item.

Ms. Anderson: stated that at quasi-judicial meetings you are dealing with people's due process rights and there is higher standard to be given there. The City Attorney's office has taken the position that a City Commissioner that makes their opinion known at a Planning and Zoning Board meeting should then abstain from voting at a City Commission quasi-judicial meeting later on.

Ms. Natelson: stated she feels more comfortable when a commissioner is observing a meeting versus giving their opinion even if it is offered as a private citizen not an elected official. She also feels that it is unnecessary as many items are presented to the City Commission afterwards.

Mr. Fendell: we are an advisory Board but the Commission has the actual authority. He does not feel it is appropriate to be advised of what recommendation should be.

Ms. Anderson: stated it is within their ability to make a motion to pass a resolution requesting that Commissioners not speak at Board meeting.

Ms. Natelson: does not feel comfortable making a motion and hopes that the Commission is sensitive to the Board's feelings and, as a courtesy, not put the Board in a position to have their votes influenced.

Mr. Cooper: asked if when he opens a public hearing and a commissioner decides to speak as a public citizen, does the board have the right to exclude that commissioner from speaking?

Mr. Cooper: furthered that the Board members do not have to listen to the person speaking.

Ms. Steinberg: reiterated that as a commissioner she never used to speak at Board meetings but she frequently attended them and she feels that is appropriate.

Ms. Natelson: agreed that in the past other commissioners have attended the meetings but they have always been sensitive to the fact that they should not speak since they will have the opportunity to do so at a Commission meeting in the future.

Mr. Cooper: stated he would prefer to not have any sort of motion and suggested that Board members speak to their own commissioners if they feel they need to.

Mr. Cannone: advised that the City Commission will get a copy of the minutes and the Board's position would be noted in those minutes.

Mr. Cannone: noted that the annual report is to be presented to the City Commission at the April 1, 2009 meeting.

Mr. Cooper: proceeded with adjournment of the meeting.

Meeting adjourned at 2:44 PM

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Christy Dominguez  
Planning and Zoning Board Liaison