

**CITY OF ANNA MARIA  
REGULAR CITY COMMISSION MEETING MINUTES  
MEETING HELD AT ANNA MARIA COMMISSION CHAMBERS  
10005 GULF DRIVE – ANNA MARIA, FL  
THURSDAY, NOVEMBER 15, 2007  
6:00 P.M.**

**CALL TO ORDER**

Commission Chair John Quam called the Meeting to order at 6:00 p.m.

**PLEDGE TO THE FLAG**

**ROLL CALL:** Mayor Fran Barford, Commissioner Jo Ann Mattick, Commissioner Dale Woodland, Chair John Quam, Deputy Chair Tollette, and Commissioner Duke Miller.

**Staff present:** City Clerk Alice Baird, City Attorney Jim Dye, Planner Alan Garrett, Public Works Director George McKay, Consultant Tony Arrant, Minutes Clerk Stacey Johnston, and Court Reporter Karen Cason.

**Press present:** Sun and Island.

**1. CONSENT AGENDA**

- a. **Minutes – City Commission Meeting – October 25, 2007  
– City Commission Organizational Meeting –  
November 16, 2006**
- b. **Special Event – Privateers Christmas Parade  
December 8, 2007 – 8 am – 11 am**
- c. **Special Event – Roser Church Bethlehem Walk  
December 15, 2007 – 6:30 pm – 8 pm**
- d. **Approve “Farm City Week” Proclamation – November 8 – 17, 2007**
- e. **Approve Straight Inspection Service Agreement to Inspect City Pier  
\$1000 Annually**
- f. **Approve HDR Task Order 2007-04 – Implementation of Phase II  
(North Shore Dr from Pine Ave to Gladiolus St, and South Bay Blvd  
from Seagull Way to Pine Ave)**
- g. **Approve BlueCross Health Savings Account Insurance Plan  
3066/3067 (Start date – 1-1-08)**
- h. **Authorize Chair Quam to Sign Two – Two-Lot Splits –  
830 & 834 South Bay Blvd (Administrative Action)**

*Commissioner Woodland* asked that item #h be pulled from the Consent Agenda and considered separately.

**MOTION:** Commissioner Miller moved to approve Consent Agenda items a., b., c., d., e., f., and g. Commissioner Woodland seconded the motion. Motion carried – All Aye.

- h. **Authorize Chair Quam to Sign Two – Two-Lot Splits –  
830 & 834 South Bay Blvd (Administrative Action)**

*Commissioner Woodland* asked that this item be pulled due to the letter of opposition the Commission received from Jane Green. It was his opinion that there was no basis that would warrant denial of the splits.

*City Planner Garrett* explained that this procedure was under the new Site Plan procedures as an administrative review and did comply with all areas of the code.

## **PUBLIC COMMENT**

***Robin Wall***, 112 Palmetto, asked for clarification relating to a 75-foot frontage lot versus a 50-foot frontage lot. She also stated that the code says, "it may be" and did not say, "it shall be" approved.

*City Planner Garrett* explained that an amendment was recently approved allowing a 50-foot public roadway or City approved access way but the lot area must be met. He said language that states "it may be" did not give the Commission the approval to deny the request.

**MOTION: Commissioner Tollette moved to approve Consent Agenda item h. Commissioner Woodland seconded the motion.  
Motion carried – All Aye.**

## **2. REPORTS AND UPDATES.**

### **a. Commissioners -**

#### **Community Center Update**

*Commissioner Tollette* informed she attended the Community Center Board meeting the previous night. She stated that the Community Center held a very successful Grand Opening on November 10, 2007. Many new kid and adult programs had been added. The Donor Party was very well attended, the Affair to Remember will be held February 8, 2008, and they are still looking for volunteers to assist in answering phones, etc.

#### **Anna Maria Historical Society Update**

*Commissioner Mattick* said she had recently attended several meetings of the Anna Maria Historical Society. A luncheon was held the previous week for all their board members and volunteers. A number of events are scheduled for the next six months beginning with the Kickoff of Christmas on Anna Maria, and several events will be held in calibration with the Community Center

- b. Sheriff's Report (Written).**
- c. Building Department Report (Written).**
- d. Public Works Department Report (Written).**
- e. Code Enforcement Report (Written).**
- f. City Pier Report (Written).**
- g. Ordinance Update (Written).**
- h. Financial Report (Written).**
- i. Line of Credit Report (Written)**

**j. Mayor's Report.****Bridge Update**

*Mayor Barford* informed that the 400-day project will begin January 7, 2008. She said that her biggest concern with the upcoming bridge closure was regarding fire and rescue issues in Anna Maria. In working with FDOT, they have agreed to provide an additional fire and rescue unit in Holmes Beach so if the one in Holmes Beach is on call the additional unit will then be dispatched. She said she now feels the health, welfare, and safety of the residents has been addressed.

The traffic lights will be timed at Cortez and Gulf and law enforcement will be directing traffic during the closure, weekly information will be broadcast for the public available on the web, news media, and informational signs.

The ITPO will be meeting on November 19, 2007 to talk with the Coast Guard relating to the bridge closing and opening.

**ERU Update**

*Mayor Barford* stated the City has begun noticing the ERU's (Cost units for the stormwater user fees). Four notices are required prior to January 1, 2008 for the Tax Assessor to collect the ERU's should the City want to proceed.

*Mayor Barford* said a work session will be held on November 20, 2007 between 9:00 a.m. and 11:00 a.m. at the Manatee County Board of County Commissioners regarding the 25 m.p.h. boat speed at Bean Point.

**3. Planning & Zoning Recommendation of Variances.****a. 504 South Bay Blvd (Resolution R07-631)****b. 418 Pine Avenue (Resolution R07-632)**

*City Clerk Baird* swore-in all persons wishing to speak on the two variance requests.

**504 South Bay Blvd – Resolution R07-631****Applicant – Terry and Patricia Olesen**

*City Clerk Baird* read the Resolution by title.

*City Planner Garrett* explained that the following four variance requests are being considered:

- 5-feet 4-inch variance from the required northern side yard setback of 10-feet as required by Section 114-222 (5);
- 2-feet variance in height from the height limitation of 4-feet for a wall adjacent to a public beach access as required by Section 114-423 (c) (13);
- Variance for the construction material of a concrete block wall as prohibited by Section 114-423(c) (2) c;

- 3-foot 6-inch variance from the required southern side yard setback of 10-feet as required by Section 114-222 (5).

He informed that the Planning Commission, at their public hearing, did not recommend approval of the first variance request along the northern property line primarily due to the air-conditioning unit.

**John Shamsey**, Attorney representing applicants Terry and Patricia Olesen, felt all criteria had been met for all four variances. He stated that the history relating to this property was important. He pointed out that though in error the city had previously issued permits on all aspects of the project.

Applicant **Terry Olesen**, 504 Bay Blvd., stated his home was originally built in 1955 and the air-conditioning unit was placed on the same side of the home as the variance request. He provided the Commission with a history of the home's construction. He pointed out that in 1986 Laura Gee was awarded a variance to build with a setback of 5-foot 7-inches instead of the 10-foot setback requirement for her home at 502 Bay Blvd - next to the northern side of his property home. The room placement was determined at that time including where her bedroom would be located. Explanation followed relating to the 10-foot walkway between his and Ms. Gee's property.

Mr. Olesen said at no time had he received notice that the noise of his current A/C system was a problem and therefore could not take that in account in their planning of the existing building. He informed that the A/C is currently wired and plumbed on that side of the home and the other side of the home is too close to the neighbors. He stated that the bay side of the home would be an inappropriate location due to the proximity of the bay and would be in direct contact with the seawater. He felt that moving the unit to the front would be aesthetically unappealing, would increase costs, and would impact the completion schedule. Mr. Olesen said his contractors had not researched whether or not it would be possible to relocate the unit, an A/C expert be required. Impact on relocating the unit followed.

*Chair Quam opened the Public Hearing for public comment.*

**Laura Gee**, 502 S. Bay Blvd., homeowner directly north of the Olesen property addressed the Commission. Ms. Gee responded to Mr. Olesen's comments stating that:

- That the Olesen's original A/C unit was behind the setback unlike the proposed variance request.
- Her home requires a 7-foot setback and not a 10-foot setback as stated by Mr. Olesen. Ms. Gee said she was awarded a variance to build 3-feet closer to the setback.
- The required setback for an A/C unit is 10-feet or behind the setback and not 6-feet.
- She said she had not communicated any noise problems regarding the Olesen's A/C units because they are not installed yet.

- She did not feel moving the unit to the front of the home would be aesthetically unattractive, that it could be placed behind the wall.
- Ms. Gee passed out a copy of an estimate she obtained from an A/C technician on the cost to move the unit and felt the Olesen's would not suffer greatly by moving it.

Ms. Gee said she had never seen a Site Plan that involved so many variances. She stated that traditionally variances were sought prior to the construction and not during or after. She said though the Olesen's application addresses four violations, she would only be addressing the one request that requests a 5-foot 4-inch variance from the required northern side yard setback of 10-feet as required by Section 114-222 (5). Ms. Gee felt the variance only meets two of the eight required findings.

Ms. Gee did not feel there was a true hardship for the Olesen's to meet the 10-foot setback. She said she was not asking that they remove a section of their building, only that they move the A/C unit.

Ms. Gee then pointed out on her handouts the proximity from the A/C unit to her master bedroom window. She pointed out that the Olesen's designer originally showed the A/C unit in the front of the home.

In referencing the third required finding (the variance request is not based exclusively upon a desire to reduce the cost of developing the site), Ms. Gee did not think the Olesen's what to change anything. She addressed the A/C contractor's quotes she received.

It was Ms. Gee's opinion that granting the variance would decrease her property values due to the A/C unit's proximity to her bedroom window. She believed there are four areas where the condensers could be located and they are each within the A/C guidelines. She reviewed each location.

In conclusion, Ms. Gee felt that the proposed Site Plan with all its violations would not be in harmony with the Comprehensive Plan. She further referenced the noise ordinance feeling the A/C unit would be violating the noise ordinance. She stated that the condensing units had not been installed yet.

*Chair Quam* pointed out that at the settlement agreement mediation hearing between the City and the Olesen's, the only form the Commission reviewed indicated that the A/C unit had already been installed.

*Commissioner Mattick* said she had toured the property and felt the 10-foot walkway allowed for the Olesen's to have a typical setup and possibly even a better buffer than most. She also felt the new condensing units are very quiet and would not create an additional disturbance to the neighbors. The wall would also serve as an additional buffer and did not feel it would create a hardship for the neighbor. She said she supported the variance request.

*Chair Quam* said the City would be creating a non-conformity as far as the placement of the A/C.

*Commissioner Tollette* said the A/C unit was approved on the site when originally being approved by the City. She said it would have made no difference to her as to whether or not the A/C unit had already been installed or not.

*Commissioner Woodland* felt the best interest of the City would be to approve all four variances.

*Hearing no further public comment, Chair Quam closed the Public Hearing.*

*Commissioner Miller* said he did not feel it would be a major project to move the wiring to an alternate location. Since the wall had not yet been built, he felt the wall should be extended and that the A/C unit should be behind the wall or moved.

**MOTION:** Commissioner Mattick moved and Commissioner Woodland seconded the motion that based on the information submitted and the public testimony, the Anna Maria City Commission approve:

- 5-foot 4-inch variance from the required northern side yard setback of 10-feet;
- A 3-foot 6-inch variance from the required southern side yard setback of 10-feet;
- A 2-foot variance in height from the height limitation of 4-feet for a wall adjacent to a public beach access; and
- A variance for the construction material for a concrete block wall for the lot located at 504 S. Bay Blvd., Anna Maria, Florida.

and based on the affirmative Findings of Fact as approved by the Planning and Zoning Board as follows:

- 1) There are no substantial practical difficulties and hardships in carrying out the strict letter of the regulation, and these difficulties and hardships are due to existing special conditions and unique circumstances which are peculiar to the specific property involved and which are not generally applicable to other properties or structures in the same district;
- 2) The condition giving rise to the requested variance is due to unique circumstances not created by the applicant or any person presently having an interest in the property;
- 3) The variance request is not based exclusively upon a desire to reduce the cost of developing the site;

- 4) **The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire, or other hazard to the public;**
- 5) **The proposed variance will not substantially diminish property values in, or alter the essential character of, the area surrounding the site.**

City Attorney Dye suggested that a drawing showing exactly where the A/C units would be located be attached to the approval document.

Planner Garrett informed the Planning Commission had recommended approval of two stipulations dealing with the wall on the north side of the home. He further suggested that a third stipulation – that the variance along the north property was only for the air-conditioning unit.

**AMENDED**

**MOTION:** Commissioner Mattick amended her motion and Commissioner Woodland amended his second to include the following stipulations:

- **The concrete block wall shall contain a pointed stucco finish.**
- **The variance along the south property line is only for the additions a currently permitted.**
- **That the variance along the north property is only for the air-conditioning unit.**

**ACTION:** On Roll Call Vote – The motion carried on a vote of 4-1 with Commissioner Miller voting NO.

**418 Pine Avenue – Resolution R07-632**

*City Clerk Baird* read the Resolution by title.

*City Planner Garrett* informed that prior to June/July 2006 there was a provision in the zoning code that stated that for non-conforming parcels building could be built according to the R-1 zone district thus allowing the homes on Pine being built to a 20-foot setback. That allowance has now been deleted from the zoning ordinance. However, in error, the City had applied that requirement to the 418 Pine Ave. property when the correct setback should have been 29-feet, as the code currently requires. He noted that the City had issued a permit in error due to failing to remember the provision had been deleted from the ordinance. He informed that the Planning Commission recommends approval of the variance with stipulations.

Applicant **Michael Coleman**, 311 Pine Ave. explained that he applied for a building permit for 418 Pine Ave. at the ROR setbacks of 29-feet. Upon submitting his plans, he was advised by the City that the setbacks no longer

complied. At that point he threw away \$25,000 worth of architectural drawings and had them redrawn to comply with the City.

*Chair Quam opened the Public Hearing for the purpose of hearing public comment. Hearing no public comments, Chair Quam closed the Public Hearing.*

**MOTION:** Commissioner Woodland moved and Commissioner Mattick seconded the motion that based on the information submitted and the public testimony, the Anna Maria City Commission recommends approval of a 9-foot front yard variance for the structure at 418 Pine Ave., Anna Maria, Florida.

and based on the following stipulation as recommended by the Planning and Zoning Board:

- The variance is approved only for a 42-square foot covered entry and steps leading to the entry and for a 114-square foot balcony over the driveway entrance to the garage.

and based on the Planning and Zoning Board is favorable Findings Related to Variances as follows:

- 1) The condition giving rise to the requested variance is due to unique circumstances not created by the applicant or any person presently having an interest in the property;
- 2) The variance is not based exclusively upon a desire to reduce the cost of developing the site; and
- 3) The variance request is based on the presence of nonconformities in the district or adjoining districts.

**ACTION:** On Roll Call Vote the Motion Carried Unanimously.

*6:53 p.m. - Chair Quam called for a 5-minutes recess.*

*After the recess, Chair Quam called the meeting back to order at 7:00 p.m.*

*Chair Quam introduced Bradenton Beach's newly elected Mayor Michael Pierce and Commissioner Janie Robertson who was re-appointed for her second term.*

**Bradenton Beach Mayor Pierce** said he was in attendance to observe Anna Maria's Commission meeting. With an "open door policy" he invited anyone wishing to meet with him to do so.

**4. Continuation of Second Reading and Public Hearing of Ordinance No. 07-682 – Adopting the Amended Comprehensive Plan.**

*City Clerk Baird read the Ordinance by title.*

*Chair Quam declared the Public Hearing open.*

- a. **Tony Arrant**, Planning Consultant, said since the October 25, 2007 meeting he had drafted an ORC report memorandum that summarizes the City's position on each of the eight ORC report objections based on his meeting with the DCA Planner who reviewed the amendments. He said both he and Mayor Barford had requested DCA provide an e-mail or phone response to obtain their feedback prior to the meeting that evening, however, neither had heard back from DCA.

Mr. Arrant felt he had adequately addressed all concerns, however, still had some concern relating to the affordable housing issue. He recommended that the Public Hearing be continued again to a time and date certain.

**ACTION: It was the consensus of the Commission to continue the Public Hearing until Tuesday, December 11, 2007 at 6:00 p.m.**

- b. **Attorney Jeremy Anderson**, Lobeck & Hanson, addressed the Commission on behalf of his clients Mr. and Mrs. Nally of 110 Spring. Attorney Anderson informed he did not represent Mr. and Mrs. White or any other constituent that have non-conforming uses in the City.

Attorney Anderson stated in his opinion Policy 1.4.1 as proposed would create a burden for all persons having nonconforming uses. Attorney Anderson then advised the Commission of his educational background and experience with Land Use Laws.

Attorney Anderson presented alternate language he proposed to Policy 1.4.1 that he felt was the actual intent of the Planning and Zoning Board and the City Commission and that would mirror the current LDR's.

- c. **John Salines**, 4913 Gulf Dr., Holmes Beach, addressed the Commission relating to his Anna Maria property at 203 Spring, a/k/a 9907 Gulf Dr. He said that for the past three years he has been trying to work with the City and have taken no legal action in an attempt build a home on his property. He provided the Commission the history of occurrences relating to the zoning issues.

Mr. Salines asked that if the Commission had not determined zoning the property to R1 or R2, then if it is to be zoned as ROR the Commission consider that if a residential structure is built in ROR it meets the same standards into the setbacks, height limitations, etc. as any other residential area.

Mr. Salines pointed out that in the past three years there have been material and insurance cost increases. He informed he is paying \$6,000 per year in taxes for the property with no home.

- d. **Sissy Quin**, Executive Administrator, AMI Historical Society, read a letter into the official record she had sent to Mayor Barford and the City Commission relating to a September 6, 2007 letter from Frederick P. Gaske, Division of Historical Resources Director.

Ms. Quin, in her presentation, referred to the many properties in Anna Maria that deserve to be considered as "Historical Landmarks." She stated that there were countless other privately owned properties 50 years or older that she urged the Commission to place in the Comprehensive Long Range Planning. She said the Historical Society was 100% behind the request.

- e. **Trish Paliscak**, 412 Pine Ave., said her husband has been involved in a business at Roser Cottage at 502 Pine Ave. She said she strongly encouraged the rezoning towards ROR along Pine Ave and including the six lots at Pine and N. Bay Blvd.

### Commission Discussion

#### Discussion – "Historical Landmarks"

In response to *Commissioner Tollette's* request *Consultant Arrant* explained that the letter received is a standard letter sent to all communities. He informed there is no State inventory or registered historic structures. Any structure at least 50-years old is considered Historical, however, an architectural inventory and analysis must be completed to determine if it is actually significant.

Mr. Arrant pointed out that the DCA did not raise the issue in the ORC report feeling if the City wanted to pursue it they would do it on their own. He said if the City did want to pursue it he felt a Historical Committee should be pursued for performing the inventory locally. Mr. Arrant advised of the high expense in the event the City wanted to pursue the requirements of the Department of State. He said if it were to be placed in the Comprehensive Plan it requires the State complete an analysis prior to altering or tearing the structure. Also, if a property is determined historic it could put a burden on the property owner due to the restrictions involved.

*Commissioner Mattick* informed that a Historical Society committee had been formed to look at the entire Anna Maria Island to determine those structures over 50-years of age. Only local criteria would be established by the committee and would not obligate the homeowner or have any restrictions on their property. It will be up to the homeowner to fill out a form and present it to the Historical Society. The Historical Society will then select certain properties and present a plaque to them. If a home or property was not one chosen by the Historical Society, the owner would have the option of purchasing a plaque for their property.

Commissioner Mattick suggested that language be added in the Comprehensive Plan that states the City of Anna Maria is working with the Historical Society and support their efforts.

Mr. Arrant did not feel that the policies of the Comp Plan should be altered and suggested that a letter drafted to the Department of State, Division of Historic Records instead. He said it could be added in the next Comp Plan amendment but should not be part of the original submitted Comp Plan.

**Preserve America Community**

Commissioner Mattick informed she recently identified a federal initiative entitled Preserve America Community, which recognizes communities that protect and celebrate their heritage, use their historic assets for economic development and community revitalization, and who encourage people to experience and appreciate local historical resources. She informed there were no costs involved in applying for the designation and no obligation of any kind now or in the future. After reviewing the criteria, Commissioner Mattick believes that the Pine Ave. neighborhood could qualify for such a designation; however, the City would be required to make a commitment to the preservation of heritage assets and adopt a resolution making Pine Ave. a designated historical district. The benefits of the designation would include a certificate of recognition from the White House; a Preserve America Community road sign; eligibility for Preserve America grant; authorization to use the preserve America logo on signs, flags, banners and promotional materials; and enhanced community pride.

**Policy 1.4.1 Language**

*Planner Garrett* said from a planning perspective he was in agreement with the language presented earlier by Attorney Jeremy Anderson. He said he had just met with Attorney Anderson and presented his alternate recommendation to the language. Planner Garrett recommended that “or removal as required by the Code” be removed from Attorney Anderson’s suggested language.

*City Attorney Dye* agreed that the suggested language was in agreement with the City’s nonconforming language and saw no harm to adopting it. He suggested that “Any nonconforming use or structure” be added to the opening phrase. Discussion followed.

*Mr. Arrant* explained why “structure” should not be referenced in the Comp Plan and felt it was a code issue. Planner Garrett agreed.

**ACTION:** It was the consensus of the Commission that Policy 1.4.1 be changed to read as follows:

**Policy 1.4.1: Any nonconforming use, which existed prior to adoption of this plan, that is destroyed or removed by any cause other than the owner’s voluntary action, or by the owner’s abandonment, may be rebuilt to its pre-destruction status (including density and/or intensity of use and without regard to the ratio of allowed mix). However, all new development and re-development shall be consistent with the land use categories and densities and intensities of land uses contained in this Element.”**

**Discussion – Salines Property @ 203 Spring, a/k/a 9907 Gulf Dr**

*Planner Garrett* confirmed that the ROR zoning designation would allow a residential structure and that it would not preclude two living structures over a garage, therefore the height requirement would not be an issue. The property would have to meet the 29-foot setback as opposed to the 20-foot setback, however, the City could work with Mr. Salines as far as the design of the home or

if it required a variance he could justify a variance for a swimming pool for the purpose of his therapy. Planner Garrett pointed out that even though the designation would be changed to ROR in the Comp Plan, the parcel would have to go through the rezoning process from C1 to ROR.

Planner Garrett felt ROR was more consistent with the area and had informed Mr. Salines that once he were to leave the residence it could be resold and converted to retail on the bottom level and residential on the top. He felt the City could work with Mr. Salines to find remedies and solutions.

*Commissioner Mattick* felt Mr. Salines had gone through a long and drawn-out process and strongly supported the property being changed on the FLUM to R1.

Planner Garrett pointed out if changed to R1 the property would still need to be rezoned. He explained that either the property owner or the municipality could pursue the rezoning. The City could undertake the rezoning along with absorbing the costs involved in the notification, look at waiving some of the requirements, etc.

*Commissioner Woodland* disagreed with designating the property R1 in ROR in the FLUM.

#### **Six Lots – Pine Ave. and N. Bay Blvd**

*Commissioner Mattick* addressed changing the designation on the FLUM for the six lots on N. Bay Blvd feeling they should be changed from Commercial to ROR.

Commissioner Mattick pointed out that the City Pier will reach its 100<sup>th</sup> year anniversary in 2011 the same time in which the City will have completed the Transportation Enhancement Grant beautification projects on Gulf and Pine. She also made reference to the designation as a Preserve America Community discussed earlier.

Commissioner Mattick stated that Mr. Coleman had informed that the rezoning of the six lots was a key component in his ability to carry out his project on Pine Avenue, Planner Garrett informed that the City can impose stipulations desired on the property, and she encouraged the Commission to consider changing the zoning to ROR in order to not regret what might have been.

*Commissioner Tollette* agreed and suggested another motion be considered to change the lots to ROR.

*Commissioner Woodland* said he was opposed and did not want to discuss the issue any further that evening.

*Chair Quam* said at the last meeting he was opposed to changing the lots to ROR due to discussions relating to what should be built on the lots. He said he wanted to go on record stating that any action to change the zoning would not obligate the Commission in any way as to what can be developed there, only that it be changed from Commercial to ROR.

**ACTION:** It was the consensus of the Commission that a final vote would be held relating to the six lots on N. Bay Blvd. at the December 11, 2007 meeting.

**Discussion – Policy 1.2.1**

*Commissioner Mattick* addressed the language in Policy 1.2.1 that states that within one year after adoption of the EAR amendments, the City shall conduct a review of existing development processes and building requirements to develop a listing of actions that the City can implement to encourage property owners to build less than the maximum size building on existing 5,000 sq. foot lots.

She stated that even though some of the Commissioners believe the City is only required to encourage property owners to build smaller houses on smaller lots, it was her opinion that such an undertaking would be a waste of time, money, and effort, and would not influence the property owner on the size of the home they built.

*Mr. Arrant* clarified that the first portion of the Policy was statutory language and the LPA committee had asked for language to be added to encourage homeowners to do more with a smaller lot. He did not feel anything would actually have to be reviewed.

**Discussion – Policy 1.3.5**

*City Attorney Dye* reviewed his proposed language changes as distributed to the Commission. He questioned that since the ROR encourages mixed-use structures, how is a mixed-use structure counted when establishing a ratio between residential and non-residential.

Discussion followed relating to the use of “floor” versus “story.”

City Attorney Dye stated that all bullet points should read “habitable floor” rather than “habitable story” as defined in the LDR’s.

Both *Planner Garrett* and *Mr. Arrant* agreed that language should be changed from “three usable floors” to read “three floors” in the preamble and all bullet points should be changed to “habitable floor”. Clarification followed.

City Attorney Dye asked when allocating structures or uses into the 60/40 category where would a mixed-use structure fit in.

*Mr. Arrant* said if a home is only residential it would be classified as residential. If it is a home occupation on the first floor, it could also be considered residential. However, if there were a retail outlet on the first floor, the entire structure would be considered commercial because of parking issues.

*Commissioner Miller* asked if Mr. Salines’ property would be effected.

Both Mr. Arrant and Mayor Barford said they had informed Mr. Salines that his property would not be effected.

*Commissioner Mattick* said she also spoke to Mr. Salines and that he did understand that aspect and that his major concern relates to the setback issue. Discussion followed relating to the use of Mr. Salines' hardship for the granting of a variance.

**ACTION:** It was the consensus of the Commission to accept the amended changes to Policy 1.3.5. The Policy will be redrafted and brought back to the Commission for their review.

**MOTION:** Motion was made by Commissioner Miller and seconded by Commissioner Tollette that the Public Hearing of Ordinance No. 07-682 – Adopting the Amended Comprehensive Plan – be continued until Tuesday, December 11, 2007, 6:00 p.m.  
Motion carried – All Aye.

**5. Almeda Settlement Offer and Procedure to Move Forward**

*City Attorney Dye* explained that this issue was out of an appeal settlement relating to Mr. Almeda's property. An e-mail had been received from Attorney Chuck Webb representing Mr. Almeda. Attorney Webb has presented a settlement offer that the property be declared a grandfathered duplex and that the City pay Mr. Almeda's attorney's fees just under \$11,000.

City Attorney Dye recommended to not accept the settlement offer. He did, however, want to further explore the grandfathering of the duplex. He said the City may have a grandfathered duplex, the downstairs and upstairs of the property, but not for the four units.

A history of the property followed by City Attorney Dye. He advised that from a legal point of view the lawsuit was not very far along that Mr. Almeda had a full hearing before the CEB and a full opportunity to present his case at that time. It is his opinion that Mr. Almeda cannot ask for money and if it goes into the court system further, it would only be an appeal of the CEB decision.

**MOTION:** Commissioner Miller moved to reject the offer of settlement relating to the property owned by Frank Almeda, except for the second point to determine whether it is grandfathered and to continue discussions as to whether or not the property is grandfathered. Commissioner Tollette seconded the motion.  
Motion carried – All Aye.

**PUBLIC COMMENT**

**Michael Coleman** clarified that the last thing he wanted to do at this point was to pin down specifics as to what could be built on the six vacant lots on N. Bay Blvd. He said instead it was important to look for a broader viability in an effort that they may be part of the overall future Pine Ave. Restoration Project and that they do not remain vacant.

**PRESS COMMENT - None**

**ADJOURNMENT**

**On motion made by Commissioner Miller and seconded by Commissioner Tollette, the meeting was adjourned at 8:15 p.m. Motion carried unanimously.**

**The next regular meeting/work session is scheduled for Thursday, December 6, 2007.**

\_\_\_\_\_  
**Alice Baird, CMC, City Clerk**

**Minutes approved:** \_\_\_\_\_