

**TOWN OF LAUDERDALE-BY-THE-SEA**  
**PLANNING AND ZONING**  
**REGULAR MEETING MINUTES**  
*Town Commission Meeting Room*  
*Wednesday, July 20, 2011*  
*6:30 P.M.*

**I. CALL TO ORDER**

Chairman Alfred Oldaker called the meeting to order at 6:30 P.M. Members present were Chairman Alfred Oldaker, Vice Chair Yann Brandt, Ben Freaney, Patrick Murphy and First Alternate Eric Yankwitt. Also present were Bud Bentley, Assistant Town Manager, and Town Attorney Kathryn Mehaffey. Board Secretary Colleen Tyrrell was present to record the minutes of the meeting.

**II. PLEDGE OF ALLEGIANCE TO THE FLAG**

The Pledge of Allegiance was recited.

**III. APPROVAL OF MINUTES - Planning and Zoning Meeting of June 15, 2011**

There being no additions, deletions or changes to the minutes, all voted in favor to approve the June 15, 2011 minutes as presented.

**IV. PUBLIC COMMENTS**

There were no public comments.

**V. NEW BUSINESS**

**Item #1: Proposed Amendments to the Notice of Intent Regulations.**

Chairman Oldaker asked Town Attorney Kathy Mehaffey to review the proposed amendments to the Notice of Intent Regulations.

Town Attorney Mehaffey said that the code as it is at this moment, has a provision that essentially provides additional notice for any amendments to the Land Development Code (LDC). Under statutory processes, any amendments to the LDC takes about two to three months with two meetings before the Town Commission and a meeting before the Planning and Zoning Board. The Notice of Intent procedures add additional hearings and notice by currently requiring first a meeting where they present the Resolution and the Notice of Intent followed by another meeting at which they have a public hearing on the Notice of Intent. At that point, then a land development change would move forward. That Notice of Intent procedure adds approximately two months to any amendment to the LDC process. It also has restrictions in terms of the requirement to stay within the confines of what was noticed. This item makes some changes to the Notice of Intent procedures which are intended to shorten and streamline the process to make it more user friendly and more amenable to the actual development of land development regulations. First it provides that the public hearing for the Notice of Intent be held on the same day as the Notice of Intent Resolution that was adopted by the Town Commission. So the primary time savings is by cutting that Notice of Intent process in half. It adds additional language to clarify that a land development regulation proposed for adoption underneath a Notice of Intent can be addressed in multiple ordinances. This helps the public to be more aware of the situation when they are following the Notice of Intent. It allows the Town Commission to provide a date for when those items are going to be heard in terms of a timeline or if the Town Commission does not identify a date, it provides a one year default. The Town Commission may extend the timeframe of an NOI by amending the approving Resolution.

Town Attorney Mehaffey distributed a draft change of the Ordinance beginning on line 156 and noted that the changes were indicated by the red text. Originally, the Town Commission could provide two extensions for six months. This change that was just passed out to the board eliminates those two extra extensions and puts a maximum timeframe of one year for a Notice of Intent. The reason for this change was due

to the recent legislative session that just closed; the legislature amended the Bert Harris Act and changed some of the definitions and provisions such that an inordinate burden is now found to occur as early as one year. Town Attorney Mehaffey said that we do not want this process to extend beyond a year so as to trigger any Bert Harris claims. If the Town Commission sets a six-month timeframe for a development regulation, they could still do an extension provided the extension does not exceed one year. If the default is for one year, then no extension can be granted beyond that year. Town Attorney Mehaffey ended her presentation and asked the board for comments.

Ben Freeny asked, with regards to the initial meeting, at that point the Town Commission develops and passes the Resolution and that would also be the public hearing.

Town Attorney Mehaffey confirmed his comments.

Mr. Freeny asked what kind of notification is required and what would be the state requirements for notification that would have to proceed that meeting and how could the commission do that if they don't do the Resolution until that meeting.

Town Attorney Mehaffey said that it would be a regular meeting notice and the Resolution is prepared on the agenda so that the notice of what is going to be at that meeting is in the agenda and the Resolution would be there and the Notice of Intent is attached. Town Attorney Mehaffey said that would put everyone on notice one month before anything starts getting developed with the Planning and Zoning Board.

Chairman Oldaker asked Town Attorney Mehaffey to go through the ordinance draft page by page and give a brief review of the changes.

Mr. Freeny referred to line 137 and said that they were removing the requirements to provide notice to anybody that is involved in the land development process and removing the notice by mail or certified mail and we would be relying strictly on the web-site and posting the notice in Town Hall. Mr. Freeny said that he was uncomfortable with that change and felt that basically everyone would have to stroll by Town Hall once a week or so just to see if they were going to have issues with a permit that has been issued or they may be in the process of negotiating or trying to develop a plan.

Chairman Oldaker asked how many applications would the Town have at any given time that would make it burdensome for the Town to mail a certified letter. Chairman Oldaker asked Mr. Bentley if he knew from experience how many applications would the Town have at any one time.

Mr. Bentley, Assistant Town Manager, responded that with the experience the Town has had this past year with this down economy, there were not many applications if any that were in the pipeline.

Town Attorney Mehaffey said that this entire thing requires that from and after the issuance of the Notice of Intent, which means that it applies to everybody that comes in. If something is in the pipeline already, most likely it would not apply. The purpose of the Notice of Intent is to put everyone on notice from that point forward that something was going to change.

Mr. Bentley said that if an application has been submitted, it would be processed according to the rules that are in place at the time of submission. So, if someone submitted a site plan application, they would not be affected by a Notice of Intent.

Mr. Freeny said that when he reads this, he could interpret it either way. For example, if yesterday he applied for a permit to put up a new roof, he would be an applicant. And, if today we have a meeting and he lives out of the country and his builder is going to take care of the roof for him, Mr. Freeny doubts that he would ever see a Notice of Intent at Town Hall. Mr. Freeny suggested that the language be made clearer that it's the applicants after that point in time from when we would have that initial meeting.

Town Attorney Mehaffey said that the language could be clarified but said just for the record, to go back and apply it retroactively creates significant legal impositions to the point that normal interpretation would not support that interpretation. Town Attorney Mehaffey said that she could make those changes as long as staff had no objection.

Town Attorney Mehaffey said that f.(2) could be reworded to say, "applicants making application from and after the issuance of the Notice of Intent".

Mr. Freeny said that he would prefer that change because when you read through the code there are a lot of unclear statements.

Mr. Bentley directed the board's attention to the first line that states "From and after the issuance of the Notice of Intent" and then the whole paragraph flows from that.

Mr. Freeny said that is why he could read it both ways. He could understand that angle but from and after that point in time, there is no definition on who the applicant is. Is the applicant someone that has an application that they just submitted yesterday? Is it someone that walks in tomorrow?

Mr. Bentley said that was an excellent point. Mr. Bentley said that if the application was submitted yesterday, and the Notice of Intent was approved tonight, then this applies the moment the notice is approved and after and would not be retroactive and there is a lot of case law that supports that. Mr. Bentley said that Mr. Freeny's suggestion is that the Town Attorney take a fresh look at this and try to strengthen the language about when the Notice of Intent would apply. Mr. Bentley said that staff is very supportive of doing that and asked that this be included in the board's motion.

Town Attorney Mehaffey continued to review changes page by page.

Mr. Brandt asked if we were afraid that a Notice of Intent is going to impose a yet-to-be finalized land development change on an existing application that came before the date of the Notice of Intent.

Town Attorney Mehaffey said that she believed that was the concern.

Mr. Brandt said that he sees words in the code that pieced together would get to that affect but it is definitely not the intent and he did not see how anyone would read it or any court would agree with that. Mr. Brandt did not see how a Notice of Intent by itself would impose rules on an existing application.

Mr. Freeny said that Mr. Brandt mentioned "an existing application" and said that those words were not in the document. Mr. Freeny said that he was leary because several years ago the Town passed height restrictions when we knew there would be legal problems and he is not only looking at today but at the future and if language could be clarified to explain what the code says, it leaves less leeway for interpretation by attorneys.

Mr. Brandt said that he thought in lines 56 through 66 it did say it and it was clear and states that "no proposed land development project affected by a pending regulatory change". So, no proposed land development means it has been proposed – it's been there and is in existence. Mr. Brandt said that in his opinion the reason why court cases fail in the suits against the Town was because there was nothing proposed and it might have been an idea in their boardroom and the Town was never noticed that a project was coming on. Mr. Brandt again said that this is clear and that really the intent of this whole thing was to just reduce the requirements and reduce the bureaucracy that the Town has to go through for a proposed land development change. Mr. Brandt did not see how anyone would want to impose the new proposed rule on an existing project.

Town Attorney Mehaffey asked if it would be clearer if it read ( line 56 (3) "It is further the purpose of this section to ensure that no land development project proposed subsequent to the date or point of development approval process at which the proposed development regulations apply as designated in the Notice of Intent". Town Attorney Mehaffey said she could talk about this with staff and if this would be something that Mr. Freeny would like to include in his motion as a recommendation.

Mr. Freeny agreed.

Town Attorney Mehaffey continued the page by page review.

Mr. Brandt, for Mr. Freeny's purposes, asked if all of the changes and concerns would be fixed if line 122 was changed to state "all new applications must either i) conform to the pending regulation(s), or ii) be conditioned upon future compliances with the pending regulation(s). One word would fix it all.

Town Attorney Mehaffey said she did not have a problem with that.

Mr. Bentley said that he was so engrained that anything before this is not part of it and said that new applications would be fine and that is the intent.

Chairman Oldaker said that everything discussed in the prior pages would be disregarded and asked if Mr. Freeny was okay with adding the word "New" to line 122.

Mr. Freeny referred to paragraph 3 line 56 and said that he would like it noted in that section what this applies to because that is basically what it is telling us that it should apply to subsequent applications after the Resolution for the Notice of Intent.

Mr. Bentley said that when the Town Attorney reviews the document, she would be consistent in adding the word "new" to apply to where it is needed.

Chairman Oldaker said that if the board passes this forward, there would be an addition to add the word "new".

Town Attorney Mehaffey said that it could be passed forward with clarifications to address that this applies to new applications.

Town Attorney Mehaffey continued the page by page review.

Chairman Oldaker referred to (g) Implementation time frame and asked why it was extended from six months.

Town Attorney Mehaffey said that it provided extension periods of six months. So, it actually provided for eighteen months. There is a one year implementation timeframe and then the Town Commission could do two time extensions for a total of an additional six months which would have been eighteen months. Now the total time cannot exceed one year.

Mr. Bentley asked Town Attorney Mehaffey to take a look at lines 164 through 167 in terms of putting back that language and just removing the dates and specify that it has no affect on any application pending approval prior to the Notice of Intent and then we would not have to deal with new applications, old or existing throughout the text.

Chairman Oldaker asked the board if a motion was in order.

Mr. Brandt made a motion, seconded by Mr. Yankwitt, to pass this on to the Town Commission with the Board's recommendation to approve the proposed Amendments to the Notice of Intent Regulations as presented by Staff. In addition the Town Attorney would modify the language to show that the Notice of Intent would not apply to existing applications.

In a roll call vote, the motion carried 5 – 0. All voted in favor of the motion.

## **Item #2: Conditional Use Application for Outside Seating in the B-1 and B-1-A Zoning District.**

Chairman Oldaker asked Assistant Town Manager Bud Bentley for his comments on the conditional use application.

Mr. Bentley referred to the diagram that was included in the backup material provided to the board and said that there is an existing deck to the south of the pier restaurant and the applicant has proposed an addition to that existing deck and to use both deck areas for additional service area. Mr. Bentley said that the existing deck was permitted as a waiting area and subsequently the applicant began providing service in that area. At that time there was not an application for approval for that use which would have required additional required parking. Because during this time period the Town was talking about a parking exempt ordinance for restaurants, new restaurants or additions to existing restaurants this violation was put on hold pending the resolution of that. As the board is aware, the Town now has a parking exemption program for restaurants and expansion of existing restaurants. This would apply to the existing area and the new area. In April, the uses in the Town's code were amended and the conditional uses section consolidated and additional uses were included which included outdoor seating. The applicant has brought forth this application to cure the existing seating area and to receive approval for the additional seating. Once they have their conditional use can apply for the parking exemption. Mr. Bentley said that the staff report provided recommendations on page 2 that are suggested to be part of the conditional use. Mr. Bentley said that in reviewing the application that afternoon, there were two items that needed to be focused on that did not get the attention when it was initially submitted. The first is in the application that states that the service will be between the hours of 8 am to 10 pm. The conditional use recommendation is that the application is considered a part of the approval process and that anything stated in the application basically becomes a condition. Mr. Bentley explained that during the winter months they would not be able to provide outdoor seating at 7:30 in the morning and they would not be able to service past 10 PM even if it were a holiday weekend or for a special event. Mr. Bentley said that staff has not had a chance to discuss these issues with the applicant.

Mr. Bentley said that the applicant came by the office that day and said that they had conflicts and that they were relying on their attorney to represent them at the hearing. They just found out this morning that their attorney had a scheduling conflict and was not able to come to the meeting this evening. Mr. Bentley said that the application was agreeable to having this item tabled until the next scheduled meeting or the board could still continue to review the application for consideration. Mr. Bentley said that the applicant wants to make sure the board knows that they know this is on the agenda and that they gave staff as much notice as they could under the circumstances.

Mr. Bentley continued his comments and said that they have had live music in that outdoor seating area and if they close at 10 PM there was not really an issue but if the board or the Town Commission allows them to stay open later than that, then staff believes the music issue should

be evaluated since there is a residential property just south of the pier. Mr. Bentley said that these were the two items that staff would suggest there be some further discussion on or to table this item to the next scheduled Planning and Zoning meeting.

Chairman Oldaker said that he would like more information.

Mr. Brandt wanted to clarify a point that Mr. Bentley made that the time indicated on the application 8 am to 10 pm would be a concern that it would become a condition. Mr. Brandt said that if the board would make a recommendation it would still go to the Town Commission.

Mr. Bentley agreed with Mr. Brandt and said that the applicant could address those issues before the Town Commission

Mr. Brandt said that from the board's prospective, does the application comply with the intent of the code and said that he would be comfortable to basically black out the timing aspect of the application and say that it qualifies and let the Town Commission have a discussion with the applicant regarding the timing aspect. Mr. Brandt said that the times did not bother him and said that there is plenty of activity there after 10 pm anyway and did not think that if they had something after 10 PM would be a concern. Mr. Brandt said that the Town has noise ordinances that would deal with any impact from that. Mr. Brandt said that he would be comfortable dealing with this tonight if the board wished to continue and did not think that it was an issue that would garner its own meaning and would leave it up to the consensus of the board.

Chairman Oldaker referred to the diagram submitted in the backup material and asked if parking spaces 35 and 36 indicated the end of the property and was concerned that the extended deck would almost encroach on the other property and that if they set up some type of live music in that area there might be a noise issue .

Mr. Bentley said that Chairman Oldaker's point was well taken and they could on an ongoing basis take out that seating area on the south end of the new deck and place music there and they would have to comply with the noise ordinance.

Mr. Brandt said that this application was a new conditional use that the Town has created to expand outdoor cafes and sidewalk cafes.

Mr. Bentley confirmed Mr. Brandt's comment.

Chairman Oldaker commented that this is private property whereas some of the other properties were not.

Mr. Bentley said that part of the seating at Aruba on the south side next to the pavilion is on their property and some of it is a sidewalk café that is licensed from the Town. Mr. Bentley said that he knows of no restrictions on service hours for sidewalk cafes. If there were adverse effects from a sidewalk café licensed through the Town, the Town could easily revoke that license. This situation is different and this is a condition that runs perpetually with the land and as long as they are operating within the conditional use, even though they may have a negative impact on surrounding property, it could not be revoked.

Mr. Freeny said that in the documents it discusses the non-transferability of this permit and asked if the non-transferability would be between the property owner or from one piece of property to another. Mr. Freeny asked if the conditional use permit dies when the property is sold?

Town Attorney Mehaffey said that was the intent and that it could not be transferred to another property and as Mr. Bentley stated, conditional uses tend to normally run with the land. This condition has the effect of limiting it to this use.

Mr. Brandt said that the property is owned by the Anglin Family Trust whereas the applicant is the Anglin Beach Café. So does it stay with the property or the applicant.

Mr. Bentley said that it would stay with the applicant and he used as a distinction the business Diamonds and Doggies and said that if they moved out, the property owner would not have the conditional use and would not be able to remarket that as a boutique pet store. The new boutique pet store would have to come in and apply for a new conditional use permit.

Town Attorney Mehaffey confirmed Mr. Bentley's comments. However, if the business Diamonds and Doggies is purchased, the business would continue and would maintain this conditional use. In this situation, we have the business and if the business itself sells the property, the conditional use does not transfer.

Mr. Brandt said that the main thing the board should be considering is that the permitted decks (one that is already built and one that is getting built ) would the board be okay with them complying with the code on the conditional use permit to have customer service area. Mr. Brandt

said that everything else is a legal question that the Town and the Town Attorney would have to address if it ever came up. Outside of that, does the Town want the sidewalk café to remain there?

Mr. Bentley said that staff recommends that this application be approved. If approved, staff will touch base with the applicant and be sure that they are committing themselves to a timeframe of 8 am to 10 PM and if they want to address they issue before the Town Commission.

Mr. Freeny said that he would like to propose that the board address as much as they can due to the fact that the Town Commission has long meetings and that he also has several questions. Mr. Freeny asked if any other restaurants have any time restrictions other than the general restrictions that the Town has established in the code for a business? Is this something that we could completely strike out?

Town Attorney Mehaffey said that she did not know of any time restrictions that would be imposed on any specific businesses but she was not familiar with any individual development approvals.

Mr. Freeny would like to propose that they strike the business hours and say that they meet any and all other Town general restrictions pertaining to the times that businesses could open and close because he suspects that the restaurants do not have a time that anyone has established for them and that leaves them the flexibility to move their opening time earlier or stay open later for diners to enjoy the music wherever it may be.

Mr. Brandt repeated that he stills feels that the time has nothing to do with the outdoor café and to leave it to the Town Commission. Mr. Brandt said that the board is being asked if they want an outdoor café there – yes or no.

Town Attorney Mehaffey said that staff has provided a report that contains conditions and the conditions say that subject to the applicant's letter of intent, and the letter of intent provides the hours of 8 am to 10 PM. So, in the board's motion, the board would by default be addressing the hours of operation either by virtue of leaving this condition as is or by virtue of recommending an alternate condition that would modify the hours of operation.

Mr. Bentley agreed with the Town Attorney and suggested that the board state that as a new condition #2 that the outdoor seating shall operate according to the timelines established in the Town code.

Mr. Freeny made a motion, seconded by Mr. Brandt with further discussion, to pass this on to the Town Commission with the board's recommendation to approve the Conditional Use Application for Outside Seating in the B-1 and B-1-A Zoning District with staff's conditions listed 1 through 5 and that a new condition #2 be added to state that the outdoor seating shall operate according to the timelines established in the Town Code.

Mr. Brandt said that he thought that the big win here was that they have a great success with this being one of the first parking exemption applications and was glad to see it was working out in their favor. Mr. Brandt said that he thought every restaurant should open a sidewalk café and thought this would be great.

Chairman Oldaker said that the only problem he has is with the diagram and asked if parking space 36 was the boundary line.

Mr. Freeny said that there was motion on the floor.

Town Attorney Mehaffey confirmed that there was a motion made to approve the conditional use to include staff's conditions and that a revision to the conditions be made to include the condition that the hours of operation shall be according to the timeframes established within the Town code. Town Attorney Mehaffey said that the board could continue to discuss further issues and make any amendments for recommendations to the motion.

Mr. Bentley said that if there were several possible amendments to this application, he would be confused and asked that the amendments be added one at a time.

Town Attorney Mehaffey said that if everyone wanted to withdraw their motion and the second, the motion could start over and then do each motion one by one.

Mr. Freeny withdrew his motion and Mr. Brandt withdrew his second to the motion.

Mr. Brandt made a main motion, seconded by Mr. Yankwitt, to pass this on to the Town Commission with the board's recommendation to approve the Conditional Use Application for Outside Seating in the B-1 and B-1-A Zoning District with staff's conditions listed 1 through 5.

Mr. Freeny made an amendment to the main motion to strike from the conditional use application and the site plan review and recommendations from staff the time restrictions of 8 am to 10 PM and replace that with the general hours of operation of a business based on the Town code.

Mr. Bentley said that he was uncomfortable with the board amending a document provided by the applicant. It was his suggestion that the board add a new condition 2 that states that the hours of operation for the restaurant shall be based on the timeframes established within the Town code. That would be a specific condition that would supercede the application.

Mr. Freeny rephrased his amendment to the main motion by amending the site plan review and recommendations by staff to allow restaurant hours of operation based on the Town's code which would remove the hours of operation from 8 am to 10 PM from consideration from the applicant. Mr. Yankwitt seconded the amendment to the main motion.

Mr. Brandt, the original motion maker, accepted the friendly amendment to the main motion.

Town Attorney Mehaffey said that the board could further discuss the amendment to the main motion or make additional amendments to the main motion.

Chairman Oldaker again referred to the diagram that was provided in the backup material and said that he did not know if it reflects a full submittal and felt the board should be concerned that there were no dimensions listed. There is a reference to the traffic service quarter but there is no dimension and they are just referencing spaces in a parking lot. Chairman asked if that was really on their most southern border line or as close as they could be to that. Chairman Oldaker said that he does not have a reference to the surrounding properties to say that these decks would be appropriate for that space.

Mr. Bentley said that the existing deck comes up to and incorporates the fence that is at the edge of the parking lot. So, we know that this is a matched boundary. The additional deck would have a frame of reference. Mr. Bentley said that the board was not approving the width of the travel area and that would be a building permit issue on whether or not they have sufficient area for that or the way they would have their chairs set and ADA requirements and so forth. The board is approving the conditional use to approve the existing and to allow the expansion of the service area. Mr. Bentley said that if the board needs additional dimensions on these things, then that would be a reason to table this until the next meeting.

Chairman Oldaker said that he was only one voice but felt that the board was representing not only the commercial interest of the Town but the residential interest of the Town and on the south side, they have not been presented with a café concept that would be that close to pure residential. Chairman Oldaker said that Aruba doesn't encroach, Village Grille doesn't, and 101 doesn't. This one on the south side which is not shown on the diagram is residential property which is not far away. By not seeing dimensions where the word corridor is, would it really be four feet or is it 24 feet which pushes that 66 square foot deck further down. So, is he just talking about the hours of operation or is he also looking at something that may be encroaching on the neighbors.

Mr. Bentley said Chairman Oldaker had an excellent point and asked the board to take a 3 minute break and he would pull the complete file. Mr. Bentley said that he thought the diagram was blown up from a larger plan set.

Chairman Oldaker said that he did not want to hold up the meeting for him to get the plans and asked if he was going down the wrong path and that Town staff is looking at this.

Mr. Bentley said he did not look at the traffic service corridor because he knew that would be a building permit issue. Mr. Bentley said that he thought it was appropriate for the board to look at the southern boundary of the new deck and how close that is to the property line and to the residential development to the south.

There was a 5 minute recess.

Mr. Bentley returned and provided the board with the site plan of the site reflecting the boundary of the property. Mr. Bentley said that this site plan came out of a different file and said that the applicant has submitted an application for paid private parking that would be before the board in the near future

Chairman Oldaker remarked that the site plan still did not have any dimensions and he was not comfortable moving forward.

Mr. Freeny asked if proper notice was being sent to property owners that lived within 300 feet of the site.

Board Secretary Colleen Tyrrell responded that the notice of the conditional use would be advertised and a mailing would be sent to the property owners within the 300 feet boundary of the site prior to the August 23, 2011 Town Commission meeting.

Mr. Freeny remarked that any of the property owners whether residential or commercial would have notice and hoped that if they had any comment they would come to the Planning and Zoning meeting or the Town Commission to add their input.

Chairman Oldaker said that the board is there to advise the Town Commission and not to push everything back to them and leaving all of the work up to them. Chairman Oldaker is concerned that what is being presented to the board is lacking information that the board needs.

Mr. Brandt asked Chairman Oldaker if he would be more comfortable if this matter is tabled until the next scheduled Planning and Zoning meeting.

Mr. Brandt withdrew his main motion and said that he would defer to the next meeting and asked that staff provide the dimensions from the edge of the parking lot to the southern end of the deck to the property line and maybe resolve the time issue as well and get a new application from the applicant on the time item.

Mr. Bentley asked if there were any further issues that staff should be aware of before the motion to defer was made.

Mr. Murphy asked if there was ever a study done on existing restrooms since there will be additional outdoor seating and particularly if there a code that requires a certain amount of stalls in a restroom when tables are added.

Mr. Bentley said Mr. Murphy was correct.

Mr. Murphy asked is this restaurant would be in compliance.

Mr. Bentley said that staff would include that information in the amended report for the next meeting.

Mr. Freeny said that he was looking at the original drawing that was provided in the packet and he was trying to determine what the shaded area meant and would like a recommendation on what was standard for a service area and he was looking for the calculation for the additional parking for the new area and also interested in the additional parking for the area that was constructed last year before the new parking regulations were put into effect. Mr. Freeny said that he did not know if there was allocation for parking for those spots and would like to understand that more fully.

Mr. Brandt said that there was a cap on the parking spaces that could be allocated and asked that not too many parking spaces be taken out of the program.

Mr. Freeny said that they would be exempt for the new construction area.

Mr. Brandt said they would be exempt but if the customer service area calculation is increased by including all of the area, then more parking spaces would be required to be exempt which would then reduce the overall amount of spaces in the program and thus reducing the amount of customer service area that the downtown area could have.

Mr. Freeny said that he did not feel that we should be playing games with what the definition of a customer service area would be for one group and the board should be fair to all groups.

Mr. Bentley said that he would go back and check that according to code.

Mr. Murphy asked if they could assume that the size of a parking space would be 12 to 15 feet in width.

Mr. Bentley said that one of the issues with this property is that the existing parking lot is on a separate parcel and it is also so old that it does not meet code and it has no landscaping. Mr. Bentley said they have been working with them because they want to submit a conditional use application for paid private parking and they are working on a striping diagram so that they will know how many parking spaces are in that lot.

Chairman Oldaker commented that because this is on the beach and if you follow the line between the deck and the front of the parking spaces all the way down to the south, were they allowed to do this and also to keep building out on to the sand?

Mr. Bentley said that they would have had to obtain permits through the state because it is east of the coastal construction line.

Chairman Oldaker said that Mr. Brandt made a motion to defer to the next Planning and Zoning meeting and asked for a second.

Mr. Freeny seconded the motion.

In a roll call vote, all voted in favor of the motion to defer the meeting. The motion carried 5 – 0.

**VI. OLD BUSINESS**

**NONE**

**VII. UPDATES/BOARD MEMBER COMMENTS**

Mr. Freeny wanted to remind the viewers that they could go on the Town web-site and pull up the program that the University of Miami put together to view the diagrams. Mr. Freeny said that the viewers would find it very interesting and he knew that the Town was planning to move on some of the projects next year and it should be very exciting.

Mr. Brandt thanked Vice Mayor Dodd and everyone that contributed to the 4<sup>th</sup> of July Event and said that it was a great success. Mr. Brandt said that he really enjoyed himself and hoped that everyone else did as well.

Mr. Brandt said that from a planning prospective, everyone should be at the budget meeting on Tuesday evening at 5 PM. Mr. Brandt said that there were some interesting things bring proposed by administration and by some of the commissioners and it was a concern to him. Mr. Brandt said that his taxes go up every year and that residences are being completely overlooked and this should be brought up at the budget meeting. Everything is on the commercial sector and what money was provided for programs in the residential areas, the money was never used and now that money is being used elsewhere. Everyone is seeing that government is getting very large in this Town and everyone should plan on being at the budget meeting Tuesday night.

**VIII. ADJOURNMENT**

There being no further business to discuss, the meeting adjourned at 8:10 p.m., July 20, 2011.

ATTEST:

\_\_\_\_\_  
Chairman Alfred Oldaker

Date Accepted: \_\_\_\_\_

\_\_\_\_\_  
Colleen Tyrrell, Board Secretary